

Princeton  
Research

# › Coffee with ORPA: Recent Developments in Export Controls



February 14, 2019

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# E-Verify



- E-Verify only affects Federal contractors who were awarded a new contract on or after the effective date of the rule, September 8, 2009.
- This clause specifies that federal contractors commit to use E-Verify to verify that all of their new hires and all employees (existing and new) assigned to a federal contract are authorized to work in the United States.



# What does E-Verify confirm?

- The process begins with a completed Form I-9, Employment Eligibility Verification.
- E-Verify checks information entered on the I-9 against records available to the Social Security Administration (SSA) and Department of Homeland Security (DHS).

*E-Verify is not a database. It is an web-based status check system. Personal information remains securely locked away in the SSA and DHS databases.*



# When is a Contract exempt?

- A contract is considered **EXEMPT** if any one of the following applies:
  - It is for fewer than 120 days.
  - It is valued at less than the simplified acquisition threshold. The current threshold is \$250K.
  - All work is performed outside the United States.

# Who needs to be E-Verified?



- **Employees hired after November 6, 1986:** All employees assigned to the contract that were hired after this date are required to be E-Verified.
- **Individuals previously verified:** The Contractor is not required to E-Verify an employee again if they were previously E-Verified by the Contractor.
- **Subcontractors:** This is a required flow down to all subcontractors.

# When must an individual be E-Verified? It depends..



- Individuals who are currently at the University:
  - and assigned to a **new** E-Verify contract must be E-Verified within 90 days of the University receiving the contract.
  - and assigned to an **existing** E-Verify contract must be e-verified within 30 days of joining the contract.
  
- Individuals who are **new** to the University:
  - and assigned to an E-Verify contract must be E-Verified within three days of joining the contract.

# E-Verify-for award set-up



- Princeton receives a federal contract or subcontract with the E-Verify clause.
- Prior to set-up in PeopleSoft(PS), individuals listed in the proposal must be E-Verified.
  - Human Resources (HR)- faculty and non-student personnel
  - Graduate School(GS) - graduate students
  - Student Employment(SE)- undergraduates
    - ORPA is notified when the initial E-Verification is complete at award set up.
- ORPA sends a Notice of Award to the Department Administrator (DA) which includes the E-Verify requirement.
  - Post award, the DA is responsible for notifying HR, GS and SE for E-Verification of individuals being assigned to the contract.



# Enhancements Underway



- *Short-term enhancement – Scheduled for second quarter of FY20.* The E-Verify requirement will be flagged on the project, allowing Labor Accounting (LA), prior to the DA submitting an approval for payment, to display an “ALERT”:
  - *“Before proceeding with this distribution, please confirm with HR that this individual has been E-Verified.”*
  - This is an “ALERT”, not a “HARD STOP.”
  
- *Long-term enhancement- under discussion.* In addition to the project being flagged, the E-Verified status would be linked to the LA person record, indicating if an individual has been e-verified.
  - If E-Verified, the charge moves forward.
  - If not E-Verified, an “ALERT” displays with a “HARD STOP”, and the charge would be blocked until the person has been e-verified.

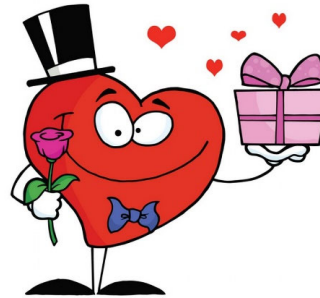


# Primary Export Control Regulations



- International Traffic in Arms Regulations (ITAR - Dept. of State)
  - Items/Technology specifically designed or modified for military or space applications
  - License required for all destinations
  - Export licenses will not be granted for certain proscribed countries
- Export Administration Regulations (EAR - Dept. of Commerce)
  - “Dual-use” items (military or commercial applications)
  - License may be required depending upon: 1) What it is; 2) Where it is going; 3) How it will be used; 4) Who it is going to.
- Office of Foreign Assets Control Regulations (OFAC - Treasury)
  - Sanctioned/embargoed countries
    - Most heavily sanctioned: Cuba, Iran, North Korea, Syria, and Crimea Region

# Exclusions



## Public Domain Information

- Information that is generally accessible to the public through: publications, distribution at a conference, public dissemination, patents, etc.

## Academic Catalog Courses

### Fundamental Research Exclusion:

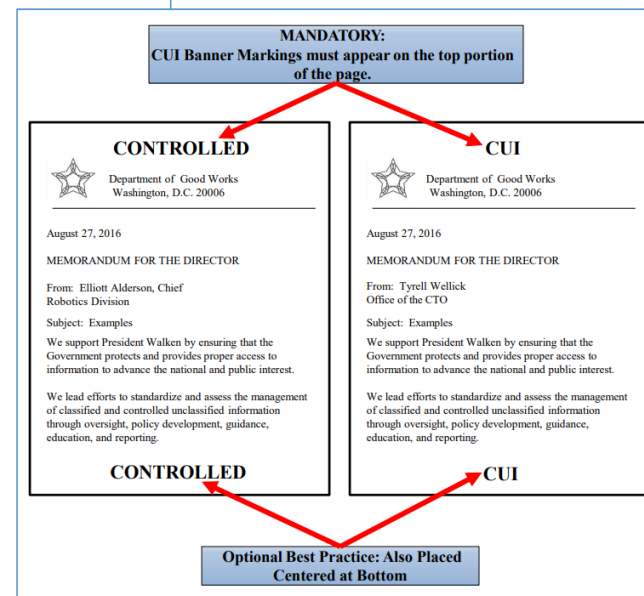
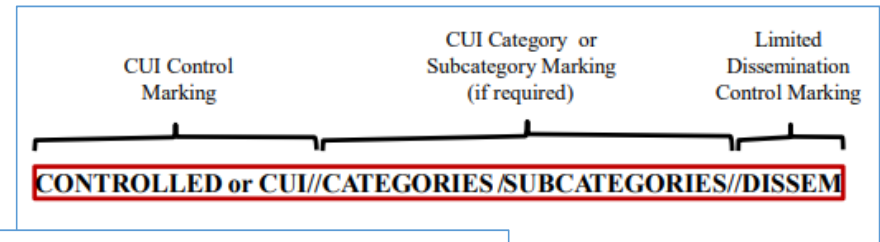
- Research in science, engineering, or mathematics;
- The results are ordinarily published (there are no restrictions or approvals on the publication of the research results); and
- No restrictions on access to the research results (for proprietary or national security reasons)

# Recent Developments: Emerging Tech

- Emerging and Foundational Technologies
  - National Defense Authorization Act 2019 requires Commerce Dept. to place controls on Emerging Technologies “that are essential to the national security of the United States”, including those that **could have potential uses** in connection with weapons or military systems
  - Will not include technology classified as “fundamental research”
  - Technologies currently being considered for control:
    - Biotechnology
    - Artificial Intelligence
    - Position, Navigation and Timing
    - Microprocessors
    - Advanced computing
    - Data analytics
    - Quantum information and sensing
    - Logistics
    - Additive manufacturing (3D printing)
    - Robotics
    - Brain-computer interfaces
    - Hypersonics
    - Advanced materials
    - Advanced surveillance

# Recent Developments: Controlled Unclassified Information

- CUI Working Group
  - OIT leading group to identify and secure Controlled Unclassified Information
    - May be provided by US government OR generated during the conduct of some research projects
      - Does NOT apply to Fundamental Research projects
    - Must be labeled
  - Two “flavors” of CUI
    - Basic: entails basic security requirements as specified by NIST 800-171
    - Specified: Security requirements are in specific regs, such as Export Controls



# Recent Developments: CUI



## Short Term CUI Plan

- Procedures to identify projects in which CUI may apply
- Develop tools that can be implemented immediately
  - Ad hoc training
  - CUI-compliant laptop
  - Develop Access controls
  - Provide secure storage
  - Secure transmission capabilities

## Long Term CUI Plan

- Develop Policy for CUI
- Long term (~1 year) plan to develop/purchase necessary IT resources
  - Standard “CUI image” PC
  - Develop role-based CUI access
  - Finalize storage and transmission capabilities
- Educate faculty and staff

# Recent Developments: Dept. of Defense



## ➤ DFARS 252.204-7000 clause

- (a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless—

....

- (3) The information results from or arises during the performance of a project that .... has been scoped and negotiated by the contracting activity with the contractor and research performer and determined in writing by the contracting officer to be fundamental research...

# Recent Developments: Dept. of Defense

- Princeton has been successful in obtaining Contracting Officer confirmation that we will perform only fundamental research.
- Times are changing ... Colleagues at other universities are seeing:
  - "the DoD is no longer approving fundamental research"
  - "yes, this is fundamental research and you are free to publish... after our distribution office has approved the material for public release"
  - "the lengths they seem to go to NOT agree to (a)(3) is almost sitcom-like."

# Recent Developments: International Shipping



## ➤ Procurement Services:

- DHL will be added as an additional shipper in eShipGlobal
- Customs Broker agreements with two companies. Use for:
  - High value shipments
  - Large/bulky items
  - Temporary exports (will return to US within one year)
  - Other “sensitive” shipments

## ➤ Increased coordination between Export Controls and EHS

- Reviews of hazardous material shipments
- Coordination of shipments of materials that require export licenses
- Training of new faculty, other outreach opportunities





# Recent Developments: Government Shutdown



- OFAC (sanctions) had reduced functions:
  - Continued to administer various Restricted Party Lists
  - Will administer new sanctions, as needed
  - Expect increased wait times for license applications, etc.
- State (ITAR) had “significantly curtailed operations”:
  - Limited ability to process license applications (electronic portal rejected new submissions)
  - No action on in-progress applications
  - Emergency requests were addressed (military, humanitarian, etc.)
- Commerce (EAR) closed, but claimed to be staffed:
  - 70% of positions are exempt from shutdown
  - Portal shutdown: no new applications, no updates on existing applications
  - Emergency license applications could be processed

# Final Thought:



It is better to be feared than loved,  
if you cannot be both.

-Niccolo Machiavelli