

15.02.99.E1 Export Controls

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Supplements System Policy 15.02

Rule Statement

It is the policy of the Texas A&M Engineering Experiment Station (Agency), to comply with United States export control laws and regulations including, without limitation, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR), as well as those imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC).

Reason for Rule

The Agency has an obligation to implement an export control compliance program to reduce the risk of export control violations. All employees 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.

Procedures and Responsibilities

GENERAL

Encouraging research and intellectual inquiry is a vital goal of the Agency. The Agency supports open research and the free interchange of information among scholars. The Agency 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 Agency 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 Agency requires that each individual comply with the applicable requirements of United States export control laws and regulations.

All Agency employees, visiting scientists, and other persons retained by or working at or for the Agency 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, Agency 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, Agency personnel may be required to participate in formal training as determined by the Agency's Empowered Official and/or the employees' supervisors.

All Agency 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.

Agency 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 Deputy Director (in addition to other designees who may be appointed by the Deputy Director) is the Agency's "Empowered Official" for all purposes relating to applicable federal export control laws and regulations. The Empowered Official is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as the Agency's representative and point of contact with such agencies. The Empowered Official is the Agency official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of the Agency and to bind the Agency in any proceedings before government agencies with export control responsibilities.
- 2.2 The Deputy Director is the Agency official with final responsibility for compliance with export control laws and regulations.

3. EXPORT CONTROL COMPLIANCE PROGRAM

3.1 Research Contract Administration

Research services or such other appropriate office(s), in coordination with the Office of Risk and Compliance (RC), 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 that involve the following factors:

- 3.1.1 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);
- 3.1.2 The contract provides that research results will be considered trade secret, confidential, or proprietary information owned by the sponsor;
- 3.1.3 Foreign nationals are excluded from participation in the research, or are subject to approval by the research sponsor;
- 3.1.4 Incorporation by reference of federal regulations (Federal Acquisition Regulations, Defense Federal Acquisition Regulations, agency specific regulations) that impose publication or access restrictions, or provisions that state that export control laws apply;
- 3.1.5 Foreign Persons will have access to Controlled Information or Controlled Physical Items;
- 3.1.6 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
- 3.1.7 Controlled Physical Items or Controlled Information (including laptops containing Controlled Information) that will be taken or shipped outside the United States.

3.2 International Visitors

3.2.1 Restricted Party Screening for International Visitors – In general, international visitors intending to visit the Agency must undergo a restricted party screening as a previous condition of their visit to the Agency. This includes but is not limited to visitors that: (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; or (ii) will be issued an identification card, keys to offices or laboratories, or otherwise be given access to the computing system in any manner. It is the responsibility of all employees intending to host an International Visitor to notify and request approval of such visit from the Engineering Human Resources before the arrival of the International Visitor.

3.3 International Activities

In the case of Agency activities conducted outside the United States, it is the responsibility of the Agency organizer to seek and obtain appropriate export control approvals from the Office of Risk and Compliance, for the following activities without limitation: execution of agreements performable outside the United States; and making payments to Foreign Person vendors.

3.4 Purchasing and Financial Transactions

It is the responsibility of the TEES Fiscal Office, in coordination with the Office of Risk and Compliance, to develop and implement procedures to screen vendors as appropriate for compliance with export control laws and regulations.

3.5 Export Control Compliance Program Manual

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

3.6 Training

The Office of Risk and Compliance, in cooperation with other appropriate offices, will develop and implement an appropriate training program.

Agency 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 Agency employee may be required to take supplemental export control training as deemed appropriate by the individual's supervisor and/or the Empowered Official.

3.7 Shipping

It is the responsibility of Agency 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 Office of Risk and Compliance and other appropriate offices.

4. OFFICES RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

4.1 The Office of Risk and Compliance, in cooperation with other appropriate offices, is responsible for directing and monitoring the Agency'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 Export Control Compliance Program Manual.

4.2 When requested, the Office of Risk and Compliance will determine, or assist other offices and employees in export control assessments to determine compliance obligations with respect to Agency 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 TAMUS Policy 15.02 *Export Controls*. The Office of Risk and Compliance will also assist with and conduct Restricted Party Screening and consult with the Office of General Counsel on export control matters as appropriate.

4.3 The Office of Risk and Compliance will conduct periodic self-assessments of the Agency's compliance with export control laws and regulations and report its findings to the Deputy Director and/or the Agency Director as appropriate.

5. POSSIBLE VIOLATIONS

Each Agency employee has the responsibility to report possible violations of United States export control laws or regulations. Suspected violations should be reported to the Agency's Empowered Official, together with the details of the suspected violation. Suspected violations may also be reported via the [Ethics and Compliance Hotline](#). Possible violations of United States export control laws or regulations will be investigated by the Empowered Official or designee to the extent deemed necessary. 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 export control laws and regulations.

6. RECORD KEEPING

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

6.1.1 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

6.1.2 the period required for the retention of records as set forth in The Texas A&M University System policies and regulations.

6.2 Records will be maintained by the Office of Risk and Compliance or as otherwise designated in the Texas A&M Engineering Experiment Station Export Control Compliance Manual.

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 Section 2011, et seq. and Nuclear Regulatory Commission Regulations, 10 C.F.R. Part 110

[Policy 15.02, Export Controls](#)

Definitions

Unless otherwise stated, all terms used in this rule shall have the meaning assigned by System Policy 15.02.

- [Controlled Information](#)
- [Controlled Physical Items](#)
- [Export](#)
- [Foreign Person](#)

Other terms used in this Rule have the meanings set forth below:

- 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 Agency, (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 of the Agency, and are coming on a temporary basis as a result of a verbal or written invitation made to the Foreign Person by a researcher or employee of the Agency.
- 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 by the Office of Risk and Compliance.

Contact Office

Office of Risk and Compliance
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