

United States Export Controls and Embargoes May Apply to Technology Transfers

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In the post-September 11, 2001, world, the U.S. federal government regards export controls and embargoes as tools to guard against terrorism and is devoting heightened focus to compliance and enforcement in academic research settings. Congress and the defense-oriented interests at the export control, major science funding, and defense agencies are presently questioning and assessing the effectiveness of export controls to stem what they perceive to be a threat that academic institutions might transfer sensitive technology to potential terrorists. Although most institutions do not invest oversight or primary administration of export controls compliance in the technology transfer office, it is critical that university researchers, as well as the technology transfer offices that help them license and patent technologies they develop, understand the applicable export control and embargo rules, exclusions, and licensing exemptions to avoid running afoul of the requirements. The technology transfer office should coordinate with the office that administers the institution's export-compliance program and its expert in export controls, as well as with the inventors, to ensure that the technology transfer process does not contribute to a violation of export controls or embargoes. A violation may be brought about through a material or technology transfer agreement or through a technical assistance agreement that calls for transfers or disclosures of technical information or materials or items that require a license or approval when none exists or is being sought. To avoid such facilitation of a violation, the technology transfer office should be well-versed in the prerequisites for exclusions from export controls and exemptions from

export and deemed export-licensing requirements and in the triggers of possible licensing that should precipitate consultation with export experts at the institution.