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**Program/Peer Review –
An Export/Import Control Program Best Practices**

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Sandia National Laboratories is a multi-program laboratory managed and operated by Sandia Corporation, a wholly owned subsidiary of Lockheed Martin Corporation, for the U.S. Department of Energy's National Nuclear Security Administration under contract DE-AC04-94AL85000.

Purpose



- To share an industry best practice highlighted by Nunn Wolfowitz; Bureau of Industry and Security; Coalition for Export Compliance – ***combination of internal/external program review(s)***
- To identify ECCO points of contact that have adopted this best practice so you can benchmark during this conference
- To encourage discussion on this issue throughout the conference

NUNN-WOLFOWITZ Task Force Report: Industry “BEST PRACTICES” Regarding Export Compliance Programs

Date: July 25, 2000

“...in order to satisfy “best practices,” a company must effectively combine both the auditing experience of external or corporate auditors—whether actual auditors or outside counsel—and the substantive experience of export compliance personnel. For example, one company interviewed conducts audits of its business unit’s export compliance systems by teaming two or three corporate auditors with an employee from the export compliance office and, on occasion, an empowered official or export compliance officer.”

NUNN-WOLFOWITZ



“... the company should utilize outside auditors to periodically review its export compliance program. Some industry experts believe that external audits are a necessary component of an effective export compliance program. Although not all companies interviewed utilize such external audits, several opined that such a program could effectively enhance the companies’ export compliance programs, especially at the “policy and procedure” level. These audits should generally be conducted at the direction of the legal department to preserve the confidentiality of the audit results. External audits are also recommended by the U.S. government in other relevant contexts.”

BIS Export Management and Compliance Program (EMCP) checklists



(<http://www.bis.doc.gov/complianceandenforcement/emcp.htm>)

Internal Corporate Audits

At the corporate-level, companies should schedule internal audits to be conducted at least on an annual basis on the overall export management and compliance program. These audits should focus on the company's overall export compliance process and the export transactions of specific business units.

External Audits It is a good business practice to periodically utilize an outside auditor. External audits can provide an unbiased, third-party evaluation, and validation, of a company's overall export management and compliance program and practices.

BIS Export Management and Compliance Program (EMCP) checklists (continued)

Reporting, Corrective Action, and Follow-Up Procedures for Audits

Companies should include in their export management and compliance programs the appropriate procedures and practices for audit reporting.

Audit reports should be provided to the program office or business unit reviewed and to the appropriate management officials. If an audit's findings raise questions concerning export compliance risks, procedures should also be in place for these issues to be raised to management attention.

Procedures should define the requirements for implementing audit recommendations, following-up on corrective actions taken, and reporting on audit recommendations.

*Coalition for Export Compliance (CEEC)



- **2.5. Evaluating and Ensuring the Effectiveness of the Program**
- 2.5.1 Senior management should also take an active role in evaluating and ensuring the effectiveness of the export compliance program including periodic risk assessments.
- 2.5.2 Management should insure that audits of export compliance functions be conducted and that they play a role in reviewing the audit findings, as appropriate. Management should include internal and external reviews of both export compliance programs and operational practices in order to actively monitor export functions

* CEEC is a voluntary group of experienced export compliance professionals from various companies, research organizations, law firms, and consulting firms.

<http://www.ceecbestpractices.org/best-practices-standards-workgroup.html>

These labs have used external review as a best practice ...



- 2009 Idaho National Laboratory
 - POC Trudy Overlin
- 2010 Parent Organization Functional Management Review LANL
 - POC Sarah Maynard
- 2011 Peer/Risk Management Assessment
 - POCs Alan Rittel (SNL)
Rolf Migun (ORNL)
Gary Hagen (PNNL)

External Reviews Conducted by ECCO Partners

	Focus	Baseline	Conducted by	
INL	Export Compliance Program Effectiveness and Potential Vulnerabilities	BIS Checklist	Bernie Beldon, of Quality Services, formerly PNNL	Prior review conducted by an outside law firm
LANL	POFMR (Parent Organizational Functional Management Review)	Objectives articulated by parent included: Export program placement and level of empowered official	Sally Uebelacker, SNL Alan Rittel, formerly KCP Olga King, formerly JPL	
SNL	<u>Program compliance</u> <ul style="list-style-type: none"> • Process • Procedures 	BIS Checklist & ITAR	Sarah Maynard, LANL Bill Chappell, Y 12	Prior review contracted by SNL legal
PNNL	Export Controls Program Effectiveness and Efficiency Review	Goal: Evaluate program rigor; ID any significant compliance risks to the Lab; and ID additional process efficiencies	Olga King, King Trade Consulting (formerly JPL) Glenn Danielson, Centra Technologies (formerly DDTC) Carol Rhodes, University of Washington	Two previous reviews: Gregg Protection Services, 2009; Independent Oversight Assessment, 2010
ORNL	<u>Risk assessment</u> Best use of resources		Ron Williams, formerly SNL	

INL Export Compliance Risks - 2009

- Unintended export or deemed exports
 - Internal information sharing with foreign nationals
 - Controlled items/technology not identified
 - Defense services provided to foreign entities
- Improper transfer of materials or technical data
 - Publications not cleared through STIMS process
 - Hand carrying controlled items on foreign travel
 - Information on unprotected blackberries
- Foreign companies/entities on denied parties list
 - Not all organizations are screening contacts/vendors
- Coordination between organizations in the laboratory.
 - Elimination of export checks to streamline processes
- Technology Control Plan/Procedures not yet complete.

LANL - Parent Organization Functional Management Review – August, 2010



Export Control consolidated under the Associate Director for Safeguards & Security (ADSS) – Jan. 30, 2012

- Moved from a team in a group to a team under the Safeguards Division Leader
- Management involved in/cares about training
- Assessment Team to help with future assessments of export control
- Empowered Officials are now in ADSS
- Have targeted training for technical staff (road show) and Procurement (guide)
- Embarking on an export control management assessment
- Continue to update our policy/procedure document

SNL – Export/Import Control Peer Review – August, 2011



The Peer Review Team came up with two recommendations. Those were in the recordkeeping and MPC&A LMEM areas.

- Improve record keeping through standardization in the work instruction
- Recommendation to restructure and place the LMEM under the Export Control department versus the program

Planning for a FY 2013 implementation

“We found many noteworthy practices and listed some minor recommendations in the Opportunities for Improvement section.”

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PNNL Export Controls Program Effectiveness and Efficiency Review - December 2011



- Conducted by outside team of export control professionals
- Two previous reviews:
 - Gregg Protection Services, 2009
 - Independent Oversight Assessment, 2010
- Validate/evaluate changes and levels of effort of preceding 18 months
- 1 FTE EC specialist → 4 FTE EC specialists & 1 Manager
- Export Controls Management and Compliance Plan
- Technology Control Plan
- ECI cover sheets for EAR, ITAR, and DOE
- ECI release agreement
- Purchase Contracts clause requiring vendor ECCNs/ITAR categories
- Equipment inventory of export controlled items
- Admin. Procedures (Reviews, Trng, Metrics, Records Mgmt, QA, VD)
- ECTL Coord., Outreach Coord., Regulatory Coord., ITAR Coord.

ORNL - Export Compliance Review May 2011

- **Purpose** – Suitability of available resources to the appropriateness of the work being reviewed/ruled on based on overall corporate risk
- **Reviewed Requirements** – U.S. Laws and Regulations & DOE Directives
- **Evaluate the Scope of Work** - undertaken by EC Group
- **Benchmark Work** against Private Sector and Other DOE Labs.
- **Model Definition** – Evaluate the Risk versus the kinds and amounts of work and generate a time to complete under a set of assumptions
- **Evaluate the Experience Base** - Personnel in EC Group
- **Analysis Present Work Flow Process** – Functional areas versus Program/Project areas
- **Staffing Requirements** – Past, Present & Future Resource Levels
- **Workload Analysis Resources** – Level of Areas (Difficulty) times Volume provides resource levels needed.
- **Recommendations** – Reduce Lower Risk Reviews or Provide more resources.