

**UNIVERSITY OF CALIFORNIA, DAVIS  
INTERNAL AUDIT SERVICES**

**Office of Research  
Export Controls  
Internal Audit Services Project #14-06**

**June 2014**

**Fieldwork Performed by:**

Leah White, Audit Fellow  
Sherrill Jenkins, Principal Auditor

**Reviewed by:**

Leslyn Kraus, Associate Director

**Approved by:**

Jeremiah J. Maher, Director

**Office of Research  
Export Controls  
Internal Audit Services Project #14-06**

**MANAGEMENT SUMMARY**

**Background**

As part of the Internal Audit Services (IAS) audit plan for fiscal year (FY) 2014, IAS conducted a review of export controls at UC Davis (UCD). Export controls can apply to any transfer of information or physical items across the United States border. Export controls can also apply to “deemed exports” in circumstances where there is a release of export-controlled information or technology to any foreign national in the United States. In these situations, an export control license and potentially other security measures may be required under federal law. Additionally, certain types of international travel, research, and other activities may trigger export control rules. This includes travel, shipments, and activities to and/or in embargoed countries such as Iran, Syria, and Cuba.

Export control criteria originate primarily from three federal laws: the Export Administration Act, the Arms Export Control Act and the Treasury Department Office of Foreign Assets Control as described in Appendix 1. Violations can lead to civil and criminal penalties for the individual who performed the export and for UCD as summarized in Appendix 2.

**Purpose and Scope**

The purpose of this review was to determine if UCD has adequate policies, procedures, practices and internal controls in place to ensure compliance with current federal regulations governing exports.

Our activities included interviewing the Director of Research Compliance and Integrity (RCI) within the Office of Research (OR) to determine the processes and procedures currently in place at the OR that are designed to identify, evaluate, and monitor export control activities that arise in the context of university research. We also interviewed Mail Services and Purchasing Department personnel to obtain an understanding of internal controls over international shipments and purchases of equipment subject to export control restrictions. We made similar inquiries of Biosafety personnel and the University International Outreach representatives.

In addition, we selected international travel and international shipments for detailed testing of employee knowledge and compliance, as these are common activities where export controls may apply. To obtain an understanding of current practices in these areas, we conducted separate online surveys of 1200 foreign travelers and 400 individuals who sent international shipments.

We also interviewed a sample of international shippers to gain a better understanding of UCD's shipping practices. (A summary of the results of the travel and shipping surveys can be found in Appendix 3.) During the preliminary stages of our review, we identified opportunities for improvement in the communication to and awareness of employees about export control requirements.

## **Conclusion**

Export controls apply to a wide range of areas including, but not limited to, certain research-related activities, international travel, international shipping, purchasing, biohazardous materials, and international scholars and international collaborators. There is currently no central authority that provides oversight and governance for all export related activities of UCD. While some departments, especially OR, have policies, procedure, and practices in place to identify, evaluate, monitor, and track export-controlled activities within the research setting, there is no University or UCD policy that comprehensively addresses all the principal areas of risk for export controls. Finally, communications and resources available to facilitate compliance with export control requirements should be enhanced.

Based upon the results of our surveys of international travelers and shippers, it is clear that there is a need to better educate relevant personnel on the requirements of and compliance with export control laws. Our survey indicated that a majority of respondents were not familiar with specific export control requirements related to travel and shipping, and some were not aware of export controls requirements at all.

A plan should be developed to assign authority, responsibility and accountability for UCD's export control compliance efforts. This plan should encompass development of an export control policy and related resources, as well as a communications strategy. Additionally, the plan should address specific areas of risk such as international travel, shipping and purchasing. Our detailed observations and recommendations are presented in the body of this report along with corresponding management corrective actions.

## **I. OVERVIEW OF EXPORT CONTROLS**

Export controls exist under three primary federal laws, the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the Office of Foreign Assets Control (OFAC). Whether shipped, carried and transported in any other way, anything leaving the country is an "export," including research data, other intellectual property, documents, or any tangible items. Even accessing email abroad, or traveling with any electronics, is an export. If the exported item, data, or technology is "controlled" or "restricted" under any of these laws, an export license may be required depending on the destination country, the end use, and the end user.

Export control rules, including licensing and other measures, also can be triggered by where there is a release of export-controlled information or technology to any foreign national in the United States, including foreign nationals working at UCD. This is considered a “deemed export.” Most research at UCD is excluded from the “deemed export” rules under the Fundamental Research Exclusion (FRE) as long as certain criteria are satisfied. The FRE generally only applies when the results of the research are ordinarily published and shared with the scientific community. To qualify under the FRE, the research must be free of any publication or access restrictions. The FRE does not apply to the actual physical export (e.g. shipment or transmission of control items, data, or information outside the United States.)

Research involving collaboration with foreign nationals (inside and outside of the US) or the use of controlled substances (such as munitions, narcotics, disease cultures, etc.) can still require an export permit. For international travel, UCD supplied technology or personal technology can require a permit. International shipments also face export restrictions. The level of restriction depends on the item leaving the country, the recipient of the item and the destination.

Compliance with export controls is critical since there are significant civil and criminal penalties for both the individual and their employer if there is a violation of export control laws. While the test work of this audit focused on export controls related to international travel and international shipping, efforts to fully protect UCD must cover a much broader scope. In addition to international travel and shipping, a variety of other areas also need appropriate policies, procedures, practices and internal controls. Among these areas are purchasing, lectures abroad, non-disclosure agreements, cloud storage locations and collaboration or work with any non-US citizens.

Presently, UCD does not have a centralized system to oversee exports. Instead, export related activities are dispersed across units, with a bulk of the responsibility falling on OR and Principal Investigators. (OR export control compliance activities are described in Appendix 4.) Areas outside of OR lack controls and oversight. Throughout campus, personnel make shipments, travel arrangements, purchases and engage in other activities that involve exports without coordinated or deliberate effort by UCD to ensure compliance with export control laws. For example, while personnel within the Purchasing, the Biological Safety Office and Services for International Students and Scholars were aware that export control laws affected their respective areas of responsibility, efforts to ensure compliance were limited.

The University and UCD have very few policies governing potential export activities. Specifically, no policies or training provide guidance on international shipments, traveling abroad with UCD equipment, or access to restricted equipment.

In part because of the lack of clarity on who monitors various forms of export controls and the need for better communication among campus Units, the RCI Unit formed an Export Control Workgroup last year. This group is comprised of members from the various departments who are engaged in or have exposure to potential export-controlled activities, is designed to identify gaps in export control oversight on campus, increase interaction and communication among these member units, and discuss and develop ways to increase the education and awareness of UCD personnel on export control matters. This is a positive step toward understanding and improving export controls throughout UCD.

## **I. OBSERVATIONS, RECOMMENDATIONS, AND MANAGEMENT CORRECTIVE ACTIONS**

### **A. Central Oversight Function over Export Control Activities**

**There is no central authority to provide comprehensive oversight for all the export control related activities at UCD.**

University business activities by individuals and units intersect with export control laws throughout the course of any given day. The affected activities are widespread and include research, international shipments, international travel, purchasing, and lectures abroad, to name a few. UCD currently has some compliance oversight in OR during the pre-award proposal process and in UCD Mail Services for international shipping. Greater oversight in areas outside of OR and Mail Services is not provided because UCD has not designated a central authority over export controls for the entire campus. Although the new Export Control Workgroup is improving communication across departments and is a good first step, the Workgroup does not have control over export compliance issues for the entire campus.

Oversight is critical to ensure that UCD complies with export control laws, as violations of export control laws can result in criminal and civil liability for the University and the individual directly involved. Penalties can range from a denial of export privileges, a \$50,000 to \$1,000,000 fine to the University per violation, and a \$50,000 fine and up to ten years in prison for the individual.

Additionally, an appropriate level of oversight can help ensure UCD has an export controls compliance program consistent with US Sentencing Commission Compliance Guidelines<sup>1</sup>, which may help mitigate risk exposure.

### **Recommendation**

Identify an organizational structure to provide comprehensive oversight for all export control related activities at UCD. The organizational structure should provide for clear assignment of authority, responsibility and accountability for oversight of UCD's export control compliance efforts and should address: formulating and implementing communication to increase the campus community's awareness and understanding of export controls; providing clear interpretations of the export laws; developing and promoting step-by-step instructions on compliance for activities like international shipping, international travel, purchasing and research agreements; and facilitating the development of additional online resources and training. To the extent UC Davis moves towards accepting restricted research (not covered by the FRE), the need to ready the campus for the increased export control compliance responsibilities associated with these activities must also be considered.

### **Management Corrective Actions**

1. The Chief Compliance Officer will work with the Provost so that a committee will be charged to oversee the development of a comprehensive plan to address export control compliance in the areas of research, international travel, international shipping, purchasing, biohazardous materials, and international scholars and collaborators. The committee will be charged no later than November 15, 2014.
2. A comprehensive plan for assignment of authority, responsibility and accountability for oversight of UCD's export control compliance efforts will be developed under the oversight of the Committee charged by the Provost in (1) above. The plan will encompass, but not be limited to, the issues raised in this audit report<sup>2</sup>, as export control concerns arise in many aspects of UCD's activities. The plan will be completed by July 15, 2015.

---

<sup>1</sup> In 1991, the U.S. Sentencing Commission established the most recognized standards for an effective compliance and ethics program within its US Sentencing Commission Compliance Guidelines. This provides guidance to organizations on how to design and implement their own program incorporating several core components. Specifically, the guidelines provide that an organization should have detailed policies and procedures addressing legal and regulatory risks relevant to the organization's business.

<sup>2</sup> Plan should encompass, but not be limited to, research-related activities, international travel, international shipping, purchasing, biohazardous materials and international scholars and collaborators.

## **B. Policy Over Export Control Activities**

**There is no University or UCD policy that comprehensively addresses all the principal areas of risk for export controls.**

Only OR and Mail Services currently have formal policies or standard operating procedures addressing export controls in their respective areas of responsibility. (See Appendix 4 for OR export control compliance activities.) Further, UCD does not have a more general policy directed at compliance with all potentially export-controlled activities on campus.

To effectively maintain compliance, written policies that collectively address the principal areas of risk such as research, international travel, international shipping, purchasing, and publication should be documented and communicated to relevant personnel. University-wide written standards would communicate organizational values and expectations regarding employee behavior, explain the function of the campus facilitator, clarify and establish internal standards for compliance with laws and regulations, and help employees understand the consequences of non-compliance to both the organization and the individual. A formalized policy will facilitate employee understanding on how to comply with export laws and avoid violations that can lead to civil and criminal penalties for the individual and/or UCD.

### **Recommendations**

Develop a comprehensive written policy that addresses export controls, encompassing the specific types of export related activity occurring at UCD.

### **Management Corrective Actions**

The plan developed for assignment of authority, responsibility and accountability for oversight of export control compliance at Observation A will include developing a comprehensive export control policy.

## C. Resources and Awareness

**Resources designed to facilitate compliance with export control requirements are not readily available or easily accessible.**

Current online resources provide some information, but do not clearly identify risks and the responsibility to maintain compliance with export control laws. In some areas, there is a lack of clear and easy to understand steps on how to achieve export compliance for specific activities. Some of the information that is available is fragmented throughout UCD and UCOP websites and cannot be easily located.

To assess UCD's current online resources, we began by reviewing UCOP's and UCD's online information on export controls and compared it to the online resources of several other universities. The OR website does have on-line resources in the export control area. For instance, a basic search of the main OR webpage using the phrase "export control" yields some resources, including links to an overview of the regulations (including the fundamental research exclusion), the "Dos and Don'ts" pertaining to traveling overseas with a laptop and shipping research materials out of the country, the rules concerning exports to and activities in OFAC countries, and the "Research Compliance Guide" which contains a lengthy section on export controls in research.<sup>3</sup> However, in comparison to other sites (Stanford, University of Michigan, University of Minnesota, and Texas A&M University), UCD's online resources are more disjointed and difficult to navigate and do not always provide a clear, concise explanation on what to do when engaging in export activities. We understand, however, that OR is currently transitioning to a new website platform that will involve revisions and improvements to the navigability and content in all research compliance areas, including export control.

This finding is supported by the international travel and international shipping surveys. In the travel survey, 50% of the respondents reported not knowing of any resources for compliance and the other half listed various websites they would try searching for information. Not a single person listed any type of actual training as a possible resource. Similarly, of the international shippers interviewed and surveyed, almost none, outside of some individuals in the Office of Research and Mail Services, knew about export restrictions on individuals receiving shipments.

---

<sup>3</sup> At the time of our review updates to the OR website had been put on hold pending a comprehensive redesign.



Development of core competencies is vital to influencing the control consciousness of the organization, and for establishing a knowledge base of expectations for compliance. To facilitate compliance with export controls, employees must be given resources on how to be compliant. Without this understanding, violations can occur, leading to possible civil and criminal penalties for the employee and UCD.

### **Recommendations**

Expand and improve online resources and create a focused training program to educate employees and increase their awareness of export control issues and how to remain compliant.

### **Management Corrective Actions**

The plan developed for assignment of authority, responsibility and accountability for oversight of export control compliance at Observation A will include provisions for enhancing the information on the UCD website regarding export controls and developing export control specific training.

## **D. Travel Processes**

### **No resource exists to provide foreign travelers with export control information related to traveling abroad.**

Currently, other than in the limited context of travel associated with research there is no mechanism to notify travelers about potential export control issues when they are preparing for an international trip. Based on our survey results, we found UCD foreign travelers were generally unaware how export control laws pertain to their travel activities, if they were aware that export control laws applied to foreign travel at all. Travel with electronic items, the sharing of information, and accessing email abroad qualify as exports and can require specific permits and precautions to avoid violation of export control laws.

Any international travel with electronic equipment requires specific precautions while the traveler is abroad, to ensure they maintain compliance with export laws. Travelers frequently fail to take protective measures such as using password protection, storing electronics in hotel safes, and avoiding accessing any cloud data or email. These types of protections are required in order to be exempt from the need for a permit while traveling with electronics like laptops and cell phones. While the exemption required for personal and employer electronics are different, they share many of the same requirements outlined in Appendix 5.

Although 50% of the survey respondents stated they were aware export concerns applied to international travel, only 12% knew when export controls actually applied. When traveling abroad, 60% of the survey participants take University equipment, with only about 40% notifying anyone at the University. Although this type of reporting is not legally required, UCD's lack of knowledge minimizes the opportunity to provide travelers with information on traveling abroad with equipment. Similarly, travelers take personal electronics about 85% of the time, with only about 20% of them notifying UCD. For all types of electronics, 70% of the survey participants reported keeping them within arm's reach and 40% store the items in a secure location when not within their immediate possession. Approximately 20% of the survey participants reported foreign nationals used the electronics while they were traveling. These statistics all involve activities affected by export control laws, and demonstrate a lack of awareness throughout UCD on applicable safeguards. Furthermore, this lack of knowledge demonstrates missed opportunities to inform travelers about possible export concerns in international travel, risking penalties and fines to the traveler and the University.

Email access abroad does not require a permit, but electronically accessing proprietary information or research data can be an export, so precautions should be taken by the University to ensure travelers understand how email and export control laws intersect. Just over 90% of foreign travelers surveyed reported accessing their University email while abroad. Given the general lack of understanding about export controls throughout UCD, this number is alarmingly high. With email usage universal today, controls must be put in place to ensure that email access abroad is conducted in a safe manner, minimizing the risk to the data stored within people's email.

### **Recommendation**

Increase the awareness of foreign travelers regarding export controls by targeting foreign travelers and sending them information and resources on exports as they relate to international travel.

### **Management Corrective Actions**

1. The plan for assignment of authority, responsibility and accountability for oversight of export control compliance at Observation A will address specific travel related issues, and will consider:

- a. Working with Accounting & Financial Services to explore the feasibility of adding export control features to Connexus, such as an automated messaging system for foreign travelers. (Connexus is the most widely used travel resource from the University, with 32% of the IAS survey responders reporting that they use Connexus.)
- b. If (a) per above is deemed feasible, communicating with all UCD personnel encouraging them to utilize Connexus for booking travel in accordance with President Yudof's June 21<sup>st</sup>, 2009 letter to the Chancellors.
- c. Adding an export controls section to the MyTravel Tips and Tricks emails sent to staff by the Travel & Entertainment Department.
- d. Working with Accounting & Financial Services to review corporate card data for all past foreign travelers and provide them with emailed resources on the intersection of export control and foreign travel.
- e. Utilize the export control training videos produced by the UC Irvine Export Control Officer to help teach staff about export controls.

If these measures are found to not be feasible, alternative measures that achieve the same objective of informing and educating travelers about export control requirements related to travel, will be included in the plan to be developed in Observation A.

## E. Shipping Processes

### **Current shipping practices are not sufficient to provide assurance that UCD complies with export control laws for international shipments.**

Our current shipping processes are not optimized to include controls to support compliance with export control laws and regulations. Of 4,314 international shipments in fiscal year 2013, 4,109 (95%) were sent directly thru Federal Express (FedEx), instead of Mail Services. FedEx does not screen UCD shipments for compliance with export control laws, while Mail Services does have procedures meant to help ensure compliance with export laws. Presently, departments can chose to either use Mail Services to complete their international shipment, or use FedEx directly to complete their shipment.

When Mail Services is used for foreign shipments, a Visual Compliance check of the recipient is done to ensure it is not a restricted person or entity, and other shipping documents (such as the shipping memo) are imaged and stored for future retrieval if needed. However, no screening of the actual items being shipped is performed to determine if they are on the Commerce Control list<sup>4</sup>, though Mail Services personnel have recently asked RCI to assist in determining whether the item to be shipped is on a controlled list.

When departments use FedEx directly, they provide either their own FedEx account number, or UCD Mail Services' central FedEx account number. When working with FedEx directly, the process breaks down in three places. First, it prevents Mail Services from having the opportunity to perform the Visual Compliance check for restricted entity or recipients. Second, the shipper may or may not retain copies of the shipping documentation. The only document consistently retained is the invoice, which does not include detailed information about the shipment. Third, departments often fail to provide their recharge number when using the central account number. This forces Mail Services to expend resources to track down the shipper to ensure the correct department is charged. Furthermore, liberal use of the central FedEx account number throughout campus can also lead to fraudulent charges.

UCD Mail Services has been an advocate for strengthening controls surrounding export control laws, but limited resources and other priorities have intervened. Specifically, Mail Services wants UCD Buy to support international shipping. Going through UCD Buy would allow UCD to require a recharge number for each shipment, maintain consistent documentation, and ensure all required declarations are made.

In our survey of international shippers, we found that while almost 90% of international shippers reported being aware that export controls can affect shipping as a general issue, only 50% knew where to find resource information on the subject. Furthermore, only 18% of shippers were aware that a restricted party screening is necessary when shipping something other than a document abroad. These knowledge gaps mean there is a high risk of restricted items being sent without proper permits and for a restricted entity to be inappropriately sent an export.

---

<sup>4</sup> The Commerce Control List is governed by EAR and lists all dual-use products that may be restricted exports.

Even though Visual Compliance is licensed for all of UCD, we found that only Mail Services (and RCI as it relates to research activities) is actually using this tool to check for restricted parties in international shipping. This means a huge portion of shipments are never tested, since only about 5% of the total international shipments sent in FY2013 were processed by Mail Services. A restricted party screening is a critical step to maintain compliance with export laws and without a Visual Compliance check, it is easy for violations to occur. For example, in 2013, the University of Massachusetts was fined \$100,000 and put on export probation for two years after accidentally violating export control laws by shipping to a recipient listed as restricted by the federal government.<sup>5</sup>

## **Recommendations**

Develop streamlined and effective practices to strengthen the controls over international shipments including: accountability at the time of the shipment order, retention of a proper level of supporting documents, departmental recharge number for each shipment, use of Visual Compliance to verify that the recipient is not on the restricted parties list, and screening for items on the Commerce Control List.

## **Management Corrective Actions**

1. The plan for assignment of authority, responsibility and accountability for oversight of export control compliance at Observation A will address specific shipping related issues, and will consider:
  - a. Working with Accounting and Financial Services to explore developing UCD Buy in conjunction with FedEx to process international shipments. This would allow the wider implementation of internal controls over international shipments that are currently in place within Mail Services such as the utilization of Visual Compliance and imaging of source documents.
  - b. If (a) above is deemed feasible, promoting the new UCD Buy FedEx portal.
  - c. If (a) above is deemed feasible, Mail Services will obtain a new FedEx central account number to be protected and controlled for use only through UCD Buy.

---

<sup>5</sup> <http://orsp.appstate.edu/news/umass-lowell-fined-100000-export-control-violations>

- d. If (a) above is deemed feasible, Mail Services will actively monitor the users of the old FedEx central account and prompt anyone using the old account switch to the new UCD Buy Web Portal for all international shipments and escalate to a higher level of management if this policy continues to be ignored by certain individuals.
- e. Establishing a method to check if any item mailed is on the Commerce Control list.

If these measures are found to not be feasible, alternative measures that achieve the same objective of informing and educating shippers about export control requirements related to international shipments, will be included in the plan to be developed in Observation A.

## **F. Purchasing**

### **Current purchasing practices do not facilitate identification of equipment that is subject to export control requirements.**

Certain items are subject to export controls under the Commerce Control List for EAR and the US Munitions List for ITAR. These controls can apply if the restricted item is shipped out of the country or if non-US citizens have access to the item (such as a piece of equipment in a laboratory). Presently, the Purchasing Department expects the business unit originating a purchase request to determine any restrictions that may apply to the item being purchased. There is no centralized documentation or monitoring of the classification of items purchased. This presents a risk for export violations to occur, in light of the general lack of awareness of export control requirements on the UCD campus. Items on the Munitions List are at particularly high risk since ITAR requires a much higher degree of control and has heavier penalties for violations.

### **Recommendations**

Revise purchasing practices to increase controls over purchases of items potentially subject to export control restrictions.

### **Management Corrective Actions**

The plan for assignment of authority, responsibility and accountability for oversight of export control compliance at Observation A will address specific purchasing related issues.

### **Appendix 1: Overview of Governing Export Laws**

- The Export Administration Regulations (EAR) is governed by the UC Department of Commerce. EAR focuses on items that are considered dual use. This means the items have a regular civilian use and can have military applications. Items within this category can be identified on the Commerce Control list. This most commonly applies to international shipments and any items carried to foreign countries.<sup>6</sup>
- Office of Foreign Assets Control Regulations (OFAC) is governed by the US Department of Treasury and enforces trade embargos and economic sanctions. OFAC regulations mostly affect foreign collaborations, international shipments, and lectures or research abroad.<sup>7</sup>
- The International Traffic in Arms Regulations (ITAR) is governed by the US Department of State and governs defense articles and services. These are items and information specifically designed or adapted for military use. This regulation is the most heavily restrictive and has stringent requirements for who can perform this type of research or have any access to the equipment. Presently the University does not engage in any ITAR research, but is considering it in the future.<sup>8</sup>

---

<sup>6</sup> <http://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

<sup>7</sup> <http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx>

<sup>8</sup> <https://www.pmddtc.state.gov/>

## Appendix 2: Summary of Potential Penalties for Export Law Violations

### **The Export Administration Regulations (EAR) <sup>9</sup>**

#### Criminal Sanctions:

"WILLFUL VIOLATIONS"<sup>10</sup> – Occur when a person engages in activity they know to be against the law.

- University - A fine of up to the greater of \$1,000,000 or five times the value of the exports for each violation;
- Individual - A fine of up to \$250,000 or imprisonment for up to ten years, or both, for each violation.

"KNOWING VIOLATIONS" - The act is committed intentionally, but there is no specific intent to break the law

- University - A fine of up to the greater of \$50,000 or five times the value of the exports for each violation;
- Individual - A fine of up to the greater of \$50,000 or five times the value of the exports or imprisonment for up to five years, or both, for each violation.

#### Civil (Administrative) Sanctions:

The imposition of a fine of up to \$12,000 for each violation, except that the fine for violations involving items controlled for national security reasons is up to \$120,000 for each violation.

Administrative sanctions are administered based on strict liability, which means that the exporter's intent and knowledge of the law is irrelevant. If a violation occurred, then a sanction will be applied. Additionally, for each violation of the EAR any or all of the following may be imposed:

- The denial of export privileges; and/or
- The exclusion from practice; and/or
- Seizure/Forfeiture of goods.

### **The International Traffic in Arms Regulations (ITAR)**

#### Criminal Sanctions:

- University - A fine of up to \$1,000,000 for each violation;
- Individual - A fine of up to \$1,000,000 or up to ten years in prison, or both, for each violation.

#### Civil Sanctions:

- University - A fine of up to \$500,000 for each violation;
- Individual - A fine of up to \$500,000 for each violation.

<sup>9</sup> <http://www.uidaho.edu/research/export-control/violatingexportcontrols;>

[http://www.ecustoms.com/trade\\_compliance\\_resources/us\\_export\\_penalties.cfm](http://www.ecustoms.com/trade_compliance_resources/us_export_penalties.cfm)

<sup>10</sup> Willful and knowing violations only apply under EAR.



Additionally, for any violation of the ITAR either or both of the following may be imposed:

- The denial of export privileges; and/or
- Seizure/Forfeiture of goods.

### **The Office of Foreign Assets Control (OFAC)**

#### Criminal Sanctions:

- University - A fine of up to \$1,000,000 for each violation;
- Individual - A fine of up to \$1,000,000 or up to twenty years in prison, or both, for each violation.

#### Civil Sanctions:

- University - A fine of up to \$55,000 for each violation;
- Individual - A fine of up to \$55,000 for each violation.

Additionally, for any violation of the OFAC regulations, seizure and forfeiture of goods may result.

### **Appendix 3: Summary of Survey Statistics**

#### **International Travel Survey Summary:**

(Approximately 1200 individuals were surveyed and 400 responses were recorded)

- 90% of international travelers access University email abroad.
- Information about how export controls apply to international travel is not well publicized since only 12% of the survey population stated they know how export controls affect their travel, and over half do not know the location of resources on the topic.
- When traveling abroad, 60% of respondents take University equipment, while only about 40% notify anyone at the University.
- Travelers take personal electronics about 85% of the time, and only about 20% of people notify the University.
- For all types of electronics, 70% reported keeping them within arm's reach and 40% store the items in a secure location when not within their immediate possession.
- Around 20% of travelers carrying personal electronics report that foreign nationals use their electronics while they are traveling.
- Just over 90% of people report accessing their University email while abroad.

#### **International Shipping Survey Summary:**

(Approximately 400 individuals were surveyed and 100 responses were recorded)

- Almost 90% of surveyed international shippers are aware that export controls can apply to shipments.
- Only 18% of international shippers know to check the individual or organization receiving the shipment.
- 70% of international shipments are of documents. These have lower export control requirements.
- Only 20% of respondents have official policies on shipping procedures in their department.
- FedEx is chosen over Mail Services based on convenience, services and cost savings. Of the international shippers surveyed, 43% have never used Mail Services.
- Out of all international shippers maintaining records, only 4% image any portion of the records to Kualii. Of the shippers maintaining records, the documents they keep vary from department to department: 85% of shippers keep the tracking number, 40% keep the shipping memo and 45% keep the receipt or invoice.

#### **Appendix 4: Current OR Export Control Policies, Practices and Procedures**

The RCI Unit within the Office of Research is responsible for export control oversight in the research context. RCI currently has several procedures and processes in place designed to identify, investigate, and track export control matters that arise in research activities. In addition to the Export Control Workgroup, some of these activities are as follows:

- Export Control Issues in Sponsored Research: For any contract and grant proposal for research funds, a PI submits a Data Sheet to the Sponsored Programs Office (SPO) and answers questions related to potential export control issues, e.g. the PI will be traveling internationally. If there is a potential issue, the RCI Unit follows-up with the PI to determine whether an export control issue actually exists and how to proceed with the export control issue. Among other resources, RCI personnel use Visual Compliance<sup>11</sup> to assist with this and other export control vetting processes.
- Material Transfer Agreements (MTAs): Innovation Access (IA) requests the RCI Unit to conduct export control screening for international material transfers. The RCI Unit will review the item or material, the end users, destination country, and the end use.
- I-129s: Services for International Students and Scholars (SISS) assist visiting scholars, post-doctoral fellows, and international students with visas. If the foreign national will be conducting research at UC Davis, the supervising PI must complete a form answering questions to identify potential export control issues. If foreign nationals have access to export controlled technology, this is a deemed export and may require a license. The RCI Unit follows-up with the PI to determine whether an export control issue actually exists and how to proceed with the export control issue.
- Research Agreements: Sponsors may include export control-related language in a sponsored research agreement, or they may attempt to limit or prohibit publication of the research. The RCI Unit assists SPO to address and, if necessary, modify the proposed contract or works with the PI to resolve potential export control issues.
- Miscellaneous Inquiries/Activities: The RCI Unit receives many miscellaneous export control-related calls or emails from researchers with export control questions or concerns regarding their research and/or anticipated travel or shipments outside the Country. The RCI Unit also assists the Executive Associate Vice Chancellor for Research in addressing export control issues as part of UCD's research collaborations and associations with foreign entities. In addition, the RCI Unit assists other Units on campus, e.g. Biosafety and Shipping, with export control matters or questions.

---

<sup>11</sup> Visual Compliance is a system paid for by the university that allows a recipient to be screened against restricted government lists. This includes all export control restricted entity lists and restricted party screening. Visual Compliance also assists with determining whether the item or technology in question is listed on one of the "controlled" lists issued by the governing federal agencies, and OFAC compliance.

## **Appendix 5: Foreign Travel with Technology**

University technology, such as electronics and lab equipment, can potentially be eligible for a Tools of Trade license exception. There are two types of Tools in Trade exceptions, which are referred to as a TMP exception or a BAG exception.

A license exception TMP allows the temporary exports of items that would normally require a license from the Department of Commerce. In order to obtain a license exception TMP, the traveler must meet the following requirements:

1. The technology is hand carried with you while you travel and remains in your personal custody and effective control (must provide protective measures such as password protection and use of hotel safes),
2. The item is not kept abroad longer than one year,
3. Travel is not occurring in an specifically sanctioned countries, and
4. The technology is shipped in advance no more than thirty days prior to your departure, or may be shipped to you at any time while you are outside the country.

Failure to meet all of these requirements can result in civil or criminal penalties, if the item is required to have an export permit.

Certain software programs and types of encryptions found on computers and other electronics can also be subject to specific export control restrictions.<sup>12</sup>

A BAG exception may apply to temporary personal technology exports. This applies when the technology is solely for personal use within the owner's family; the technology is not transferred to another person and it is only used by US citizens. Similar to the TMP exception above, a BAG exception requires protective measures such as password protection and use of hotel safes. Not all personal technology can qualify for this exception; it must not violate any of the regulations discussed in Appendix 2. This exception applies to items listed under the EAR Commerce Control list.<sup>13</sup>

Travel with any item qualifying for a TMP or BAG exception under the EAR does not require a license but a voluntary certificate of exception should be carried with the item and filed with the University.<sup>14</sup>

---

<sup>12</sup> <http://www.research.ucf.edu/ExportControl/tools.html>

<sup>13</sup> <http://www.law.cornell.edu/cfr/text/15/740.14>

<sup>14</sup> <http://www.research.ucf.edu/ExportControl/tools.html>

Export control regulations also apply to any type of cross-border electronic transmission. This includes accessing email, information in cloud storage, online databases or shared drives while abroad.<sup>15</sup>

It is important to note that ANY export or travel with an ITAR item to Cuba, Iran, North Korea, Sudan or Syria requires an export license.<sup>16</sup>

---

<sup>15</sup> [http://www.cov.com/files/Uploads/Documents/China\\_Export\\_Controls\\_Article\\_2013-07-22.pdf](http://www.cov.com/files/Uploads/Documents/China_Export_Controls_Article_2013-07-22.pdf)

<sup>16</sup> <http://www.research.ucf.edu/ExportControl/countries.html>