

## 15.02.99.H1 Export Controls

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### Rule Summary

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Texas A&M University-Texarkana (A&M-Texarkana) employees and students must comply with all United States export control laws and regulations—including, but not limited to—those implemented by the Department of Commerce through the Export Administration Regulations (EAR), the Department of State through the International Traffic in Arms Regulations (ITAR), and the Department of Treasury through the Office of Foreign Assets Control (OFAC).

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.

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### Procedures and Responsibilities

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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 and 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.

Several federal agencies implement export control rules and regulations—including but not limited to—the Department of Commerce, the Department of State, and the Department of Treasury. Within these federal regulatory bodies, each possesses jurisdiction over specific types of technology, restricted trade activities, and/or controlled physical items.

There are severe institutional and individual sanctions for violations of export control laws including the loss of research funding, loss of export privileges, as well as civil and criminal penalties including imprisonment. Although many university activities could be excluded from export control laws, some activities may be restricted.

#### 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. Any required license/approval must be in place before exporting items or technology that is subject

to federal export control laws and regulations. The Office of Research Compliance is available to assist in assessing the applicability of export control regulations; however, primary responsibility for compliance rests with the individuals involved in the export, including principal investigators and others in supervisory positions.

- 1.2 University employees should possess a fundamental understanding of export controls. This will enable university employees to know when to raise questions and alert the responsible university staff when a possible export control concern arises. Depending on the nature of their activities and/or job functions, university employees, students and visitors 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 employees are responsible for understanding export control implications related to their course and scope of employment. Detailed decision-making trees and guidelines are available in the university's Export Control Manual.

## 2. KEY ACTORS RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE

### 2.1 Empowered Official

- 2.1.1 The university's Associate Provost is the university's "Empowered Official" for all purposes relating to applicable federal export control laws and regulations. The Empowered Official, as the Research Compliance Officer, is the person 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 is the person 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 Associate Provost 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 annual self-assessments of the university's compliance with export control laws and regulations and report its findings to the President and the System Research Security Office.

### 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 consult the ORC in determining whether particular technology, data or information involved is subject to export control regulations.

2.4.2 The PI is responsible for understanding the export control implications of their work by completing the export compliance training offered through TrainTraq, in addition to consulting 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 mitigate risks of potential export control violations. This list is not all inclusive:

3.1.1 Foreign Persons will have access to Controlled Information or Controlled Physical Items.

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-users.

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.

3.1.7 The university will provide distance education (online) services to individuals located internationally.

3.1.8 The university will employ or host individuals of foreign origin.

#### 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 as embargoed countries, restricted end-users, or restricted end-users; 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 If an international visitor is not subject to Restricted Party Screening pursuant to §4.2.1, it is the responsibility of the host to contact ORC if the visitor will be present in the United States and any 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 an additional review 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) execution of agreements with foreign entities or persons; (c) international travel in the course and scope of employment; (d) non-credit bearing study abroad courses; and (d) 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.

- 4.5 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. Distance Education

4.5.1 Those responsible for offering distance education (online) courses, in cooperation with the ORC, will screen courses, students, and the locations of said 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 ITAR and EAR Controlled Items and Information

4.8.1 It is the responsibility of the ORC, in coordination with the Accounting Department Inventory Control functions, to identify and account for ITAR and EAR controlled physical items and controlled information for A&M-Texarkana.

#### 4.9 Export Control Compliance Program Manual

4.9.1 The ORC, in coordination with other appropriate university offices, will maintain 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. RISK ASSESSMENT

While continuous risk assessment is paramount to the Export Control Program, the ORC will conduct an export controls-specific risk assessment each year prior to the start of each

fiscal year. This risk assessment must be attached to the annual ethics and compliance program plan.

## 7. POSSIBLE VIOLATIONS

- 7.1 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.
- 7.2 Possible violations of United States export control laws or regulations will be investigated by the Empowered Official or designee to the extent deemed necessary, in consultation with the System Office of General Counsel and the System Research Security Office. 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.

## 8. DISCIPLINARY ACTIONS

- 8.1 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.
- 8.2 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.
- 8.3 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.

## 9. REPORTING

- 9.1 All applications and associated documents regarding visiting scholars and employment of foreign persons from countries of concern as defined in System Regulation 15.05.04, High Risk Global Engagements and High Risk International Collaborations shall be shared with system RSO.
- 9.2 ORC will share the system RSO with a courtesy copy of any export control-related license application, license, commodity jurisdiction request, commodity classification request, documentation of general license use, or advisory opinion.

## 10. RECORD KEEPING RESPONSIBILITIES

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

10.1.1 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

10.1.2 The period required for the retention of records as set forth in the system records retention schedule.

## 11. TRAINING

11.1 The ORC shall be responsible for maintaining a campus-wide export control training program.

11.2 All employees shall, at a minimum, complete the basic System export control online training course at least once every two years.

11.3 Additional training will be assigned to individuals traveling internationally on behalf of University business.

11.4 Depending on the nature of an individual's activities and/or job functions, an A&M-Texarkana employee may be required to take supplemental export control training as deemed appropriate by the individual's supervisor and/or the Empowered Official.

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## Related Statutes, Policies, or Requirements

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

[System Policy 15.05, System Research Security Office](#)

[System Regulation 15.05.04, High Risk Global Engagements and High Risk International Collaborations](#)

[University Rule 15.05.04.H1, High Risk Global Engagements and International Collaborations](#)

[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 and Nuclear Regulatory Commission Regulations to 10 CFR Part 110](#)

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## Definitions

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Controlled Information – Controlled information is information about controlled physical items. This includes information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of controlled physical items and may be released through visual inspection, oral exchanges, or the application of personal knowledge or technical experience with controlled physical items. This includes information in the form of blueprints, drawings, photographs, plans instructions and documentation. Also included in this definition are non-physical items (software and algorithms, for example) listed under EAR and ITAR.

Controlled Physical Items – Controlled physical items are dual use technologies listed under EAR and defense articles listed on ITAR’s USML.

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.

Export – An export occurs when a controlled physical item or controlled information is transmitted outside the United States borders. The term ‘export’ is broadly defined. It generally includes (1) actual shipment of any controlled physical items; (2) the electronic or digital transmission of any controlled information; (3) any release or disclosure, including verbal disclosures and visual inspections, of any controlled information; or (4) actual use or application of controlled physical items or controlled information on behalf of or for the benefit of a foreign entity or person anywhere. Complete definitions of the term ‘export’ are contained in the federal 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.

Foreign Person – For export control purposes, a foreign person includes any individual in the United States in nonimmigrant status (i.e., H-1B, H-3, L-1, J-1, F-1, B-1, Practical Training), and individuals unlawfully in the United States.

A foreign person is also any branch of a foreign government or any foreign corporation or group that is not incorporated or organized to do business in the United States.

For export control purposes, a foreign person is not an individual who is a United States citizen, lawful permanent resident of the United States, a refugee, protected political asylee or someone granted temporary residency under amnesty or Special Agricultural Worker provisions.

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 an 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.

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## Appendix

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[Export Controls Compliance Program Manual](#)

[Technology Control Plan Template](#)

[International Travel Export Screening](#)

[Restricted Party Screening Request](#)

[International Visitor Request](#)

[Approval of Reimbursement/Honoraria](#)

[Visiting Scholar Agreement](#)

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## Contact Office

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Office of Research Compliance  
903.223.3003

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## System Approvals

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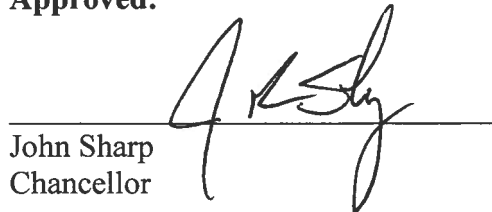
Approved for Legal Sufficiency:



Ray Bonilla  
General Counsel

5/19/23  
Date

Approved:



John Sharp  
Chancellor

23 May 23  
Date