August 2, 2005

The Honorable Kenneth J. Krieg
Under Secretary of Defense for Acquisition, Technology and Logistics
U.S. Department of Defense
3010 Defense Pentagon
Room 3E1006
Washington, D.C. 20301-3010

Re: Notice of Proposed Rulemaking [DFARS Case 2004-D010]
Defense Federal Acquisition Regulation Supplement

Dear Mr. Krieg:

I write on behalf of the Association of American Universities (AAU), an association representing 60 leading U.S. research universities, to express concerns regarding the recently released Department of Defense Notice of Proposed Rulemaking (NPRM) to amend the Defense Federal Acquisition Supplement (DFARS) in order to address the disclosure of export-controlled information and technology. In particular, I write to urge you to extend the comment period for the proposed rule.

The university community has serious concerns regarding the content and language in the proposed rule which the AAU plans to address in a formal comment letter. However, of most immediate concern is the September 12 deadline that has been proposed by the DOD for comment on this proposed rule. Unfortunately, despite the significant potential adverse impacts that this rule might have upon our universities and our ability to conduct vital research on behalf of the Department of Defense, the period of August and early September will be a very difficult time for us to get our campuses to respond, given that many people are away and then will return to the beginning of the new semester.

Therefore, we respectfully request that you extend the comment period for another 30-60 days. We understand that such an extension is already being given serious consideration within the Pentagon. We hope that it will be provided to ensure that the best final rule ultimately results from this process.

We are also concerned that the DOD proposed rule is premature given the current dialogue with the government, in which both the university and business communities are engaged, concerning the impact of the recommendations made by the Inspector General last year regarding proposed changes to the Export Administration Regulations (EAR) and their interpretations by the Department of Commerce Office of the Inspector General (OIG). We believe that our comments and the impact of the proposed DOD rule might be substantially impacted by how the Department of Commerce’s Bureau of Industry and Security (BIS) responds to its OIG recommendations. Therefore, we feel that it is important that we be...
allowed an opportunity to comment on the rule proposed by the DOD after the BIS issues its own final rule on deemed exports. The proposed DOD rule appears premature at this time.

Finally, given the significance of this matter to the university community, we would also like to suggest that the Pentagon establish a formal liaison with the university community, much as the Department of Commerce has done, through which we might be able to directly communicate our concerns and engage in a meaningful dialogue. Indeed, this is an extremely important issue for the university community and for our nation’s national and economic security. We have found the process that has been pursued by the Department of Commerce to be very productive and valuable and would hope that the DOD would consider engaging with us in a similar manner. We welcome the opportunity to work with the DOD to make sure we develop the best rule possible that will both balance our national security interests and allow for the continuation of research vital to our national security interests.

Again, thank you for taking the time to consider the concerns we have raised in this letter. We hope that you will give serious consideration to extending or delaying the comment period on the proposed rule. Please know that my staff and I are available to discuss this issue further with you. If you have any comments or questions, please do not hesitate to contact me or Mr. Tobin Smith of my staff. We may be reached at (202) 408-7500.

Sincerely,

Nils Hasselmo
President
Association of American Universities