What is an “Export”?  
The U.S. Government defines an “export” much more broadly than just a package heading out in the mail. An “export” is “the transfer of controlled technology, information, equipment, software or services to a foreign person in the U.S. or abroad by any means.” For example, an export could include an actual shipment outside the United States, a visual inspection in or outside the U.S., or a written or oral disclosure of controlled information.

Export Control regulations apply to ALL activities, NOT just sponsored research!

Export Control applies to the:

- Ability of foreign students to participate in research involving an export-controlled technology
- Ability to provide services (including training on export-controlled equipment) to foreign nationals
- Ability to send export-controlled equipment to foreign countries

In addition, federal laws also prohibit the disclosure of controlled technical information by any method to a foreign national in the U.S. or abroad without a license from the federal oversight agency. This is called a “Deemed Export.”

Methods of disclosure include, but are not limited to, a fax, telephone discussions, e-mail communications, computer data disclosure, face-to-face discussions, training sessions, or tours that involve visual inspections.

To avoid a major fine (potentially up to $1 million) and possible jail time, an exemption or exception to the requirement for a license must be obtained.

Exemptions/Exceptions
A variety of exemptions/exceptions are possible, but the one most often employed in the academic setting is the Fundamental Research Exclusion, which states:

No license is required to disclose to foreign nationals information which is “published and which is generally accessible or available to the public [through, for example,] fundamental research in science and engineering at universities where the resulting information is ordinarily published and shared broadly in the scientific community.”

However, it is important to remember that the provision of “things” (e.g. tangible items) and “services” (e.g. training) are not included under this exclusion and thereby may require a license when controlled items or information are involved. Also, to maintain our ability to invoke this exclusion, UMSL cannot accept any contract clause that forbids the participation of foreign
nationals, gives the sponsor a right to approve publications resulting from the research, or otherwise operates to restrict participation in research and/or access to and disclosure of research results. Finally, “side deals” between an investigator and sponsor not only violate University policy but also eliminate our ability to use the Fundamental Research Exclusion.

So, how do I know if I need a license?
(a.k.a. Red Flags)

Ask yourself the following questions:
1. Does your work involve:
   a. Shipping equipment to a foreign country?
   b. Collaborating with foreign colleagues in foreign countries?
   c. Training foreign nationals in using equipment?
   d. Working with a country subject to a U.S. boycott?

2. Is the “Request for Proposals” marked “Export Controlled”?

3. Is the sponsor demanding pre-approval rights over publications or the participation of foreign national persons?

If the answer is yes (or “I’m not sure.”) to any of the above questions, a determination needs to be made as to the application of Export Control regulations to your work.

Where can I get help?
The Office of Research Administration is available to assist with any questions regarding the application of Export Control regulations to your work. Additionally, we are happy to provide educational information for you, your staff and faculty.

For more information, please contact:
Brenda Stutte
Office of Research Administration
341 Woods Hall
Phone: 314-516-5897
Email: stutte@umsl.edu