

15.02.99.D1 Export Controls

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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

Definitions of export control statute or regulation terminology, including but not limited to, “export,” “deemed export,” “defense service,” “Empowered Official,” “foreign person,” “person,” “technical information,” and “U.S. person” follow those contained in the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), or relative Office of Foreign Assets Control (OFAC) sanction program. Additional definitions are shown below.

International Visitors- Foreign persons having a residence in a foreign country, who are not A&M-Central Texas employees or enrolled students and are coming to A&M-central Texas on a temporary basis, such as at the invitation of an A&M-central Texas faculty member, researcher or administrator.

Restricted Party Screening- The process of determining whether a person or entity is included on the Specially Designated Nationals and Blocked Persons List or any other restricted list maintained by the U.S. government or other relevant agencies.

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 government restricted items or technical information for the purpose of protecting national, economic, security and foreign policy interests. These federal export control laws and regulations establish the conditions under which government restricted items or technical information 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 University 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 government restricted items or technical information, the university requires that each individual comply with the applicable requirements of United States export control laws and regulations.
- 1.2 All university employees and students, visiting scientists, postdoctoral fellows, and other persons retained by or working at or for the university 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, university 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, university personnel may be required to participate in formal training as determined by the university's Empowered Official and/or the employees' supervisors.
- 1.3 All university employees with managerial or supervisory authority over foreign persons or projects involving government restricted items or technical information should view export control compliance as an important part of their day-to-day responsibilities.
- 1.4 University 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. RESEARCH SECURITY OFFICE

- 2.1 The Research Security Office (RSO) of The Texas A&M University System (system) oversees export control compliance throughout the system and advises member institutions on relevant federal guidelines and legislation. As part of its advisory role, the 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 the Division of Research and Innovation (AVPRI) is the university's Empowered Official (EO) for all 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 university's representative and point of contact with such agencies. The EO is the university 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 RSO and the system's Office of General Counsel (OGC).

3.2 As the EO, the AVPRI is the university official with final responsibility for compliance with export control laws and regulations.

4. UNIVERSITY ADMINISTRATORS

4.1 University employees with managerial or supervisory authority over foreign persons or projects involving government restricted items or technical information are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the EO implementing the procedures set forth by the university and as otherwise deemed necessary by the EO for export control compliance.

4.2 Export Control Committee

4.2.1 The university's 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 EO 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 a 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 EO or 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 EO to ensure that no violations will occur:

6.1.1. Foreign persons will have access to government restricted items or technical information 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. University faculty or staff will export or travel abroad with research equipment, chemicals, biological materials, encrypted software, or government controlled items; or travel abroad with laptops, cell phones, or PDAs containing government controlled technical 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, individuals located in embargoed countries, or individuals or entities who are

on prohibited or restricted end-user lists, as determined by Restricted Party Screening.

7. EXPORT CONTROL COMPLIANCE PROGRAM

7.1 Research

7.1.1 Research Contract Administration

The Division of Research and Innovation in coordination with the EO, 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 [Federal Acquisition Regulation (FAR) and Defense Federal Acquisition Regulation (DFAR), both 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 government restricted items or technical information;
- (f) Persons or entities involved in the research project or related transactions who have been identified through Restricted Party Screening as embargoed countries or restricted countries, persons, or entities; and
- (g) Government restricted items or technical 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 Division of Research and Innovation's Canvas Community page. This includes completing all the export control-related questions in the system designated travel request and approval 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, including export control guidelines for students making international presentations.

7.3 International visitors

7.3.1 Restricted Party Screening for International Visitors – International visitors coming to A&M-Central Texas must undergo a Restricted Party Screening **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 Restricted Party Screening 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 Division of Research and Innovation 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 division's Canvas Community Page. The EO reserves the right to limit access to campus activities and to interactions with university employees for all persons from US-designated Countries of Concern.

7.3.3 Exempted International Visitors – Restricted Party Screening of an international visitor, as described in 7.3.1, 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 that does not relate to export-controlled material, (ii) tour labs or research facilities that are not otherwise restricted per se, or (iii) participate in general academic or scientific meetings or presentations, as long as the material described is in the public domain. International visitors may be subject to foreign persons screening, depending on the material covered at the meeting/presentation they are attending. 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 EO of any changes in the intent of the visit prior to engaging the international visitor in any activity that may require a Restricted Party Screening 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 division's Canvas Community Page.

7.4 International students

7.4.1 The EO is responsible for overseeing Restricted Party Screening 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 EO by the Division of Enrollment Management.

7.5 Distance Education

7.5.1 Any non-catalog course designated as a distance education course by the AVP for Technology-Enhanced Learning which enrolls 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 the Division of Research and Innovation by the Office of Enrollment Management.

7.5.2 A&M-Central Texas IT office has set up all systems to block access to university systems from all unauthorized countries, and the SOC (System Office) manages umbrella instance and blocks suspicious activity and countries through DNS. A&M-Central Texas IT office uses the list of Countries of Concern posted on the Export Control module of the Division of Research and Innovation Canvas page as the list of countries to block; that list comes from the system's Research Security Office and is updated quarterly.

7.6 Purchasing and Financial Transactions

It is the responsibility of each administrative staff member making purchases of items with potential export control implications to complete the relevant export control paperwork to assure compliance with export control laws and regulations.

7.7 Export Control Compliance Manual and the export control section of the division's Canvas Community Page

The EO, in coordination with other appropriate university offices, will develop, maintain and update periodically, an Export Control Compliance Manual and the export control section of the division's Canvas Community Page to serve as guides

for university members for the identification, administration, and resolution of export control issues.

7.8 Training

The EO, in cooperation with other appropriate offices, will develop and implement an appropriate university training program. University employees with managerial or supervisory authority over foreign persons or projects involving government restricted items or technical information 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, a university 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 university personnel who are shipping items outside the United States (including hand-carrying items such as research equipment, materials, technical information, biological materials, etc.) to comply with export control laws and regulations in coordination with the EO and other appropriate offices.

8. OFFICES RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

8.1 The EO has ultimate responsibility for ensuring compliance with the export control laws and regulations for the university.

8.2 The EO, in cooperation with other appropriate offices, is responsible for directing and monitoring the university's 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 division's Canvas Community Page. As chair of the Export Control Committee, the EO 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 RSO.

8.3 When requested, the EO will determine or assist other offices and employees in export control assessments to determine compliance obligations with respect to university activities involving foreign persons, or international activities under applicable export control laws and regulations, and to determine the applicability of potential exclusions or general licenses. The EO will also assist with and conduct Restricted Party Screening, maintain relevant screening records, and consult with the Office of General Counsel on export control matters as appropriate.

8.4 The EO will conduct periodic self-assessments of the university's 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 university's EO, together with the details of the suspected violation. Suspected violations may also be reported via the [EthicsPoint](#) hyperlink.
- 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 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 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 must 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 university rules.

Records will be maintained by the EO or as otherwise designated in the A&M-Central Texas Export Control Compliance Manual or the export control section of the division's 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 Control Program Management](#)

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

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Contact Office

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