

TEXAS



STATE

EXPORT CONTROL COMPLIANCE MANUAL

TABLE OF CONTENTS

List of Abbreviations	2
1. Introduction	3
2. Commitment to Export Control Compliance	3
3. Regulatory Agencies Responsible for Export Control Oversight	4
4. Key University Contributors for Export Control Compliance	5
5. Identification of Export Control Concerns	8
6. Restricted Party and Technology Screening	8
7. Employment of Nonimmigrant Foreign Nationals	9
8. Research and Other Research-Related Agreement	11
9. Resolving Export Control Issues	14
10. Technology Control Plan	15
11. Export Licensing	16
12. International Visitors	16
13. Distance Education	18
14. International Activities	19
15. Procurement and Financial Activities	19
16. International Shipping	22
17. International Travel	23
18. Record Keeping	25
19. Training	25
20. Monitoring	26
21. Possible Violations	26
22. Disciplinary Actions	27
Appendix A	28
Appendix B	32
Appendix C	33
Appendix D	36
Appendix E	42
Appendix F	46
Appendix G	48

List of Abbreviations

AVPR	Associate Vice President for Research and Federal Relations
BIS	Bureau of Industry and Security
CCL	Commerce Control List
CJ	Commodity Jurisdiction
DDTC	Directorate of Defense Trade Controls
DFAR	Defense Federal Acquisition Regulation
DORIC	Director, Office of Research Integrity and Compliance
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FAR	Federal Acquisition Regulation
FRE	Fundamental Research Exclusion
ITAR	International Traffic in Arms Regulations
MTA	Material Transfer Agreement
NDA	Non-Disclosure Agreement
OFAC	Office of Foreign Assets Control
OGC	Office of General Counsel
ORIC	Office of Research Integrity and Compliance
OSP	Office of Sponsored Programs
OTC	Office of Technology Commercialization
PI	Principal Investigator
RPS	Restricted Party Screening
SDN	List Specially Designated Nationals and Blocked Persons List
TAA	Technical Assistance Agreement
TCP	Technology Control Plan
TSUS	Texas State University System
TXSTATE	Texas State University
USML	United States Munitions List

TEXAS STATE UNIVERSITY EXPORT CONTROL COMPLIANCE MANUAL

1. Introduction

This Manual is intended to promote awareness and understanding of U.S. Export Control Laws and Regulations to ensure compliance by Texas State University (TXSTATE) faculty, academic officers, employees, students, and administrators pertaining to export controlled activities and/or issues resulting from those activities. This manual also provides the TXSTATE research and academic community with essential aspects of the laws and regulations concerning export controls, and to determine how and when export control issues arise, explain how to protect the fundamental research exclusion, and promote the open transfer and sharing of information in and outside the United States with students, researchers and others who are foreign nationals.

U.S. Export Control Laws and Regulations prohibit disclosure of certain information, technology and products to designated persons or entities, whether in ("deemed exports") or outside the U.S. Lists of sanctioned, prohibited, or regulated activities and entities are generated by the Departments of Commerce, Treasury, and State. Even though these laws may conflict with the University's tradition of academic freedom, they carry severe criminal and civil penalties for noncompliance by individuals and the University. The penalties can apply both to the individual(s) and the institution involved in a violation. Therefore, it is imperative that all TXSTATE personnel familiarize themselves with these Export Control Laws and Regulations and understand how these laws apply to their activities. These regulations are very broad and difficult to manage on an individual basis; therefore, the Office of Research Integrity and Compliance (ORIC) has drafted this manual to assist the TXSTATE community in complying with the regulations.

2. Commitment to Export Control Compliance

It is the policy of TXSTATE to comply with United States export control laws and regulations including, without limitation, those implemented by the Department of Commerce through its Export Administration Regulations (EAR) and the Department of State through its International Traffic in Arms Regulations (ITAR), as well as those imposed by the Treasury Department through its Office of Foreign Assets Control (OFAC).

TXSTATE 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 Office of the Associate Vice President for Research and Federal Relations maintains a website with export control information and resources accessible at: <http://www.txstate.edu/research/orc/export-control.html>.

Questions about export controls can be directed to the Office of Research Integrity and Compliance, telephone (512) 245-2314 or by email to exportcontrols@txstate.edu.

This Export Control Compliance Program Manual is intended to assist TXSTATE faculty, staff, and students with export control compliance. Acronyms are defined in the List of Abbreviations, page 2.

3. Regulatory Agencies Responsible for Export Control Oversight

Currently, the three agencies that have adopted regulations that are likely to have the most impact on university activities are:

A. The Department of Commerce – Bureau of Industry Security

Export Administration Regulations (EAR) - The Department of Commerce has the responsibility to regulate the export of “dual use” commodities (those that may have both a commercial and a military application), software and technology. These items are listed on the Commerce Control List (CCL) and are administered through the U.S. Department of Commerce’s Bureau of Industry and Security (BIS). (Export Administration Regulations, 15 C.F.R. Sections 730-744)

B. The State Department – Directorate of Defense Trade Controls

International Traffic in Arms (ITAR) – The State Department has responsibility for the export of defense articles and defense services identified on the U.S. Munitions List. (22 C.F.R. Sections 120-130)

C. The Department of Treasury – Office of Foreign Asset Control

The Department of Treasury regulates commerce with a specified list of embargoed countries and with certain “specially designated nationals”. These regulations are subject to change because of the statutory powers given to the President to protect U.S. foreign policy or national security. (31 C.F. R. Sections 500 et seq.; Executive Order 13224)

D. Other Federal Agencies That Regulate Exports:

- Nuclear Regulatory Commission – licenses the export of nuclear materials and equipment;

- Department of Energy – regulates the export of natural gas and electrical power, as well as nuclear technology and technical data for nuclear power;
- Drug Enforcement Administration – regulates the export of controlled substance and precursor chemicals;
- Food and Drug Administration -- regulates food, drugs and cosmetics safety; and
- Department of Agriculture – guides exporters in meat, poultry and egg products, plants and pests.

Not all federal agency export regulations are the same. While this Manual identifies some of the major definitions and exemptions, specific agency regulations must be reviewed for each exported item.

4. Key University Contributors for Export Control Compliance

A. Empowered Official

The Associate Vice President for Research and Federal Relations (AVPR) (in addition to other designees who may be appointed by the AVPR) is TXSTATE'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 TXSTATE's representative and point of contact with federal agencies having export control jurisdiction. The Empowered Official is the TXSTATE official authorized to bind TXSTATE in any proceedings before government agencies with export control responsibilities and has final responsibility for compliance with export control laws and regulations.

B. Office of Research Integrity and Compliance

The Office of Research Integrity and Compliance (ORIC), 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 ORIC 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) or other exclusions provided by law. The ORIC will also assist with and conduct Restricted Party and Technology Screening (RPS) and consult with The Texas State University System (TSUS) Office of General Counsel (OGC) on export control matters as appropriate.

All interactions with government officials on export control matters will be made, administered, and/or managed by the ORIC as determined appropriate. Any communications from government officials relating to TXSTATE's export control compliance program should be forwarded to ORIC for handling.

As part of its overall responsibility for directing and monitoring TXSTATE's export control compliance program, the ORIC will conduct periodic self-assessments of TXSTATE's compliance with export control laws and regulations and report its findings to the Empowered Official and/or President as appropriate.

The Director of ORIC is responsible for notifying the Empowered Official of suspected violations to the extent TXSTATE projects, contracts, or employees are affected.

C. Office of Sponsored Programs and Office of Technology and Commercialization

TXSTATE's sponsored research activities are administered by the Office of Sponsored Programs (OSP) and Office of Technology and Commercialization (OTC) in accordance with established OSP and OTC procedures. Both OSP and OTC work closely with ORIC, and PIs as appropriate, in identifying export control issues related to research.

Using the *Fundamental Research Exclusion/Export Control Determination Form* (Appendix B), OSP and OTC will ensure that export control "red flags" are identified and the "fundamental research" exclusion is applicable to the project. This documentation is required prior to the financial set-up and commencement of research activities.

D. University Administrators

All TXSTATE employees with managerial or supervisory authority over foreign persons or projects involving controlled information or controlled physical items should view export control compliance as an important part of their day-to-day responsibilities and are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the ORIC in implementing the procedures set forth in this Manual, and as otherwise deemed necessary by the ORIC for export control compliance.

TXSTATE offices with responsibility for administering components of TXSTATE's export control compliance program should designate an individual, who has been appropriately trained, to perform routine internal monitoring of export control procedures and practices.

E. Individual Responsibility

All TXSTATE 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 TXSTATE 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) and/or the employees' supervisors.

F. Principal Investigators

Principal Investigators (PI) with the assistance of ORIC and other appropriate 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 their obligations, each PI should:

- (a) Understand their 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 5 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 the research is subject to export control laws or regulations;
- (d) Review the research periodically to ensure continuing compliance with export control laws and regulations;
- (e) If undertaking an export-controlled project, brief other researchers and personnel 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;
- (g) Report any potential violations of export control laws to the ORIC immediately.

5. Identification of Export Control Concerns

A. Export Control Red Flags

The following are indicators that an export control review should be conducted to ensure that compliance is being maintained:

- The results of research conducted at TXSTATE or by TXSTATE employees are intended for military purposes or for other restricted end uses.
- Foreign Persons will have access to Controlled Physical Items on campus.
- Software including encryption features will be developed or purchased.
- TXSTATE faculty or staff will export or travel abroad with University owned equipment, chemicals, biological materials, encrypted software, or Controlled Physical Items; or travel abroad with University owned laptops, cell phones, or PDAs.
- A proposed financial transaction will involve embargoed countries or entities, individuals located in embargoed countries, or who are on prohibited or restricted end-user lists, as determined by RPS.
- The sponsor requires pre-approval rights over publications or the participation of foreign persons.
- The project requires the shipping of equipment, chemicals or biologicals to a foreign country.

6. Restricted Party and Technology Screening (RPS)

A. Restricted Party Screening

The U.S. Department of Commerce, the U.S. Department of State, and the U.S. Department of Treasury, along with various other government agencies, maintain lists of prohibited and restricted end-users (Restricted Party Lists). If not wholly prohibited, licenses are required for exportation to these end-users or for carrying out a transaction in which a prohibited or restricted end-user is involved.

In order to ensure that TXSTATE 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, TXSTATE must screen individuals and entities as provided in this Manual. TXSTATE has licensed export control compliance software that permits authorized users to screen Restricted Party

Lists electronically. The ORIC will conduct all RPS for all TXSTATE units as needed.

The export control compliance software performs RPS against all relevant U.S. Government lists, including: OFAC Sanctions, BIS Denied Persons List, BIS Entity List and Unverified List, Department of State Arms Export Control Act Debarred Parties, Department of State Designated Terrorist Organizations, Department of State Nonproliferation Orders.

B. Technology Screening

The U.S. Department of Commerce, and the U.S. Department of State, along with various other government agencies control what technology, items, goods, services, etc. (technology) may be permissibly exported outside of U.S. territory.

In order to ensure that TXSTATE is in compliance with all export regulations TXSTATE must screen the technology that it intends to export. Screening of technology is accomplished using the same export control compliance software used to perform RPS. This software allows for a search of the technology the university plans to export via the CCL and USML. The export control compliance software will notify the screener if a cross match is found on another listing and what applicable licenses may be required.

C. Possible Match

Screening will be conducted by ORIC. 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, ORIC will further investigate and make a final determination and approval of the intended TXSTATE function. ORIC is responsible for maintaining records of its determinations.

7. Employment of Nonimmigrant Foreign Nationals

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 to controlled information or Items. Supervisors proposing to hire nonimmigrant foreign nationals should carefully consider whether or not the proposed employment will involve access to controlled information or Items before extending offers of employment.

The Office of Research Integrity and Compliance (ORIC) will assist the International Office with the process of obtaining legal employment authorization for distinguished international faculty and staff.

Hiring international employees is governed by U.S. immigration law and Texas State policy. The International Office works in collaboration with Texas International Education Consortium (TIEC) and a board certified immigration law firm for H-1B employment authorization.

U.S. Citizenship and Immigration Services (USCIS) require employers sponsoring foreign nationals to conduct an export control assessment and confirmation through the I-129 Petition for a Non-Immigrant Worker process.

Supervisors are required to complete the H-1B Employer Questionnaire, Appendix C, certifying that technology or technical data to be released or accessed by the non-immigrant foreign national as a result of the offered employment may or may not require a license.

Any export control issues related to the hiring of nonimmigrant Foreign Nationals should be referred to ORIC for resolution as appropriate.

A. ORIC's Role in the H-1B Hiring Process

The International Office will contact ORIC when an I-129 Export Certification/Attestation is required to hire a foreign national employee.

The following is a list of information and materials that is required in order for the ORIC to conduct a responsible and thorough review:

- Name of Employee
- Job Title & Description of Job Duties
- Hiring Department
- Supervisor
- Employee's CV/Resume
- Copy of Valid Passport or Visa
- Completed H-1B Questionnaire

ORIC will review the position and job duties and determine if the position requires information or technology that is export controlled and restricted to the employee's country of citizenship. Next, ORIC will ensure that the appropriate exemption/exemption is applicable to the work and/or research that is going to be performed by the employee. Next, ORIC will conduct a "Restricted Party Screening" to ensure that the employee does not appear on the various "Denied Party Lists" provided by the U.S. Government. After the employee has been

screened, ORIC will provide a letter to the hiring supervisor and International Office that summarizes the results of the screening and justifies the rationale for the attestation and documentation that a license is or is not required to hire the employee for the listed position.

8. Research and Other Research-Related Agreements

Most data and information involved in TXSTATE research is excluded from export control regulation under the EAR or ITAR based on several key provisions:

- (a) The Fundamental Research Exclusion (FRE);
- (b) The Public Domain Exclusion; and
- (c) The Exclusion for Educational Information.

A. The Fundamental Research Exclusion

As used in the export control regulations, the fundamental research exemption includes basic or applied research in science and/or engineering at an accredited institution of higher learning in the U.S. where the resulting information is ordinarily published and shared broadly in the scientific community. Research will not be considered “fundamental research” if the campus accepts any restrictions on the publication of the information resulting from the research, or the research is federally funded and specific access and dissemination controls have been accepted. (EAR 15 C.F.R.734.8(a), (b); ITAR 22 C.F.R. 120.11(a)(8))

B. The Public Domain Exclusion

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.

C. 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 and summarized below.

- (a) Sponsor maintains the right to restrict or approve publication or release of research results (other than TXSTATE’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.
 - (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 U.S.

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

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

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

All Foreign Nationals must be approved before beginning work on the project. Contractor is required to divulge if any Foreign Nationals will be working on the project. Provision of name, last country of residence, citizenship information, etc. is required. This clause is commonly found in contracts involving Controlled Technology and sponsored by military agencies. May need to require the PI to certify that no Foreign Nationals will be working on the project. If the PI is doing basic research and the sponsor will take those results and work on the controlled technology at another location, may be able to delete this clause.

(f) ARL 52.005-4401 (Release of Information).

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

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

Requires an export license prior to assigning any Foreign National to work on the project or allowing Foreign Nationals access to the work, equipment, or technical data generated by the project. Foreign Nationals make up a large portion of TXSTATE’s scientific undergraduate, graduate, post-doctoral, and visiting scholar population.

9. Resolving Export Control Issues

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

In each case, the DORIC 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 DORIC will notify the PI, OSP, and others, as appropriate, of the determination. DORIC will maintain records of the determinations on a project basis, as provided in the recordkeeping section of this Manual.

10. Technology Control Plan

If the DORIC determines a project, facility, or item is export-controlled, the DORIC will work with the PI, facility managers, and others, as appropriate, to develop and implement a Technology Control Plan (TCP) to secure the controlled technology from access by unauthorized foreign persons.

A TCP template can be found in Appendix E of this Manual and will typically include:

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

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

- (a) Laboratory Compartmentalization. Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must remain locked at all times.
- (b) Time Blocking. Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.
- (c) Marking. Export-controlled information must be clearly identified and marked as export-controlled.
- (d) Personnel Identification. Individuals participating on the project may be required to wear a badge, special card, or other similar device indicating authority to access designated project areas. Physical movement into and out of a designated project area may be logged.

- (e) Locked Storage. Tangible items such as equipment, associated operating manuals, and schematic diagrams should be stored in rooms with key controlled access. Soft and hardcopy data, lab notebooks, reports, and other research materials should be stored in locked cabinets.
- (f) Electronic Security. Project computers, networks, and electronic transmissions should be secured and monitored through User IDs, password controls, 256-bit Secure Sockets Layer encryption, or other federally approved encryption technology. Database access should be managed via a Virtual Private Network.
- (g) Confidential Communications. Discussions about the project must be limited to the identified and authorized project participants, and only in areas where unauthorized individuals are not present. Discussions with third party subcontractors must occur only under signed agreements which fully respect the Foreign Person Limitations for such disclosures.

All TCPs will be reviewed biannually by the DORIC to ensure all supporting documentation, personnel roster, and the physical and information security plan is adhered and current.

11. Export Licensing

If a license, Technical Assistance Agreement, Manufacturing License Agreement, ITAR Registration, or other authorization is the appropriate method to address an export control issue, as determined by ORIC, the DORIC will consult with the PI and other appropriate parties to gather all the information needed to seek a license or other authorization. The ORIC 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 will request the license or other authorization from the cognizant agency with assistance from the DORIC and the OGC as appropriate.

12. Invitations to International Visiting Scholars and Postdoctoral Research Associates

A. Responsibility to Request Authorization to Visit

All TXSTATE employees intending to invite, or host international visiting scholars, or hire postdoctoral research associates, are required to notify and obtain authorization from the Associate Provost via Faculty Records. Authorization must be obtained prior to the arrival of the International Visiting Scholar or hire to the Postdoctoral Research Associate.

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

No international visiting scholar or postdoctoral research associate may have access (whether verbal, written, electronic, and/or visual) to controlled information or controlled physical items unless expressly permitted via an approved TCP, license, or an authorization in writing from ORIC. It is the responsibility of the TXSTATE employee supervising the international individual to ensure compliance with export control restrictions and to promptly disclose and report to the ORIC any violations.

C. RPS of International Visitor Scholars and Postdoctoral Research Associates

RPS of subjected international visitors and postdoctoral research associates includes RPS of the international visitor's employer and/or sponsoring entity. RPS is needed whenever a written or verbal invitation to visit TXSTATE is made to an international visitor or postdoctoral research associate regardless of whether:

- (a) The individual is present or not in the United States.
- (b) TXSTATE needs to sponsor the individual for immigration purposes under the J-1 Exchange Visitor Program.
- (c) TXSTATE does not need to sponsor the individual 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.

D. Procedure to Notify and Request Authorization to Visit

TXSTATE employees inviting, hosting or hiring International Visiting Scholars or Postdoctoral Research Associates must complete, prior to the visit or employment, a "Request for Approval of Visiting Scholar" or "Export Control Screening Request" (Appendix E and F) and attaches (1) the scholar's vita, (2) a copy of the passport or visa, (3) official transcript of highest degree, and (4) Security Sensitive Form. The request is then sent to the school director/department chair.

The school director/department chair will review the request and determine if any actions are necessary for protecting intellectual property/technology transfer (i.e., signing non-disclosure agreements). The school director/department chair will sign the request form and send to the college dean. The dean will review, sign, and forward the request to the Associate Provost via the Faculty Records office.

Faculty Records staff will review the request and determine if any additional actions or documentation are necessary and forward the request to the DORIC. Next, the DORIC will conduct a RPS and review the sponsor's research to ensure that the visitor will only be assigned work that has been categorized as "fundamental research". The DORIC will sign the export control screening form and forward to the Associate Provost via the Faculty Records office.

Faculty Records will review the request and send it to the Associate Provost for approval. If the request is approved, Faculty Records staff will notify the faculty sponsor, school director/department chair, and the dean. Faculty Records will forward a copy of the approved request to the International Office to initiate visa process.

The ORIC will conduct RPS on the individual and report hits that cannot be ruled out on secondary screening to the Empowered Official. If there is no RPS hit, ORIC will forward a copy of the approved form to Faculty Records and International Office (if requested) to initiate the immigration process.

E. 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 completing, submitting, and obtaining approval of an updated request form prior to the effective date of the change.

13. Distance Education

Distance education at TXSTATE refers to credit bearing, transcribed 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 ORIC. Particular guidance is provided in the following areas for review of export control in distance education:

A. Restricted Party Screening

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

Net ID and unique password. The authenticated Net ID and password are used to obtain access to a variety of student, 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 will be subject to RPS by ORIC as identified by the Registrar's Office prior to the first day of classes. Results of the ORIC review will be communicated to the Registrar's Office before a student is permitted to access and participate in the course.

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

14. International Activities

TXSTATE 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 ORIC. 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 ORIC 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.

A. Faculty and Scholars

All Foreign Nationals teaching, conducting research, or presenting workshops, symposia, or other academic presentations who are not employed by TXSTATE 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. The activity supervisor will submit the faculty or scholar name to ORIC, which will conduct RPS.

15. Procurement and Financial Transactions

A. International Vendor Screening

The Office of Procurement and Strategic Sourcing, in cooperation with ORIC, is responsible for developing and implementing procedures to screen vendors as appropriate for compliance with export control laws and regulations. Procedures for setting up vendor information include conducting RPS for all international vendors at the time vendors are established in the accounting system.

B. Restricted Party and Technology Screening for Purchased Equipment

Any potential export control issues will be referred to the ORIC. During the purchasing process, ORIC should be contacted when the department requesting the purchase is given a certification by the vendor that the equipment to be purchased is export-controlled. Individuals authorized to make purchases for their departmental are responsible for ensuring their purchases comply with export control laws and regulations.

C. P-Card Purchases

It is the responsibility of the Cardholder and Account Manager to perform appropriate due diligence in order to determine if the item to be purchased is export controlled if the following conditions apply:

- The equipment/hardware is for an export controlled project.
- The equipment/hardware will be shipped or taken outside the U.S.
- The equipment/hardware has an obvious military or space capability, is specially designed for military use and/or is a type of laser, sensor, infrared camera, or high-performance computer.

D. Purchasing Review of Terms and Conditions

When purchasing scientific or technical equipment, a source of vendor may include language indicating that the item is subject to U.S. Export Controls. This language does not necessarily mean that the item is a controlled item. The language may come in a form similar to the sample language below:

Purchaser certifies that if products purchased pursuant to such purchase order are directly or indirectly exported, re-exported or transferred, Purchaser shall comply with all applicable global export control laws and regulations, including but not limited to regulations implemented under the Wassenaar Arrangement or other multilateral export control regimes, the U.S. Export Administration Regulations (EAR), and U.S. International Traffic in Arms Regulations (ITAR). In particular, Purchaser declares that it will not: (1) use the products for any end-use activities restricted under Part 744 of the EAR or any equivalent end use based restrictions (to the extent applicable to the country or end user); or (2) export, re-export or transfer the products to any person, entity, and/or country, in each case without first obtaining written authorization from the applicable government agency (if required).

If similar language is found, the Cardholder or Account Manager should send an email to ORIC at exportcontrol@txstate.edu along with a description of the item

being purchased, the name of the Texas State employee and department requesting the purchase so that a review can be conducted to determine if the item(s) is/are controlled.

Occasionally a source or vendor may provide information about the particular product's export control status. Most commonly, this information will take the form of an export control classification number (ECCN).

For example, vendor may state that a particular item is controlled by 6A005. If this information is provided, the Cardholder or Account Manager should send an email to the ORIC at exportcontrol@txstate.edu along with a description of the item being purchased, the name of the Texas State employee and department requesting the purchase.

The ORIC will review the purchasing documents and determine if a Technology Control Plan is warranted. If warranted, the ORIC will work directly with the department and/or Texas State employee to develop and implement this plan.

Occasionally, Purchasing and Strategic Sourcing may discover information stating that the item(s) being purchased are subject to the ITAR, USML, or MTCR. This information may contain any of the foregoing acronyms, and it may also contain a specific category or paragraph (i.e. This item is found on the USML Cat. VIII). This type of information indicates that the article involved could be a defense article. The purchase should be halted and the ORIC should be notified in the event that this type of language is in a purchasing contract. ORIC will work directly with the department and/or Texas State employee to develop and implement a Technology Control Plan to safeguard the item(s).

E. Purchase Order Standard Terms and Conditions

Included in the Purchase Order Standard Terms and Conditions are two sections with export control language.

1. **ECCN REPORTING REQUIREMENT:** Contractor acknowledges that providing goods and services under this Purchase Order is subject to compliance with all applicable United States laws, regulations, or orders, including those that may relate to the export of technical data or equipment, such as International Traffic in Arms Regulations ("ITAR") and/or Export Administration Act/Regulations ("EAR"). Contractor agrees to comply with all such laws, regulations and orders as currently in effect or hereafter amended. Contractor shall not disclose any export-controlled information, or provide any export-controlled equipment or materials to Texas State without prior written notice. In the event that Texas State agrees to receive such export-controlled information, equipment or materials, Contractor shall: (i) include the Export Control Classification Number (ECCN) on the packing documentation, and,

(ii) send an electronic copy of the ECCN number and packing documentation to: exportcontrol@txstate.edu.

2. **ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS:** Each party represents that neither it nor any of its management or any other employees or independent contractors or Principals as defined in CFR Section 180.995 who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program, debarred from or under any other federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that each party, its employees and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, each party represents that it is not aware of any such pending action(s) (including criminal actions) against each party or its employees or independent contractors. Each party shall notify the other immediately upon becoming aware of any pending or final action in any of these areas.

For assistance in this process please contact ORIC at exportcontrol@txstate.edu or (512) 247-2314 277-2968. If the Cardholder or Account Manager determines that the item is export controlled, they should immediately contact ORIC so that an export control review can be conducted.

16. International Shipping

It is the responsibility of all TX State 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. All international shipments must be authorized by ORIC and Materials Management prior to shipping anything out of the United States.

All TX State employees must contact ORIC (exportcontrol@txstate.edu) and request an export shipping assessment. The following information will need to be provided to conduct the review:

- What is the destination of the shipment (city and country)?
- What will be shipped?
- Who will be receiving the shipment (individual and institution/company/organization)?
- Why are the items or information being shipped?

- How long will the items be out of the United States?
- Does the value of the shipment exceed \$2,500?

Answers to these questions will indicate whether or not you need a license to ship. If the answer is "no" to all of the above, then it will be able to ship "NLR" (No License Required). In some situations, a license exception may be available. If a license is necessary, it will take time to process; please plan accordingly. The Department of the Treasury's Office of Foreign Asset Controls will be contacted and involved in any shipment destined for an embargoed country.

U.S. Customs and Border Protection require the electronic filing into the Automated Export System (AES) of all international shipments that exceed \$2,500 in value. The filing is called a "Shipper's Export Declaration" (SED). The SED filing into AES is required for all international shipments made under an export license regardless of value. ORIC will submit a SED on exporter's behalf.

Upon the conclusion of the assessment, ORIC will contact the exporter and Materials Management in writing of the results of the assessment. If the item is authorized to be shipped Materials Management will facilitate the coordination of the shipment for the exporter with an approved 3rd party vendor.

Please note that 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 TXSTATE as well. 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.

17. International Travel

TXSTATE employees and students traveling on TXSTATE business or traveling with TXSTATE 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 ORIC 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 ORIC if they are considering taking encrypted software, controlled items/information, technology that is considered

intellectual property, or unpublished research 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. The ORIC can help with these assessments and ensure compliance with export control requirements.

A. International Conferences

Most travel for conferences will fall under an exclusion to the export control regulations, e.g., the Publicly Available/Public Domain Exclusion, 22 C.F.R. 120.11 and 15 C.F.R. 734.3. Information that is published and is generally accessible to the public through publication in books or periodicals 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.

B. Traveling with University or Personally Owned Equipment

TXSTATE 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 ORIC. There are a number of exceptions and exclusions which may apply depending upon the facts and circumstances of each case.

C. Tools of the Trade/TMP Exception

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" or TMP (Appendix F) 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 TXSTATE equipment temporarily outside of the United States for use in University activities. Often, but not always, the TMP exception is applicable. 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 TXSTATE equipment other than a laptop computer, PDA, cell phone, or data storage devices, abroad should contact ORIC to determine if an export license or other government approval is required prior to taking the equipment out of the country.

18. Record Keeping

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 TXSTATE U.P.P.S. No.01.04.32.

Records will be maintained by ORIC or as otherwise designated in this Manual. TXSTATE's policy is to maintain export-related records on a project basis. Unless otherwise provided for, all records indicated herein will be maintained consistent with the TXSTATE record retention policy, and must be retained no less than five (5) years after the project's TCP termination date or license termination date, whichever is later (subject to any longer record retention period required under applicable export control regulations).

19. Training

Depending on the nature of an individual's activities and/or job functions, a University employee may be required to take ORIC basic export control training course and/or supplemental export control training as deemed appropriate by the individual's supervisor, DORIC, and/or the Empowered Official.

20. Monitoring

Export control compliance and monitoring is a shared responsibility coordinated by ORIC in cooperation with various other offices across campus.

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

A. Office of Research Integrity and Compliance (ORIC)

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

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

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

The reviews will be conducted on a periodic basis. The results of the reviews will be reported to the Empowered Official. The ORIC will work with TXSTATE offices to ensure that any deficiencies identified will be rectified by the affected TXSTATE office and will conduct appropriate follow up to monitor the implementation of any corrective actions. Suspected violations of U.S. export control laws or regulations will be reported to Empowered Official.

21. Possible Violations

Each TXSTATE employee has the responsibility to reports possible violations of U.S. 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 ORIC at exportcontrols@txstate.edu or (512) 245-2314. Possible violations of U.S. export control laws or regulations will be

investigated by the Empowered Official, DORIC or designee, to the extent deemed necessary. In accordance with TXSTATE policies and regulations, 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 TXSTATE policy.

Appendix A

Glossary

Controlled Information – Information about controlled physical items, including information which is required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of controlled physical items and may be released through visual inspection, oral exchanges, or the application of personal knowledge or technical experience with controlled physical items. It also includes information in the form of blueprints, drawings, photographs, plans, instructions, and documentation. Further included in this definition are non-physical items (software and algorithms, for example) listed under EAR and ITAR. (See 15 C.F.R. 730-774 and 22 C.F.R. 120-130 for further details.)

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

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

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

Defense Service means:

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

ECCN – The Export Control Classification Number (ECCN) is the number assigned to each specific category of items or technology listed specifically on the Commerce Control List maintained by the U.S. Department of Commerce, Bureau of Industry and

Security. Commodities, software and technology that do not fit into a specific ECCN are classified as “EAR 99” and, while they may be exported to most destinations, may still be controlled for export to certain sanctioned entities or a few prohibited destinations.

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

The term “export” is broadly defined. It generally includes (1) actual shipment of any controlled physical items; (2) the electronic or digital transmission of any controlled information; (3) any release or disclosure, including verbal disclosures and visual inspections, of any controlled information; or (4) actual use or application of controlled physical items or controlled information on behalf of or for the benefit of a Foreign Entity or Person anywhere. Complete definitions of the term “export” are contained in the federal regulations.

Foreign 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).

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

A Foreign Person is also any branch of a foreign government or any foreign corporation or group that is not incorporated or organized to do business in the United States. For export control purposes, a Foreign Person is not an individual who is a United States citizen, lawful permanent resident of the United States, a refugee, a person protected under political asylum, or someone granted temporary residency under amnesty or Special Agricultural Worker provisions.

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

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

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

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

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

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

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

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

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

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

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

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

Appendix B
TEXAS  STATE
UNIVERSITY
The rising STAR of Texas

Office of Research Integrity and Compliance
Fundamental Research Exclusion/Export Control Determination Form

Date: _____ Project No: _____
Title: _____ Sponsor: _____
PI Name: _____ Department: _____

Does the contract contain any clause that:

- a. references U.S. export regulations? YES NO
- b. restricts non-U.S. entity participation based on country of origin? YES NO
- c. prohibits access by non-U.S. citizens to project information or the employment of non-U.S. citizens to work on the project? YES NO
- d. includes confidentiality or non-disclosure terms for proprietary or export controlled information? YES NO
- e. grants the sponsor a right to prepublication review for matters other than the inclusion of patent and/or proprietary sponsor information? YES NO
- f. the research activity is being funded by a foreign sponsor or involves the collaboration by a foreign person not employed by the University? YES NO
- g. budget includes shipping items to a foreign location? YES NO
- h. describes the development of source codes for 256-bit encryption software or mass market encryption products? YES NO

Negotiator Signature Date

If you mark "NO" for all of the questions above, then the project falls under the parameters of "fundamental research" and does not require further review. If you mark "YES" to any of the questions above, please forward the completed form to the Director of Office of Research Integrity and Compliance at: srubino@txstate.edu.

THIS SECTION IS TO BE COMPLETED BY THE DIRECTOR OF RESEARCH INTEGRITY AND COMPLIANCE

- Contract activity is considered "Fundamental Research" or is eligible for another exemption or exclusion defined by U.S. export laws. End review.
- Contract activity is/ or may be subject to U.S. export control laws. Further review is required by the Director, Research Integrity and Compliance to determine if a Technology Control Plan is required.

Director, Research Integrity and Compliance Date

Appendix C



FOSTERQUAN, LLP
THE COMPREHENSIVE IMMIGRATION LAW FIRM

H-1B EMPLOYER QUESTIONNAIRE

Texas State University – San Marcos

EMPLOYEE INFORMATION	
Employee's Full Name:	

EMPLOYING DEPARTMENT INFORMATION	
Department Name and Office Address:	
Name and Title of Contact Person:	Phone:
Email:	Fax:

BASIC INFORMATION	
Job Title:	Salary (In U.S. dollars):
<input type="checkbox"/> Wage range for this position for employees with similar qualifications:	
<input type="checkbox"/> N/A – there is no other employee in this position	
If part-time, list range of hours per week:	
Detailed job description:	
Or formal, in-house job description attached <input type="checkbox"/> Yes <input type="checkbox"/> No	
Address(es) where employee will work:	
Will the employee work offsite? If yes, please complete the question below. <input type="checkbox"/> Yes <input type="checkbox"/> No	

Please describe the offsite arrangement, including for how long the employee will work offsite, who will supervise and control the employee's work when offsite, and whether there are contracts in place for the offsite work.

If this is a teaching position (e.g., Lecturer, Instructor, Assistant Professor), please provide the date the candidate was selected under a competitive recruitment and selection process (mm/dd/yyyy):

N/A, this was a target of opportunity hire.

Anticipated Start Date:

Anticipated End Date:

Degree Requirement:

Field of Study:

Type and number of years of experience required, if any, in addition to the degree:

Does this position require a license? Yes No

Do you wish to premium process this case? Yes No

NOTE: Additional government fee of \$1,225 and legal fee of \$250 apply if you elect to premium process this petition.

EXPORT CONTROLS VERIFICATION

Will this position require or result in the exposure of the foreign national employee, either directly or indirectly, to technology or subject-matter that is controlled for export purposes and for which an export license is required before exposing the foreign national H-1B candidate?

If yes, has the required export license been secured? Yes No

If the position requires an export license, but a license has not yet been secured, please confirm that the license will be secured before the foreign national is exposed to the technology or subject matter requiring an export license.

I confirm

Title of person providing confirmation:

Name of person providing confirmation:

Title of person providing confirmation:

ACTUAL WAGE DETERMINATION

Are there other personnel in the department who are employed in the same or a very similar position as the position offered to the H-1B candidate? Yes No

If so, list their job titles, years credentials, and salary/wage information in the chart below.

Job Title	Degree Level and Degree Field	Number of years of Experience	Annual Salary or Hourly Wage (if part-time, specify hours per week)

Appendix D



The rising STAR of Texas

Office of Research Integrity and Compliance

Technology Control Plan

Statement of Commitment

Texas State University is committed to export control compliance. It is the policy of the University, to comply with United States export control laws and regulations. All employees and students must be aware of and are responsible for the export control implications of their work and must ensure that their activities conform to export control laws and regulations. Individuals and the University may be subject to severe penalties 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.

This project/activity/equipment involves or has the potential to involve the receipt and/or use of Export-Controlled Items, Technology, or Information. As a result, the project/activity comes under the purview of either the State Department's International Traffic in Arms Regulations (ITAR)(22 CFR Parts 120 – 130) or the Department of Commerce's Export Administration Regulations (EAR) (15 CFR §§734.8 and 734.9) and/or other export control regulations.

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

In accordance with U.S. export control laws and regulations, a Technology Control Plan (TCP) is required to prevent unauthorized access and/or use of export controlled items, information, technology or software. This document serves as a basic template for the minimum elements of a TCP and the safeguard mechanisms to protect against unauthorized access or use. Security measures and safeguards shall be appropriate to the export classification. Contact the Office of Research Integrity and Compliance at (512)245-2314 or srubino@txstate.edu for assistance to complete this form.

Establishing a TCP is a multi-step process. The first step is the assessment and approval phase where the principal investigator/responsible individual ("PI") develops a TCP and seeks approval of the plan from the PI's department/unit head, and the Office of Research Integrity and Compliance. When all approvals have been secured the PI shall review the TCP with all users, and each user will execute a copy of the briefing and certification form at the end of the TCP outlining individual responsibilities for handling export controlled technology, information and/or items. When all users, including the PI, have executed the TCP briefing and certification, the PI submits all signed documents to the ORIC, and retains copies for their files, and implements the TCP. It is the PI's responsibility to notify the ORIC of any anticipated changes to the TCP (e.g., personnel, scope of work, safeguards, etc.). All records relating to this TCP will be retained for at least five years from the date this TCP is no longer necessary to protect these items, technology and/or information. Records will be maintained in accordance with the TXSTATE record retention policy and 15 C.F.R., Part 762 (EAR); 22 C.F.R. §§122.5, 123.22, and 123.26 (ITAR); and 31 C.F.R. §501.601 (OFAC).

Title of Project or Activity: _____

Identification of Sponsor: _____

Relevant Project Number: _____

Description of Export Controlled Item, Technology, Information or Software and reason for control:

Principal Investigator/Responsible Individual: _____

Phone: _____ Email: _____

Identified Export Control Classification Number/ECCN: _____ ITAR Category: _____

Briefing Requirement

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

1. **Personnel** (clearly identify every person, including their country of citizenship, who may have authorized access to the controlled information, technology or item. Attach additional sheets if necessary. Please print.

Name & Citizenship: _____

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

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

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

Location (include building and room numbers, lab name, etc.):

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

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

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

Janitorial Service (provide a description of how this item will be secured during custodial servicing periods.):

Destruction or Return of Materials (describe how the export controlled materials will be handled at the end of the project or when they are no longer needed, e.g., shredding, file wipes, hard drive destruction, return to sponsor, etc.):

4. **Information Security Plan - Describe what information security safeguards will be used:** (Appropriate measures must be taken to secure controlled electronic information, including User ID’s, password control, SSL etc.)

Name of assigned IT personnel: _____

**Please note that the above named individual must be a U.S. citizen.*

5. **Amendments:** Any changes to the approved plan, including personnel changes and location changes, must be approved in writing.

6. Training / Awareness /Briefing

All participants listed on this TCP must be briefed by the ORIC Director and/or PI / Responsible Individual and sign the certification applicable to this TCP. Additional training is recommended for all individuals listed, please contact ORIC at (512) 245-2314 or srubino@txstate.edu to schedule additional training.

7. Bi-Annual Review

All procedures and protocols documented in this TCP will be subject to a bi-annual review by the Director of Research Integrity and Compliance. The review will consist of a meeting with the PI to ensure the accuracy of the TCP as well as an on-site walk through of the research lab and facilities.

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

Principal Investigator / Responsible Individual

Signature	_____	Title	_____
Printed Name	_____	Date	_____

Department/Unit Head

Signature	_____	Title	_____
Printed Name	_____	Date	_____

ORIC Reviewer

Signature	_____	Title	Director, ORIC
Printed Name	_____	Date	_____

Office of Research Integrity and Compliance

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

BACKGROUND

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

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

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

PARTICIPANTS RESPONSIBILITIES

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

CRIMINAL/CIVIL LIABILITY AND PENALTIES

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

Principal Investigator/Responsible Official:

Department/Unit:

Title of Project/Activity:

Technology Control Plan Number:

CERTIFICATION

- I hereby certify that I have read and understand this Briefing and Certification. I understand that I could be held personally liable if I unlawfully allow access to or disclose, regardless of form or format, export-controlled information, technology, software, or items to unauthorized persons.
- I understand that the law makes no specific exceptions for non-US students, visitors, staff, postdocs or any other person not pre-authorized under a TCP to access export controlled information, technology, software or items.
- I also acknowledge that I have read the Texas State University Technology Control Plan for this project/activity and have discussed the plan with my supervisor (if not the PI / Responsible Individual) and that I agree to comply with the requirements in the TCP.
- Furthermore, I under. I agree to immediately contact the Director of the Office of Research Integrity and Compliance at (512)245-2314 or srubino@txstate.edu with any questions I may have regarding the designation, protection, or use of export-controlled information, technology, software, or items.

Participant Name:	TCP Number:
Participant Signature:	Date:

*Print and execute this **BRIEFING and CERTIFICATION** for each person who will have access to the export controlled subject matter.

Appendix E

Request for Approval of Visiting Scholar

With this form, the department requests authorization to enter into an agreement with a Visiting Scholar. Requests for the appointment of a Visiting Scholar should be submitted as far in advance as possible, but no fewer than 30 business days prior to arrival on campus. Below is the process for obtaining approval.

1. The faculty sponsor completes the Request for Approval of Visiting Scholar form and attaches (1) a statement of purpose of the visit, how it relates to the faculty sponsor's research, and the benefit to Texas State, (2) the scholar's vita, and (3) a copy of the passport or visa. The request is then sent to the chair/director.
2. The chair/director will review the request and determine if any actions are necessary for protecting intellectual property/technology transfer (i.e., signing non-disclosure agreements). The chair/director will sign the request form and send to the dean.
3. The dean will review, sign, and forward the request to the Associate Provost via the Faculty Records office.
4. Faculty Records staff will review the request and determine if any additional actions or documentation are necessary and forward the request to the Director of the Office of Research Integrity and Compliance if the visitor is international.
5. The Director of the Office of Research Integrity and Compliance will review and verify compliance for export control, required trainings, financial conflict of interest, and grant regulations (if applicable). The Director of the Office of Research Integrity and Compliance will sign the export control screening form (attached) and forward to the Associate Provost via the Faculty Records office.
6. If the request is approved by the Associate Provost, Faculty Records will notify the faculty host, chair/director, and the dean. If the visitor is international, Faculty Records will forward a copy of the approved request to the International Office to initiate paperwork. All international visitors are required to check in with the International Office.

Visiting Scholar Information

First Name:

Middle Name:

Last Name:

Email:

Country of Citizenship: _____

Current Institution Address (city, state/province, country): _____

Home Address (city, state/province, country): _____

Visitation Period (mm/dd/yyyy): Start Date: _____ End Date: _____

Domestic Visitor International Visitor

Will equipment/office/lab space be provided? Yes No If yes, please provide an explanation in the space below.

Faculty Sponsor/Administrator Information

Name:

Department/School:

Email:

Signature:

Date:

Required Signatures for Approval

Chair/Director :

Approved Disapprove

Date: _____

College Dean:

Approved Disapprove

Date: _____

Director of Office of Research Integrity and Compliance:
(signature only required if international visitor)

Approved Disapprove

Date: _____

Associate Provost:

Approved Disapprove

Date: _____

Export Control Screening

It is the responsibility of the faculty sponsor and school director/department chair to ensure that the following restricted party screening information is completed and submitted with this request if the visitor is international.

Please complete this section if the visiting scholar is not a U.S. citizen or lawful U.S. Resident.

The following questions are intended to address export controlled issues. Please indicate yes or no for all of the work contemplated during the scholar's visit, with the host or other faculty member or researcher.

a) Yes No **Can the research be categorized as Classified?**

Classified research is usually government funded and can further be defined as national security information at the levels of Top Secret, Secret, and Confidential, and as being governed by Department of Defense National Industrial Security Program Operating Manual (NISPOM) requirements. Publication of classified research results can be legally withheld or restricted.

b) Yes No **Can the research be categorized as Controlled Unclassified Information?**

Controlled Unclassified Information (CUI) is a categorical designation that refers to unclassified information that does not meet the standards for National Security Classification under Executive Order 12958, as amended, but is (i) pertinent to the national interests of the United States or to the important interests of entities outside the Federal Government, and (ii) under law or policy requires protection from unauthorized disclosure, special handling safeguards, or prescribed limits on exchange or dissemination. Henceforth, the designation CUI replaces "Sensitive But Unclassified" (SBU).

c) Yes No **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.

d) Yes No **Does the project restrict participation to US citizens or permanent residents only?**

e) Yes No **Can the research be categorized as Restricted?** Restricted research is research where publication may require advance review by, or permission of the funding entity. Restricted research may have constraints imposed by the funding entity, whether it be the state, a federal agency, or a private sponsor with or without commercial interests.

f) Yes No **Can the research be categorized as "Fundamental"?**

Fundamental research' means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

Fundamental Research applies only to the dissemination of technical data and information, not to the transmission of material goods.

g) Yes No **Will visitor have access to technical specifications of equipment where such specifications are not available through published materials such as commercially available manuals, documentation in libraries or the World Wide Web, information from teaching laboratories or information available to interested communities for either free or where the price does not exceed the cost of production?**

This section to be completed by the Office of Research Integrity and Compliance to Verify Restricted Party Screening Check

Yes No Passed restricted party screening for person

Yes No Passed restricted party screening for home institution or current employment

Yes No Any restrictions, if yes, explain: _____

Name: _____

Signature: _____ Date: _____

Appendix F

Export Control Screening Request

It is the responsibility of the faculty sponsor and chair/director to ensure that the following restricted party screening information is completed and submitted for an international Postdoctoral Research Associate.

Postdoctoral Research Associate Information

First Name: _____ Middle Name: _____ Last Name:

Country of Citizenship: _____

Hosting Sponsor/Administrator Information

Name (Print/Type): _____ Department: _____

Phone: _____ Email: _____

Signature: _____ Date: _____

Please complete this section if the Postdoctoral Research Associate is not a U.S. citizen or lawful U.S. Resident.

The following questions are intended to address export controlled issues. The faculty host or other researcher should indicate yes or no for all of the work contemplated during the employment period.

a) Yes No **Can the research be categorized as Fundamental?**

Fundamental research means basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.

Fundamental research applies only to the dissemination of technical data and information, not to the transmission of material goods.

b) Yes No **Are the results of the assigned research intended to be freely disseminated and do not require pre-approval by a sponsoring agency to be published?**

All foreign nationals must be pre-approved by the Office of Research Integrity and Compliance prior to the assignment of work on sponsored research which contains terms and conditions that restrict the free publication and dissemination of the project's information and results.

c) Yes No **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. Citizens of U.S. embargoed countries are not authorized to participate on research that is categorized as proprietary.

d) Yes No **Does the project restrict participation to U.S. citizens or permanent residents only?**

All research at Texas State that contains provisions which restricts the participation of non-U.S. citizens must have a university approved Technology Control Plan.

e) Yes No **Will the research yield results that have a primary military application or is intended solely for the use in outer space?**

f) Yes No **Will the visiting scholar have access to technical specification of equipment where such specifications are not available through published materials such as commercially available manuals, documentation in libraries or the World Wide Web, information from teaching laboratories or information available to interested communities for either free or where the price does not exceed the cost of production?**

This section to be completed by the Office of Research Integrity and Compliance to Verify Restricted Party Screening Check

Yes No Passed restricted party screening for person

Yes No Passed restricted party screening for home institution or current employment

Yes No Any restrictions, if yes, explain: _____

Name: _____

Signature: _____ Date: _____

Appendix G



The rising STAR of Texas

Office of Research Integrity and Compliance
Texas State University

Export License Exception for Temporary Exports (TMP)

Certification for Texas State University Employees International Travel When Carrying Texas State Owned, Export Administration Regulations (EAR) Controlled Items, Technology, and Software

Texas State employees commonly carry Texas State-owned, commercially available electronic devices such as laptops, PDAs, iPads, cell phones, thumb drives, and other digital storage devices with them on international travel. These items often come with pre-loaded encryption software which is subject to the Department of Commerce, Export Control Regulations (EAR). Many of these items can be temporarily exported under the EAR license exception "Temporary exports-Tools of the Trade" (TMP).

The TMP License Exception provides that when Texas State-owned laptops, PDAs and other digital storage devices (and related technology and software) are being used for professional purposes, returned within 12 months, kept under effective control of the exporter while abroad and other security precautions are taken against unauthorized release of technology, then the TMP License Exception generally applies as long as the criteria to which you are certifying below are met.

NOTE: 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.

This form needs to be signed by Sean Rubino, the Director of the Office of Research Integrity and Compliance prior to shipping or hand-carrying the item(s) or software overseas. If you have any questions about this, please email him at: srubino@txstate.edu.

Detailed description of Items, Technology and Software to which this Certification applies:

Please provide the brand name, model, serial number, and Texas State University Tag and Bar Code Numbers to all University owned equipment that will accompany you on your trip. If you are bringing a laptop computer, include a list of all of software and programs that have been installed (an attachment with a snapshot of the Program Files list from your computer is sufficient).

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 State business only;
2. I will return the items, technology or software to the U.S. on _____ which is no later than 12 months from the date of leaving the U.S. unless they are certified by me to have been consumed or destroyed abroad during this 12 month period;
3. I will keep the items, technology or software under my “effective control” while abroad (defined as retaining physical possession of an item or maintaining it in a secure environment – locked safe or secure facility);
4. I will take security precautions to protect against unauthorized release of the technology while the technology is being shipped or transmitted and used abroad such as:
 - a. Use secure connections when accessing email 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;
5. I will not take any item or software incorporating Texas State -developed, non-commercial strong encryption source code outside the borders of the United States unless I have received approval from the Assistant Vice President of Research and Federal Relations in writing.
6. *I will not ship or hand-carry the items, technology or software to Iran, North Korea, Syria, or Sudan or travel to these countries without consulting with the Director of the Office of Research Integrity and Compliance.*

Signed: _____

Print name:

Date:

Please submit to the Director of Research Integrity and Compliance for review and signature: srubino@txstate.edu. A copy of the form will be returned to you.

 Sean Rubino, MPA
 Director, Office of Research Integrity and Compliance

 Date