MEMORANDUM

DATE: December 27, 2013
TO: Principal Investigators
CC: ASU Deans, Research Deans, Chairs, Directors
FROM: Sethuraman “Panch” Panchanathan
Senior Vice President, Office of Knowledge Enterprise Development
RE: Update: Export Control Regulations

I would like to provide you with a reminder of the important regulations that affect research annually. One such area is export control regulations. Export control regulations are Federal laws that restrict the export of information, goods, and technology to persons and entities outside the U.S. as well as to foreign nationals inside the U.S. These laws are implemented through the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Office of Foreign Assets Control (OFAC). In general, these regulations prevent the flow of materials or information that would compromise our national security.

In recent years, export control issues have become more prevalent in the research community resulting in a required increase in university compliance oversight. It is important that faculty and other researchers in ASU departments, laboratories and research centers understand their obligation under these regulations and adhere to them.

Export control regulations apply to:

- Transfer of specified items or information to people or entities outside the U.S.;
- Disclosure of certain information (whether in hard copy or orally) to certain foreign nationals inside or outside the U.S.;
- Training or offering services involving controlled equipment or information to foreign nationals; and
- Transactions with, or providing services to certain foreign countries, entities, or individuals that are names on the U.S. restricted party lists (this includes research travel to embargoed countries)
The regulations apply to virtually all fields of research; however they do provide several exclusions or exemptions:

- The “fundamental research” exclusion can be applied to information from basic and applied research in science and engineering performed by universities so long as the research is carried out openly and without restriction to publish or dissemination of the research results;
- The “public domain” exclusion can be used if the information is already in the public domain (if it is published and generally accessible to the public through unrestricted distribution); and
- The “educational” exclusion can be used for general scientific, mathematical, or engineering principles commonly taught in U.S. academic institutions released by instruction in catalog courses, and associated teaching laboratories.

Clearly, most of the research activity performed at ASU is excluded from export controls because we can exercise one of the available exclusions listed above. However, when a research or educational activity involves any export, ASU must document its analysis of export control issues, including the availability of any exclusion or exemption. When an exemption cannot be used (e.g. when exporting a tangible item abroad, such as a prototype or software), it is critically important to begin the license process as early as possible since it can take anywhere from six weeks to six months or more to receive a license.

Even though these laws may not appear to conflict with the University’s tradition of academic freedom they cannot be taken lightly. Noncompliance carries severe criminal and civil penalties for the individual and the institution. These include federally imposed fines up to $1 million, imprisonment, forfeiture of materials or data, and loss of research privileges. Therefore, it is imperative that all researchers familiarize themselves with these regulations and understand their responsibility to determine when these laws apply to their research activities.

The regulations are lengthy, complex and difficult to interpret and they apply (regardless of sponsor) to research conducted under grants, agreements and contracts. Export controls may also apply to NDA’s, MTA’s, I-129 petitions, patent applications, foreign travel, and even non-funded research. Export technology controls and the countries that are restricted change frequently.

Please distribute this memorandum widely to all researchers on your staff.

Additionally, I encourage you to welcome the Office of Research Integrity & Assurance (ORIA) staff when they contact you to schedule an updated export control awareness training for you.

Please review the Office of Research Integrity & Assurance website for more detailed information related to export controls, including an ITAR/EAR briefing of the regulations at http://researchintegrity.asu.edu/security/brief and export control wizard at
While the investigator is responsible for complying with the regulations, in the event of noncompliance, we shall share in the responsibility.

The Office of Research Integrity & Assurance staff is available for consultation, training, and workshops and will provide updated information on the regulations as they occur. If you believe your research or scholarly activities may be affected by export control regulations or have any questions about export control regulations, please contact:

Debra Murphy, ORIA Director at 480-965-2179 or debra.murphy@asu.edu.

Susan Metosky, ORIA Assistant Director at 480-727-0871 or susan.metosky@asu.edu, or Kyle Buchanan, Export Compliance Coordinator, Sr. at 480-727-6526 or kyle.buchanan@asu.edu

For more information, forms, or guidance documents visit ORIA's export and security website at: http://researchintegrity.asu.edu/security.