Rule Statement

It is the policy of Texas A&M University-San Antonio (TAMU-SA) to comply with United States export control laws and regulations including, but not limited to, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR), as well as those imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC).

Reason for Rule

This rule is required by System Regulation 15.02 Export Controls. TAMU-SA has an obligation to implement an export control compliance program to reduce the risk of export control violations. All employees and students are responsible for the export control implications of their work and must ensure that their activities conform to export control laws and regulations. There are severe institutional and individual sanctions for violations of export control laws and regulations, including the loss of research funding, the loss of export privileges, and criminal and civil penalties.

Procedures and Responsibilities

1. Individual Responsibility

1.1 TAMU-SA employees and students engage in a broad range of innovative and important research activities that may involve foreign persons in the United States or abroad. When these activities also include the use of controlled information or controlled physical items, the university requires that each individual comply with the applicable requirements of United States export control laws and regulations.

1.2 All TAMU-SA 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 responsibilities.
1.3 TAMU-SA employees and students will comply with the provisions of any export license, governmental approval requirements, required certifications, technology control plans, and procedures adopted by or granted to TAMU-SA.

2. Empowered Official

2.1 TAMU-SA’s Director of Graduate Studies and Research (or designee) is the university’s Empowered Official for all purposes relating to applicable federal export control laws and regulations. The Empowered Official is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as the representative and point of contact for export control matters involving TAMU-SA. The Empowered Official is authorized to sign license applications and other authorizations binding TAMU-SA in any proceedings before government agencies with export control responsibilities.

3. Research

3.1 Research Contract Administration

   The Research Compliance Officer and other appropriate office(s), in coordination with TAMU-SA’s office of Sponsored Research, is responsible for developing and implementing procedures to screen proposals and projects for compliance with export control laws and regulations and specifically to identify those that involve the following factors:

   (a) In the context of research contracts or grants, restrictions on, or approval rights applicable to publication or release of research results (beyond the customary brief delay to protect a sponsor’s confidential information or to preserve the patentability of an invention);

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

   (c) Foreign persons are excluded from participation in the research or are subject to approval by the research sponsor;

   (d) Impose publication or access restrictions (incorporated by federal regulations such as FAR, DFAR, or agency-specific regulations) or have provisions which state that export control laws apply;

   (e) Allow foreign persons access to controlled information or controlled physical items;

   (f) Persons or entities involved in the research project or related transactions are identified through restricted party screening as embargoed countries or restricted countries, persons or entities; and
(g) Controlled physical items or controlled information (including laptops containing controlled information) that will be taken or shipped outside the United States.

3.2 International Visitors

3.2.1 Restricted Party Screening for International Visitors

In general, international visitors whether present or not in the United States must undergo a restricted party screening as a pre-condition of their visit to TAMU-SA as provided below.

3.2.2 Subjected International Visitors

All international visitors whether present or not in the United States must undergo a restricted party screening when the international visitor:

(a) 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;

(b) Will be issued a TAMU-SA identification card, keys to offices or laboratories, or otherwise be given access to the TAMU-SA computing system in any manner; or

(c) Will be paid an honorarium, will be reimbursed for expenses or will be provided something of value.

It is the responsibility of all employees at TAMU-SA who intend to host an international visitor to notify and request approval of such visit from the Empowered Official before the arrival of the international visitor.

3.2.3 Exempted International Visitors

Restricted party screening of an international visitor, as described in 3.2.1, is not required if no honorarium or reimbursement of expenses is paid and if one or more of the following conditions exist:

(a) The international visitor is meeting with colleagues to discuss a research project or collaboration,

(b) The international visitor is touring labs or research facilities that are not otherwise restricted per se, or

(c) The international visitor is participating in general academic or scientific meetings or presentations.

It is the fiduciary responsibility of all employees at TAMU-SA to comply with the initial terms and intent of the visit as communicated to the international visitor, and to immediately notify the TAMU-SA the Director of Graduate
Studies and Research and the Office of the Provost of any changes in the intent of the visit prior to engaging the international visitor in any activity that may require a restricted party screening.

3.3 International Activities

When TAMU-SA activities are conducted outside the United States, the TAMU-SA activity organizer's and/or responsible international activity official's responsibility is to seek and obtain appropriate export control approvals from the Office of Graduate Studies and Research for the following activities without limitation: execution of agreements to be performed outside the United States; non-credit bearing study abroad courses; and making payments to foreign persons. The Office of Graduate Studies and Research is responsible for developing and implementing procedures to screen international programs and activities for compliance with export control laws and regulations.

3.3.1 Students Studying Abroad

The Office of Graduate Studies and Research is responsible for performing restricted party screening on all students enrolled in TAMU-SA credit bearing programs outside the United States. Restricted party screening is required when the student:

(a) Is a foreign person;

(b) Has not previously attended TAMU-SA; and

(c) Is not enrolled as a continuing student at a college or university based in the United States.

3.4 Distance Education

Those responsible for offering distance education courses, in cooperation with the Office of Graduate Studies and Research, will screen courses as appropriate for purposes of compliance with export control laws and regulations.

3.5 Hiring Foreign Nationals

It is the responsibility of the hiring supervisor and/or department head to undergo training on export controls and to complete a deemed export control memorandum.

3.6 Purchasing and Financial Transactions

It is the responsibility of the Empowered Official to coordinate with the Office of the CFO/Vice President for Finance and Administration to screen vendors as appropriate for compliance with export control laws and regulations.
3.7 Training

The Empowered Official, in cooperation with other appropriate offices, will authorize and assign approved TAMU-SA training. TAMU-SA employees with managerial or supervisory authority over foreign persons or projects involving controlled information or controlled physical items are required to take export control training once every two years. Depending on the nature of an individual’s activities and/or job functions, a TAMU-SA employee may be required to take supplemental export control training as deemed appropriate by the individual's supervisor and/or the Empowered Official.

3.8 Shipping

It is the responsibility of TAMU-SA personnel or students who are shipping items outside the United States (including hand-carrying items such as research equipment, materials, data, biological materials) to comply with export control laws and regulations in coordination with the Empowered Official and other appropriate offices. TAMU-SA personnel and students should contact the Empowered Official for assistance if needed prior to shipping items outside the United States.

The approved TAMU-SA international shipment export controls form must be signed and must accompany international shipment paperwork.

4. Offices Responsible for Export Control Compliance

4.1 The Empowered Official, in cooperation with other appropriate offices, are responsible for monitoring TAMU-SA’s export control compliance program and for implementing procedures and/or guidelines to comply with federal export control laws and regulations.

4.2 When requested, the Empowered Official will determine, or assist other offices and employees, in determining compliance obligations and the applicability of the Fundamental Research Exclusion or other exclusions as described in System Policy 15.02, Export Controls. The Empowered Official will also assist with Restricted Party Screening and consult with the Texas A&M University System Office of General Counsel on export control matters as appropriate.

5. Possible Violations

5.1 Each TAMU-SA employee and student has the responsibility to report possible violations of export control laws or regulations. Suspected violations and the details of the suspected violation should be reported to the Empowered Official. Suspected violations may also be reported via the Risk, Fraud, and Misconduct hotline at Ethics Point. Possible violations of United States export control laws or regulations will be investigated by the Empowered Official. The Empowered Official is authorized to suspend or terminate a research, teaching, testing or other activity if the Empowered Official determines that the activity is not in compliance, or will lead to noncompliance, with export control laws and regulations.
6. Record Keeping

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

(a) The record-retention period required by the applicable export control regulations (see 15 C.F.R. Part 762 (ITAR): 22 C.F.R. §§ 122.5, 123.22 and 123.26 (EAR); and 31 C.F.R. §501.601 (OFAC), or

(b) The period required for the retention of records as set forth in The Texas A&M University System policies, regulations or University rules.

Records will be maintained by the Empowered Official and/or the appropriate office responsible for the export or activity.

Definitions

Each of the following terms used in this Rule is defined in System Policy 15.02, Export Controls (Definitions):

- Controlled Information
- Controlled Physical Items
- Export
- Foreign Person

Other terms used in this Rule have the meanings as described below:

- **Deemed Export** – The transfer of Controlled Information or Controlled Physical Items, or the provision of defense services to a Foreign Person in the United States is deemed to be an Export to the home country or countries of the Foreign Person, and is subject to the export control laws and regulations.

- **Empowered Official** – The Empowered Official is defined in 22 C.F.R. §120.25. The Empowered Official has independent authority to: (i) inquire into any aspect of a proposed export or temporary import by the University, (ii) verify the legality of the transaction and the accuracy of the information to be submitted; and (iii) refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

- **International Visitors** – International Visitors are Foreign Persons having a residence in a foreign country, who are not TAMU-SA employees or enrolled students and are coming to TAMU-SA on a temporary basis as a result of an invitation from a TAMU-SA faculty member, researcher or administrator.

- **Restricted Party Screening** – The process of determining whether a person or entity is included on the Specially Designated Nationals and Blocked Persons List or any other restricted list maintained by the U.S. government.
Related Statutes, Policies or Requirements

System Regulation 15.02 Export Controls
International Traffic in Arms Regulations (ITAR), 22 C.F.R. §§ 120-130
Export Administration Regulations (EAR), 15 C.F.R. §§ 700-799
Office of Foreign Assets Control (OFAC), 31 C.F.R. §§ 500-599

Contact Office

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