

2. Investigating Violations and Taking Corrective Actions

Any suspected violation that is reported will be analyzed by the Director of Export Controls. If the allegation merits further fact finding and investigation, the Director of Export Controls, in consultation with the OGC, will work with all appropriate University personnel to determine the scope of the investigation and who will need to be involved in the investigation.

The Director of Export Controls, in consultation with the OGC, will determine the appropriate actions to be taken, which may include a voluntary self-disclosure to the government, and make recommendations regarding same to the campus Chancellor or SIU-Medical School Dean who will make the final decision of the action to be taken which said decision will be implemented by the Director of Export controls. In the event the Chancellor or Dean has a conflict of interest in making the decision regarding the appropriate actions to be taken, the Director of Export Controls will refer the matter to the SIU President.

Voluntary self-disclosure may mitigate the seriousness of penalties. In order to be considered "voluntary," disclosures must be made prior to the time the U.S. Government obtains knowledge of either the same or substantially similar information from another source and initiates an investigation or inquiry of its own. If time will be needed to do a comprehensive assessment to identify any other noncompliance, the Director of Export Controls may make an initial voluntary self-disclosure, if approved by the campus Chancellor or SIU School of Medicine Dean or the SIU President and then submit the complete disclosure once the internal review has been completed.

In determining the appropriate course of action to take, the Director of Export Controls, in consultation with the OGC, will consider the relevant guidance from the Bureau of Industry and Security (BIS) for Export Administration Regulations (EAR) violations and the Directorate of D (o)26(R)]

the Director of Export Controls may also instruct personnel to cease any University activities related to the suspected violation.

The investigation process should ensure the root cause of the noncompliant activity is identified and corrective actions are developed to ensure the noncompliance does not recur. The corrective actions should be implemented as quickly as possible and monitored to make sure they are working properly.

Based on the situation, the Director of Export Controls will notify the appropriate levels of management of the results of the investigation and the corrective action taken.

If voluntary self-disclosure is deemed as the best course of action, the Director of Export Controls may provide the government agency with a supplementary letter with

Appendix A: BIS Voluntary Self-Disclosure Guidance

<https://www.bis.doc.gov/index.php/enforcement/oe/voluntary-self-disclosure>

Voluntary Self-Disclosure

BIS encourages the submission of Voluntary Self Disclosures (VSDs) by parties who believe they may have violated the Export Administration Regulations (EAR). VSDs are an excellent indicator of a party's intent to comply with U.S. export control requirements and may provide BIS important information on other ongoing violations. BIS carefully reviews VSDs received from disclosing parties to determine if violations of the EAR have occurred and to determine the appropriate corrective action when violations have taken place. Additional information regarding VSDs can be found in Part 764.5 of the EAR, or the enforcement section of our website www.bis.doc.gov.

Pursuant to Part 764.5 of the EAR, one copy of the information constituting a VSD or any other correspondence pertaining to a VSD may be submitted to:

Director, Office of Export Enforcement
1401 Constitution Ave.
Room H4514
Washington, DC 20230
Tel: (202) 482-5036
Facsimile: (202) 482-5889

Due to the current COVID-19 response measures, BIS is now accepting VSDs electronically. Voluntary Self Disclosures, exhibits, and requests for filing deadline extensions may be submitted to BIS_VSD_INTAKE@bis.doc.gov. Hard copy filing is not required in addition to electronic filing, and please be aware that receipt and processing delays may occur in instances where only a hard copy VSD is submitted.

Appendix B: Code of Federal Regulations related to EAR violations

§ 764.4 Reporting of violations.

(a) *Where to report.* If a person learns that an export control violation of the EAR has occurred or may occur, that person may notify:

Office of Export Enforcement, Bureau of Industry and Security, U.S. Department of Commerce,
14th Street and Constitution Avenue, N.W., Room H-4520, Washington, D.C. 20230

(2) The provisions of this section apply only when information is provided to OEE for its review in determining whether to take administrative action under part 766 of the EAR for violations of the export control provisions of the EAR.

(3) The provisions of this section apply only when information is received by OEE for review prior to the time that OEE, or any other agency of the United States Government, has learned the same or substantially similar information from another source and has commenced an investigation or inquiry in connection with that information.

(4) While voluntary self-disclosure is a mitigating factor in determining what administrative sanctions, if any, will be sought by OEE, it is a factor that is considered together with all other factors in a case. The weight given to voluntary self-disclosure is solely within the discretion of OEE, and the mitigating effect of voluntary self-disclosure may be outweighed by other factors.

there is still an opportunity to prevent acquisition of the items by unauthorized persons. In such situations, OEE should be contacted promptly at the office listed in [paragraph \(c\)\(7\)](#) of this section.

(ii) **Initial notification date.** For purposes of calculating when a complete narrative account must be submitted under [paragraph \(c\)\(2\)\(iii\)](#) of this section, the initial notification date is the date the notification is received by OEE. OEE will notify the disclosing party in writing of the date that it receives the initial notification. At OEE's discretion, such writing from OEE may be on paper, or in an email message or facsimile transmission from OEE, or by any other method for the transmission of written communications. Where it is not practical to make an initial notification in writing, the person making the notification should confirm the oral notification in writing as soon as possible.

(iii) **Timely completion of narrative accounts.** The narrative account required by [paragraph \(c\)\(3\)](#) of this section must be received by OEE within 180 days of the initial notification date for purposes of [paragraph \(b\)\(3\)](#) of this section, absent an extension from the Director of OEE. If the person making the initial notification subsequently completes and submits to OEE the narrative account required by [paragraph \(c\)\(3\)](#) of this section such that OEE receives it within 180 days of the initial notification date, or within the additional time, if any, granted by the Director of OEE pursuant to [paragraph \(c\)\(2\)\(iv\)](#) of this section, the disclosure, including violations disclosed in the narrative account that were not expressly mentioned in thoral not expr

(B) *Contents of Request.*

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(3) ***Narrative account.*** After the initial notification, a thorough review should be conducted of all export-related transactions where possible violations are suspected. OEE recommends that the review cover a period of five years prior to the date of the initial notification. If

(ii) Any relevant documents not attached to the narrative account must be retained by the person making the disclosure until OEE requests them, or until a final decision on the disclosed information has been made. After a final decision, the documents should be maintained in accordance with the recordkeeping rules in part 762 of the EAR.

(5) **Certification.** A certification must be submitted stating that all of the representations made in connection with the voluntary self-disclosure are true and correct to the best of that person's knowledge and belief. Certifications made by a corporation or other organization should be signed by an official of the corporation or other organization with the authority to do so. [Section 764.2\(g\) of this part](#), relating to false or misleading representations, applies in connection with the disclosure of information under this section.

(6) **Oral presentations.** OEE believes that oral presentations are generally not necessary to augment the written narrative account and supporting documentation. If the person making the disclosure believes otherwise, a request for a meeting should be included with the disclosure.

(7) **Where to make voluntary self-disclosures.** The information constituting a voluntary self-disclosure or any other correspondence pertaining to a voluntary self-disclosure may be submitted to: Director, Office of Export Enforcement, 1401 Constitution Ave., Room H4514, Washington, DC 20230, Tel: (202) 482-5036, Facsimile: (202) 482-5889.

(d) **Action by the Office of Export Enforcement.** After OEE has been provided with the required narrative and supporting documentation, it will acknowledge the disclosure by letter, provide the person making the disclosure with a point of contact, and take whatever (s)1 (ur)7 conta2 let (t;e)-2 (by)- Tf0505 0 Td()TjEMC /P94MCID 61.34 -2901 15 -2.39 Td()Tj0.335 0 Td(7)Tj0.505 0 Td()Tj0.305

(f) *Treatment of unlawfully exported items after voluntary self-disclosure.*

(1) Any person taking certain actions with knowledge that a violation of the EAA or the EAR has occurred has violated [§ 764.2\(e\) of this part](#). Any person who has made a voluntary self-disclosure knows that a violation may have occurred. Therefore, at the time that a voluntary self-disclosure is made, the person making the disclosure may request permission from BIS to engage in the activities described in [§ 764.2\(e\) of this part](#) that would otherwise be prohibited. If the request is granted by the Office of Exporter Services in consultation with OEE, future activities with respect to those items that would otherwise violate [§ 764.2\(e\) of this part](#) will not constitute violations. However, even if permission is granted, the person making the voluntary self-disclosure is not absolved from liability for any violations disclosed nor relieved of the obligation to obtain any required reexport authorizations.

(2) A license to reexport items that are the subject of a voluntary self-disclosure, and that have been exported contrary to the provisions of the EAA or the EAR, may be requested from BIS in accordance with the provisions of part 748 of the EAR. If the applicant for reexport authorization knows that the items are the subject of a voluntary self-disclosure, the request should state that a voluntary self-disclosure was made in connection with the export of the commodities for which reexport authorization is sought.

[[61 FR 12902](#), Mar. 25, 1996, as amended at [62 FR 25469](#), May 9, 1997; [69 FR 7870](#), Feb. 20, 2004; [70 FR 22250](#), Apr. 29, 2005; [78 FR 48605](#), Aug. 9, 2013]

Appendix C: DDTC “Report a Violation” Guidance

Per the U.S. Department of State Directorate of Defense Trade Controls website “Bo 1Tc 0Pli”

The Office of Defense Trade Controls Compliance (DDTC) now accepts disclosures and related information via email as well as mail or overnight delivery. Persons are encouraged to utilize the electronic submission option by emailing disclosures and related information to: DTCC-CaseStatus@state.gov. In the event that a disclosure cannot be submitted via email, please send a hardcopy to DTCC via mail or overnight delivery to the following addresses:

DDTC Postal Mail

Appendix D: Code of Federal Regulations related to ITAR violations

§ 127.12 Voluntary disclosures.

(a) **General policy.** The Department strongly encourages the disclosure of information to the Directorate of Defense Trade Controls by persons (see [§ 120.14 of this subchapter](#)) that believe they may have violated any export control provision of the Arms Export Control Act, or any regulation, order, license, or other authorization issued under the authority of the Arms Export Control Act. The Department may consider a voluntary disclosure as a mitigating factor in determining the administrative penalties, if any, that should be imposed. Failure to report a violation may result in circumstances detrimental to U.S. national security and foreign policy interests, and will be an adverse factor in determining the appropriate disposition of such violations.

(b) **Limitations.**

(1) The provisions of this section apply only when information is provided to the Directorate of Defense Trade Controls for its review in determining whether to take administrative action under [part 128 of this subchapter](#) concerning a violation of the export control provisions of the Arms Export Control Act and these regulations.

(2) The provisions of this section apply only when information is received by the Directorate of Defense Trade Controls for review prior to such time that either the Department of State or any other agency, bureau, or department of the United States Government obtains knowledge of either the same or substantially similar information from another source and commences an investigation or inquiry that involves that information, and that is intended to determine whether the Arms Export Control Act or these regulations, or any other license, order, or other authorization issued under the Arms Export Control Act has been violated.

(3) The violation(s) in question, despite the voluntary nature of the disclosure, may merit penalties, administrative actions, sanctions, or referrals to the Department of Justice to consider criminal prosecution. In the latter case, the Directorate of Defense Trade Controls will notify the Department of Justice of the voluntary nature of the disclosure, although the Department of Justice is not required to give that fact any weight. The Directorate of Defense Trade Controls has the sole discretion to consider whether "voluntary disclosure," in context with other relevant information in a particular case, should be a mitigating factor in determining what, if any, administrative action will be imposed. Some of the mitigating factors the Directorate of Defense Trade Controls may consider are:

(i) Whether the transaction would have been authorized, and under what conditions, had a proper license request been made;

(ii) Why the violation occurred;

(iii) The degree of cooperation with the ensuing investigation;

(iv)

(d) **Documentation.** The written disclosure should be accompanied by copies of substantiating documents. Where appropriate, the documentation should include, but not be limited to:

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