



UR 15.02.99.H1 Export Controls

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Next Scheduled Review January 2019

Rule Statement

Texas A&M University – Texarkana (A&M Texarkana) employees and students must comply with all United States export control laws and regulations, including those implemented by the Department of Commerce through the Export Administration Regulations (EAR) and the Department of State through the International Traffic in Arms Regulations (ITAR), as well as those enforced by the Treasury Department through the Office of Foreign Assets Control (OFAC).

Reason for Rule

A&M Texarkana adopts this rule to comply with United States export control laws and regulations and The Texas A&M University System (system) export control policy.

A&M Texarkana 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 and criminal and civil penalties.

Procedures and Responsibilities

Encouraging research and intellectual inquiry is a vital goal of A&M Texarkana. The university supports open research and the free interchange of information among scholars. The university is also aware 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 the federal government as a threat to important United States interests.

1. INDIVIDUAL RESPONSIBILITY

- 1.1 All university employees and students, visiting professors/scientists, and other persons retained by or working at A&M Texarkana must ensure their work and activities comply with United States export control laws and regulations when these activities include the use of Controlled Information or Controlled Physical Items.
- 1.2 University employees should possess a fundamental understanding of export controls to be able to know when to raise questions and alert the responsible university staff to a possible export control issue. Depending on 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.

2. KEY ACTORS RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

2.1 Empowered Official

- 2.1.1 The university's Research Compliance Officer, in addition to other designees who may be appointed by the Provost, 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 authorizing 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 for export control matters involving the university. The Empowered Official(s) is 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.
- 2.1.2 As the Empowered Official, the Research Compliance Officer is the university official with ultimate responsibility for ensuring compliance with export control laws and regulations for the university.

2.2 Office of Research Compliance

- 2.2.1 The Office of Research Compliance (ORC), in cooperation with other appropriate offices, is responsible for directing and monitoring the university's export control compliance program, including but not limited to record keeping and implementing procedures and/or guidelines to comply with federal export control laws and regulations.
- 2.2.2 When requested, the ORC 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.

- 2.2.3 The ORC is responsible for developing and implementing processes to screen proposals and projects for compliance with export control laws and regulations.
 - 2.2.4 The ORC will conduct periodic self-assessments of the university's compliance with export control laws and regulations and report its findings to the Research Compliance Officer and/or the President as appropriate.
- 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 should view export control compliance as an important part of their day-to-day responsibilities and are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the ORC in implementing the procedures set forth by the university and 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 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 Research Compliance Officer to ensure compliance with 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 ORC 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 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.

3.1.5 The sponsor requires pre-approval rights over publications or the participation of Foreign Persons.

3.1.6 The project requires shipping of equipment, information or technology to a foreign country or Foreign Person.

4. EXPORT CONTROL COMPLIANCE PROGRAM

4.1 Research

4.1.1 The Office of Research Compliance (ORC), in coordination with the Office Finance and Administration, is responsible for developing and implementing processes to screen proposals and projects for compliance with export control laws and regulations, and specifically to identify those that involve the following factors:

4.1.1.1 Research contracts or grants with 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);

4.1.1.2 The contract provides that research results will be considered a trade secret, confidential, or proprietary information owned by the sponsor;

4.1.1.3 Foreign Persons are excluded from participation in the research or are subject to approval by the research sponsor;

4.1.1.4 Incorporation by reference of federal regulations or clauses (FAR, DFAR, agency specific regulations) that impose publication or access restrictions, or provisions which state that export control laws apply;

4.1.1.5 Foreign Persons who will have access to Controlled Information or Controlled Physical Items;

4.1.1.6 Persons or entities involved in the research project or related transactions that are identified through Restricted Party Screening as embargoed countries or restricted countries, persons or entities; and

4.1.1.7 Controlled Physical Items or Controlled Information (including laptops containing Controlled Information) on the United States Munitions List (USML) (maintained by the Department of State, Directorate of Defense Trade Control) or Commerce Control List (CCL) (maintained by the Department of Commerce, Bureau of Industry and Security) that will be taken or shipped outside the United States.

4.2 International Visitors

4.2.1 All international visitors whether present or not in the United States must undergo a Restricted Party Screening when the international visitor:

- 4.2.1.1 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;
- 4.2.1.2 Will be issued an A&M Texarkana identification card, keys to offices or laboratories, or otherwise be given access to the A&M Texarkana computing system in any way or manner; or
- 4.2.1.3 Will be paid an honorarium, will be reimbursed for expenses, or will be provided something of value. It is the responsibility of all A&M Texarkana employees intending to host an international visitor to notify and request from the Office of Research Compliance (ORC) approval of such visit before the arrival of the international visitor.

4.2.2 Restricted Party Screening of an international visitor, as described above in §4.2.1 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: (a) meets with colleagues to discuss a research project or collaboration; (b) tours labs or research facilities that are not otherwise restricted per se, and (c) participates in general academic or scientific meetings or presentations.

4.2.3 It is the fiduciary responsibility of all A&M Texarkana employees to comply with the initial terms and intent of the visit as communicated to the international visitor and to immediately notify the ORC and the Provost's office 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 or any related procedures and processes.

4.3 International Activities

4.3.1 In the case of university activities conducted outside the United States, it is the responsibility of the university activity organizer to seek and obtain appropriate export control approvals from the ORC for the following activities without limitation: (a) execution of agreements performable outside the United States; (b) non-credit bearing study abroad courses; and (c) making payments to foreign person vendors.

4.3.2 The ORC, in coordination with the appropriate college Dean (e.g., College of Education and Liberal Arts) and program coordinator (e.g., Psychology program coordinator), is responsible for developing and implementing processes to screen international programs, centers, and activities for compliance with export control laws and regulations.

4.4 Students Studying Abroad.

4.4.1 The ORC, in coordination with the International Studies Office is responsible for performing Restricted Party Screening on all students enrolled in a A&M Texarkana credit-bearing program outside the United States who: (a) are foreign persons, (b) have not previously attended A&M Texarkana, and (c)

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

4.5 Distance Education

- 4.5.1 Those responsible for offering distance education courses, in cooperation with the ORC, will screen courses and students as appropriate for purposes of compliance with export control laws and regulations.

4.6 Purchasing and Financial Transactions

- 4.6.1 It is the responsibility of the Office of Finance and Administration, in coordination with the ORC, to develop and implement processes to screen vendors as appropriate for compliance with export control laws and regulations.

4.7 Shipping

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

4.8 Export Control Compliance Program Manual

- 4.8.1 The ORC, in coordination with other appropriate university offices, may 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.

5. RESOLVING EXPORT CONTROL ISSUES

- 5.1 Once a potential export control issue is identified, the ORC will work with all parties involved to determine what course of action will be taken to address the issue. In many cases, no license or other authorization may be necessary. In each case, the ORC will determine: (a) if the conditions merit an application for a license or other authorization; (b) if the conditions are such that an exclusion or license exception may be obtained, or (c) if a Technology Control Plan (TCP), or other requirements for the conduct of the research, will be necessary to prevent an unauthorized export of the technology from occurring.

6. POSSIBLE VIOLATIONS

- 6.1 Each University employee or student has the responsibility to report 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 Texas A&M University System Risk, Fraud & Misconduct Hotline and the Texas State Auditor's Office Fraud, Waste, or Abuse Hotline.

- 6.2 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.

7. DISCIPLINARY ACTIONS

- 7.1 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.
- 7.2 There are severe institutional and individual sanctions for violations of export control laws including the loss of research funding, loss of export privileges, and civil and criminal penalties.
- 7.3 Employees and students may be subject to disciplinary action, up to and including termination per system policies and regulations, for violating U.S. export control laws or regulations.

8. RECORD KEEPING RESPONSIBILITIES

- 8.1 Records required to be maintained by export control laws and regulations shall be maintained by the Office of Research Compliance and shall be kept for the longer of:
 - 8.1.1 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
 - 8.1.2 The period required for the retention of records as set forth in the system records retention schedule.

9. TRAINING

- 9.1 The ORC shall be responsible for maintaining a campus-wide export control training program.
- 9.2 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.
- 9.3 Depending on the nature of an individual's activities and/or job functions, an A&M Texarkana 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.

Related Statutes, Policies, or Requirements (Required)

Texas A&M University System Policy 15.02, *Export Controls*
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

Definitions

Deemed Export – 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.

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

Restricted Party Screening - 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 (Restricted Party Lists). If not wholly prohibited, licenses are required for exportation to these end-users, or for carrying out a transaction in which a prohibited or restricted end-user is involved. A&M Texarkana must screen individuals and entities in order to ensure that A&M Texarkana is not doing business with individuals or entities that have been debarred, denied export privileges, or are otherwise on one of the numerous government restricted party lists.

Technology Control Plan – A Technology Control Plan (TCP) lays out the requirements for protecting export-controlled information and equipment for projects conducted by the university. A&M Texarkana has developed a TCP template for use on such projects.

Appendix

[Technology Control Plan Template](#)
[Project Export Controls Decision Tree](#)

Contact Office

Office of Research Compliance
903.223.3004

System Approvals*

Approved for Legal Sufficiency:



Ray Bonilla
General Counsel

1-17-14
Date

Approved:



John Sharp
Chancellor

1-21-14
Date

***System approvals are contingent upon incorporation of any and all System-required changes in the rule's final posting.**