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MEMORANDUM

**To:** Faculty and Staff

**From:** Karen Royal, Director of Compliance

**Date:** March 22, 2017

**Subject:** Export Controls Compliance Program—Phase Implementation  
**Phase 3** – Research and Sponsored Programs

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**Summary:** Whenever a potential export control issue associated with a sponsored project or research activity is identified, The Office of Research and Sponsored Programs will work with all involved parties to determine what course of action should be taken to address the issue. Export control screening of sponsored projects and research activities is a multi-step process requiring collaboration across multiple offices.

**Detail:** As previously indicated, implementation of the Texas A&M University—Kingsville (TAMUK) Export Controls Compliance Program will be completed in phases. Phase 3 is Research and Sponsored Programs, which is outlined in Section 4.0 of the TAMUK Export Controls Compliance Program Manual.

**Proposal Stage:** Upon receiving notification from a Principal Investigator (PI) of a proposal to be submitted, the PI will be required to complete the Notice of Intent with PI Export Control Assurances Form, the PI's responses will then be entered into Maestro. Maestro will send electronic notifications to the system member point(s) of contact for export controls based upon the PI's responses. The TAMUK Research Compliance Division will also be notified of any projects in need of an export controls review.

**Contract Stage:** At the contract stage, contract negotiators will verify the questions completed on the required Assurances Form. In addition, Restricted Party Screenings (RPS) will be performed on all contracts and subawards as needed. RPS will be performed for all sponsors, except state and federal entities, and for all subawardees, except for intrasystem agreements and state and Federal subawardees.

Certain agreement provisions may negate license exceptions and require seeking a license or undertaking monitoring or other activities. These provisions of concern are identified on the TAMUK Export Controls Decision-Making Tree for Administration of Contract Provisions of Concern in Appendix B of the Manual, and are summarized below.

If any of the following provisions is present (and cannot be negotiated away) in a research agreement or subcontract, a Material Transfer Agreement (MTA), or a Non-Disclosure Agreement (NDA) related to research, the Research Compliance Officer and the Empowered Official should be consulted for guidance prior to execution of the agreement.

- a) Sponsor maintains the right to restrict or approve publication or release of research results.
- b) Research data and/or other research results will be owned by the sponsor (e.g., as sponsor's proprietary or trade secret information).
- c) Statements that export control regulations will apply to the research.
- d) Incorporation by reference of Federal Acquisition Regulations (FARs), agency specific FARs, or other federal agency regulations which impose specific controls on access to or dissemination of research results (see Section 4.2 of manual).
- e) Restrictions on, or prohibitions against, the participation of research personnel based on citizenship or national origin.

- f) Statements that the sponsor anticipates providing export-controlled items or information for use in connection with the research.
- g) Equipment or encrypted software is required to be delivered as part of the project.
- h) The research project will involve the use of export-controlled items or technical information obtained from a third party.
- i) The research will take place outside the United States.

In addition to grants and contracts, ORSP's Research Compliance Division will perform Visual Compliance screenings on research compliance protocols from the Institutional Review Board (IRB), Institutional Animal Care and Use Committee (IACUC), and the Institutional Biosafety Committee (IBC), as triggered by the inclusion of international personnel or collaborations, and will coordinate with the Office of Compliance to log all export controls screenings and to address any restrictions that are revealed as a result of these screenings.

**References:**

- *Export Controls Compliance Program Manual – Section 4.0*  
[http://www.tamuk.edu/compliance/TAMUK-Export\\_Controls\\_Manual.pdf](http://www.tamuk.edu/compliance/TAMUK-Export_Controls_Manual.pdf)
- *List of Export Control Delegates*  
[http://www.tamuk.edu/compliance/Visual\\_Compliance\\_Delegate\\_List.pdf](http://www.tamuk.edu/compliance/Visual_Compliance_Delegate_List.pdf)
- *Notice of Intent with PI Export Control Assurances Form*  
*Attached*
- *Decision-Making Tree for Administration of Contract Provisions of Concern*  
*Attached*

For further export controls assistance, please direct questions to the Office of Compliance at [ExportControls@tamuk.edu](mailto:ExportControls@tamuk.edu).

Thank you,

**Karen B. Royal, J.D., CCEP**  
*Director of Compliance*  
Texas A&M University-Kingsville

# 10 / 5 / 2

To ensure quality preparation, the ORSP must receive an intent to submit a proposal notification **at least 10 working days** prior to the submission deadline date, a draft for review **no later than 5 working days** prior to the deadline, and a full, final, ready-to-submit proposal **no later than 2 working days** prior to the deadline.

## Notice of Intent to Submit a Grant Proposal

<b>PI Name</b>		<b>PI Contact Info</b>	
		<b>Phone(s)</b>	
		<b>Email(s)</b>	
<b>Co-Investigator Name(s)</b>		<b>Co-Investigator Contact(s) Info</b>	
		<b>Phone(s)</b>	
		<b>Email(s)</b>	
<b>Departmental Proposal Administrator/Liaison Name</b>		<b>Administrator/Liaison Contact</b>	
		<b>Phone</b>	
		<b>Email</b>	
<b>Lead Institution</b>			
<input type="checkbox"/> TAMUK <input type="checkbox"/> TAMUK Foundation <input type="checkbox"/> Other:			
<b>Sponsor/ Funding Agency:</b>			
<b>Sponsor Due Date:</b>		<b>Lead Institution Due Date (if applicable):</b>	
<b>Link to RFA/RFP/Guidelines/Agency Announcement:</b>			
<b>Proposed Grant Title:</b>			
<b>Short Summary of Project</b>			

### PI Export Control Assurance

If any of the following will apply to your project, please check off and contact [researchcompliance@tamuk.edu](mailto:researchcompliance@tamuk.edu) for guidance so your project can address any Export Control needs prior to writing your grant. It can allow you to know if any potential collaborators or activities have restrictions or are not allowable under Federal regulations.

- Pre-publication Approval Required by Sponsor
- Sponsor Restrictions on Participation of Non-U.S. Persons
- International Collaboration
- Project to be Performed at a Non-U.S. Location
- Items to be Shipped to or from a Non-U.S. Destination
- Equipment, software or technology used in the project is designed for (or could be modified for) military use or use in outer space
- The proposed research could be used in the development of weapons of mass destruction including the proliferation of nuclear explosive devices, chemical or biological weapons or missile technology
- The proposed research contains source code for 128-bit encryption software or mass-market encryption products

**Export Control Decision Making Tree for Administration of Contract Provisions of Concern**

