

Export Control Policy and Procedures

(Adapted with permission from Montana State University)

It is the policy of the University of Wisconsin-Whitewater that, absent extraordinary circumstances, teaching, research, and service will be accomplished openly and without prohibitions or restrictions on the publication and dissemination of the results of academic and research activities. Certain federal regulations, however, may require the University to obtain permission from the Department of State, the Department of Commerce, or the Office of Foreign Assets Control before allowing foreign nationals to participate in research involving specific technologies or before sharing research information with persons who are not citizens of the United States or permanent resident aliens.

These export control regulations have the potential to limit the research opportunities of University researchers and their students, affect publication rights, and/or prevent international collaboration. In addition, violations of these export control regulations can result in the loss of research contracts, monetary fines, or prison. *The regulations do not apply, however, to information that is in the public domain or to information that is the result of fundamental research activities, as defined by federal law.*

Therefore, it is the policy of the University of Wisconsin-Whitewater to pursue its mission in teaching, research, and service in a manner that enables the University to claim the benefit of public domain or fundamental research exemptions from federal export regulations whenever possible, while at all times complying with such regulations. To implement this policy, the Office of Research and Sponsored Programs (ORSP), UW-System Office of Legal Counsel, and the Principal Investigators of UWW research contracts and grants must conduct a thorough review of research projects and contract and grant provisions to determine the applicability of export control regulations and the exemptions thereto. This review will proceed as follows:

1. The Principal Investigator will disclose on the Grant Submission Summary Page whether s/he is aware of any restrictions on access to or publication of research and technical data, limitations on the participation of foreign nationals in the research effort, or other restrictions rendering exemption from export control regulations inapplicable. Disclosure of awareness of such restrictions will not result in disapproval, but ORSP will work with the Principal Investigator and the sponsoring agency to determine as soon as possible the nature and impact of such restrictions.
2. After receipt of notice of award, ORSP will review the terms of all contracts or grants for provisions that restrict access to or publication of research and technical data, that limit the participation of foreign nationals in the research effort, or that otherwise render the exemptions from the export control regulations inapplicable. The results of such review are recorded on a checklist designed to facilitate such review that is signed and dated by the ORSP reviewer.

3. If the results of such reviews indicate that an exemption from the export control regulations may not be available, ORSP will forward the checklist and supporting documentation to The UW-System Office Legal Counsel. The UW-System Office of Legal Counsel will confirm the review of ORSP and if the research contract or grant contains terms or conditions that affect the University's exemption from export control regulations, the matter will then be referred back to the ORSP Director or his designee.
4. The Director of the Office of Research and Sponsored Programs (or designee), The UW-System Office of Legal Counsel, and the Principal Investigator for the research contract or grant will confer and together they will determine if the research falls into one of the categories of technology designated by the Department of State or the Department of Commerce as export controlled, or if the restrictions imposed by the Office of Foreign Assets Control apply. The results of that determination will be documented in the ORSP Award file.
5. If the research contract or grant falls under the terms of any of these regulations, ORSP, acting in collaboration with The UW-System Office of Legal Counsel, will contact the research sponsor to attempt to negotiate the removal or modification of the provisions in the contract or grant that affect the University's exemption from export control regulations. If such negotiation does not result in the removal or modification of the identified clauses, the matter will be referred to the ORSP Director (or designee) to determine if the University will apply for an export control license, conduct the research under export control restrictions, or abandon the research effort due to the possible burdens or restrictions associated with compliance with the regulations.
6. If the ORSP Director (or designee) and The UW-System Office of Legal Counsel determine that the University must apply for an export control license and the ORSP Director approves the conduct of the research given the licensing requirement, The UW-System Office of Legal Counsel will proceed to make application for the appropriate license. No work under a contract or grant, or proposed contract or grant, can begin until this process has been completed and any required export control license has been issued.
7. If the research is to be conducted under export control restrictions without an export license, the Principal Investigator shall certify (ITAR EAR Certification Form) that controls are in place to protect the restricted items or data from disclosure to non-resident foreigners and from export out of the country.
8. If a research sponsor requests publishing or security restrictions after a grant agreement (without such restrictions) has been executed, the Principal Investigator shall contact ORSP before agreeing (formally or informally) to any such publishing or security restrictions. The Principal Investigator, ORSP and The UW-System Office of Legal Counsel will then work together generally as provided in Sections 4, 5, 6, and 7 for assessment of export control consequences and disposition of the sponsor request.
9. Any questions or concerns about the application of export control regulation or any matters related to export control should be addressed to the Office of Research and Sponsored Programs.