

METHODS FOR ECONOMIC PROTECTION

1. Recognize the threat.
2. Identify and value trade secrets.
3. Implement a definable plan for safeguarding trade secrets.
4. Secure physical trade secrets and limit access to trade secrets.
5. Provide ongoing security training to employees.
6. Develop an insider threat program.
7. Proactively report suspicious incidents to the FBI before your proprietary information is irreversibly compromised.

"...economic espionage and theft of trade secrets are increasingly linked to the insider threat and the growing threat of cyber espionage."

FBI Congressional Testimony

COMMONLY ASKED QUESTIONS

Q Does the 1996 EEA apply if the offender is a foreign person?

A Yes. The Act applies to whoever knowingly performs targeting or acquisition of trade secrets. Territorial limits will apply for prosecution.

Q Does the act help victims of Economic Espionage to protect their trade secrets?

A Yes. The Act contains a special provision to protect the disclosure of trade secret information during the criminal justice process.

Q Are there other statutes that can apply if trade secrets are not protected and therefore cannot be prosecuted under the Act?

A Yes. The following is a list of violations that may apply: Mail Fraud, Wire Fraud, Computer Fraud and Abuse, Interstate Transportation of Stolen Property, and various Export Control and Intellectual Property Rights statutes. Contact your local FBI field office for further assistance.

Q Is the FBI proactive in its approach to economic espionage?

A Yes. The FBI Director has designated espionage as the FBI's number two priority - second only to terrorism. The Economic Espionage Unit is dedicated to countering the economic espionage threat to include developing training and outreach materials; participating in conferences; visiting private industry; working with the law enforcement and intelligence community on requirement issues; and providing classified and unclassified presentations.

To report violations, obtain additional information, or schedule a briefing regarding Economic Espionage, contact your local field office at:
www.fbi.gov/contact-us/field.

Department of Justice
Federal Bureau of Investigation



ECONOMIC ESPIONAGE

Protecting America's Trade Secrets



THE FBI SEEKS YOUR HELP IN SAFEGUARDING OUR NATION'S SECRETS!

Our Nation's secrets are in jeopardy, the same secrets that make your company profitable. The FBI estimates billions of US dollars are lost to foreign competitors every year. These foreign competitors deliberately target economic intelligence in advanced technologies and flourishing US industries.

Foreign competitors operate under three categories to create an elaborate network of spies:

1. Aggressively target present and former foreign nationals working for US companies and research institutions;
2. Recruit and perform technical operations to include bribery, discreet theft, dumpster diving (in search of discarded trade secrets) and wiretapping; and,
3. Establish seemingly innocent business relationships between foreign companies and US industries to gather economic intelligence including proprietary information.

In an effort to safeguard our nation's economic secrets, the **Economic Espionage Act (EEA)** was signed into law on October 11, 1996.

WHAT IS ECONOMIC ESPIONAGE TITLE 18 U.S.C., SECTION 1831?

Economic Espionage is (1) whoever knowingly performs targeting or acquisition of trade secrets to (2) knowingly benefit any foreign government, foreign instrumentality, or foreign agent.

WHAT IS THEFT OF TRADE SECRETS TITLE 18 U.S.C., SECTION 1832?

Theft of trade secrets is (1) whoever knowingly performs targeting or acquisition of trade secrets or intends to convert a trade secret to (2) knowingly benefit anyone other than the owner. Commonly referred to as Industrial Espionage.



WHAT ARE TRADE SECRETS?

Trade secrets are all forms and types of financial, business, scientific, technical, economic or engineering information, including patterns, plans, compilations, program devices, formulas,

designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically or in writing, (1) which the owner has taken reasonable measures to protect; and (2) which have an independent economic value from not being generally known to the public.

Commonly referred to as proprietary information, economic policy information, trade information, proprietary technology, or critical technology.

WHAT ARE SOME METHODS OF TARGETING OR ACQUIRING TRADE SECRETS?

1. Steal, conceal, or carry away by fraud, artifice, or deception;
2. Copy, duplicate, sketch, draw, photograph, download, upload, alter, destroy, photocopy, replicate, transmit, deliver, send, mail, communicate, or convey; and,
3. Receive, buy, or possess a trade secret, knowing the same to have been stolen or appropriated, obtained, or converted without authorization.

WHO IS A FOREIGN AGENT AND WHAT IS A FOREIGN INSTRUMENTALITY?

A Foreign Agent is any officer, employee, proxy, servant, delegate, or representative of a foreign government. The EEA defines a Foreign Instrumentality as:

Any agency, bureau, ministry, component, institution, association or any legal, commercial or business organization, corporation, firm, or entity that is substantially owned, controlled, sponsored, commanded, managed, or dominated by a foreign government.

ECONOMIC ESPIONAGE ACT OF 1996 PROVISIONS

TERRITORIAL LIMITS

EEA protects against theft that occurs either (1) in the United States, or (2) outside of the United States and (a) an act in furtherance of the offense must have been committed in the United States or (b) the violator is a US person or organization.

CRIMINAL PENALTIES

Title 18 U.S.C., Section 1831 Economic Espionage

- Foreign Government Beneficiary
- Maximum Individual Sentence/Fine: 15 years imprisonment/\$5 million.
- Maximum Organizational Fine: Not more than the greater of \$10 million or 3 times the value of the stolen trade secret.

Title 18 U.S.C., Section 1832 Theft of Trade Secrets

- Beneficiary must be anyone other than the owner of the misappropriated trade secret(s)
- Maximum Individual Sentence/Fine: 10 years imprisonment/\$250,000 or an alternative fine based on gain/loss figures.
- Maximum Organizational Fine: \$5 million



CRIMINAL FORFEITURE

The court may order the violator to forfeit to the United States any (1) property constituting, or derived from, any proceeds the person obtained directly or indirectly, as the result of the violation, or (2) property used, or intended to be used, in any manner or part, to commit or facilitate the commission of the violation.

CIVIL PROCEEDINGS

In a civil action, the Attorney General may obtain appropriate injunctive relief to prevent the offense. The District Courts of the United States have exclusive original jurisdiction of civil actions.