



## 15.02.99.D1 Export Controls

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Revised:

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### Rule Statement

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It is the policy of Texas A&M University-Central Texas (TAMUCT) 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.

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### Reason for Rule

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Texas A&M University-Central Texas has an obligation to implement an export control compliance program to reduce the risk of export control violations. All employees and students must be aware of and are responsible for the export control implications of their work and must ensure that their activities conform to export control laws and regulations. There are severe institutional and individual sanctions for violations of export control laws and regulations, including the loss of research funding, loss of export privileges as well as criminal and civil penalties.

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### Procedures and Responsibilities

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Encouraging research and intellectual inquiry is a vital goal of TAMUCT. TAMUCT 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 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 Controlled Information or Controlled Physical Items, 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(s) and/or the employees' supervisors.
- 1.3 All university 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.
- 1.4 University employees and students will comply with the provisions of any export license, governmental approval, certification, technology control plan, and procedures.

## 2. EMPOWERED OFFICIAL

- 2.1 The Associate Provost/Associate Vice President for Graduate Studies and Research (APAVPGSR), in addition to other designees who may be appointed by the APAVPGSR, is the University's "Empowered Official" for all purposes relating to applicable federal export control laws and regulations. The Empowered Official(s) 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 Empowered Official(s) is the University official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of the University and to bind the University in any proceedings before government agencies with export control responsibilities.
- 2.2 The APAVPGSR is the University official with final responsibility for compliance with export control laws and regulations.
- 2.3 University Administrators
  - 2.3.1 University 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 APAVPGSR implementing the procedures set forth by the

university and as otherwise deemed necessary by the Empowered Official for export control compliance.

## 2.4 Principal Investigator

- 2.4.1 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.
- 2.4.2 The PI is responsible for learning about export controls by completing the export compliance training offered through TrainTraq, in addition to working with the APAVPGSR to ensure compliance with all export control laws and regulations.

## 3. IDENTIFICATION OF EXPORT CONTROL CONCERNS

- 3.1 The following are indicators that an export control review should be conducted by the APAVPGSR to ensure that no violations will occur:
  - 3.1.1. Foreign Persons will have access to Controlled Information or Controlled Physical Items on campus.
  - 3.1.2. Software including encryption features will be developed or purchased.
  - 3.1.3. University 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.
  - 3.1.4. 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.

## 4. EXPORT CONTROL COMPLIANCE PROGRAM

### 4.1 Research

#### 4.1.1 Research Contract Administration

Research Services, or such other appropriate office(s), in coordination with the APAVPGSR, 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) The contract provides that research results will be considered trade secret, confidential, or proprietary information owned by the sponsor;
- (c) Foreign nationals are excluded from participation in the research, or are 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) Foreign Persons will have access to Controlled Information or Controlled Physical Items;
- (f) Persons or entities involved in the research project or related transactions are identified through Restricted Party Screening 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.

## 4.2 International visitors

- 4.2.1 Restricted Party Screening for International Visitors – In general, international visitors intending to visit TAMUCT must undergo a Restricted Party Screening prior to their visit to TAMUCT as provided below:
- 4.2.2 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 TAMUCT identification card, keys to offices or laboratories, or otherwise be given access to the TAMUCT 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 TAMUCT intending to host an International Visitor to notify and request approval of such visit from the Division of Research before the arrival of the International Visitor, as may be further indicated in the TAMUCT Export Control Compliance Program Manual.
- 4.2.3 Exempted International Visitors – Restricted Party Screening 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 TAMUCT to comply with the initial terms and intent of the visit as communicated to the International Visitor, and to immediately notify the AVPGSR 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 TAMUCT Export Control Compliance Program Manual.

#### 4.3 International visitors

##### 4.3.1 Students Studying Abroad

APAVGSR, or other office(s) designated by President or designee, is responsible for performing Restricted Party Screening on all students enrolled in a TAMUCT credit bearing program outside the United States who:

- (a) are Foreign Persons;
- (b) have not previously attended TAMUCT; AND
- (c) are not enrolled as continuing students at a college or university based in the United States.

#### 4.4 Distance Education

Those responsible for offering distance education courses, in cooperation with the APAVPGSR, will screen courses as appropriate for purposes of compliance with export control laws and regulations and in accordance with the TAMUCT Export Control Compliance Program Manual.

#### 4.5 Purchasing and Financial Transactions

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

#### 4.6 Export Control Compliance

The APAVPGSR in coordination with other appropriate University offices, will develop, maintain and update periodically, an Export Control Compliance Program Manual for the University to serve as a guide for identification, administration and resolution of export control issues.

#### 4.7 Training

The APAVPGSR, 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 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, 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 Empowered Official.

#### 4.8 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, data, biological materials) to comply with export control laws and regulations in coordination with the APAVPGSR and other appropriate offices.

### 5. OFFICES RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

5.1 The APAVPGSR has ultimate responsibility for ensuring compliance with the export control laws and regulations for the University.

5.2 The APAVPGSR, 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 TAMUCT Export Control Compliance Program Manual.

5.3 When requested, the APAVPGSR 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 the Fundamental Research Exclusion or other exclusions as described in System Policy 15.02 *Export Controls*. The APAVPGSR will also assist with and conduct Restricted Party Screening and consult with the Office of General Counsel on export control matters as appropriate.

5.4 The APAVPGSR 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.

### 6. POSSIBLE VIOLATIONS

6.1 All TAMUCT 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 Empowered Official, together with the details of the suspected violation. Suspected violations may also be reported via the [EthicsPoint Hotline](#).

6.2 Possible violations of United States export control laws or regulations will be investigated by the Empowered Official or designee.

6.3 The Empowered Official is authorized to suspend or terminate a research, teaching, testing or other Export activity if the Empowered Official determines that the activity is not in compliance, or will lead to noncompliance, with federal export control laws or regulations.

## 7. RECORD KEEPING

7.1 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 The Texas A&M University System policies and regulations and University rules.

Records will be maintained by the APAVPGSR or as otherwise designated in the TAMUCT Export Control Compliance Manual.

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## Related Statutes, Policies, or Requirements

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[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.*, and Nuclear Regulatory Commission Regulations, 10 C.F.R. Part 110

System Policy [15.02 Export Controls](#)

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## Definitions

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**Deemed Export** – The transfer of Controlled Information or Controlled Physical Items, or the provision of defense services to a Foreign Person in the United States is deemed to be an Export to the home country or countries of the Foreign Person, and is subject to the export control laws and regulations.

**Empowered Official** – The Empowered Official is defined in 22 C.F.R § 120.25. The Empowered Official has independent authority to: (i) inquire into any aspect of a proposed

export or temporary import by the University; (ii) verify the legality of the transaction and the accuracy of the information to be submitted; and (iii) refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

International Visitors – International Visitors are Foreign Persons having a residence in a foreign country, who are not employees or enrolled students of TAMUCT, and are coming to TAMUCT 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 TAMUCT.

Restricted Party Screening – Determining 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 to TAMUCT by the Texas A&M University, Division of Research.

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## **Contact Office**

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