

Export Controls and Foreign Influence

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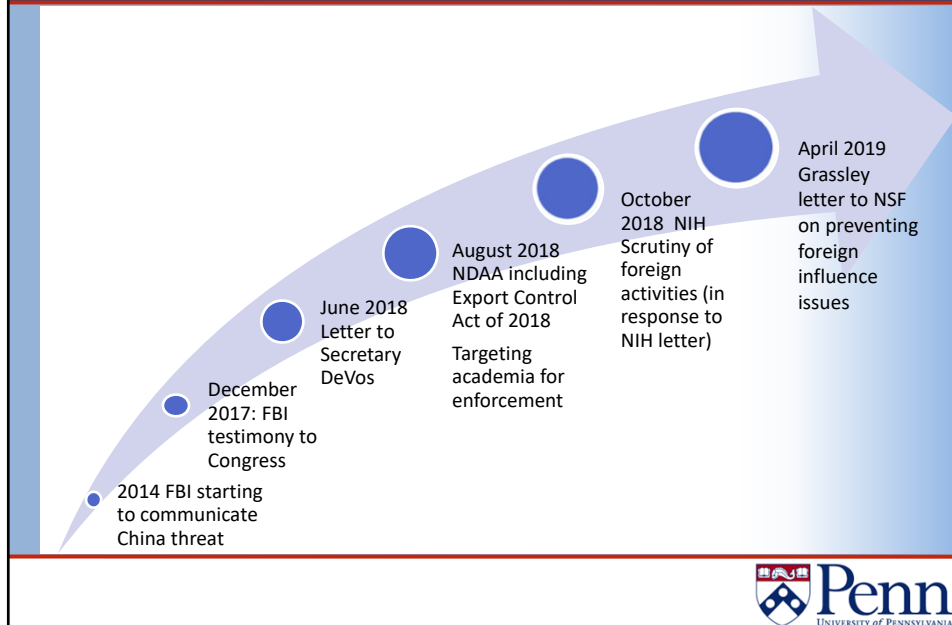


Recent Government Concerns

- Several countries of concern, but...
- Current attention focused on China
 - Theft of intellectual property
 - Focus on academic institutions and activities
 - Specific Chinese companies/universities identified
- Reputational risk to the institution



How is this happening?



What does this mean?

- Increased scrutiny of foreign relationships:
 - Gifts
 - Memberships
 - Sponsored research agreements
 - Unfunded collaborations
- Increased institutional awareness
- Increased need to identify potential relationships of concern



How do we identify potential relationships of concern?

- Work with relevant offices across your institution
 - Sponsored projects
 - Export compliance
 - Global initiatives
 - Development and Alumni Relations
- Know your international partners
- Utilize your knowledge of Export Controls to help identify potential issues



What are Export Control Laws (ECLs)?

- Federal laws that govern how items, technology, and data may be exported from the United States or shared with foreign persons within the United States
 - Protect national security
 - Curtailing exports of militarily significant items and technologies to U.S. adversaries
 - Preventing terrorism
 - Prevent the proliferation of weapons of mass destruction
 - Further U.S. foreign policy and Trade agreements
 - Preserve U.S. economic competitiveness



What is an Export?

- Shipment of goods out of the United States
 - U.S. origin materials to another country
 - U.S. origin materials from one foreign country to another, or from a foreign country back to the U.S. (re-export)
- Electronic transmission out of the United States
 - Any media (phone, fax, email, chat programs, cloud)
- Release of technology to a foreign national in the United States (deemed export)
 - Lab tour, presentations and discussions at meetings, etc.



ECL Regulations & Federal Agencies with Oversight

Federal Agency	Enforcing Authority	Regulation	Controlled Items/Activities, Code of Federal Regulations	Area of Oversight
Department of State	Directorate of Defense Trade Controls (DDTC)	International Traffic in Arms Regulations (ITAR)	U.S. Munitions List (USML) 22 CFR §§ 120-130	Technologies with inherently military properties
Department of Commerce	Bureau of Industry and Security (BIS)	Export Administration Regulations (EAR)	Commerce Control List (CCL) 15 CFR §§ 730-774	Technologies with “ dual uses ” but primarily commercial, most commercial items, and certain military items not controlled under the ITAR
Department of the Treasury	Office of Foreign Assets Control (OFAC)	OFAC regulations	Embargoes and sanction countries Restricted individuals and entities 31 CFR §§ 500-599	Prohibits transactions of value with, and/or providing services to, certain countries and individuals



Prohibited/Restricted Party

- U.S. government agencies maintain lists of individuals and entities, *both in the U.S. and abroad*, that have committed export violations or other offenses
- Financial dealings/export transactions with, or providing a service to, restricted entities and parties are prohibited without a license or other authorization from the applicable government agency
- Restricted Party Screening is recommended depending on the transaction involved
 - Commercially available screening software
 - U.S. Government Consolidate List (free):
https://2016.export.gov/ecr/eg_main_023148.asp



How does knowing this help?

- Review for export compliance concerns can identify
 - Individuals/entities that should undergo restricted party screening
 - Non-U.S. sponsors
 - International collaborators (funded or unfunded)
 - Planned international travel
 - With or without equipment
 - Planned international collaborations
 - Projects requiring export control measures on campus



Who Should be Screened?

- Business relationships
 - Sponsors (grants and contracts)
 - Gifts
 - Vendors
- International students/scholars/employees
 - Individuals (and their home institutions) for whom the institution is sponsoring a visa
- Other international visitors and activities
 - Lab tours
 - Invited speakers
 - Institution-related travel abroad



When should they be Screened?

- Business relationships
 - Before any agreement has been executed
 - Before any financial transaction occurs
- Visa sponsorship
 - Before signing any agreements with the home institution, as applicable
 - Before beginning the visa application
- Other international visitors and activities
 - Well in advance of the visit to campus
 - Well in advance of international travel



What happens next?

- Who do you need to communicate with at your institution?
- What do you need to communicate?
- How are decisions made?



How we manage this at Penn

- Training
 - Online
 - In person
 - Targeted
- Systems
 - Electronic record systems
 - Non-monetary agreements
 - Proposals
 - Awards
 - Shipping solution
- People

