



UNIVERSITY OF WISCONSIN - MADISON

MADISON, WISCONSIN



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1.0 PURPOSE

This document describes the compliance program to be implemented by the University of Wisconsin-Madison campus for ensuring that products, technology and services are exported in compliance with United States export control regulations.

2.0 SCOPE

2.1 Regulations – This program covers items exported under the jurisdiction of the following agencies of the federal government:

2.1.1 **Department of Commerce** – Export Administration Regulations (EAR).

2.1.2 **Department of State** – International Traffic in Arms Regulations (ITAR).

2.1.3 **Department of Treasury** – Foreign Assets Control Regulations (FACR).

2.2 Items Covered

2.2.1 **Products and Materials** – Hardware, software, biological agents and substances/materials from which products are made..

2.2.2 **Technology** – Data, descriptions, drawings, procedures, design documents, trade studies and engineering analyses.

2.2.3 **Services** – Installing, maintaining, servicing or operating a product exported from the United States, or providing technical assistance/support and training to persons operating an exported product.

2.2.4 **Deemed Export** – The transfer of technology, including articles, information, data or use of equipment that has certain export restrictions, to a foreign national in the US.

2.3 Affected Personnel – All persons involved in the exportation of items from the UW to foreign entities, including, but not limited to:

2.3.1 Researchers, scientists and engineers.

2.3.2 Shipping staff.

2.3.3 School, institute and center management.

2.3.4 Quality assurance and regulatory staff.

3.0 REFERENCES

3.1 Export Administration Regulations, 15CFR 730-774.

3.2 International Traffic in Arms Regulations, 22CFR 120-130.

3.3 Foreign Assets Control Regulations, 31CFR 500-598.

3.4 How to Develop an Export Management and Compliance Program, Bureau of Industry and Security, Department of Commerce – Class Handouts Jan. 27-28, 2009.

3.5 Stanford, Export Controls: Decision Tree.

4.0 DEFINITIONS

- 4.1 **CCL** – Commerce Control List.
- 4.2 **Compliance Staff** – UW ExCO, ExCC, organizational PoCs and staff reporting to these persons.
- 4.3 **Deemed Export** – The transfer of technology, including articles, information, data or use of equipment that has certain export restrictions, to a foreign national in the US.
- 4.4 **DOD** – Department of Defense (U.S.).
- 4.5 **DOE** – Department of Energy (U.S.).
- 4.6 **Export** – The transfer of products, technology or services from the United States to another country or to foreign persons within the United States.
- 4.7 **EAR** – Export Administration Regulations.
- 4.8 **ECCN** – Export Control Classification Number.
- 4.9 **ExCC** – Export Control Coordinator.
- 4.10 **ExCO** – Export Control Officer.
- 4.11 **ExCP** – Export Control Plan.
- 4.12 **FACR** – Foreign Assets Control Regulations.
- 4.13 **IHR** – International Human Resources (at UW-Madison).
- 4.14 **ITAR** – International Traffic in Arms Regulations.
- 4.15 **NASA** – National Aeronautics and Space Administration (U.S.).
- 4.16 **Organization** – Generic term used in this document to describe centers, institutions, schools, colleges and departments collectively.
- 4.17 **PoC** – Point of contact; the person responsible for the implementation and management of the export control program within each applicable organization.
- 4.18 **Public Domain** (22CFR 120.11) – Information which is published and generally accessible or available to the public; interchangeable with the term publicly available.
- 4.19 **RPS** – Restricted Party Screening.
- 4.20 **RSP** – Research & Sponsored Programs; the organization on the UW-Madison campus that manages research proposals and awards.
- 4.21 **USML** – United States Munitions List (22CFR 121.1).
- 4.22 **US Person** (22CFR 120.15) – US Person includes the following:
 - 4.22.1 Someone who has been lawfully accorded the privilege of residing permanently in the U.S. as an immigrant in accordance with immigration laws (a lawful permanent resident; 8 U.S.C. 1101(a)(20)).
 - 4.22.2 Citizen or national of the U.S. (protected individual; 8 U.S.C. 1324b(a)(3)).

4.22.3 An individual who is (protected individual; 8 U.S.C. 1324b(a)(3)):

4.22.3.1 An alien who is lawfully admitted for permanent residence.

4.22.3.2 Granted status of an alien lawfully admitted for temporary residence.

4.22.3.3 Admitted as a refugee.

4.22.3.4 Granted asylum.

4.22.3.5 It does not include an alien who fails to apply for naturalization within 6 months of the date of eligibility, or an alien who has applied on a timely basis, but has not been naturalized as a citizen within 2 years after the date of application (with some exceptions).

4.22.4 Any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States.

4.22.5 Any U.S. governmental (federal, state or local) entity.

4.23 UW – University of Wisconsin-Madison.

4.24 VCRGE – Office of the Vice Chancellor for Research and Graduate Education.

5.0 RESPONSIBILITIES

Staff responsibilities are described with the applicable task.

Export Control Policy, UW-Madison

<https://policy.wisc.edu/library/UW-4000>

For assistance in determining how the export control regulations may affect employee or student activities, please see the information on the UW-Madison's Export Control webpage at: <https://research.wisc.edu/respolcomp/exportcontrol/> or contact the Export Control Office at exportcontrol@grad.wisc.edu.

EXPORT CONTROL COMPLIANCE PROGRAM

6.0 MANAGEMENT COMMITMENT

6.1 Purpose of Section – This section defines the management commitment, resources and means for notifying staff of the export control program.

6.2 Sponsor – Daniel Uhrich, Associate Vice Chancellor for Research Policy in the Office of the Vice Chancellor for research and Graduate Education.

6.2.1 Responsibilities/Authority

6.2.1.1 Authorize the creation of policies.

6.2.1.2 Approve policies and procedures.

6.2.1.3 Be the final arbiter for export control matters within the university, in consultation with the appropriate leadership bodies.

6.3 Export Control Office

6.3.1 **Export Control Officer (ExCO)** – Thomas Demke

6.3.2 **Export Control Coordinator (ExCC)** – Bethany Nelson

6.3.3 **Legal Counsel** – Benjamin Griffiths, UW Office of Legal Affairs

6.3.4 Responsibilities

6.3.4.1 Create and update the Export Control Plan (ExCP).

6.3.4.2 Implement the ExCP.

6.3.4.3 Conduct the initial and annual UW export control assessments.

6.3.4.4 Create materials for and conduct trainings to implement the ExCP.

6.3.4.5 Assist project staff in completing initial and ongoing assessments of projects for potential compliance concerns.

6.3.4.6 Monitor the export control program and coordinate program audits.

6.3.4.7 In consultation with Sponsor (6.2), propose and implement corrective and preventive actions to address program insufficiencies.

6.3.4.8 Maintain export control records.

6.3.4.9 Monitor updates to federal regulations and assess impact on UW policies and procedures.

6.3.4.10 Complete, update and maintain appropriate registrations.

6.3.4.11 Submit export license applications and serve as primary contact with government for subsequent communications regarding these applications.

6.3.4.12 Maintain export licenses and monitor compliance with terms of those licenses.

6.3.4.13 Report compliance issues and violations to UW Administration and the appropriate Federal Government agency.

6.3.4.14 Review and report program status to VCRGE.

6.3.5 Authority

6.3.5.1 The ExCO, ExCC and Legal Counsel have the authority to:

6.3.5.1.1 Propose and implement export control policies and procedures, in consultation with Sponsor (6.2).

6.3.5.1.2 Develop and conduct compliance trainings.

6.3.5.1.3 Coordinate the export control audit program.

6.3.5.1.4 In consultation with Sponsor (6.2), implement corrective and preventive actions to address program insufficiencies.

6.3.5.1.5 Communicate with VCRGE and UW leadership, up to and including the Chancellor, regarding matters involving export control program development, implementation and compliance.

6.3.5.1.6 Report compliance issues to the appropriate federal government agency.

6.3.5.1.7 Have signature authority for:

6.3.5.1.7.1 Export control certifications.

6.3.5.1.7.2 License applications.

6.3.5.1.7.3 Other submissions to the government.

6.4 Resources

6.4.1 Staff

6.4.1.1 The ExCO and ExCC will serve as the key staff to develop compliance documentation (policies, procedures, guidelines, forms and instructional materials), and assist project members in complying with the various export control regulations.

6.4.1.2 Principal Investigators/Project Managers will be required to:

6.4.1.2.1 Conduct initial compliance assessments of their projects.

6.4.1.2.2 Notify their organizational PoC or the Export Control Office when the compliance status of their project has changed.

6.4.1.2.3 Provide technical information for licenses.

6.4.1.2.4 Support the compliance effort in carrying out their project.

6.4.2 Funding

6.4.2.1 Project-related expenses shall be funded through department funds.

6.4.2.2 General program support shall be funded through general funds provided by the VCRGE.

6.4.3 School, Institute, Center, Department Point-of-Contact

6.4.3.1 Each school, institute, center or department that needs to comply with this plan shall provide the names of a PoC and backup PoC for their organization. When a backup PoC is not designated, the department chair or college Associate Dean of Research will be assumed.

6.4.3.2 Responsibilities of PoCs (or their delegates):

6.4.3.2.1 Coordinating policy statement notification.

6.4.3.2.2 Coordinating export control trainings.

6.4.3.2.3 Ensuring export control records are properly maintained – See Section 11.

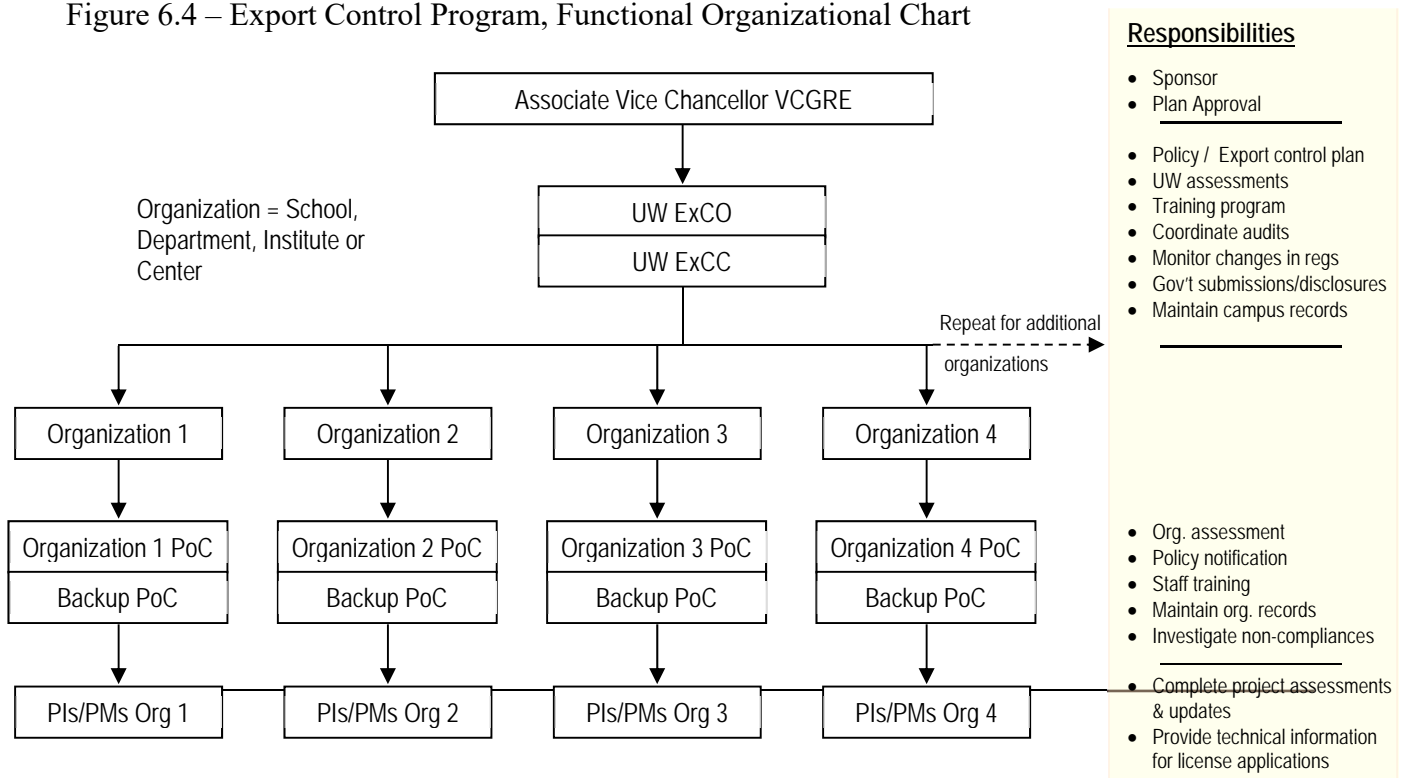
6.4.3.2.4 Participating in the organizational risk assessment.

6.4.3.2.5 Assisting the Export Control Office in ensuring that compliance activities are completed in a timely and acceptable manner.

6.4.3.2.6 Participating in audits when their organization is being audited or when other organizations are being audited.

6.4.3.2.7 Ensuring export control compliance reports are documented, investigated and addressed in a timely and acceptable manner.

Figure 6.4 – Export Control Program, Functional Organizational Chart



6.5 Policy Statement – UW’s policy statement regarding export control can be found on page 5 of this document. A sample policy statement letter is provided as Appendix B.

6.5.1 Distribution – The UW policy statement regarding export control shall be distributed in the following manner:

6.5.1.1 To Whom – PIs in certain departments as identified by their respective PoCs as persons whose research may be impacted by export controls.

6.5.1.2 By Whom – By the ExCO working with the respective PoCs.

6.5.1.3 How often – Every two years (more frequently is acceptable) or when significant changes are made to the policy.

6.6 Records

6.6.1 Statement of Delegation for Compliance Officer (if other than the program document)

6.6.1.1 The UW ExCO and ExCC are designated in section 6.3.

6.6.1.1.1 If neither person is available to carry out the job duties of the compliance officer, the Associate Vice Chancellor for Research Policy, VCRGE shall assume those responsibilities.

6.6.1.2 Each affected organization shall appoint a PoC and backup PoC per Appendix A, e-mail or other written manner.

6.6.2 Copy of Policy – The export control policy can be found on p.5.

6.6.3 Record of Distribution of Policy Statement – The organization that distributes the policy statement shall maintain a record of that distribution. The record shall contain:

6.6.3.1 To whom the policy statement was distributed.

6.6.3.2 When the policy statement was distributed.

7.0 RISK ASSESSMENT

7.1 Purpose of Section – This section defines the process of assessing the UW as a whole as well as smaller UW organizations to identify our export-related processes, define vulnerabilities, prioritize high-risk areas and establish safeguards.

7.2 UW Assessment

7.2.1 By Whom – The ExCO or delegate shall complete the UW assessment, and forward to the Office of the Vice Chancellor for Research and Graduate Education, which shall determine the appropriate course of action for any potential vulnerabilities identified in the Risk Assessment.

7.2.2 Frequency

7.2.2.1 Initial assessment – Within 3 months of approval of this document.

7.2.2.2 Reassessment – At least annually, and whenever the need arises.

7.2.3 What Organizations Are Affected – The assessment will focus on the following units:

7.2.3.1 Agricultural & Life Sciences (College of).

7.2.3.2 Engineering (College of).

7.2.3.3 VCRGE centers.

7.2.3.4 Letters & Science (College of).

7.2.3.5 Medicine & Public Health (School of).

7.2.3.6 Pharmacy (School of)

7.2.3.7 Veterinary Medicine (School of).

7.2.4 What Processes Are Affected – The assessment will focus on:

7.2.4.1 Research awards (funded research).

7.2.4.2 Unfunded collaborations.

7.2.4.3 Shipping.

7.2.4.4 Purchasing equipment and services.

7.2.4.5 Addition of foreign staff members.

7.2.4.6 Agreements such as:

7.2.4.6.1 Fee-For-Service Agreements (FFS).

7.2.4.6.2 Material Transfer Agreements (MTA).

7.2.4.6.3 Non-Disclosure or Confidentiality Disclosure Agreements (NDA or CDA).

7.2.5 Where Are The Vulnerabilities and Risks

7.2.5.1 **Foreign Nationals** – The UW employs or contracts with foreign nationals to work on scientific projects. Therefore, who is selected to work on a project may be just as important as what the project is to determine its export control needs. These persons could be:

7.2.5.1.1 Research partners (collaborators).

7.2.5.1.2 Project staff.

7.2.5.1.3 Project contractors.

7.2.5.1.4 Recipients of project deliverables (items, information, services, data, technology).

7.2.5.1.5 Vendors (persons or companies supplying equipment, information or data).

7.2.5.2 **Projects with Foreign Parties** – Foreign parties may:

7.2.5.2.1 Sponsor research or request services from the UW.

7.2.5.2.2 Receive subawards or contracts from UW to provide research, information, data or services.

7.2.5.3 **NASA, DOD or DOE Projects** – Projects funded by NASA, or the Departments of Defense or Energy may have a higher level of export control or proprietary information concerns. Public domain information is not subject to export controls; however, proprietary information keeps information out of the public domain increasing its potential for export controls. NASA projects may have spaceflight implications, whereas DOD projects may have military implications.

7.2.5.4 **Travel Outside The U.S.** – Persons traveling outside of the U.S. (for work-related purposes) may present a compliance concern with ExC, embargo or restricted party regulations depending upon the:

7.2.5.4.1 Countries to which they are traveling.

7.2.5.4.2 Persons or organizations with which they will be meeting.

7.2.5.4.3 Type of information, technology or data they will be transferring (through verbal, paper or electronic means).

7.2.5.4.4 Type of equipment (if any) they take with them.

7.2.5.5 **Specific Technology**

7.2.5.5.1 **Spaceflight Projects** – Spaceflight equipment, including satellites, may be controlled under ITAR (USML XV) or EAR. Satellite projects may involve data received from satellites, satellite ground processing software and sensors attached to satellites. Export

control concerns vary based upon the nature of the satellite project.

7.2.5.5.2 **Select Agents** – All select agents are regulated under the EAR. Shipping select agents abroad requires an export license.

7.2.5.5.3 **Supercomputing** – Large computer clusters may be regulated under the EAR depending on the Adjusted Peak Performance of the system, its location and the persons installing, maintaining and using it.

7.2.5.5.4 **Encryption or Simulation Software** – Encryption software is regulated under the EAR. Simulation or modeling software may be regulated under the EAR depending on its intended use (i.e., modeling radiation interactions).

7.2.5.5.5 **Laboratory or Research Instrumentation** – Various types of research instrumentation, whether purchased or built by a UW lab, may be regulated under the EAR.

7.2.6 **Prioritize High Risk Areas** – The initial and annual assessments will prioritize the potential high risk areas.

7.2.7 **Establish Safeguards**

7.2.7.1 Public Domain Information.

7.2.7.2 Initial Project Assessment.

7.2.7.3 Staff Training.

7.2.7.4 Visa Certification.

7.2.7.5 Purchasing Screening.

7.2.7.6 Assessment of Project Instrumentation.

7.3 **Organizational Assessment**

The form in Appendix A is provided to assist in completing the annual assessment of a college or school. It forms a structure for conducting the assessment, but its use is not mandatory.

For simplicity purposes, schools, institutes, centers and departments are referred to jointly in this document as organizations.

7.3.1 **By Whom** – The ExCO will conduct the organizational assessment with the assistance of the organization's PoC.

7.3.2 **Frequency**

7.3.2.1 **Initial assessment** – An initial assessment of affected organizations will be completed within 6 months of approval of this document.

7.3.2.1.1 The initial assessment shall be documented.

7.3.2.2 **Reassessment** – Reassessments shall be completed annually.

7.3.2.2.1 Reassessments shall be documented.

7.3.3 **What Organizations Are Affected** – The potential affected colleges and schools are described in 7.2.3. Each of these organizations may be divided into smaller working groups (i.e., departments, labs or centers). The ExCO and organization PoC will determine whether to include all working groups into the export control program.

7.3.4 **What Processes Are Affected** – The organizational assessment shall identify key affected processes (as noted in 7.2.4).

7.3.5 **Where Are The Vulnerabilities and Risks** – The vulnerabilities and risks are described in 7.2.5.

7.3.6 **Prioritize High Risk Areas** – The highest risk projects would be projects that:

7.3.6.1 Interface directly with foreign partners.

7.3.6.2 Use foreign nationals to complete work.

7.3.6.3 Are funded by agencies with higher export control concerns, such as NASA, DOD and DOE.

7.3.7 **Establish Safeguards** – Safeguards are the same as described in 7.2.7.

7.4 Records

7.4.1 UW Assessments – Initial and recurring.

7.4.2 Organizational Assessments – Initial and recurring.

7.4.3 Assessments

7.4.3.1 Assessments shall be written and contain the following information:

7.4.3.1.1 Assessor.

7.4.3.1.2 Date of assessment.

7.4.3.1.3 Initial or re- assessment.

7.4.3.1.4 Organization reviewed.

7.4.3.1.5 Processes affected.

7.4.3.1.6 Vulnerabilities and Risks.

7.4.3.1.7 Prioritization of potential risks.

7.4.3.1.8 Safeguards.

7.4.3.2 The ExCO shall maintain the organizational assessments with copies forwarded to the PoCs of the affected organizations.

8.0 WRITTEN COMPLIANCE PROGRAM

- 8.1 Purpose of Section** – This section describes the maintenance and accessibility of this document.
- 8.2 Document Maintenance** – This document is maintained by the ExCO or delegate.
- 8.3 Update Frequency** – This document shall be reviewed annually and updated accordingly. More frequent updates may be necessitated by changes in regulations or changes within the UW.
- 8.4 Dynamic Program** – This document is to be reevaluated (as needed) to meet the needs of changing regulations and university policy.
- 8.4.1 This compliance program shall be reviewed and approved by UW Administration and VCRGE.
- 8.4.2 All subsequent changes to this document shall be approved by the same functions that approved the original version.
- 8.5 Operational Plan**
- 8.5.1 **Define All Processes** – This ExCP shall describe all of the processes required to implement the plan. The ExCP shall be written as an operational plan rather than a set of policy statements and include the following processes:
- 8.5.1.1 Management Commitment.
- 8.5.1.2 Risk Assessment.
- 8.5.1.3 Written Compliance Program.
- 8.5.1.4 Training.
- 8.5.1.5 Export Compliance.
- 8.5.1.6 Recordkeeping.
- 8.5.1.7 Monitoring and Auditing.
- 8.5.1.8 Handling and Reporting Problems and Violations.
- 8.5.1.9 Corrective Actions.
- 8.5.1.10 Status Reports.
- 8.5.2 **Define All Functional Steps** – The ExCP shall describe the tasks required to implement the processes defined in the previous section.
- 8.5.3 **No Conflicts of Interest** – UW shall avoid conflicts of interest in the export control program by ensuring the person(s) responsible for the following tasks are not directly responsible for the completion of a project (i.e., principal investigator, program manager, project manager or lead scientist):
- 8.5.3.1 Maintenance, creation and updating of the export control plan.

8.5.3.2 Creation of program processes.

8.5.3.3 Review of project or organizational assessments for compliance to this plan or U.S. government regulations.

8.5.3.4 Auditing each organization's export control program for compliance to this procedure and U.S. government regulations.

8.6 Publicly Accessible – This document will be posted on the UW VCRGE Export Control website at:

<http://www.grad.wisc.edu/research/policyrp/ec/index.htm>

8.7 Record – The record of this compliance program is this document ECP-1.

9.0 COMPLIANCE TRAINING

9.1 Purpose of Section – This section defines the training program for the export control effort at the UW, including who gets trained, on what topics they get trained and who conducts the trainings.

9.2 Who Manages Program – The overall training program is managed by the ExCO or delegate.

9.2.1 The PoC for each organization shall ensure that training is completed per this section and training records are maintained for their organization.

9.2.2 Training Assessment

9.2.2.1 **Who Gets Trained** – See table 9.2.

9.2.2.2 **Training Levels** – See table 9.2.

9.2.2.3 **Who Gets Trained at What Levels** – See table 9.2.

Table 9.2

Level	L1	L2	L3
Type Of Training	Policy	Regulations & Project Assessment	Compliance Plan
Who Gets Trained	<ul style="list-style-type: none"> Principal Investigators 	<ul style="list-style-type: none"> Research administration 	<ul style="list-style-type: none"> University & VCRGE Leadership
Frequency	Every two years	Every two years	Every two years
Current staff	Trained within 3 months of reassignment (on appropriate training)		
New/reassigned staff	Trained within 3 months of reassignment (on appropriate training)		
What Gets Trained	Policy notification (see App. B)	<ul style="list-style-type: none"> Regulations Export compliance Project assessments 	Overview of: <ul style="list-style-type: none"> Regulations Compliance program Project assessments

9.2.3 Develop Training Materials – The ExCO or delegate will develop all training materials, including the policy notification.

9.2.3.1 Campus, college or departmental leadership shall approve the policy notification prior to issuance.

9.2.4 Conduct Trainings

9.2.4.1 Level 1 Policy Notification shall be coordinated by the organization (likely PoC, HR) or Export Control Office, who shall send out the notifications.

9.2.4.2 Level 2 Regulations & Project Assessment training shall be conducted by the ExCO, ExCC or delegate.

9.2.4.3 Level 3 Compliance Plan training shall be conducted by the UW ExCO, ExCC, Legal or other knowledgeable person.

9.2.5 **Maintain Records**

9.2.5.1 The Export Control Office shall maintain all training records.

9.2.5.2 See 9.6.3 for the content of the training records.

9.3 **Who Gets Trained**

9.3.1 **Principal Investigators** – Certain PIs shall receive the Level 1 Policy Notification (as identified by their respective PoCs as persons whose research may be impacted by export controls).

9.3.2 **Research Administration** – The Research Administration staff of affected organizations shall receive Level 2 Regulations & Project Assessment training.

9.3.3 **Management (UW, VCRGE)** – UW and VCRGE upper management shall receive Level 3 Compliance Plan training.

9.3.4 **Trainers** – Internal trainers of any of the export control trainings shall be a resident expert of this plan and, therefore, considered trained.

9.4 **How is the Training Completed**

9.4.1 **Deployment** (classroom, webinar, Learn@UW, e-mail, etc.)

9.4.1.1 Level 1 notification will be provided either through paper (mail) or electronic (Learn@UW, e-mail or web) distribution.

9.4.1.2 Level 2 and 3 trainings will be conducted as classroom or on-line sessions.

9.4.2 **Tailor Training to Audience** – The level of training is based upon the needs of the staff being trained. See Table 9.2.

9.5 **How Often**

9.5.1 **Initial Training** – Upon initial approval of this plan, the Export Control Office, in conjunction with the affected organizations, shall develop a plan to complete the Level 1-3 trainings, including:

9.5.1.1 The level of training.

9.5.1.2 Who (by name) shall receive Levels 1-3 training.

9.5.1.3 A schedule for the planned training.

9.5.2 **Recurring**

9.5.2.1 **Periodic** – Trainings shall be completed **every 2 years**. Trainings may need to be repeated more frequently depending on changes to regulations, project changes, export control program changes or for compliance reasons, as follows:

9.5.2.2 **Changes to Regulations** – Changes to regulations may require updating of the ExCP. All changes to the ExCP for regulatory

reasons shall be evaluated to determine if retraining is required and how quickly that training needs to be completed.

9.5.2.3 Changes to Processes – Changes to processes used in the ExCP typically require updating of the plan and retraining of the staff at the earliest convenience.

9.5.2.3.1 Simple changes may be completed via e-mail to the affected staff; however, major changes should be completed through a classroom or on-line session.

9.5.2.4 Changes in Projects – The acceptance of awards for military goods or awards containing publication restrictions may require additional training of staff to ensure compliance with the regulations. This training shall be completed at the earliest convenience.

9.5.2.5 Increase or Decrease in Non-compliant Activities – It is very likely that an increase in non-compliant activities will trigger the need for additional training. This may result in more frequent training or a change to the content of the training.

9.5.2.5.1 If training frequency was increased due to non-compliance issues, the frequency may be decreased once there is objective evidence that the non-compliances are no longer occurring.

9.6 Records

9.6.1 Records of Training Needs shall include:

9.6.1.1 Names of the persons.

9.6.1.2 Training level needed.

9.6.1.3 Planned completion date of the training.

9.6.2 Training Events – A training event is considered any time that one or more persons are trained.

9.6.3 Records of Trainings shall include:

9.6.3.1 Identification of training (name, document # and revision, as applicable).

9.6.3.2 Content of training (training materials attached or referred to).

9.6.3.3 Date of training.

9.6.3.4 Approximate length of training.

9.6.3.5 Training format.

9.6.3.6 Name of trainer.

9.6.3.7 Name of person(s) being trained.

9.6.3.8 Hardcopy of examination (if appropriate).

9.6.3.9 Copy of training certificate (if issued).

10.0 EXPORT COMPLIANCE

The assessment tools in Appendices C and E are provided to assist the researcher in completing project assessments.

10.1 Purpose of Section – This section describes how export control assessments will be completed at the UW. These assessments fall into two categories:

10.1.1 Project assessments to determine whether an export license is needed.

10.1.2 Assessments to categorize products:

10.1.2.1 Manufactured by the organization completing the assessment.

10.1.2.2 Manufactured elsewhere and incorporated into the organization's product(s).

10.2 Manage Process from First Point of Regulatory Risk

10.2.1 **Before the Agreement is Signed** – Assessments of export control risks should be completed prior to signing the agreement. This is particularly important if the project requires export of a controlled product or export of product to a country for which the U.S. government has significant reasons of concern.

10.2.1.1 This assessment should be completed as early in the project as is practical.

10.2.1.1.1 Planning for export control impacts at the proposal stage allows the Principal Investigator (PI) or Project Manager (PM) to adjust the budget or schedule to accommodate any extra concerns that may need to be addressed for export control purposes.

10.2.1.2 At a minimum, assessments shall be completed early in the post-award period to determine if the project has any regulatory risk.

10.3 Registrations – The ExCO is responsible for completing, updating and maintaining the registrations needed to support the export control program.

10.4 Project Assessments

This evaluation reviews the potential impacts of ITAR, EAR and FACR on the project being assessed. The evaluation is completed using the forms found in Appendices C, E and F.

10.4.1 **Who Conducts** – The PI or delegate shall complete the initial and any subsequent project assessments.

10.4.2 **Who Reviews** – Export Control Office staff shall review all full project assessments.

10.4.3 **Timing**

10.4.3.1 Project screenings should be completed during new award setup.

10.4.3.1.1 Full project assessments shall be completed early post-award.

10.4.4 **Basis of Assessment** – Project assessments shall be based on the scope of the project, project deliverables, the nationalities of the personnel to be used, agency funding the project, organization receiving the project deliverables, and other factors.

10.4.5 **Licensing Assessment**

10.4.5.1 **Screening Tool** – The great majority of projects at the UW should not be impacted by the export control regulations. A screening tool was completed within the WISPER (Wisconsin Proposal Electronic Routing) system to minimize the impact of assessing projects on the campus in general. This tool includes:

10.4.5.1.1 A compliance question to determine if the project is of a scientific, engineering or technology nature.

10.4.5.1.2 Two export control questions to determine if a full project assessment is required. The form in Appendix C is the paper version of the export control questions in WISPER. This form can be used when the questions in WISPER have not been answered or if we need to assess an agreement or situation that is not recorded in WISPER. The results of the screening assessment are:

10.4.5.1.3 One or both questions are no. This indicates there is not an export control concern. No further assessment is required.

10.4.5.1.4 Both questions are yes. This indicates there is a potential export control concern and that a full project assessment is required using Export Control Assessment Form (Appendix E).

10.4.5.2 **Full Assessment Form** – A full project assessment is required when the answers to both screening questions is yes. The full assessment is to be completed per Appendix E, Export Control Assessment Form (note: this is a tabular, modified version of the Stanford, Export Controls: Decision Tree).

10.4.5.2.1 The full project assessment determines whether an export license is required for the project.

10.4.5.2.2 The form also contains a restricted party screening section to determine whether any foreign parties involved in the project are on any of the federal government's restricted party lists.

10.4.5.2.3 This form is to be completed and signed by the PI or delegate, and reviewed by Export Control staff.

10.4.5.3 **Need For Reevaluation** – The PI shall reassess the project for export control impact if:

10.4.5.3.1 The scope of the project changes.

10.4.5.3.2 Project destination changes from a domestic to foreign person or organization.

10.4.5.3.3 The destination foreign country changes.

10.4.5.3.4 Foreign staff members have been added that were not accounted for in the previous assessment (when an export control concern had been previously identified for the project).

10.4.5.4 **Restricted Party Screening** – The federal government maintains numerous lists of persons and organizations with which it does not want us conducting transactions (see 10.9). The restricted party screening section of the full assessment form is used to determine if we need conduct a screening of foreign parties involved in the project.

10.4.6 License Required Assessment

10.4.6.1 **Assessment Record** – All full project assessments shall be forwarded to, reviewed and maintained by the Export Control Office.

10.4.6.2 **Who Writes License** – Export Control staff is responsible for writing the license application with technical input from the PI or research staff.

10.4.6.3 **Who Submits License** – The ExCO or delegate shall submit export license applications.

10.4.6.3.1 The ExCO maintains the official copy of the submission.

10.4.6.3.2 The ExCO serves as the primary contact with the government for additional information and subsequent communication.

10.5 Assigning An Export Control Classification Number (ECCN)

10.5.1 **Statement of Need** – Where possible, the ECCN for a product should be based upon the ECCN assigned by the manufacturer. However, project staff may need to assign an ECCN to a product in instances where:

10.5.1.1 UW is the manufacturer of the product.

10.5.1.2 The product contains multiple components/assemblies that have already been assigned ECCNs.

10.5.1.3 The product was manufactured elsewhere, but not assigned an ECCN by the manufacturer.

10.5.2 **Owner** – Project staff, organizational PoC or ExCO is responsible for classifying any products (per the EAR) that are to be exported from their organization.

10.5.2.1 Classification is typically based on the ECCN assigned by the manufacturer of the main system components of the product being shipped. Therefore, the person responsible for classifying project items needs to verify the ECCN with the component manufacturer.

10.5.2.2 Where a new ECCN needs to be assigned to a product, the owner should use similar products and the definitions in the Commerce Control List (CCL) to define the new ECCN.

10.5.3 **Classification Record** – Project staff shall forward all classification information to the organizational PoC.

10.5.3.1 The ExCO shall maintain the classification information.

10.5.3.2 There is no specified format for documenting the assignment of an ECCN to a product. The record shall be in writing and contain the following information:

10.5.3.2.1 Date of determination.

10.5.3.2.2 Who completed the determination.

10.5.3.2.3 Affected product.

10.5.3.2.4 ECCN assigned.

10.5.3.2.5 Information to support the determination.

10.6 EAR Assessment

10.6.1 **Statement of Need** – An EAR assessment shall be conducted, if the project assessment described in 10.4 indicates that products or information listed in the CCL are being transferred to a foreign country.

10.6.2 **Owner** – Project staff, organizational PoC or ExCO will be responsible for completing the EAR assessment for products or information that are to be exported from their organization.

10.6.3 **Assessment Record** – The EAR assessment depends on the ECCNs assigned to the products and country to which they are to be exported.

10.6.3.1 The owner compares the Reason For Control for each ECCN involved to the Reasons For Control checked in the Commerce Country Chart for the destination country(ies).

10.6.3.2 If the Reason For Control of the ECCN matches the country's Reason For Control, the owner shall review the CCL for an applicable license exception.

10.6.3.2.1 An export license is needed if the ECCN's Reason For Control matches the country's Reason For Control and an applicable license exception is not available.

10.6.3.3 The ExCO shall maintain the assessment information.

10.6.3.4 There is no specified format for documenting the EAR assessment. The record shall be in writing and contain the following information:

10.6.3.4.1 Date of assessment.

10.6.3.4.2 Who completed the assessment.

10.6.3.4.3 Affected product.

10.6.3.4.4 ECCN(s) assigned and Reasons For Control.

10.6.3.4.5 Destination country(ies) and Reasons For Control.

10.6.3.4.6 Applicable license exceptions.

10.6.3.4.7 Information to support the determination.

10.7 Services

10.7.1 **What Constitutes A Service** – A service is work done for hire that would not be considered research. Services do not add significant intellectual content to the field, nor is there an expectation to retain intellectual property or copyright of the information. Examples of services are:

10.7.1.1 Synthesizing amino acid strands for outside university or commercial research.

10.7.1.2 Epidemiological analysis of medical statistics for insurance companies.

10.7.1.3 Analysis of unknown pharmaceutical substances.

10.7.1.4 Renting cluster computer time to outside organizations for high-speed computing.

10.7.1.5 Manufacturing computer chips to be incorporated into commercial electronic assemblies.

10.7.2 Export Control Concerns For Services

10.7.2.1 **Physical Export** – The physical export of controlled items / technology to a foreign person or organization may require an export license depending on the commodity, affected regulation, category and destination.

10.7.2.2 **Deemed Export** – Persons conducting services may be impacted by deemed export requirements depending on the nature of the technology / techniques used and the nationality of the operators.

10.7.3 **Services For Foreign Persons/Organizations** – The physical export of items, technology or information as a result of a UW supplied service for a foreign person or organization may require an export license. Prior to shipping the item, technology or information, the service provider should review the following to determine if an export license is required:

10.7.3.1 Is the commodity controlled under ITAR or EAR?

10.7.3.2 Is the destination country under export sanctions?

10.7.3.3 Is the information or technology being shipped:

10.7.3.3.1 Proprietary?

10.7.3.3.2 Provided to the UW under a non-disclosure (NDA) or similar agreement?

10.7.3.3.3 Subject to publication restrictions?

10.7.4 **Services Conducted By Foreign Students or Staff** – In many instances, foreign staff (students or employees) may conduct services at UW-Madison. The concern is whether this constitutes a deemed export.

10.7.4.1 Per EAR regulations, operation of controlled equipment (to conduct a service) by a foreign person within the U.S. does not constitute a deemed export, since mere operation does not convey controlled information regarding the design or technology used in that device.

10.7.4.2 Technology or techniques in the public domain do not require an export license.

10.7.4.3 When the service involves technology or a technique beyond the mere operation of an instrument, the PI, organizational PoC or ExCO should review the following to determine if an export license is required:

10.7.4.3.1 Is the technology / technique controlled under ITAR or EAR?

10.7.4.3.2 What is the nationality of the person conducting the service?

10.7.4.3.3 Is the technique or technology being used:

10.7.4.3.3.1 Proprietary?

10.7.4.3.3.2 Provided under a NDA?

10.7.4.3.3.3 Subject to publication restrictions?

10.8 Visa Certification

10.8.1 **Statement of Need** – The Department of Homeland Security requires that applicants of H1-B and O-1 visas certify whether the beneficiary of the

visa requires an export license to conduct their work responsibilities. This certification is completed on the I-129 visa application form.

10.8.2 **Assessment** – An assessment is required on each beneficiary to ensure the question on the I-129 form is answered correctly.

10.8.2.1 No License Required – The ExCO shall forward the completed form and related documentation to International HR (IHR).

10.8.2.2 License May be Required – The circumstances of the specific application should be discussed with affected staff, including the PI and IHR, to determine what appropriate measures should be taken. These measures may include:

10.8.2.2.1 Indicating a license is required on the I-129 and submitting an export license application for the beneficiary.

10.8.2.2.2 Working with the PI to ensure that no export of controlled information to the beneficiary occurs.

10.8.2.2.3 Switching the beneficiary to a different project or work task that does not involve controlled information.

10.8.2.2.4 Withdraw the application and contact the beneficiary.

10.8.3 **Records** – A form was created to certify whether an export license is or is not needed for the beneficiary to conduct their project tasks.

10.8.3.1 The form shall be completed by the Department Chair, PI or delegate for which the beneficiary will work. This form along with any substantiating information (i.e., detailed job description) is forwarded to IHR, who forwards it to the Export Control Office.

10.8.3.2 The ExCO or ExCC reviews the assessment, conducts restricted party screening on the beneficiary and forwards the final signed assessment to IHR. Any discrepancies regarding the assessment or restricted party screening shall be resolved prior to forwarding the completed assessment to IHR.

10.8.3.2.1 Restricted party screening – See below.

10.8.3.3 IHR transcribes the result of the assessment to the I-129 form. The documentation shall be kept with the beneficiary's record.

10.9 Restricted Party Screening (RPS)

10.9.1 **Statement of Need** – Agencies of the U.S. federal government (and other foreign governments as well) maintain lists of persons and organizations with which we should not be conducting business. Penalties for conducting business with any of these parties may result in severe fines and/or jail time. We need to screen against these lists to ensure that we are not conducting business with parties on these lists.

10.9.2 Restricted Party Screening

- 10.9.2.1 **Lists** –The main government restricted party lists are:
- 10.9.2.1.1 **Nonproliferation Sanctions List (ITAR):**
<http://www.state.gov/t/isn/c15231.htm>
 - 10.9.2.1.2 **Denied Persons List (EAR):**
<http://www.bis.doc.gov/dpl/thedeniallist.asp>
 - 10.9.2.1.3 **Entity List (EAR):**
<http://www.access.gpo.gov/bis/ear/pdf/744spir.pdf>
 - 10.9.2.1.4 **Unverified List (EAR):**
http://www.bis.doc.gov/enforcement/unverifiedlist/unverified_parties.html
 - 10.9.2.1.5 **Specially Designated Nationals List (FACR):**
<http://www.treas.gov/offices/enforcement/ofac/sdn/t11s dn.pdf>
- 10.9.2.2 **Services** – We have contracted with a service to complete our restricted party screening in an efficient manner. This service consolidates federal and foreign lists, provides a search engine to screen these lists and allows the user to print copies of the results.
- 10.9.2.3 **When To Screen** – A review of activities on campus indicated that we should conduct restricted party screening whenever completing one or more of the following tasks (organization responsible for screening):
- 10.9.2.3.1 Export control certification of H1-B and O-1 visa applications (screening completed by ExCO or ExCC).
 - 10.9.2.3.2 Purchases with foreign suppliers (Central Purchasing).
 - 10.9.2.3.3 Projects (RSP or Office of Industrial Partnerships):
 - 10.9.2.3.3.1 With foreign sponsors.
 - 10.9.2.3.3.2 With foreign subcontractors.
 - 10.9.2.3.3.3 That require shipping information or commodities to foreign persons.
- 10.9.3 **Records** – The record of a restricted party screening shall contain:
- 10.9.3.1 Name of the party screened (the criteria screened against).
 - 10.9.3.2 Date of the screening.
 - 10.9.3.3 Organization conducting the screening.
 - 10.9.3.4 Results of the screening.

10.10 Recordkeeping

- 10.10.1 Records are maintained by the staff as indicated in sections 10.3 – 10.9.

11.0 MONITORING AND AUDITING

11.1 Purpose of Section – This section describes the process by which the export control program is reviewed for compliance with this plan.

11.2 Program Audits / Program Review

11.2.1 **Schedule** – The Export Control Program shall undergo an audit or review every two years that includes all aspects of the program.

11.2.2 **Sufficient Resource Allocation and Support** – Management shall supply sufficient staffing and monetary support to adequately complete these audits/program reviews.

11.2.3 **Program Audit** – A systematic and independent examination of data, statements, records, operations and performances for obtaining evidence and evaluating it objectively to determine the extent to which the program objectives are fulfilled.

11.2.3.1 It typically includes interviews of applicable staff, as well as reviews of specific processes, procedures and records thereof.

11.2.4 **Program Review** – A process by which the status of a program is evaluated to determine its effectiveness and latent risks.

11.2.4.1 It is typically conducted with the management responsible for the program, and reviews the adequacy of process coverage, effectiveness of the processes and adequacy of resources.

11.3 Audits

11.3.1 **Who Conducts the Audits** – Auditors (audit team members) shall be independent of the entity being audited. They shall not be responsible for the completion or management of the tasks/operations being audited.

11.3.1.1 Auditors may be internal to the UW (such as internal audit staff) or external (export control consultant).

11.3.2 **Audit Schedule** – The timing (date and time) of the audit shall be determined by the audit team and ExC Office.

11.3.3 **Audit Format** – Audits should follow a standard audit format. The format includes:

11.3.3.1 Opening meeting to discuss scope of audit, persons involved and timing.

11.3.3.2 Review of documentation, processes and work practices.

11.3.3.3 Closing meeting to discuss findings and timing of when audit report will be available.

11.3.4 What to Audit

11.3.4.1 **Items To Audit** – During the pre-audit planning discussions, the auditors and ExC staff shall determine the scope of the audit:

11.3.4.1.1 What processes will be reviewed during the audit?

11.3.4.1.2 What documentation will be required?

11.3.4.1.3 What organizations and people will be interviewed?

11.3.4.2 **Compare Actual Practice to Written Procedures** – The audit should be a review of whether control processes are available, adequate, documented and completed (in actual practice).

11.3.5 Audit Reports

11.3.5.1 **Responsibility** – The Lead Auditor is responsible for creating the audit report.

11.3.5.2 **Objective Evidence** – The Lead Auditor should attach any appropriate objective evidence that he/she deems necessary to explain the findings.

11.3.5.3 **Follow-up Audit** – The Lead Auditor may require that a follow-up audit be completed to ensure issues are addressed. The need for a follow-up audit shall be based upon one or more of the following:

11.3.5.3.1 The discovery of one or more major findings (such as the organization assessment has not been completed).

11.3.5.3.2 The discovery of multiple minor findings indicating to the auditors that the program is not in a state of control.

11.3.5.3.3 The discovery of a reportable non-compliance.

11.3.5.4 **Timing and Distribution** – The final audit report should be distributed to the following persons *within 30 calendar days* of completing the audit.

- Vice Chancellor for Research and Graduate Education
- Associate Vice Chancellor for Research Policy
- ExCO

11.3.6 Action Plan

11.3.6.1 **Audit Response** – An action plan shall be developed that addresses the findings noted in the audit report.

11.3.6.1.1 The ExC Officer or designee shall develop the plan.

11.3.6.1.2 The action plan shall review the need for corrective and preventive action for each finding.

11.3.6.2 **Close Findings in a Timely Manner**

11.3.6.2.1 The action plan for the audit should be developed within 30 calendar days of the audit and forwarded to the persons noted below.

11.3.6.2.2 Actions shall be closed in a timely manner. The length of time to close shall be appropriate for the complexity of the action item.

11.3.6.3 **Distribution** – The action plan shall be forwarded to the Lead Auditor and the persons noted in 12.3.5.4.

11.3.6.4 **Oversight of Export Control Audits** – The status of the audits and closure of action items shall be reviewed during the next audit or program review.

11.3.7 Program Review

11.3.7.1 **Who Conducts Reviews** – The information in the Program Review shall be collated and presented by ExC Office staff or their designate.

11.3.7.2 **Attendees** – The Program Review should be attended by:

11.3.7.2.1 Associate Vice Chancellor for Research Policy.

11.3.7.2.2 Legal.

11.3.7.2.3 ExC Office.

11.3.7.2.4 Independent Reviewer.

11.3.7.3 **Content of the Review** – The program review shall discuss:

11.3.7.3.1 Export Control Policy.

11.3.7.3.2 Resources (staffing and tools).

11.3.7.3.3 Campus Risk Assessment.

11.3.7.3.4 Training.

11.3.7.3.5 Compliance Processes.

11.3.7.3.6 Licensing.

11.3.7.3.7 Risks.

11.3.7.3.8 Non-Compliances.

11.3.7.3.9 Actions from Previous Audits/Reviews.

11.3.7.4 **Minutes** – Minutes of the program review shall be taken and include:

11.3.7.4.1 Names of attendees.

11.3.7.4.2 Summary of items discussed.

11.3.7.4.3 Action items.

11.4 Non-Compliances – Potential reportable non-compliances shall be forwarded to the ExCO. Non-compliances shall be reviewed and reported to the appropriate federal agency per the processes described in 12.3 and 12.4.

11.5 Records

11.5.1 **Audits** – The ExCO shall maintain the audit records. The audit records shall include:

11.5.1.1 Final audit reports.

11.5.1.2 Audit action plan.

11.5.1.3 Objective evidence that the actions were completed.

11.5.2 **Program Review** – The ExCO shall maintain the program review records. These records shall include:

11.5.2.1 Program Review presentation.

11.5.2.2 Notes/minutes from the review, including actions.

11.5.2.3 Objective evidence that the actions were completed.

12.0 HANDLING AND REPORTING PROBLEMS AND VIOLATIONS

12.1 Purpose of Section – This section describes the process by which export control issues are reported to organizational management for assessment and action, and UW Administration for reporting to the federal government.

12.2 Elements of Notification Program

12.2.1 Safe Environment – UW shall be a safe environment for people to report export control issues without fear of reprisal.

12.2.2 Clear Policy and Written Guidelines – Issues shall be documented as complaints per Appendix G, Compliance Complaint Form.

12.2.2.1 Reporters – Compliance issues may be reported by government agencies, project personnel, customers, servicers, shippers or others.

12.2.2.2 Receipt – Reports may be received via written, electronic or oral communication.

12.2.2.3 Complaint Process – The steps for reporting, processing and closing a complaint are described in table 12.2.

Table 12.2 – Complaint Process

Task	Description	Owner	Time Frame
Documenting Complaint	Document issue on Compliance Complaint Form <ul style="list-style-type: none"> Reporter completes Sections 1-2. Forward form to Export Control Office 	Reporter – Person discovering issue	Within 5 days of knowledge
Identification / Review	1) Assign a discrete complaint # <ul style="list-style-type: none"> Example PPPP-SS; PPPP = code for affected organization & SS = sequential # starting with 01 2) Review issue <ul style="list-style-type: none"> Ensure Sections 1-2 are complete Request additional information, if required Assign investigator 	Export Control Office (ExCO)	Within 5 days of receipt
Investigation / Action Plan	1) Investigate issue <ul style="list-style-type: none"> Complete description of issue, including affected regulation Root cause analysis 2) Create action plan <ul style="list-style-type: none"> Include corrective & preventive actions Address root cause Include if issue needs to be reported to gov't 3) Complete Sections 3-4 of form	Investigator	Within 30 days of report date
Review Investigation / Action Plan	Review investigation / action plan <ul style="list-style-type: none"> Request additional information, if required Ensure actions are assigned & tracked 	ExCO	Within 5 days of completion of action plan
Complaint Closure	Closure complaint <ul style="list-style-type: none"> Complete each task of the action plan Forward objective evidence of completion to ExCO Verify actions have been completed Approve & close the complaint 	Task Owner / ExCO	As needed for tasks
Monitoring	Complaints shall be reviewed as part of program reviews and audits.	Lead Auditor or ExCO	Every 2 years

12.2.2.4 **Notification of Top Management About Non-compliance** – The ExCO shall determine whether to report the issue to campus leadership.

12.2.2.5 This assessment shall be documented in the complaint report opened for that issue.

12.2.3 **Problem and Root Cause Identification** – Addressed in Table 12.2.

12.2.4 **Appropriate Corrective and Preventive Action** – Addressed in Table 12.2.

12.2.5 **Accountability for Non-compliance** – The persons responsible for the non-compliance shall be accountable for the issue. Depending upon the severity of the issue, any of the following responses may be used:

12.2.5.1 Discussion with responsible person.

12.2.5.2 Retraining of responsible person and possibly other staff.

12.2.5.3 Changes to procedures or this plan (and retraining applicable staff).

12.2.5.4 Increase the level of oversight/monitoring on the responsible person's (or organization's) work activities.

12.2.5.5 Disciplinary action up to and including suspension of work duties, dismissal from the person's job or legal action (criminal or civil).

12.2.6 **Reward for Disclosure** – NA; because this is a publicly-funded institution, rewards cannot be built into the budget for disclosure of regulatory matters.

12.3 Internal Reporting Process – See Appendix F, Export Control Issue Reporting Flowchart.

12.3.1 **Any Staff Can Report** – Any staff member shall report potential export control regulatory issues to their applicable organizational PoC or the ExCO.

12.3.1.1 Issues should be reported within 5 working days of learning of the issue.

12.3.1.2 There shall be no reprisal from any UW staff member for reporting (unless the reporter knows the information to be false).

12.3.2 **Clear Guidance on How to Report an Issue** – As noted in 12.2.2, all export control non-compliance issues shall be documented as complaints per Appendix G, Compliance Complaint Form.

12.3.3 **Compliance Management Reporting Chain Clearly Identified**

12.3.3.1 The organizational PoC reports to the organization's Management, with a dotted reporting line to the ExCO.

12.3.3.2 The ExCO reports to the Associate Vice Chancellor for Research Policy, VCRGE.

12.3.3.3 Submissions for licenses, registrations and reports of non-compliances shall be forwarded to the ExCO, who is responsible for submitting these documents. See 12.4.1 below.

12.3.4 **Reporting Mechanism may be Anonymous** – If requested by the reporter, the report may be made anonymously. In such case, the ExCO (or organizational PoC) shall note the reporter to be anonymous on the complaint form.

12.3.5 **Documenting the Non-compliance and Actions** – The non-compliance, investigation, root cause, action plan and completion of actions shall be documented as complaints per Appendix G, Compliance Complaint Form.

12.4 External Reporting Process (see Fig. 12.5)

12.4.1 **Who Reports to Government, including Backup** – The ExCO is the primary contact for reporting issues to any Federal government agency (regarding export control matters). The UW Legal Affairs serves as backup for reporting export control issues.

12.4.2 **Who Determines What Needs to be Reported to the Government** – See Appendix F. The ExCO shall make the initial determination of reportability. This information is then forwarded to UW Legal Affairs for a final determination. If the ExCO and UW Legal Affairs disagree on the determination, UW Legal Affairs becomes the final arbiter for determining when to report an issue to the federal government.

12.4.3 Notifying Management

12.4.3.1 The ExCO or UW Legal Affairs is responsible for notifying the UW Chancellor, UW VCRGE, relevant school/college Dean's office and affected department chair of the potentially reportable export control issue. This notification should occur before the issue is reported to the government.

12.5 Records

12.5.1 Complaint Reports

12.5.1.1 Completed Compliance Complaint Form – This includes the initial description of the potential non-compliance, name of the reporter, results of the investigation and action plan (including the report to the federal government, if required).

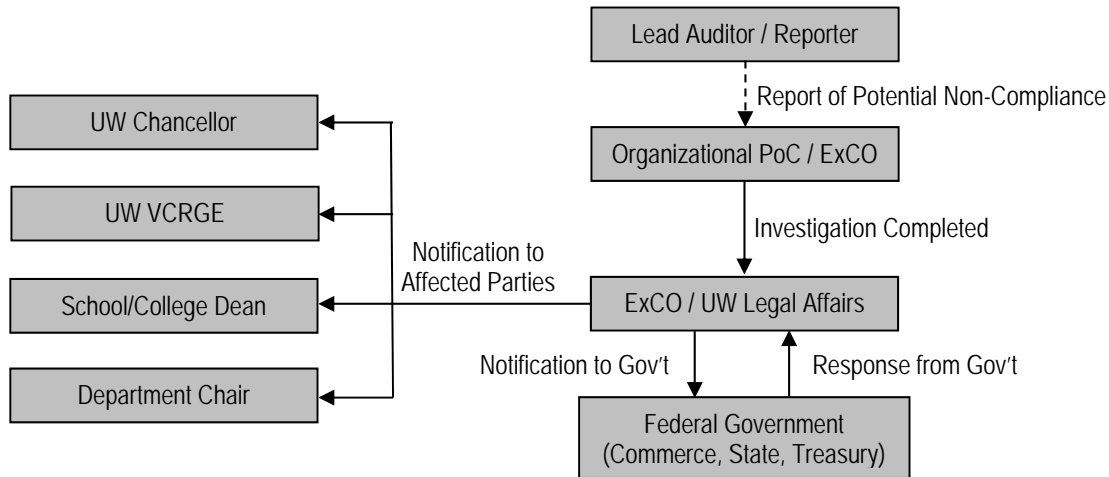
12.5.1.2 Objective evidence of task completion – Documentation shall be maintained indicating what was done to complete a task and when.

12.5.2 Notification to Federal Agency (if applicable)

12.5.2.1 Initial notification to the appropriate federal agency.

12.5.2.2 Any follow-up communications – The records shall include any responses from the federal government, follow-up information to the government, e-mails/faxes between the UW and federal agency, and summaries of phone conversations (if applicable).

Figure 12.5 – External Communication Plan



Any communication with news media should be handled by UW Administration (Legal Affairs or Chancellor's office) or the VCRGE.

13.0 CORRECTIVE AND PREVENTIVE ACTIONS

- 13.1 Purpose of Section** – This section describes the manner in which corrective actions are addressed in the export control program. The areas in which corrective actions are generated are audits, program reviews and complaints (see sections 11 and 12).
- 13.2 Responsibility** – It is the responsibility of the ExCO to ensure that issues are addressed in a timely manner.
- 13.3 Investigation** – Since these actions are the result of the audit, review or complaint processes, investigations should have been completed as part of these processes. The investigation shall include:
- 13.3.1 **Details Of Issue** – The investigator shall understand the circumstances that led to the issue without having to use assumption or conjecture.
- 13.3.2 **Root Cause** – The investigator shall determine the root cause of the issue to define the type of actions needed to address the issue.
- 13.3.3 **Scope of the Non-Compliance (if any)** – Regulations affected.
- 13.3.4 **Projects, Products or Processes Affected** – Does this issue affect one or multiple projects? Is it a process issue rather than a project issue?
- 13.4 Action Plan** – Action plans shall be developed that include corrective (to correct the issue that occurred) and preventive (to prevent future issues) actions. Owners of the actions shall be defined.
- 13.5 Procedures for Notifying Management, Reporting to Organization and Following Up with Reporter**
- 13.5.1 **Notifying Management** – Procedures for notifying management are noted in sections 12 and 13 of this document.
- 13.5.2 **Notifying Staff** – Issues shall be reported to organizational staff on a need-to-know basis. Any report to some or all organizational staff shall be included in the action plan for the issue. Reports to staff may be completed as e-mail, new or additional training, update to the export control notification sent to all staff, or other means.
- 13.5.3 **Notifying Reporter** – The ExCO shall follow-up with the reporter of the issue (if known) to ensure the action plan addresses the issue.
- 13.6 Records** – See section 11 and 12.

14.0 STATUS REPORTS

14.1 Purpose – This section defines the ownership, timing and content of the reports.

14.2 Reports – Report owners, timing and content are described in Table 14.2.

Table 14.2 – Export Control Reports

ORGANIZATIONAL REPORTS		
Owner: ExCO or delegate		
Recipients: Associate Vice Chancellor for Research Policy; Legal Affairs		
Report Period	Timing	Content
Monthly	Submitted by the 15 th of the subsequent month	<ul style="list-style-type: none"> • Project Assessments – Summary • Training – Summary • Audit/Program Review – Summary • Licenses • Registrations • Visas • Non-Compliances • Risks

15.0 RECORDKEEPING

15.1 Purpose of Section – This section defines how export control records are to be maintained at the UW.

15.2 Who Maintains Export Control Records

15.2.1 **UW (campus) Records** – Maintained by the ExCO (or delegate).

15.2.2 **School, Institute, Center or Department Records** – Maintained by the applicable organization's PoC (or delegate) except as noted in table 15.3.

15.3 What Do You Need to Retain – see table 15.3

Table 15.3 – Records

Record	School, Institute, Center, Dept. Level	Campus Level
Export Control Plan (this document)	Accessible copy of latest version of the ExCP	Master approved version of ExCP
UW Assessment	Not applicable	Campus risk assessment of affected organizations
School, Institute, Center, Dept. Assessment	Organization's risk assessment of affected groups & projects	Not applicable
Registrations	Not applicable	Applications & registration certificates
License (project) Assessments	Not applicable	<ul style="list-style-type: none"> • Full assessments • Screenings – WISPER or ExC Office
License Applications	Not applicable	Official version of license application
Export Licenses	Copy of export license	Official version of the export license
Shipping Paperwork	<ul style="list-style-type: none"> • Copies of all shipping paperwork regarding controlled items • Maintained by staff shipping the item 	Not applicable
Verification of Receipt	<ul style="list-style-type: none"> • Verification of receipt in the appropriate shipping/receiving file • Maintained by staff shipping the item 	Not applicable
Transaction/Distributor Agreements	Maintained by UW or organization's Purchasing Department	Not applicable
Trainings	L1 – Policy Notifications	All classroom/on-line trainings <ul style="list-style-type: none"> • Training attendance forms • Training materials
Audits/Program Reviews	Not applicable	<ul style="list-style-type: none"> • Audit schedule, report, actions items • Program review, action items
Non-Compliance Reports	Copy to relevant department & applicable PoC	Official version of non-compliance report, including follow-up communications

15.4 Requirements for Producing Records – All export control records shall be easily accessible by knowledgeable staff.

15.4.1 Record Maintenance System

- 15.4.1.1 **Retrieval On Demand** – Records shall be filed in a manner that makes them retrievable.
- 15.4.1.2 **Security of Paper Records** – Paper records shall be maintained in an area that can be locked for security reasons, such as a lockable filing cabinet or a lockable room.
- 15.4.1.3 **Security of Electronic Records** – Electronic documents that contain export control-sensitive information shall be maintained as encrypted files on user computers.
- 15.4.1.4 **Back-up System for Paper Records** – Most paper records are generated electronically, such as Word documents and e-mail. Therefore, the backup to the paper copy is the electronic file.
 - 15.4.1.4.1 Some paper records may not be computer-generated (such as shipping documents or paper certificates). In these cases, the source of the record (such as the freight forwarder) becomes the backup for the paper copy.
 - 15.4.1.4.2 A paper document may also be scanned allowing the electronic file to serve as the backup to the paper record.
- 15.4.1.5 **Back-up System for Electronic Records** – Each affected organization shall have a system for backing up electronic records. This may be as simple as all electronic records are maintained on user computers or specific file servers, and the organization's information technology group backs up these records daily.

15.5 Format Requirements, Original and Reproduction

- 15.5.1 **Physical Integrity** – All records of export control information shall be maintained in a manner that prevents degradation of information due to age or environment.
 - 15.5.1.1 This applies to hardcopies as well as copies of records maintained electronically.
- 15.5.2 **Legibility** – All records will be legible and shall remain legible throughout the life of the record.
- 15.5.3 **Disposal** – Export control records beyond the retention period stated below shall be disposed of internally by shredding or externally through a bonded documentation disposal organization.
 - 15.5.3.1 **Documenting Records Disposal** – The documentation of the disposal of export control records shall contain the following:
 - 15.5.3.1.1 Date of disposal.
 - 15.5.3.1.2 Staff member responsible for disposal.

15.5.3.1.3 Dates of documents being disposed.

15.5.3.1.4 Description of documents being disposed, such as, project export control assessments dated 1/1/11 – 12/31/11.

15.5.3.1.5 Means of disposal (shredding or external documentation disposal company). If an external company is used, the organization disposing the records should get a receipt of the disposal from the disposal company.

15.5.3.1.6 The PoC for the organization disposing the records shall maintain a copy of the disposal record in the centralized project filing area.


15.6 Retention Period

Paragraph	Record Type	Minimum Retention Period	Timing
15.6.1	Export Control Plan	7 years	From the date the document is superseded
15.6.2	Assessments <ul style="list-style-type: none"> • UW • Organizational • Project 	7 years	From the date of assessment
15.6.3	Registrations	7 years	From the date the registration expires
15.6.4	Licenses <ul style="list-style-type: none"> • Applications • Certificates 	7 years	From the date the license is terminated
15.6.5	Shipping (for controlled items)	7 years	From date of shipment
15.6.6	Training <ul style="list-style-type: none"> • Determination of needs • Training attendance 	7 years	From the date the training is completed
15.6.7	Program Audits / Reviews	4 years	From the date the audit or review was conducted
15.6.8	Non-Compliance Reports	7 years	From the date the non-compliance is reported to the appropriate government agency

16.0 PROCESS FLOWCHARTS

16.1 Process flowcharts are attached to this document as appendices and referenced in the sections to which they apply.

APPENDIX A

	UNIVERSITY OF WISCONSIN - MADISON	
	EXPORT CONTROL PLAN	
ORGANIZATIONAL ASSESSMENT FORM		
Date of Assessment:		Page 1 of
Organization:		
POINT OF CONTACT		
Point of Contact:		Phone:
Backup Point Of Contact:		Phone:
ORGANIZATIONAL ASSESSMENT		
Working Groups / Projects Affected: (use separate page if needed)		
Processes Affected:	<input type="checkbox"/> Research awards _____ <input type="checkbox"/> Unfunded collaborations _____ <input type="checkbox"/> Shipping _____ <input type="checkbox"/> Purchasing _____ <input type="checkbox"/> Agreements _____ <input type="checkbox"/> Other, explain: _____	
Vulnerabilities & Risks / Priority	<input type="checkbox"/> Foreign sponsors / _____ <input type="checkbox"/> Foreign staff/collaborators / _____ <input type="checkbox"/> NASA, DOD or DOE projects / _____ <input type="checkbox"/> Travel outside the U.S. / _____ <input type="checkbox"/> Spaceflight projects / _____ <input type="checkbox"/> Select agents / _____ <input type="checkbox"/> Supercomputing / _____ <input type="checkbox"/> Encryption or simulation software / _____ <input type="checkbox"/> Electrical, mechanical and/or optical instrumentation / _____ <input type="checkbox"/> Other, explain: _____	
Safeguards:	<input type="checkbox"/> Public Domain information _____ <input type="checkbox"/> Project assessments _____ <input type="checkbox"/> Staff training _____ <input type="checkbox"/> Visa certifications _____ <input type="checkbox"/> Purchasing screening _____ <input type="checkbox"/> Assessment of project instrumentation _____ <input type="checkbox"/> Other, explain: _____	
AUTHORIZATION		
Person Preparing Assessment:		Date:
Organization Management:		Date:


APPENDIX B – Sample Letter**UW-MADISON POLICY STATEMENT REGARDING EXPORT CONTROL**

Date: <date>
To: All <name of organization> Staff
From: <person's name>, <name of organization> Director / Department Chair
Subject: Export Control Policy Statement

Export controls are a set of U.S. laws which control the dissemination of certain technology to non-U.S. persons. Export control laws apply to a variety of technologies -- not only those with obvious military/security applications. Under these laws, “export” includes the physical export of controlled technology from the U.S. to another country, as well as the release of such technology within the U.S. to a non-U.S. person. Violation of export control laws can potentially lead to severe criminal and/or civil sanctions for the individual who violates the law, as well as for the University.

The key export control regulations are:

- ITAR (International Traffic in Arms Regulations) – Department of State
- EAR (Export Administration Regulations) – Department of Commerce
- FACR (Foreign Assets Control Regulations) – Department of Treasury

It is the policy of the University of Wisconsin-Madison to fully comply with U.S. export control laws. Even though openness in research and free dissemination of research results are core values at UW-Madison that are institutionalized in research policy, export control laws can still apply to many activities related to the teaching, research and service missions at UW-Madison. These activities include research with proprietary industry technology, international shipments of advanced scientific equipment and biological materials, participating in international research collaborations, space-related research, international travel, and use of computer software with encryption features. 

Each UW-Madison employee and student has the obligation to determine how export controls might apply to their activities and to work cooperatively with the University export control management structure to ensure export control compliance. For more information regarding export controls and how to determine if they apply to specific activities, please see: <https://research.wisc.edu/respolcomp/exportcontrol/>. Personalized guidance is also available from the UW Export Control Office.

I ask each of you to take this matter very seriously and support me in this effort. If you have any questions concerning this policy, its implementation or potential non-compliances, please contact <name, phone, Export Control Point of Contact>, the UW Export Control Office (exportcontrol@grad.wisc.edu), or myself.


Sincerely,

<Person's name>

<Title>, <Name of organization>

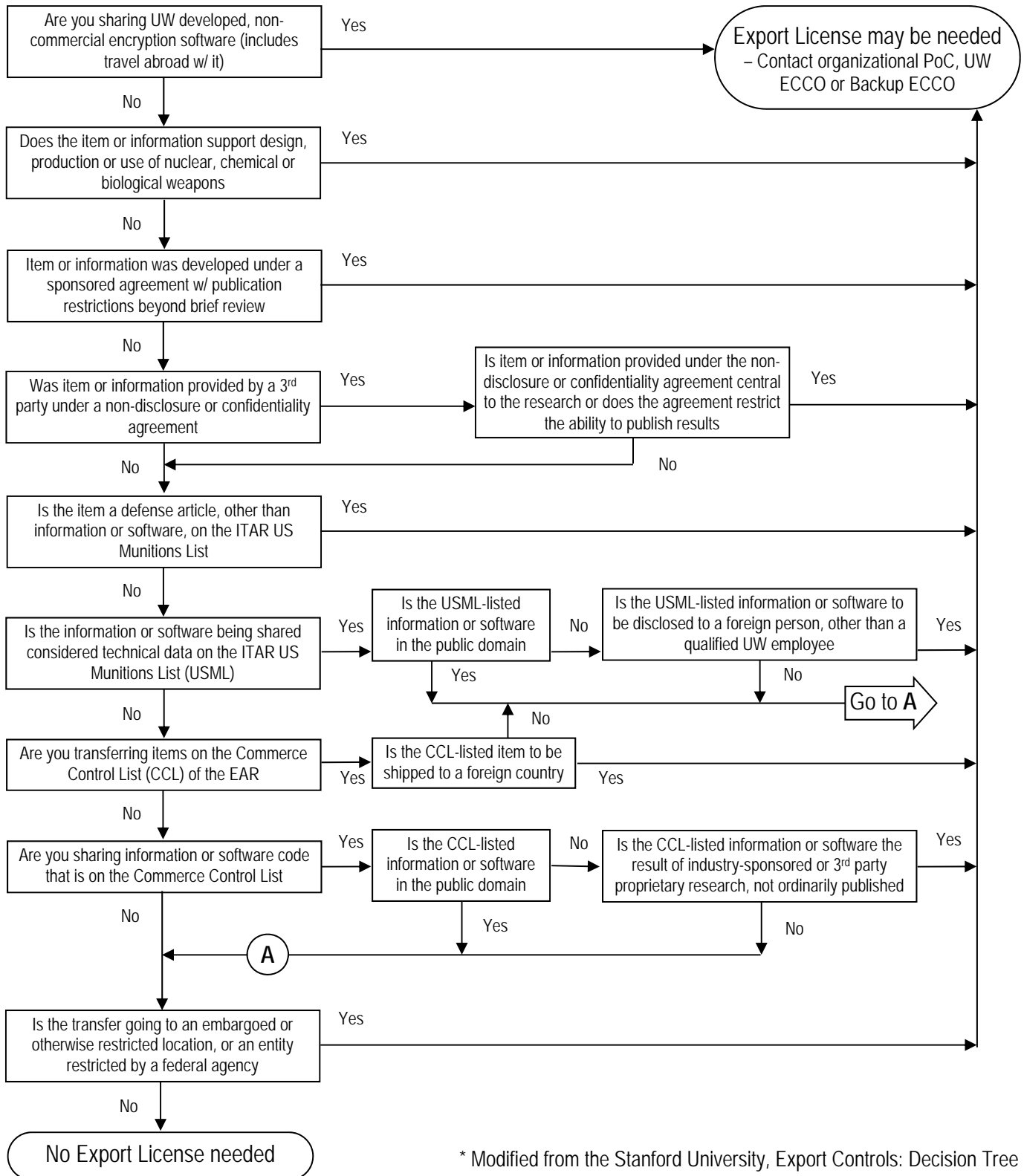
Note: This statement of commitment to Export Compliance will be issued every two years, or if necessitated by personnel changes, changes in management or regulatory changes.

APPENDIX C
EXPORT CONTROL SCREENING FORM

	UNIVERSITY OF WISCONSIN – MADISON	
EXPORT CONTROL SCREENING FORM		
The following screening questions are to be used to determine if a particular project is affected by U.S. export control regulations. The purpose of these questions is to determine if <u>foreign persons may have access to project technology or information that is controlled under the U.S. export control regulations.</u>		
PROJECT IDENTIFICATION		
MSN #:	Project Title:	PI / PM:
EXPORT CONTROL ASSESSMENT		
Answer the following questions for scientific, engineering or technology projects		
QUESTION		RESPONSE¹
1) <u>Controlled Technology</u> Check "Yes" in the box to the right if any of the following apply to this award: a. The project is sponsored by the U.S. Department of Defense (DOD) or a defense contractor AND has a potential military application, or b. The project includes hardware, software, substances, information or data controlled under the International Traffic in Arms Regulations (ITAR) or Export Administration Regulations (EAR), or c. The project uses or creates items, information or data <u>of a technical nature</u> that will NOT be made publicly available (such as subject to a publication restriction or non-disclosure agreement).		<input type="checkbox"/> Yes <input type="checkbox"/> No
2) <u>Export / Deemed Export</u> Check "Yes" in the box to the right if any of the following apply to this award: a. Foreign persons will participate in this project as sponsors, collaborators or staff, or b. Hardware, software, substances, information or data for this project will be exported out of the U.S. or transferred to foreign persons within the U.S.		<input type="checkbox"/> Yes <input type="checkbox"/> No
For HELP see: http://www.grad.wisc.edu/research/policy/rp/ec/wisperhelpscreen.pdf		
RESULTS		
<input type="checkbox"/> No License Required – One or both questions answered No <input type="checkbox"/> Complete Full Assessment – Both questions answered Yes (contact your departmental Point of Contact)		
Additional Comments:		
Note 1: Reassessments – Projects should be reassessed if (1) the nature or scope of the project changes; (2) new foreign staff is assigned to the project; or (3) a new export/change in destination is planned.		
Authorization:		
Prepared By (PI or delegate): _____	Date: _____	
Reviewed By (Export Control Office): _____	Date: _____	
**** Send signed form to: exportcontrol@grad.wisc.edu (scan the signed copy), or Tom Demke, AOSS Bldg, 1225 W. Dayton St. Rm 525 ****		
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APPENDIX D


EXPORT CONTROL ASSESSMENT FLOWCHART*



* Modified from the Stanford University, Export Controls: Decision Tree

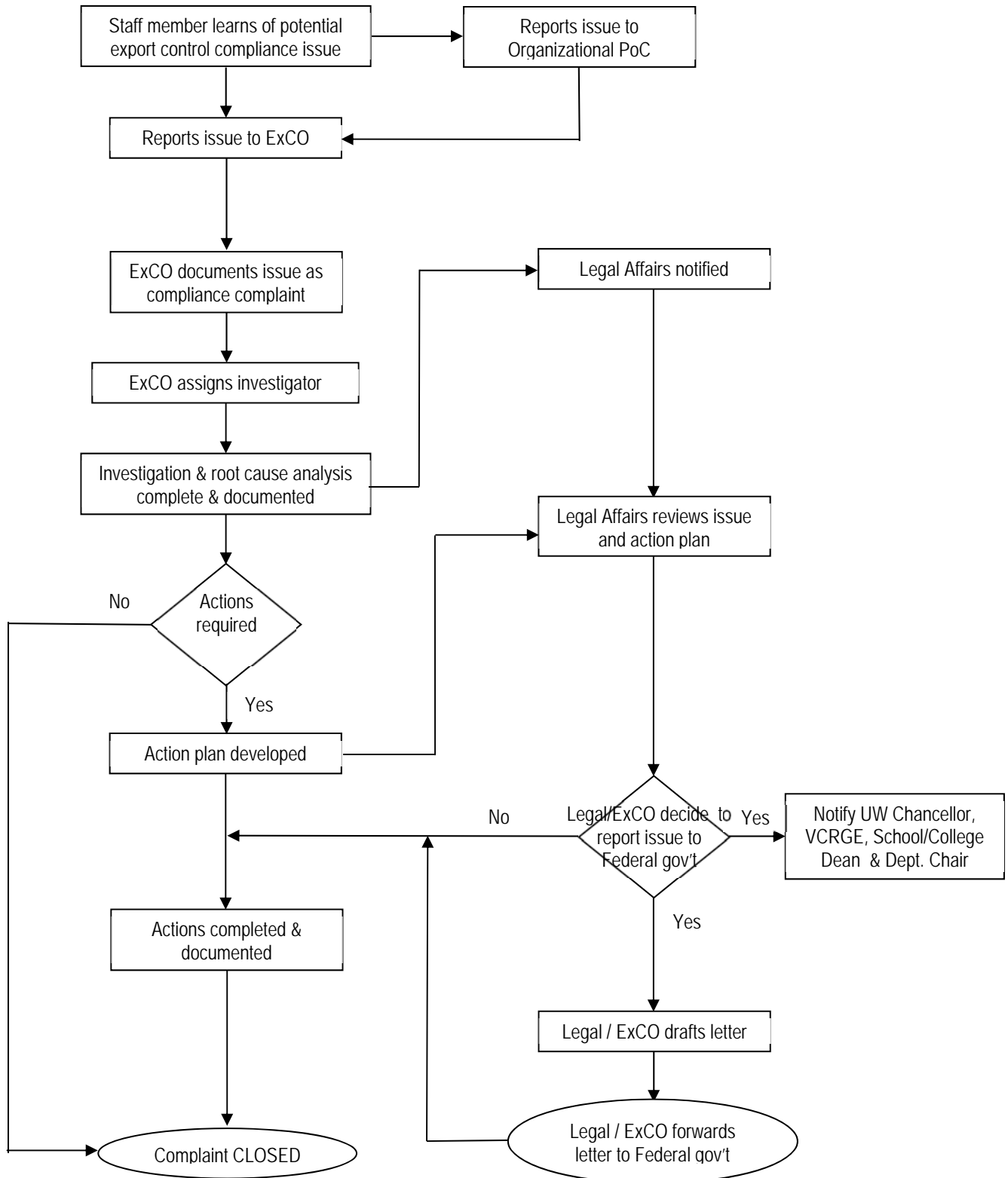
APPENDIX E
EXPORT CONTROL ASSESSMENT FORM

	UNIVERSITY OF WISCONSIN – MADISON
EXPORT CONTROL ASSESSMENT FORM	
PROJECT IDENTIFICATION	
MSN #:	PI / PM:
Sponsor:	
Project Title:	
<i>**** This form shall be completed and signed (see p. 2) by the Principal Investigator ****</i>	
EXPORT CONTROL ASSESSMENT	
TASK	RESPONSE
Q1) Are you sharing UW developed, non-commercial encryption software (includes travel abroad w/ it)?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q2
Q2) Does the item or information support design, production or use of nuclear, chemical or biological weapons?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q3
Q3) Item or information was developed under a sponsored agreement w/ publication restrictions beyond brief review?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q4
Q4) Was item or information provided by a 3 rd party under a non-disclosure or confidentiality agreement?	<input type="checkbox"/> Yes; proceed to question Q4.1 <input type="checkbox"/> No; proceed to question Q5
Q4.1) Is item or information provided under the non-disclosure or confidentiality agreement central to the research or does the agreement restrict the ability to publish results?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q5
Q5) Is the item a defense article, other than information or software, on the ITAR US Munitions List (USML)?	<input type="checkbox"/> Yes; export license may be needed, contact POC List the USML Category: _____ <input type="checkbox"/> No; proceed to question Q6
Q6) Is the information or software being shared considered technical data on the ITAR US Munitions List?	<input type="checkbox"/> Yes; proceed to question Q6.1 List the USML Category: _____ <input type="checkbox"/> No; proceed to question Q7
Q6.1) Is the USML-listed information or software in the public domain?	<input type="checkbox"/> Yes; proceed to question Q9 <input type="checkbox"/> No; proceed to question Q6.2
Q6.2) Is the USML-listed information or software to be disclosed to a foreign person, other than a qualified UW employee?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q9
Q7) Are you transferring items on the Commerce Control List (CCL) of the EAR?	<input type="checkbox"/> Yes; proceed to question Q7.1 List the CCL Classification: _____ <input type="checkbox"/> No; proceed to question Q8
Q7.1) Is the CCL-listed item to be shipped to a foreign country?	<input type="checkbox"/> Yes; export license may be needed, contact POC Name of Country: _____ <input type="checkbox"/> No; proceed to question Q9
Q8) Are you sharing information or software code that is on the Commerce Control List?	<input type="checkbox"/> Yes; proceed to question Q8.1 List the CCL Classification: _____ <input type="checkbox"/> No; proceed to question Q9
Q8.1) Is the CCL-listed information or software in the public domain?	<input type="checkbox"/> Yes; proceed to question Q9 <input type="checkbox"/> No; proceed to question Q8.2
Q8.2) Is the CCL-listed information or software the result of industry-sponsored or 3 rd party proprietary research, not ordinarily published?	<input type="checkbox"/> Yes; export license may be needed, contact POC <input type="checkbox"/> No; proceed to question Q9
Q9) Is the transfer going to an embargoed or otherwise restricted location, or an entity restricted by a federal agency?	<input type="checkbox"/> Yes; export license may be needed, contact POC Name of Country: _____ <input type="checkbox"/> No; NO LICENSE REQUIRED
For HELP see: <i>Export Control Assessment Form – Tutorial</i> @ http://www.grad.wisc.edu/research/policyrp/ec/ecprojectassessmentforms.html	
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	UNIVERSITY OF WISCONSIN – MADISON EXPORT CONTROL ASSESSMENT FORM
RESTRICTED PARTY SCREENING	
<p>The U.S. federal government generates lists of persons and organizations with which we are not to have transactions (restricted parties). To determine whether a restricted party screening needs to be completed for your project, please answer the following questions.</p>	
<p>Is the project sponsored by a foreign organization? If Yes, please note the name of organization: _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Does this project include subawards to foreign organizations or persons? If Yes, please note the name of organization or person: _____</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No
SIGNATURES	
<p>Assessment Authorization: The above assessment is complete and correct to the best of my knowledge. If an export license is required, I will ensure that no export or deemed export of the controlled item or technology shall occur prior to receiving that export license.</p>	
_____ Signature – Principal Investigator	Date: _____
**** Send signed form to: exportcontrol@grad.wisc.edu (scan the signed copy), or Tom Demke, AOSS Bldg, 1225 W. Dayton St, Rm 525 ****	
<p>Assessment Review: The above assessment and restricted party screening (if applicable) are complete.</p>	
_____ Signature – Export Control Officer or designate	Date: _____
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APPENDIX F

EXPORT CONTROL ISSUE REPORTING FLOWCHART



**APPENDIX G
COMPLIANCE COMPLAINT FORM**

	UNIVERSITY OF WISCONSIN – MADISON	Report #: _____
	Compliance Complaint Form	Sheet <u>1</u> of _____ Report Date: _____
SECTION 1 – DESCRIPTION OF ISSUE		
DATE OF DISCOVERY:	TYPE OF COMPLAINT (preliminary): <input type="checkbox"/> Export Control <input type="checkbox"/> Other Regulatory	
DESCRIPTION:		
Other Contributing Circumstances:		
Applicable Regulation:		
Has Anything Been Done to Remedy This Issue: <input type="checkbox"/> Yes <input type="checkbox"/> No		
SECTION 2 – STAFF / FACILITY INFORMATION		
PROJECT:	DEVICE:	LOCATION OF ISSUE:
REPORTER'S NAME:	REPORTER'S TEL:	
Complete First 2 Sections & Submit To: Export Control Office		
SECTION 3 – INVESTIGATION		
Date Of Investigation:	Investigator's Name:	Investigator's Tel:
INVESTIGATION RESULTS / ROOT CAUSE:		
TYPE OF COMPLAINT: <input type="checkbox"/> ITAR <input type="checkbox"/> EAR <input type="checkbox"/> FACR <input type="checkbox"/> Other Regulatory		
SECTION 4 – ACTION PLAN		
ACTION PLAN	TASKS COMPLETE	ACTIONS VERIFIED
Include Corrective & Preventive Actions:		
REPORTABLE: <input type="checkbox"/> Yes <input type="checkbox"/> No; see attached rationale		
SECTION 5 – APPROVALS		
The above action plan is acceptable.		This complaint has been resolved appropriately, all associated tasks are complete and the actions have been verified.
ExC Office: _____	DATE: _____	ExC Office: _____ DATE: _____