**Export Control Laws and Regulations** **UPPS No 02.02.10**

**Issue No. 2**

**Effective Date: 09/29/2016
Next Review Date: 11/01/2022 (E6Y)**

**Sr. Reviewer: Associate Vice President for Research and Federal Relations**

**01. POLICY STATEMENTS**

01.01 This policy describes the Texas State University procedures on export control laws and regulations.

01.02 Texas State must 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).

01.03 Texas State 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 that their activities conform to export control laws and regulations.

**02. BACKGROUND**

02.01 Institutions of higher education and their employees are required to comply with export control laws and regulations. There are severe institutional and individual sanctions for violations of export control laws including the loss of research funding, loss of export privileges, as well as civil and criminal penalties including imprisonment.

02.02 The export of certain items, technologies, software, and services is regulated for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction, and for competitive trade reasons. Export control laws restrict the shipment, transmission, or transfer of certain items, software, technology, and services from the United States to foreign countries, as well as “deemed exports” that are releases of controlled physical items or controlled information to foreign nationals located in the United States.

02.03 Most of the activities conducted by Texas State are likely to be excluded from export control laws, but some activities may be restricted. The application of export control laws involves an efficient fact-specific analysis. Most exports do not require specific approval from the federal government. Certain exports, however, require a license. Others are prohibited.

 **03. RESPONSIBILITIES**

 03.01 Individual Responsibilities

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

All Texas State employees, visiting scientists, and students must fulfill their work, research, and scholarly duties in accordance with United States export control laws and regulations. While complying with all applicable legal requirements, it is equally important to maintain an open research environment that welcomes the participation of researchers from around the world. To maintain this balance, Texas State 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 job functions, Texas State personnel may be required to participate in formal training as determined by the empowered official, director of the Office of Research Integrity and Compliance (ORIC), or the employees’ supervisors.

All Texas State 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.

All Texas State employees and students will comply with the provisions of any export license, governmental approval, certification, exemption, technology control plan, and procedures.

03.02 Empowered Official

The provost and vice president for Academic Affairs has designated the associate vice president for Research and Federal Relations (AVPR) as the “empowered official” for all export control issues. The empowered official is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as Texas State’s representative and point of contact with such agencies. The empowered official is Texas State’s official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of Texas State and to bind the university in any proceedings before government agencies with export control responsibilities.

 03.03 The AVPR is the Texas State official with the final responsibility for compliance with export control laws and regulations.

**04. OFFICES RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE**

 04.01 ORIC, in cooperation with other appropriate offices, is responsible for directing and monitoring Texas State’s export control compliance program, record keeping, and for implementing procedures and guidelines to comply with federal export control laws and regulations, including developing, implementing, and updating the Export Control Compliance Program Manual.

 04.02 When requested, ORIC will determine, or assist other offices and employees in, export control assessments to establish compliance obligations with respect to Texas State activities involving foreign persons, or international activities under applicable export control laws and regulations, and to determine the applicability of the Fundamental Research Exclusion (FRE) or other exclusions. ORIC will also assist with and conduct Restricted Party Screening (RPS) and consult with the TSUS Office of General Counsel (OGC) on export control matters as appropriate.

 04.03 ORIC will conduct periodic self-assessments of Texas State’s compliance with export control laws and regulations and report its findings to the AVPR, as appropriate.

**05. EXPORT CONTROL COMPLIANCE PROGRAM PROCEDURES**

 05.01 Sponsored Programs and Contract Administration

Both the Offices of Sponsored Programs (OSP) and Technology Commercialization (OTC), in coordination with ORIC, are responsible for developing and implementing procedures to screen proposals, contracts, and projects for compliance with export control laws and regulations and specifically to identify those that involve the following factors:

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

b. foreign nationals are excluded from participation in the research, or are subject to approval by the research sponsor;

c. the contract provides that research results will be considered trade secret, confidential, or proprietary information owned by the sponsor;

d. incorporation by reference of federal regulations (Federal Acquisition Regulations, Defense Federal Acquisition Regulations, agency specific regulations) that impose publication or access restrictions, or provisions that state that export control laws apply;

e. foreign nationals who will have access to controlled information or controlled physical items;

 f. persons or entities involved in the research project or related transactions are identified through RPS as embargoed countries or restricted countries, persons, or entities; and

g. controlled physical items or controlled information (including laptops containing controlled information) that will be taken or shipped outside the United States.

05.02 Role of the Researcher

With regard to specific research projects, primary compliance responsibility rests with the principal investigator of the research, but ORIC must be contacted, as early as possible, by principal investigators assessing the application of such regulations to their own planned research.

05.03 International Visiting Scholars

1. RPS is required for all international visiting scholars as a condition of their visit to Texas State’s.
2. All international visiting scholars, whether present or not in the United States, must undergo RPS when the international visitor: 1) will be involved in a research project or collaboration, and will have access to laboratories and research facilities for the purposes of observing or conducting research; or 2) will be issued an identification card, keys to offices or laboratories, or otherwise be given access to the computing system in any manner. It is the responsibility of all employees intending to host an international visiting scholar to notify and request approval of such visit from the associate provost via Faculty Records prior to the arrival of the international visiting scholar.

 05.04 Export Control Attestation H-1B Visa

1. I-129 Attestation

 To comply with U.S. Citizenship and Immigration Service (USCIS) regulations, all supervisors who intend to hire a foreign national (faculty or staff) who has obtained, or is in the process of applying for an H-1B Visa, must complete an export control attestation.

 This attestation requires employers to confirm that they have reviewed the U.S. export control regulations and have determined whether a license is required to release controlled technology or technical data to the sponsored worker. All hiring supervisor should review the regulations as they pertain to an international employee’s position and sign a compliance certification (attestation) as part of the H-1B Visa process.

 The ORIC will assist the supervisor by conducting an export control review and screening of the individual, as well as providing documentation that supports the decision, which is intended to be attached to the I-129 Attestation form.

05.05 International Activities

In the case of Texas State’s activities conducted outside the United States, it is the responsibility of the Texas State’s official or organizer to seek and obtain appropriate export control approvals from the ORIC, for the following activities, without limitation: execution of agreements performable outside the United States and making payments to foreign person vendors.

05.06 Purchasing and Financial Transactions

It is the responsibility of the Texas State’s Procurement & Strategic Sourcing office, in coordination with the ORIC, to develop and implement procedures to screen vendors as appropriate for compliance with export control laws and regulations.

05.07 International Travel

Texas State acknowledges that administration, faculty, and staff are required to travel internationally to attend meetings, conduct presentations, facilitate research, meet with sponsors, participate in or lead education abroad activities, and collaborate with colleagues. Employees traveling on Texas State business or traveling with Texas State property are responsible for complying with export control laws and regulations when traveling outside the United States.

1. ORIC is required to conduct an export control review for all Texas State sanctioned international travel.

05.08 Shipping

It is the responsibility of Texas State personnel who are shipping items outside the United States (including hand-carrying items such as research equipment, materials, data, biological materials) to comply with export control laws and regulations in coordination with the Materials Management and Logistics Department and ORIC.

05.09 Training

ORIC, in cooperation with other appropriate offices, will develop and implement an appropriate training program. Depending on the nature of an individual’s activities or job functions, a Texas State employee may be required to take supplemental export control training as deemed appropriate by the individual’s supervisor or the empowered official.

**06. REFERENCED MATERIALS AND ADDITIONAL RESOURCES**

[Office of Research and Federal Relations Export Control website](http://www.txstate.edu/research/orc/export-control.html)

Texas State University Export Compliance Control Manual

U.S. Department of Commerce, [Bureau of Industry and Security](https://www.commerce.gov/bureaus-and-offices/bis)

U.S. Department of State, [Directorate of Defense Trade Controls](https://www.pmddtc.state.gov/ddtc_public?id=ddtc_public_portal_about_us_landing)

[International Traffic in Arms Regulations, 22 CFR Parts 120-130](https://www.pmddtc.state.gov/?id=ddtc_kb_article_page&sys_id=%2024d528fddbfc930044f9ff621f961987" \t "_blank)

U.S. Department of the Treasury, [Office of Foreign Assets Control](http://www.treasury.gov/about/organizational-structure/offices/Pages/Office-of-Foreign-Assets-Control.aspx)

Foreign Assets Control Regulations, 31 CFR Parts 501-598

**07. REVIEWERS OF THIS UPPS**

07.01 Reviewers of this UPPS include the following:

Position Date

Associate Vice President for Research November 1 E6Y

and Federal Relations

Assistant Vice President for Research November 1 E6Y

and Federal Relations

Director, Office of Research Integrity November 1 E6Y
and Compliance

**08. CERTIFICATION STATEMENT**

This UPPS has been approved by the following individuals in their official capacities and represents Texas State policy and procedure from the date of this document until superseded.

Associate Vice President for Research and Federal Relations; senior reviewer of this UPPS

Provost and Vice President for Academic Affairs

President