

Since the terrorist attacks of September 2001, the federal government has increased its focus on many aspects of U.S. security. One area of particular interest is export controls related to university activities. Export control regulations are federal regulations that prohibit the unlicensed export of certain items, information, and software for reasons related to U.S. national security and foreign policy. The regulatory agencies include the Department of Commerce, Bureau of Industry and Security (BIS) (15 CFR §730); Department of State, Directorate of Defense Trade Controls (DDTC) (22 CFR §120); and Department of Treasury, Office of Foreign Assets Control (OFAC) (31 CFR §500-598).

Recently many universities have been working on defining their export control compliance programs. As with most compliance programs, the

nature of an export compliance program will depend upon the nature of the university, its goals, and resources. In this article, we will describe two very different types of universities and how one tool has enabled both universities to do more with less. The first university, University of California, Irvine (UCI), is a large, decentralized, multi-discipline, fundamental-research-only institution. UCI has a medical school and hospital, a business school, and an engineering school. Each has unique export control issues despite the fact that UCI only conducts open-access, fundamental research. The second university, Oregon Health & Science University (OHSU), is a relatively small research university with a medical and health care facility. The research activity is focused on health care, with little work in fields that have export controlled technology or outputs.

Despite their differences, both universities need to provide a compliance program and document their place in fundamental research. One of the issues both schools have had to tackle is the di-

versity of export control issues regardless of the size of the operation. When thinking about export controls, university administrators often think of the contract and grant function. Responsible for negotiating terms and conditions that will govern the award, the contract and grant office is a primary gatekeeper for export control compliance. It is the first line of defense in flagging equipment that may be exported for the performance of a project, research that may include receipt of export-controlled technical data, and award terms that may make research results export restricted such as publication restrictions or foreign-national restrictions.

But there are many issues that arise outside of research and outside of sponsored research agreements. Export of items will not always be related to a sponsored research agreement. Activities involving sanctioned countries such as attending a conference in Cuba or importing a piece of artwork from Iran may be licensable under OFAC and may also occur outside of research or outside of a sponsored research agreement. Physical shipments originate in all areas of the campus. When a shipment is sent internationally, an export license determination should be conducted beforehand and must include restricted party screening (15 CFR §732). Just recently, UMass Lowell agreed to a \$100,000 fine for shipping EAR99 items to an entity listed on the BIS Entity List (United States v. University of Massachusetts, 2013). The BIS Entity List is one of several lists maintained by government agencies of individuals and entities that are restricted or prohibited from participating in unlicensed U.S. export transactions. Keep in mind EAR99 is the lowest level of export control under the Export Administration Regulations. Something as simple as a pencil is considered EAR99 (15 CFR §734.3). (For more information on the Entity List see: <http://www.bis.doc.gov/complianceand enforcement/liststocheck.htm>)

With the wide variety of export control issues encountered by these two universities, both schools found they could do more with less by identifying gatekeepers within the university and building relationships. Gatekeepers include people in many different campus functions. Department managers are gatekeepers for purchases and ex-

ports. Department finance directors are excellent gate keepers for travel reimbursement, which might include travel to sanctioned countries. Material managers are gatekeepers for decommissioned equipment that may be subsequently sold and exported. The purchasing officer is a gatekeeper for sales and services. This list goes on. As gatekeepers and advisors are identified, so are high-risk areas; and through these relationships the importance of export safeguards can be communicated.

At both schools, one way communication is kept open is through the campus Export Advisory Committee (EAC). The committee at each institution is made of key gatekeepers. The EAC meets several times a year to discuss the most recent issues. Often through discussion other key gatekeepers are identified as are ways to strengthen the program.

It is important to get the right people at the table when creating an EAC. UCI's first EAC meeting was held five years ago during a lunch hour with lunch provided to the attendees. Over time the committee realized having a faculty member as part of the team would be valuable. Faculty are busy, and it takes a special faculty member to be interested in spending extra time advising on compliance issues. But through relationship building, showing respect for the faculty member's time, and demonstrating the benefit of participation, the committee found a faculty member interested in participating. It made a world of difference in assessing information applicable to real-life situations of which the committee previously was not aware of.

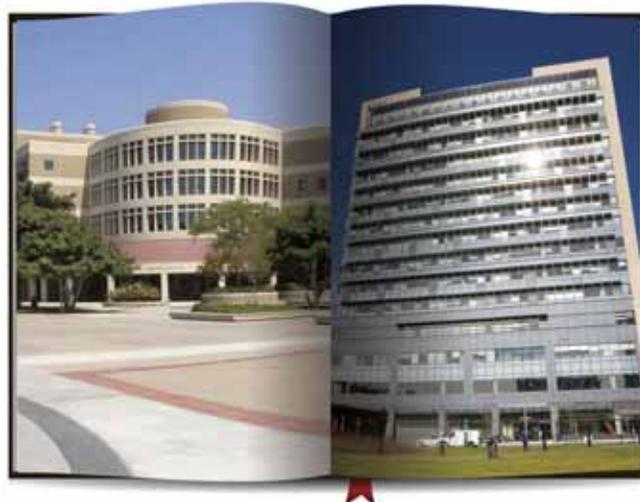
References

- Department of Commerce, Bureau of Industry and Security. 15 CFR §730. Retrieved from: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=15:2.1.3.4.20&idno=15>
- Department of State, Directorate of Defense Trade Controls. 22 CFR §120. Retrieved from: http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title22/22cfr120_main_02.tpl
- Department of Treasury, Office of Foreign Assets Control. 31 CFR §500-598. Retrieved from: <http://www.treasury.gov/resource-center/sanctions/Pages/CFR-links.aspx>
- Export Administration Regulations, 15 CFR §732 (2013). Retrieved from: <http://www.bis.doc.gov/policiesandregulations/ear/732.pdf>
- United States Department of Commerce Bureau of Industry and Security v. University of Massachusetts at Lowell. (2013) Retrieved from: <http://efoia.bis.doc.gov/exportcontrolviolations/toexportviolations.htm>
- Export Administration Regulations, 15 CFR §734.3 (2013). Retrieved from: <http://www.bis.doc.gov/policiesandregulations/ear/734.pdf>

UCI's EAC helped create the first institutional guidelines for export control compliance. The EAC has discussed questions such as, "What is the best way to reach faculty for training?" and, "If we do not accept foreign national restrictions related to research, do we accept such a restriction related to a sales and service agreement?"

The OHSU EAC plays a critical role in creating organizational "buy in" for improvement to the compliance program, communicating revisions to the compliance program, and educating the appropriate audiences on campus about how export compliance affects each group's operations. In addition, having representation from senior management can give the EAC the institutional significance to demonstrate commitment to compliance for the organization.

Using or establishing an EAC on campus can add leadership weight to the compliance message delivered to a diverse campus audience. Asking research staff to complete a checklist or consult with us before travelling to China may carry more meaning when that requirement has been reviewed or approved by the Vice President for Research or a Provost. Having senior staff on the EAC hear the compliance message on a regular basis can help balance the principle of academic freedom with an understanding of the political and economic impacts of open sharing.



Advisory boards and committees can be a double-edged sword. They provide an opportunity to get valuable feedback and assist in getting the word out, but they also have the innate ability to create more work. However, we have found that these meetings provide valuable feedback that helps clarify the export compliance message. Export compliance officers are all aware that we are at risk of diving into our own group think just as the researchers can and end up in a foreign alphabet language of BIS, ITAR, OFAC, ECCN, etc. Having that outside voice asking for plain language can really help get the compliance message across to those who need it most.

Research administrators do not need to tackle these complex regulations alone. As export control compliance programs move forward and awareness increases, creating an EAC or participating on one is a way to work with colleagues on campus through our diverse environments to increase communication and compliance without a lot of additional cost. **N**



Mark Peters joined Oregon Health & Science University in 2011 to create the institution's export compliance program. Mark spent 15 years working on international trade issues at U.S. Department of Commerce. He can be reached at petemark@ohsu.edu



Marci Copeland is Export Control Administrator, at the University of California, Irvine. Marci, in conjunction with the campus Export Advisory Committee, directs and advises the UCI campus community in regard to export control compliance. She can be reached at m.copeland@uci.edu