

BE AWARE OF WHEN EXPORT CONTROLS AND TRADE SANCTIONS MAY APPLY

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These slides are intended to be used with the Fundamentals Slides available at [http://www.generalcounsel.ufl.edu/exportControl/Fundamentals of Export Control-Slides.pdf](http://www.generalcounsel.ufl.edu/exportControl/Fundamentals%20of%20Export%20Control-Slides.pdf).

Export Controls and Sanctions—The Very Big Picture

- Export Controls Are Very Serious Federal Laws With Individual And Institutional Criminal and Civil Penalties For Noncompliance
- What Should Faculty and Staff Know Without Being Experts:
 - That Export Controls and Trade Sanctions Exist—And What Exports Abroad--Deemed Exports In the U.S. (*even on campus*)—And Trade Sanctions Are In General Terms;
 - That They Apply to Many Common Items/Activities – As Well As Technical, Military and Space Information and Items;
 - That Even Non-technical Fields May Trigger Export Controls and Trade Sanctions (*know when*);
 - Parameters and Prerequisites For Exclusions From Export Controls and Exemptions From Licensing Requirements For Otherwise Controlled Technical Information (*And That The Exclusions Don't Apply To Exporting Controlled Items Abroad*);
 - That An Export License Doesn't Authorize Trade Sanctioned Activities-- and A Trade Sanctions License Doesn't Authorize Exports of Controlled Information or Items—Must Separately Comply With Each Regulation;
 - When To Ask For Expert Assistance (*from DSR and General Counsel's Office*) For Analysis of Whether Controls Apply
 - That The Director, Division of Sponsored Research, Is the UF Empowered Official For Export Controls: Only Person Authorized To Apply For Export Licenses; Must Approve Security Plans When Controls Apply; Must Approve Any Restriction Requiring Approval Before Publication of Research Results or Limiting Participation In, or Access To, or Dissemination of Research

BEWARE

- **OFAC Sanctions May Apply and Prohibit, *Regardless of Discipline Involved:***
 - Paying (E.g. Compensation, Honoraria) To— Contracting With-- Sanctioned Countries (currently *Cuba, Iran, Syria, Sudan, N. Korea, Balkans Region, Belarus, Burma, Ivory Coast, Congo, Iraq, Liberia, Zimbabwe*), Their Nationals, or Sanctioned Entities-Individuals (U.S. or Foreign)
 - **Attending—Planning-- International Conferences In/With Sanctioned Countries, Their Nationals, or Sanctioned Entities-Individuals (U.S. or Foreign)**
 - Travel to, Surveys In--Services or Bringing Even Office Laptops, Cell Phones, PDAs to Sanctioned Countries, Their Nationals or Sanctioned Entities-Individuals (U.S. or Foreign)
 - **Editing/Joint Authoring Articles in/of/with Nationals of Sanctioned Countries or Sanctioned Entities-Individuals (Foreign or U.S.)**
 - December 17, 2004 OFAC General License for Cuba, Sudan and Iran Allows Most Editing/Joint Authorship with Nationals of these Countries (But Not the Governments or Government Employees) (31 C.F.R. 515, 538, 560)
 - State Universities Are Not the Government For this Purpose.

BEWARE

▪ **Export Controls May Apply/Be Violated:**

—When Standard Office Laptop Computer, Cell Phone, PDA is Hand-Carried or Shipped to OFAC-Sanctioned Countries —OR *anywhere abroad* to Entities/Persons on OFAC Prohibited, State Department Terrorist, EAR Entities, Denied Persons, Unverified Persons, General Order No. 3 Lists or to terrorists or weapons of mass destruction or long range missile or nuclear programs-- Without a License--*Regardless of Field of Work* (See Fundamentals Slides re: Lists)

— If OFAC Countries Are Not Involved, Standard Office Laptop Computers, PDAs, Cell Phones With *Only* Standard Office Software and *Non-technical Subjects* (i.e., *Both* No Proprietary Data/Encryption *and* No Non-public Technical Research Results) May Be Taken Abroad If They Are **Kept In Your Custody and Control and You Return With Them**. (More Leeway May Be OK, But Hard To Confirm Against All Required Lists and Hard To Ensure Prohibited Entities/Individuals Cannot Gain Access.)

-- **When Technical Research Equipment—Specialized Computers—Any Biological Samples—Any Computer with Confidential Technical Research Data--or Encrypted or Proprietary Software--Are Hand-Carried, Shipped or Left Abroad Without a License**

Beware

- When Otherwise Fundamental Technical Research Occurs Not Only On Campus in the U.S—But Also At a Corporate or Foreign Collaborator's Site --And The Research At the Collaborator's Site Is Not Covered By the Fundamental Research Exclusion
- When Sponsors Provide Technical Information *Marked As Export Controlled—Or Proprietary/Confidential Information---* to University Researchers/Staff Who Then Share the Information With Anyone Abroad or With Foreigners in U.S. (Even on Campus)
 - NOTE: Beware of Nondisclosure Agreements—Get The Owner of Confidential Technical Information To Inform You Whether Export Controls Apply and Confirm With DSR *Before* Receiving the Information
- When Technical Information Is Emailed, Sent, Disclosed In Meetings or Lectures Abroad—Unless The Information Was Created In Open, Fundamental Research On A U.S. University Campus OR Is Already Published or In the Public Domain (See Fundamentals Slides)

BEWARE

- If Exclusive Material Transfer Agreements or IP Licensing Agreements Impose Publication/Access-Dissemination Restrictions and the Materials and/or Related Technologies/Technical Data are Controlled – Deemed Exports (in U.S., even *on campus*) and Exports (*abroad*) Apply
- When Tech Transfer Disclosures are Made Abroad Before a Patent Issues (Becomes Public)--Except When Directly Related to Applying for a Foreign Patent
- When the University Has Reason to Know that Sponsors or Collaborators are Violating Controls (15 CFR 736.2(b)(10))