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May 3, 2010

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**Re: Proposed rule for Release, Handling, and Protection of Restricted Information; RIN 4700-AD43**

To Whom It May Concern:

I am writing on behalf of the Association of University Export Control Officers (AUECO), an association of senior export practitioners with export compliance responsibilities at sixteen accredited institutions of higher learning in the United States. As a part of its founding charter, AUECO is committed to monitoring changes in the administration of export laws and regulations that could affect international transactions and collaborations in academia. As a result, AUECO is providing the following comments in response to the National Aeronautics and Space Administration (NASA) proposed rule for the "Release, Handling, and Protection of Restricted Information."

AUECO would first like to express its concerns with the nature of the proposed rule as it would affect academic institutions, particularly since the vast majority of university-based research activity does not involve restricted information. Recognizing that a nexus can indeed exist between national security and academic research, universities in general are now investing in the development of export control compliance programs despite declining endowments and reductions in state funding. AUECO feels the proposed rule is inadequate because it does not (1) define Sensitive But Unclassified (SBU) information (2) address SBU information classified as information subject to export control and (3) exclude SBU export-controlled information in the exceptions category outlined under Part 1852.227-73(c) and 1852.227-74(f) respectively.

AUECO believes the proposed rule without properly defining SBU and describing its correct application and use will create a disproportionate administrative burden on academic institutions by requiring a formal screening of all "restricted information" to determine whether such information is subject to export control under the International Traffic in Arms Regulations (ITAR) or the Export Administration Regulations (EAR). The following changes to the proposed Rule are recommended to more clearly define SBU information subject to export control, and identify when SBU information subject to export control is being provided by NASA under Government contracts.

Defining "Restricted Information" and SBU in the Proposed Rule Under 1827.405-70

AUECO suggests the definition of "information designated by NASA as Sensitive but Unclassified" under revised section 1827.405-70 (a)(1)(iv), be defined under NASA Procedural Requirements 1600.1, Chapter 5, Sections 5.24 respectively. We also recommend section 1827.405-70, sub paragraph (b)(5)(i), identify when SBU restricted information subject to export control is being provided by the Government.

Handling and Protection of Restricted Information – 1852.227-73

AUECO recommends section 1852.227-73, Subparagraph (b) includes a separate clause that identifies information designated by NASA as Sensitive but Unclassified that is subject to export control. We also recommend section 1852.227-73, sub-paragraph (c) Exceptions, include a statement that excludes Sensitive But Unclassified information subject to export control from the Exceptions criteria under (c)(1)(i-iv).

Release of Restricted Information – 1852.227-74

AUECO recommends section 1852.227-74 contain a provision that indicates the release of Sensitive But Unclassified information that is subject to export control by NASA. Correspondingly the release of Sensitive but Unclassified information subject to export control should not be subject to any of the exceptions outlined in paragraph (f) Exceptions, sub-paragraph's (1) – (4) respectively.

AUECO would like to express its appreciation for the opportunity to provide comments to these proposed changes. The handling, and protection of restricted information is a sensitive and inherently complex topic, and AUECO would like to thank NASA for taking the time necessary to consider the impact of the proposed changes as they affect university research. It is AUECO's position that the proposed changes require further clarification, However, should the NASA choose to proceed with the proposed changes, AUECO would strongly encourage the NASA to distinguish between the various types of "restricted information" and SBU, and clarify the exceptions.

Sincerely,



David Brady, Chair  
Association of University Export Control Officers