



TEXAS A&M
UNIVERSITY
CENTRAL TEXAS

Texas A&M University-Central Texas

Division of Research

1001 Leadership Place

Killeen, TX 76549

(254) 519-5741

EXPORT CONTROL

COMPLIANCE PROGRAM MANUAL

The purpose of this compliance program manual is to provide a guide for basic export control requirements information. It is not intended to be relied on exclusively, nor should it be construed as legal advice.

Export control laws are complex and fact-specific. The laws, regulations, rules, procedures, and lists specifying who or what is considered export control sensitive and where export controls apply are subject to change. Because the contents of this manual are a general overview of basic export control information for employees and students of Texas A&M University-Central Texas, links to relevant Texas A&M System and U.S. government websites are provided so users of this manual can have access to the most current information.

Table of Contents

List of Abbreviations	3
1. Commitment to Export Control Compliance.....	4
2. Responsible Persons for Export Control Compliance	5
3. Identifying Export Control Concerns.....	8
4. Research and Educational Activities	10
5. International Visitors.....	19
6. Employment of Non-Immigrant Foreign Nationals	21
7. International Activities	22
8. Distance Education.....	25
9. Financial Transactions, Procurement, and Contracts	28
10. Technology Commercialization	2930
11. Shipments	30
12. Recordkeeping.....	31
13. Training.....	31
14. Internal Compliance Reviews and Monitoring.....	32
15. Possible Violations	32
16. Disciplinary Actions	33
17. Related Statutes, Policies or Requirements	33
Appendix A Glossary.....	34
Appendix B Export Control Decision-Making Trees	34
Appendix C International Travel Export License Exception Certification	42
Appendix D Technology Control Plan	44
Appendix E Approval of Visitor Exchange Program	52
Appendix F Approval of Reimbursement/Honoraria for International Visitor	55
Appendix G Non-Compliance Explanation Form.....	57
Appendix H Checklist for Export Control Issues When Hiring Foreign Nationals	58
Appendix I Traveling with Laptops	60

List of Abbreviations

BIS	Department of Commerce Bureau of Industry and Security
CCL	Commerce Control List
CJ	Commodity Jurisdiction
DDTC	Department of State Directorate of Defense Trade Controls
DFAR	Defense Federal Acquisition Regulation
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
EO	Empowered Official
FAR	Federal Acquisition Regulations
FRE	Fundamental Research Exclusion
IFSS	International Faculty and Scholar Services – Texas A&M University
ITAR	International Traffic in Arms Regulations
IVRPSF	International Visitor Restricted Party Screening Form
MTA	Material Transfer Agreement
NDA	Non-Disclosure Agreement
OFAC	Department of Treasury Office of Foreign Assets Control
PI	Principal Investigator
RCO	Research Compliance Officer
RSO	The Texas A&M System Research Security Office
RPS	Restricted Party Screening
SDNL	Specially Designated Nationals and Blocked Persons List
SRS	The Texas A&M System Sponsored Research Services
TAA	Technical Assistance Agreement
TAMUS	The Texas A&M University System
TI	Texas A&M Innovation
TCP	Technology Control Plan
U.S.	United States
USML	United States Munitions List

1. Commitment to Export Control Compliance

Texas A&M University-Central Texas (A&M-Central Texas) is committed to upholding the highest standards of ethical conduct in compliance with the University's legal obligations regarding the implementation and oversight of the export control compliance plan.

In accordance with Texas A&M System Policy 15.02, *Export Controls*, and A&M-Central Texas rule 15.02.99.D1, *Export Controls Program Management*, the export of certain items and information is regulated for reasons of national security, foreign policy, the prevention of the spread of weapons of mass destruction, and competitive trade reasons. To assure the highest level of compliance, A&M-Central Texas coordinates programs and materials with the Texas A&M System Research Security Office.

A&M-Central Texas is committed to operating in compliance with United States (U.S.) export control laws and regulations including those implemented by the Department of Commerce through the Export Administration Regulations (EAR, 15C.F.R.700-799: <https://www.ecfr.gov/current/title-15/subtitle-B/chapter-VII/subchapter-A/part-700>), the Department of State through the International Traffic in Arms Regulations (ITAR, 22C.F.R. 120-130: (https://www.pmddtc.state.gov/ddtc_public/ddtc_public?id=ddtc_kb_article_page&sys_id=24d528fddbfc930044f9ff621f961987), and the Treasury Department through the Office of Foreign Assets Control (OFAC, 31C.F.R. 500-599: <https://www.gpo.gov/fdsys/granule/CFR-2004-title31-vol2/CFR-2004-title31-vol2-part500/content-detail.html>). Due to the complexity of the laws and regulations, potential export-controlled activities will be evaluated on an individual basis, and each case will be assessed on its own merits.

A&M-Central Texas employees are ultimately individually responsible for ensuring compliance with U.S. export control laws/regulations and System policies/regulations. It is essential that A&M-Central Texas employees maintain open communication with their respective supervisors about these matters and to recognize that export control laws and regulations apply broadly to all research projects (sponsored and non-sponsored) or educational activities. This A&M-Central Texas Export Control Compliance Program Manual is designed to assist employees in the area of export control compliance. It is not intended to be used exclusively, nor is it intended to constitute legal advice. Acronyms are defined in the Abbreviations section at the beginning of this manual, and a glossary of terms is contained in Appendix A.

Questions regarding export control should be directed to the Empowered Official (Walter Murphy at 254-519-5761/ murphyw@tamuct.edu).

2. Responsible Persons for Export Control Compliance

2.1 Empowered Official

As designated by the President/CEO of A&M-Central Texas, the Associate Vice President for Research, Economic Development, and Innovation (AVPREDI) serves as the A&M-Central Texas Empowered Official. The Empowered Official is responsible for obtaining approvals required for compliance with export control laws, regulations, policies, rules, and procedures. The Empowered Official serves as the University's representative and point of contact for export control matters involving A&M-Central Texas. The Empowered Official is authorized to represent A&M-Central Texas in any proceedings before government agencies with export control responsibilities and has final responsibility for compliance with export control laws and regulations. In the event of the reporting of a suspected violation, the A&M-Central Texas Empowered Official will investigate the suspected violation to the extent deemed necessary. This process may involve appointing a committee to assist with the investigation. In the event the EO is not available, the Chief Research Officer will address any urgent issues.

2.2 Export Control Partner

For export control processes directly related to hiring or Workday, the Export Control Partner, an employee of the university's Human Resources Office, will work with the A&M System's human resources programs and the university's Empowered Official to assure that foreign persons hired as employees, or whose job responsibilities change in relevant ways, meet all required federal, system, and university guidelines and have the appropriate paperwork completed. The Export Control Partner is selected by the Human Resources Office, in consultation with the Empowered Official.

2.3 Individual Responsibility

All A&M-Central Texas employees (especially researchers, purchasers, travelers to foreign countries, hosts of foreign visitors) and students must conduct their affairs in accordance with U.S. export control laws and regulations and must be aware of (and responsible for) export control implications associated with their

work and responsibilities. Compliance with all applicable legal requirements is essential. Conversely, it is important to maintain an open environment that welcomes participation of individuals from around the world as part of the A&M-Central Texas mission. To maintain this balance, A&M-Central Texas personnel must be familiar with the U.S. export control laws and regulations (including important exclusions and exemptions) as they relate to their responsibilities. Depending upon the nature of their activities and/or job functions, employees may be required to participate in formal training as determined by the A&M-Central Texas Empowered Official and/or their supervisors. Employees whose job responsibilities specifically involve issues of export control, including the Export Control Partner and the Coordinator of the Procurement Office, will be assigned to take formal export control training in TrainTraq biannually. All full-time faculty will also be assigned to take formal export control training in TrainTraq biannually.

Principal Investigators (PIs) and those who courses have export control implications, with the assistance of the Empowered Official and the university's Chief Compliance Officer, are responsible for compliance with export control requirements in the conduct of their research or educational activities. To meet this obligation, these individuals should:

- (a) understand their export control obligations and participate in regular (every 2 years) trainings to be able to identify export control issues;
- (b) be aware of the export control indicators in (but not limited to) Section 3 below, and note such information on any internal compliance or assurance forms;
- (c) determine, prior to initiation of research or educational activity, whether any information or technology involved in their research is subject to export control laws or regulations and whether a TCP is required;
- (d) periodically review their research to ensure continuing compliance with export control laws and regulations;
- (e) if undertaking an export-controlled project, inform all those to be involved in the project of their export control obligations and have a plan in place for visitor access; and
- (f) understand that any informal discussions, agreements, or understandings entered into with sponsors or other entities can impose export control obligations on the PI or educator and may negate the opportunity to claim key exclusions such as the Fundamental Research Exclusion (FRE) or the Educational Information Exclusion.

A&M-Central Texas employees are to report suspected or known violations to the Empowered Official. Additionally, A&M-Central Texas employees must maintain their commitment to promoting a culture of compliance with all associated laws, regulations, policies, rules, and procedures and discuss any questions or concerns with their department/unit head, supervisor, or the A&M-Central Texas Empowered Official.

2.4 A&M-Central Texas Export Control Compliance Programs

The A&M-Central Texas Empowered Official is responsible for directing and monitoring A&M-Central Texas's export control compliance programs, recordkeeping, and implementation of procedures and/or guidelines to comply with federal export control laws and regulations, including developing, maintaining, and updating this manual. The Export Control Committee, composed of faculty and staff, is tasked with supporting the Empowered Official and university export control programs through annual meetings and requests by the EO for assistance with procedures such as export control rule and manual updates and internal audits.

When requested, the A&M-Central Texas Empowered Official will determine (or assist other employees in export control assessments to determine) compliance obligations with respect to A&M-Central Texas activities involving foreign persons or international activities under applicable export control laws and regulations and determine the applicability of the Fundamental Research Exclusion (FRE) or other exclusions.

The Empowered Official (or designated persons) will assist with and conduct Restricted Party and Technological Screening (RPS) and consult with the System Research Security Office (RSO) on export control matters as appropriate.

2.5 Division of Research

The Division of Research provides support to the Empowered Official and the Export Control Committee for developing and implementing procedures to screen proposals for funding and research projects for compliance with export control laws and regulations as follows:

- (a) assistance in reviewing the terms of proposals and agreements, and in determining whether the research or related activity is export-controlled;
- (b) assistance in identifying factors that can negate the FRE and in negotiating the deletion of such restrictions, if possible;
- (c) on export-controlled research, to assist PIs and the Empowered Official (or designated person) to document assurance that controlled physical items and controlled information are secured, that licenses and other authorizations are obtained, and that research is conducted in accordance with the Technology Control Plan (TCP); and
- (d) coordination with Empowered Official (or designated person) to ensure that all export control determinations related to a research project are communicated in writing to the PI, to project negotiators and administrators assigned to the research, and System Members, as appropriate.
- (e) determine[s] whether a person or entity is included on the Specially Designated Nationals and Blocked Persons List or any other list included in the screening software made available by the Office of Research.
- (f) screening against restricted party lists.

2.6 A&M-Central Texas Administrators

All A&M-Central Texas employees with managerial or supervisory authority over foreign persons or projects involving controlled information or controlled physical items (such as researchers, department heads, and inventory and business office personnel), should view export control compliance as an important part of their day-to-day responsibilities. They are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the A&M-Central Texas Empowered Official by implementing the procedures set forth in this manual and as otherwise deemed necessary by the Empowered Official for export control compliance. All relevant employees must complete biyearly training on export control compliance.

3. Identifying Export Control Concerns

3.1 Export Control Red Flags

The following are indicators that an export control review should be conducted to ensure that no violations occur:

- (a) The results of research and educational activities conducted at A&M-Central Texas or by A&M-Central Texas employees are intended for military purposes or for other restricted end uses under EAR 99:
<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear/99-regulations>.
- (b) Foreign persons will have access to controlled physical items on campus or A&M-Central Texas property.
- (c) Software that includes encryption features will be developed or purchased.
- (d) A&M-Central Texas employees will export or travel abroad with research equipment, chemicals, biological materials, encrypted software, or controlled physical items; or travel abroad with laptops, cell phones, or mobile computing device containing controlled information; meet with foreign persons regarding export-controlled research; or access university systems containing export controlled information from another country.
- (e) A proposed financial transaction will involve embargoed countries or entities (such as banks), individuals located in embargoed countries, or who are on prohibited or restricted end-user lists. (Visual Compliance software will be used for this purpose.)
- (f) The sponsor requires pre-approval rights over publications or the participation of foreign persons.
- (g) The project requires the shipping of equipment to a foreign country.

3.2 Restricted Party Screening

To assist institutions, businesses, and individuals in their export control efforts, the U.S. Department of Commerce, the U.S. Department of State, and the U.S. Department of Treasury (along with various other government agencies) maintain lists of prohibited and restricted end-users; use of the lists to identify the relevant entities is called Restricted Party Screening (RPS). Even when interactions with the relevant end-users is not prohibited, licenses may be required for exportation to them or for carrying out a transaction in which a prohibited or restricted end-user is involved. Currently, the Descartes Visual Compliance software is used for RPS. A&M-Central Texas must screen individuals and entities as provided in this manual to ensure that the university does not do business with individuals or entities that have been debarred, denied export privileges, or are otherwise on one of the government restricted party lists. A&M-Central Texas' Empowered Official (or designated others such as the Export Control Partner) will use the Visual Compliance software to screen restricted party lists electronically as appropriate. The export control

compliance software performs RPS against all relevant U.S. Government lists, including: OFAC Sanctions, BIS Denied Persons List, BIS Entity List and Unverified List, Department of State Arms Export Control Act Debarred Parties, Department of State Designated Terrorist Organizations, and Department of State Nonproliferation Orders. The Texas A&M University System has a set of optional additional lists that can be used by institutions within the system for RPS as well; these are included by default in RSP but can be opted out of. For those who do not pass the initial RPS, a second, more specified level of screening is available through the Dimensions software system.

Restricted Party Screening is used for a number of purposes at the university. It helps to screen against hiring of persons who are on the restricted lists or who are associated with institutions on those lists. Note that RPS for individuals being hired is not done until an offer or employment is tendered to the individual. RPS is also used to evaluate foreign vendors, foreign visitors, and international students who will be working on university research projects or with sensitive university data. The A&M-Central Texas Empowered Official is responsible for maintaining records of all RPS determinations, in accordance with the Section on Recordkeeping.

4. Research and Educational Activities

Most data and information involved in A&M-Central Texas research and educational activities could possibly be excluded from export control regulation under the ITAR or EAR based on several key provisions:

- (a) the Public Domain Exclusion (PDE);
- (b) the Fundamental Research Exclusion (FRE); and
- (c) the Educational Information Exclusion (EIE).

It is essential that researchers and others involved in research and educational activities be aware of these key exclusions, and to understand that their benefits can be lost if certain provisions (such as restriction of foreign person access to the research or sponsor controls on publication or other dissemination of the research results) are present in research and educational activities–related agreements. PIs should seek guidance before entering into informal understandings or “side agreements” with research and educational activities where such provisions are present. It is also important to remember that the restrictions enforced by Department of Treasury Office of Foreign Assets Control (OFAC) are not affected by the ITAR, EAR, or FRE.

4.1 Contract Provisions of Concern

Certain research and educational activities agreement provisions may negate the fundamental research exclusion (FRE) and may require seeking a license or undertaking monitoring or other activities. Contact the A&M-Central Texas Empowered Official for assistance in determining controlled items, controlled information, and screening against restricted party lists.

These provisions of concern are identified on the Decision-Making Tree for Administration of Contract Provisions of Concern in Appendix B and are summarized below. If any of the following provisions is present (and cannot be negotiated away) in a research or educational activities agreement or subcontract, a Material Transfer Agreement (MTA), or Non-Disclosure Agreement (NDA) related to research or educational activities, the agreement will trigger a secondary screening and should be submitted for Office of Research review:

- (a) Sponsor maintains the right to restrict or approve publication or release of research or educational activity results (other than A&M-Central Texas' standard customary brief delay to protect a sponsor's confidential information or to preserve the patentability of an invention).
- (b) Research or educational activity data and/or other research or educational activity results will be jointly with A&M-Central Texas or solely owned by the sponsor (e.g., as sponsor's proprietary or trade secret information).
- (c) Statements that export control regulations will apply to the research or educational activity.
- (d) Incorporation by reference of Federal Acquisition Regulations (FARs), agency-specific FARs, or other federal agency regulations—which impose specific controls on access to or dissemination of research or educational activity results (see Section 4.2, below).
- (e) Restrictions on, or prohibitions against, the participation of research or educational activity personnel based on citizenship or national origin.
- (f) Statements that the sponsor anticipates providing export-controlled items or information for use in connection with the research or educational activity.
- (g) Equipment or encrypted software is required to be delivered as part of the project.

- (h) The research project or educational activity will involve the use of export-controlled items or technical information obtained from a third party.
- (i) The research or educational activity will take place outside the United States.

4.2 High-Risk Global Engagements and International Collaborations

While A&M-Central Texas encourages faculty, staff, and students to develop international collaborations for scientific inquiry, cultural, or educational opportunities that are mutually beneficial, the university recognizes that some of these engagements may be risky due to the possibilities of conflicts of commitment, conflicts of interest, and undue foreign influence. Therefore, prior to engaging with a foreign entity, the university requires the employee to work with the Empowered Official to establish appropriate safeguards for the global interactions. No global engagement can be started at A&M-Central Texas without prior approval by the Empowered Official. All high-risk global engagements will be maintained in the MAESTRO system, and all employees engaged in collaborations rated as potentially risky will take the TrainTraq export control training biyearly. The university maintains a rule for oversight of high-risk global engagements and international collaborations (A&M-Central Texas rule 15.05.04.D1, *High-Risk Global Engagements and High-Risk International Collaborations*, with the related A&M System regulation 15.05.04, *High-Risk Global Engagements and High-Risk International Collaborations*).

4.3 Specific U.S. Government Access and Dissemination Controls

Specific access and dissemination controls may be buried within the language of FARs, Defense Federal Acquisition Regulations (DFARs), and other agency-specific regulations included as part of a prime contract or flowed down in a subcontract. Information on these can be found at <https://www.acquisition.gov/browse/index/far> and <https://www.acquisition.gov/dfars>. These clauses apply primarily to contracts, not grants (which are covered in section 4.4), and include but are not limited to:

(a) FAR 52.227-14 (Rights in Data—General)

This grants the government unlimited rights in data first produced or delivered under the contract. Government approval is required to assert copyright in data first produced in the performance of the contract and not published in academic, technical, or professional journals, symposia

proceedings, or similar works. For basic or applied research requesting Alternate IV can be used to lift this restriction; alternate IV provides the contractor with the right to copyright data without government permission.

(b) FAR 52.227-17 (Rights in Data—Special Works)

This prevents the release, distribution, and publication of any data originally produced in the performance of an award, establishing controls for data generated by contractors for the government’s internal use and representing an absolute restriction on the publication or dissemination of contractor-generated data. It should not apply to basic and applied research and should be removed from a contract on the basis of exceptions to this clause’s applicability. For more information, refer to FAR 27.405(a)(1).

(c) DFAR 252. 204-7000 (Disclosure of Information)

This states that a federal “Contractor shall not release to anyone outside the Contractor’s organization any unclassified information, regardless of medium, pertaining to any part of this contract or any program related to this contract.” This is an example of a publication/information restriction that voids the FRE. For more information, refer to 27.404(g)(2) & (3) and NSDD-189 as justification for getting the restriction removed, as can referral to IRS Ruling 76-296. it is possible also to add alternate language that allows for review and comment on publications.

(d) DFAR 252.204-7008 (Export-Controlled Items)

This states that “the Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR.” This may require the PI to certify that the project does not involve any items that are subject to export control laws.

(e) ARL 52.004-4400 (Approval of Foreign Nationals)

According to this, all foreign nationals must undergo restricted party screening and be approved before beginning work on a relevant project, with the contractor required to divulge initially if any foreign nationals will be working on the project. The provision of a potential foreign staff member’s name, last country of residence, citizenship, and other information may be required. This clause is commonly found in contracts involving controlled technology that is sponsored by military agencies. The

PI may be required to certify that no foreign nationals will be working on the project. If no foreign nationals will be employed, the contractor may disregard this clause. If the PI is doing basic research and the sponsor will take those results and work on the controlled technology at another location, it may be possible to delete this clause.

(f) ARL 52.005-4401 (Release of Information).

This includes reference to “non-releasable, unclassified information” and a requirement to “confer and consult” prior to release of information, but it is unclear what the relevant review requires. The sponsor retains publication/information approval, which voids the FRE. It may be possible to substitute with ARL Cooperative Agreement Language: Prior Review of Public Releases, “the Parties agree to confer and consult with each other prior to publication or other disclosure of the results of work under this Agreement to ensure that no classified or proprietary information is released. Prior to submitting a manuscript for publication or before any other public disclosure, each Party will offer the other Party ample opportunity (not to exceed 60 days) to review such proposed publication or disclosure, to submit objections, and to file application letters for patents in a timely manner.”

(g) AFMC 5352.227-9000 (Requirement for ITAR License)

This requires an export license prior to assigning any foreign national to work on the project or allowing foreign nationals access to the work, equipment, or technical data generated by the project. It is necessary for the PI to state whether if the project is basic or applied research. If it does, the project may fall under an ITAR exclusion. The defense contractor may be asked if foreign nationals are allowed to work on the project, and if so, it is critical to obtain confirmation in writing.

4.3.1 Controlled Unclassified Information

Material that is considered Controlled Unclassified Information (CUI) must be handled following the appropriate federal regulations, as indicated on the Department of Defense’s CUI program guidance webpage at <https://www.dodcui.mil/Export-Control/Export-Controlled> . This is relevant to the use of the document at Appendix E.

4.4 Procedures Applicable To Research Agreements and Subcontracts

4.4.1 General

Export control screening of projects/contracts is a two-step process. The first step consists of project/contract screening which involves screening the substance of the project or contract using the required assurances form in Maestro (done by TAMU's Sponsored Research Services office (SRS)). The second step consists of Restricted Party Screening (RPS). This involves screening any necessary individuals and entities involved on a project/contract using Visual Compliance export control screening software.

4.4.2 Proposals

Upon receiving notification from a PI that a proposal is to be submitted, the Proposal Administrator at SRS sends an email to the PI requesting completion of the required assurances information, including for export control. The PI then logs into MAESTRO and checks "yes" or "no" to a series of questions asking whether compliance verification is needed. Upon receiving the completed form from the PI, the Proposal Administrator, following the form, checks "yes" or "no" to each question on the proposal compliance screen in MAESTRO. MAESTRO will send electronic notifications to the university's RCO based upon any affirmative answers to these questions; the RCO may consult with the EO for export control issues.

4.4.3 Contract and Agreements

At the contract stage, the Texas A&M University System Sponsored Research contract negotiators verify if any updates to the questions completed on the required assurances form at the proposal stage are necessary based upon their review of the proposed agreement. In addition to the foregoing, a restricted party screening is performed on all contracts and sub-awards as needed for foreign persons. Below are the procedures for performing a restricted party screening (RPS) of foreign persons involved in a university contract:

- (a) All names (whether company or individual) of the relevant parties involved in the project/contract are checked using Visual Compliance software.

- (b) In the event of a positive match resulting from the Visual Compliance search, the individual performing the search will submit the screening results to the university's EO for further review and approval.
- (c) Each search result performed by the Texas A&M University System Sponsored Research Services office and the university's EO from Visual Compliance, and any related documentation provided by the system member, will be loaded into the appropriate administration database system with its respective record, typically MAEO.

4.5 Determining EAR and ITAR Commodity Jurisdiction

- 4.5.1 If an agreement or subcontract includes contract provisions of concern (for example those listed in Section 4.1), the PI will work closely with the A&M-Central Texas Empowered Official (or designated person) in providing the required information. The PI will refer to the ITAR U.S. Munitions List (USML), 22 C.F.R.121.1 https://www.pmdtdc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf, the EAR Commerce Control List, 15 C.F.R. Part 738, Supplement 1 to Part 738 <https://www.gpo.gov/fdsys/granule/CFR-2011-title15-vol2/CFR-2011-title15-vol2-part738-appNo-/content-detail.html>, and other relevant parts of the regulations as directed by A&M-Central Texas' Empowered Official to identify the appropriate export classification.
- 4.5.2 A determination of commodity jurisdiction will be made by the Empowered Official and will be documented for the PI. The Empowered Official will also undertake further export control analysis pursuant to Section 4.6 *Resolving Export Control Issues*.
- 4.5.3 When questions remain about commodity jurisdiction, the A&M-Central Texas Empowered Official (or designated person) will consult with the A&M System Research Security Office (RSO) for further guidance. If there is still a question about commodity jurisdiction, the Empowered Official (or designated person) with support from the RSO, will prepare a commodity jurisdiction request for submission to the Department of State or the Department of Commerce, as appropriate. In such cases—until an official determination is received—the project will be considered export-controlled, and no foreign persons will be permitted to participate until an official determination is made to the contrary. Requesting an official commodity jurisdiction ruling from the government takes time. A minimum of two weeks is required for completion of the request itself, and

several more weeks or months can be expected before the receipt of a response from the government.

- 4.5.4 Finalization of the agreement or subcontract need not be delayed pending A&M-Central Texas Empowered Official's (or designated person's) determination of commodity jurisdiction or other export control determinations; however, all necessary controls must be implemented before the work begins.

4.6 Resolving Export Control Issues

4.6.1 Empowered Official

Once a potential export control issue is identified, the A&M-Central Texas Empowered Official (or designated person), will work with the parties involved and determine what course of action should be taken to address the issue. In many cases, no license or other authorization will be necessary. The A&M-Central Texas Empowered Official, in consultation with the PI and the RSO, will determine whether:

- (a) the conditions merit an application for a license or other authorization,
- (b) the conditions are such that an exclusion or license exception may be obtained, or
- (c) a Technology Control Plan (TCP), or other requirements for the conduct of the research, will be necessary to prevent an unauthorized deemed export of the technology from occurring.

The A&M-Central Texas Empowered Official (or designated person) will notify the parties involved of export control compliance determinations. The Empowered Official will maintain records of its determinations on a project basis, as provided in section on Recordkeeping, Section 12.

4.6.2 Technology Control Plan (TCP)

4.6.2.1 Development

If the A&M-Central Texas Empowered Official determines a project or facility is export-controlled, the Empowered Official (or designated person) will work with the PI and department representatives, facility managers, to develop and implement a

TCP (Appendix D) to secure the controlled technology from access by unauthorized foreign persons. A TCP will typically include:

- (a) a commitment to export control compliance;
- (b) identification of the relevant export control categories and controlled technologies;
- (c) identification of the project's sponsors;
- (d) identification and nationality of each individual participating in the project;
- (e) appropriate physical and informational security measures;
- (f) personnel screening measures and training; and
- (g) appropriate security measures for and following project termination (as indicated below).

4.6.2.2 Appropriate Security Measures

The TCP will include physical and informational security measures appropriate to the export control categories involved on the project. Examples of security measures include, but are not limited to:

- (a) **Laboratory Compartmentalization.** Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must remain locked at all times.
- (b) **Time Blocking.** Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.
- (c) **Marking.** Export-controlled items or information must be clearly identified and marked as export-controlled.
- (d) **Personnel Identification.** Individuals participating on the project may be required to wear a badge, special card, or other similar device indicating authority to access designated project areas. Physical movement into and out of a designated project area may be logged.
- (e) **Locked Storage.** Tangible items such as equipment, associated operating manuals, and schematic diagrams should be stored in rooms with key-controlled access. Soft and hardcopy data, lab notebooks, reports, and other research materials should be stored in locked cabinets.

- (f) **Electronic Security.** Project computers, networks, and electronic transmissions should be secured and monitored through User IDs, password controls, 128-bit or greater Secure Sockets Layer encryption, or other federally approved encryption technology. A separate hard drive or a flash drive can also be used, if secured in a safe, locked location. Database access should be managed via not connecting the computer to a network or through use of a Virtual Private Network (VPN). A VPN uses authentication to deny access to unauthorized users, and encryption to prevent unauthorized users from reading the private network packets. The VPN can be used to send any kind of network traffic securely, including voice, video, or data.
- (g) **Confidential Communications.** Discussions about the project must be limited to the identified and authorized project participants, and only in areas where unauthorized individuals are not present. Discussions with third party sub-contractors must occur only under signed agreements which fully respect the foreign person limitations for such disclosures.

4.6.3 Export Licensing

If a license, Technical Assistance Agreement, Manufacturing License Agreement, ITAR Registration, or other authorization is the appropriate method to address an export control issue, the A&M-Central Texas Empowered Official will consult with the PI and other appropriate parties to gather all the information needed to submit the appropriate documentation to seek a license. The Empowered Official will determine that a license or other authorization should be obtained and will request the license or other authorization from the appropriate agency with assistance from the Research Security Office, as appropriate.

5. International Visitors

5.1 International Visitors Require Restricted Party Screening (RPS) prior to Arrival on University Property

All A&M-Central Texas employees intending to invite or host international visitors on campus are responsible for notifying, in writing, the A&M-Central Texas Empowered Official (or designated person) before the visitor arrives on

any university property, so that relevant screening (RPS) can be initiated (see Section 5.4).

5.2 No Authorization to Access Controlled Information, Controlled Physical Items

No international visitor may have access (whether verbal, written, electronic, and/or visual) to controlled information or controlled physical items unless an export control license has been obtained. It is the responsibility of the faculty, researcher, staff, or administrator hosting the visitor to ensure compliance with export control restrictions and to promptly disclose and report any violations to A&M-Central Texas Empowered Official.

5.3 Restricted Party Screening (RPS) of International Visitors

Screening of international visitors includes the screening of the foreign entity or institution where the international visitor is employed. Screening is needed whenever a written or verbal invitation to visit A&M-Central Texas is made to an international visitor regardless of whether:

- (a) The international visitor is present or not in the United States.
- (b) A&M-Central Texas needs to sponsor the International Visitor for immigration purposes under the J-1 Exchange Visitor Program.
- (c) A&M-Central Texas does not need to sponsor the international visitor for immigration purposes because he or she is traveling or has entered the United States under the Visa Waiver Program a B-1/B-2 visa or other nonimmigrant visa status as indicated on a properly annotated I-94. Foreign Persons may come to visit A&M-Central Texas under the J-1 exchange visitor program in the following instances:
 - (1) Sabbaticals with their own funding;
 - (2) Conducting collaborative research funded by their home institution or government;
 - (3) Fulbright or other similar type of sponsorship; and
 - (4) Student internship, paid or unpaid.

5.4 Procedure to Notify and Request Authorization to Visit

Prior to the visit, faculty, researchers, and administrators inviting and hosting international visitors must complete Approval of Visitor Exchange Program (Visiting Scholars, Scientists, and Interns) form (Appendix E), and/or Approval

of Reimbursement/Speaker Fee for Subjected International Visitor form (Appendix F).

These forms must be submitted to the A&M-Central Texas Empowered Official (or designated person). Submission is required regardless of whether the visit involves or results in a financial disbursement (i.e., speaker fee, reimbursement of expenses, and alike) payable to the international visitor. The A&M-Central Texas Empowered Official (or designee) will conduct all restricted party screening (RPS) for A&M-Central Texas. Any other export control issues raised will be addressed by the A&M-Central Texas host (the A&M-Central Texas employee who extended invitation to visitor). If RPS results cause restrictions to be imposed, the A&M-Central Texas Empowered Official (or designated person) will notify the requestor and A&M-Central Texas Human Resources (if processed by Human Resources) and attempt to resolve if possible. Once approved, a copy of the approval (and associated documents) will be sent to the relevant department to initiate the immigration process for those instances in which A&M-Central Texas needs to sponsor the international visitor, as well as for those in which the international visitor is traveling under the Visa Waiver Program, a B-1/B-2 visa, or other nonimmigrant visa status as indicated properly on the annotated I-94.

6. Employment of Non-Immigrant Foreign Nationals

It is imperative for A&M-Central Texas hiring departments to be aware that the ability to hire non-immigrant foreign nationals for certain positions may be restricted or prohibited by export control laws. For example, non-immigrant foreign nationals may be restricted or prohibited from performing employment responsibilities relating to certain information technology systems positions to the extent the work will involve access to controlled information or items. If non-immigrant foreign nationals are prohibited by export control laws from performing the employment responsibilities associated with a position, the Job Opportunity Listing should be posted in such a way that those individuals are notified ahead of time they cannot be considered. The following statement may be added to the “Comments to Applicant” section of the Job Opportunity Listing : *Non-immigrant foreign nationals are prohibited by export control laws from performing the employment responsibilities associated with this position; sponsorship is not available.*

After extending an employment offer to foreign nationals, the supervisor may be asked to submit a *Checklist for Export Control Issues When Hiring Foreign Nationals* form (Appendix H) to the A&M-Central Texas Empowered Official. Once a job offer is

tendered to a foreign candidate, the A&M-Central Texas Empowered Official (or designee) will complete restricted party screening and inform the relevant department of the RPS results. Upon an accepted offer, the hiring department will coordinate with the Human Resources office to complete the hiring process. Records will be kept in accordance with Section 12.

7. International Activities

The Empowered Official in coordination with the RCO, is responsible for developing and implementing procedures to screen international programs, centers, and activities for compliance with export control laws and regulations. In the case of university activities conducted outside the United States, it is the responsibility of the university activity organizer and/or a responsible center official to seek and obtain appropriate export control approvals from the EO for activities including, but not limited to, the following: execution of agreements performable outside the United States; non-credit bearing study abroad courses; and making payments to foreign person vendors. Credit bearing study abroad courses are overseen through the Academic and Student Affairs office, though student travel for those involves coordination with the Empowered Official.

7.1. Travel—General

A&M-Central Texas employees traveling on A&M-Central Texas business or traveling with A&M-Central Texas property are responsible for complying with export control laws and regulations when traveling outside the U.S. and for completing all relevant paperwork through the Concur travel system. A&M-Central Texas employees are required to complete the *International Travel Export Control Verification Form* (Appendix L), before international travel begins. A guidance document on the Office of Research Canvas Community page provides instructions for completing the Export Control Verification Form. The verification form requires the traveler to complete relevant international travel and export controls training. The completed and fully-signed Export Control Verification Form must be submitted to the Empowered Official and signatures obtained in Concur from the EO and other relevant administrators before the Concur travel system will allow purchasing of tickets or other travel processes.

A license may be required depending on which items are taken out of the country, which countries are visited, or which kinds of interactions there are with, and which services are provided to, foreign persons. The traveler or the traveler's supervisor should contact the A&M-Central Texas Empowered Official

(or designated person), with any potential export control concerns. If appropriate, the A&M-Central Texas Empowered Official (or designated person) will follow restricted party screening (RPS using Visual Compliance software) procedures as described in Section 3.2.

When planning a trip abroad, travelers should review export control regulations and embargoes. Individuals will ensure that any information that will be discussed or any items that will be taken are not controlled, or, if controlled, that appropriate licenses are in place. Not only could A&M-Central Texas be held liable, but individuals may also be held liable for improperly transferring controlled information or controlled physical items.

Most travel for conferences will fall under an exclusion to the export control regulations, e.g., the Publicly Available/Public Domain Exclusion, 22 CFR §120.11 and 15 CFR §734.3. Information that is published and is generally accessible to the public through publication in books or periodicals available in a public library or in bookstores or information that is presented at a conference, meeting, seminar, trade show, or other open gathering is considered to be in the public domain. An open gathering is one in which members of the general public are eligible to attend, and attendees are permitted to take notes (see Section 4 for more information).

A&M-Central Texas employees traveling outside the U.S. with university laptops, mobile computing devices, cell phones (university or personal), or other data storage devices and encrypted software must ensure that there is no controlled information on such devices unless there is a specific license or other authorization in place for the information for that destination. The traveler must arrange with the A&M-Central Texas Information Technology Services (IT) office to meet with someone from IT who can provide guidance for use of the devices abroad and discuss potential issues. Any individual traveling with or transmitting controlled information outside the U.S. may consult with the A&M-Central Texas Empowered Official. There are a number of exceptions and exclusions that may apply depending upon the facts and circumstances of each case.

Temporary exports under the "Tools of Trade" license exception apply when the laptop, mobile computing device, cell phone, data storage devices, and encrypted software are:

- (a) Hand-carried with the individual while traveling,
- (b) Carried in the luggage or baggage that travels with the individual, or
- (c) Shipped no more than thirty days prior to the individual's departure or may be shipped to the individual at any time while the individual is outside the country.

Generally, no government export license is required so long as an individual:

- (a) retains his or her laptop computer, mobile computing device, cell phone, data storage devices and encrypted software under their personal custody and effective control for the duration of travel; (Note: In some instances, personal custody requires the person to have with them during meals, etc.)
- (b) does not intend to keep these items in these countries for longer than 1 year; and
- (c) is not traveling to an embargoed country or bringing restricted items to sanctioned country. See OFAC's Sanctions Program and Country Summaries at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx> and <https://www.state.gov/economic-sanctions-programs> for federal announcements about the specific sanctions. For a list of the currently embargoed countries, contact the Empowered Official.

It is recommended that individuals traveling internationally work with Information Technology Services to get a loaner computer for their trip with the necessary software and materials loaded on it. If the traveler chooses to take their own university laptop, IT can help them to remove all university-related content from their devices. Note that the government export license exception is not available for equipment, components, or software designed for use in/by/with most satellites or spacecraft. "Effective control" means retaining physical possession of an item or maintaining it in a secure environment (e.g., not just out in a hotel room).

If personal computers and other storage devices are taken abroad that contain encrypted software (15 C.F.R. Part 742), a government license or other government approval for export may be required when traveling to certain countries. For example, some Microsoft Windows programs contains such encrypted software and is subject to export restrictions. Those Windows

programs may be taken out of the U.S. temporarily, but only under an export license exception as described below.

Researchers may need to take other A&M-Central Texas equipment temporarily outside of the United States for use in A&M-Central Texas research. In some of these cases, the tools of trade license exception applies. Some equipment (e.g., global positioning systems (GPS), thermal imaging cameras, inertial measurement units, night vision goggles, and specialty software) is highly restricted, and may require an export license, even if one hand carries it. If taking A&M-Central Texas equipment other than a laptop computer, mobile computing device, cell phone, or data storage devices, contact the Empowered Official or indicate that on the Export Control Verification Form so that the EO can determine if an export license or other government approval is required prior to taking the equipment out of the country. It is important to note that activities involving teaching or training foreign persons on how to use equipment may require a license.

7.2 Study Abroad Programs

Students participating in Study Abroad Programs will follow the travel requirements of the relevant rules and SAPs (13.04.99.D1.02, *Study Abroad*; 13.04.99.D1, *Student Travel*; 13.04.99.D1.01, *Student Travel Procedure*), and the Student and Civic Engagement office oversees their travel for Study Abroad. All students traveling out of the country must complete the same required courses that university employees traveling abroad must complete for the Export Control Verification Form, but students do not need to complete the Export Control Verification Form unless they are in charge of taking university equipment abroad or will be discussing export-controlled topics with foreign persons.

7.3 Non-Employees Participating in A&M-Central Texas International Activities

All foreign persons acting on behalf of but not employed by A&M-Central Texas (e.g., independent contractors; volunteers; foreign collaborators) and not currently employed by a college or university based in the United States should undergo Restricted Party Screening prior to participation in research or educational programs at an international center.

8. Distance Education

Offering distance education courses puts universities at risk for unintentional violation of export control regulations or policies, but not all distance education courses are subject to export control. The Educational Information Exclusion specifically excludes regulation of the sharing of information or software concerning general scientific, mathematical, or engineering principles commonly taught in colleges and universities or information in the public domain (under ITAR) or any educational information in catalog-courses and their associated teaching laboratories (under EAR). (Encryption software with symmetric key length exceeding 64 bits does not meet this exclusion, nor does proprietary information and certain information deemed classified or sensitive by the federal government.) (Refer to 15 CFR 734.9 and 22 CFR 120.10 –11.) If students or faculty want to access university systems or materials from outside the US, they must be using a virtual private network (VPN). The only exception is that access to university systems or materials is prohibited to those located in OFAC’s comprehensive embargoed countries.

The Educational Information Exclusion is available for courses available globally on-line (distance learning), but it does not allow residents of OFAC’s comprehensive embargoed countries to enroll in such courses due to a specific prohibition on the transfer of “informational materials not currently created and in existence at the date of the transaction.” Independent study courses, courses not described in the university course catalog, and interactions outside the classroom or associated research laboratory sections do not qualify for the Educational Information Exclusion.

While A&M-Central Texas does not currently teach any courses or offer any programs involving export-controlled material, the Empowered Official can be consulted about policies regarding appropriate enforcement of export control compliance for relevant university courses. At this time, there are no specific guidelines in place to limit access for any university course offered online. The Division of Research is considering methodology for export control compliance in the following areas for distance education:

- 8.1 Restricted Party Screening Procedures (for students seeking admission for degree programs and/or registering for courses that contain export-controlled material and are not covered by the education exclusion.)

Confirming the identification of students enrolled in a course is a standard operating procedure for all courses, whether the student is foreign or domestic. Beginning with the student admission process, student identification is authenticated by the review of student admissions application materials, further

identification provided during financial aid application, issuance of a Universal Identification Number (UIN) and unique password. The authenticated UIN and password are used to gain access to a variety of student resources including the Warrior Web student registration and information portal, as well as the e-learning resources utilized in delivery of distance education.

The Division of Research is considering whether and how to implement a policy in regard to any distance education courses that deal with export-controlled materials or programs for class members in the following groups who could be subject to Restricted Party Screening (RPS): 1) International students seeking admission into a relevant degree program that includes distance education courses; 2) any admitted student seeking to register for relevant courses from outside the United States (currently available only to students who are U.S. persons; or 3) any admitted student seeking to register for relevant courses through one of the university's approved off-campus educational sites. The screening would take place prior to the first day of classes or by the 20th day of classes for students registering late for classes. The Office of Institutional Research and Effectiveness would be asked to produce a listing of all students enrolled in export-control-related courses offered via distance education, including the student's name, the student's citizenship, and the student's location while taking the distance education course (as answered at registration). All out-of-country responses would be sorted by country and the list sent to the Division of Research for consideration for restricted party screening. If RPS is done, the results of any problematic review would be communicated to the Registrar's Office as soon as possible, to allow the Registrar's Office to take appropriate action, including but not limited to, removing the student from the course registration and blocking access to the course e-learning resources.

8.2 Verification of Course Content as Meeting Export Control Requirements

Revisions to existing courses and new course proposals are reviewed and approved by the University Curriculum Committee. To the current paperwork used to start curriculum changes, a question could be added asking whether a new course or changes to an existing course could lead to issue for export control compliance. Because the Office of Research is considering requiring that all members of the faculty take the Export Controls course offered through TrainTraq, those filling out the form would be aware of export control regulations and be able to answer the question accurately. Information on any course for which the answer to the export control question indicates the possibility of export control compliance issues could be sent to the university's EO for further review and either

approval as meeting export control requirements or else suggestions for modifications to the proposed curriculum change to meet export control requirements.

9. Financial Transactions, Procurement, and Contracts

A&M-Central Texas business offices (Accounts Receivables, Cash Management, Disbursements, Procurement, and Contracts), in cooperation with the A&M-Central Texas Empowered Official, are responsible for developing and implementing procedures to screen financial transactions as appropriate for compliance with export control laws and regulations. Records will be kept in accordance with Section 12, Recordkeeping.

9.1 Financial Transactions

(a) Vendors

Restricted Party Screening will be conducted on all foreign sponsors and vendors. The A&M-Central Texas Empowered Official (or designated person), will complete RPS on foreign vendors being added to the accounting systems and, upon request, will complete RPS on any vendors that have already been established. Each purchaser is responsible for informing the A&M-Central Texas Procurement Office of the results of RPS they have requested. A list of all screened vendors will be made available so that departments can verify if a vendor has been screened.

Domestic Vendors (non-employees)—If RPS has not previously been conducted for a domestic vendor, the A&M-Central Texas Empowered Official (or designated person) will, upon request, complete RPS and will forward the RPS results to the relevant purchaser. Each purchaser is responsible for informing the A&M-Central Texas Procurement Office of the results of requested RPS. From this point, normal procedures for A&M-Central Texas Disbursements will resume.

(b) Wire Transfers

When foreign wire transfers are being made, the person initiating the wire transfer will request that the A&M-Central Texas Empowered Official complete a Restricted Party Screening of the recipient before the transaction process takes place and before funds are released. The Empowered Official (or designated person) will send the RPS results to the requester who is responsible for forwarding those to any relevant university official, such as the Chief Financial Officer. From that point, normal procedures for A&M-

Central Texas normal business processes relate to the wire transfer will resume.

(c) Accounts Receivables

All university departments and units (other than any A&M-Central Texas laboratories performing diagnostic services and the A&M-Central Texas Bookstore) who invoice foreign persons or entities will work with the Empowered Official, as relevant, before sending the invoice or invoice request.

(d) Foreign Independent Contractors

Departments are required to request RPS when requesting approval of foreign independent contractors. RPS will be conducted for foreign independent contractors working on restricted projects or those with export control implications prior to the work and transaction processes take place, but after an offer of employment has been made. The Empowered Official (or designated person) will return the RPS results to the requester, who is responsible for notifying all relevant A&M-Central Texas campus offices of the RPS results.

9.2 Procurement

Individuals making purchases with procurement cards, under unit delegation, or through A&M-Central Texas Procurement and Contracts will be responsible for ensuring their purchases comply with export control laws, typically by requesting an export control review from the Empowered Official. Depending on the results of the review, purchasers must coordinate with the A&M-Central Texas Empowered Official to resolve any export control issues prior to completing the purchase, or if a purchase has already been made, prior to submitting their monthly reports to the Procurement Office. Departments/units should check, prior to making a purchase from any foreign vendor, to see if RPS has been conducted for that vendor. Anyone unsure of any export control compliance process associated with procurement should contact the A&M-Central Texas Empowered Official.

9.3 Agreements and Non-Sponsored Contracts

A&M-Central Texas Procurement and Contracts will notify the A&M-Central Texas Empowered Official by forwarding agreements and non-sponsored contracts to the EO so that RPS can be requested. The A&M-Central Texas Empowered Official

(or designated person) any relevant agreements to A&M-Central Texas Procurement and Contracts with a specific comment made in the contract transmittal form as to the results of the RPS.

10. Technology Commercialization

Texas A&M Innovation (TI) has developed, implemented, and maintained procedures to address the export control implications of their work, including procedures related to RPS, invention disclosure screening. Invention disclosure forms that are submitted to the TI should be marked by the inventor as export-controlled or not export-controlled using an export control checklist incorporated on the invention disclosure form approved by the Office of Research. Per TI procedures, all disclosures will be reviewed by TI for export control red flags. Potential concerns or questions will be referred to OGC, the A&M-Central Texas Empowered Official (or designated person) or other office(s) as appropriate. TI will conduct RPS on parties with whom it contracts. Any potential export-controlled issues will be referred to the A&M-Central Texas Empowered Official or the A&M System Research Security Office for recommended handling. To prevent unauthorized access by foreign nationals to exported-controlled information and technology, A&M-Central Texas has been implementing technology control plans (TCPs) when relevant. See Appendix D for the TCP template.

11. Shipments

It is the responsibility of A&M-Central Texas employees who are shipping items outside the U.S. (including hand-carrying items such as research equipment, computers, materials, data, or biological materials) to comply with export control laws and regulations. Any transfer of project information, equipment, materials, or technology out of the U.S. by any method may be subject to export control restrictions and may require an export license or be prohibited depending on the item, destination, recipient, and end-use. Even if an item is cleared through U.S. Customs, it may still require an export control license. Contact the A&M-Central Texas Empowered Official for assistance with shipping. The simple act of sending a package to a foreign collaborator can result in a violation of export controls. Shipping to any country subject to sanctions or embargoes must first be discussed with the A&M-Central Texas Empowered Official and the EO's approval obtained.

Employees who are responsible for shipping packages out of the country should develop a list of contents before shipping and contact the A&M-Central Texas Empowered Official with any questions. Every effort should be made to correctly label a package and accurately represent the classification of the item because mislabeling and

misclassification, regardless of intent, is a violation of the law. Under-invoicing or under-valuing an exported item or reporting an incorrect export value on a Shippers Export Declaration also violates export regulations.

A shipping decision tree is available in Appendix B for shipping-related questions and concerns. Potential export control issues regarding shipping should be referred to the A&M-Central Texas Empowered Official.

12. Recordkeeping

Records required to be maintained by export control laws and regulations will be kept for the longer of:

- (a) the record retention period required by the applicable export control regulations (see 15 C.F.R. Part 762 (EAR); 22 CFR §§Sections 122.5, 123.22, and 123.26 (ITAR); and 31 CFR §501.601(OFAC), or
- (b) the period required for the retention of records as set forth in the Texas A&M University System policies and regulations, university and agency rules/procedures, including the TAMUS records retention schedule.

Most records will be maintained by the A&M-Central Texas Empowered Official (or designated person), unless otherwise designated in this manual. A&M-Central Texas' policy is to maintain export-related records on a project basis. Unless otherwise provided for, all records indicated herein will be maintained consistent with the A&M-Central Texas record retention policy and must be retained no less than five (5) years after the project's or its TCP termination date or license termination date, whichever is latest (subject to any longer record retention period required under applicable export control regulations). The A&M-Central Texas Empowered Official (or designated person) will maintain export control records in a password-protected secure drive (kept in a double-locked environment if it is a physical drive); other campus members should maintain the same level of security for their records.

13. Training

The A&M University System provides several online training courses via Single Sign On, TrainTraq Course #2111212, *Export Control and Embargo Training*, TrainTraq Course #2111728, *International Travel Safety: Safe Passages*, and TrainTraq Course #2113639, *U.S. Foreign Corrupt Practices Act*. Although these trainings are currently not required for all employees, TrainTraq Course #2111212 is highly recommended for most employees because it is ultimately the individual's responsibility to comply with export control laws,

regulations, policies, rules, and procedures. The other two TrainTraq courses are highly recommended for those traveling internationally because they provide safety and awareness education for A&M-Central Texas employees and students while abroad. All A&M-Central Texas full-time faculty are required to take TrainTraq Course #2111212 at least once every two years, as part of their regularly scheduled TrainTraq courses. A&M-Central Texas employees with managerial or supervisory authority over foreign persons or projects involving export-controlled information or export-controlled physical items are required to take TrainTraq Course #2111212 at least once every two years. Depending on the nature of an individual's activities and/or job functions, an A&M-Central Texas employee may be required to take TrainTraq Course #2111212, and supplemental export control training as deemed appropriate by the individual's supervisor and/or the Empowered Official.

14. Internal Compliance Reviews and Monitoring

To assist A&M-Central Texas employees in complying with export control procedures, the University Empowered Official (or designated person), will conduct periodic reviews of all export control activities.

15. Possible Violations

Each A&M-Central Texas employee has the responsibility to report possible violations of U.S. export control laws or regulations. Suspected violations should be reported by one of the following methods:

- (1) A&M-Central Texas Empowered Official at (254) 519-5761, or
- (2) EthicsPoint website

<https://secure.ethicspoint.com/domain/media/en/gui/25200/index.html>. Possible violations of U.S. export control laws or regulations will be investigated by the empowered official (or designee) to the extent deemed necessary. The Empowered Official is authorized by the University CEO to suspend or terminate research, teaching, testing, or other activity if the Empowered Official determines that the activity is not in compliance or will lead to noncompliance with export control laws and regulations. The empowered official may determine whether notification to an appropriate government agency is required. All such decisions will be discussed with the CEO prior to implementation of suspension or termination.

16. Disciplinary Actions

There are severe institutional and individual sanctions for violations of export control laws, including the loss of research funding, loss of export privileges, as well as civil and criminal penalties up to and including imprisonment. In the event of non-compliance with processes set forth in this manual, the Non-Compliance Explanation form (Appendix G), will be completed by the employee being reported for noncompliant actions and the Empowered Official and will be forwarded to the corresponding department head or director, and others as relevant, for signatures. Additionally, employees may be subject to disciplinary action up to and including termination, in accordance with A&M-Central Texas rules and System policies and regulations.

17. Related Statutes, Policies or Requirements

Export Administration Regulations (EAR) 15 CFR Parts 700-799

International Traffic in Arms Regulations (ITAR) 22 CFR Parts 120-130

Office of Foreign Assets Control (OFAC) 31 CFR Parts 500-599

Texas A&M University System Policy 15.02, Export Controls

Texas A&M University System Policy 15.05.04, High Risk Global Engagements and High Risk International Collaborations

Texas A&M University-Central Texas Rule 15.02.99.D1, Export Controls

Texas A&M University-Central Texas Rule 15.05.04.D1, High Risk Global Engagements and High Risk International Collaborations

Appendix A | Glossary

Controlled Information—Information about controlled physical items, including information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of controlled physical items and may be released through visual inspection, oral exchanges, or the application of personal knowledge or technical experience with controlled physical items. It also includes information in the form of blueprints, drawings, photographs, plans, instructions, and documentation. Further included in this definition are non-physical items (software and algorithms, for example) listed under EAR and ITAR. (See 15 CFR Parts 730-774 and 22 CFR Parts 120-130 for further details.)

Controlled Physical Items—Controlled physical items are dual-use technologies listed under EAR and defense articles listed on ITAR’s USML. (See 15 CFR Parts 730-774 and 22 CFR Parts 120-130 for further details.)

Controlled Unclassified Information—Controlled unclassified information is information that requires “safeguarding or dissemination controls pursuant to and consistent with applicable law, regulations, and government-wide policies” but is not considered classified under the relevant federal regulations. (See 32 CFR Part 2002 for further details.)

Deemed Export—A release of technology or source code to a Foreign Person in the United States. A “deemed export” is considered an export to the country of nationality of the Foreign Person.

Defense Article—Any item or technical data designated on the United States Munitions List. See ITAR, 22 CFR §121.1.

Defense Service means:

- 1) The furnishing of assistance (including training) to Foreign Persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles;
- 2) The furnishing to Foreign Persons of any technical data controlled under the USML (see ITAR, 22 CFR §120.10), whether in the U.S. or abroad; or
- 3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or information publications and

media of all kinds, training aid, orientation, training exercise, and military advice.
(See also ITAR, 22 CFR §124.1.)

ECCN—The Export Control Classification Number (ECCN) is the number assigned to each specific category of items or technology listed specifically on the Commerce Control List maintained by the U.S. Department of Commerce, Bureau of Industry and Security. Commodities, software, and technology that do not fit into a specific ECCN are classified as “EAR 99” and, while they may be exported to most destinations, may still be controlled for export to certain sanctioned entities or a few prohibited destinations.

Exempt International Visitor—Exempt International Visitors are International Visitors who are exempt from RPS if no speaker fee or reimbursement of expenses will occur and if one or more of the following conditions exist with respect to the anticipated visit of the International Visitor: (i) meet with colleagues to discuss a research project or collaboration, (ii) tour labs or research facilities that are not otherwise restricted per se, or (iii) participate in general academic or scientific meetings or presentation.

Export—An export occurs when a controlled physical item or controlled information is transmitted outside the U.S. borders or when a controlled physical item or controlled information is transmitted to a Foreign Person in the United States. When a controlled physical item or controlled information is transmitted to a Foreign Person in the United States, it is known as a deemed export.

The term “export” is broadly defined. It generally includes: (1) actual shipment of any controlled physical items; (2) the electronic or digital transmission of any controlled information; (3) any release or disclosure, including verbal disclosures and visual inspections, of any controlled information; (4) actual use or application of controlled physical items or controlled information on behalf of or for the benefit of a Foreign Entity or Person anywhere. Complete definitions of the term “export” are contained in the federal regulations; or (5) Viewing an email with controlled information when outside the U.S.

Foreign National/Foreign Person—Any person other than a U.S. citizen, a lawful permanent resident of the United States (i.e., a “green card” holder), or a “protected individual” as defined in 8 U.S.C. §1324b (c) (1 & 2) (e.g., refugees or persons seeking asylum). For export control purposes, a Foreign Person includes any individual in the U.S. in nonimmigrant status (i.e., H-1B, H-3, L-1, J-1, F-1, B-1, Practical Training) and individuals unlawfully in the U.S. A Foreign Person is also any branch of a foreign government or any foreign corporation or group that is not incorporated or organized to do business in the U.S. For export control purposes, a Foreign Person is not an individual who is a U.S. citizen,

lawful permanent resident of the U.S., a refugee, a person protected under political asylum, or someone granted temporary residency under amnesty or Special Agricultural Worker provisions. (Alternate term: **Non-US person**)

International Visitor—Foreign Persons having a residence in a foreign country, who are not employees or affiliates of A&M-Central Texas, and are coming to A&M-Central Texas on a temporary basis as a result of a verbal or written invitation made to the Foreign Person by a faculty member, researcher, or administrator of A&M-Central Texas.

Knowledge—When referring to a participant in a transaction that is subject to the EAR, knowledge (which may appear in the EAR as a variant form, such as “know,” “reason to know,” or “reason to believe”) of a fact or circumstance relating to the transaction includes not only positive knowledge that the fact or circumstance exists or is substantially certain to occur, but also an awareness that the existence or future occurrence of the fact or circumstance in question is more likely than not. Such awareness can be inferred, among other ways, from evidence of the conscious disregard of facts or from a person’s willful avoidance of facts.

License—A government document that authorizes or grants permission to conduct a specific export transaction.

Manufacturing License Agreement—An agreement whereby a U.S. person grants a Foreign Person an authorization to manufacture defense articles abroad and which involves or contemplates: (a) the export of ITAR controlled technical data or defense articles; or (b) the use by the Foreign Person of ITAR controlled technical data or defense articles previously exported by a U.S. person. (ITAR, CFR §120.21)

Material Transfer Agreements (MTAs)—A contract that governs the transfer and use of tangible research materials.

Non-disclosure Agreements (NDAs)—A contract governing the use and disclosure of confidential and proprietary information.

Re-export—The transfer of articles or services to a new or different end-use, end-user, or destination.

Release—Technology or software is “released” for export through: (i) visual inspection by Foreign Persons of U.S.-origin equipment, facilities, or documentation; (ii) oral or written

exchanges of information in the United States or abroad; or (iii) the application to situations abroad of personal knowledge or technical experience acquired in the U.S.

Subjected International Visitors—Visitors who: (i) will be involved in a research project or collaboration, and will have access to laboratories of observing or conducting research; (ii) will be issued a TAMU identification card, keys to offices or laboratories, or otherwise be given access to the TAMU or A&M-Central Texas computing system in any way or manner; or (iii) will be paid an honorarium, will be reimbursed for expenses, or will be provided something of value.

System Member(s)—Refers to all institutional members of The Texas A&M University System.

Technology—Specific information necessary for the “development,” “production,” or “use” of a product. The information takes the form of “technical data” or “technical assistance.”

Technical Assistance—May take forms such as instruction, skills training, working knowledge, and consulting services. Technical assistance may involve the transfer of “technical data.”

Technical Assistance Agreement (TAA)—An agreement for the performance of ITAR-controlled defense services or the disclosure of ITAR-controlled technical data. (22 CFR §120.22)

Technology Control Plan (TCP)—A Technology Control Plan lays out the requirements for protecting export-controlled information and equipment for projects conducted at A&M-Central Texas. A&M-Central Texas has adopted a TCP template for use on such projects. See Appendix D for the A&M-Central Texas TCP sample form.

Technical Data—Includes information “required for” the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. It may take the form of blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions written or recorded on other media or devices such as disk, tape, and read-only memories.

Trip Leader—A&M-Central Texas employees who conduct an international field trip or short program abroad and is accompanied by a group of students, either graduate, and/or undergraduate. Use—Operation, installation (including on-site installation), maintenance (including checking), repair, overhaul, and refurbishing.

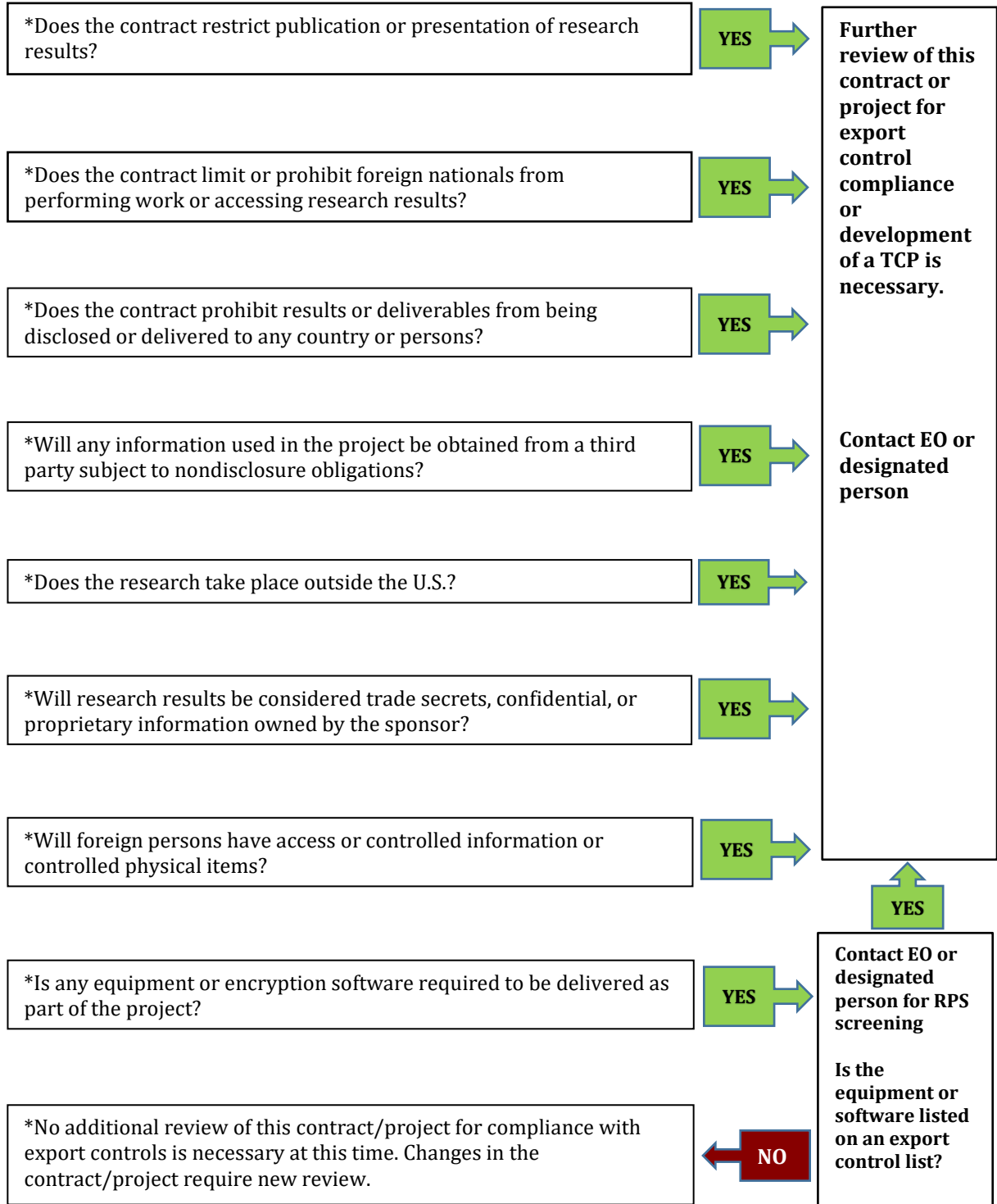
Use—Operation, installation (including on-site installation), maintenance (including checking), repair, overhaul, and refurbishing.

Virtual Private Network—A secure method of connecting to a private network at a remote location, using the internet or any unsecure public network to transport the network data packets privately, with encryption.

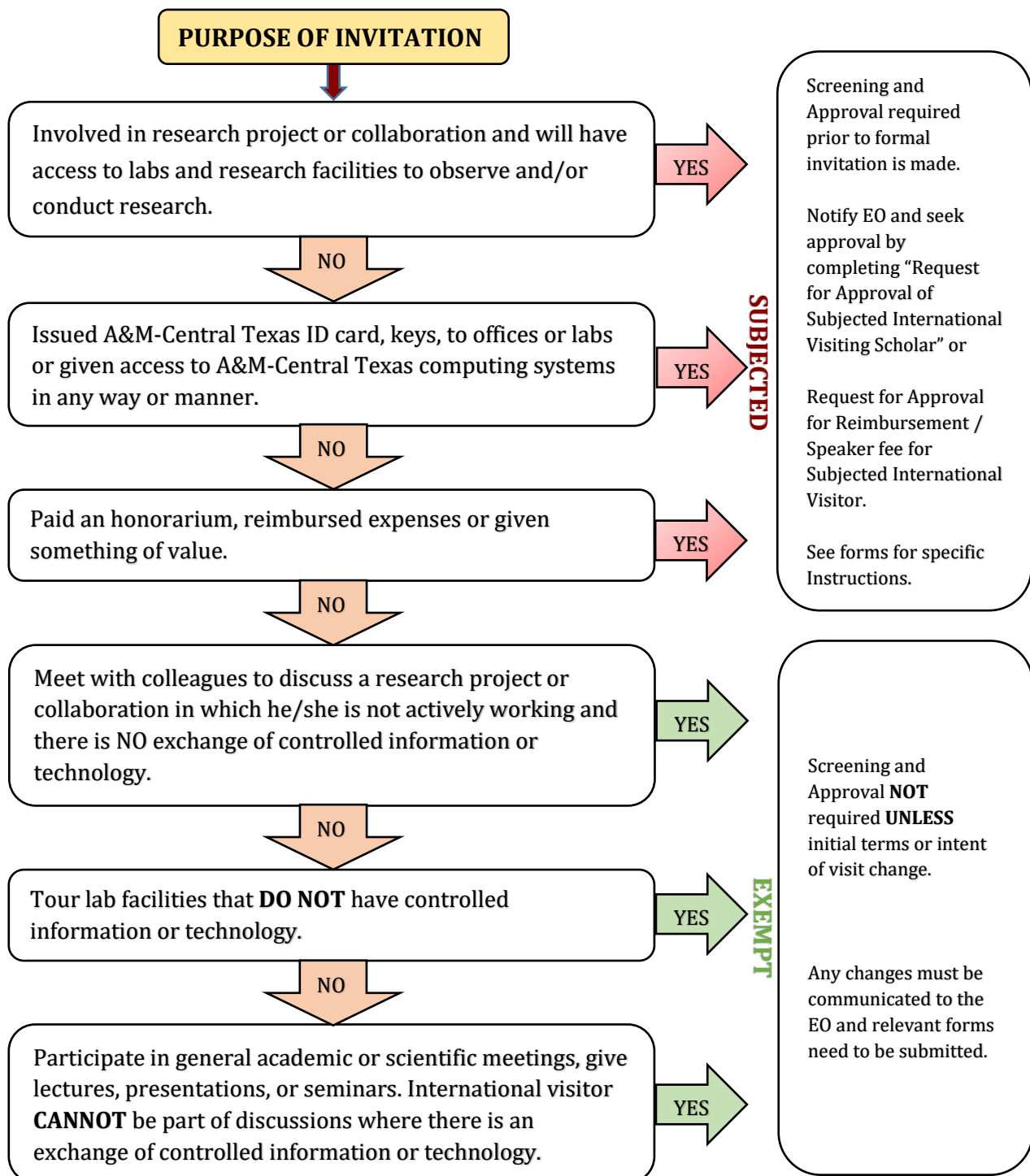
Visiting Scholar Host: The individual who extends the offer, secures approval for, visits, and takes responsibility for overseeing and monitoring the Visiting Scholar when that individual is accessing A&M-Central Texas facilities and A&M-Central Texas resources.

Appendix B | Export Control Decision-Making Trees

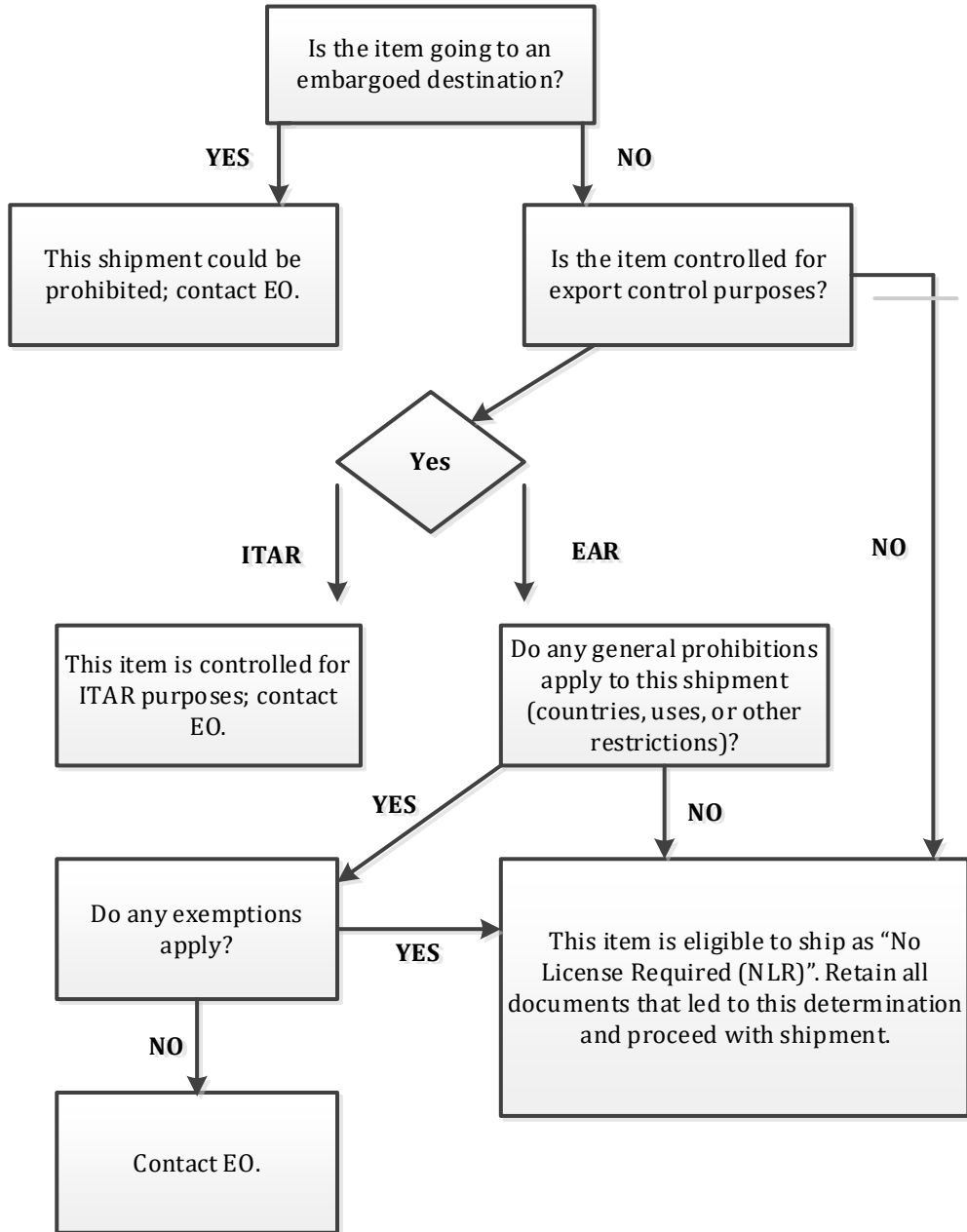
Decision-Making Tree for Administration of Contract Provisions of Concern



Decision-Making Tree for International Visitors



Decision-Making Tree for Shipping



Appendix C | International Travel Export License Exception Certification

International Travel Export License Exception Certification

For Export Administration Regulations (EAR) controlled items, technology, and software. This form **does not** serve as a blanket for all activities and must be submitted with each instance of request or certification.

Certifying individual:

Name/Title: _____ Date: _____

Department/Unit: _____ Telephone: _____

Mailing Address: _____ Email: _____

Scheduled Trip:

Location: _____ Trip Dates: _____

The export of items, technology, commercial software, and encryption code are subject to export control regulations. The Department of Commerce's Export Administration Regulations (EAR) make an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria to which you are certifying below are met.

The encryption does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the Department of State's International Traffic in Arms Regulations (ITAR) or when traveling to embargoed countries. (Contact EO for list of embargoed countries.)

Please provide a detailed description of items, technology, or software to which this certification applies (please be sure to list the common name of the item, the model, and the manufacturer. By my signature below, I certify that:

1. I will ship or hand-carry the items, technology, or software to _____ as a "tool of the trade" to conduct Texas A&M University-Central Texas business only.
2. I will return the items, technology, or software to the U.S. on _____ which is no later than 12 months from the date of leaving the U.S. unless the items, technology, or software are certified by me to have been consumed or destroyed abroad during this 12 month period.
3. I will not ship or hand-carry the items, technology, or software to embargoed countries or to those under relevant sanctions.
4. I will keep the items, technology, or software under my "effective control" while abroad (defined as retaining physical possession of the item or keeping it secured in a place such as a hotel safe, a bonded warehouse, or a locked or guarded exhibition facility).
5. I will take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used abroad such as:
 - (a) Use of secure connections when accessing email and other business activities that involve the transmission and use of such technology.
 - (b) Use of password systems on electronic devices that store technology; and
 - (c) Use of personal firewalls on electronic devices that store the technology.

*** Keep a signed copy of this document with you when traveling abroad.**

Signature: _____ Date _____
of certifying individual

A&M-Central Texas Empowered Official Use Only

Date Received

Received by: Print and Sign Name



Appendix D | Technology Control Plan

Technology Control Plan

Item or room location being controlled: _____

Applicable ECCN or USML Category: _____

ECCN/USML—The Export Control Classification Number (ECCN) is the number assigned to each specific category of items or technology listed specifically on the Commerce Control List maintained by the U.S. Department of Commerce, Bureau of Industry and Security. Commodities, software, and technology that do not fit into a specific ECCN are classified as “EAR 99” and, while they may be exported to most destinations, may still be controlled for export to certain sanctioned entities or a few prohibited destinations. The USML is the United States Munitions List.

If there is no applicable ECCN or USML category, does the research project possess a “foreign person” restriction? (Use Visual Compliance software to screen items, entities, persons.)

Yes

No

I. SCOPE

This Technology Control Plan (TCP) applies to all elements of the Texas A&M University-Central Texas (A&M-Central Texas) research projects described below and all activities, which are not specifically identified in Export Administration Regulations (EAR) (EAR 15 CFR §§734.8 and 7.34.9) and Supplement I and International Traffic in Arms Regulations (ITAR) (ITAR 22 CFR §120.11) as fundamental research and/or educational information.

Disclosure of export-controlled technology or information to foreign persons who are employees, visitors, or students may be considered an export under the ITAR, 22 CFR §§ 120-130 and/or EAR, 15 CFR §734, and may be subject to a Department of Commerce or Department of State License or Agreement. An export may occur by passing information or material that is export-controlled and can occur anywhere.

Principal investigators (PIs) and other appropriate parties, in coordination with the Empowered Official (or designated person), will develop contract-specific guidance and procedures that will be considered part of this TCP for this specific research agreement described in Section V below.

II. PURPOSE

The purpose of the TCP is to ensure that technical information and/or technical data which is not specifically exempted as fundamental research and/or educational information by EAR or ITAR is not transferred to foreign persons (including employees, visitors, or students) unless approved by license or other authorization with the Department of State, directorate of Defense Trade controls (DDTC), or Department of Commerce Bureau of Industry and Security (BIS), as applicable.

III. BACKGROUND

Texas A&M University-Central Texas is committed to maintaining a research environment that is open for the free exchange of ideas among faculty and students in all forums: classrooms, laboratories, seminars, meetings, conferences, and elsewhere. Such an environment contributes to the progress of research in all disciplines. A&M-Central Texas is a State of Texas entity that provides (or will provide) fundamental research services.

IV. RESEARCH PROJECT DESCRIPTION

(Summarize the scope of the export, identify the research agreement, and clearly define the technical data, hardware, and/or defense services. Include background information on the full scope of the program or project.)

V. TEXAS A&M UNIVERSITY-CENTRAL TEXAS' RESPONSIBILITIES

Texas A&M University-Central Texas' Empowered Official will assist the Principal Investigator (PI) and related researchers with complying with this TCP. The Empowered Official (or designated person) will screen faculty, staff, students, and contractors who will work on the project against the Denied Party List, the Entity List; the Unverified List, the Specially Designated Nationals List, the Debarred List, the NSA nonproliferation Sanctions List, and General Order 3 part 736 of the EAR.

The University Empowered Official (or designated person) and PI will periodically evaluate compliance with this TCP. Any concern or issue will be reported to the Empowered Official.

VI. PHYSICAL SECURITY AND PERSONNEL ACCESS

1. Identify the people who will be working on or have access to this project:

Name	Nationality
_____	_____
_____	_____
_____	_____
_____	_____

No additional personnel may be assigned to or have access to this project without first notifying University Empowered Official (or designated person) of:

A. Are foreign persons authorized to work on this project? Yes No

Note: Green Card Holders are considered U.S. persons for the purposes of export laws.

B. If yes to Question A, is an export authorization required? Yes No

C. If yes to Question B, has one been obtained? Yes No

Note: No foreign persons may begin working on the project until such authorization is obtained or activated.

1. What is the authorization number? _____

2. What is the expiration date? _____

3. Who is the license holder? Name: _____ Phone: _____

2. Where will the work or activity be performed/conducted?

A. How will the room be secured?

B. Who will have access to keys?

Individuals with keys or key cards are expressly prohibited from permitting others to use their keys or key cards for access to the research site. Doors to secured areas may not be propped or left open.

C. If the room has multiple uses, how will the work areas be segregated to ensure there are no inadvertent transfers of project information or details?

D. Please address the storage of the project equipment:

Photographs of export-controlled items are strictly prohibited, and all cell phones must remain off and stored while in the room.

E. How will controlled data and equipment be marked or identified? Please note that all export-controlled information and equipment must be clearly marked and labeled.

F. How will visitor access be controlled?

Note: The researchers and staff who are authorized to enter the room when export-controlled material is present will escort all visitors and keep visitor logs during the time export-controlled material is in use. The University Empowered Official (or designated person) must be contacted to approve all visitors prior to granting access to the room and will document citizenship of all visitors when making access determinations.

Note: Authorized project personnel should **not** share or discuss project-related information with any individual not authorized to participate in the project.

Note: The custodial and facilities management staff access will be coordinated with the researchers, so that sensitive materials are securely locked away during their visit.

G. Are there any restrictions on public dissemination or project-related information (i.e., publication or presentation restrictions)? If yes, please explain how this restriction will be managed.

VII. COMPUTING AND INFORMATION SECURITY

1. How will the project-related laboratory notebooks and any other hard copy materials be stored?

2. Where will electronic data be stored, and who will have access to the data?

3. How will access to electronic data be restricted to only those individuals authorized to access data?

Note: If the computers that collect and store export-controlled data are not on the Internet or a network and are password-protected, then files do not have to be encrypted. Any files removed from this system by any media will be encrypted. Virus protection software will also be provided for these computers. If isolation is not possible, 128-bit or better encryption must be utilized to protect information.

Removable hard drives may be used for data backup. When not in use, the backup removable drives will be securely locked away in a:

The only persons who will have keys are:

Disposal: Disposal of any items listed on a TCP (including computer floppy drives, compact discs, flash drives, MOBILE DEVICES and papers that contain controlled information or technical materials) will be coordinated with the university's Empowered Official and Compliance Office.

Note: any computer hard drives containing sensitive information will be reformatted at the end of the contract and overwritten three (3) times with a DOD disk-wipe program OR PHYSICALLY DESTROYED BY THE IT DEPT.

4. List below any IT person assigned to overseeing relevant parts of the TCP. Those persons must be U.S. citizens or legal permanent residents.
-

VIII. INTERNATIONAL TRAVEL

Computers or other electronic storage devices containing restricted information should not normally be used for travel. If a computer is necessary for international travel, all unnecessary technical information not required for the trip must be removed, and any information which is required for the trip must be pre-authorized for the destination and end-use by the A&M-Central Texas Empowered Official . USE OF A LOANER LAPTOP WITH APPROPRIATE ENCRYPTION SOFTWARE IS HIGHLY RECOMMENDED FOR THIS PURPOSE.

For meetings, foreign travel, emails, symposia, etc., where unlicensed controlled technology is potentially discussed, prior approval will be sought from the A&M-Central Texas Empowered Official (or designated person) and licenses obtained if necessary.

IX. COMMUNICATION PLAN

All personnel working on this project will be briefed on this Technology Control Plan (TPC) and will sign a Technology Control Plan Briefing Form acknowledging that they have received a copy of the TCP and were briefed on the contents of the plan. Any new personnel assigned to this project must be briefed and sign this TCP prior to beginning their assignment.

All employees subject to this TCP will receive refresher training on the TCP at least once annually.

TEXAS A&M UNIVERSITY-CENTRAL TEXAS TECHNOLOGY CONTROL PLAN BRIEFING FORM

BACKGROUND

The sponsored project identified below may involve the use of export-controlled information or possess a foreign person participation restriction. The International Traffic in Arms Regulations (ITAR), enforced by the Department of State, and the export Administration Regulations (EAR), enforced by the Department of Commerce, prohibit sending or taking export-controlled or foreign person-restricted information out of the U.S. and disclosing or transferring export-controlled information to a foreign person inside or outside the U.S. A foreign person is defined as any person who is not a U.S. citizen or legal permanent resident of the U.S. Verbal and visual disclosures are equally prohibited, and there are no exceptions for foreign graduate students. Generally, export-controlled information includes items and information related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, modification, demilitarization, destruction, processing, or use items with a capacity for substantial military application utility. Export-controlled material does not include basic marketing information about function or purpose, general system descriptions, or information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities or information in the public domain. It does not matter whether the actual intended use of export-controlled information is military or civil in nature.

PRINCIPAL INVESTIGATOR RESPONSIBILITIES

Principal Investigators (PIs) may be held personally liable for violations of the EAR and the ITAR, with significant financial and criminal penalties as a result. With that in mind, it is extremely important that PIs exercise care and caution in using and sharing export-controlled or foreign person-restricted information with others. For example, PIs should identify who among proposed research project personnel and collaborators are foreign persons. If a foreign person does not have security clearance, the State Department or the Department of Commerce (depending on whether the ITAR or the EAR controls the technology) must grant a license authorizing that person access to export-controlled information. In the absence of a license or security clearance, PIs should not leave export-controlled or foreign person-restricted information unattended. PIs should clearly identify export-controlled information and make copies only when absolutely necessary. PIs should securely store export-controlled information in locked file cabinets, locked drawers, or under password-protected computer files. PIs should avoid moving export-controlled information from one location to another, if at all possible.

CRIMINAL/CIVIL LIABILITY AND PENALTIES

The penalty for unlawful export and disclosure of export-controlled information under the ITAR is up to two (2) years imprisonment and/or a fine of one hundred thousand dollars (\$100,000). The penalty for unlawful export and disclosure of information controlled under the EAR is the greater of either a fine or up to one million dollars (\$1,000,000) or five (5) times the value of the export for a corporation and imprisonment of up to ten (10) years and/or a fine of up to two hundred fifty thousand dollars (\$250,000) for an individual. It is very important to keep in mind that PIs may be held personally liable for export control violations even when performing a project that is funded through the university.

Name of PI(s): _____
Department/Unit: _____
Project title: _____
Contract Number: _____
Sponsor: _____

CERTIFICATION

I hereby certify that I have read and understand this certification. I understand that I could be held personally liable if I unlawfully disclose, regardless of form or format, export-controlled information to unauthorized persons. I also acknowledge that I have read the Texas A&M University-Central Texas Technology Control Plan for this project and have discussed the plan with my supervisor (if not the PI) and that I agree to comply with its requirements. Furthermore, I agree to immediately contact A&M-Central Texas Empowered Official with any questions I may have regarding the designation, protection, or use of export-controlled or foreign person-restricted information.

Principal Investigator Signature (print name and sign) Date

Texas A&M University-Central Texas Empowered Official Use Only

Date Received Print and Sign name of Person Receiving this document

Appendix E | Approval of Visitor Exchange Program

Approval of Visitor Exchange Program

(Visiting Scholars, Scientists, and Interns)

_____ (Department/College) requests authorization to make a faculty visitation agreement with a visiting scholar, as outlined in the A&M-Central Texas Export Control Compliance Manual.

Person:

Last Name	First Name	Middle Name
-----------	------------	-------------

Country (Citizenship)	Title
-----------------------	-------

Institution:

Name of Institution	Country
---------------------	---------

Address	City
---------	------

State	Zip Code
-------	----------

Home address:

Address	City
---------	------

State	Zip Code	Country
-------	----------	---------

Visitation Period: From _____ through _____

Identify sources of financial support for scholar during visit:

Provide Summary description of education and background or attach resume or vitae:

Describe the nature and purpose of the visit and how the visit is research-related:

The following questions are intended to address export-controlled issues. Please check “yes” or “no” regarding work contemplated during the scholar’s visit, both funded and unfunded. Hosts should review System and A&M-Central Texas policies, regulations, rules, and procedures regarding export controls on host responsibilities.

Yes No **Can the research be categorized as classified?**

Classified research is usually government-funded and can further be defined as national security information at the levels of Top Secret, Secret, and Confidential, and as being governed by the Department of Defense National Industrial Security Program Operating Manual (NISPOM) requirements. Publication of classified research results can be legally withheld or restricted.

Yes No **Can the research be categorized as controlled unclassified information?**

Controlled unclassified information (CUI) is a categorical designation that refers to unclassified information that does not meet the standards for national security classification under executive order 12958, as amended, but is (1) pertinent to the national interests of the United States or to the important interests of entities outside the federal government, and (2) under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination. The designation (CUI) replaces “sensitive but unclassified” (SBU).

Yes No **Can the research be categorized as proprietary?**

Proprietary research, usually privately funded, is defined as research activities undertaken pursuant to a contract between A&M-Central Texas and an outside sponsor with commercial interests and carried out under the auspices of A&M-Central Texas. Publication of proprietary research results can be contractually withheld or restricted.

Yes No **Does the project restrict participation to U.S. citizens or permanent residents only?**

Yes No **Can the research be categorized as “restricted” by the sponsor?**

Restricted research is research where publication may require advance review by or permission of the funding entity. Restricted research may have constraints imposed by the funding entity, whether it is the state, a federal agency, or a private sponsor with or without commercial interests.

Yes No **Can the research be categorized as “fundamental?”**

“Fundamental research” means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons. Fundamental research applies only to the dissemination of technical data and information, not to the transmission of material goods.

Yes No **Will the visiting scholar have access to technical specifications of equipment where such specifications are not available through published materials such as commercially available manuals, documentation in libraries or the Web, information from teaching laboratories, or information available to interested communities either for free or where the price does not exceed the cost of production?**

Host:

_____	_____	_____
Name	Email Address	Telephone Number
_____	_____	
Signature	Date	

Approved by: (Department Chair/Unit Head)

_____	_____	_____
Name	Signature	Date

Approved by: (College Dean/Director’s Office)

_____	_____	_____
Name	Signature	Date

This section to be completed by A&M-Central Texas Empowered Official (Attach RPS screening form/documentation)

Yes No **Passed restricted party screening?**

Yes No **Are there any restrictions? If yes, explain:**

_____	_____	_____
Screener (Empowered Official)	Signature	Date

Screener Title, if not Empowered Official

Note: This form should not be submitted to the Empowered Official until an official offer has been sent to the potential visitors.

Appendix F | Approval of Reimbursement/Speaker Fee for International Visitor

Approval of Reimbursement/Speaker Fee for International Visitor

Note: Complete this form if international visitors being hosted are foreign persons (i.e., non-US persons) who are not employees or enrolled students of A&M-Central Texas and are coming to A&M-Central Texas on a temporary basis as a result of a verbal or written invitation made to the foreign person by a faculty member, researcher, or administrator of A&M-Central Texas.

This request is only applicable to international visitors that will **NOT**: (1) be involved in a research project or collaboration, and will not have access to laboratories and research facilities for the purposes of observing or conducting research, and/or (2) be issued a A&M-Central Texas Identification Card, keys to offices or laboratories, or otherwise be given access to the A&M-Central Texas computing system in any way or manner.

If the international visitor you are hosting falls within any of the above activities, you must not complete this request, but instead complete the Approval of Visiting Exchange Program form.

_____ (Department/College/Unit) requests authorization to reimburse expenses/ pay speaker fees to international visitor listed below who does not fall within the definition of a visiting scholar and who is not involved in an employer-employee relationship with A&M-Central Texas.

_____	_____	_____
Last Name	First Name	Middle Name
_____	_____	_____
Country (Citizenship)	Title	
_____	_____	_____
Address	City	
_____	_____	_____
State	Zip Code	
_____	_____	_____
Name of Employer	Country	
_____	_____	_____
Address	City	
_____	_____	_____
State	Zip Code	



Describe the purpose of the visit:

Indicate intended type of payment:

- Speaker Fee Reimbursement of expenses

Host faculty member information:

Name	Signature	Date
------	-----------	------

This section to be completed by A&M-Central Texas Empowered Official (Attach RPS Screening form/documentation)

- Yes No **Passed RPS for person**
- Yes No **Passed RPS for home institution or current employment**
- Yes No **Any restrictions? If yes, explain:**

Screeener Name	Signature	Date
----------------	-----------	------



Appendix G | Non-Compliance Explanation Form

Non-Compliance Explanation Form

Report Date: _____

Name/Title of Reporter: _____ Telephone: _____

Department/Division: _____ Email Address: _____

Relevant Compliance Area (e.g., travel, TCP): _____

Description of Compliance Issue (include violated TAMUS/ A&M-Central Texas Policies and/or Regulation, Rules, and Procedures):

Explanation for the Noncompliant Action:

Explanation of Disciplinary Action/ Steps Taken to Avoid Recurrence:

Employee Being Reported for Noncompliant Action:

Printed Name: _____ Signature & Date: _____

Department Chair or Director :

Printed Name: _____ Signature & Date: _____

Dean (if relates to actions of a faculty member):

Printed Name: _____ Signature & Date: _____

Received by A&M-Central Texas University Empowered Official, or designee:

Printed Name: _____ Signature & Date: _____
of Recipient

Appendix H | Checklist for Export Control Issues When Hiring Foreign Nationals

Checklist for Export Control Issues When Hiring Foreign Nationals

Name of Person Completing Form	Date
Department/College	Telephone Number
Name of Foreign National	Country (or countries) of citizenship
Title of Job to be Filled by Foreign Person	

This form must be completed and submitted with any request to hire a foreign national worker. Your answers to these questions will help determine whether any aspect of your proposed hire will be subject to export control regulations. For questions or assistance in completing the form, contact A&M-Central Texas University Empowered Official (or designated person).

Question	Unknown	Yes	No
Do the job duties involve working with items/articles, software, or technology listed on the EAR/Commerce Control List or the ITAR/U.S. Munitions List? (See attachment at the end of this form for general categories on this list.)			
Do the job duties involve work with any embargoed or sanctioned country? Follow this link for relevant listings: https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx			
Will the job duties include working on a contract with any of the following (check each one that applies):			
A. Restrictions on publication (including reporting of the research results) or presentations at conferences			
B. Restrictions on the participation of foreign nationals			
C. Export control clauses or references to ITAR/EAR			
Do the job duties involve “use” or access to encryption software?			
Do the job duties involve activities that could be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology?			

I am knowledgeable about the nature of the proposed employment. The answers I have provided are true and correct to the best of my knowledge and belief.

Name of Supervisor of Foreign National	Signature and Date
--	--------------------

(Continue on reverse side)



Restricted Party Screening Results

(Note: Restricted Party Screening cannot be done prior to an offer being made to the relevant foreign person.)

Date of screening: _____

Name/Title of Screener	Results
------------------------	---------

Signature	Date
-----------	------

Secondary Screening (if applicable)

Date of screening: _____

Name/Title of Screener	Results
------------------------	---------

Signature	Date
-----------	------



Appendix I | Traveling with Laptops

Personnel Traveling With Laptops

Below are recommended protocols when preparing to travel internationally with laptops:

- Meet with the A&M-Central Texas Information Technology Services (IT) department for guidance while planning the trip.
- Avoid taking a laptop, if possible; if a laptop is necessary, take a loaner, if available.
- Backup any data and leave a safe copy of any data files at office prior to departure.
- If taking your normal laptop is required, have IT image it prior to your departure, then then make sure it is password-protected, encrypt information being taken, or remove all student, personal, and proprietary information stored on the laptop.
- Make sure the system patches and antivirus are updated and the laptop FIREWALL is turned on.
- Change the passwords for systems you'll be using frequently.
- Have IT install encryption software and approved VPN software (<https://vpn.tamuct.edu>) prior to departure. Recognize that VPN access does not completely secure Internet-based communications; anything done via the Internet may be intercepted.
- Utilize a VPN connection at ALL TIMES while in a foreign country.
- Hand-carry the "International Travel Export License Exception Certification" form, if being used. (See information below.)
- Avoid using USB ports offered in public places or hotel rooms for charging devices. Use your own A/C powered charging devices whenever possible.
- Limit where you use USB devices.
- Do not leave devices/systems unattended while on travel, including in hotel rooms. Most hotel safes are not completely secure.
- If a loaner laptop is used, return it to IT immediately upon return for proper sanitation.
- Upon returning, the traveler should change all passwords used while abroad.

While traveling, carrying laptops could fall under the temporary license exclusion known as the "tools of the trade" exclusion; EAR makes an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the ITAR. Note that this license exception is not available for equipment, components, or software designed for use in/by/with most satellites or spacecraft. "Effective control" means retaining physical possession of an item or maintaining it in a secure environment.

- Hand-carried with the individual while traveling,
- Carried in the luggage or baggage that travels with the individual, or
- Shipped no more than thirty days prior to the individual's departure or may be shipped to the individual at any time while the individual is outside the country.

Generally, no government export license is required for taking a laptop as long as an individual:

- Retains their laptop computer, mobile computing device, cell phone, data storage devices and encrypted software under their personal custody and effective control for the duration of travel.
- Does not intend to keep these items in these countries for longer than 1 year; and
- Is not traveling to an embargoed country.

