

15.02.99.D1 Export Controls Program Management



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Rule Summary

It is the policy of Texas A&M University-Central Texas (A&M-Central Texas) to comply with United States export control laws and regulations including, without limitation, those implemented by the Department of Commerce, the Department of State and the Department of Treasury.

Definitions

Click to view [System Definitions](#).

Rule

Encouraging research and intellectual inquiry is a vital goal of A&M-Central Texas. A&M-Central Texas supports open research and the free interchange of information among scholars. The university also recognizes that the United States has enacted laws and regulations restricting the transmission of Controlled Information and Controlled Physical Items for the purpose of protecting national, economic, security and foreign policy interests. These federal export control laws and regulations establish the conditions under which Controlled Information and Controlled Physical Items can be transmitted to anyone outside the United States and to Foreign Persons in the United States. In addition, the export control laws and regulations restrict or prohibit the transaction of business with certain countries, persons and entities that have been sanctioned by federal agencies as a threat to important U.S. interests.

1. INDIVIDUAL RESPONSIBILITY

1.1 A&M-Central Texas employees engage in a broad range of innovative and important research activities that may involve Foreign Persons, in the United States or abroad. When these activities also include the use of Controlled Information or Controlled Physical Items, A&M-Central Texas requires that each individual comply with the applicable requirements of United States export control laws and regulations.

1.2 All A&M-Central Texas employees and students, visiting scientists, postdoctoral fellows, and other persons retained by or working at or for A&M-Central Texas

must conduct their affairs in accordance with United States export control laws and regulations. While complying with all applicable legal requirements, it is equally important to maintain an open research environment that welcomes the participation of researchers from around the world. To maintain this balance, A&M-Central Texas personnel must be familiar with the United States 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, A&M-Central Texas personnel may be required to participate in formal training as determined by the A&M-Central Texas Empowered Official (EO) or designee, and/or the employees' supervisors. Current export control training in TrainTraq is required for all A&M-Central Texas personnel hosting a foreign visitor.

1.3 All A&M-Central Texas employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items should view export control compliance as an important part of their day-to-day responsibilities. As noted in 1.2, current export control training in TrainTraq is required for all university personnel hosting a foreign visitor.

1.4 A&M-Central Texas employees and students will comply with the provisions of any export license, governmental approval, certification, technology control plan, and procedures, regardless of export controllable location, including domestic and international locations.

2. SYSTEM RESEARCH SECURITY OFFICE

2.1 The Texas A&M University System (System) Research Security Office (RSO) provides oversight for export control compliance throughout the System and advises member institutions on relevant federal guidelines and legislation. As part of its advisory role, the System RSO leads the Export Control Affinity Group (ECAG), which is composed of members from each system university and agency and relevant system officials. The ECAG facilitates communication about export control issues between individual members and the system offices and helps formulate policies and procedures.

3. EMPOWERED OFFICIAL

3.1 The Assistant Vice President for Research and Innovation (AVPRI) is the University's EO for purposes relating to applicable federal export control laws and regulations. The EO is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as the A&M-Central Texas representative and point of contact with such agencies. The EO is the A&M-Central Texas official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of the University. Prior to communicating with federal regulatory bodies, the EO must coordinate with the System RSO and the System Office of General Counsel (OGC).

3.2 As the EO, the AVPRI is the A&M-Central Texas official with final responsibility for compliance with export control laws and regulations.

4. A&M-CENTRAL TEXAS ADMINISTRATORS

4.1 A&M-Central Texas employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the AVPRI implementing the procedures set forth by the university and as otherwise deemed necessary in his role as the EO for export control compliance.

4.2 Export Control Committee

4.2.1 The A&M-Central Texas Export Control Committee is tasked with meeting annually to ensure that appropriate export control rules and procedures are in place and to update those as needed. Members represent university offices involved in procedures that export control issues may impact, such as Human Resources, Student Affairs, and Safety and Risk Management, in addition to two at-large faculty members. The AVPRI is the committee chair.

5. PRINCIPAL INVESTIGATOR

5.1 The Principal Investigator (PI) for a research project has the best understanding of the research and should know whether particular technology, data or information involved is subject to export control laws or regulations. All PIs must be current in their TrainTraq Export Control training for the duration of their research study.

5.2 The PI is responsible for learning about export controls by completing the export compliance training offered through TrainTraq, in addition to working with the AVPRI or his/her designee to ensure compliance with all export control laws and regulations.

6. IDENTIFICATION OF EXPORT CONTROL CONCERNS

6.1 The following are indicators that an export control review should be conducted by the AVPRI to ensure that no violations will occur:

6.1.1. Foreign Persons will have access to Controlled Information or Controlled Physical Items on campus.

6.1.2. Software including encryption features will be developed or purchased, in collaboration with the Vice President for Finance and Administration, or designee.

6.1.3. A&M-Central Texas faculty or staff 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 PDAs containing Controlled Information, in collaboration with the Provost and Vice President for Academic and Student Affairs, or designee.

6.1.4. A proposed financial or hiring transaction will involve embargoed countries or entities, individuals located in embargoed countries, or individuals or

entities who are on prohibited or restricted end-user lists, as determined by Restricted Party Screening (RPS).

7. EXPORT CONTROL COMPLIANCE PROGRAM

7.1 Research

7.1.1 Research Contract Administration

The Division of Research, Economic Development, and Innovation (REDI) in coordination with the AVPRI, is responsible for developing and implementing procedures to screen proposals and projects for compliance with export control laws and regulations and specifically to identify those proposals or projects that involve the following factors:

- (a) In the context of research contracts or grants, restrictions on or approval rights applicable to publication or release of research results (beyond the customary brief delay to protect a sponsor's confidential information or to preserve the patentability of an invention);
- (b) Contracts that require that research results will be considered trade secret, confidential, or proprietary information owned by the sponsor;
- (c) Exclusion of Foreign Persons from participation in the research, or where that is subject to approval by the research sponsor;
- (d) Incorporation by reference of federal regulations (FAR, DFAR, agency specific regulations) that impose publication or access restrictions, or provisions that state that export control laws apply;
- (e) Projects allowing Foreign Persons access to Controlled Information or Controlled Physical Items;
- (f) Persons or entities involved in the research project or related transactions who have been identified through RPS as embargoed countries or restricted countries, persons or entities; and
- (g) Controlled Physical Items or Controlled Information (including laptops containing Controlled Information) that will be taken or shipped outside the United States.

7.2 International Travel

7.2.1 Employee travel

7.2.1.1 All faculty and staff members who travel internationally will follow university procedures and guidance as indicated in the Export Control Compliance Manual and on the Export Control section of the REDI's Canvas Community page. This includes completing all the export control-related questions in the university's travel system and completing in a timely manner the Export Control Verification form (aka the Export

Control Checklist), including taking the required training and obtaining the required signatures. Further details are included in the university's International Travel procedure document.

7.2.2 Student Travel

7.2.2.1 Students studying abroad will complete all export control procedures required by the Study Abroad Office. If Study Abroad students are also university employees, such as graduate assistants or work-study students, they must complete the employee procedure outlined above.

7.2.2.2 Students traveling internationally for other reasons, except international students returning to their home country, will follow the student travel procedures of the relevant university office or, if they are university employees the employee procedures.

7.3 International visitors

7.3.1 RPS for International Visitors – International visitors coming to A&M-Central Texas must undergo a RPS PRIOR to their visit to A&M-Central Texas, as provided below:

7.3.2 Subjected International Visitors – All International Visitors whether present or not in the United States must undergo a RPS when the International Visitor: (i) will be involved in a research project or collaboration, and will have access to laboratories and research facilities for the purposes of observing or conducting research; (ii) will 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 manner; or (iii) will be paid an honorarium, will be reimbursed for expenses, or will be provided something of value. It is the responsibility of all employees at A&M-Central Texas intending to host an International Visitor to notify and request approval of such visit from the ORED before the arrival of the International Visitor, as may be further indicated in the A&M-Central Texas Export Control Compliance Manual or the export control section of the REDI's Canvas Community Page.

7.3.3 Exempted International Visitors – RPS of an International Visitor, as described in 4.2.2, is not required if no honorarium 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. It is the fiduciary responsibility of all employees at A&M-Central Texas to comply with the initial terms and intent of the visit as communicated to the International Visitor, and to immediately notify the AVPRI of any changes in the intent of the visit prior to engaging the International Visitor in any activity that may require a RPS as set forth in this rule, any related procedures or the

A&M-Central Texas Export Control Compliance Manual or the export control section of the REDI's Canvas Community Page.

7.4 International students

7.4.1 The AVPRI is responsible for overseeing RPS on all students enrolling in a A&M-Central Texas credit-bearing program outside the United States who:

7.4.1.1 are Foreign Persons;

7.4.1.2 have not previously attended A&M-Central Texas; AND

7.4.1.3 are not enrolled as continuing students at a college or university based in the United States.

7.4.2 The list of relevant students, if any, will be provided each semester to the AVPRI by the Division of Enrollment Management.

7.5 Distance Education

Any course designated as a distance education course by the AVP for Technology-Enhanced Learning which enrolls either international students or A&M-Central Texas students who will be in foreign countries while taking the course must be reviewed by the Export Control Committee Chair for potential export control issues, as indicated in this rule. The list of relevant courses, if any, will be provided each semester to REDI by the Office of Enrollment Management.

7.6 Purchasing and Financial Transactions

It is the responsibility of the Office of Finance & Administration, in coordination with the AVPRI, to develop and implement procedures to screen vendors as appropriate for compliance with export control laws and regulations.

7.7 Export Control Compliance Manual and the export control section of the REDI Canvas Community Page

The AVPRI in coordination with other appropriate A&M-Central Texas offices, will develop, maintain and update periodically, an Export Control Compliance Manual and the export control section of the REDI Canvas Community Page to serve as guides for university members for the identification, administration, and resolution of export control issues.

7.8 Training

The AVPRI, in cooperation with other appropriate offices, will develop and implement an appropriate A&M-Central Texas training program. A&M-Central Texas employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items are required to take the basic export control online training course at least once every two years. Depending on the nature of an individual's activities and/or job functions, an A&M-Central employee may be required to take the basic export control online training course and/or supplemental export control training as deemed appropriate by the individual's supervisor and/or the EO. All full-time faculty must complete the TrainTraQ export control training every two years as part of their mandated training.

7.9 Shipping

It is the responsibility of A&M-Central Texas personnel who are shipping items outside the United States (including hand-carrying items such as research equipment, materials, data, biological materials) to comply with export control laws and regulations in coordination with the AVPRI and other appropriate offices.

8. OFFICES RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

8.1 The AVPRI has ultimate responsibility for ensuring compliance with the export control laws and regulations for A&M-Central Texas.

8.2 The AVPRI, in cooperation with other appropriate offices, is responsible for directing and monitoring the A&M-Central Texas export control compliance program, record keeping, and for implementing procedures and/or guidelines to comply with federal export control laws and regulations, including developing, implementing and updating the A&M-Central Texas Export Control Compliance Manual or the export control section of the REDI Canvas Community Page. As chair of the Export Control Committee, the AVPRI also conducts the annual export control risk assessment and maintains the database of all Foreign Persons hired at the university, making those records available to the System RSO.

8.3 When requested, the AVPRI will determine; or assist other offices and 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 to determine the applicability of the Fundamental Research Exclusion or other exclusions as described in System Policy 15.02 *Export Controls*. The AVPRI will also assist with and conduct RPS, maintain relevant screening records, and consult with the System RSO and System OGC on export control matters as appropriate.

8.4 The AVPRI will conduct periodic self-assessments of the A&M-Central Texas compliance with export control laws and regulations and report its findings to the President as appropriate.

9. POSSIBLE VIOLATIONS

- 9.1 All A&M-Central Texas employees and students are responsible for reporting possible violations of United States export control laws or regulations. Suspected violations should be reported to the A&M-Central Texas EO, together with the details of the suspected violation. Suspected violations may also be reported via the EthicsPoint hyperlink:
<https://secure.ethicspoint.com/domain/media/en/gui/19681/index.html> .
- 9.2 Possible violations of United States export control laws or regulations will be investigated by the EO or designee.
- 9.3 The EO is authorized to suspend or terminate a research, teaching, testing or other export activity if the EO determines that the activity is not in compliance, or will lead to noncompliance, with federal export control laws or regulations.
- 9.4 The EO will work with the System RSO and System OGC to complete the investigation. The EO's investigation and suggested disciplinary outcome, if any, will be presented to the President of A&M-Central Texas for a final decision. Appeals may be directed to the President.

10. RECORD KEEPING

- 10.1 Records of all Export activities shall be maintained for the longer of:
- (a) the record-retention period required by the applicable export control regulations (see 15 C.F.R. Part 762 (ITAR); 22 C.F.R. §§ 122.5, 123.22 and 123.26 (EAR); and 31 C.F.R. § 501.601(OFAC)), or
 - (b) The period required for the retention of records as set forth in System policies and regulations and A&M-Central Texas rules.

Records will be maintained by the AVRPI or as otherwise designated in the A&M-Central Texas Export Control Compliance Manual or the export control section of the REDI Canvas Community Page.

Related Statutes, Policies, or Requirements

[International Traffic in Arms Regulations \(ITAR\) 22 C.F.R. §§ 120-130](#)

[Export Administration Regulations \(EAR\) 15 C.F.R. §§ 700-799](#)

[Office of Foreign Assets Control \(OFAC\) 31 C.F.R. §§ 500-599](#)

[National Security Decision Directive 189](#)

[Atomic Energy Act of 1954 42 U.S.C §2011, *et seq.*](#)

[Nuclear Regulatory Commission Regulations, 10 C.F.R. Part 110](#)

System Policy [15.02, Export Controls Program Management](#)

University Procedure [24.01.01.D1.06 International Travel](#)

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