



**The University of New Mexico**

Office of the Vice President for  
Research & Economic Development  
MSC05 3400  
1 University of New Mexico  
Albuquerque, NM 87131-0001  
Telephone (505) 277-6128  
FAX (505) 277-5271

September 27, 2005

Defense Acquisition Regulations Council  
Attn.: Ms. Amy Williams  
OUSD (AT&L) DPAP (DAR), IMD 3C132  
3062 Defense Pentagon  
Washington, DC 20301-3062

VIA FACSIMILE (703.602-0350)

Dear Ms. Williams:

Re: DFARS Case 2004-D010

As the Vice President for Research and Economic Development for the University of New Mexico, I am writing to comment on the Department of Defense's proposed amendment to the Defense Federal Acquisition Regulation Supplement that appeared in the Federal Register on July 12, 2005, FR 39976-FR 39978. This proposed rule would amend the DFARS in regard to export-controlled information and technology.

UNM, a Carnegie Doctoral/Research University, is ranked in the top 60 of the nation's public universities and colleges, based on annual research and development expenditures. The awards UNM received in Fiscal Year 2004 totaled \$278.4 million, a significant amount of which came from DOD agencies.

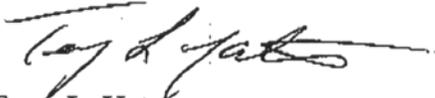
Under the proposed amendment to the DFARS, there would be a requirement for access control plans for foreign nationals who have access to export controlled information and technology. Such plans would include requirements for badges and segregated work areas.

The proposed rule fails to reference the fundamental research exemption for universities, which exempts them from applying for export licenses for a majority of their research. The application of "deemed export" requirements to fundamental research at universities is a matter of great concern. If the proposed rule is adopted, DOD agencies could interpret compliance requirements to require access controls in all instances, even when fundamental research is being performed. As well, the new clause could prompt DOD program managers and contract officers to include overly restrictive language in DOD contracts in order to protect themselves from potential liability.

The open campus research environment is significantly different from the environment of corporate research. It is important to recognize such a difference in considering security measures appropriate for universities. The contributions of foreign students and scholars are critically important to universities' science and engineering research, which provides benefits to the nation as a whole. Foreign researchers should be free to conduct fundamental, unclassified research without the requirements of special licenses, badges, and segregated work areas.

I appreciate the opportunity to comment on this proposed rule and fervently hope that it will not be adopted as currently written.

Very truly yours,



Terry L. Yates

Vice President for Research and Economic Development