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May 26, 2015

MEMORANDUM

TO: UH Principal Investigators  
Dr. Margo Edwards, Interim Executive Director, Applied Research Laboratory

CC: Dr. Vassilis Syrmos, Vice President for Research and Innovation  
William Richardson, Interim Director, Office Technology Transfer and Economic Development  
Yaa-Yin Fong, Director, Office of Research Services

FROM: Leonard R. Gouveia, Jr.   
Director, Office of Export Controls (OEC)

SUBJECT: International Traffic in Arms Regulations (ITAR) pertaining to U.S. Department of Defense (DoD) extramural awards

The purpose of this memorandum is to inform Principal Investigators of ITAR regulations concerning extramural awards from the DoD, and provide specific instructions on compliance with said regulations. You are receiving this memorandum because you have been identified as a recipient of a DoD award(s).

Background

As the result of the presidentially-mandated Export Control Reform Initiative, the U.S. State Department has revised ITAR in several areas. One of the major changes involves the development of certain items, if sponsored by the DoD. The U.S. State Department is rolling out these particular changes over the course of a few years, with the first changes having been implemented in 2014.

If you receive funding from the DoD, either directly or via a flow-through award, for the development of certain items, your work will now be subject to ITAR.

Actions Required

You must review the enclosed ITAR DoD Development List and determine if your project involves the development of anything listed in any of the categories. If it does, you are required by regulation to safeguard the technology from inadvertent access by foreign nationals by following the requirements in the UH Master Technology Control Plan, available at: <http://www.hawaii.edu/offices/export/master-tech-control-plan.pdf>. Foreign nationals are persons *other than* U.S. citizens or U.S. permanent residents (a.k.a. "green card holders").

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U.S. State Department export licenses will be required for any foreign nationals to work on, or access, any project technology, irrespective of whether they are UH or RCUH employees, students, collaborators, subrecipients, etc., and regardless of where they reside. Contact OEC to initiate the U.S. State Department export license process.

The enclosed ITAR DoD Development List refers to “applicable funding dates” for each ITAR category. This date determines which awards ITAR will apply to. For example, if you are funded by DoD to develop electronic equipment or systems and the applicable funding date for the category, Military Electronics, is stated as “July 1, 2015, or later”, ITAR would apply to any awards approved by the DoD on that date or thereafter.

It is important to note that certain exceptions exist in ITAR’s language and those exceptions are detailed in the enclosed ITAR DoD Development List. Those exceptions must be reviewed carefully for applicability.

**Failure to comply with export control laws and regulations may lead to significant civil and/or criminal penalties which include, but are not limited to, monetary penalties up to \$1,000,000.00 per violation; prison term up to 20 years; denial of export privileges; and debarment from US government contracts.**

If you have any questions regarding this memorandum, please contact Ms. Lauren Murai, Export Controls Assistant at 808-956-9036 or via [lmurai@hawaii.edu](mailto:lmurai@hawaii.edu).

Enclosed: ITAR DoD Development List

ITAR DoD Development List,  
current as of 5/22/2015

ITAR US Munitions Category Number	Subpart #	Category Name	Regulation Language	Applicable Funding Date
V	(i)	Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents	<p>Developmental <u>explosives, propellants, pyrotechnics, fuels, oxidizers, binders, additives, or precursors thereof</u> funded by the Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control explosives, propellants, pyrotechnics, fuels, oxidizers, binders, additives, or precursors thereof (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This paragraph is applicable only to those contracts and funding authorizations that are dated January 5, 2015, or later.</p>	1/5/2015
VI	(c)	Surface Vessels of War and Special Naval Equipment	<p>Developmental <u>vessels, and specially designed parts, components, accessories, and attachments thereof</u>, funded by the Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control vessels, and specially designed parts, components accessories, and attachments thereof, (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated July 8, 2014, or later.</p>	7/8/2014
VIII	(f)	Aircraft and Related Articles	<p>Developmental <u>aircraft</u> funded by the Department of Defense via contract or other funding authorization, and <u>specially designed parts, components, accessories, and attachments thereof</u>.</p> <p>Note 1: This paragraph does not control aircraft, and specially designed parts, components accessories, and attachments thereof, (a) in production; (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated April 16, 2014, or later.</p>	4/16/2014

ITAR DoD Development List,  
current as of 5/22/2015

X	(a)(8)	Personal Protective Equipment	<p>Developmental <u>personal protective equipment and specially designed parts, components, accessories, and attachments therefor</u>, developed for the U.S. Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control personal protective equipment and specially designed parts, components accessories, and attachments (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated January 5, 2015, or later.</p>	1/5/2015
XI	(a)(7)	Military Electronics	<p>Developmental <u>electronic equipment or systems</u> funded by the Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control electronic equipment or systems (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated July 1, 2015, or later.</p>	7/1/2015
XIII	(e)(7)	Materials and Miscellaneous Articles	<p>Developmental <u>armor</u> funded by the Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control armor (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated July 8, 2014, or later.</p>	7/8/2014
XV	(e)(18)	Spacecraft Systems and Related Articles	<p><u>Secondary or hosted payload, and specially designed parts and components therefor</u>, developed with Department of Defense funding.</p> <p>Note 1: This paragraph does not control payloads that are (a) determined to be subject to the EAR via a commodity jurisdiction determination, or (b) identified in the relevant Department of Defense contract or other funding authorization or agreement as being developed for both military and either civil or commercial applications.</p> <p>Note 2: This provision is applicable only to those contracts and funding authorizations that are dated May 13, 2015, or later.</p>	5/13/2015

ITAR DoD Development List,  
current as of 5/22/2015

XX	(a)(8)	Submersible Vessels and Related Articles	<p>Developmental <u>vessels</u> funded by the Department of Defense via contract or other funding authorization.</p> <p>Note 1: This paragraph does not control vessels, and specially designed parts, components, accessories, attachments, and associated equipment therefor, (a) in production, (b) determined to be subject to the EAR via a commodity jurisdiction determination, or (c) identified in the relevant Department of Defense contract or other funding authorization as being developed for both civil and military applications.</p> <p>Note 2: Note 1 does not apply to defense articles enumerated on the U.S. Munitions List, whether in production or development.</p> <p>Note 3: This provision is applicable only to those contracts and funding authorizations that are dated July 8, 2014, or later.</p>	7/8/2014
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