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 Export Control Office, exportcontrols@tamu.edu.
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<th>Full Form</th>
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<tr>
<td>BIS</td>
<td>Department of Commerce Bureau of Industry and Security</td>
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<td>CCL</td>
<td>Commerce Control List</td>
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<td>CJ</td>
<td>Commodity Jurisdiction</td>
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<tr>
<td>DDTC</td>
<td>Department of State Directorate of Defense Trade Controls</td>
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<tr>
<td>DFAR</td>
<td>Defense Federal Acquisition Regulation</td>
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<tr>
<td>EAR</td>
<td>Export Administration Regulations</td>
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<tr>
<td>ECO</td>
<td>Export Control Office of Texas A&amp;M University</td>
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<td>FAR</td>
<td>Federal Acquisition Regulation</td>
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<td>FMO</td>
<td>Financial Management Operation Office</td>
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<td>FRE</td>
<td>Fundamental Research Exclusion</td>
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<tr>
<td>ECCN</td>
<td>Export Control Classification Number</td>
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<td>ISFS</td>
<td>Immigration Services for Faculty and Scholars</td>
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<tr>
<td>ITAR</td>
<td>International Traffic in Arms Regulations</td>
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<tr>
<td>MTA</td>
<td>Material Transfer Agreement</td>
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<tr>
<td>NDA</td>
<td>Non-Disclosure Agreement</td>
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<tr>
<td>OFAC</td>
<td>Department of the Treasury Office of Foreign Assets Control</td>
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<tr>
<td>OGC</td>
<td>Office of General Counsel, The Texas A&amp;M University System</td>
</tr>
<tr>
<td>DOR</td>
<td>Division of Research</td>
</tr>
<tr>
<td>PI</td>
<td>Principal Investigator</td>
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<tr>
<td>RPS</td>
<td>Restricted Party Screening</td>
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<tr>
<td>SDN List</td>
<td>Specially Designated Nationals and Blocked Persons List</td>
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<tr>
<td>SRS</td>
<td>Texas A&amp;M Sponsored Research Services</td>
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<tr>
<td>TAA</td>
<td>Technical Assistance Agreement</td>
</tr>
<tr>
<td>TAMU</td>
<td>Texas A&amp;M University</td>
</tr>
<tr>
<td>TAMUQ</td>
<td>Texas A&amp;M University at Qatar</td>
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<tr>
<td>TAMUS</td>
<td>The Texas A&amp;M University System</td>
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<tr>
<td>TCP</td>
<td>Technology Control Plan</td>
</tr>
<tr>
<td>TTC</td>
<td>Texas A&amp;M Technology Commercialization</td>
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<tr>
<td>USML</td>
<td>United States Munitions List</td>
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<tr>
<td>VPR</td>
<td>Vice President for Research</td>
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</table>
1. **Commitment to Export Control Compliance**

   It is the policy of Texas A&M University 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), 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).

   Texas A&M University (TAMU) has an obligation to implement an export control compliance program to reduce the risk of export control violations. All employees and students must be aware of, and are responsible for, the export control implications of their work and must ensure their activities conform to export control laws and regulations. There are severe institutional and individual sanctions for violations of export control laws and regulations, including the loss of research funding, loss of export privileges, as well as criminal and civil penalties.

   The Division of Research maintains a website with export control information and resources accessible at http://vpr.tamu.edu/resources/export-controls. Questions about export controls can be directed to TAMU’s Export Control Office, telephone (979) 862-6419 or by email to exportcontrols@tamu.edu.

   This Export Control Compliance Program Manual (the “Manual”) is designed to assist TAMU faculty, staff, and students with export control compliance. To the extent this Manual conflicts with TAMU rules and/or procedures, the rules and/or procedures control. Acronyms are defined in the List of Abbreviations, page 4. Other capitalized terms used in this Manual that are not defined above, in the University Rule 15.02.99.M1, Export Controls, or within the Manual are listed in the Glossary, Appendix A.

2. **Key Actors Responsible for Export Control Compliance**

   2.1 **Empowered Official**

   The Vice President for Research (VPR) (in addition to other designees who may be appointed by the Vice President for Research) is TAMU’s Empowered Official for all purposes relating to applicable federal export control laws and regulations. The Empowered Official is responsible for authorizing license applications and other approvals required for compliance with export control laws and regulations and serves as TAMU’s representative and point of contact with federal agencies having export control jurisdiction. The Empowered Official is

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1. The Export Administration Regulations (EAR) 15 C.F.R. 730-774 can be found at https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear
2. The International Traffic In Arms Regulations (ITAR) 22 C.F.R. 120-130 can be found at http://www.pmddtc.state.gov/regulations_laws/itar.html
3. The Office of Foreign Assets Control (OFAC) 31 C.F.R. 500-599 can be found at http://www.ecfr.gov/cgi-bin/text-idx?SID=4ed410fd289488e21a17b90d0c33ef63&c=ecfr&tpl=/ecfrbrowse/Title31/31cfrv3_02.tpl
the TAMU official authorized to bind TAMU in any proceedings before
government agencies with export control responsibilities and has final
responsibility for compliance with export control laws and regulations.

2.2 Export Control Office/ Interactions with Government Agencies on Export
Control Matters

The Export Control Office (ECO), in cooperation with other offices, 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, including developing, implementing,
and updating this Manual.

When requested, the ECO will determine, or assist other offices and employees
in export control assessments to determine, compliance obligations with respect
to University activities involving Foreign Persons or international activities under
applicable export control laws and regulations as well as to determine the
applicability of the Fundamental Research Exclusion (FRE)\(^4\) or other exclusions
provided by law. The ECO will also assist with and conduct Restricted Party
Screening (RPS)\(^5\), jurisdiction determinations and classification reviews, and
consult with The Texas A&M University System (TAMUS) Office of General
Counsel (OGC) on export control matters as needed.

All interactions with government officials on export control matters will be made,
administered, and/or managed by the ECO as determined appropriate. Any
communications from government officials relating to TAMU’s export control
compliance program, its employees, research, facilities or equipment should be
forwarded to the ECO for handling.

As part of its overall responsibility for directing and monitoring TAMU’s export
control compliance program, the ECO will conduct periodic reviews on a
staggered basis of TAMU’s compliance with export control laws and regulations
and report its findings to the Empowered Official and/or President as appropriate.

2.3 Sponsored Research Services

Most of TAMU’s sponsored research activities are administered by Texas A&M
Sponsored Research Services (SRS) in accordance with established SRS
procedures.

SRS works closely with the ECO, PIs, and System Members as appropriate in
identifying export control issues related to research and ensuring that approvals
are in place before the initiation of projects.

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\(^4\) As defined in 15 C.F.R. 734.8 “Fundamental research means research in science, engineering, or mathematics, the
results of which ordinarily are published and shared broadly within the research community, and for which the
researchers have not accepted restrictions for proprietary or national security reasons.”

\(^5\) As defined in TAMU Rule 15.02.99.M1, Export Controls, “determines 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 Division of Research.”
SRS’s Compliance Officer is responsible for notifying TAMU’s ECO and Empowered Official of suspected violations to the extent TAMU projects, contracts, or employees are affected.

2.4 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. Additionally, they are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the ECO in implementing the procedures set forth in this Manual, and as otherwise deemed necessary by the ECO for export control compliance.

2.5 Export Control Designated Liaisons

TAMU offices with responsibility for administering components of TAMU’s export control compliance program should designate an individual who will represent the department/unit and coordinate with the ECO on export control compliance matters, including performing routine internal monitoring of export control procedures and practices. Such Designated Liaisons should be appropriately trained.

2.6 Individual Responsibility

2.6.1 All University employees and students, visiting scientists, postdoctoral fellows, and other persons retained by or working at or for the University must conduct their affairs in accordance with United States export control laws and regulations. While compliance with all applicable legal requirements is imperative, it is equally important to maintain an open research environment that welcomes the participation of researchers from around the world as part of the University’s mission. To maintain this balance, University personnel must be familiar with the United States 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, University personnel may be required to participate in formal training as determined by the University’s Empowered Official(s), the ECO, and/or the employees’ supervisors.

2.6.2 PIs, with the assistance of ECO and other offices, are responsible for full compliance with all federal and University export control requirements in the conduct of their research. Violation of the export control laws can directly affect PIs through potential fines, loss of research funding, and/or personal criminal liability. To meet his or her obligations, each 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 red flags in Section 3 of this Manual and note such information on any internal compliance or assurance forms;
(c) Determine, prior to initiation of research, whether any information or technology involved in his or her research is subject to export control laws or regulations;
(d) Review his or her research periodically to ensure continuing compliance with export control laws and regulations;
(e) If undertaking an export-controlled project, brief the students and other researchers involved in the project of their export control obligations; and
(f) Understand that any informal agreements or understandings entered into with a sponsor may negate the FRE or other key exclusions and impose export control obligations on the PI.

2.7 Relationship with Other System Members

Each System member maintains its own export control office to ensure compliance with export control laws and regulations. To the extent there are overlapping export control compliance obligations, such as when university faculty, research, facilities or equipment are concerned, System Members should coordinate with TAMU’s Export Control Office.

3. 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 TAMU or by TAMU employees are intended for military purposes or for other restricted end uses or users.
(b) Foreign Persons will have access to Controlled Physical Items on campus.
(c) Software including encryption features will be developed or purchased.
(d) TAMU 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 activity/transaction will involve embargoed countries or entities; individuals/entities located in embargoed countries; or who are on prohibited or restricted end-user lists, as determined by 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) The agreement contains a Controlled Unclassified Information (CUI) clause. (e.g. DFARS 252.204-7012).
(i) Other Red Flag Indicators: The Department of Commerce, Bureau of Industry and Security has posted a list of Red Flag Indicators for Things to Look for in Export Control Transactions (see http://www.bis.doc.gov/index.php/enforcement/oeo/compliance/23-compliance-a-training/51-red-flag-indicators)
3.2 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 TAMU 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, TAMU must screen individuals and entities as provided in this Manual. TAMU has licensed export control compliance software that permits authorized users 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. No access/use will be authorized without ECO approval. To obtain authorization to use the export control compliance software, a user should complete the Request to Activate/Deactivate Access to Export Control Compliance Software form in Appendix E1 of this Manual. The unit requesting the authorization of a new user is responsible for screening the individual using the export control compliance software before submitting the authorization request form. The requesting unit is also responsible for ensuring that the proposed user has completed the basic online export control training course delivered via TrainTraq, noting the completion date on the request form, and notifying the ECO if the employee’s status changes so that access can be deactivated. Authorized users are limited to full-time employees of the System or a System Member.

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, and Department of State Nonproliferation Orders. Screening includes exact, fuzzy, and phonetic searches, as specified by the user.

3.2.1 Possible Match

Authorized users should conduct RPS in accordance with their department’s/unit’s internal procedures. 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 ECO, along with the criteria used to determine the possible match. Upon further investigation, the ECO will make a determination. The ECO is responsible for maintaining records of its determinations. The departments/units of authorized users are responsible for documenting and maintaining records of all determinations including those not forwarded to the ECO, as provided in Section 18, Recordkeeping.
3.2.2 Authorized Users

On an annual basis, the ECO will generate a list, by department/unit, of TAMU authorized users. The list will be sent to the department/unit head or designee to confirm that the individuals listed are still authorized users for that specific department/unit.

In the case of System Members, each System Member should identify an individual to review RPS hits and determine definitive matches. Additionally, each System Member should designate an individual responsible for maintaining a current list of authorized users for the System Member and confirming the need for RPS access for each user on an annual basis.

Authorized users will be limited to full time employees with business need only. The ECO may limit the number of authorized users as it deems appropriate.

4. Jurisdiction Determination and Classification Review

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. (technology) may be permissibly exported outside of U.S. territory and to Foreign Persons in the United States. If an item is export controlled, prior authorization from one of the government agencies (e.g., Department of Commerce or State) may be required to transfer the item internationally; and/or depending on the type of item (EAR or ITAR) and the circumstances in which it is being accessed and used, foreign national access to (or use of) the item may be restricted unless specifically authorized by the governing agency.

4.1 International Traffic in Arms Regulations (ITAR) – United States Munitions List (USML)

4.1.1 USML Categories

The Department of State regulates exports of defense articles and defense services via the International Traffic in Arms Regulations (“ITAR”) which can be found at 22 C.F.R. 120-129 (see, https://www.pmddtc.state.gov/regulations_laws/itar.html). The ITAR includes a list of articles, services and related technical data designated as defense articles and services regulated by the federal government known as the United States Munitions List (“USML”) (see, 22 C.F.R. 121.1 for the USML). Categories include:

I. Firearms, Close Assault Weapons and Combat Shotguns
II. Guns and Armament
III. Ammunition/Ordnance

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6 For export control purposes, foreign nationals are defined as those individuals who are not U.S. citizens, Permanent Residents (“Green Card” holders) or recipients of Political Asylum status. Hence, foreign nationals are individuals with temporary immigrant visa status including but not limited to H1B, J, F, and B-visa beneficiaries.
IV. Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines

V. Explosives, Energetic Materials, Propellants, Incendiary Agents and Their Constituents

VI. Surface Vessels of War and Special Naval Equipment

VII. Ground Vehicles

VIII. Aircraft and Related Articles

IX. Military Training Equipment and Training

X. Personal Protective Equipment

XI. Military Electronics

XII. Fire Control, Laser, Imaging and Guidance Equipment

XIII. Materials and Miscellaneous Articles

XIV. Toxicological Agents, Including Chemical Agents, Biological Agents and Associated Equipment

XV. Spacecraft Systems and Related Articles

XVI. Nuclear Weapons and Related Articles

XVII. Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated

XVIII. Directed Energy Weapons

XIX. Gas Turbine Engines and Associated Equipment

XX. Submersible Vessels and Related Articles

4.1.2 “ITAR” defense items are broadly defined to include any item or equipment, related technology, software or data that is built, compiled, specially designed, or modified to *military or defense* specifications. This can include precision electronics, components and instruments used during the course of fundamental research. The fact that TAMU can procure such an item commercially does not necessarily mean that the item is not a “defense article.” In some cases, a vendor or provider of such item may label it “ITAR,” which flags it as an export controlled defense item.

4.1.3 It is important to keep in mind that ITAR restrictions operate even in the context of open laboratory, fundamental research projects where no citizenship or publication restrictions have been accepted. Therefore, determining whether or not an item is ITAR controlled prior to incorporation into research inventory or utilized by an investigator or research team it is essential. The fact that the item can be purchased commercially does not remove its controlled status. Buyers, licensees or other types of recipients of ITAR items remain responsible for managing the applicable Foreign National restrictions.

4.1.4 To better understand what is regulated under ITAR, it is important to read the regulations in the context of the definitions for “defense article”, “defense service”, and “technical data”. Below are the definitions as well as a link to the State Department’s decision tool which may be of assistance in understanding and applying the federal regulations, see [http://pmddtc.state.gov/licensing/decision_tools.html](http://pmddtc.state.gov/licensing/decision_tools.html).

- a. Defense Articles (22 CFR 120.6) are broadly defined to include any item or equipment, related technology, or technical data that is built,
compiled, designed, or modified to military specifications. This includes, for example, military-grade electronics, components of instruments used during the course of fundamental research. It also includes items or technical data with significant military or intelligence applicability. The fact that the item is commercially available does not necessarily mean the item is not a “defense article.” Defense articles include: hardware, software, technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data. It also includes forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles. It does not include basic marketing information on function or purpose or general system descriptions.

b. Defense Service (22 CFR 120.9) is defined as (1) 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) furnishing to foreign persons of any controlled technical data, 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.

c. Technical Data (22 CFR 120.10) is defined as information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation; information covered by a secrecy order; and software directly related to a defense article; classified information relating to defense articles and defense services on the USML and 600-series items controlled by the Commerce Control List; and software directly related to defense articles.

4.2 Export Administration Regulations (EAR) – Commerce Control List

4.2.1 The Department of Commerce regulates exports of dual use items and technology via the Export Administration Regulations (“EAR”) which can be found at 15 C.F.R. Parts 730-774 (see, https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear). The EAR includes a list of items subject to regulation known as the Commerce Control List (“CCL”). The CCL can be found at https://www.bis.doc.gov/index.php/regulations/commerce-control-list-ccl.

Categories and product groups include:

Categories:
0. Nuclear Materials Facilities & Equipment (and Miscellaneous Items)
1. Materials Chemical Microorganism and Toxins
2. Materials Processing
3. Electronics Design Development and Production
4. Computers
5. Pt-1 Telecommunications
   Pt2 – Information security
6. Sensors and lasers
7. Navigation and Avionics
8. Marine
9. Aerospace and Propulsion

Product Groups:
A. Systems, Equipment and Components
B. Test, Inspection and Production Equipment
C. Materials
D. Software
E. Technology

4.2.2 Using the above categories and subcategories, an export control classification number ("ECCN") can be determined. The ECCN is a 5 character alpha numeric code. The first character is a number that describes the category of the item. The second character is a letter which indicates the subcategory. The last 3 numerical digits are used for numerical ordering of the item. If an item falls under U.S. Department of Commerce jurisdiction and is not listed on the CCL, it is designated as EAR99. EAR99 items generally consist of low-technology consumer goods and do not require a license in many situations. However, if the item will be "exported" to an embargoed country, to an end-user of concern, or in support of a prohibited end-use, a license may be required.

4.2.3 The federal government’s recent export reform initiative has resulted in some changes to the USML and CCL. Some defense articles that were once listed on the USML have now moved to the CCL creating two new series of ECCNs: 500 for Spacecraft and 600 for Commerce Munitions. Items that moved from the USML to the CCL have generally included some less important parts, components, accessories and attachments used in or with defense articles. The federal government uses a “catch” and “release” process to determine if items stay on the USML or are released onto the CCL. If the item is not on the revised USML, or within one of the “specially designed” catch all’s, the item is “released” to the CCL and controlled under the specifically enumerated ECCN and subject to military end use and embargoes based on the ECCN. For decision tools, FAQ and other resources, see https://www.bis.doc.gov/index.php/2012-03-30-17-54-11/ecr-faqs; and https://www.bis.doc.gov/index.php/forms-documents/doc_view/789-600-series-and-ccl-order-of-review.

4.2.4 “Dual Use" items are broadly defined as any item (equipment, instrument, related technology, material, software or data) that is civilian by design and intended application, but could, by virtue of its specifications and
performance, be used for a defense purpose. Dual use items can include research instruments and related software, materials, or data used in fundamental research. The fact that TAMU can procure such items commercially does not mean that they are not export controlled. In some cases, a vendor or provider of an item may label it as “EAR-controlled,” which flags it as a dual use export controlled item.

4.2.5 For dual use items, it is important to identify situations where dual use controlled technology that is not otherwise the subject of fundamental research and eligible for publication is potentially shared or utilized. Below are several examples of technology sharing which may trigger an export control issue.

a. Utilizing vendor-proprietary repair or maintenance manuals, or software configuration programs, provided by a vendor (or third party) which are labeled “EAR” or “export controlled”.

b. Training research personnel to perform all of the following functions with respect to a specialized research instrument: install, maintain, repair, refurbish and overhaul (or any combination of these items) that imparts the inherent proprietary design and controlled functionality of a dual-use controlled item (again, presumes having a vendor’s proprietary installation/repair manual or software configuration program).

c. Developing or modifying a dual use instrument (typically a co-development arrangement with a vendor or manufacturer) that likewise exposes the underlying controlled design. Development may include all stages of work prior to serial production, such as design research, analysis, “proof of concept,” assembly and testing of prototypes, pilot production schemes, configuration, or integration design.

5. Foreign National Employees

5.1 It is important for hiring departments/units to be aware that the ability to hire nonimmigrant Foreign Nationals for certain positions may be restricted or prohibited by export control laws. For example, nonimmigrant Foreign Nationals may be restricted or prohibited from performing employment responsibilities relating to certain information technology systems positions to the extent the work will involve access or use of Controlled Information or Items. Supervisors proposing to hire nonimmigrant Foreign Nationals should carefully consider whether or not the proposed employment will involve access or use of Controlled Information or Items before extending offers of employment. Supervisors are required to complete an ISFS Export Control Review and Certification form (Appendix E2) and to complete export control basic training. Any questions should be referred to the ECO.
5.2 ISFS is responsible for:

- Conducting RPS of the individual plus his/her affiliated institution
- If applicable (I-129 form), reviewing the completed internal Export Control Review and Certification
- Report potential export control issues and seek a determination from the ECO for unresolved name matches.

ISFS will not file an immigration petition unless all necessary export control requirements have been addressed by the supervisor and cleared by the ECO as needed.

5.3 Any export control issues related to the hiring of nonimmigrant Foreign Nationals should be referred to ECO for guidance and resolution.

For procedures relating to the hiring of Foreign Nationals for work at TAMUQ see Section 15, TAMUQ.

6. Research and Other Research-Related Agreements

Most data and information involved in University research is excluded from export control regulation under the ITAR or EAR based on “Published” technology & software/public domain exclusion and the Fundamental Research Exclusion (FRE). 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 Person 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. OFAC restrictions and prohibitions generally arise in connection with interactions involving certain individuals, entities and countries most notably in interactions with embargoed countries and individuals/entities from embargoed countries (i.e., Cuba, Iran, North Korea, Syria, Sudan, Crimea Region of Ukraine).

6.1 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 TAMU Export Controls Decision-Making Tree for Administration of Contract Provisions of Concern in Appendix B1 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 Non-Disclosure Agreement (NDA) related to research, the ECO 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 (other than TAMU’s standard customary brief delay to protect a sponsor’s confidential information or to preserve the patentability of
an invention).

(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 6.2 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.

(j) There is a Controlled Unclassified Information (CUI) clause (e.g., DFARS 252.204-7012).

6.2 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) DFARS 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 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) DFARS 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 “confere 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 TAMU’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 thesis or dissertation. Need to ask the PI if the project is basic or applied research. If yes, foreign students of any nationality would be allowed to work on the project without first obtaining an export license. If yes, obtain confirmation in writing.

(h) DFARS 252.204-7012 (Controlled Unclassified Information)


6.3 Procedures Applicable to Research and Other Research-Related Agreements and Subcontracts

6.3.1 In the case of sponsored research agreements administered through SRS, SRS has established processes and procedures.

6.3.2 Other research related agreements, should be reviewed for red flags in a manner similar to the processes described in Sections 3, 6, and 11 of this Manual. Questions should be directed to ECO.

6.3.3 For material transfer agreements, and other agreements administered by the Division of Research, the Division of Research conducts RPS of parties and reviews the substance of the transaction for export control red flags.

6.3.4 Potential export control issues should be forwarded to the ECO for resolution.

6.4 Resolving Export Control Issues

When a potential export control issue is identified, the ECO will work with the parties involved, 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 ECO 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 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 ECO will notify the PI, SRS, and others of the ECO’s export control determinations. ECO will maintain records of its determinations on a project basis, as provided in Section 18 Recordkeeping.

6.5 Technology Control Plan
6.5.1 Development

If the ECO determines a project, facility, or item is export-controlled, the ECO will work with the PI, facility managers, and others 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 C 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 and nationality of each individual participating in the project;
(d) appropriate physical and informational security measures;
(e) personnel screening measures and training; and
(f) appropriate security measures for the duration of the project and following project termination.

6.5.2 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.
(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 Network.\(^7\)
(g) Confidential Communications. Discussions about the project must be

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\(^7\) 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.
limited to the identified and authorized project participants, and only in areas where unauthorized individuals are not present. Discussions with third party sub-contractors must occur only under signed agreements which fully respect the Foreign Person limitations for such disclosures.

6.6 Export Licensing

If an ITAR, EAR, OFAC or other (i.e., NCR/NNSA) license, Technical Assistance Agreement, Manufacturing License Agreement, Registration, or other authorization (i.e., exemption) is needed to address an export control issue, as determined by ECO, the ECO will consult with the PI and other appropriate parties to gather all the information needed to seek a license or authorization. The ECO will inform the Empowered Official, or designee, of the details of the export control issue and make a recommendation that a license or other authorization should be obtained. The Empowered Official, or designee, will request the license or other authorization from the cognizant agency with assistance from the ECO and the OGC if needed.

7. International Visitors to Texas A&M University

7.1 Those hosting Foreign Nationals should be aware that there might be restrictions or prohibitions associated with such visits. For example, (i) the proposed visitor may be from an embargoed country (i.e., Cuba, Iran, Syria, Sudan, North Korea, Crimea Region of Ukraine), (ii) the proposed visitor or his or her affiliated institution may appear on a restricted party list, or (iii) the proposed activities may require a license, or be restricted or prohibited by export control laws. Hosts should carefully consider possible export control implications associated with a proposed visit before extending invitations, and should consult with the ECO as needed.

7.2 All TAMU employees intending to invite or host Subjected International Visitors as indicated in TAMU Rule 15.02.99.M1 Export Controls are required to notify Immigration Services for Faculty and Scholars (ISFS) and request from the Division of Research (DOR) the approval of research activities for such visit before the arrival of the Subjected International Visitor per Section 7.4 below.

7.3 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 Technology Control Plan, license or as authorized in writing by the ECO. It is the responsibility of the TAMU employee hosting the visitor to ensure compliance with export control restrictions and to promptly disclose and report to the ECO as specified in TAMU Rule 15.02.99.M1, Export Controls any violations thereof.

7.4 RPS of Subjected International Visitors

RPS of Subjected International Visitors includes RPS of the Subjected International Visitor's affiliated institution and/or sponsoring entity. RPS is needed
whenever a written or verbal invitation to visit TAMU is made to a Subjected International Visitor regardless of whether:

(a) The Subjected International Visitor is present or not in the United States;
(b) TAMU needs to sponsor the Subjected International Visitor for immigration purposes under the J-1 Exchange Visitor Program;\(^8\) or
(c) TAMU does not need to sponsor the Subjected International Visitor for immigration purposes because he or she is traveling or has entered the United States under the Visa Waiver Program a B-1/B-2 visa or other nonimmigrant visa status as indicated on a properly annotated I-94.

7.5 Procedure to Notify and Request Authorization to Visit

TAMU employees inviting and hosting Subjected International Visitors must complete, prior to the visit, a request for Approval of a Visiting Scholar, Form 5VS, available in Appendix D of this Manual, or any other form identified from time to time by DOR.

The DOR will conduct RPS on the Subjected International Visitor and report hits that cannot be ruled out on secondary screening to the ECO for review and resolution as set forth in Section 3.2.1 of this Manual. If there is no RPS hit, DOR will forward a copy of the approved form to Immigration Services for Faculty and Scholars (ISFS) to initiate the immigration process for those instances in which TAMU needs to sponsor the Subjected International Visitor, as well as for those in which the Subjected International Visitor is traveling under the Visa Waiver Program, a B-1/B-2 visa or other nonimmigrant visa status as indicated on a properly annotated I-94.

7.6 Exempted International Visitors that Become Subject to Screening

Exempted International Visitors as defined in TAMU Rule 15.02.99.M1 Export Controls are not subject to RPS unless the terms and/or purpose of the visit changes.

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 conditions subject to screening listed in TAMU Rule 15.02.99.M1 Export Controls and Section 7.4 and 7.6 of this Manual, require the host to notify DOR and request the approval of such visit or change in visit prior to permitting the International Visitor to engage in any activity that may require an RPS. Approval requests should follow the procedure outlined above in Section 7.5.

7.6 Change in Nature, Purpose, or Duration of Visit

In the event it is anticipated that the nature, purpose, or duration of a visit will change, the host is responsible for contacting ISFS to request the approval of an

\(^8\) For example, Foreign Persons may come to visit TAMU under the J-1 exchange 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.
extension of the visit and completing, submitting, and obtaining approval of an updated Form 5VS prior to the effective date of the change.

8. **Distance Education**

Distance education at Texas A&M University refers to credit bearing, transcripted courses only offered to enrolled and registered students where the course delivery occurs in a setting where the students and faculty member 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 of 100 percent online, face-to-face offsite, or some hybrid combination of face-to-face and online. Due to the element of distance in this education delivery method, some export control concerns may arise. It is the responsibility of the department offering the course and the faculty instructor of record to ensure export control requirements are reviewed and any concerns addressed with the ECO. Particular guidance is provided in the following areas for review of export control in distance education:

8.1 **Restricted Party Screening (students seeking admission for degree programs and/or registering for courses offered via distance education)**

Confirming the identification of students enrolled in distance education is standard operating procedure for all courses, whether the student is foreign or domestic. Beginning with the student admission process, student identification is authenticated by the review of student admissions application materials, further identification provided during financial aid and housing application, issuance of a Universal Identification Number (UIN) and unique password. The authenticated UIN and password are used to gain access to a variety of student resources including “HOWDY” student registration and information portal, as well as the e-learning resources utilized in delivery of distance education.

International students and U.S. citizens/lawful permanent residents seeking admission into a degree program offered via distance education or any admitted student seeking to register for courses from outside the United States or through one of the University’s approved off-campus educational sites will be subject to Restricted Party Screening (RPS) by ECO as identified by the Registrar’s Office prior to the first day of classes and by the 20th day of classes for students registering late for classes. Results of the ECO review will be communicated to the Registrar’s Office before a student is permitted to take a course.

If a student is identified as ineligible by ECO for participation in a degree program offered via distance education, then the Office of Admissions, in concert with the department facilitating the desired degree program, will rescind the admission offer.

Beginning in 2011, Texas A&M University addressed the issue of reconfirming student location while taking distance education courses, by implementing a query at the time of registration, in the “HOWDY” student registration portal. To complete registration for a course offered by distance education (signified by unique section numbering), the student must answer the query for their location.
Faculty members utilize start of semester interaction with students enrolled in distance education to verify location and authenticate UIN for each student, as well as restatement of the Aggie Code of Honor through the syllabus.

Prior to the first class day of each semester and by the 20th day of classes for students registering late for classes, the Office of the Registrar produces a listing of all students enrolled in courses offered via distance education, including student name, citizenship, and location while taking the distance education course (as answered at registration). The out-of-country responses will be sorted by country and the list made available to ECO for restricted party screening.

If a student is identified as ineligible by ECO for participation in a course offered via distance education, then the Office of the Registrar, in concert with the department facilitating the desired course, will remove the student from the course registration and block access to the course e-learning resources.

8.2 Certification of Course Content Delivered by Distance Education

A 2010, and subsequent 2013, review by Office of the Provost of existing courses offered via distance education found that all content was limited to information from commonly available sources and met the educational information exclusion provided in export control regulations.

Each semester, each department indicates the previously approved courses (including sections to be delivered via distance education) the department intends to offer for student registration in the coming semester.

Beginning with registration for the Spring 2018 semester, each department will confirm compliance with export control requirements by completing the export control acknowledgement questions as part of the request for scheduling the course in the Section Request System.

The Office of the Registrar will ensure each department head has completed the export control acknowledgement satisfactorily and/or completed ECO review and approval prior to allowing students to register for the section.

8.3 New or Modified Course Offerings via Distance Education

Faculty requesting to offer new or significantly modified courses must submit a New Course Request or Change in Course Request through the Curricular Approval Request System (CARS) for review by appropriate curriculum committees of the Faculty Senate, and subsequent approval of the full body of the Faculty Senate and the President of Texas A&M University.

These requests include the course description, course credits, course program level (bachelor, masters, doctoral), required and recommended course materials, CIP code, course number, prerequisites, etc.

The New Course Request and Change in Course Request include verification that the faculty member has reviewed the Export Control Basics for Distance Education document.
9. International Activities

TAMU offices responsible for administering international activities, programs, or centers are responsible for developing and implementing procedures to screen international programs, centers, and activities for compliance with export control laws and regulations in coordination with ECO. In the case of University activities conducted outside the United States, it is the responsibility of the University activity organizer to seek and obtain appropriate export control approvals from the ECO for activities including, but not limited to, the following: execution of agreements performable outside the United States; non-credit bearing study abroad courses; and making payments to Foreign Person vendors.

9.1 Additional Procedures for Students Engaged in Programs & Activities Outside the United States

9.1.1 Students Subject to RPS

All Foreign Nationals who are attending courses and/or receiving instruction at an international center; or enrolled in a TAMU credit bearing program abroad; or participating in a TAMU non-credit bearing program, activity, or field trip abroad who have not previously attended TAMU (College Station or Galveston campus) 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.

9.1.2 RPS Procedures

9.1.2.1 International Center Activities/Programs – Once identified, the Center Director will submit the student name to the ECO for RPS.

9.1.2.2 International Credit Bearing Activities/Programs – The Study Abroad Programs Office will submit the student name to the ECO to conduct RPS for students involved in these activities.

9.1.2.3 International Non-credit Bearing Activities/Programs - The Study Abroad Programs Office will include information in its materials to alert the field trip leader of his or her export control compliance responsibilities. The field trip leader will submit the student name(s) to the ECO for RPS.

9.2 Faculty and Scholars

All Foreign Nationals teaching, conducting research, or presenting workshops, symposia, or other academic presentations at an International Center who are not employed by TAMU (College Station or Galveston campus) and are not currently employed by a college or university based in the United States, should undergo RPS prior to participation in academic or research programs at an International Center. The Center Director will submit the faculty or scholar name to the ECO, which will conduct RPS.
10. Purchasing and Financial Transactions

10.1 Financial Transactions

The Division of Finance, in coordination with ECO, is responsible for conducting RPS of vendors processed through FAMIS and AggieBuy.

Procedures for setting up vendor information in FAMIS and AggieBuy (eProcurement system) include conducting RPS for all vendors at the time vendors are established in the accounting system. For purchases handled by TAMU, it is the responsibility of the Division of Finance to conduct RPS pursuant to the procedures set forth in Section 3.2 Restricted Party Screening. Any potential export control issues will be referred to the ECO.

10.2 Procurement: Identification and Notification of Export Controlled Items

10.2.1 It is important to identify the procurement of ITAR items at an early stage because the State Department tightly restricts Foreign National access to ITAR items regardless of whether or not there is an intention to use the item or an understanding of how to use it. This includes visual access in the laboratory environment. EAR restrictions, on the other hand, are “use-based” restrictions: access to (and operation of) the item is generally not at issue, absent certain exceptional use related conditions.

10.2.2 While vendors often self-identify ITAR items, those engaged in purchasing should nonetheless remain aware that, in the event that the vendor does not self-identify, the following types of items are often ITAR controlled. In general, these types of items would be used by the following research disciplines: marine, geological, geographic, and atmospheric research.

- Night vision goggles, infrared cameras
- Gravimeters
- Equipment on loan from federal sponsors
- Sonobuoys and deep oceanic position signaling devices
- Military-band communications systems or GPS
- DOD funded military electronics
- Submersible vessels and related remotely operated accessories
- Inertial navigation units, modem chips, and components
- Radar applications
- Wind tunnel apparatus

10.2.3 The following list illustrates, by example, the types of dual use (and potentially higher risk/controlled) equipment commonly found in research laboratories and for which those purchasing should identify/request classification.9

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9 This list is not intended to be comprehensive of all possible dual use instruments.
- Measuring and sensing devices
- Gas movement and filtering devices
- Precision tooling, positioning and balancing instruments
- Optical and photonic components (including sensors, infrared and focal plane array detectors)
- Oscilloscopes; spectrometers; fermenters
- Nuclear/radioactive transport or shielding equipment
- Class 3 and 4 lasers, and related precision beam equipment
- Semiconductor substrate and etching development equipment and processes
- Fiber optic cable development equipment
- Marine submersible equipment (including hydrophones, signal receiving/emitting devices, pingers, acoustical releases, submersible video and television apparatus, etc.)
- Unmanned aerial vehicles (drones)
- Inertial navigation systems and related instruments
- Remotely operated vehicles (ROVs)

10.2.4 Identifying ITAR and EAR-Controlled Items in the Procurement Process

For those involved in purchasing items which might be controlled, below are some questions to ask:

a. Has the vendor disclosed that an item is controlled in product or sales documentation by incorporating such information in the following types of documentation:

   1. Quotation documentation on the purchase order an analogous purchase documentation (i.e., master purchase agreement)
   2. Commercial invoice or packing slip that accompanies the item
   3. Product specification web page
   4. Certification issued by the vendor (requiring department to acknowledge in writing the export controlled status of the item)
   5. Software license (or related terms/conditions)

b. If there has been no identification on whether an item is controlled or not, the vendor/licensor should be asked to certify whether or not the item is controlled at an early stage of the purchasing process by issuing a vendor certification. For assistance, the ECO should be contacted.

10.3 When an ITAR Item is Identified

Prior to purchase, if an ITAR item is identified, the ECO should be contacted so appropriate measures can be taken. This may include a discussion with the requisitioning department/individual about whether it is essential to have an ITAR item that will impose Foreign National access and use restrictions or instead procure a substitutable lesser-controlled item with no access/use restriction.
10.4 When a Particular Specification or Build to Print Items is Marked “ITAR” or “Export Controlled”

Those seeking to outsource the fabrication, testing or development of an item to a vendor or subcontractor necessitating the transfer of technical data marked “ITAR” or “export controlled”, should notify the ECO prior to forwarding the item to any party so that any export control implications of the documentation can be resolved.

10.5 Asset Management

Those involved in asset management should take steps to flag items identified as export controlled in the data inventory system for future disposition.

10.6 Shipment of Items identified as ITAR/EAR Controlled

If an individual becomes aware that an item identified as ITAR or EAR controlled will be sent by TAMU to a location outside the United States, the individual should notify the ECO and advise the requisitioning department/individual to have the proposed shipment reviewed by the ECO prior to shipment.

See Section 15.4 for additional information specific to TAMUQ.

11. TAMU Department of Contract Administration

The Department of Contract Administration will conduct RPS on sponsors and vendors that have not been screened by Purchasing. In addition, the Department of Contract Administration will utilize a checklist to review agreements for red flags (including, without limitation, amendments, memoranda of understanding, new task orders, etc.). Potential red flags or unresolved RPS hits will be referred to the ECO for a determination.

12. Technology Commercialization

The Texas A&M Office of Technology Commercialization (TTC) has established procedures to address the export control implications of their activities, including procedures related to RPS, invention disclosure screening for red flags, etc. TTC sends invention disclosure documentation to the relevant system member’s export control office for review and a determination before incorporating disclosures into its records management system.

13. Shipping

It is the responsibility of TAMU employees who are shipping items outside the United States (including hand-carrying items such as research equipment, materials, data, or biological or chemical 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 and may require an export license or be prohibited depending on the item, destination, recipient, and end-use. Even if an item is cleared through Customs, it may still require an export control license.
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 embargoes ¹⁰ must first be cleared by the ECO. Departmental personnel who are responsible for shipping packages out of the country should obtain a list of contents before shipping and contact ECO with any questions.

Shipping regulated items out of the U.S. without a license can result in significant individual fines of up to $250,000 and up to ten (10) years imprisonment. This applies to the individual, although there may be fines for TAMU as well. One should not ship an item without taking the time to find out if a license is required.

Mislabeling the package or misrepresenting the classification of the item is illegal. Violations may result in civil penalties of up to $32,500 per violation, and deliberate violations may result in criminal prosecution of up to $500,000 and five (5) years in prison. Under-invoicing or undervaluing an exported item is also against the law. Reporting an incorrect export value on a Shippers Export Declaration is a violation of export regulations.

Shipment of items controlled under the ITAR or EAR should be clearly marked as controlled with the appropriate regulatory control cited. Any licensed export, regardless of dollar value, as well as exports with a dollar value greater than $2,500, regardless of export control status, must be entered into the Department of Census Automated Export System (AES) prior to the export of the item or information.

A shipping decision tree can be found in Appendix B3 of this Manual. Shipping-related export control issues, questions or concerns should be referred to the ECO for assistance and resolution.

14. Travel

TAMU employees and students traveling on TAMU business or traveling with TAMU 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 are provided to a Foreign Person. The traveler or the traveler’s supervisor should contact ECO 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. Travelers should consult with the ECO if they are thinking about taking encrypted software, Controlled Items/Information or unpublished research data or data not in the public domain abroad, or if traveling to an embargoed country to conduct university activities. Some travel related activities/destinations may be prohibited and others may require a license. The ECO can help with these assessments and ensure compliance with export control requirements.

¹⁰ See OFAC’s Sanctions Program and Country Summaries at http://www.treasury.gov/resource-center/sactions/Programs/Pages/Programs.aspx for the most current list of embargoed countries and U.S. sanctions.
Most travel for conferences will fall under an exclusion to the export control regulations, e.g., the Published technology & software/public domain exclusion, 15 C.F.R. 734.7 and 22 C.F.R. 120.11. Information that is published and is generally accessible to the public through publication in books or periodicals available in a public library or in bookstores or information that is presented at a 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.

TAMU employees and students traveling outside the U.S. with laptops, PDAs, cell phones, or other data storage devices and 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 ECO. There are a number of exceptions and exclusions which may apply depending upon the facts and circumstances of each case.

If personal computers and 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 the laptop, PDA, cell phone, data storage devices, 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, so long as an individual (1) retains his or her laptop computer, PDA, cell phone, data storage devices and encrypted software under their personal custody and effective control for the duration of travel; (2) does not intend to keep these items outside the U.S. for longer than 1 year; and (3) the individual is not traveling to an embargoed country, no government export license is required. 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.

Researchers frequently need to take other TAMU 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 TAMU equipment other than a laptop computer, PDA, cell phone, or data storage devices, abroad should contact ECO 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) Certification, Appendix E3, for use by travelers, as appropriate, to document the application of the one-time TMP license exception. Also attached is an International Travel - Export Control Screening Checklist that may be used by travelers, on a voluntary basis, to assist in the identification of potential export control issues. See Appendix F5.
It is important to note that activities involving teaching or training Foreign Persons on how to use equipment may require a license. Contact the ECO for information on applicable travel exemptions and exceptions.

15. TAMUQ

There are unique aspects associated with the operation of a branch campus outside the United States which require enhanced export control related procedures and processes at TAMU’s campus located in Doha, Qatar.

15.1 Personnel Actions and Visiting Scholars

TAMUQ has implemented enhanced procedures to screen personnel actions and visiting scholars. See TAMU SAP 15.02.99.M1.01 Export Control Screening of Personnel Actions and Requests for Authorization for Visiting Scholars at TAMUQ, TAMUQ Personnel Hiring, Visiting Scholar Request and Student Admission Decision Tree, Appendix B2, Checklist for Export Control Issues for TAMUQ Foreign Nationals, Appendix F1, and Checklist for Export Control Issues for TAMUQ Visiting Scholars Appendix F2.

15.2 Students

TAMUQ does not have an active recruitment program for students in the embargoed countries. The TAMUQ Office of Records performs RPS on all qualified undergraduate and graduate applicants prior to enrollment. Any students having an export control concern other than country are referred to secondary screeners at TAMUQ for further evaluation. Students that do not clear the secondary evaluation are referred to TAMU’s ECO. See TAMUQ Personnel Hiring, Visiting Scholar Request and Student Admission Decision Tree Appendix B2.

15.3 Technology Control Guidelines

To safeguard and prevent unauthorized access and/or use of export-controlled technical information, data, items, software, hardware, biological materials, and chemicals by Foreign Nationals and other restricted parties, TAMUQ has implemented guidelines setting forth the mechanisms to protect against unauthorized access or use of such items. See TAMU SAP 15.02.99.M0.01 Technology Control Guidelines at TAMUQ.

15.4 Purchasing

Purchases should adhere to Section 10 Purchasing and Financial Transactions. TAMUQ purchasers should determine, in consultation with ECO, whether or not the purchase request, requisition, request for reimbursement, or other purchasing action is subject to export controls. If the purchase contains export-controlled items, the purchase or reimbursement should receive additional review from ECO. For any purchase or reimbursement that does not require a vendor to be established in the TAMU accounting system, TAMUQ will conduct RPS of the
vendor. See TAMUQ Equipment Purchase and Acquisition Decision Tree, Appendix B4.

15.5 Sponsored Research

Sponsored research agreements will be reviewed by SRS and/or the Division of Research/TEES per Section 6 of this Manual. The contracting party will either be TAMU or TEES. TAMUQ does not have authority to contract in its own name. If an agreement is being administered outside SRS or TAMU, TAMUQ should keep the ECO informed of any export control issues and coordinate resolution through the ECO as appropriate.

15.6 Short Courses Offered at TAMUQ

Short course content should be reviewed for export control red flags, through TAMUQ’s Office of Human Resources Services, for export control compliance purposes using the Checklist attached as Appendix F4. Possible issues will be forwarded to TAMU’s ECO. Additionally, students of such courses as well as their sponsor(s), if any, are subject to RPS through TAMUQ’s Office of Human Resources Services. If any boxes on the Checklist are marked “yes” or unknown” the Office of Human Resources Services will forward the checklist and any supporting documentation to the ECO for further review. Results of RPS will be administered in the same manner as results of personnel actions and visitor screenings (See TAMU SAP 15.02.99.M1.01 Export Control Screening of Personnel Actions and Requests for Authorization for Visiting Scholars at TAMUQ).

15.7 TAMUQ High Performance Computing Facility

The TAMUQ high performance computing facility follows guidelines established in TAMU SAP 15.02.99.M0.01 Technology Control Guidelines at TAMUQ to prevent unauthorized access to Controlled Physical Items or Controlled Information.

Users with general computer accounts do not automatically receive access to the high-performance computing cluster. All users desiring to use the high-performance computing cluster must submit an application for access and agree to terms of use. The TAMUQ Research Computing team is responsible for reviewing the requests for access to ensure compliance with eligibility criteria and technology control guidelines set forth in TAMU SAP 15.02.99.M0.01. See TAMUQ Access to Computing Facilities decision tree attached as Appendix B5 and Checklist for Export Control Issues for External Users of Computing Facilities attached as Appendix F3. Potential export control issues are referred to the ECO.

16. International Ocean Discovery Program

The International Ocean Discovery Program (IODP) is an international scientific ocean drilling research program funded by the National Science Foundation, which operates as a Special Center for Research at TAMU. TAMU is the science operator for the program under a subcontract awarded to the Texas A&M Research Foundation (TAMRF). IODP is responsible for complying with the applicable regulatory requirements related to export
controls that arise from IODP’s research, purchasing, and related activities. Export control issues related to IODP operations will be identified, assessed, and managed by the IODP Program Director (and designees) and General Manager (and designees), in coordination with ECO, using this Manual as a guide.

IODP has established procedures to prevent unauthorized access and/or use of export-controlled technical information, data, items, software, hardware, biological materials, and chemicals by Foreign Nationals and other restricted parties and consults and coordinates with the ECO as needed.

17. Texas A&M High Performance Research Computing Facility

The operation of the Texas A&M High Performance Research Computing Facility (TAMU-HPRC) involves the use of export-controlled items and information. The TAMU-HPRC has developed and implemented a technology control plan (TCP) in coordination with ECO to prevent unauthorized access of Controlled Information or Controlled Physical Items by Foreign Nationals. Export control issues related to TAMU-HPRC operations are identified, assessed and managed by the TCP Responsible Individual and/or the TAMU Chief Information Security Officer, in coordination with the ECO.

18. 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 C.F.R. Sections 122.5, 123.22, and 123.26 (ITAR); 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 and regulations and University rules.

Records will be maintained on a project basis or as otherwise designated in this Manual, and accessible (electronic or hard copy) for audit/assessment purposes.

Records that should be retained include all memoranda, notes, correspondence (including email), financial records, shipping documentation as well as any other information related to the export activities. In addition, whenever a license or license exception or exemption is used, additional records documenting the applicability of the license, or exception/exemption may be required and in some cases there may be additional reporting requirements. The ECO should be contacted for guidance.

Those conducting RPS are expected to maintain documentation of Restricted Party Screening results including, documentation indicating the methodology for their determinations.

Those relying on self-classifications are responsible for maintaining documentation to support such determinations.

Records should be protected against unauthorized access, use, disclosure, modification or destruction, including assuring the availability, confidentiality and integrity of information consistent with System Regulation 29.01.03 Information Security and
related university rules and SAPs, and in accordance with the terms of any license, TCP or as otherwise required by the ECO.

19. **Training**

19.1 Export Control Basic Training delivered via TrainTraq is required for the following classes of University employees:

- All employees of the Division of Research, excluding research animal technicians/caretakers
- All employees of the International Ocean Discovery Program
- All employees of TAMU’s High Performance Research Computing Facility
- All department/unit heads
- All employees identified on technology control plans processed through the TAMU’s Export Control Office
- All employees of the Study Abroad Office
- Supervisors submitting requests to hire foreign nationals through ISFS
- All employees of ISFS
- All College of Geosciences employees
- All Health Science Center employees

19.2 Export Control Basic Training specific for Texas A&M University at Qatar delivered via TrainTraq. This training is required for all employees of TAMUQ excluding local hires.

19.3 The Information Security Awareness Training program, delivered via TrainTraq. This training includes an export control component and is required for all TAMU employees.

19.4 Procard Training, delivered via TrainTraq incorporates an export control component. This training is required for all procard holders.

19.5 Trip Leader Training. Study Abroad Organizers submitting requests for programs via the Study Abroad Office are required to take the Study Abroad Office’s Trip Leader Training, delivered via TrainTraq. The training incorporates an export control component and is required for all study abroad trip leaders.

19.6 Depending on the nature of an individual’s activities and/or job functions, a University employee may be required to take ECO’s basic export control online training course and/or supplemental export control training as deemed appropriate by the individual’s supervisor and/or the ECO.

19.7 Basic export control training for those identified in Sections 19.1 and 19.2 above is assigned automatically in TrainTraq by group, and by individual assignment for those not included in a category assignment. The ECO is responsible for communicating the assignment categories to TrainTraq and for making individual assignments. The ECO is also responsible for reviewing bi-annual reports generated by TrainTraq and ISFS to determine whether or not such employees are current on their training. The ECO will follow up with those delinquent on training to ensure course completion.
The ECO will review the assignment categories annually to assure they are up to date.

20. Monitoring

Export control compliance and monitoring is a shared responsibility coordinated by TAMU’s ECO in cooperation with various other offices across TAMU (including its branch campuses).

To maintain TAMU’s export control compliance program, and ensure consistent adherence to U.S. export control laws and regulations, TAMU has adopted the following monitoring plan.

20.1 TAMU Export Control Office

20.1.1 As part of its overall responsibility for directing and monitoring TAMU’s export control compliance program, and to ensure consistent adherence to U.S. export laws, the ECO will conduct staggered reviews, on an annual basis, of TCPs and the Designated Liaisons’ departments/units. Reviews should evaluate controls implemented to ensure compliance with export control rules, procedures and test the effectiveness of controls. Findings will be reported to the Empowered Official and Designated Liaison. Any suspected violations of U.S. export control laws or regulations will be reported to the Empowered Official.

20.1.2 Every two years, the ECO will conduct a risk assessment of its compliance program with input from the Designated Liaisons. This assessment will consist of identifying risks, mitigations and monitoring mechanisms (collectively, “ERM Spreadsheet”). The ERM Spreadsheet will be submitted to the Empowered Official for review and approval and then forwarded to the University Office of Risk and Compliance.

20.2 Other TAMU Offices

20.2.1 Designated Liaisons should review their export control procedures and processes every two years to evaluate controls implemented to ensure compliance with export control requirements and to identify deficiencies in training, procedures, etc. that can be rectified.

20.2.2 The results of the Designated Liaisons’ reviews should be reported to the ECO. The EC Designated Liaison, or designee, 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, ECO and/or the department/unit head.
21. Possible Violations

Each TAMU employee has the responsibility to report possible violations of United States export control laws or regulations. Suspected violations should be reported to the Empowered Official, together with the details of the suspected violation. Suspected violations may also be reported to the ECO at exportcontrols@tamu.edu or (979) 862 6419; or via the EthicsPoint website. Possible violations of United States export control laws or regulations will be investigated by the Empowered Official, or designee, to the extent deemed necessary. In accordance with TAMUS policies and regulations, and TAMU rules and procedures, the Empowered Official is authorized 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.

22. Disciplinary Actions

There are severe institutional and individual sanctions for violations of export controls laws, including the loss of research funding, loss of export privileges, as well as civil and criminal penalties including imprisonment. Additionally, employees and students may be subject to disciplinary action up to and including termination per TAMU rules and procedures and TAMUS policies and regulations.
Appendix A  

Glossary

The following terms are defined in System Policy 15.02 Export Controls:

Controlled Information
Controlled Physical Items
Export (including “Deemed Export”), also see, Release and Transfer below
Foreign Person

Defense Article —broadly defined to include any item or equipment, related technology, or technical data that is built, compiled, designed, or modified to military specifications. This includes, for example, military-grade electronics, components of instruments used during the course of fundamental research. It also includes items or technical data with significant military or intelligence applicability. The fact that the item is commercially available does not necessarily mean the item is not a “defense article.” Defense articles include: hardware, software, technical data recorded or stored in any physical form, models, mockups or other items that reveal technical data. It also includes forgings, castings, and other unfinished products, such as extrusions and machined bodies, that have reached a stage in manufacturing where they are clearly identifiable by mechanical properties, material composition, geometry, or function as defense articles. It does not include basic marketing information on function or purpose or general system descriptions. (See, 22 C.F.R. 120.6)

Defense Service is defined as (1) 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) furnishing to foreign persons of any controlled technical data, 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, 22 C.F.R. 120.9)

ECCN — The ECCN is a 5 character alpha numeric code. The first character is a number that describes the category of the item. The second character is a letter which indicates the subcategory. The last 3 numerical digits are used for numerical ordering of the item. If an item falls under U.S. Department of Commerce jurisdiction and is not listed on the CCL, it is designated as EAR99. EAR99 items generally consist of low-technology consumer goods and do not require a license in many situations. However, if the item will be “exported” to an embargoed country, to an end-user of concern, or in support of a prohibited end-use, a license may be required.

Exempted International Visitor — As referenced in TAMU Rule 15.02.99.M1, Export Controls, Section 3.2.3, 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: (i) meet with colleagues to discuss a research project or collaboration, (ii) tour labs or research facilities that are not otherwise restricted per se, or (iii) participate in general academic or scientific meetings or presentation.
Foreign National – Any person other than a U.S. citizen, a lawful permanent resident of the United States (i.e., a “green card” holder), or a “protected individual” as defined in 8 U.S.C. §1324b (c) (1 & 2) (e.g., refugees or persons seeking asylum).

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

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: (a) the export of ITAR controlled technical data or defense articles; or (b) the use by the Foreign Person of ITAR controlled technical data or defense articles previously exported by a U.S. person. (22 C.F.R. 120.21)

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

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

Published – made available to the public without restrictions upon its further dissemination such as through any of the following:
  (1) Subscriptions available without restriction to any individual who desires to obtain or purchase the published information;
  (2) Libraries or other public collections that are open and available to the public, and from which the public can obtain tangible or intangible documents;
  (3) Unlimited distribution at a conference, meeting, seminar, trade show, or exhibition, generally accessible to the interested public;
  (4) Public dissemination (i.e., unlimited distribution) in any form (e.g., not necessarily in published form), including posting on the Internet on sites available to the public; or
  (5) Submission of a written composition, manuscript, presentation, computer-readable dataset, formula, imagery, algorithms, or some other representation of knowledge with the intention that such information will be made publicly available if accepted for publication or presentation:
    (i) To domestic or foreign co-authors, editors, or reviewers of journals, magazines, newspapers or trade publications;
    (ii) To researchers conducting fundamental research; or
    (iii) To organizers of open conferences or other open gatherings.
  (b) Published encryption software classified under ECCN 5D002 remains subject to the EAR unless it is publicly available encryption object code software classified under ECCN 5D002 and the corresponding source code meets the criteria specified in §742.15(b) of the EAR. (see, 15 C.F.R. 734.7 also see, 22 C.F.R. 120.11 for Public Domain)

Re-export – Generally, “Release/Transfer” from one foreign country to another foreign country. (see, 15 C.F.R. 734.14, 22 C.F.R. 120.19)

Release – (or transfer) of technical data or technology to a Foreign National anywhere in the world is “deemed” to be an export to the home country of the recipient. (See, 15 C.F.R. 120.15 and 120.17, and 22 C.F.R. 734.50 and 734.13). A “release” can occur through: (i) visual inspection by Foreign Persons of U.S.-origin equipment, facilities or documentation; (ii) oral or written
exchanges of information in the United States or abroad; or (iii) the application to situations abroad of personal knowledge or technical experience acquired in the United States.

Subjected International Visitors – As referenced in TAMU Rule 15.02.99.M1, Export Controls, Section 3.2.2, Subjected International Visitors are International Visitors who: (i) will be involved in a research project or collaboration, and will have access to laboratories for observing or conducting research; (ii) will be issued a TAMU identification card, keys to offices or laboratories, or otherwise be given access to the TAMU computing system in any way or manner; or (iii) will be paid an honorarium, will be reimbursed for expenses, or will be provided something of value.

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 – An agreement for the performance of ITAR-controlled defense services or the disclosure of ITAR-controlled technical data. (22 C.F.R. § 120.22)

Technical Data is defined as information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions or documentation; information covered by a secrecy order; and software directly related to a defense article; classified information relating to defense articles and defense services on the USML and 600-series items controlled by the Commerce Control List; and software directly related to defense articles. (See, 22 C.F.R. 120.10)

Technology – Per 15 C.F.R Part 772 "technology" is information necessary for the "development," "production," "use" operation, installation, maintenance, repair, overhaul, or refurbishing (or other terms specified in ECCNs on the CCL that control "technology") of an item.

Transfer shipment, transmission, or release of items subject to the EAR either within the United States or outside the United States (See, 15 C.F.R. 774)

Use – Operation, installation (including on-site installation), maintenance (including checking), repair, overhaul, and refurbishing. (See, 15 C.F.R. 774)
Does the Contract restrict publications or presentation of research results?

No

Does the contract limit or prohibit Foreign Nationals from performing work or accessing research results?

Yes

No

Does the contract prohibit results or deliverables from being disclosed or delivered to any country or persons?

Yes

No

Will any information used in the project be obtained from a third party subject to nondisclosure obligations?

Yes

No

Does the research take place outside the U.S.?

Yes

No

Will research results be considered trade secrets, confidential, or proprietary information owned by sponsor?

Yes

No

Will Foreign Persons have access to controlled information or controlled physical items?

Yes

No

Is any equipment or encryption software required to be delivered as part of the project?

Yes

No

Further review of this contract/project for compliance with export controls is not necessary at this time. Changes in the contract/project require a new review.
TAMUQ – Personnel Hiring, Visiting Scholar Request and Student Admission Decision Tree
DEcision-Making Tree for Shipping

Is the item going to an embargoed destination?

This shipment may be prohibited, contact the ECO.

Is the item controlled for export control purposes?

Do any General Prohibitions apply to this shipment (Countries, Uses, or other restrictions)?

The item is eligible to ship as “No License Required” (NLR) retain all documents that led to this determination and proceed with shipment.

Do any exemptions* apply?

Contact the ECO.

*See 15 CFR 740
Employee enters the purchase request on workflow

Quality Assurance Coordinator (QAC) accesses the system to determine EC requirements

Is it export Controlled?

Yes

Record the results on workflow as “green” item

Highly Controlled

What is the control level?

Record the results on workflow as “orange” item

Put the item on hold

Is a license required?

Yes

Obtain license and remove the hold

No

Work with ECO to develop TCP

Tag the item and check that all Export Control requirements fulfilled

Record the item on Export Control database

Monitor arrival of item in workflow

Record the results on workflow as “yellow” item
TAMUQ – Access To Computing Facilities Decision Tree

1. Submit an application to access high performance computing cluster
2. Review application by Research Computing Team
3. Review application by Principal Investigator (Supervisor)
4. Review application by Senior Policy Analyst
5. Who is the applicant?
   - TAMUQ Employee or Student
   - Non Employee

   Is the request in compliance with SAP 15.02.99.Q0.02
   - Yes: Create an account
   - No: Refer to TAMU ECO for assessment

   Forward a copy of passport and application form to HR for RPS
   - Does it violate EC compliance?
     - Yes: Deny Access
     - No: File results and create an account
TECHNOLOGY CONTROL PLAN (TCP)

Restriction Type: EAR Dual Use-controlled Technology and Related Items

TCP #: [List TCP#]

Department: [name Department]

Responsible Individual/Lead PI: [name RI/PI]

Location: [List Location]

1.0 Introduction: Reason for TCP and Regulatory Requirements

The purpose of this Technology Control Plan (TCP) is to establish the safeguards required by U.S. Export Control Regulations that apply to accessing and using EAR\(^1\), dual use-controlled technology and technical data. In general “dual use” means that which is civil by design and application (without involving defense specifications per se) but could, by virtue of its capabilities, perform a defense function in addition to its civil application.

Specifically, these safeguards are required when the research involves “use”, “development”, or “production” technology (defined below) with respect to a particular dual use-controlled research item - - whether equipment, instruments, software, or materials (also defined below) during the course of a) fundamental research activities; or b) proprietary industry contracts.

In these scenarios, such dual use-controlled technology may be restricted from foreign national participants (defined below) for deemed export purposes even if such participants are otherwise unrestricted from participating in the overall scope of fundamental research or proprietary contract. In other words, in these dual use technology situations, unless a foreign national is specifically authorized by export license to access and use the dual-use technology, they must remain restricted.

1.1 For purposes of EAR controls, the following general definitions apply:

1.1.1 Foreign national: individuals who are neither U.S. citizens nor Permanent Residents. In other words, individuals present in the U.S. on temporary immigration visas (e.g. F-1, H-1, J-1, B-1, O-1). Under the deemed export definition, an export occurs when a foreign national gains dual use technology which is controlled for that particular foreign national’s citizenship: the export is “deemed” to have occurred at the point of gaining the technology rather than at the eventual termination of visa status and return to country of citizenship or third country.

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\(^1\) Export Administration Regulations
1.1.2 **Instrument, equipment, or commodities:** any item used in the [Program/Research/Laboratory] that has been identified as EAR-controlled either by TAMU, the item’s vendor, or other external party, including those items which *already* exist in the laboratory where program research occurs or those items to be procured or otherwise received into the laboratory.

1.1.3 **Technical data:** includes but is not limited to the following:

a. Proprietary data provided from any source (typically under a Non-Disclosure Agreement) pertaining to EAR-controlled instruments, software, etc., not otherwise in the public domain, and including drawings, blueprints, schematics, specifications and background information
b. Data *used or developed* pursuant to a fundamental research program or proprietary contract that meets the definition of dual use controlled technology below.
   o In the context of a proprietary contract, this includes data that is associated with producing or achieving the contract deliverable, even if not ultimately provided to the sponsor as part of the actual deliverable
c. Operation Manuals and related documentation related to dual use-controlled instruments and software
d. Data communicated through conversations and meeting notes pertaining to the proprietary data (other than fundamental research results)

1.1.4 **Software:** any closed source or executable code that is identified as EAR-controlled, including any related compilation or reference material to use, upload, maintain or operate the software.

1.1.5 **Materials:** may include raw or fabricated materials (including physical, chemical or biological materials) identified as EAR-controlled.

1.1.6 **Dual Use-Controlled Technology**

a. “Use” technology associated with dual equipment, instruments, software, or materials that have been identified as dual-use controlled: in this scenario, the fundamental research or proprietary contract activity involves operating, maintaining, repairing, refurbishing, or installing the dual use-controlled item (or a combination of some of these activities) so as to gain an understanding of the controlled design and performance features of the item.

   (1) Whether “use technology” triggers a foreign national restriction is determined on a case-by-case basis: in some cases, the underlying controlled design feature may only be gained by performing all or most of the function listed above (operating, repairing, installing, etc.). In other cases, such as those involving Space
research and dual use items controlled under CCL ECCN 9A515 et seq., any one of the
documented activities (operating, or repairing, or installing, etc.) automatically
triggers a potential deemed export/foreign national restriction

b. “Development” technology associated with dual equipment, instruments, software,
or materials that have been identified as dual-use controlled: in this scenario, the
fundamental research or proprietary contract involves participating in item design,
design analysis, design modification or co-design activities (conducted with a vendor or
external collaborator), enabling the candidate to gain an understanding of the
controlled internal design features of the equipment. Any singular activity that conveys
the underlying design that renders the item capable of dual use performance meets this
definition of “development.”
c. “Production” associated with dual equipment, instruments, software, or materials
that have been identified as dual-use controlled: in this scenario, the fundamental
research or proprietary contract involves technology associated with the manufacture,
assemble or prototype production of an export controlled item, typically once the
development technology has been finalized and implemented. Any singular activity that
conveys production technology that renders the item capable of dual use performance
meets this definition of “production.”

Note: As not all dual use technology controls apply uniformly to all foreign nationals who may be
eligible to participate in the prescribed fundamental research or contract activity, any potential
foreign national restriction must first be confirmed by TAMU’s Export Administrator consistent with
the requirements of this TCP. The Export Administrator shall assist in the determination of who,
from a foreign national perspective, may be eligible to participate in the particular activity involving
the gaining of dual use technology, including the initial classification determination of dual use
technology, and the possibility of obtaining a deemed export license to authorize the participation
or the proper use of a license exemption.

1.2 Consequences of Compliance Failure

Failure to adhere to these regulations and this TCP can result in an enforceable export control
violation. Enforcement penalties can be civilly assessed and criminally prosecuted against both
TAMU as the host institution and the individual associated with the causing or facilitating the
export violation. Other sanctions include Federal debarment and/or revocation of export
privileges. Therefore, it is of the utmost importance that all persons associated with the [name
Program/Research/Laboratory] strictly adhere to the following requirements, and sign the
Acknowledgement Certification attached hereto.

2.0 Description of the [Program/Research/Laboratory] Wherein the Dual-use Controlled Technology
is Concerned
Provide a brief description of the program and research environment wherein the EAR item(s) and related dual use technology are concerned; include any special aspects, including whether any portion of the research will be conducted outside the laboratories and offices identified in this TCP; whether the research involves non-TAMU collaborators within or outside the U.S; and whether the research requires the transfer (domestic or international) of any EAR dual use-controlled research instrument, software, material or technology.

3.0 TCP Oversight: Roles and Responsibility

The following individuals are responsible for implementing the provisions of this TCP.

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
<th>Email</th>
<th>Phone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Responsible Individual</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Export Control Coordinator (herein referred to as Export Administrator)</td>
<td>Amber Oehlke</td>
<td><a href="mailto:aoehlke@tamu.edu">aoehlke@tamu.edu</a></td>
<td>979-458-8484</td>
</tr>
<tr>
<td>Facilities Manager</td>
<td></td>
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<tr>
<td>IT Manager</td>
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</table>

3.1 Responsible Individual (RI)

The RI on the program determines, exclusively, who will participate in program research requiring access to dual use technology. Any individual who wishes to gain access to the laboratories where such research is conducted must first seek authorization from the RI, whose TCP oversight responsibilities include the following:

a. In coordination with the Export Administrator, approving research participants [and in the case of inter-institutional collaboration, coordinating authorized research participation with non-TAMU participants]

b. Approving facility/laboratory access applicable to all research participants (faculty, staff and students), including locked storage for controlled equipment and hard copy technical data, and coordinating security measures with the Facility Manager

c. Communicating TCP requirements with all research participants and obtaining TCP Acknowledgement Certifications from each participant as well any Sponsor-required NDAs

d. Coordinating with the IT Manager and approving all levels of IT access to controlled technical data and software, data storage, laptop and desk top usage, transfer data, and termination of access privileges where required

e. Coordinating with TAMU’s Export Administrator for ongoing training and monitoring of TCP requirements
f. Ensuring that terminating research participants are reminded of ongoing confidentiality requirement

g. Notifying TAMU’s Export Administrator about potential TCP breaches and coordinating resolution

3.2 TAMU’s Export Administrator

TAMU’s Export Administrator has overall responsibility for ensuring that the provisions of this TCP are adhered to. This includes

a. Performing classification determination of dual use items (including related dual-use) and communicating potential foreign national restrictions to Responsible Individual
b. Assisting as necessary in the process of confirming U.S.-Person status of authorized participants and, potentially, applying for deemed export licenses or confirming license exemption requirements
c. Working with Responsible Individual, the Facility Manager, and the IT Manager to ensure that all security measures prescribed by this TCP align to EAR requirements and can be pragmatically implemented in support of the research program
d. Ensuring that program/research participants are sufficiently trained on TCP requirements and have signed the Acknowledgement Certification
e. Responding to inquiries from faculty, students and staff pertaining to export control with respect to this TCP
f. Responding to any potential breaches of TCP requirements, in the event this occurs
g. Conducting periodic monitoring of TCP compliance
h. Advising terminating research participants of their ongoing confidentiality obligation
i. Maintaining TCP records such as Acknowledgement Certifications, EAR classification information, confirmations of U.S. person status, etc.

3.3 Facilities Manager

The Facilities Manager shall be responsible for helping ensure the controlled laboratories or facilities are secured by appropriate means such as lock/key, electronic key, or electronic badging and/or badge. Specific responsibilities include

a. Coordinating with Responsible Individual on laboratory/facility entrance controls
b. Coordinating with the Responsible Individual person how the dual use items shall be secure within a particular laboratory or office (for example locked cabinets or storage space)
c. Ensuring that TAMU facilities staff members with access for the program laboratories are aware of these restrictions
d. As applicable, and with respect to shared laboratory environments (housing other research programs where dual use technology is not an issue), coordinating laboratory
occupancy consistent with TCP security requirements (may also require a specially designated laboratory or office manager for this purpose)

3.4 IT Manager

The IT Manager shall be responsible for various IT security measures (as applicable to the EAR items) with respect to approved access to [Program/Research/Laboratory] computers, network and intranet systems, and secured data files as authorized by Responsible Individual. Specifically these responsibilities include

a. password protection of all research participants
b. dedicated server EAR-specific directory security
c. data file marking/designation, as applicable
d. establishing read/write privileges as authorized
e. control of laptops, desktops, intranet controls
f. encrypted functions for data transfer where required
g. terminating access rights where required
h. testing all security protocols on an ongoing basis, reporting results back to Responsible Individual and Export Administrator on a periodic basis.
i. ensuring that all other IT personnel supporting program are appropriately aware of and trained for TCP control purposes

4.0 [Identify Laboratories/Offices/Physical Locations] Subject to TCP Requirements

[Identify and describe exactly which laboratories or offices are covered under the TCP and who is authorized to access: for example:]

Dedicated Laboratories

a. [Lab # XXXX/Building Name/#]: access to this dedicated laboratory is strictly controlled by lock/key access.

b. Only Responsible Individual and other persons as authorized by the Responsible Individual have keys (or other approved means) to this Laboratory.

Shared Laboratories

[Note: while shared laboratories are not preferred with respect to conducting activities involving the sharing of dual use technology, this scenario may be unavoidable; hence, special measures must be taken to secure such technology and items. See example below.]

a. [Lab # YYYY/Building Name/#]: This laboratory is shared with other research programs whose participants may have access to such work space.
b. Only persons authorized by the Responsible Individual are permitted to have access to the dual use technology which are secured within the shared laboratory, consistent with EAR restrictions. [Note: see also section below on Secured Storage and Use. A shared laboratory environment may also require additional coordinating measures by the Facilities Manager or specially designated Laboratory or Office Manager].

5.0 EAR Items and Technology Controlled

The following items are subject to this TCP. While some items include research instruments, materials, or other hardware components physically located in the above-referenced laboratories, other items may consist of software and technical data accessible through computer-based network accounts. (See also Section below pertaining to visual access and data transfer restrictions and safeguards).

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>ECCN</th>
<th>REASON FOR CONTROL</th>
<th>SERIAL #</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

Only the Responsible Individual and/or his/her delegated person shall authorize who shall participate in the segment of research wherein the above-referenced EAR dual use controlled technology is part of the research or contractual activity.

6.0 Individuals Authorized to Participate in the Research with Access to EAR Technology and Items

As noted in the Introduction, and subject only to authorized exception, only U.S. persons as defined in the EAR and confirmed by the TCP Owner and Export Administrator shall participate in the [research/program] that requires use and access to dual-use technology. The U.S.-person status of all new participants must be objectively confirmed by appropriate TAMU staff prior to a person’s assignment or participation in the research/program. An exception to this requirement is only applicable when the Export Administrator has determined that a particular foreign national’s citizenship is not restricted for purposes of the particular technology involved; or if restricted, an export license is obtained from the Department of Commerce prior to engagement in the controlled activity; or a license exception is confirmed as applicable.

For the list of individuals currently authorized to participate in the research and who have signed the TCP Acknowledgement Certification, refer to Appendix 1 attached. This Appendix shall be revised as necessary according to student, faculty and personnel changes. Only Responsible Individual is authorized to designate which individuals shall participate in the research.

---

2 Note: Consult TAMU’s HR Department or Export Control Office for appropriate confirmation procedures. Proof of I-9 documentation does not necessarily confirm U.S. person status. The same level of documentary evidence required by E-Verify (e.g., U.S. passport, birth certificate, or Permanent Residence Card) confirms U.S. person status.
7.0 Secured Storage/Use of EAR Dual-use Controlled Technology and Items

All noted EAR dual use-controlled technology and items housed in any of the TCP-controlled laboratories shall be secured; in a shared laboratory environment, this may mean securing such items in a locked cabinet or by other means when not in use by authorized research participants. Only those individuals authorized to access the laboratories shall have keys to these secured cabinets/areas.

With respect to shared laboratory environments, such laboratories shall only be used by research participants when such use does not compromise EAR deemed export requirements. When laboratory research is being conducted using the EAR dual use-controlled technology, the laboratory must then be restricted from entry by non-authorized researchers/personnel, until such time as such controlled technology or items are removed and secured. This may require temporary door signage advising researchers and other personnel that’s the area is restricted for U.S. Export Control purposes until such signage no longer appears on the door, etc.

8.0 Secured access to EAR-Controlled Technical Data Files (soft and hard copy) Associated with EAR Items

[Note: these items may require some specific customization depending on the research requirements]

The IT Manager shall coordinate with Responsible Individual to ensure security pertaining to the storage of EAR dual-use controlled data files, including any special server access and/or maintenance features.

Responsible Individual in coordination with the IT Manager shall assign password-protected access to the computers by which EAR controlled technical data and software is accessed. This authorization is required for all approved research participants accessing such data and/or software.

Use of laptops: Responsible Individual in coordination with the IT Manager will set up and secure designated university laptops for lab-based research involving use of the identified dual-use data and technology. No personal laptops will be permitted to access such data and technology [except potentially those that used by Responsible Individual or designated person.]

As approved by Responsible Individual and communicated to the IT Manager, only certain individuals as authorized shall have Read/Write privileges. All other Program participants shall have Read privileges only, again based on Responsible approval and his/her communication to the IT Manager.

All EAR dual use-controlled data pertaining to the dual use controlled item (e.g. equipment or software) shall be archived in a designated secured directory; all such files shall be marked with following designation: “EAR-controlled Technical Data: For Approved Access/Use Only: Transfer without Authorization Strictly Prohibited.” The directory name will be [name EAR controlled directory].
All controlled hard copy documentation pertaining to these EAR items shall remain secured and, when in use, remain under the direct oversight or supervision of the research participant. When hard copies of controlled technical data are not in use, they shall be stored in locked cabinet(s) within the controlled laboratory (laboratories) to which only designated research participants have keys.

At no time may any hard copy documentation be reproduced by any electronic photographic means, including photocopy machines, unless otherwise authorized by Responsible Individual.

At no time may USB jump drives or CD’s be used to download controlled technical data.

9.0 Restrictions on Transfer of EAR Dual Use-Controlled Technology and Items/Confidentiality of Technical Data

Under no circumstances may the EAR dual use-controlled items and commodities covered under this TCP be removed from the TCP-controlled laboratories for any purpose, unless otherwise authorized by Responsible Individual and the Export Administrator.

 Likewise, under no circumstances may the corresponding controlled technical data and software be electronically transferred for any reason to any individual outside the approved list of research participants unless authorized by Responsible Individual and the Export Administrator.

Prohibited transfer applies to the following situations:
  a. electronically sending any data item or software to an unauthorized individual
  b. downloading it to a CD and providing it to an unauthorized individual
  c. making hard copies and providing them to an unauthorized individual
  d. verbally communicating content to an unauthorized individual
  e. allowing visual contact by an unauthorized individual to a controlled item

10.0 Travel Restrictions Pertaining to Laptops

Under no circumstances may a research participant travel outside the United States with a laboratory-issued laptop that contains the EAR dual use-controlled dual use data. There are no exceptions to this restriction.

In order to sufficiently protect the authorized email transfer of EAR controlled-data within the allowable research program parameters, email communication shall alert the recipient that EAR controlled technical data is either attached to the email or, depending on the situation, indicate that EAR content is embedded in the content of the email and that unauthorized transfer is prohibited.

11.0 Terminating Research/program Participation: Ongoing Confidentiality Requirement

If a research participant terminates participation in the research or program, Responsible Individual in coordination with the IT Manager shall ensure that all access privileges to the TCP-controlled
Laboratories and access to EAR dual use-controlled data (soft and hard copy) are immediately terminated.

Consistent with the TCP Acknowledgment Certification, such participants shall be advised by the Responsible Individual or Export Administrator of their ongoing obligation to maintain strict confidentiality about any EAR-controlled aspect of the research including operation of controlled equipment and software and the content of controlled technical data known to this person.

**12.0 Notification of Potential TCP Breach/Violations**

Any suspected breach of the foregoing TCP controls and any known violation shall be reported immediately upon discovery of said fact to one of the following:

The Responsible Individual:  
[Name, title]  
Email:  
Telephone:

The Export Administrator:  
Amber Oehlke  
Email: aoehlke@tamu.edu  
Telephone: (979) 458 8484

**13.0 Required Recordkeeping**

The following records (as applicable) shall be maintained by the Export Administrator in connection with this TCP:

a. Classification determinations leading to the restrictions outlined herein  
b. List of all researchers approved for EAR item access and use  
c. Copies of all signed TCP Acknowledgement Certifications  
d. Copies of all Non-Disclosure Agreements (NDA’s) signed with another institution associated with research Program  
e. Copies of any export license or exemption approvals obtained to allow foreign national access to the controlled items  
f. [Other]

**14.0 Required Training**

All research personnel who are authorized to access and use the EAR technology and item(s) herein referenced shall receive training on the provisions of this TCP; all research personnel must also complete “Export Controls & Embargo Training - Basic Course”, course number 2111212 in TrainTraq. Until such time as an intended research participant receives such training and signs the Acknowledgment Certification form below, no access to the EAR dual use-controlled items shall be permitted.
15.0 TCP Revisions

All revisions to this TCP shall be authorized only by The Responsible Individual, Export Administrator, Facilities Manager, and IT Manager. When such revisions are made, they shall be incorporated in an updated TCP that is clearly designated by Revision Number and Date.
TCP#: _________________________________

The Responsible Parties (defined as The Responsible Individual, Export Administrator, Facilities Manager, and IT Manager) are to sign as indicated below.

By signing this Acknowledgement and Certification, The Responsible Parties confirm they have read and fully understand the export compliance responsibilities contained in this Technology Control Plan. As such, The Responsible Parties commit to upholding all such requirements without exception or reservation.

The Responsible Parties understand that they could be held personally liable if they unlawfully allow access to or disclose, regardless of form or format, export-controlled information, technology, software, or items to unauthorized persons.

The Responsible Parties 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.

Signature: _______________________________  Date: _______________________________
[Responsible Individual]
[Official university title]

Signature: _______________________________  Date: _______________________________
Amber Oehlke
Export Control Coordinator

Signature: _______________________________  Date: _______________________________
[Facilities Manager]
[Official university title]

Signature: _______________________________  Date: _______________________________
[IT Manager]
[Official university title]
Participant Acknowledgment and Certification of TCP

TCP#: _________________________________

Research participants, Responsible Individual, and Export Administrator are to sign as indicated below:

I, [research participant name], have read and fully understand the export compliance responsibilities contained in this Technology Control Plan and have received training on this TCP. As such, I commit to upholding all such requirements without exception or reservation.

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 agree to immediately contact the Responsible Individual or Export Administrator as designated in this TCP with any questions I may have regarding the designation, protection, or use of export-controlled information, technology, software, or items.

Signature: _____________________________ Date: _____________________________
[Participant name]
Research Participant

Countersigned Below:

Signature: _____________________________ Date: _____________________________
[Responsible Individual]
[Official University Title]

Signature: _____________________________ Date: _____________________________
Amber Oehlke
Export Control Coordinator
### Appendix 1

**Authorized Personnel**

<table>
<thead>
<tr>
<th>Name</th>
<th>Citizenship</th>
<th>Date of Export Control Training</th>
</tr>
</thead>
</table>
Visiting Scholar/International Visiting Scholar/Exchange Visitor Request Form

The (Department, Center or Institute Name) in the College of Visitation Agreement with a Visiting Scholar as outlined in the Texas A&M University Rule 15.99.99.M1 Visiting Scholars not involved in an Employer/Employee Relationship with Texas A&M University.

1. First Name: Middle Name: Last Name:

2. U.S. Citizen: Yes No U.S. Legal Permanent Resident: Yes No

   If Foreign National, specify Country of Citizenship:

   If Dual Citizenship, list all other Countries:

   List any previous Countries of Citizenship:

3. Visiting Scholar:
   a) Name of Home Institution:
   b) Institution Address:
      City: State: Country:
   c) Permanent Residence Address:
      City: State: Country:
   d) Visitation Period:
      Begin: (MM/DD/YYYY) End: (MM/DD/YYYY)
      Remote Access Only: Yes No Extension: Yes No
   d) Other Non-Employee Affiliations:
      Postdoctoral Fellow: Yes No TIAS Fellow: Yes No IPA: Yes No

5. Identify source(s) of support (i.e., sabbatical income, personal savings, grant or scholarship, or employer) for Scholar during visit. NOTE: Visiting Scholars DO NOT receive regular salary compensation from Texas A&M University
   a) Source of Support:
      b) Research Grant/Contract/Award Number of applicable:
      c) Support will be provided directly to: TAMU______, Visitor _______ or Both_______

6. Attach copy of curriculum vitae (CV) or resume and signed visiting scholar agreement.

7. Describe the nature and purpose of the visit, the research (i.e. basic, applied, product development, testing, etc.) and describe the goals, purpose and practical applications of the research if applicable.
APPENDIX D

8. Provide Visiting Scholar’s assigned work location and facilities/resources needed.

9. Yes  No  Will the Visiting Scholar bring any research material to the Texas A&M campus (i.e. notebooks, prototypes, samples, solutions, etc.)?

10. Yes  No  Will the Visiting Scholar perform work on a sponsored award/project?
     If yes, list award number and sponsor name below.

11. Yes  No  Will the visiting scholar have access to existing or potential proprietary information, materials or software and can the research be categorized as Proprietary? Proprietary research, usually privately funded, is defined as research activities undertaken pursuant to a contract between the University and an outside sponsor with commercial interests, and carried out under the auspices of the University. Publication of proprietary research results can be withheld or restricted, contractually. *If yes, a Non-Disclosure Agreement may be required prior to approval from the VPR’s office. If yes, please describe below:

12. Yes  No  Will any Intellectual Property be associated with the Research? Intellectual Property is defined in Texas A&M University System Policy 17-01 as “all forms of intellectual property including but not limited to issued patents, patentable inventions, copyrightable works, trademarks, mask works, and trade secrets”. *If yes, a separate Patent and Copyright Agreement must be signed by the Visiting Scholar.

13. Yes  No  Can the research be categorized as “Fundamental”? Fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons.

14. Yes  No  Will the activities involve access to Public Health Information (PHI) or be performed in Clinical Facilities?

15. Are the research activities covered by the following compliance protocols or involve access to any resources subject to the following:

   Yes  No  Institutional Review Board (IRB)
   Yes  No  Institutional Biosafety Committee (IBC)
   Yes  No  Animal Use Protocol (AUP)
   Yes  No  Technology Control Plan (TCP)

16. If the visiting scholar is an international person (not a U.S. citizen or lawful U.S. Resident), please complete the following questions to assist in the export control assessment of the proposed visit. Please check yes or no for all of the activities contemplated during the scholar’s visit, including funded work and unfunded work, with the host or other faculty members or researchers.

   a. Will the visit involve access to or involvement on project with any of the following (check each one that applies):
      a) Restrictions on publication (including reporting of the research results) or presentations at conferences;
      b) Restrictions on the participation of foreign nationals; or
      c) Export control clauses or references to ITAR/EAR?
      d) Military end use or application?

   b. Can the research be categorized as Classified?

   c. Will the visit involve “use” or access to encryption software and will the Visiting Scholar have access to source code?
APPENDIX D

d. Will the activities performed be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology?

HOST FACULTY MEMBER:
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 prior approval will be required. Should the Visiting Scholar become involved in an Employer/Employee relationship while at Texas A&M University, I will notify the DOR immediately. I hereby certify that I have read University SAP 15.99.99.M0.01 Visiting Scholars Not Involved in an Employer/Employee Relationship with Texas A&M University and have read System Policy 15.02 Export Controls and University Rule 15.02.99.M1 Export Controls. As the Host Faculty Member, I accept the responsibilities associated with hosting a Visiting Scholar, and 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 Visiting Scholar.

Name:
Signature: ________________________________ Date:

Phone Number: Email address:
Email address of departmental personnel needing a copy of this approved form:

APPROVAL RECOMMENDED BY: Department Head (or Director, if appropriate)

Name:
Signature: ________________________________ Date:

APPROVAL RECOMMENDED BY: Dean

Name:
Signature: ________________________________ Date:

APPROVED BY: Division of Research

Name: Autumn B. Biggers, Director
Signature: ________________________________ Date:

This section to be completed by the Office of the Division of Research:

<table>
<thead>
<tr>
<th>Individual passed denied person/embargoes list</th>
<th>Institution/Affiliated Organization passed denied person/embargoes list</th>
<th>Secondary Screening Conducted</th>
<th>Any restrictions, if yes, list results and explain:</th>
<th>Host Completed Export Controls &amp; Embargo Training - Basic Course in SSO via TrainTraq</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>No</td>
<td></td>
<td></td>
<td>Yes No</td>
</tr>
</tbody>
</table>
Routing Approval Instructions:

1. Include attachments with original form.
2. After form is approved by the Host Faculty Member and the Department Head, send the original to the Dean for approval and signature.
3. Dean's office will forward the signed copy to the VPR’s office at visiting_scholar@tamu.edu.
4. VPR office will forward an approved form for international visitors to the International Faculty & Scholar Services Office for further processing. Approved forms for U. S. citizens and lawful U.S. residents will be returned to the faculty host and other designated parties.
Visiting Scholar Agreement

Visitor’s Name: ___________________________ Dates of Visit: ___________________________

Visitor’s Host: ___________________________ Host Department: ___________________________

All individuals assigned under a Visiting Scholar title are subject to and are required to observe all applicable federal, state, and local laws, including, but not limited to, export control laws and regulations, and requirements of Texas A&M University Rules and Regulations, including Intellectual Property Rights and Obligations. The rules may be found at http://rules.tamu.edu/TAMURulesAndSAPs.aspx.

Prior to arriving at Texas A&M University, a Visiting Scholar will need to identify and report any IP rights or obligations that may conflict with the obligations of being a Visiting Scholar at Texas A&M University. The University will work with the Visiting Scholar and their organization on a separate patent and copyright agreement prior to the visitation period.

Title to any potentially patentable invention(s) conceived and/or reduced to practice in whole or in part during the duration of the Visiting Scholar’s time at Texas A&M University shall be, and are hereby, assigned to The Texas A&M University System, pursuant to Texas A&M University’s Rules and Regulations, and in consideration of the Visiting Scholar’s participation in research projects at Texas A&M University, access to or use of facilities provided by Texas A&M University and/or other valuable consideration as a Visiting Scholar.

A Visiting Scholar shall not enter into an agreement creating copyright or patent obligations in conflict with this agreement or Texas A&M University rules and regulations.

The Visiting Scholar agrees to hold Texas A&M University and The Texas A&M University System, their regents, officers, agents, and employees harmless from any loss, claim, damage, or liability of any kind involving the Visiting Scholar arising out of or in connection with this assignment, except to the extent that it is directly due to the negligent acts or omissions of any of the regents, officers, employees, or agents of Texas A&M.

The Texas A&M resources and facility access provided to an approved Visiting Scholar are for the Visiting Scholar only and cannot be shared with another individual (i.e., spouse, family member, travel companion, etc.).

The approved visitation period for a Visiting Scholar will not exceed one year. If a Visiting Scholar plans to conduct research at the University for more than one year, the Visiting Scholar must annually renew with the Division of Research.

If approved by the Division of Research as a Visiting Scholar, I understand that I am not to represent myself as an employee of Texas A&M University, and I agree with all conditions of this assignment:

<Signature of Visiting Scholar> ___________________________________________ Date ___________

cc: Host Faculty Member
Department Head
Research Dean
Autumn Biggers, Division of Research

VS Agr 06.28.2017
TEXAS A&M University Export Control Office

Request to Activate/Deactivate Access to Export Control Compliance Software

This form should be completed by the Texas A&M University department/unit head, or by the System member’s export control representative, as appropriate, and signed and submitted to TAMU’s Export Control Office. A signature is also required from the proposed user if this is a request for a new account.

SECTION A
( ) Deactivate Account(s)* Please specify account name(s) ___________________________.

Please deactivate the account(s) listed above effective ___________________________ 201__.

Requesting Department/Unit/System Member Export Control Representative:

______________________________ ____________________
Name: __________________________ Title: _______________________
Dated: _______________________

*Account deactivation means that the searches of the existing account user will continue to remain accessible to the System member.

SECTION B
( ) Activate New Account. Complete Section B below.

1. My department/unit/system member export control office has completed a restricted party screening of the proposed user using export control compliance software licensed by Texas A&M University known as Visual Compliance (“Software”). The results of the screening did not raise concerns that have not been discounted as false positives.

Yes: ___ No: ___

By marking the “no” box, I am requesting that TAMU’s Export Control Office perform restricted party screening of the proposed user, because there has been no prior screening of the proposed user.

2. The proposed user has a business need to use and access the Software.

3. The proposed user has completed the basic on-line export control training course made available on The Texas A&M University System website.

2111212 : Export Controls & Embargo Training - Basic Course-
Date Completed: ____________________
4. If the proposed user’s employment responsibilities or status changes, so that use and access to the Software is no longer necessary or appropriate, the requesting department/unit head/system member export control representative is responsible for providing prompt notice to TAMU’s Export Control Office.

5. The proposed user will use the Software in accordance with applicable System and Texas A&M University policies, regulations, rules and procedures; and will use the Software only as needed to conduct Texas A&M University/Texas A&M University System business.

By signing this request, I certify that all information found in this request is accurate to the best of my knowledge, and I have read and agree to the above terms.

Proposed User:

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Title</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Email</th>
<th>Telephone</th>
<th>UIN</th>
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</table>

<table>
<thead>
<tr>
<th>Address</th>
<th>City, State</th>
<th>ZIP Code</th>
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</thead>
</table>

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
</table>

Requesting Department/Unit/System Member Export Control Representative:

_________________________ (signature)
Name: ______________________
Title: ______________________
Dated: ______________________
Export Control Review & Certification

<table>
<thead>
<tr>
<th>Employee’s Name</th>
<th>System Member</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee’s Title</td>
<td>Department</td>
</tr>
<tr>
<td>Employee’s Countries of Citizenship &amp; Nationality</td>
<td></td>
</tr>
<tr>
<td>Employee’s Foreign Institution(s)</td>
<td></td>
</tr>
<tr>
<td>Employee’s Visa Status</td>
<td></td>
</tr>
</tbody>
</table>

Complete the questionnaire below to help determine whether or not a license (prior authorization) is required from either the U.S. Department of Commerce or the U.S. Department of State to allow this foreign national employee access to export controlled items or technology (laboratory equipment/research instruments, materials, software or technology/technical data) controlled under the Export Administration Regulations (EAR) or International Traffic in Arms Regulations (ITAR).

The questionnaire must be completed and signed by the Principal Investigator or other appropriate University authority with direct oversight of the visa applicant’s work.

1. Will the visa applicant be working in one of the following areas: biomedical sciences, computer sciences, space or space launch sciences, or any engineering or scientific discipline? Engineering or scientific disciplines may include but are not limited to the following: Chemical, Electrical, Semiconductor, Materials Science, Physics, Mechanical, Geophysical, Marine, Aerospace, Astronomy, Nuclear, Artificial Intelligence or Robotics.

Please provide brief explanation of work assignment

Check one:

☐ No, the assignment will not involve, expose or potentially expose the applicant to any scientific discipline, including but not limited to the ones listed above. Please sign and date this form below and submit it to Immigration Services for Faculty & Scholars in conjunction with your processing request.

☐ Yes, the assignment will involve, expose or potentially expose the beneficiary to a scientific discipline (including but not limited to one or more of those listed above). You are required to check all the boxes for questions 2-7 below and sign and date at the bottom. If you do not have the information necessary to complete this certification, please contact your Export Control Office to complete the processing of this certification questionnaire. If, by virtue of the question, you are unable to check one of the following boxes, your Export Control Office will work with you to further determine whether the work intended for the visa applicant requires prior export control authorization from a governing U.S. agency or requires a Technology Control Plan to temporarily or permanently restrict access by the beneficiary to only what is not export controlled.
2. The visa applicant will **not** be working under a sponsored research agreement (e.g. grant or contract) that restricts or prohibits the participation of foreign persons, i.e. there are no restrictive clauses pertaining to foreign nationals or non U.S. persons participating in the research.

3. The visa applicant will **not** be working under a sponsored research agreement (e.g. grant or contract) that restricts or prohibits the research team’s right to publish any of the data or research results, except for the sponsor’s right to review and exclude from intended publication proprietary data that, under the terms of the Agreement, is exempt from publication.

4. In performing the work under the visa, the visa applicant will **not** be provided access (whether or not actually required for his/her work assignment and whether through hard or soft copy) to:
   - Any export controlled technical data, project or instrument currently secured through a Technology Control Plan (TCP);
   - Technical data or information that has been stamped or otherwise designated by the sponsor or collaborating institution as being “export controlled”;
   - Sponsor or third-party proprietary or confidential information, materials, or software that is the subject of a Non-Disclosure Agreement (NDA) or equivalent confidentiality agreement;
   - Proprietary (to sponsor or a third-party) technology for the development of cryptography, or proprietary source code containing cryptographic functionality; and
   - Information pertaining to the “use” or “development” or “production” of instruments, materials, software or scientific processes (technology) that is **not** in itself the subject or result of fundamental research (i.e. 3rd party technology or TAMU proprietary technology considered outside fundamental research): For purposes of this Question:
     - “use” means that most or all of the following 6 types of activities occur: Operation, installation, maintenance, repair, overhaul and refurbishing. (For Space-related research only: “use” means any one of the foregoing activities).
     - “development” is related to all stages prior to serial production, such as: design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, configuration design, integration design layouts.
     - “production” means: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

5. In performing the work under the visa, the visa applicant will **not** be provided access to research equipment, instruments, materials, software, and/or technical data in any form (e.g. blue print, sketches, specifications, documented technology, vendor operational manual/instructions, data results) that is governed under the ITAR.

**ITAR** covers any item (equipment, instruments, materials, software, and/or technical data as exemplified above) specially designed, developed or modified for military, defense or space applications and may include such items whether procured from a vendor, or otherwise received by a research sponsor or collaborating research institution. For a list of the high level ITAR categories that identify such defense, military and space items please see ([http://www.pmddtc.state.gov/regulations_laws/itarmish.html](http://www.pmddtc.state.gov/regulations_laws/itarmish.html)). For purposes of this certification, “access” means any visual or physical access to the item, regardless of whether such access is actually required by the visa applicant to perform his/her work assignment.

6. With respect to the technology or technical data that I will release or otherwise provide access to this employee as a result of the employment, I certify that (check all that apply):
   - [ ] I have read [System Policy 15.02](#) on Export Controls.
   - [ ] I have reviewed the [Export Administration Regulations](#) (EAR) and the [International Traffic in Arms Regulations](#) (ITAR) with regard to such technology or technical data.
   - [ ] I have contacted my Export Control Office to further clarify potential restrictions regarding such technology or technical data.
   - [ ] I have reviewed grant(s) with Sponsored Research Services.
7. Most research related exports are likely to be excluded from EAR and ITAR export controls (see TAMUS regulation 15.02 for information on possible exclusions). My findings indicate that the research activities for this employee are excluded from EAR and ITAR export controls based on the following:

- Fundamental Research Exclusion
- Publicly Available/Public Domain Exclusion
- Educational Information Exclusion

Comments

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
</table>

Certifications & Approvals

I hereby certify that I am personally knowledgeable with the job duties and other particulars of employment of the visa applicant listed above, and hereby affirm that the contents of the foregoing certification questionnaire are true to the best of my knowledge, information and belief.

I further understand that failure to accurately complete this questionnaire can result in U.S. Government export control violations for which civil and criminal penalties can be assessed against (i) me the undersigned if found to have caused or facilitated a violation, and/or (ii) my institution.

PI/Faculty Sponsor

Date

Title

ISFS Restricted Party Screening

For ISFS use only.

<table>
<thead>
<tr>
<th>Passed National of Sanctioned Country</th>
<th>No</th>
<th>Yes</th>
<th>Name of Screener</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passed Denied Persons List</td>
<td>No</td>
<td>Yes</td>
<td>Title of Screener</td>
</tr>
<tr>
<td>Passed Entity List</td>
<td>No</td>
<td>Yes</td>
<td>Comments</td>
</tr>
</tbody>
</table>

Comments
Deemed Export Control Attestation (for H-1B and O-1 petitions only)

The United States Citizenship and Immigration Service requires that an employer, when filing an H-1B or O-1 petition, certify that (i) it has reviewed the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce and the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State, and (ii) it has determined whether or not a license (prior authorization) is required from either of these Government agencies to allow an employee who is a foreign national access to export controlled items or technology (laboratory equipment/research instruments, materials, software or technology/technical data) controlled under the EAR or ITAR. The transfer or release to a foreign national of such items by any means is “deemed” to be an export to the foreign national’s country of citizenship or permanent residence, potentially requiring an export license unless a particular authorized license exemption applies.

Based on my responses to the Export Control Review, I, the employee’s supervisor, have determined that:

☐ A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the above named foreign person; or

☐ A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the foreign person and I will prevent access to the controlled technology or technical data by the named foreign person until and unless Texas A&M University has received the required license or other authorization to release it to the named foreign person.

I certify under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

<table>
<thead>
<tr>
<th>Signature of Supervisor</th>
<th>I certify that that I have reviewed this Export Control Questionnaire and Deemed Export Control Attestation and have discussed, as needed, its content with the supervisor to ensure its accuracy.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td></td>
</tr>
<tr>
<td>Date</td>
<td></td>
</tr>
<tr>
<td>Date Export Control &amp; Embargo Training completed</td>
<td></td>
</tr>
</tbody>
</table>

Signature of Department Head

<table>
<thead>
<tr>
<th>Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>Date Export Control &amp; Embargo Training completed</td>
<td></td>
</tr>
</tbody>
</table>

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For ISFS use only.

<table>
<thead>
<tr>
<th>Passed National of Sanctioned Country</th>
<th>☐ No ☐ Yes</th>
<th>Name of Screener</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passed Denied Persons List</td>
<td>☐ No ☐ Yes</td>
<td>Title of Screener</td>
</tr>
<tr>
<td>Passed Entity List</td>
<td>☐ No ☐ Yes</td>
<td></td>
</tr>
</tbody>
</table>

Comments

<table>
<thead>
<tr>
<th>Comments</th>
</tr>
</thead>
</table>
TEMPORARY IMPORTS, EXPORTS, and REEXPORTS (TMP) CERTIFICATION for TAMU TRAVEL

The export of items, technology, commercial software, and encryption code is subject to export control regulations. The Department of Commerce’s Export Administration Regulations (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 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), or when traveling to Iran, Syria, Cuba, North Korea, or Sudan.

Please provide a detailed description of items, Technology or Software to which this Certification applies (please be sure to list the common name of the item, the model, and the manufacturer):

<table>
<thead>
<tr>
<th>Item Name / Description</th>
<th>Manufacturer</th>
<th>Model Number</th>
<th>Amount Taken</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

By my signature below, I certify that:

1. I will ship or hand-carry the items, technology, or software to ___________________ as a “tool of the trade” to conduct Texas A&M business only.

2. I will return the items, technology, or software to the US on ____________________ which is no later than 12 months from the date of leaving the US 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 not ship or hand-carry the items, technology or software to Iran, Syria, Cuba, North Korea, or Sudan.

4. 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 a hotel safe, a bonded warehouse, or a locked or guarded exhibition facility).

5. 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 the technology

Travelers signature: ____________________________ Date: ____________________

*Keep a signed copy of this document with you when traveling abroad
Appendix F1

CHECKLIST FOR EXPORT CONTROL ISSUES
TAMUQ FOREIGN NATIONALS

College/Department: _______________________________________________________

Name of Foreign National: _________________________________________________

Job Title: ____________________________________________________________________

Country (or Countries) of Citizenship: _______________________________________

This form must be completed and submitted with any personnel action request involving a TAMUQ foreign national. Your answers to these questions will help determine whether any aspect of your proposed personnel action will be subject to export control regulations. For questions or assistance in completing the form, please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at http://vpr.tamu.edu/resources/export-controls

<table>
<thead>
<tr>
<th>1. Do the job duties involve working with items/articles, software or technology listed on the EAR/Commerce Control List or the ITAR/U.S. Munitions List (see Attachment 1 at the end of this form for general categories on each list)?</th>
<th>Unknown</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>3. Will the job duties include working on a contract with any of the following (check each one that applies):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a) Restrictions on publication (including reporting of the research results) or presentations at conferences;</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>b) Restrictions on the participation of foreign nationals; or</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>c) Export control clauses or references to ITAR/EAR?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Do the job duties involve the “use” or access to encryption software?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Do the job duties involved activities that could be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology?</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I have knowledge of the nature of the proposed employment. The answers I have provided are true and correct to the best of my knowledge and belief.

Name of Supervisor of Foreign National: ____________________________________________

Signature: __________________________________________ Date: __________________________

1
### Restricted Party Screening

<table>
<thead>
<tr>
<th>Date screening was performed</th>
<th>Result</th>
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<tbody>
<tr>
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</tbody>
</table>

If secondary screening required
Date screening was performed ____________________

**Name and Title of Screener:** ____________________________________________________________

____________________________________________________

**Signature:** ____________________________  **Date:** ____________________________

**Name and Title of Secondary Screener (If Applicable):** ________________________________

____________________________________________________

**Signature:** ____________________________  **Date:** ____________________________

Please return completed form to the Export Controls Office together with personnel action documentation. If “unknown” or “yes” marked above please provide an explanation of these answers. If secondary screening is required, an additional export control review of the proposed hire is required by the Export Controls Office.

**Reviewed by the Export Controls Office**

**Date:**

**Result:**

**Reviewed by:**

**Authorized signature:**
ATTACHMENT 1

For questions, or clarification please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at: http://vpr.tamu.edu/resources/export-controls

EAR AND ITAR CONTROL LISTS BY MAJOR CATEGORIES

COMMERCE CONTROL LIST (ccl)
Export Administration Regulations (EAR)
http://www.access.gpo.gov/bis/ear/ear_data.html
See Part 774 - The Commerce Control List

Category 0 - Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)
Category 1 - Materials, Chemicals, Microorganisms, and Toxins
Category 2 - Materials Processing
Category 3 - Electronics
Category 4 - Computers
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 - Propulsion Systems, Space Vehicles and Related Equipment

U.S. MUNITIONS LIST (USML)
International Traffic in Arms Regulations (ITAR)
http://pmddtc.state.gov/regulations_laws/documents/consolidated_itar/Part_121.pdf
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—Vessels of War and Special Naval Equipment
Category VII—Tanks and Military Vehicles
Category VIII—Aircraft and Associated Equipment
Category IX—Military Training Equipment and Training
Category X—Protective Personnel Equipment and Shelters
Category XI—Military Electronics
Category XII—Fire Control, Range Finder, Optical and Guidance and Control Equipment
Category XIII—Auxiliary Military Equipment
Category XIV—Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
Category XV—Spacecraft Systems and Associated Equipment
Category XVI—Nuclear Weapons, Design and Testing Related Items
Category XVII— Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
Category XVIII—Directed Energy Weapons
Category XIX [Reserved]
Category XX—Submersible Vessels, Oceanographic and Associated Equipment
Category XXI—Miscellaneous Article
CHECKLIST FOR EXPORT CONTROL ISSUES
TAMUQ VISITING SCHOLARS

Hosting College/Department: ______________________________________________________

Name of Foreign National: _______________________________________________________

Current Job Title and Institution: _________________________________________________

Country (or Countries) of Citizenship: ____________________________________________

Nature of proposed visit: _________________________________________________________

Dates of Proposed Visit: From ______________ to ______________

Proposed visit will allow access to the following facilities: ____________________________

___________________________________________________________________________

This form must be completed and submitted with any request to host a foreign national Visiting Scholar in Qatar. Your answers to these questions will help determine whether any aspect of the proposed visit will be subject to export control regulations. For questions or assistance in completing the form, please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at http://vpr.tamu.edu/resources/export-controls

<table>
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<tr>
<th></th>
<th>Unknown</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Will the activities performed involve working with items/articles, software or technology listed on the EAR/Commerce Control List or the ITAR/U.S. Munitions List (see Attachment 1 at the end of this form for general categories on each list)?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 2. | Will the activities performed involve work with any embargoed or sanctioned country? Follow these links for listings:  
http://www.treas.gov/offices/enforcement/ofac/programs/  
http://pmdtcc.state.gov/embargoed_countries/index.html |
| 3. | Will the activities performed include working on a contract with any of the following (check each one that applies):  
a) Restrictions on publication (including reporting of the research results) or presentations at conferences;  
b) Restrictions on the participation of foreign nationals; or  
c) Export control clauses or references to ITAR/EAR? |
| 4. | Will the activities performed involve the “use” or access to encryption software? |
| 5. | Will the activities performed be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology? |
| 6. | Will the activities involve access to any resources / facilities subject to a Technology Control Plan? |
| 7. | Will the individual/individual’s institution receive any benefits (i.e. financial, etc.) from TAMUQ |

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 approval will be required.

Name of Host of Foreign National Visiting Scholar: _________________________________

Signature: _______________________________ Date: _______________________________

This form must be accompanied by the TAMUQ Approval for Visiting Scholar Form
Restricted Party Screening

<table>
<thead>
<tr>
<th>Date screening was performed</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>__________________________</td>
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</table>

If secondary screening required

<table>
<thead>
<tr>
<th>Date screening was performed</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>__________________________</td>
<td></td>
</tr>
</tbody>
</table>

Name and Title of Screener: ________________________________________________________________

_____________________________________________________________________________________

Signature: __________________________ Date: __________________________

Name and Title of Secondary Screener (If Applicable): _________________________________

_____________________________________________________________________________________

Signature: __________________________ Date: __________________________

Please return completed form to the Export Controls Office. If “unknown” or “yes” marked above please provide an explanation of these answers. If secondary screening is required, an additional export control review of the proposed visitor is required by the Export Controls Office.

Reviewed by the Export Controls Office

Date: __________________________

Result: __________________________

Reviewed by: __________________________

Authorized signature: __________________________
ATTACHMENT 1

For questions, or clarification please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at:  http://vpr.tamu.edu/resources/export-controls

EAR AND ITAR CONTROL LISTS BY MAJOR CATEGORIES

COMMERCE CONTROL LIST (ccl)
Export Administration Regulations (EAR)
http://www.access.gpo.gov/bis/ear/ear_data.html
See Part 774 - The Commerce Control List

Category 0 - Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)
Category 1 - Materials, Chemicals, Microorganisms, and Toxins
Category 2 - Materials Processing
Category 3 - Electronics
Category 4 - Computers
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 - Propulsion Systems, Space Vehicles and Related Equipment

U.S. MUNITIONS LIST (USML)
International Traffic in Arms Regulations (ITAR)
http://pmddtc.state.gov/regulations_laws/documents/consolidated_itar/Part_121.pdf
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
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Category VII—Tanks and Military Vehicles
Category VIII—Aircraft and Associated Equipment
Category IX—Military Training Equipment and Training
Category X—Protective Personnel Equipment and Shelters
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Category XVII— Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
Category XVIII—Directed Energy Weapons
Category XIX [Reserved]
Category XX—Submersible Vessels, Oceanographic and Associated Equipment
Category XXI—Miscellaneous Article
CHECKLIST FOR EXPORT CONTROL ISSUES 
FOR EXTERNAL USERS OF COMPUTING FACILITIES AT TAMUQ

Hosting College/Department: _______________________________________________________

Name of User: ___________________________________________________________________

Current Job Title and Institution: _______________________________________________________

Country (or Countries) of Citizenship: ___________________________________________________

Purpose, Nature, and Duration of Proposed Use of Computing Facilities: _______________________

Computing facility or facilities requesting access to: _______________________________________

This form must be completed and submitted with any request to use the computing facilities by an individual who does not work for Texas A&M University including TAMUQ. Your answers to these questions will help determine whether any aspect of the proposed use will be subject to export control regulations. For questions or assistance in completing the form, please contact the Export Controls Office at (979) 458-1467 or via email at exportcontrols@tamu.edu. Additional information is available at http://vpr.tamu.edu/resources/export-controls.

<table>
<thead>
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<tr>
<td>1. Will the activities performed involve working with items/articles, software or technology listed on the EAR/Commerce Control List or the ITAR/U.S. Munitions List (see Attachment 1 at the end of this form for general categories on each list)?</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>2. Will the activities performed involve work with any embargoed or sanctioned country? Follow these links for listings: <a href="http://www.treas.gov/offices/enforcement/ofac/programs/">http://www.treas.gov/offices/enforcement/ofac/programs/</a> <a href="http://pmdtca.state.gov/embargoed_countries/index.html">http://pmdtca.state.gov/embargoed_countries/index.html</a></td>
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<tr>
<td>3. Will the activities performed include working on a contract with any of the following (check one that applies): a) Restrictions on publication (including reporting of the research results) or presentations at conferences; b) Restrictions on the participation of foreign nationals; or c) Export control clauses or references to ITAR/EAR?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Will the activities performed involve the “use” or access to encryption software?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Will the activities performed be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Will the activities involve access to any resources / facilities subject to a Technology Control Plan?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Will the user’s institution receive any benefits (i.e. financial, etc.) from TAMUQ</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The answers I have provided are true and correct to the best of my knowledge and belief.

Name of Host of User of Computing Facilities: ___________________________________________

Signature of Host: ____________________________ Date: ____________________________

Signature of User, if no Host: ____________________________ Date: ____________________________

I have no knowledge of information that conflicts with responses above.

Name of Supervisor of Computing Facilities: ___________________________________________

Signature: ____________________________ Date: ____________________________
## Restricted Party Screening

| Name and Title of Screener: | ____________________________________________________________________________ |
| __________________________ | ____________________________________________________________________________ |
| Signature:                  | __________________________ Date: __________________________                 |

| Name and Title of Secondary Screener (If Applicable): | ____________________________________________________________________________ |
| ___________________________________________________ | ____________________________________________________________________________ |
| Signature:                                             | __________________________ Date: __________________________                 |

Please return completed form to the Export Controls Office. If “unknown” or “yes” marked above please provide an explanation of these answers. If secondary screening is required, an additional export control review of the proposed visitor is required by the Export Controls Office.

Reviewed by the Export Controls Office

Date: __________________________

Result: __________________________

Reviewed by: __________________________

Authorized signature: __________________________
ATTACHMENT 1

For questions, or clarification please contact the Export Controls Office at (979) 458-1467 or via email at exportcontrols@tamu.edu. Additional information available at: http://vpr.tamu.edu/resources/export-controls

EAR AND ITAR CONTROL LISTS BY MAJOR CATEGORIES

COMMERCE CONTROL LIST (ccl)

Export Administration Regulations (EAR): http://www.access.gpo.gov/bis/ear/ear_data.html
See Part 774 - The Commerce Control List

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Category 1 - Materials, Chemicals, Microorganisms, and Toxins
Category 2 - Materials Processing
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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 - Propulsion Systems, Space Vehicles and Related Equipment

U.S. MUNITIONS LIST (USML)

International Traffic in Arms Regulations (ITAR)
http://pmddtc.state.gov/regulations_laws/documents/consolidated_itar/Part_121.pdf

Category I—Firearms, Close Assault Weapons and Combat Shotguns
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Category XIV—Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
Category XV—Spacecraft Systems and Associated Equipment
Category XVI—Nuclear Weapons, Design and Testing Related Items
Category XVII—Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
Category XVIII—Directed Energy Weapons
Category XIX [Reserved]
Category XX—Submersible Vessels, Oceanographic and Associated Equipment
Category XXI—Miscellaneous Article
 EXPORT CONTROL COMPLIANCE CHECKLIST  
FOR TAMUQ SHORT COURSES

Course Title and Number: ____________________________________________________________
Course Description: _________________________________________________________________
_________________________________________________________________
Sponsor: ______________________________________________________________________________
Dates: ______________________________________________________________________________
Location (where the course will be conducted): _____________________________________________________

This form must be completed for all short courses offered at TAMUQ. Your answers to these questions will help determine whether the proposed course will be subject to export control regulations. For questions or assistance in completing the form, please contact the Export Control Office at (979) 458-1467 or via email at exportcontrols@tamu.edu. Additional information is available at http://vpr.tamu.edu/resources/export-controls.

PART A

1. Do the course materials contain export controlled content? (e.g., information, materials, physical items subject to the U.S. Munitions List or Commerce Control List or related technical information. See attachment 1 at the end of this form for general categories on each list).
   Yes: _____ No: _____ Unknown: _______

2. Does the course involve any actual transfer of export controlled information or data to a foreign national or entity?
   Yes:_____ No:  _____ Unknown:  _______

3. Will the course or related materials/services or grades be delivered or given to foreign nationals from or in embargoed counties? (e.g., Iran, Syria, Sudan, North Korea and Cuba)
   Yes:_____ No:  _____ Unknown:  _______

PART B

1. Is the course content limited to publicly available information that is published and available to the public at libraries; newsstands and bookstores; through subscriptions without restriction; through patents available at any patent office; through unlimited distribution at conferences, meetings, seminars, trade shows and exhibitions held in the United States and generally open to the public?
   Yes:_____ No:  _____ Unknown:  _______

2. Is the course content limited to general scientific, mathematical or engineering principals commonly taught in universities and published in textbooks?
   Yes:_____ No:  _____ Unknown:  _______

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 University Rule 15.02.99.M1 Export Controls. I understand that I must only teach information that is not subject to export controls or that is exempt from export controls. I must refrain from answering questions regarding export controlled technology or information not found in the public domain. I understand that I could be personally liable if I unlawfully disclose export controlled information to foreign nationals.

____________________________________   Date:  ____________________________
[Signature]

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Appendix F4

Responsible Faculty Member Name, Title: ______________________________________________________
College/Unit/Department: __________________________________________________________________

If “unknown” or “yes” marked in Part A or if “unknown” or “no” marked in Part B, forward this form to
TAMU’s Export Control Office for further review and approval.

Restricted Party Screening

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<thead>
<tr>
<th>Date screening was performed</th>
<th>Result</th>
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<tbody>
<tr>
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If secondary screening required

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<th>Date screening was performed</th>
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<tbody>
<tr>
<td>Date screening was performed</td>
</tr>
</tbody>
</table>

Name and Title of Screener: _____________________________________________________________
___________________________________________________________________________________

Signature: ___________________________  Date: ___________________________

Name and Title of Secondary Screener (If Applicable): _________________________________
___________________________________________________________________________________

Signature: ___________________________  Date: ___________________________

Please return completed form to the Export Controls Office. If “unknown” or “yes” marked above please
provide an explanation of these answers. If secondary screening is required, an additional export control
review is required by the Export Controls Office.

Reviewed by the Export Controls Office

Date:

Result:

Reviewed by:

Authorized signature:
ATTACHMENT 1

For questions, or clarification please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at: http://vpr.tamu.edu/resources/export-controls

EAR AND ITAR CONTROL LISTS BY MAJOR CATEGORIES

COMMERCE CONTROL LIST (ccl)
Export Administration Regulations (EAR)
http://www.access.gpo.gov/bis/ear/ear_data.html
See Part 774 - The Commerce Control List

Category 0 - Nuclear Materials, Facilities & Equipment (and Miscellaneous Items)
Category 1 - Materials, Chemicals, Microorganisms, and Toxins
Category 2 - Materials Processing
Category 3 - Electronics
Category 4 - Computers
Category 5 (Part 1) - Telecommunications
Category 5 (Part 2) - Information Security
Category 6 - Sensors and Lasers
Category 7 - Navigation and Avionics
Category 8 - Marine
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Category XXI—Miscellaneous Art
Appendix F5

TEXAS A&M UNIVERSITY
International Travel - Export Control Screening

When planning a trip abroad, you should think about the purpose of your trip, who you plan to interact with, what you will take, where you will go and how long you will be gone when making export control assessments. Items that are not needed should not be taken abroad. Consult with the Export Control Office (ECO) if you are thinking about taking encrypted software, export controlled items/information or unpublished research data or data not in the public domain, or if traveling to an embargoed country to conduct university activities. Some travel related activities/destinations may be prohibited and others may require a license.

Travelers are required to submit a Travel Request in Concur to receive approval to travel to a foreign country. The Checklist below can be used on a voluntary basis to identify potential export control issues. If you mark any of the boxes below “yes” or “unknown”, contact the ECO for export control compliance guidance prior to your trip by emailing your completed form to the ECO at exportcontrols@tamu.edu and including any relevant background information to put the checklist into context (e.g. countries you plan to visit, the purpose and duration of the trip, items and information you plan to take). It is important to seek guidance from the ECO as soon as possible. If a license is needed, the ECO will need adequate time to prepare, submit and obtain the license-assuming it will be granted. Additional information on Export Controls is available at http://vpr.tamu.edu/resources/export-controls

TRAVELER CHECKLIST

<table>
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<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>1. Will you travel to an embargoed destination (e.g. Cuba, Iran, North Korea, Sudan, Syria)? For current list see <a href="http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx">http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx</a></td>
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<tr>
<td>2. Will you take information, technology or items subject to export control regulations and not widely available in the public domain? (e.g. technology, software, and information related to the design, production, testing, maintenance, operation, modification, or use of controlled items or items with military applications – see Attachment 1 for general categories. This does not include basic marketing information on function or purpose; information regarding general scientific, mathematical or engineering principles commonly taught in universities; or information that is generally accessible in the public domain.)</td>
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<tr>
<td>3. Will you be taking biological or hazardous material? a. If yes, please identify: __________________________</td>
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<tr>
<td>4. Will you take materials or equipment? (Advanced laptops, software or scientific equipment. Please note that this section does not include basic/standard laptops, workstation, and/or tablet, operation general commercial software like Windows and Apple’s</td>
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<td><strong>Appendix F5</strong></td>
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</tbody>
</table>

5. **Will your activities involve presenting or sharing information not in the public domain?**
   
a. If yes, please explain: _____________________________

6. **Do you know or have any reason to believe that the information you will be sharing or the activities you will engage in while traveling will have a military use or will provide a military service?**
   
   (E.g. will the information you carry with you or the discussions you engage in aide in the design, development, production, stockpiling or use of nuclear explosive devices, chemical or biological weapons, or missiles?)

7. **Will you be furnishing financial assistance or anything of value, including services to a blocked or sanctioned country, individual or entity?** This includes agreements performable outside the United States, making payments to foreign vendors, engaging collaborative projects/activities.

8. **Will your activities involve sharing non-commercial encryption software in source or object code?**

---

The answers I have provided are true and correct to the best of my knowledge. If my travel plans change, I understand that I should complete another checklist.

**Name of Traveler**  
______________________________

**Signature of Traveler**  
______________________________ Date  __________

If any of the boxes above is marked ‘Unknown’ or ‘Yes’, please email completed form to ECO as instructed above. If all the boxes are marked ‘No’, the traveler should retain this form for his or her records.
ATTACHMENT 1
For questions, or clarification please contact the Export Controls Office at (979) 862-6419 or via email at exportcontrols@tamu.edu. Additional information available at: http://vpr.tamu.edu/resources/export-controls

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