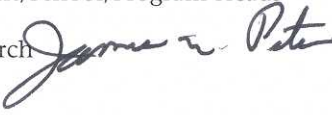


MEMORANDUM

Date: December 10, 2004

To: Chancellors, Deans, Directors, Department/School/Program Heads

From: James N. Petersen, Vice Provost for Research 

cc: Robert C. Bates, Provost
Greg Royer, Vice President, Business Affairs
Antoinette M. Ursich, Senior Assistant Attorney General

Subject: Export Control Laws and Regulations

Export control laws are federal laws that restrict exports of goods and technology and have been in existence for more than twenty years. They are implemented by the U.S. Departments of Commerce (Export Administration Regulation - EAR), State (International Traffic in Arms Regulations - ITAR) and Treasury (Office of Foreign Asset Control - OFAC). These regulations apply to the transfer of items and related technical information to persons and entities outside the U.S., to disclosure of technical information on controlled items to foreign nationals while in the U.S. and to the offering of services and/or training involving controlled equipment to foreign nationals both here and abroad. Since criminal and civil sanctions can apply in the case of violations, it is important that faculty, other researchers and administrators at Washington State University understand their obligations.

Although export control regulations apply to virtually all fields of science and engineering, sponsored or not, they do not control all research because of several exclusions or exemptions. A "fundamental research" exclusion applies for basic and applied research in science and engineering performed by universities so long as that research is carried out openly and without restrictions on publication or access to or dissemination of the research results. A "public domain" exclusion applies if the information is in the public domain i.e., if it is published and generally accessible to the public through unlimited and unrestricted distribution. A "teaching" exclusion authorizes the disclosure of educational information released by instruction in catalog courses or general scientific, mathematical, or engineering principles commonly taught in universities without a license.

Clearly most of the research activities at WSU are excluded from export control because the activities fall under fundamental research, public domain or other exemptions. However, any formal or contractual restrictions on the open sharing of research results eliminate a project's fundamental and public domain exemptions. In addition, to the extent university activities involve shipping equipment or any other item abroad or teaching or training foreign students or postdoctoral research associates either in the United States or abroad how to use equipment, then an export license may be required. It is important to seek a license as soon as possible since it can take six months or longer to receive a license.

The export control laws and regulations are lengthy and difficult to interpret and apply to more than just sponsored research. The technologies that are controlled and the countries that are restricted change frequently. These laws apply to all active grants, agreements, contracts and subcontracts.

Please review the Office of Grant and Research Development website for frequently asked questions on export controls: <http://www.ogrd.wsu.edu/faq/export/export.asp>. Also, please distribute this memorandum to all faculty (a PDF of this memorandum is available at <http://www.ogrd.wsu.edu/faq/export/export.asp>). While the PI is responsible for maintaining compliance to the regulations, in the event of a fine, the program/center/department/school, college, or urban campus will share in the responsibility.

If you have any questions, please feel free to contact Dan Nordquist, OGRD or Dave Clark, Research Compliance Office.