

Export Control Basics

The U.S. government regulates the export of goods and services including research to certain foreign countries and persons. The following information is meant to provide an overview to faculty and others of these restrictions so that they can take the necessary steps to ensure that they are not violating federal regulations. The Office of Research and Sponsored Programs (ORSP) is available to answer questions that faculty members may have about these regulations.

Export control regulations prohibit the unlicensed export of specified commodities or information to project national security and trade interests. The Departments of Commerce, Defense, State, and Treasury are the primary agencies involved. Critical regulations include the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR).

The regulations apply to the export of articles or technical information to foreign countries and persons. Export can occur through a variety of means including but not limited to the transport of goods and information (including laptops taken abroad), contact with foreign persons in and outside of the US, email, faxes, etc.

While export controls are not likely to impact a significant amount of research at Loyola, faculty members in the sciences and information system areas, faculty who involve international students in research, and individuals planning to travel to certain designated countries must ensure that they are in compliance. Universities can be held culpable if they do not inform their personnel and monitor this area. Individuals may be held criminally liable for failing to comply with these regulations. Briefly, the regulations require that a license be obtained.

A Basic Research Exemption eliminates the need to obtain a license for export. The Basic Research Exemption applies in cases of fundamental research so long as certain conditions are met. These are:

- the research must be performed under the auspices of an institution of higher education
- there may be no limitations upon publication/presentation and publication/presentation may not occur in closed meetings

Faculty members who are conducting research through independent consulting agreements should be aware that the Basic Research Exemption would not apply. When the Basic Research Exemption does not apply, a license may be required and/or other requirements/restrictions may be imposed. Further the Basic Research Exemption never applies for physical goods, software, encryption, research that is not intended to be published, and research that is conducted abroad.

What Type of Information/Exports Require Review?

Export/research that is not covered by the Basic Research Exemption in commercial/military areas that are covered by the EAR are listed below. Detailed technical descriptions of what is controlled under each category are available at <http://www.bis.doc/licensing/index.htm>. Licenses may be required for a broad range of countries including in Europe, South America, China, and others.

- Nuclear Materials, Facilities and Equipment and Miscellaneous
- Materials, Chemicals, Microorganisms and Toxins
- Materials Processing

- Electronics
- Computers
- Telecommunications and Information Security
- Lasers and Sensors
- Navigation and Avionics
- Marine
- Propulsion Systems, Space Vehicles and Related Equipment

The International Traffic in Arms Regulations (ITAR) control the export of defense articles and services as well as certain space-related items. There are 21 categories of defense related articles and services. In all cases, ITAR-controlled items do not have equivalents used in civilian applications. See http://pmddtc.state.gov/regulations_laws/itar_official.html.

Information on foreign vendors and individuals who are excluded from doing business with the U.S. can be found on <http://www.bis.doc/complianceand enforcement/liststocheck.htm>.

Nations Where Broader Export Controls Exist

Broader restrictions occur when certain countries are involved in the export. A list is maintained by the Department of Treasury of countries where any export may be controlled with detailed information about the existing restrictions. These restrictions may include such things as travel, transmission of information, interaction/research with students and/or collaborators or others from a listed country. The list may be found at www.treas.gov/offices/enforcement/lists. The current list of countries includes: The Balkans, Belarus, Burma (Myanmar), Ivory Coast, Cuba, Congo, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, Sudan, Syria, Yemen, Zimbabwe.

Conclusion

The ORSP reviews contracts for publication restrictions and will address issues that could arise through a sponsored project agreement. However, faculty members and other members of the Loyola community should be aware of these regulations so that they can take precautions as needed when traveling and/or disseminating research as well as to ensure that they do not compromise their Basic Research Exemption through any private consulting agreement that they may have.