



Export Controls Compliance Program Manual December 2022

Export control laws are complex and fact specific. Regulations, rules, and lists for specifying who or what is considered export sensitive and where export controls apply are subject to change. This Manual is intended to provide a very brief outline of basic export control information. It should not be relied upon exclusively nor should it be construed as legal advice. Any questions should be directed to the Office of Compliance: ExportControls@tamuk.edu

Texas A&M University-Kingsville wishes to acknowledge some portions of this manual are adapted from and based on the AgriLife Export Controls Compliance Program Manual with the permission of Texas A&M AgriLife.

Table of Contents

List of Appendices

List of Abbreviations

1.0 Commitment to Export Control Compliance

2.0 Responsibility

- 2.1 Individual Responsibility
- 2.2 Empowered Official
- 2.3 Office of Compliance
- 2.4 Research and Graduate Studies
- 2.5 University Administrators

3.0 Identification of Export Control Concerns

- 3.1 Export Control Red Flags
- 3.2 Restricted Party and Technology Screening
 - 3.2.1 Restricted Party Screening (RPS)
 - 3.2.2 Technology Screening
 - 3.2.3 Possible Matches (“Hits”)
 - 3.2.4 Assigned Delegates

4.0 Research and Graduate Studies

- 4.1 Contract Provisions of Concern
- 4.2 Specific U.S. Government Access and Dissemination Controls
- 4.3 Procedures Applicable to Research Agreements and Subcontracts
- 4.4 Resolving Export Control Issues
- 4.5 Technology Control Plan
 - 4.5.1 Development
 - 4.5.2 Appropriate Security Measures
 - 4.5.3 Export Licensing

5.0 Employment

- 5.1 Employment of Nonimmigrant Foreign Nationals
- 5.2 Faculty Consulting and/or External Professional Employment

6.0 International Visitors to Texas A&M University-Kingsville

- 6.1 Responsibility to Request Authorization to Visit
- 6.2 No Authorization to Access Controlled Information, Controlled Physical Items
- 6.3 Restricted Party Screening of International Visitors

6.4 Procedure to Notify and Request Authorization to Visit

7.0 International Student Admissions

8.0 Distance Learning

8.1 Faculty

8.2 Students

9.0 Student Engagement in International Activities & Programs

9.1 Screening Students Engaged in Programs & Activities Outside the United States

9.2 Screening Procedures

10.0 International Travel

10.1 TAMUK-owned Electronic Devices

10.2 Export License Exception Certifications

10.3 Student Travel

11.0 Financial Transactions, Procurement, and Contracts

11.1 Financial Transactions

11.1.1 Vendors

11.1.2 Wire Transfers

11.1.3 Accounts Receivables

11.2 Procurement

11.3 Agreements and Non-sponsored Contracts

11.3.1 Non-Sponsored Agreements and Contracts

11.3.2 Independent Contractors

11.4 Hosted Conferences Allowing International Participation

12.0 Technology Commercialization

13.0 Shipments

14.0 Recordkeeping

14.1 Secure Computing Enclave

15.0 Monitoring

15.1 Office of Compliance

15.2 Other Offices

16.0 Training

17.0 Possible Violations

18.0 Disciplinary Actions

List of Appendices

- A. Definitions**
- B. Decision Making Trees**
- C. Sample Forms – International Travel Forms**
- D. Sample Forms – Technology Control Plan**
- E. Sample Forms – Restricted Party Screening Request form**
- F. Sample Forms – International Visitor Request Form**
- G. Sample Forms – Visiting Scholar Acknowledgment**
- H. Sample Forms – Non-Compliant Explanation**
- I. Traveling Internationally With Electronic Devices**
- J. Applicable Office of Research and Graduate Studies (ORGS) Procedures**

List of Abbreviations

BIS	Department of Commerce Bureau of Industry and Security
CCL	Commerce Control List
CJ	Commodity Jurisdiction
DDTC	Department of State Directorate of Defense Trade Controls
DFAR	Defense Federal Acquisition Regulation
EAR	Export Administration Regulations
FAR	Federal Acquisition Regulation
FRE	Fundamental Research Exclusion
ECCN	Export Control Classification Number
ITAR	International Traffic in Arms Regulations
ITS	Information Technology Services
MTA	Material Transfer Agreement
NDA	Non-Disclosure Agreement
OFAC	Department of the Treasury Office of Foreign Assets Control
OGC	Texas A&M University System Office of General Counsel
ORGS	Office of Research and Graduate Studies
PI	Principal Investigator
RPS	Restricted Party Screening
SDN	List Specially Designated Nationals and Blocked Persons List
TAA	Technical Assistance Agreement
TAMUK	Texas A&M University—Kingsville
TAMUS	Texas A&M University System
TCP	Technology Control Plan
TTC	Texas A&M System Technology Commercialization
USML	United States Munitions List

1.0 Commitment to Export Control Compliance

It is the policy of Texas A&M University—Kingsville (TAMUK) 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)¹ and the Department of State through its International Traffic in Arms Regulations (ITAR)², as well as those imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC)³.

All employees of TAMUK are ultimately individually responsible for ensuring compliance with U.S. export controls laws and regulations, as well as A&M System policies and regulations and TAMUK rules and procedures. It is imperative that TAMUK employees maintain open communication with their respective unit/department head and supervisor about these matters, and recognize that export control laws and regulations apply broadly not just to sponsored research projects or educational activities. The Texas A&M University—Kingsville Export Controls Manual is designed to assist TAMUK employees in the area of export control compliance. Additionally, this manual provides guidance in properly obtaining required administrative approvals while taking a proactive stance towards compliance with associated federal laws, and A&M System policies and regulations. To the extent this manual conflicts with A&M System Policy 15.02, *Export Controls Program Management*, or university rules and procedures, the A&M System Policy supersedes. Acronyms are defined in the Abbreviations section. For the purpose of this manual, definitions are contained in Appendix A.

The Office of Compliance maintains a website with export control information and resources located at: <http://www.tamuk.edu/compliance/export-controls.html>. Questions regarding export controls should be directed to the Office of Compliance at (361) 593-4758.



Joe T. Henderson
Export Control Empowered Official
Chief Ethics and Compliance Officer Office of Compliance
700 University Boulevard MSC 221
Kingsville, Texas 78363
TAMUK.ExportControls@tamuk.edu

¹ The Export Administration Regulations (EAR) 15 CFR 700-799 can be found at <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=02b534f76f96c9c5f13a1d1be8edf8d4&ty=HTML&h=L&n=15y2.1.3.4.45&r=PART>

² The International Traffic in Arms Regulations (ITAR) 22 CFR 120-130 can be found at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title22/22cfr120_main_02.tpl

³ The Office of Foreign Assets Control (OFAC) 31 CFR 500-599 can be found at <https://www.treasury.gov/resource-center/sanctions/Pages/CFR-links.aspx>

2.0 Responsibility

2.1. Individual Responsibility

All TAMUK employees must conduct their affairs in accordance with U.S. export control laws and regulations, while being aware of and responsible for export control implications associated with their work and institutional responsibilities. While compliance with all applicable legal requirements is imperative, it is equally important to maintain an open environment that welcomes the participation of individuals from around the world as part of the university mission. To maintain this balance, TAMUK personnel must be familiar with the U.S. 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, TAMUK personnel may be required to participate in formal training as determined by the university's Empowered Official(s) and/or the employees' supervisors.

Principal Investigators (PIs), with the assistance of the Office of Compliance and other relevant departments, are responsible for compliance with all federal, A&M System, and TAMUK export control laws, regulations, policies, rules, and procedures in the conduct of their research or educational activities. Violation of the export control laws can directly affect PIs through potential fines, loss of research funding, and/or personal criminal liability. To meet this obligation a PI should:

- A. Understand his or her export control obligations and participate in regular trainings to be able to identify export control issues
- B. Be aware of the export control indicators in (but not limited to) Section 3, Identification of Export Control Concerns, and note such information on any internal compliance or assurance forms
- C. Determine—prior to initiation of research or educational activity—whether any information or technology involved in his or her research or educational activity is subject to export control laws or regulations
- D. periodically review his or her research to ensure continuing compliance with export control laws and regulations
- E. If undertaking an export-controlled project, brief those involved in the project of their export control obligations
- F. Understand that any informal discussions, agreements, or understandings entered into with sponsors or entities can impose export control obligations on the PI, and may negate the opportunity to claim key exclusions such as the Fundamental Research Exclusion (FRE)⁴

⁴ As defined: Export Controls—and—National Security Decision Directive 189, the Exclusion applies to “basic and applied research in science and/or engineering at an institution of higher education in the U.S. where the resulting information either is ordinarily published and shared broadly in the scientific community, or has been or is about to be published.”

TAMUK employees are to report suspected or known violations to the Export Controls Empowered Official for TAMUK or the Director of Compliance. Additionally, TAMUK employees shall maintain their commitment to promoting a culture of compliance with all associated laws, regulations, policies, rules, and procedures.

2.2. Empowered Official

The president or designee is the Empowered Official (EO) for TAMUK. The Empowered Official is responsible for authorizing license applications and other approvals required for compliance with export control laws and regulations and serves as TAMUK's representative and point of contact with federal agencies having export control jurisdiction. The Empowered Official is the TAMUK official authorized to bind TAMUK in any proceedings before government agencies with export control responsibilities and has final responsibility for compliance with export control laws and regulations. The EO has the authority to grant exceptions or alternative procedures to the requirements set forth by the Export Controls Compliance Program Manual. Exceptions or alternatives to procedures will be reviewed and evaluated based on internal processes on a case by case basis. Specific activities may require submission of supporting data unique to the circumstance prior to approval.

2.3. Office of Compliance

The Office of Compliance, in cooperation with other offices including the Office of Research and Graduate Studies (ORGS), is responsible for directing and monitoring the university's export control compliance program, recordkeeping, and implementing procedures and/or guidelines to comply with federal export control laws and regulations. These laws and regulations include developing, implementing, and updating this Manual.

When requested, The Office of Compliance will determine, or assist other offices and employees in export control assessments to determine compliance obligations with respect to TAMUK activities involving Foreign Persons or international activities under applicable export control laws and regulations, and determine the applicability of the FRE or other exclusions provided by law. The Office of Compliance will also assist with Restricted Party Screening (RPS)⁵ and Technological Screening and consult with the A&M System Office of General Counsel (OGC) on export control matters as appropriate.

2.4. Research and Graduate Studies (ORGS)

TAMUK's sponsored research activities are administered by the Office of Research and Graduate Studies (ORGS) in accordance with established ORGS Procedures. ORGS's Research Compliance Officer is responsible for notifying the Office of Compliance and Empowered Official of concerns. The Research Compliance Officer works closely with the VP for Research, Pre-Award Director, and

⁵ As defined: "determine[s] 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 TAMU Division of Research."

Empowered Official in identifying export control issues related to research and ensuring that approvals are in place before the initiation of projects.

2.5. University Administrators

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. These employees are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting and assisting the Office of Compliance in implementing the procedures set forth in this Manual, and as otherwise deemed necessary by the Compliance Office for export control compliance.

Departments with the responsibility for administering components of TAMUK's export control compliance program should designate an individual, who has been appropriately trained, to perform routine internal monitoring of export control procedures and practices. Designated assigned delegates from relevant administrative departments and academic colleges are tasked with conducting Restricted Party Screenings (RPS) for their department. The Office of Compliance serves as a secondary screening source for these departments.

3.0 Identification of Export Control Concerns

3.1. Export Control Red Flags

The following are indicators that an export control review should be conducted to ensure that no violations will occur:

- (a) The results of research conducted at TAMUK or by TAMUK employees are intended for military purposes or for other restricted end uses under EAR.
- (b) Foreign Persons will have access to Controlled Physical Items on campus.
- (c) Software including encryption features will be developed or purchased.
- (d) TAMUK 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.
- (e) A proposed financial transaction will involve embargoed countries or entities, individuals located in embargoed countries or, who are on prohibited or restricted end-user lists as determined by Restricted Party Screening (RPS).
- (f) The sponsor requires pre-approval rights over publications or the participation of Foreign Persons.
- (g) The project requires the shipping of equipment, chemicals, or biologicals to a foreign country.
- (h) Other Red Flag Indicators: The Department of Commerce, Bureau of Industry and Security has posted a list of Red Flag Indicators of Things to Look for in Export Control Transactions:

see <http://www.bis.doc.gov/index.php/enforcement/oe/compliance/23-compliance-atraining/51-red-flag-indicators>

3.2. Restricted Party and Technology Screening

3.2.1. Restricted Party Screening (RPS)

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.

In order to ensure that TAMUK 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, TAMUK must screen individuals and entities as provided in this Manual. TAMUK has licensed export control compliance software (Visual Compliance) that permits assigned delegates to screen Restricted Party Lists electronically. Those with a business need to access and use the software will complete and submit an authorization request form to the Office of Compliance. No access/use will be authorized without approval by the Empowered Official. To obtain authorization to use the export control compliance software, the user's supervisor must submit a request to the Office of Compliance to activate access to the compliance software. The administrative departments and academic colleges requesting the authorization of a new user are responsible for screening the individual using the export control compliance software before submitting the authorization request form. The requesting department/college is also responsible for ensuring that the proposed user has completed the basic online export control training course delivered via TrainTraQ. Assigned delegates are limited to United States citizens and legal permanent residents who are fulltime employees of TAMUK. The export control compliance software performs Restricted Party Screening against all relevant U.S. Government lists, including: Department of Treasury Office of Foreign Assets Control (OFAC) Sanctions, Department of Commerce Bureau of Industry and Security (BIS) Denied Persons List, Department of Commerce BIS Entity List and Unverified List, Department of State Arms Export Control Act Debarred Parties, Department of State Designated Terrorist Organizations, Department of State Nonproliferation Orders. Screening includes exact, fuzzy, and phonetic searches.

3.2.2. Technology Screening

The U.S. Department of Commerce, and the U.S. Department of State, along with various other government agencies control what technology, items, goods, services, etc. may be permissibly exported outside of U.S. territory. In order to ensure that TAMUK is in compliance with all export regulations, TAMUK must screen the technology that it intends

to export. Screening of technology is accomplished using the same export control compliance software used to perform restricted party screening. This software allows for a search of the technology the university plans to export via the Export Administration Regulations (EAR) Commerce Control List (CCL) list and the International Traffic in Arms Regulations (ITAR) / U.S. Munitions List (USML). The export control compliance software will notify the screener if a cross match is found on another listing and what applicable licenses may be required.

3.2.3. Possible Matches (“Hits”)

Assigned delegates should conduct screening in accordance with their college/department’s internal procedures and by completing the Restricted Party Screening Request form in Appendix E. If there is a possible match of the party being screened with a party on a Restricted Party List (a “hit”), a secondary screening should be conducted using additional detailed information to confirm the possible match. If the hit cannot be ruled out on secondary screening, the possible match should be forwarded to the Office of Compliance, along with the criteria used to determine the possible match. Upon further investigation, the Office of Compliance will make a determination. The Office of Compliance is responsible for maintaining records of its determinations. The departments/colleges of assigned delegates are responsible for maintaining records of determinations that are not forwarded to the Office of Compliance, as provided in Section 14, Recordkeeping.

3.2.4. Assigned delegates

On an annual basis, the Office of Compliance will generate a department/college list of assigned delegates. The list will be sent to the administrative department head, college dean, or designee to confirm that the individuals listed are still assigned delegates for that specific department/college. Assigned delegates will be limited to those with business need only. The Office of Compliance may limit the number of assigned delegates as it deems appropriate.

4.0 Research and Graduate Studies

Most data and information involved in university research is excluded from export control regulation under the ITAR or EAR based on several key provisions: (a) the Public Domain Exclusion; (b) the Fundamental Research Exclusion (FRE); and (c) the Exclusion for Educational Information. It is important for researchers and others involved in research to be aware of these key exclusions and to understand that their benefits can be lost if certain provisions are present in research-related agreements. For this reason, PIs should avoid entering into informal understandings or “side agreements” with research sponsors that restrict Foreign Persons access to the research or that impose sponsor controls on the publication or other dissemination of research results. It is important to remember that the restrictions enforced by OFAC are not affected by ITAR, EAR, or the FRE.

4.1. Contract Provisions of Concern

Certain agreement provisions may negate the FRE 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 this 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, below).
- (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.

4.2. Specific U.S. Government Access and Dissemination Controls

Specific access and dissemination controls may be buried within the language of FARs, Defense Federal Acquisition Regulations (DFARs), and other agency-specific regulations included as part of a prime contract, or flowed down in a subcontract. These problematic clauses include, but are not limited to:

A. FAR 52.227-14 (Rights in Data - General)

Grants the Government unlimited rights in data first produced or delivered under the contract. Government approval is required to assert copyright in data first produced in the performance of the contract and not published in academic, technical or professional journals, symposia proceedings, or similar works. For basic or applied research, suggest

requesting Alternate IV to lift this restriction. Alternate IV provides the Contractor with the right to copyright data without Government permission.

B. FAR 52.227-17 (Rights in Data - Special Works)

Prevents the release, distribution, and publication of any data originally produced for the Government's internal use and represents an absolute restriction on the publication or dissemination of contractor-generated data. It should not apply to basic and applied research and should be removed from the contract on the basis of exceptions to this clause's applicability. Refer to FAR 27.405-1 (a).

C. DFAR 252. 204-7000 (Disclosure of Information)

States, "Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract." Three exceptions apply:

1. if the contracting officer has given prior written approval;
2. where the information is already in the public domain prior to date of release;
3. if the research is determined in writing to be fundamental research by the Contracting Officer.

Refer to FAR 27.404-2 & 3 and NSDD-189 as justification for getting the restriction removed. Also, can refer to IRS Ruling 76-296. May also add alternate language that allows for review and comment on publications.

D. DFAR 252.225-7048 (Export-Controlled Items)

States, "The Contractor shall comply with all applicable laws and regulations regarding export-controlled items, including, but not limited to, the requirement for contractors to register with the Department of State in accordance with the ITAR. The Contractor shall consult with the Department of State regarding any questions relating to compliance with the ITAR and shall consult with the Department of Commerce regarding any questions relating to compliance with the EAR." May have to require the PI to certify that the project does not involve any items that are subject to Export Control Laws.

E. ARL 52.004-4400 (Approval of Foreign Nationals)

All Foreign Nationals must be approved before beginning work on the project. Contractor is required to divulge if any Foreign Nationals will be working on the project. Provision of name, last country of residence, citizenship information, etc. is required. This clause is commonly found in contracts involving Controlled Technology and sponsored by military agencies. May need to require the PI to certify that no Foreign Nationals will be working on the project. If no Foreign Nationals will be employed on the project, Contractor may

disregard this clause. If the PI is doing basic research and the sponsor will take those results and work on the controlled technology at another location, may be able to delete this clause.

F. ARL 52.005-4401 (Release of Information)

Includes reference to “non-releasable, unclassified information” and a requirement to “confer and consult” prior to release of information. It is unclear what the review entails. Therefore, the sponsor retains publication/information approval, which voids the FRE. Substitute with ARL Cooperative Agreement Language: Prior Review of Public Releases, “The Parties agree to confer and consult with each other prior to publication or other disclosure of the results of work under this Agreement to ensure that no classified or proprietary information is released. Prior to submitting a manuscript for publication or before any other public disclosure, each Party will offer the other Party ample opportunity (not to exceed 60 days) to review such proposed publication or disclosure, to submit objections, and to file application letters for patents in a timely manner.”

G. AFMC 5352.227-9000 (Export-Controlled Data Restrictions)

Requires an export license prior to assigning any Foreign National to work on the project or allowing Foreign Nationals access to the work, equipment, or technical data generated by the project. Foreign Nationals make up a large portion of TAMUK’s scientific undergraduate, graduate, post-doctoral, and visiting scholar population. Often, it is difficult to find qualified U.S. citizens to work on these projects. Also, many students depend on these projects to complete their theses or dissertations. Need to ask the PI if the project is basic or applied research. If yes, it may fall under an ITAR exclusion. May also ask the defense contractor if foreign students are allowed to work on the project. If yes, obtain confirmation in writing.

4.3. Procedures Applicable to Research Agreements and Subcontracts

- (a) In the case of sponsored research agreements administered through ORGS, ORGS has adopted the Export Control Screening Procedures attached as Appendix J.
- (b) Other research related agreements should be screened in a manner similar to the process described in Section 3, Restricted Party and Technology Screening. Questions should be directed to the Office of Compliance.
- (c) For material transfer agreements administered by ORGS, ORGS conducts RPS of parties and ensures that the substance of the transaction is screened for export control purposes.
- (d) Potential export control issues should be forwarded to the Office of Compliance for resolution.

4.4. Resolving Export Control Issues

When a potential export control issue is identified, the Office of Compliance will work with the parties involved, as appropriate, and determine what course of action should be taken to address the issue. In many cases, no license or other authorization may be necessary. In each case, the Office of Compliance will determine whether:

- (a) the conditions merit an application for a license or other authorization,
- (b) the conditions are such that an exclusion or license exception may be obtained, or
- (c) a Technology Control Plan (TCP), or other requirements for the conduct of the research, will be necessary to prevent an unauthorized deemed export of the technology from occurring.

The Office of Compliance will notify the PI, ORGS, and others, as appropriate, of the Office of Compliance export control determinations. The Office of Compliance will maintain records of screenings, as provided in Section 14, Recordkeeping.

4.5. Technology Control Plan

4.5.1. Development

If a project, facility, or item is identified as export-controlled, the Research Compliance Division will work with the PI, facility managers, and others as appropriate, to develop and implement a TCP to secure the Controlled Technology from access by unauthorized Foreign Persons. A sample TCP template can be found in Appendix D of this Manual and will typically include:

- (a) a commitment to export controls compliance;
- (b) identification of the relevant export control categories and Controlled Technologies;
- (c) identification of the project's sponsors;
- (d) identification and nationality of each individual participating in the project;
- (e) appropriate physical and informational security measures;
- (f) personnel screening measures and training; and
- (g) appropriate security measures for the duration of the project for and following project termination.

4.5.2. Appropriate Security Measures

The TCP will include physical and informational security measures appropriate to the export control categories related to the project/facility/item. Examples of security measures include, but are not limited to:

- (a) Laboratory Compartmentalization- Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must remain locked at all times.
- (b) Time Blocking- Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.

- (c) Marking- Export-controlled information must be clearly identified and marked as export-controlled.
- (d) Personnel Identification- Individuals participating on the project may be required to wear a badge, special card, or other similar device indicating authority to access designated project areas. Physical movement into and out of a designated project area may be logged.
- (e) Locked Storage- Tangible items such as equipment, associated operating manuals, and schematic diagrams should be stored in rooms with key-controlled access. Soft and hardcopy data, lab notebooks, reports, and other research materials should be stored in locked cabinets.
- (f) Electronic Security- Project computers, networks, and electronic transmissions should be secured and monitored through User IDs, password controls, 128-bit Secure Sockets Layer encryption, or other federally approved encryption technology. Database access should be managed via a Virtual Private Network⁶.
- (g) Confidential Communications- Discussions about the project must be limited to the identified and authorized project participants, and only in areas where unauthorized individuals are not present. Discussions with third party subcontractors must occur only under signed agreements which fully respect the Foreign Person limitations for such disclosures.

4.5.3. Export Licensing

The Office of Compliance will determine if a license, Technical Assistance Agreement, Manufacturing License Agreement, ITAR Registration, or other authorization is the appropriate method to address an export control issue. If this is the case, the designated assigned delegates from relevant administrative departments and academic colleges will consult with the PI and other appropriate parties to gather all the information needed to submit the appropriate documentation to seek a license or other authorization. Once the Office of Compliance is notified of the details of the export control issue, the empowered official will make a recommendation that a license or other authorization should be obtained. The empowered official will request the license or other authorization from the cognizant agency with assistance from OGC as appropriate.

5.0 Employment

5.1 Employment of Nonimmigrant Foreign Nationals

It is important for hiring departments/colleges to be aware that the ability to hire nonimmigrant Foreign Nationals for certain positions may be restricted or prohibited by export control laws. For

⁶ A mechanism for providing secure, reliable transport over the Internet. A VPN uses authentication to deny access to unauthorized users, and encryption to prevent unauthorized users from reading the private network packets. The VPN can be used to send any kind of network traffic securely, including voice, video or data.

example, nonimmigrant Foreign Nationals may be restricted or prohibited from performing employment responsibilities related to certain information technology systems positions, to the extent the work will involve access to Controlled Information or Items. Supervisors proposing to hire nonimmigrant Foreign Nationals should carefully consider whether or not the proposed employment will involve access to Controlled Information or Items before extending offers of employment. If nonimmigrant Foreign Nationals are prohibited by export control laws from performing the employment responsibilities associated with a position, the Notice of Vacancy (NOV) may be posted in such a way that those individuals are notified ahead of time that they cannot be considered. The following statement may be added to the “Comments to Applicant” section of the NOV: nonimmigrant Foreign Nationals are prohibited by export control laws from performing the employment responsibilities associated with this position; sponsorship is not available.

The Employee Services department will conduct Restricted Party Screenings on staff and faculty hires. The department/college hiring student workers must submit the Restricted Party Screening Request Form, Appendix E, to their export control assigned delegate for screening for all Foreign National graduate assistant and student hires. Records will be kept in accordance with section 14, Recordkeeping.

When hiring individuals under certain visa statuses (H-1B, O-1A or H-1B1), supervisors are required to complete a Deemed Export Control Attestation. The Deemed Export Control Attestation certifies that technology or technical data to be released or accessed by the nonimmigrant Foreign National, as a result of the offered employment, may or may not require a license. Records will be kept in accordance with section 14, Recordkeeping.

Any export control issues related to the hiring of nonimmigrant Foreign Nationals should be referred to the Compliance Office or Employee Services for resolution as appropriate.

5.2 Faculty Consulting and/or External Professional Employment

Faculty consulting and/or external professional employment with a foreign entity, is subject to further review as provided by University Rule, *31.05.01.K1, Faculty Consulting and/or External Professional Employment*.

6.0 International Visitors to Texas A&M University-Kingsville

6.1. Responsibility to Request Authorization to Visit

All TAMUK employees intending to invite or host international visitors have the responsibility to complete and submit the International Visitor Request Form, Appendix F, at least 90 days in advance of the proposed visit. International visitors have been delineated into two categories: exempt and non-exempt. Qualifications for these statuses are fully outlined below.

6.1.1. Exempt International Visitors

Exempt international visitors are visitors that meet one or more of the following conditions with respect to the anticipated visit:

1. the visitor will meet with colleagues to discuss a possible research project or collaboration,
2. the visitor will tour labs or research facilities that are not otherwise restricted under the United States (U.S.) export control laws; or
3. The visitor will participate in general academic or scientific meetings or presentation.

6.1.2. Non-Exempt International Visitors

Non-Exempt international visitors are visitors that meet one or more of the following conditions with respect to the anticipated visit:

1. The visitor 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;
2. The visitor will be issued a Texas A&M University-Kingsville identification card, keys to offices or laboratories, or otherwise be given access to the TAMUK computing system in any manner; or
3. The visitor will be paid an honorarium, will be reimbursed for expenses, or will be provided something of value.

6.2. No Authorization to Access Controlled Information, Controlled Physical Items

No international visitor may have access (whether verbal, written, electronic, and/or visual) to controlled information or controlled physical items unless expressly permitted via an approved TCP, license, or as authorized in writing by Office of Compliance. It is the responsibility of the TAMUK employee hosting the visitor to ensure compliance with export control restrictions, and to promptly disclose and report any violations to the empowered official or the Office of Compliance.

6.3. Restricted Party Screening of International Visitors

Screening of international visitors includes the screening of the foreign entity or institution where the International Visitor is employed. Screening is needed whenever a written or verbal invitation to visit TAMUK is made to an international visitor regardless of whether:

- (a) The international visitor is present or not in the United States.

- (b) TAMUK needs to sponsor the international visitor for visa purposes under the J-1 Visitor Program.⁷
- (c) TAMUK does not need to sponsor the international visitor for visa purposes because he or she is traveling or has entered the United States under the Visa Waiver Program a B-1/B.

6.4. Procedure to Notify and Request Authorization to Visit

6.4.1. Exempt International Visitors

TAMUK employees intending to host international visitors which are determined to be exempt international visitors (as defined in section 6.1.1, Exempt International Visitors) will contact their department's assigned delegate at least 90 days in advance of the intended visit. The department's assigned delegate and the Office of Compliance will work directly with the host in determination of any potential export controls issues associated with such visit.

Any changes in the initial terms and intent of the visit that would make such exempted international visitor fall under one or more of the non-exempt conditions listed in section 6.1.2, Non-Exempt International Visitors, will require the host employee to immediately notify the Office of Compliance. The host will be responsible for completing the International Visitor Request Form, Appendix F.

6.4.2. Non-Exempt International Visitors and Visitor Exchange Program

Prior to the visit, faculty, researchers, and administrators inviting and hosting international visitors as non-exempt international visitors and visiting scholars, scientists, or interns must complete a Visiting Scholar Acknowledgment, Appendix G, or any other form identified from time-to-time by the Office of Compliance.

Completed Visiting Scholar Acknowledgment must be submitted to Office of Compliance and the Office of International Student & Scholar Services. Submission is required regardless of whether the visit involves or results in a financial disbursement (i.e. honorarium, reimbursement of expenses, and alike) payable to the international visitor. The Office of Compliance will conduct an export controls review of the proposed visit for Texas A&M University-Kingsville. Any other export control issues raised in the International Visitor Request form, Appendix F, will be addressed by the Office of Compliance with the host department's assigned delegate and the requesting host. If RPS results cause restrictions to be imposed, The Office of Compliance must be notified by the assigned delegate in an attempt to resolve such issues.

⁷ For example, Foreign Persons may come to visit TAMUK under the J-1 visitor program in the following instances: (a) Sabbaticals with their own funding; (b) Conducting collaborative research funded by their home institution or government; (c) Fulbright or other similar type of sponsorship; and (d) Student internship, paid or unpaid.

Once approved, a copy of the approval (and associated documents) will be sent to the requesting department, and the Office of International Student & Scholar Services to initiate the visa process for those instances in which Texas A&M University-Kingsville needs to sponsor the international visitor. This process will also be followed for instances in which the international visitor is traveling under the Visa Waiver Program, a B-1/B-2 visa, or other nonimmigrant visa status as indicated properly on the annotated I-94. In the event that payment for services or reimbursement will be made, a Restricted Party Screening must be completed prior to payment. When the international visitor is setup as a vendor, a secondary screening pursuant to section 11.1 of this manual will be conducted.

7.0 International Student Admissions

Admission applications received from citizens of embargoed countries including but not limited to, Iran, Cuba, Syria, Sudan, or North Korea, will be subject to RPS prior to admission. An assigned delegate will conduct screenings on applications received and the results will be added to the applicant's file. If there is a match resulting from the applicant's screening, the delegate will submit a Restricted Party Screening Request Form, Appendix E, with the applicant's information to the TAMUK Office of Compliance for secondary screening and further review/action. Records will be kept in accordance with section 14, Recordkeeping.

8.0 Distance Learning

Distance Learning at Texas A&M University-Kingsville refers to credit-bearing, transcript courses offered to registered students where the course delivery occurs in a setting where the students and instructor of record are not in the same place at the same time or, where the instruction for the course occurs at an approved, off-campus educational site. This instruction can be in the form:

A. Internet Courses

A course in which 85% or more of the planned instruction occurs when the students and instructor(s) are not in the same place. This type, of course, may have mandatory face-to-face sessions totaling up to 15% of the instructional time. Examples of face-to-face sessions include orientation, laboratory, exam review, or an in-person test.

- face-to-face time = less than or equal to 15%
- web-substituted content = greater than or equal to 85%

B. Hybrid / Blended Courses

A course in which a majority (more than 50% but less than 85%), of the planned instruction, occurs when the students and instructor(s) are not in the same place. Learning management systems enhance delivery with pre-declared (on course schedule) face-to-face substitution.

- face-to-face time = less than 50%
- web-substituted content = greater than 50% and less than 85%

C. Videoconference Courses

TTVN (formerly known as the Trans-Texas Videoconference Network) is the wide area data and interactive communications network that serves the campuses and agencies of the Texas A&M System. The network also serves some affiliated colleges and universities, K-12 school districts, and state agencies throughout Texas. The core TTVN network consists of over 100 primary wide area network sites and more than 300 videoconference sites.

Due to the element of distance in this education delivery method, export control concerns may arise. It is the responsibility of the academic department offering the course and the instructor of record to ensure export control requirements are reviewed before delivery and any concerns addressed with the Office of Compliance.

8.1. Faculty

To ensure compliance with export controls, the faculty is required to verify the status of their distance learning course in regards to the compliance guidelines in place. When offering a distance learning course, faculty must first submit a Request to Offer Distance Education course form. An acknowledgment box addressing compliance with export control protocols must be reviewed and checked to submit the form.

If a faculty member is unsure about their course or its content, it is recommended that they speak to the Office of Compliance.

8.2. Students

The export of service, including educational instruction, is prohibited to certain sanctioned and embargoed countries.⁸ This means that students cannot receive educational instruction without a proper license while physically located in a prohibited country.

Before registration, each student will be asked to certify that they will not access any TAMUK online courses while located in any embargoed or sanctioned country listed by the Office of Foreign Assets Control (OFAC).

Every student must accept the Distance Learning - Export Control Acknowledgment before registering for classes. Export Control compliance is required by law. Students who do not accept the terms cannot register for classes.

⁸ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions

Texas A&M University - Kingsville makes no representation that materials available on online courses are appropriate or available for use in other locations. Access to course content from territories where such content is illegal is prohibited. Those who choose to access online courses from the specified locations do so on their own initiative and are responsible for compliance with applicable laws and registration penalties.

Students who plan on visiting any of the prohibited countries listed above while actively enrolled in courses at TAMUK should contact the Office of Compliance

9.0 Student Engagement in International Activities & Programs

The TAMUK Office of International Studies & Programs is responsible for developing and implementing internal operating procedures to ensure TAMUK study abroad activities and programs are screened for compliance with export control laws and regulations, and will coordinate with the Office of Compliance to do so. In the case of TAMUK students' international travel, it is the responsibility of the university activity organizer to seek and obtain appropriate export control approvals from the Office of Compliance for activities including, but not limited to, the following: execution of agreements performable outside the United States; non-credit bearing travel; and making payments to Foreign Persons or vendors

9.1. Screening Students Engaged in Programs & Activities Outside the United States

All Foreign Persons enrolled in a TAMUK credit bearing program abroad or participating in a TAMUK non-credit bearing program, activity, or field trip abroad, who have not previously attended TAMUK and are not enrolled as continuing students at a college or university based in the United States, will undergo RPS prior to participation in the Study Abroad program or in the non-credit bearing program, activity, or field trip as soon as reasonably possible once identified.

9.2. Screening Procedures

The International Studies & Programs assigned delegates will be responsible for completing RPS for Foreign Persons involved in TAMUK student international travel. Records will be kept in accordance with section 14, Recordkeeping.

10.0 International Travel

TAMUK employees and students traveling on TAMUK business or traveling with TAMUK property are responsible for complying with export control laws and regulations when traveling outside the U.S. A license may be required depending on which items are taken, which countries are visited, or whether defense services/information are provided to a Foreign Person. The traveler or the traveler's supervisor should work with their administrative department's or academic college's assigned

delegate for an export control assessment of their international travel and contact the Office of Compliance with any potential export control concerns.

When planning a trip abroad, travelers should think about the purpose of their trip, who they plan to interact with, what they will take, where they will go and how long will they be gone when making export control assessments. Items that are not needed should not be taken abroad. International travelers should consult with their administrative department's or academic college's assigned delegate if they are thinking about taking encrypted software, Controlled Items/Information, unpublished research data or data not in the public domain, or if traveling to an embargoed⁹ country to conduct university activities. Some travel related activities/destinations may be prohibited and others may require a license. The Office of Compliance can assist the assigned delegates with these assessments and ensure compliance with export control requirements.

10.1. TAMUK-owned Electronic Devices

TAMUK employees and students traveling outside the U.S will not export university owned/issued electronic devices, including but not limited to, laptops and tablets without prior authorization. If an electronic device is required for international travel, TAMUK employees must request a loaner device from Information Technology Services (ITS). Only TAMUK loaner devices from ITS will be allowed to be carried internationally. Requests for ITS loaner devices must be made at least two (2) weeks before international travel. While in a foreign country, travelers must utilize the TAMUK Virtual Private Network (VPN) connection. The VPN requires the use of DUO 2-factor authentication. Additional information about exporting devices can found in the "Traveling Internationally with Electronic Devices" Handout in Appendix I.

10.2. Export License Exception Certifications

Most travel for conferences will fall under an exclusion to the export control regulations, e.g., the Publicly Available/Public Domain Exclusion, 22 C.F.R. 120.11 and 15 C.F.R. 734.3. Information that is published and is generally accessible to the public through publication in books or periodicals or information that is presented at a conference (excluding a closed conference), meeting, seminar, trade show, or other open gathering is considered to be in the public domain. An open gathering is one in which members of the general public are eligible to attend, and attendees are permitted to take notes.

TAMUK employees and students traveling outside the U.S. with laptops, PDAs, cell phones, data storage devices, or encrypted software must ensure that there is no Controlled Information on such devices unless there is a specific license or other authorization in place for the information for that destination. Any individual intending to travel with or transmit Controlled Information outside the U.S. should first consult with the assigned delegate in their department or academic college. There are a number of exceptions and exclusions which may apply depending upon the

⁹ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions

facts and circumstances of each case. If personal computers or other storage devices are taken abroad that contain encrypted software, a government license or other government approval for export may be required when traveling to certain countries.

Temporary exports under the "Tools of Trade" license exception apply when equipment and encrypted software are:

- (a) Hand-carried with the individual while traveling,
- (b) Carried in the luggage or baggage that travels with the individual, or
- (c) Shipped no more than thirty days prior to the individual's departure or may be shipped to the individual at any time while the individual is outside the country.

Generally, no government export license is required so long as an individual:

- (a) retains their laptop computer, PDA, cell phone, data storage devices and encrypted software under their personal custody and effective control for the duration of travel; (Note: In some instances, personal custody requires the person to have with them during meals, etc.)
- (b) does not intend to keep these items in these countries for longer than 1 year; and
- (c) the individual is not traveling to an embargoed country¹⁰,

Note that these license exception is not available for equipment, components, or software designed for use in/by/with most satellites or spacecraft. "Effective control" means retaining physical possession of an item or maintaining it in a secure environment.

Researchers frequently need to take other TAMUK equipment temporarily outside of the United States for use in university activities. Often, but not always, the "tools of trade" license exception applies. Some equipment (e.g., global positioning systems (GPS), thermal imaging cameras, inertial measurement units, and specialty software) is highly restricted and may require an export license, even if one hand carries it. Individuals intending to take TAMUK equipment other than a laptop computer, PDA, cell phone, or data storage devices, abroad should contact their department's or academic college's assigned delegate and notify Research Compliance, if related to research, to determine if an export license or other government approval is required prior to taking the equipment out of the country. See attached Export License Exception (TMP), Appendix C, for use by travelers as appropriate, to document the application of the one-time license exception for university property.

- The (TMP) Certification documents the "tools of the trade" items a traveler plans to take (such as a university laptop or any other device owned by the university)

It is important to note that activities involving teaching or training Foreign Persons how to use equipment may require a license. Contact the Office of Compliance for information on applicable travel exemptions and exceptions.

¹⁰ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions

10.3. Student Travel

For student travel information, please see section 9.0, Student Engagement in International Activities & Programs.

11.0 Financial Transactions, Procurement, and Contracts

TAMUK (Accounts Receivables, Cash Management, Disbursements, and Procurement and Contracts), in cooperation with the Office of Compliance, is responsible for developing and implementing procedures to screen financial transactions as appropriate for compliance with export control laws and regulations.

11.1. Financial Transactions

11.1.1. Vendors

TAMUK departments that use Javelina Buy will have RPS completed by Texas A&M University for all international non-employee vendors in accordance with their internal procedures. TAMUK departments not using Javelina Buy will request that their department's assigned delegate complete required screenings, print out the notification and attach it to the vendor application. This procedure ensures that due diligence was done by the department and the Accounts Payable and Property Accounting office can proceed to setup said vendor in our internal accounting system.

11.1.2. Wire Transfers

Restricted Party Screenings will be conducted for all international wire transfers by the department/college delegate assigned to the requesting department. Once all required documentation is received by the Accounts Payable and Property Accounting office they will begin the wire transfer process. The university will utilize Flywire (formerly peerTransfer) to make payments to student accounts by international wire transfer. Flywire has strict internal controls and insurance programs in place to ensure funds are safe. Flywire also enforces strict information security and privacy policies. All names and addresses of senders will be passed through certified checkpoints using the LexisNexis database and risk management solutions. Records will be kept in accordance with section 14, Recordkeeping.

11.1.3. Accounts Receivables

Departments invoicing Foreign Persons or entities will contact their assigned delegate before sending the invoice or invoice request. Once the assigned delegate receives the appropriate documentation he/she will then conduct RPS and respond to the requesting department with a notification of the completed RPS. Once all of the required documentation is received, the Accounts Payable and Property Accounting will proceed

with accepting the incoming international wire transfer. Records will be kept in accordance with section 14, Recordkeeping.

11.2. Procurement

TAMUK employees making international purchases under department delegation will be responsible for ensuring such transactions comply with export control laws and regulations. These employees are also responsible for coordinating with the Procurement Services office, along with their department's assigned delegate, to resolve any export control issues prior to the intended purchase. International purchases coordinated through Procurement Services require departments' assigned delegates to conduct RPS. Each department is responsible for contacting their assigned delegate to conduct RPS prior to an international purchase. If the intended purchase falls within any of the controlled categories on the U.S. Munition List (USML), or the Commerce Controlled List (CCL), the item must be classified prior to purchase, see Appendix B, Classification of Export Controlled Items. The Office of Compliance will coordinate any license applications or Technology Controlled Plans (TCP) for export-controlled items as needed. If the assigned delegates are unsure of any export controls compliance associated with procurement, such as purchasing of export-controlled equipment or items, they must contact the Office of Compliance for additional assistance.

11.3. Non-sponsored Agreements and Contracts

11.3.1. Non-Sponsored Agreements and Contracts

For contracts (such as Memorandum of Understandings, Memorandum of Agreements, or MTAs) processed through TAMUK, RPS will be conducted on all international sponsors, and such agreements will be assessed for export control implications. The Procurement Services Office will notify its department's assigned delegate by forwarding agreements and non-sponsored contracts so RPS and export control assessments can be conducted. The Procurement Services department's assigned delegate will return such agreements to Procurement Services as notification of the completed RPS and assessment. Records will be kept in accordance with section 14, Recordkeeping.

11.3.2. Independent Contractors

For independent contractor requests processed through the Procurement Services Office, RPS will be conducted for international independent contractors before the work and transaction processes take place. Requesting departments are required to complete a Restricted Party Screening Request form, when requesting for a screening of independent contractors. The department's assigned delegate must receive a completed form so RPS can be conducted. The assigned delegate will return the form and screening results to Procurement Services as notification of the completed RPS. Records will be kept in accordance with section 14, Recordkeeping.

11.4. Hosted Conferences Allowing International Participation

RPS will be conducted for all international registrants attending conferences hosted by TAMUK employees. The hosting department's or college's assigned delegate will coordinate with the host employee to ensure materials being presented and locations toured do not need any further export control compliance actions.

A. Event Planning Managed Conferences

The event host must provide their department's assigned delegate access to conference registration rosters for those conferences offering international participation. The assigned delegate will conduct RPS for international registrants periodically as the conference date approaches. Additionally, the event host must contact the assigned delegate ensure no further export controls compliance action items are needed in relation to such conference. Records will be kept in accordance with section 14, Recordkeeping.

B. Conferences Managed by Other Entities

If a TAMUK employee intends to host a conference not managed through Event Planning and allowing international participation, the host will contact their college or department's assigned delegate to work through any potential export controls concerns. RPS will be conducted by the assigned delegate and they will work with the host in ensuring no further export controls compliance action items are needed in relation to said conference.

12.0 Technology Commercialization

TAMU Technology Commercialization (TTC) has developed, implemented, and maintained procedures to address the export control implications of their work, including procedures related to RPS, invention disclosure screening, etc. All new TAMUK technology disclosures will be reviewed by the Office of Compliance, and other offices as appropriate. Any potential export-controlled issues will be referred to the Office of Compliance or appropriate A&M System member compliance office for recommended handling.

13.0 Shipments

It is the responsibility of TAMUK employees who are shipping items outside, or inside, the U.S. (including hand-carrying items such as research equipment, computers, materials, data, chemicals, or biological materials) to comply with export control laws and regulations. Any transfer of project information, equipment, materials, or technology out of the U.S. by any method may be subject to export control restrictions, may require an export license or may be prohibited depending on the item, destination, recipient, and end-use. Even if an item is cleared through U.S. Customs, it may still

require an export control license. Employees must contact their college /department's assigned delegate with assistance in shipping.

The simple act of sending a package to a foreign collaborator can result in a violation of export controls. Also, shipping to countries subject to embargoes¹¹ must first be cleared by the assigned delegate. Department personnel who are responsible for shipping packages out of the country should obtain a list of contents before shipping, and contact their college/department's assigned delegate with any questions.

Individuals planning to ship any biological material and/or chemical must contact the TAMUK Environmental Health and Safety Office for authorization prior to shipping. The Environmental Health and Safety Office will work with the Office of Compliance on requests involving shipments of controlled chemicals and/or biological materials. Shipments of controlled items should be planned well in advance with the Office of Compliance, as it may take several weeks to several months to obtain any necessary licenses.

Every effort should be made to correctly label a package and accurately represent the classification of the item because mislabeling and misclassification, regardless of intent, is a violation of the law. Under-invoicing or under-valuing an exported item is a violation of law, as reporting an incorrect export value on a Shippers Export Declaration also violates export regulations.

A shipping decision tree is available in Appendix B of this manual for shipping-related questions and concerns. Any potential export control issues regarding shipping should be referred to Office of Compliance for assistance and resolution.

14.0 Recordkeeping

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

- A. the record retention period required by the applicable export control regulations (see 15 C.F.R. Part 762 (EAR); 22 CFR Sections 122.5, 123.22, and 123.26 (ITAR); and 31 CFR 501.601(OFAC), or
- B. the period required for the retention of records as set forth in System policies and regulations, university rules/procedures, and the System records retention schedule.

Records will be maintained by the Office of Compliance or other relevant departments and offices, as appropriate. Unless otherwise provided for, all records indicated herein will be maintained consistent with the System record retention schedule, and must be retained no less than five (5) years after the

¹¹ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions

project's TCP termination date or license termination date, whichever is later (subject to any longer record retention period required under applicable regulations).

14.1 Secure Computing Enclave

As described in the Defense Federal Acquisition Regulation Supplement (DFARS) 252.204-7012, research utilizing or developing Controlled Defense Information (CDI) is subject to the standards outlined by the National Institute of Standards and Technology Special Publication 800-171 (NIST SP 800-171). The A&M System Research Security Office (RSO) has determined that meeting most of the technology requirements of NIST SP 800-171 can be accomplished by deploying a Secure Computing Enclave (SCE) for the A&M System. The Texas A&M University System Research Security Office administers the System's controlled unclassified information program. TAMU-K will work closely with the System RSO when materials are identified necessitating CUI related-protection.

15.0 Monitoring

Export control compliance and monitoring is a shared responsibility coordinated by TAMUK's Export Control Office in cooperation with various other offices and departments within Texas A&M University-Kingsville.

To maintain the TAMUK export control compliance program, and ensure consistent adherence to U.S. export control laws and regulations, TAMUK has adopted the following Export Control Compliance Monitoring Plan.

15.1. Office of Compliance

As part of its overall responsibility for directing and monitoring TAMUK's export control compliance program, The Office of Compliance will conduct periodic self-assessments of TAMUK's compliance with export control laws and regulations and report its findings to the Empowered Official and/or President as appropriate. The purpose of the reviews is to identify possible violations, and to identify deficiencies in training, procedures, etc. that can be rectified.

The reviews will assess the adequacy of procedures designed to ensure compliance with export control laws and regulations; evaluate controls implemented to ensure compliance with TAMUK rules and procedures; and test the effectiveness of the controls in one or more areas such as:

- (a) Recordkeeping
- (b) Procedures
- (c) Training/Education
- (d) Restricted party screening
- (e) Technology screening and control plans
- (f) Project/transaction screening
- (g) Personnel/visitor screening

The reviews will be conducted on a periodic basis. The results of the reviews will be reported to the Empowered Official.

The Office of Compliance will work with TAMUK departments and colleges to ensure that any deficiencies identified will be rectified by the affected TAMUK office and will conduct appropriate follow up to monitor the implementation of any corrective actions. Suspected violations of U.S. export control laws or regulations will be reported to Empowered Official and/or President as appropriate.

15.2. Other Offices

TAMUK departments and colleges with responsibility for administering components of TAMUK's export control compliance program designate their assigned delegate to perform routine internal monitoring of export control procedures and practices within their assigned department or college as outlined above. The scope of these internal reviews should be consistent with section 15.1.

The internal reviews should be conducted on a periodic basis. The results of the internal reviews should be reported to the department/college head, the Office of Compliance, and/or the Empowered Official. The department/college head is responsible for addressing any deficiencies and for following up on corrective actions. Any suspected violations of U.S. export control laws or regulations will be reported to the Empowered Official through the Office of Compliance.

16.0 Training

All TAMUK employees are required to take TrainTraq Course #2111212, basic export control online training course at least once every two (2) years. Additionally, the information security awareness training program delivered via TrainTraq includes an export control component, and is required for all TAMUK employees. Depending on the nature of an individual's activities and/or job functions, a TAMUK employee may be required to take supplemental export control training as deemed appropriate by the individual's supervisor and/or the empowered official.

Face-to-face training opportunities will be made available to TAMUK employees in efforts to raise awareness and further explain employee responsibilities. Contact the Office of Compliance to schedule face-to-face training sessions.

17.0 Possible Violations

Each TAMUK employee has the responsibility to report possible violations of U.S. export control laws or regulations. Suspected violations should be reported by one of the following methods:

- (1) To the Empowered Official or the Office of Compliance at (361) 593-4758, ExportControls@tamuk.edu;
- (2) through the EthicsPoint website at <https://secure.ethicspoint.com/domain/media/en/gui/20501/index.html>

Possible violations of U.S. export control laws or regulations will be investigated by the empowered official, to the extent deemed necessary. The empowered official is authorized by the university president to suspend or terminate a research, teaching, testing, or other activity if the empowered official, or designee, determines that the activity is not in compliance or will lead to noncompliance with export control laws and regulations. The empowered official may determine whether notification to an appropriate government agency is required.

18.0 Disciplinary Actions

There are severe institutional and individual sanctions for violations of export controls laws including civil and criminal penalties up to and including imprisonment. In the event of suspected non-compliance with processes set forth in this manual, or corresponding A&M System policies and regulations, and/or university rules and procedures, the Non-Compliant Explanation form, Appendix H, will be completed and submitted to the corresponding department/college head and empowered official for review. Additionally, employees may be subject to disciplinary action based on the severity of the infraction. This could include (but is not limited to) a letter of reprimand, or loss or suspension of any of the following: research funding, export privileges, international travel privileges, procurement privileges, international visitor hosting opportunities, conference attendance opportunities, university inventory access, or termination in accordance with the university rules and A&M System policies and regulations.

Appendix A – Definitions

Controlled Information – Information about controlled physical items, including 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. It also includes information in the form of blueprints, drawings, photographs, plans, instructions, and documentation. Further included in this definition are non-physical items (software and algorithms, for example) listed under EAR and ITAR. (See 15 CFR 730-774 and 22 CFR 120-130 for further details.)

Controlled Physical Items – Controlled physical items are dual-use technologies listed under the EAR and defense articles listed on ITAR’s USML. (See 15 CFR 730-774 and 22 CFR 120-130 for further details.)

Deemed Export – A release of technology or source code to a Foreign National in the United States. A “deemed export” is considered an export to the country of nationality of the Foreign National.

Defense Article – Any item or technical data designated on the United States Munitions List See ITAR §121.1.

Defense Service means:

1. The furnishing of assistance (including training) to Foreign Persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles;
2. The furnishing to Foreign Persons of any technical data controlled under the USML (see 22 CFR §120.10), whether in the United States or abroad; or
3. Military training of foreign units and forces, regular and irregular, including formal or informal instruction of Foreign Persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice. (See also 22 CFR §124.1.)

ECCN – The Export Control Classification Number (ECCN) is the number assigned to each specific category of items or technology listed specifically on the Commerce Control List maintained by the U.S. Department of Commerce, Bureau of Industry and Security. Commodities, software and technology that do not fit into a specific ECCN are classified as “EAR 99” and, while they may be exported to most destinations, may still be controlled for export to certain sanctioned entities or a few prohibited destinations.

Exempted International Visitor – Exempted International Visitors are International Visitors who are exempt from RPS 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:

1. meet with colleagues to discuss a research project or collaboration,
2. tour labs or research facilities that are not otherwise restricted per se, or
3. participate in general academic or scientific meetings or presentations.

Export – An export occurs when a controlled physical item or controlled information is transmitted outside the United States borders or when a controlled physical item or controlled information is transmitted to a Foreign Person in the United States. 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.

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.

Foreign Person/ Foreign National – 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, a person protected under political asylum, or someone granted temporary residency under amnesty or Special Agricultural Worker provisions.

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

Knowledge – When referring to a participant in a transaction that is subject to the EAR, knowledge (the term may appear in the EAR as a variant, such as “know,” “reason to know,” or “reason to believe”) of a fact or circumstance relating to the transaction includes not only positive knowledge that the fact or circumstance exists or is substantially certain to occur, but also an awareness that the existence or future occurrence of the fact or circumstance in question is more likely than not. Such awareness is inferred, inter alia, from evidence of the conscious disregard of facts and is also inferred from a person’s willful avoidance of facts.

Manufacturing License Agreement – An agreement whereby a U.S. person grants a Foreign Person an authorization to manufacture defense articles abroad and which involves or contemplates:

1. the export of ITAR controlled technical data or defense articles; or
2. the use by the Foreign Person of ITAR controlled technical data or defense articles previously exported by a U.S. person. (ITAR C.FR. § 120.21)

Material Transfer Agreements (MTAs) – A contract that governs the transfer and use of tangible research materials.

Non-disclosure Agreement (NDAs) – A contract governing the use and disclosure of confidential and proprietary information.

Re-export – The transfer of articles or services to a new or different end-use, end-user, or destination.

Release – Technology or software is “released” for export through:

1. visual inspection by Foreign Persons of U.S.-origin equipment, facilities or documentation;
2. oral or written exchanges of information in the United States or abroad; or
3. the application to situations abroad of personal knowledge or technical experience acquired in the United States.

System Member(s) – Refers to all members of The Texas A&M University System.

Technology – Specific information necessary for the “development,” “production,” or “use” of a product. The information takes the form of “technical data” or “technical assistance.”

Technical Assistance – May take forms such as instruction, skills training, working knowledge, and consulting services. Technical assistance may involve the transfer of “technical data.”

Technical Assistance Agreement (TAA) – An agreement for the performance of ITAR-controlled defense services or the disclosure of ITAR-controlled technical data. (22 CFR § 120.22)

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

Technical Data – Includes information “required for” the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. It may take forms such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions written or recorded on other media or devices such as disk, tape, and read-only memories.

Trip Leader – A TAMUK faculty/staff/student leader(s) who conducts an international field trip or short program abroad and is accompanied by a group of students, either graduate and/or undergraduate.

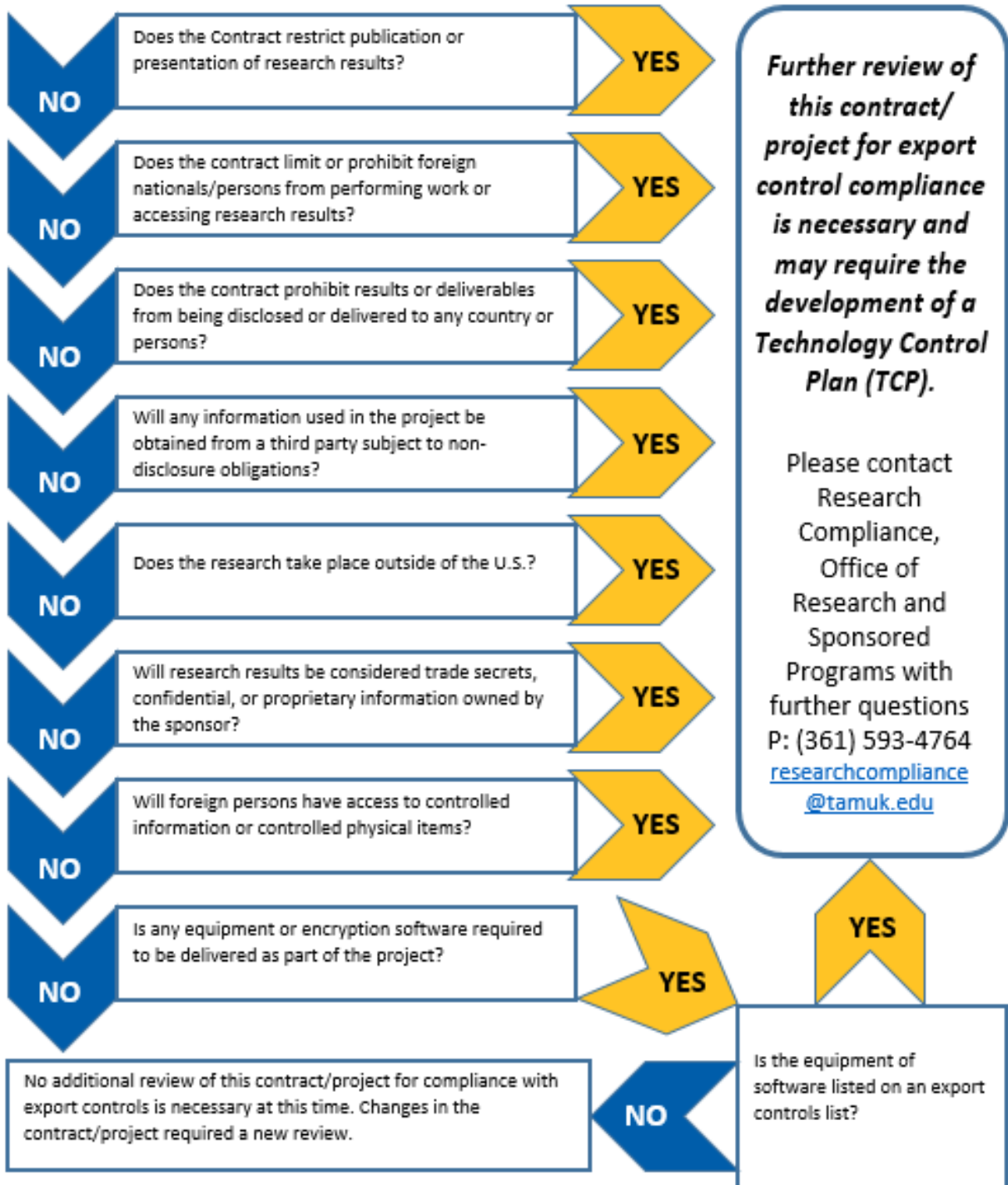
Use – Operation, installation (including on-site installation), maintenance (including checking), repair, overhaul, and refurbishing.

Virtual Private Network – A secure method of connecting to a private network at a remote location, using the internet or any unsecure public network to transport the network data packets privately, with encryption.

Visiting Scholar Host – The TAMUK employee who extends the offer, secures approval for visits, and takes responsibility for overseeing and monitoring the visiting scholar when that individual is accessing TAMUK facilities and resources.

Appendix B – Decision Making Trees

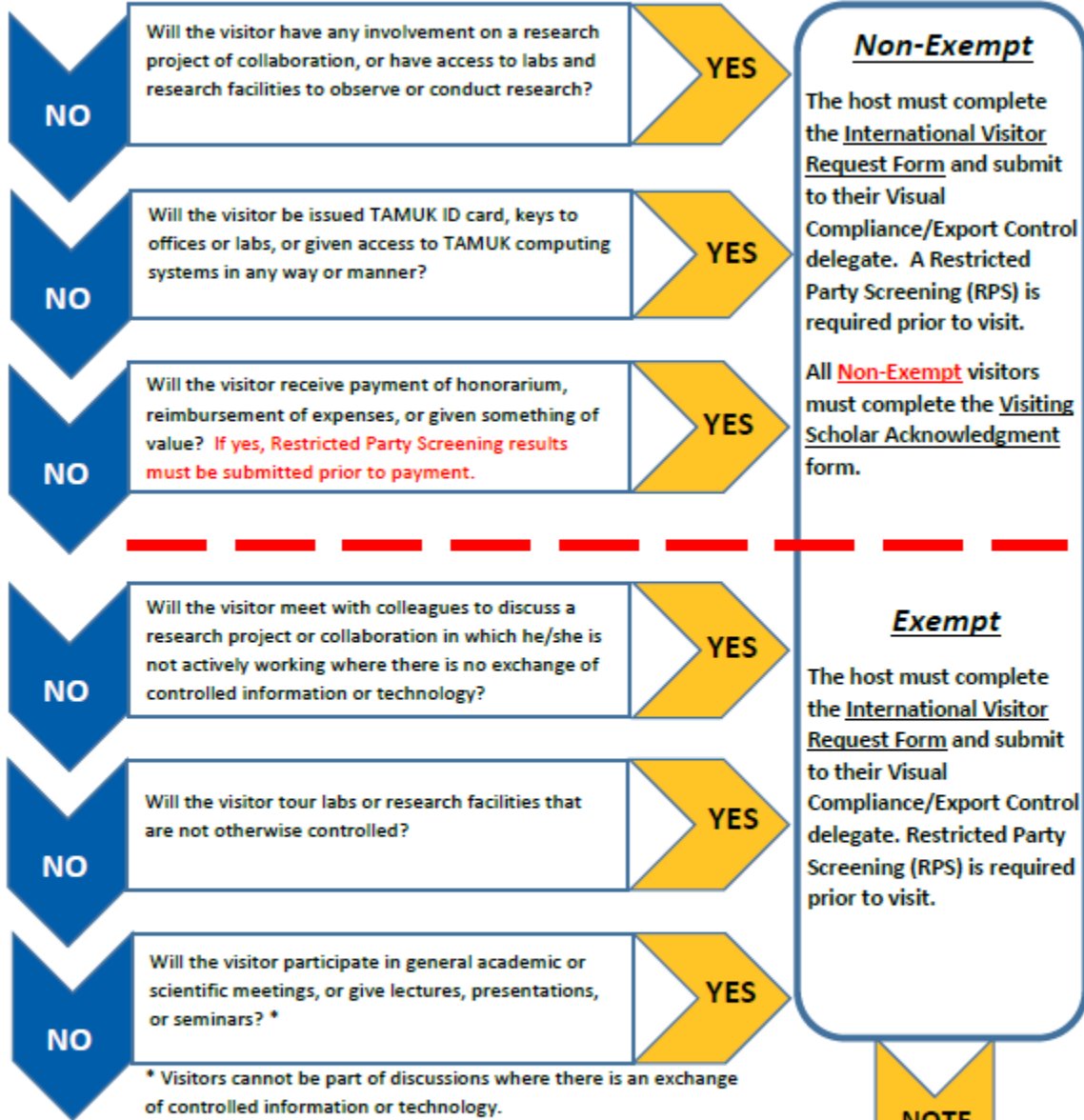
Export Control Decision Making Tree for Administration of Contract Provisions of Concern



Appendix B – Decision Making Trees

Export Control Decision Making Tree for International Visitors

Purpose of Invitation



Non-Exempt

The host must complete the International Visitor Request Form and submit to their Visual Compliance/Export Control delegate. A Restricted Party Screening (RPS) is required prior to visit.

All **Non-Exempt** visitors must complete the Visiting Scholar Acknowledgment form.

Exempt

The host must complete the International Visitor Request Form and submit to their Visual Compliance/Export Control delegate. Restricted Party Screening (RPS) is required prior to visit.

NOTE

For Export Control questions please contact:
ExportControls@tamuk.edu

TAMUK employees who invite international visitors will assume fiduciary responsibility.

Forms can be located on our Export Controls website under the Forms and Resources section. Please submit all forms to your Export Control Delegate.

Appendix B – Decision Making Trees

Classification of Export Controlled Items ITAR and EAR Control Lists by Major Categories

When purchasing an item, please review the following lists. If the item intended for purchase falls within these controlled categories, please contact your department/college export control delegate so they may conduct the appropriate export controls screenings prior to the purchase of the item. For questions or clarification, please contact the Office of Compliance via email at exportcontrols@tamuk.edu. Additional information is available at: <https://www.tamuk.edu/compliance/export-controls.html>

International Traffic in Arms Regulations (ITAR)

U.S. Munitions List (USML) http://www.pmddtc.state.gov/regulations_laws/itar.html

The USML identifies specially designed military technologies and systems, including technologies specially designed for military application.

- Category I - Firearms, Close Assault Weapons and Combat Shotguns
- Category II - Guns and Armament
- Category III - Ammunition/Ordnance
- Category IV - Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Category V - Explosives and Energetic Materials, Propellants, Incendiary Agents and Their Constituents
- Category VI - Surface Vessels of War and Special Naval Equipment
- Category VII - Ground Vehicles
- Category VIII - Aircraft and Related Articles
- Category IX - Military Training Equipment and Training
- Category X - Personal Protective Equipment
- Category XI - Military Electronics
- Category XII - Fire Control, Laser, Imaging, and Guidance Equipment
- Category XIII - Materials and Miscellaneous Articles
- Category XIV - Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- Category XV - Spacecraft and Related Articles
- Category XVI - Nuclear Weapons Related Articles
- Category XVII - Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
- Category XVIII - Directed Energy Weapons
- Category XIX - Gas Turbine Engines and Associated Equipment
- Category XX - Submersible Vessels and Related Articles
- Category XXI - Articles, Technical Data, and Defense Services Not Otherwise Enumerated

Export Administration Regulations (EAR)

Commerce Control List (CCL) http://www.access.gpo.gov/bis/ear/ear_data.html

See Part 774 - The Commerce Control List

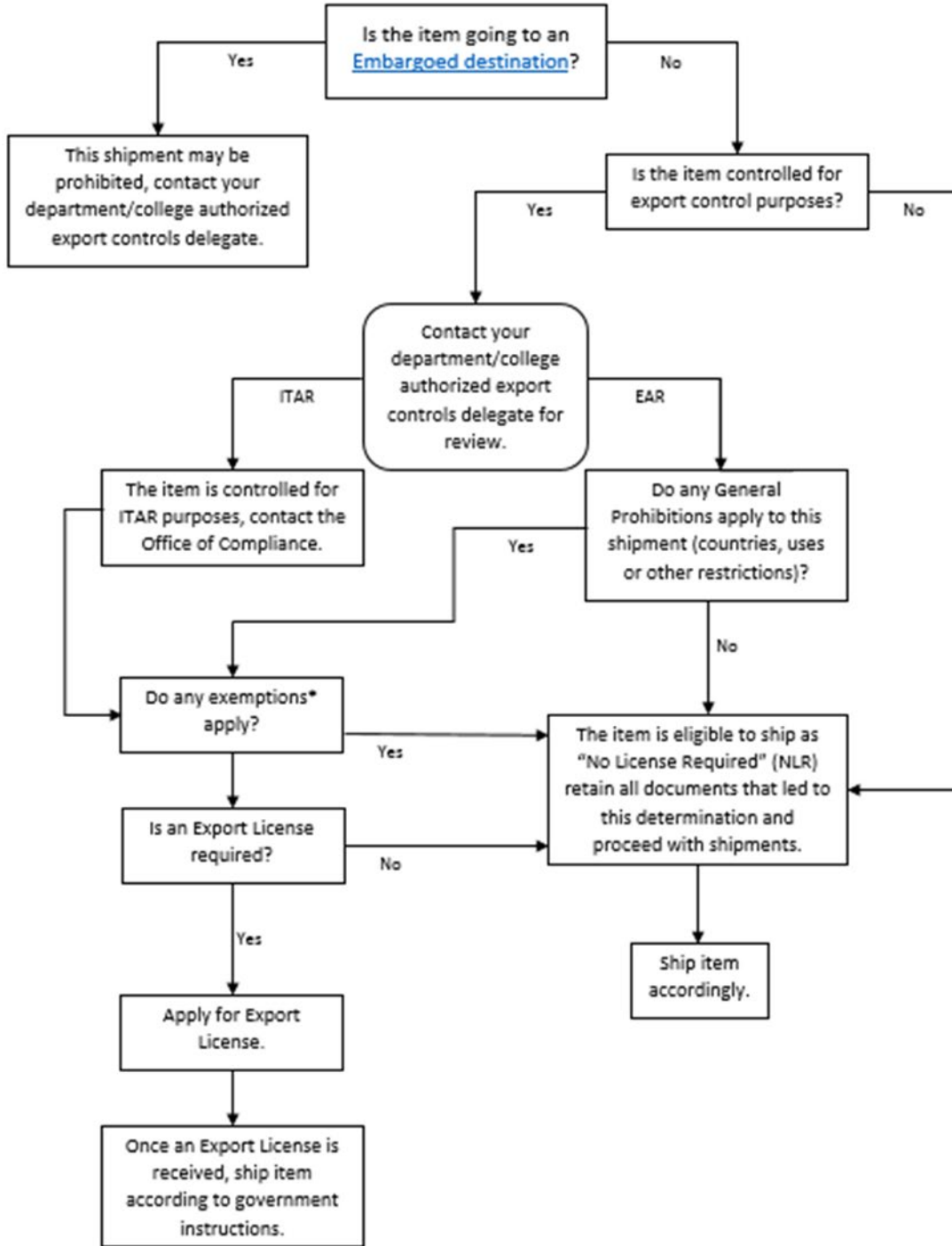
The CCL identifies most other common items, materials, software, and technologies not on the USML which are in the U.S. or of U.S. origin that are also considered "dual use" in nature, that is items primarily used in civilian and commercial applications and potentially in military, terrorism, weapons of mass destruction (WMD)-related applications (EAR 2016). The CCL is divided into ten broad categories, and each category is further subdivided into five product groups.

Commerce Control List Categories	Five Product Groups
Category 0 - Nuclear Materials, Facilities & Equipment	A - Systems, Equipment and Components
Category 1 - Materials, Chemicals, Microorganisms, and Toxins	B - Test, Inspection and Production Equipment
Category 2 - Materials Processing	C - Material
Category 3 - Electronics Design and Production	D - Software
Category 4 - Computers	E - Technology
Category 5 (Part 1) - Telecommunications	
Category 5 (Part 2) - Information Security	
Category 6 - Sensors and Lasers	
Category 7 - Navigation and Avionics	
Category 8 - Marine	
Category 9 - Aerospace and Propulsion	

03/2017

Appendix B – Decision Making Trees

Export Control Decision Making Tree for Shipping



*See 15 CFR Part 740, "License Exceptions"
http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title15/15cfr740_main_02.tpl

Appendix C – Sample Forms – International Travel Forms

TAMUK-101 (1-25-2017)
Texas A&M University-Kingsville
Office of Compliance



**Export License Exception (TMP) Certification for
Export Administration Regulations (EAR)
Controlled Items, Technology, and Software**

INSTRUCTIONS

Export License Exception (TMP) for Temporary Exports/Reexports

This exception (TMP) can be used for travel outside the U.S. when you are taking items or technology that would normally require a license from the Department of Commerce.

The exemption covers the export of items, technology, commercial software, and encryption code subject to export control regulations (this includes laptops, PDAs and digital storage devices). The Department of Commerce's Export Administration Regulations (EAR) makes an exception to license requirements for the temporary export or reexport of certain items, technology, or software for professional use as long as the criteria in this certification are met.

*The exemption **does not apply** to any EAR satellite or space-related equipment, components or software, or to any technology associated with high-level encryption products. The exemption cannot be used for travel to Iran, Syria, Cuba, North Korea or Sudan. This exception **DOES NOT apply** to items, technology, data, or software regulated by the Department of State's International Traffic in Arms Regulations (ITAR).*

Record Keeping: The regulations require the use of this license exception be documented, and records must be kept for five years.

***Directions:** Complete the exception form and submit to the Office of Compliance a minimum of **TWO WEEKS** prior to departure. Retain a copy for your records for five years beyond the end of the trip.*

KEEP A SIGNED COPY OF THIS EXCEPTION WITH YOU WHEN TRAVELING ABROAD

To: TAMUK Office of Compliance

From (Full Name): Title:

College/Division: Date:

Re: Export License Exception for Temporary Exports/Reexports*

Please Select Y/N: Is this travel related to a sponsored research project?

If yes, list all applicable project numbers/titles:

The export of items, technology, commercial software, and encryption code is subject to export control regulations (this includes laptops, PDAs and digital storage devices). The Department of Commerce's Export Administration Regulations (EAR) makes an exception to license requirements for the temporary export or reexport of certain items, technology, or software for professional use as long as the criteria to which you are certifying below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the Department of State's International Traffic in Arms Regulations (ITAR).

Provide a detailed description of items, technology or software to which this certification applies:

(Provide the type of device, brand, model, model number, and export control classification number of each item)

Appendix C – Sample Forms – International Travel Forms

Export License Exception (TMP) Certification

Country/countries traveling to:

Date departing the United States: Date returning to the United States:

Please Select Y/N: Will any of the items, technology, or software be consumed or destroyed abroad during your trip?

If yes, which items, technology or software will be consumed or destroyed abroad during your trip?

By my signature below, I certify that:

1. I will ship or hand-carry the items, technology or software to the country/countries noted above as a "tool of the trade" to conduct TAMUK business only.
2. I will return the items, technology, or software to the United States on the date above, which is no later than 12 months from the date of leaving the United States unless the items, technology, or software are certified by me to have been consumed or destroyed abroad during this 12 month period.
3. I will keep the items, technology, or software under my "effective control" while abroad (defined as retaining physical possession of item or keeping it secured in a place such as hotel safe, a bonded warehouse, or a locked or guarded exhibition facility).
4. I will take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used abroad such as:
 - a. use of secure connections when accessing e-mail and other business activities that involve the transmission and use of the technology,
 - b. use of password systems on electronic devices that store technology, and
 - c. use of personal firewalls on electronic devices that store technology.
5. I will not ship or hand-carry the items, technology, or software to Iran, Syria, Cuba, North Korea, or Sudan without consulting with TAMUK's Office of Compliance. If I am planning to travel to these countries, I will consult with the Office of Compliance.

Signature

**Keep a signed copy with you when traveling abroad*

Appendix D – Sample Forms – Technology Control Plan

TAMUK-103 (01-25-2017)
Texas A&M University-Kingsville
Office of Compliance



Texas A&M University—Kingsville Technology Control Plan

Statement of Commitment

Texas A&M University—Kingsville (TAMUK) is committed to export control compliance and adheres to United States export control laws and regulations. All employees and students must be aware of, and are responsible for, any export control related implications of their work and must ensure that their activities conform to export control laws and regulations. Individuals, as well as the university, may be subject to severe penalties for violations of export control laws and regulations. These penalties could include the loss of research funding, the loss of export privileges, as well as criminal and civil penalties.

If the proposed project/activity/equipment involves, or has the potential to involve, the receipt and/or use of export-controlled items, technology, or information, the project/activity is subject to either the State Department's International Traffic in Arms Regulations (ITAR)(22 CFR Parts 120 – 130) or the Department of Commerce's Export Administration Regulations (EAR) (15 CFR §§734.8 and 734.9) and/or other export control regulations.

Export-controlled technical information, data, items, software, hardware, biological materials, and chemicals must be secured from use and/or observation by unauthorized foreign nationals both domestically and abroad.

In accordance with U.S. export control laws and regulations, a Technology Control Plan (TCP) is required to prevent unauthorized access and/or use of export-controlled items, information, technology or software. This document serves as a basic template for the minimum elements of a TCP and the safeguard mechanisms to protect against unauthorized access or use. Security measures and safeguards shall be appropriate to the export classification. Contact the TAMUK Export Control Officer at (361) 593- 4758 or Karen.Royal@tamuk.edu for assistance completing this form.

Establishing a TCP is a multi-step process. The first step is the assessment and approval phase in which the principal investigator/responsible individual (PI) develops a TCP and seeks approval of the plan from the PI's department/unit head, as well as the TAMUK Export Control Officer. When all approvals have been secured, the PI shall review the TCP with all users (faculty, staff, students, and or visiting scholars) involved in the proposed project/activity/equipment. Each user will complete a copy of the Briefing and Certification form at the end of the TCP outlining individual responsibilities for handling export-controlled technology, information and/or items. The PI must submit all signed documents after all users, including the PI, have completed the TCP Briefing and Certification and export controls training. The PI will be responsible for the implementation of the TCP and retaining copies in their files. It is the PI's responsibility to notify the TAMUK Export Control Officer of any anticipated changes to the TCP (e.g., personnel, scope of work, safeguards, etc.). All records relating to this TCP will be retained for at least five years from the date this TCP is no longer necessary to protect these items, technology and/or information. Records will be maintained in accordance with the Texas A&M University System Records Retention Schedule and 15 C.F.R., Part 762 (EAR); 22 C.F.R. §§122.5, 123.22, and 123.26 (ITAR); and 31 C.F.R. §501.601 (OFAC).

Appendix D – Sample Forms – Technology Control Plan

**Texas A&M University—Kingsville
Technology Control Plan**

Title of Project or Activity:

Description of project, activity or equipment subjected to TCP:

Sponsor:

Description of Export-controlled Item, Technology, Information or Software:

TAMUK TCP # _____

Page 2 of 11

Appendix D – Sample Forms – Technology Control Plan

Texas A&M University—Kingsville
Technology Control Plan

Reason for control:

Principal Investigator / Responsible Individual:

Phone:

Email:

Identified Export Control Classification Number/ECCN:

(e.g. 5D002) <OR> ITAR Category: (e.g. VII (e))

**If you do not have the ECCN or ITAR Category, contact your sponsor, program manager, or the TAMUK Export Control Officer for this vital information. This form cannot be processed without the applicable ECCN or the ITAR Category.*

TAMUK TCP # _____

Appendix D – Sample Forms – Technology Control Plan

**Texas A&M University—Kingsville
Technology Control Plan**

Briefing Requirement

The Principal Investigator/Responsible individual is required to brief his or her staff on the requirements of this TCP.

1. Personnel Screening Procedures: All persons who may have access to export-controlled items, information and/or technology must be listed on the TCP and undergo Restricted Party Screening using export control screening software licensed by TAMUK. Screening Results will be maintained as part of this TCP.

1.1. Personnel: Provide the legal name and country of citizenship for every person who will be given authorized access to the controlled information, technology or item. Attach additional sheets if necessary. Please print.

	Full Name	Citizenship
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

**Any change in personnel will require an amendment of this plan as described below in section 5. On departure of any of the personnel described above, appropriate measures must be implemented to secure the subject matter of the TCP, including collecting all keys and updating access controls.*

TAMUK TCP # _____

Appendix D – Sample Forms – Technology Control Plan

Texas A&M University—Kingsville
Technology Control Plan

2. **Physical Security Plan:** Data and/or items, technology must be physically shielded in secured lab spaces to prevent observation or possession by unauthorized individuals or during secure time blocks when observation by unauthorized persons is prevented. This would pertain to laboratory management of “work-in-progress.”

2.1. **Physical Security:** Provide a description of your physical security plan designed to protect the item/technology from unauthorized access or unauthorized removal of technical information, data, items, software, hardware, biological and chemicals (e.g. secure doors, limited access, security badges, locked desks or cabinets, secure computers, marking all physical items etc.):



2.2. **Item Storage:** Both soft and hard copy data, notebooks, reports and research materials are stored in locked cabinets; preferably in rooms with key-controlled access. Equipment or internal components and associated operating manuals and schematic diagrams containing “export-controlled” technology are to be physically secured from unauthorized access:



Appendix D – Sample Forms – Technology Control Plan

**Texas A&M University—Kingsville
Technology Control Plan**

2.3. Servicing of item: Provide a description of how this item will be serviced or repaired during its lifetime and how custodial and related services will be addressed, including disposal and destruction:



2.4. Janitorial Service: Provide a description of how this item will be secured during custodial servicing periods:



SAMPLE

TAMUK TCP # _____

Appendix D – Sample Forms – Technology Control Plan

**Texas A&M University—Kingsville
Technology Control Plan**

2.5. **Destruction or Return of Materials:** Describe how the export-controlled materials will be handled at the end of the project or when no longer needed, e.g., shredding, file wipes, hard drive destruction, return to sponsor, etc.:



3. **Information Security Plan:** Appropriate measures must be taken to secure controlled electronic information including: User ID's, password control, SSL, etc.

3.1. **Describe what information security safeguards will be used:**



TAMUK TCP # _____

Appendix D – Sample Forms – Technology Control Plan

**Texas A&M University—Kingsville
Technology Control Plan**

- 4. Training / Awareness Program:** All participants listed on a TCP must complete export control online basic training, sign the Certification for Safeguarding Export-controlled Technology, Information or Items, and be briefed by the PI / Responsible Individual as to the restrictions of this TCP.
- 4.1. Training Documentation:** (Provide Participant name and date Export Control training completed, Attach training certificates. Please print.)

	Full Name	Date Export Control Training Completed
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

- 5. Amendments:** Any changes to the approved plan, including personnel changes and location changes, must be approved in writing. Please re-submit a revised TCP form to the Office of Compliance.

**Amendments must include new signatures from the Principal Investigator / Responsible Individual and their Department/Unit Head on section 6 of this form before approval can be granted.*

TAMUK TCP # _____

Appendix D – Sample Forms – Technology Control Plan

Texas A&M University—Kingsville
Technology Control Plan

6. **Signatures:** By signing this TCP, I certify that I have read and understand all clauses found in this TCP. I certify that all information found in this TCP is accurate and complete to the best of my knowledge.

6.1. **Principal Investigator / Responsible Individual:**

Printed Name

Title

Signature

Date

6.2. **Department/Unit Head:**

Printed Name

Title

Signature

Date

Office of Compliance Use Only:

Reviewed By:

Printed Name

Title

Signature

Date

TAMUK TCP # _____

Texas A&M University—Kingsville
Technology Control Plan

**Technology Control Plan Briefing and Certification on the
Handling of Export-controlled Information, Items, Technology and Software**

Background

The subject matter of the Technology Control Plan (TCP) identified below may involve the use of export-controlled information, technology, items or software. The International Traffic in Arms Regulations (ITAR), enforced by the Department of State, and the Export Administration Regulations (EAR), enforced by the U.S. Department of Commerce, prohibit sending or taking export-controlled information, items, technology or software out of the U.S. and disclosing or transferring export-controlled information to a Foreign Person inside or outside the United States. Verbal and visual disclosures are equally prohibited.

- A Foreign Person is defined as any person who is not a U.S. citizen or legal permanent resident of the U.S. There are no exceptions for graduate students or visiting scholars.

Generally, “export-controlled” means that the information item, technology and software related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, modification, demilitarization, destruction, processing, or use of items with a capacity for substantial military application utility requires an export license, or license exception, before it may be physically exported, discussed or disclosed to a Foreign Person. Export-controlled information does not include basic marketing information about function or purpose, general system descriptions, or information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities or information in the public domain. It does not matter whether the actual intended use of export-controlled information is military or civil in nature.

Some projects do not have foreign national restrictions, but are still subject to export control regulations because of publications restrictions that the sponsor included in the contract. Others will need to be controlled because of the classification of information, technology, and/or equipment on the Commerce Control List which is provided by the U.S. Department of Commerce.

Participants Responsibilities

Participants may be held personally liable for violations of the EAR and the ITAR, with significant financial and criminal penalties as a result. With that in mind, it is extremely important that participants exercise care and caution in using, disclosing or transferring export-controlled information, items, technology or software with others inside the U.S., and outside, without prior authorization from the appropriate federal agency. For example, participants must identify who among proposed research project personnel and collaborators are Foreign Persons. If a project has restrictions on participation by Foreign Persons, the State Department or the Department of Commerce (depending on whether the ITAR or the EAR controls the technology) must grant a license authorizing that person access to export-controlled information. Participants must secure access to export-controlled information, items, technology or software to prevent unauthorized access or use. They must clearly identify export-controlled information, items, technology or software and make copies of export-controlled information only when absolutely necessary and not in the presence of unauthorized persons. Participants must securely store export-controlled information in locked filing cabinets, locked drawers, or under password-protected computer files. Participants shall avoid moving export-controlled information from one location to another, if at all possible.

Appendix D – Sample Forms – Technology Control Plan

Texas A&M University—Kingsville
Technology Control Plan

Criminal/Civil Liability and Penalties

The penalty for unlawful export and disclosure of export-controlled information under the ITAR is up to two (2) years imprisonment and/or a fine of one hundred thousand dollars (\$100,000). The penalty for unlawful export and disclosure of information controlled under the EAR is the greater of either a fine of up to one million dollars (\$1,000,000) or five (5) times the value of the exports for a corporation and imprisonment of up to ten (10) years and/or a fine of up to two hundred fifty thousand dollars (\$250,000) for an individual. It is very important to remember that individuals may be held personally liable for export control violations even when performing a project that is funded through the University.

Principal Investigator/Responsible Official:

Department:

Title of Project/Activity:

Certification

I hereby certify that I have read and understand this Briefing and Certification. I understand that I could be held personally liable if I unlawfully allow access to or disclose, regardless of form or format, export-controlled information, technology, software, or items to unauthorized persons.

I understand that the law makes no specific exceptions for non-US students, visitors, staff, postdocs or any other person not pre-authorized under a TCP to access export-controlled information, technology, software or items.

I also acknowledge that I have read the Texas A&M University—Kingsville Technology Control Plan for this project/activity and have discussed the plan with my supervisor (if not the PI / Responsible Individual). I understand and agree to comply with the requirements described in the TCP.

Furthermore, I have taken the University's Export Control Training as set forth in the TCP and as prescribed by University Rule 15.02.99.K1, *Export Controls*. I agree to immediately contact the Texas A&M University—Kingsville Export Control Officer at the Office of Compliance (361) 593-4758, with any questions I may have regarding the designation, protection, or use of export-controlled information, technology, software, or items, or if I witness any violations of the TCP requirements.

Participant Name

Participant Signature

Date

**Print and complete this Briefing and Certification for each individual (faculty, staff, student, and/or visiting scholar) who will have access to the export-controlled subject matter.*

Page 11 of 11

TAMUK TCP # _____


Appendix E – Sample Forms – Restricted Party Screening Request Form

TEXAS A&M UNIVERSITY-KINGSVILLE

RESTRICTED PARTY SCREENING

104 - Office of Compliance

Please fill in the fields below and submit to the Export Control Delegate who will perform the screening.



1. Person Requesting the Screening

Full Name _____ Date _____

Dept. _____

College _____

Dept. Other _____

Email _____ Phone Number: _____

Reason for Screening (HR, visiting scholar, research personnel, etc) _____

2. Select One (Do not screen a person and an entity on the same report. You can screen each separately)

2.a Screen a Person (New Hire, Collaborator, Visitor, CEO of a company, etc.)

Last Name _____ First Name _____ Middle Name _____

Other Names Used _____ Citizen of _____ Birthdate _____

Street Address _____ City _____

State/Province _____ Postal/Zip Code _____ Country _____

2.b Screen an Entity (company name, financial institution or university name, etc.)

Entity Name _____

Street Address _____ City _____

State/Province _____ Postal/Zip Code _____ Country _____

3. Results (Export Delegates & Office of Compliance Use Only)

Delegate Name _____ Delegate Signature _____ Date _____

Delegate Results (Check one)

No matches returned Match returned. Secondary Screening from the Office of Compliance is required. E.C. Delegates Screening Results for Person in 2.a _____ E.C. Delegates Screening Results for Entity in 2.b _____

4. Secondary Screening (Office of Compliance Use Only)

Secondary Screener Name _____ Secondary Screener Signature _____ Date _____

Match - found to be a **False Positive** :

(1) enter into the box below steps taken to determined this is a false positive and
(2) secondary screener name, signature and date is required above.

Reason for Determination of False Positive (if applicable): _____

Office of Compliance Screening Results for Person in 2.a _____

Office of Compliance Delegates Screening Results for Entity in 2.b _____

Match – found to be **Positive** requires

(1) secondary screener name, signature and date is required above. The Empowered Official and possibly the Research Security Office will need to review to see if special steps are warranted to allow this person to work with TAMUK personnel, equipment, or facilities.

Page 1 of 1

Appendix F – Sample Forms – International Visitor Request Form

TAMUK-105 (01-25-2017)

Texas A&M University-Kingsville
Office of Compliance



International Visitor Request Form

Host/Supervisor:

Name _____
Department

Phone Number _____
Email

International Visitor Contact Information:

Start Date _____
End Date _____
Country (Citizenship) and Visa Status

Last Name _____
First Name _____
Middle Name

Other Names Listed _____
Date of Birth

Address _____
City/State/Country

Affiliation (i.e., company name, university name, etc.):

Name _____
Country

Address _____
City/State/Country

Section 1

Reason for Visit (full description):

Appendix F – Sample Forms – International Visitor Request Form

International Visitor Request Form

Section 2

Purpose of Invitation:		Yes	No
Non-Exempt	Will the visitor have any involvement on a research project of collaboration, or have access to labs and research facilities to observe or conduct research? (If yes, complete section 3 below)		
	Will the visitor be issued TAMUK ID card, keys to offices or labs, or given access to TAMUK computing systems in any way or manner?		
	Will the visitor receive payment of honorarium, reimbursement of expenses, or given something of value?		
Exempt	Will the visitor meet with colleagues to discuss a research project or collaboration in which he/she is not actively working where there is no exchange of controlled information or technology?		
	Will the visitor tour labs or research facilities that are not otherwise controlled?		
	Will the visitor participate in general academic or scientific meetings, or give lectures, presentations, or seminars?*		

*Visitors cannot be part of discussions where there is an exchange of controlled information or technology.

Based on the above responses this visitor's designation is: Non-Exempt** _____ Exempt _____

**All Non-Exempt visitors must complete the TAMUK-106: International Visiting Scholar Acknowledgment located on the [Forms and Resources](#) section of the TAMUK Export Controls website.

Section 3

Export Controls and Other Research Related Compliance :	Yes	No
Activities are covered by an Institutional Review Board (IRB) study		
Activities are covered by an Institutional Biosafety Committee (IBC) permit		
Activities are covered by an Animal Use Protocol (AUP)		
The research or activity is proprietary		
Activities involve access or use of items/articles, software, or technology listed on the EAR or ITAR		
Activities involve access to research or work of with publication restrictions		
The research or activity has restrictions on participation of foreign national		
The research or activity references export control clauses or references to EAR or ITAR		
Activities will involve the use or access to encryption software		
Activities will be related to the spread or increase of nuclear, chemical, biological weapons, or missiles		
Activities will involve access to any resources/facilities subject to a Technology Control Plan		
Activities involve work with any embargoes or sanctioned country		
The research or activity is classified		
The research or activity will yield results for military or use in outer space		
The research or activity is fundamental research		

If "Yes" is marked on any of the fields listed in section 3, please contact Research Compliance at researchcompliance@tamuk.edu.

Appendix F – Sample Forms – International Visitor Request Form

International Visitor Request Form

Host/Supervisor:

I have knowledge of the nature of the proposed visit. The answers I have provided are true and correct to the best of my knowledge and belief. I understand that if any changes are anticipated in the nature or duration of the visit or employment prior approval will be required. I hereby certify that I have completed the Export Controls & Embargo Training – Basic Course offered via TrainTraQ, and have read System Policy 15.02, Export Controls and TAMUK Rule 15.02.99.K1, Export Controls. As the host/supervisor, I certify that I am not on development or sabbatical leave and will make every reasonable effort to perform the responsibilities of hosting and supervising the visitor or employee.

Name Signature Date (MM/DD/YYYY)

Department Head/Chair:

Name Signature Date (MM/DD/YYYY)

OFFICE USE ONLY (Visual Compliance/Export Control Delegates)

Screener Name Screener Signature Date (MM/DD/YYYY)

Results:

- No results returned
- Match – found to be a false positive: requires description of how this was determined to be a false positive and (2) secondary screener signature/date
- Match – found to be positive requires secondary screener signature/date

Reason for Determination of False Positive (if applicable):

Secondary Screener Name Secondary Screener Signature Date (MM/DD/YYYY)

Attach Restricted Party Screening Results Page

Completed forms and screenings should be retained by your Visual Compliance/Export Control Delegates for 5 years after visit. In cases of a non-exempt international visitor, the Office of International Student & Scholar Services should also maintain this form with relevant visa documents.

Appendix G – Sample Forms – Visiting Scholar Acknowledgment

TAMUK-106 (04-24-2017)

Texas A&M University-Kingsville
Office of Compliance



Visiting Scholar Acknowledgment

This form will serve as an acknowledgment by both the Texas A&M University—Kingsville (TAMUK) Nominator (Host) and the Participant (Visiting Scholar).

Nominator (TAMUK Host):

Name *College* *Department*

Participant (International Visiting Scholar):

Last Name *First Name* *Middle Name*

Other Names Listed *Citizenship and Visa Status*

Participant's Institution/Employer Information:

Name (i.e. company name, university name, etc.)

Address for Participant's Institution/Employer

City/State/Country

Section 1. Period of Performance

This visit shall commence on _____, and shall end on _____, unless extended by mutual agreement in writing between the parties, or unless terminated by one of the parties as provided in this acknowledgement.

Section 2. Scope

2.1 Purpose of Visit.

The Participant shall collaborate with TAMUK personnel at TAMUK's facilities to perform the following functions: (i.e. lecturing, researching, etc.) Please be specific in the description of this visit and outcomes beyond visiting dates including post production items (i.e. publications, etc.). If you require additional space, please attach a separate sheet to this form.

Appendix G – Sample Forms – Visiting Scholar Acknowledgment

International Visiting Scholar Acknowledgment

2.2 Adherence to Policies and Procedures.

The Research/Training/Teaching shall be performed in accordance with established policies, regulations, and procedures of The Texas A&M University System (TAMUS) and TAMUK (or other TAMUS member, as applicable), as well as all applicable state and federal laws and regulations including but not limited to research involving human subjects, laboratory animals, hazardous agents and materials, ethical conduct, safety, and conflicts of interest.

Section 3. Consideration and Payment

3.1 Consideration.

The Participant's Institution/Employer shall continue to be the employer of record for the Participant and shall be responsible for all compensation to be paid to the Participant, including but not limited to salary and fringe benefits (e.g., health insurance, leave, retirement, etc.). The Participant's Institution/Employer shall be responsible for paying any and all employment withholding taxes, workers compensation insurance, and governmental assessments. The Participant's Institution/Employer is responsible for the Participant's travel expenses while on assignment at TAMUK.

3.2 Other Costs.

In addition to the costs described in Section 3.1 above, any other fees and expenses will be paid as described below (select appropriate box):

- There will be no charge by TAMUK to Participant's Institution/Employer or Participant.
- Participant's Institution/Employer has generously agreed to provide TAMUK an unrestricted gift of \$ _____ to cover laboratory expenses associated with the activities described in section 2.1 of this Acknowledgment.
- Participant's Institution/Employer shall reimburse TAMUK for actual laboratory/supply expenses incurred by TAMUK related to Participant's research, teaching, and training activities described in section 2.1 of this Acknowledgment. Expenses incurred may be billed by TAMUK to Participant's Institution/Employer monthly, or as TAMUK deems appropriate (e.g. in lump sum). Payment by Participant's Institution/Employer is due within thirty (30) days after receipt of invoice.

Section 4. Independent Contractor

The Participant will continue to be the assignee and employee of the Participant's Institution/Employer at all times. TAMUK will exercise administrative control and technical supervision over the Participant's activities during the term of the visit. At no time during the term of this visit will Participant be an employee of TAMUK. The Participant's Institution/Employer shall be deemed to be an independent contractor and not an agent, representative, or affiliate of TAMUK.

Appendix G – Sample Forms – Visiting Scholar Acknowledgment

International Visiting Scholar Acknowledgment

Section 5. Confidentiality

5.1 Overview.

The Participant will abide by TAMUK rules and procedures regarding confidentiality of information for the duration of this visit through the completion of any visit related production. The period of confidentiality shall expire five years from the end of this visit.

5.3 Confidential Information Defined.

For purposes of this Acknowledgment, “Confidential Information” means nonpublic information that is identified or designated as being confidential or which, in light of the circumstances under which it was disclosed, whether oral or written, is reasonably apparent to the Participant to be considered confidential or proprietary by TAMUK (or other TAMUS member, as applicable). “Confidential Information” includes, without limitation, information which may be contained in materials such as inventions, discoveries, concepts, ideas, methodologies, research data, research results, drawings, plans, programs, software, codifications, models, data, specifications, reports, compilations and may also be in the nature of unwritten knowledge and know-how. “Confidential Information” also includes identifiable student information protected by The Family Educational Rights and Privacy Act (FERPA).

5.4 Ownership of Confidential Information.

All Confidential Information disclosed during this visit shall remain the property of TAMUK (or other TAMUS member, as applicable). At TAMUK’s request, all Confidential Information received by Participant’s Institution/Employer or Participant in tangible form shall be promptly returned or destroyed.

Section 6. Publications

6.1 Publishing Rights.

The timing, extent and content of all publications regarding the results of the activities described in section 2.1 of this Acknowledgment, including those of the Participant, shall be at the discretion of TAMUK and the Nominator.

Section 7. Intellectual Property

7.1 Intellectual Property Defined.

For purposes of this Acknowledgment, “Intellectual Property” shall mean, individually and collectively: (a) inventions, discoveries, and/or improvements which are conceived or first reduced to practice, whether or not patentable, in the performance of the collaborative research efforts during this visit; and (b) all works of authorship created, prepared and/or developed (including compilations) in the performance of the collaborative research efforts completed during this visit that are the subject matter of copyright under Title 17 of the United States Code.

7.2 Intellectual Property Rights Arising During Visit.

Title to any Intellectual Property conceived and/or reduced to practice by the Participant during the course of performing the activities described in section 2.1 of this acknowledgment shall be, and are hereby, assigned to TAMUS on behalf of TAMUK (or other TAMUS member, as applicable) in accordance with TAMUS’s [Policy 17.01, Intellectual Property Management and Commercialization](#). TAMUK (or other

Appendix G – Sample Forms – Visiting Scholar Acknowledgment

International Visiting Scholar Acknowledgment

TAMUS member, as applicable) shall own all tangible research results and intellectual property generated by the Participant during his/her tenure at TAMUK, including but not limited to know-how, original data, computer programs, and records of the work and activities performed.

7.3 Duty to Disclose.

Participant shall promptly notify the Nominator and TAMUK of any Intellectual Property arising out of the performance of the activities performed described in section 2.1 of this acknowledgment. The Parties shall keep in confidence all information contained in disclosures and notifications relating to Intellectual Property before and during any period prior to the application for a patent or other legal protection of such Intellectual Property.

7.4 Rights in Data.

TAMUK (or other TAMUS member, as applicable) shall own all research data, diagnostic data, and information generated by the Participant while he or she is participating in the activities described in section 2.1 of this acknowledgment. Although owned by TAMUK, TAMUK agrees to make copies of information generated by the Participant's discoveries available to the Participant's Institution/Employer on a confidential basis through the Participant, to the extent permitted by law or preexisting contractual commitments to third parties, and subject to TAMUK's Intellectual Property Policy and/or Guidelines.

7.5 Third Party Support.

To the extent the collaborative research efforts are supported by a grant, cooperative agreement, or contract between TAMUK (or other TAMUS member, as applicable) and the U.S. Government or other third party, the Nominator, Participant, and Participant's Institution/Employer must comply with the intellectual property provisions of such U.S. Government or third-party grant, cooperative agreement, or contract as determined by the TAMUK department head/chair and Dean (if appropriate).

Section 8. Compliance

8.1 Compliance.

The Participant and Participant's Institution/Employer will comply, and be responsible for compliance, with all local, state and federal laws, rules and regulations that apply to the performance of this visit, including but not limited to those governing: export control (including but not limited to Export Administration Regulations (15 CFR Part 730, et seq); International Traffic in Arms Regulations (22 CFR Part 120, et seq); and Foreign Assets Controls (31 CFR Part 500, et seq)); animal welfare; human subject research; workplace safety; and handling, storage, use and disposal of biological materials, chemicals, hazardous or radioactive materials. The Participant and Participant's Institution/Employer will be responsible for compliance with all applicable TAMUK (or other TAMUS member, as applicable) policies while on TAMUK (or other TAMUS member, as applicable) premises.

8.2 Background Check.

The Participant hereby gives TAMUK permission to inquire into his/her background, including: education, references, driving record, employment, and criminal background. The Participant further gives permission to the holder of such records to release the same to TAMUK (or other TAMUS member, as applicable). The Participant understands that TAMUK (or other TAMUS member, as applicable) will only use this information for the purpose of this visit.

Appendix G – Sample Forms – Visiting Scholar Acknowledgment

International Visiting Scholar Acknowledgment

Participant Acknowledgment:

I _____ (Participant's full name) hereby acknowledge that I have read the International Visiting Scholar Acknowledgment form and confirm that I have provided true and correct information to the best of my knowledge and belief.

Participant's Signature

Date (MM/DD/YYYY)

Nominator Acknowledgment:

I _____ (Nominator's full name) hereby acknowledge that I have read the International Visiting Scholar Acknowledgment form and confirm that I have provided true and correct information to the best of my knowledge and belief. I understand that if any changes are anticipated in the nature or duration of the visit it will require prior approval. I hereby certify that I have completed the Export Controls & Embargo Training – Basic Course offered via TrainTraQ, and have read System Policy 15.02, *Export Controls* and TAMUK Rule 15.02.99.K1, *Export Controls*. As the Nominator, I certify that I am not on development or sabbatical leave and will make every reasonable effort to perform the responsibilities of hosting and supervising the Participant.

Nominator's Signature

Date (MM/DD/YYYY)

Department Head/Chair:

Name

Signature

Date (MM/DD/YYYY)

Appendix H – Sample Forms – Non-Compliant Explanation

TAMUK-107 (12-03-2018)
Texas A&M University-Kingsville
Office of Compliance



Non-Compliant Explanation

Responsible Employee Information:

Name

Date (MM/DD/YYYY)

Department/College

Position Title

Email

Description of non-compliance incident (include violated policies, regulations, rules and/or procedures):

SAMPLE

Explanation for the unauthorized action:

Appendix I – Traveling Internationally with Electronic Devices

Traveling Internationally with Electronic Devices

Protocols when preparing to travel internationally with electronic devices.

- When possible, travelers must avoid taking university issued electronic devices, including but not limited to, laptops and tablets.
- If an electronic device is required for international travel, TAMUK employees must request a loaner device from Information Technology Services (ITS). Only TAMUK loaner devices from ITS will be allowed to be carried internationally.
- Requests for ITS loaner devices must be made at least two (2) weeks before international travel.
- Travelers must utilize the TAMUK Virtual Private Network (VPN) connection at all times while in a foreign country. The VPN requires the use of DUO 2-factor authentication.
- Electronic devices must be hand carried along with completed Export Control forms during travel.
- If electronic devices, technology, and/or information are stolen while traveling abroad, travelers shall promptly contact the Office of Compliance (361- 593-4758; ExportControls@tamuk.edu).

While traveling, carrying the loaner laptops could fall under the temporary license exclusion known as the “tools of the trade” exclusion. EAR makes an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the ITAR. Note that this license exception is not available for equipment, components, or software designed for use in/by/with most satellites or spacecraft. “Effective control” means retaining physical possession of an item or maintaining it in a secure environment.

Temporary exports under the “tools of the trade” license exception (as defined in Appendix B) apply when the laptop, PDA, cell phone, data storage devices, and encrypted software are:

- hand-carried with the individual while traveling;
- carried in the luggage or baggage that travels with the individual; or
- shipped no more than thirty days prior to the individual’s departure or may be shipped to the individual at any time while the individual is outside the country.

Generally, no government export license is required so long as an individual:

- retains their laptop computer, PDA, cell phone, data storage devices, and/or encrypted software under their personal custody and effective control for the duration of travel;
- does not intend to keep these items in these countries for longer than 1 year; and
- is not traveling to an embargoed country.

TAMUK employees are ultimately individually responsible for ensuring compliance with U.S. export controls regulations, as well as System policies and regulations, and must conduct their affairs in accordance. All employees are also required to complete “Export Controls and Embargo training” at least once every two years. This training (course number 2111212) can be completed via TrainTraq, which is accessible by logging into SSO.

Appendix J – Applicable Office of Research and Graduate Studies Procedures

Office of Research and Graduate Studies

Export control screening of projects/contracts is a two–step process. The first step consists of Project/Contract Screening which involves screening the substance of the project/contract. The second step is known as Restricted Party Screening. This involves screening the parties and entities involved on a project/contract using export control screening software licensed by the Texas A&M University System known as Visual Compliance.

Funded Projects:

Proposal Stage:

Upon receiving notification from a PI that a proposal is to be submitted, the Proposal Administrator sends to the PI the Notice of Intent to Submit with Export Assurances Form with export assurances. The PI then checks “yes” or “no” to a series of questions. At the time of proposal entry into Maestro, the Proposal Administrator, checks “yes” or “no” on the Proposal Compliance screen in Maestro, and notifies the Research Compliance Division of a need for Export Control screening.

Maestro shall send electronic notifications to the system member point(s) of contact for export controls based upon affirmative answers to these questions.

Contract Stage:

At the contract stage, the Contract Negotiators verify if any updates to the questions completed on the Notice of Intent to Submit with Export Assurances Form at the proposal stage are necessary based upon their review of the proposed agreement. In addition to the foregoing, a Visual Compliance screening is performed on all contracts and subawards as needed¹. Below are the procedures for performing a restricted party screening:

1. All names (whether company or individual) of the other parties involved in the project/contract are entered into the Visual Compliance Web site search engine.
2. In the event of a positive match resulting from the Visual Compliance search, the individual performing the search will submit the screening results to the university point of contact for export controls for further review and approval.
3. Each search result from Visual Compliance and any related documentation will be loaded into the appropriate administration database system with its respective record.

In addition to grants and contracts, ORGS’s Research Compliance Division will perform Visual Compliance screening on research compliance protocols from the 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.

¹*Restricted party screenings are performed for all sponsors except state and federal entities, and for all subawardees except for intrasystem agreements and state and Federal subawardees.*