

# Export Control

## COMPLIANCE MANUAL



PRAIRIE VIEW  
A&M UNIVERSITY





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A&M UNIVERSITY

# Export Control Compliance Program Manual

Export control laws are complex and fact specific. Regulations, rules, and lists for specifying who or what is considered export sensitive and where export controls apply are subject to change.

This Manual is intended to provide a brief outline of basic export control information. It should not be relied upon exclusively nor should it be construed as legal advice. Any questions should be directed to the Export Control Officer, Crysta Mendes at [crmendes@pvamu.edu](mailto:crmendes@pvamu.edu)

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## List of Abbreviations

BIS	Department of Commerce Bureau of Industry and Security
CCL	Commerce Control List
CRO/IO	Chief Research Officer/Institutional Officer
CJ	Commodity Jurisdiction
DDTC	Department of State Directorate of Defense Trade Controls
DFAR	Defense Federal Acquisition Regulation
EAR	Export Administration Regulations
ECO	Export Control Officer
ECCN	Export Control Classification Number
FAR	Federal Acquisition Regulations
FRE	Fundamental Research Exclusion
ITAR	International Traffic in Arms Regulations
MTA	Material Transfer Agreement
NDA	Non-Disclosure Agreement
OFAC	Department of Treasury Office of Foreign Assets Control
OGC	The Texas A&M University System Office of General Counsel
OPD	Office of Procurement and Disbursements
OSP	Office of Sponsored Programs
PD	Project Director
PI	Principal Investigator
PVAMU	Prairie View A&M University
RCO	Research Compliance Officer
RPS	Restricted Party Screenings
SDNL	Specially Designated Nationals and Blocked Persons List
TAA	Technical Assistance Agreement
TAMUS	The Texas A&M University System
TCP	Technology Control Plan
U.S.	United States
USML	United States Munitions List
VPRI	Vice President for Research and Innovation

## **1. Commitment to Export Control Compliance**

It is the policy of Prairie View A&M University 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 \(EAR 15C.F.R. 730-774\)](#); and the [Department of State through its International Traffic in Arms Regulations \(ITAR 22C.F.R. 120-130\)](#)), as well as those imposed by the [Treasury Department through its Office of Foreign Assets Control \(OFAC 31C.F.R. 500-599\)](#).)

Prairie View A&M University (PVAMU) 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 Research maintains a website with export control information and resources accessible at <https://www.pvamu.edu/research/compliance/export-controls/>. Questions about export controls can be directed to PVAMU's Export Control Officer, telephone (936) 261-1553 or by email to [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu).

This Export Control Compliance Program Manual is designed to assist PVAMU faculty, staff, and students with export control compliance. It is not intended to be used exclusively, nor is it intended to constitute legal advice. Acronyms are defined in the List of Abbreviations. Other capitalized terms used in this Manual that are not defined above, in the University Rule *15.02.99.P1, Export Controls Program Management*, or within the Manual are listed in the Glossary, Appendix A.

## **2. Responsible Persons for Export Control Compliance**

### **2.1 Empowered Official**

The Vice President for Research and Innovation (VPRI) (in addition to other designees who may be appointed by the VPRI) is PVAMU'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 PVAMU's representative and point of contact with federal agencies having export control jurisdiction. The Empowered Official is the PVAMU official authorized to bind PVAMU in any proceedings before government agencies with export control.

### **2.2 Export Control Officer/ Interactions with Government Agencies on Export Control Matters**

The Export Control Officer (ECO), in cooperation with other offices, including the Office of Sponsored Programs (OSP), is responsible for directing and monitoring the university's export control compliance program, recordkeeping, and implementing procedures and/or guidelines to comply with federal export control laws and regulations, including developing, implementing, and updating this Manual.

When requested, the ECO will determine, or assist other offices and employees in export control

assessments to determine compliance obligations with respect to university activities involving Foreign Persons or international activities under applicable export control laws and regulations, as well as to determine the applicability of the Fundamental Research Exclusion (FRE) or other exclusions provided by law. The ECO will also assist with and conduct Restricted Party and Technology Screening (RPS) and consult with The Texas A&M University System (TAMUS) 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 ECO as determined appropriate. Any communications from government officials relating to PVAMU's export control compliance program should be forwarded to ECO for handling.

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

### 2.3. Office of Research

ECO in coordination with OSP is responsible for developing and implementing procedures to screen proposals and projects for compliance with export control laws and regulations as follows:

- (a) assistance in reviewing the terms of proposals and agreements, and in determining whether the research or related activity is export-controlled;
- (b) assistance in identifying factors that can negate the FRE and in negotiating the deletion of such restrictions, if possible;
- (c) on export controlled research to assist PIs, PDs, and the Empowered Official (VPRI) (or designated person) to document assurance that controlled physical items and controlled information are secured, that licenses and other authorizations are obtained, and that research is conducted in accordance with the Technology Control Plan (TCP); and
- (d) coordination with Empowered Official (or designated person) to ensure that all export control determinations related to a research project are communicated in writing to the PI or PD, to project negotiators and administrators assigned to the research, and System members, as appropriate.
- (e) determine[s] whether a person or entity is included on the [Specially Designated Nationals and Blocked Persons List](#) or any other list included in the screening software made available by the Office of Research.
- (f) screening against restricted party lists.

### 2.4 Office of Sponsored Programs

PVAMU's sponsored research activities are administered by the Office of Sponsored Programs (OSP) in accordance with established OSP procedures. OSP works closely with the ECO, PIs, PDs and System

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

OSP is responsible for notifying PVAMU's ECO and Empowered Official of suspected violations to the extent PVAMU projects, contracts, or employees are affected.

## 2.5 University Administrators

All university employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items should view export control compliance as an important part of their day-to-day responsibilities. They are responsible for overseeing export control compliance in their areas of administrative responsibility and for supporting the ECO in implementing the procedures set forth in this Manual, and as otherwise deemed necessary by the ECO for export control compliance.

PVAMU offices with responsibility for administering components of PVAMU'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.

## 2.6 Individual Responsibility

All university employees, students, visiting scientists, postdoctoral fellows, and other persons retained by or working at or for the university must conduct their affairs in accordance with the United States export control laws and regulations. While compliance with all applicable legal requirements is imperative, it is equally important to maintain an open research environment that welcomes the participation of researchers from around the world as part of the university mission. To maintain this balance, university personnel must be familiar with the United States export control laws and regulations, including essential 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.

PIs with the assistance of the ECO 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 his or her obligations, each PI should:

- (a) Understand his or her export control obligations and participate in regular training to be able to identify export control issues;
- (b) Be aware of the export control indicators in Section 3 of this Manual and note such information on any internal compliance or assurance forms;
- (c) Determine, prior to initiation of research, whether any information or technology involved in his or her research is subject to export control laws or regulations;
- (d) Review his or her research periodically to ensure continuing compliance with export control laws

and regulations;

- (e) If undertaking an export-controlled project, brief the students and other researchers involved in the project of their export control obligations; and
- (f) Understand that any informal agreements or understandings entered into with a sponsor may negate the FRE or other key exclusions and impose export control obligations on the PI.
- (g) Ensure that all foreign visitors are screened by the ECO prior to arrival on campus as provided in Section 5 of this Manual.

### **3. Identification of Export Control Concerns**

#### **3.1 Export Control Red Flags**

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

- (a) The results of research conducted at PVAMU or by PVAMU employees are intended for military purposes or for other restricted end uses under EAR 99.
- (b) Foreign Persons will have access to Controlled Physical Items on campus.
- (c) Software including encryption features will be developed or purchased.
- (d) PVAMU faculty or staff will export or travel abroad with research equipment, chemicals, biological materials, encrypted software, or Controlled Physical Items; or travel abroad with laptops, cell phones, or PDAs containing Controlled Information.
- (e) A proposed financial transaction will involve [embargoed countries](#) or entities, individuals located in embargoed countries, or who are on prohibited or restricted end-user lists, as determined by RPS.
- (f) The sponsor requires pre-approval rights over publications or the participation of Foreign Persons.
- (g) The project requires the shipping of equipment, chemicals or biologics to a foreign country.
- (h) Other Red Flag Indicators: The Department of Commerce, Bureau of Industry and Security has posted a list of [Red Flag Indicators](#) for Things to Look for in Export Control Transactions

#### **3.2 Restricted Party and Technology Screening**

##### **3.2.1 Restricted Party Screening (RPS)**

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

To ensure that PVAMU 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, PVAMU must screen individuals and entities as provided in this Manual. PVAMU has licensed export control compliance software that permits authorized users to screen Restricted Party Lists electronically. Those with a business need to access and use the software will complete and submit an authorization request form. No access/use will be authorized without ECO approval.

To obtain authorization to use the export control compliance software, a user should complete the TAMU Request to Activate/Deactivate Access to Export Control Compliance Software form in Appendix E of this Manual. The unit requesting the authorization of a new user is responsible for screening the individual using the export control compliance software before submitting the authorization request form. The requesting unit is also responsible for ensuring that the proposed user has completed the basic online export control training course delivered via TrainTraq. Authorized users are limited to United States citizens and legal permanent residents who are full-time employees of the System or a System member.

The export control compliance software performs Restricted Party Screening against all relevant U.S. Government lists, including: Department of Treasury Office of Foreign Assets Control (OFAC) Sanctions, Department of Commerce Bureau of Industry and Security (BIS) Denied Persons List, Department of Commerce BIS Entity List and Unverified List, Department of State Arms Export Control Act Debarred Parties, Department of State Designated Terrorist Organizations, Department of State Nonproliferation Orders. Screening includes exact, fuzzy, and phonetic searches.

### 3.2.2 Technology Screening

The U.S. Department of Commerce and the U.S. Department of State, along with various other government agencies, control what technology, items, goods, services, etc. (technology) may be permissibly exported outside of U.S. territory. To ensure that PVAMU is in compliance with all export regulations, PVAMU must screen the technology that it intends to export. Screening of technology is accomplished using the same export control compliance software used to perform restricted party screening. This software allows for a search of the technology the university plans to export via the Export Administration Regulations (EAR), the Commerce Control List (CCL) and the International Traffic in Arms Regulations (ITAR) / U.S. Munitions List (USML). The export control compliance software will notify the screener if a crossmatch is found on another listing and what applicable licenses may be required.

### 3.2.3 Possible Match

Authorized users should conduct screening in accordance with their department's/unit's internal procedures. If there is a possible match of the party being screened with a party on a Restricted Party List (a "hit"), a secondary screening should be conducted using additional detailed information to confirm the possible match. If the hit cannot be ruled out on secondary screening, the possible match should be forwarded to the ECO, along with the criteria used to determine the possible match. Upon further investigation, the ECO will make a determination. The ECO is

responsible for maintaining records of its determinations. The departments/units of authorized users are responsible for maintaining records of determinations that are not forwarded to the ECO, as provided in Section 12, Recordkeeping.

### 3.2.4 Authorized Users

On an annual basis, the ECO will generate a list, by department/unit, of authorized users. The list will be sent to the department/unit head or designee to confirm that the individuals listed are still authorized users for that specific department/unit. Authorized users will be limited to those with business needs only. The ECO may limit the number of authorized users as is deemed appropriate.

## 3.3 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 the proposed employment will involve access to Controlled Information or Items before extending offers of employment.

Any export control issues related to the hiring of Nonimmigrant Foreign Nationals should be referred to the ECO for resolution as appropriate. For procedures relating to the hiring of Foreign Nationals for work at PVAMU see Section 6.

## 4. Research and Other Research-Related Agreements

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

- (a) the Public Domain Exclusion
- (b) the Fundamental Research Exclusion (FRE)
- (c) the Exclusion for Educational Information

It is important for researchers and others involved in research to be aware of these key exclusions and to understand that their benefits can be lost if certain provisions are present in research-related agreements. For this reason, PIs should avoid entering into informal understandings or “side agreements” with research sponsors that restrict Foreign 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.

### 4.1 Contract Provisions of Concern

Certain agreement provisions may negate the FRE and require seeking a license or undertaking monitoring or other activities. These provisions of concern are summarized below.

If any of the following provisions are present (and cannot be negotiated away) in a research agreement or subcontract, a Material Transfer Agreement (MTA), or Nondisclosure Agreement (NDA) related to research, the ECO should be consulted for guidance prior to execution of the agreement.

- (a) Sponsor maintains the right to restrict or approve publication or release of research results (other than PVAMU's standard customary brief delay to protect a sponsor's confidential information or to preserve the patentability of an invention).
- (b) Research data and/or other research results will be owned by the sponsor (e.g., as sponsor's proprietary or trade secret information).
- (c) Statements that export control regulations will apply to the research.
- (d) Incorporation by reference of Federal Acquisition Regulations (FARs), agency-specific FARs, or other federal agency regulations, which impose specific controls on access to or dissemination of research results (see Section 4.2, below).
- (e) Restrictions on, or prohibitions against, the participation of research personnel based on citizenship or national origin.
- (f) Statements that the sponsor anticipates providing export-controlled items or information for use in connection with the research.
- (g) Equipment or encrypted software is required to be delivered as part of the project.
- (h) The research project will involve the use of export-controlled items or technical information obtained from a third party.
- (i) The research will take place outside the United States.

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

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

- (a) FAR 52.227-14 (Rights in Data - General). Grants the Government unlimited rights in data first produced or delivered under the contract. Government approval required to assert copyright in data first produced in the performance of the contract and not published in academic, technical or professional journals, symposia proceedings, or similar works. For basic or applied research, suggest requesting Alternate IV to lift this restriction. Alternate IV provides the Contractor with the right to copyright data without Government permission.
- (b) FAR 52.227-17 (Rights in Data-Special Works). Prevents the release, distribution, and publication of any data originally produced for the Government's internal use and represents an absolute restriction on the publication or dissemination of contractor-generated data. It should not apply to basic and applied research and should be removed from the contract on the basis of exceptions to this clause's applicability. Refer to FAR 27.405-1 (a).

(c) DFAR252. 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 the 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. The contractor is required to divulge if any Foreign Nationals will be working on the project. Provision of name, last country of residence, citizenship information, etc. is required. This clause is commonly found in contracts involving Controlled Technology and sponsored by military agencies. May need to require the PI to certify that no Foreign Nationals will be working on the project. If no Foreign Nationals will be employed on the project, Contractor may disregard this clause. If the PI is doing basic research and the sponsor will take those results and work on the controlled technology at another location, may be able to delete this clause.

(f) ARL 52.005-4401 (Release of Information). Includes reference to “non-releasable, unclassified information” and a requirement to “confer and consult” prior to release of information. It is unclear what the review entails. Therefore, the sponsor retains publication/information approval, which voids the FRE. Substitute with ARL Cooperative Agreement Language: Prior Review of Public Releases, “The Parties agree to confer and consult with each other prior to publication or other disclosure of the results of work under this Agreement to ensure that no classified or proprietary information is released. Prior to submitting a manuscript for publication or before any other public disclosure, each Party will offer the other Party ample opportunity (not to exceed 60 days) to review such proposed publication or disclosure, to submit objections, and to file application letters for patents in a timely manner.”

(g) AFMC 5352.227-9000 (Export-Controlled Data Restrictions). Requires an export license prior to assigning any Foreign National to work on the project or allowing Foreign Nationals access to the work, equipment, or technical data generated by the project. Foreign Nationals make up a large portion of PVAMU’s scientific undergraduate, graduate, post-doctoral, and visiting scholar population.

Often, it is difficult to find qualified U.S. citizens to work on these projects. Also, many students

depend on these projects to complete their thesis or dissertation. The PI must be asked if the project is basic or applied research. If yes, the research may fall under an ITAR exclusion. The defense contractor may also be asked if foreign students are allowed to work on the project. If yes, obtain confirmation in writing.

#### 4.3 Procedures Applicable to Research and Other Research Related Agreements and Subcontracts.

##### 4.3.1 General

Export control screening of projects/contracts is a two-step process. The first step consists of project/contract screening which involves screening the project or contract using the required assurances form in Maestro. The second step is known as Restricted Party Screening (RPS). This involves screening the parties and entities involved on a project/contract using export control screening software.

##### 4.3.2 Proposal

Upon receiving notification from a PI or PD that a proposal is to be submitted, the OSP Proposal Administrator sets up a proposal in Maestro for the PI or PD. Once the proposal has been set up, the PI or PD will be notified to complete the required assurances in Maestro. The PI then checks “yes” or “no” to a series of questions on the proposal compliance screen in Maestro. Maestro will send electronic notifications to the Research Compliance Office based upon the affirmative answers to these questions.

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

#### 4.4 Resolving Export Control Issues

When a potential export control issue is identified, the ECO 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 ECO will determine whether:

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

The ECO will notify the PI, OSP, and others, as appropriate, of the ECO’s export control determinations. The ECO will maintain records of its determinations on a project basis, as provided in Section 12 Recordkeeping.

#### 4.5 Technology Control Plan

##### 4.5.1 Development

If the ECO determines a project, facility, or item is export-controlled, the ECO will work with the PI, facility managers, and others, as appropriate, to develop and implement a TCP to secure the Controlled Technology from access by unauthorized Foreign Persons. A sample TCP template can be found in Appendix B 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 and following project termination.

#### 4.5.2 Appropriate Security Measures

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

- (a) Laboratory Compartmentalization. Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must remain locked at all times.
- (b) Time Blocking. Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.
- (c) Marking. Export-controlled information must be clearly identified and marked as export-controlled.
- (d) Personnel Identification. Individuals participating on the project may be required to wear a badge, special card, or other similar device indicating authority to access designated project areas. Physical movement into and out of a designated project area may be logged.
- (e) Locked Storage. Tangible items such as equipment, associated operating manuals, and schematic diagrams should be stored in rooms with key-controlled access. Soft and hardcopy data, lab notebooks, reports, and other research materials should be stored in locked cabinets.
- (f) Electronic Security. Project computers, networks, and electronic transmissions should be secured and monitored through User IDs, password controls, 128-bit Secure Sockets Layer encryption, or other federally approved encryption technology. Database access should be managed via a Virtual Private 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.

#### 4.6 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 the ECO, the ECO will consult with the PI and other appropriate parties to gather all the information needed to seek a license or other authorization. The ECO will inform the Empowered Official, or designee, of the details of the export control issue and make a recommendation that a license or other authorization be obtained. The Empowered Official will request the license or other authorization from the applicable agency with assistance from the ECO and the OGC as appropriate.

### 5. International Visitors

#### 5.1 Responsibility to Request Authorization to Visit

All PVAMU employees intending to invite or host International Visitors are required to notify and request from the Office of Research Compliance the approval of such visit before the arrival of the International Visitor per Section 5.4.

#### 5.2 No Authorization to Access Controlled Information, Controlled Physical Items

No International Visitor may have access (whether verbal, written, electronic, and/or visual) to Controlled Information or Controlled Physical Items unless expressly permitted via an approved Technology Control Plan, license or as authorized in writing by the ECO. It is the responsibility of the PVAMU employee hosting the visitor to ensure compliance with export control restrictions and to promptly disclose and report to the ECO and Empowered Official as specified in [PVAMU Rule 15.02.99.P1, Export Controls Program Management](#), Section 6.1, any violations thereof.

#### 5.3 Restricted Party Screening (RPS) of International Visitors

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

- (a) The International Visitor is present or not in the United States.
- (b) PVAMU needs to sponsor the International Visitor for immigration purposes under the J-1 Exchange Visitor Program.

For example, Foreign Persons may come to visit PVAMU under the J-1 exchange visitor program in the following instances:

- (1) Sabbaticals with their own funding;
- (2) Conducting collaborative research funded by their home institution or government;

- (3) Fulbright or other similar type of sponsorship; and
- (4) Student internship, paid or unpaid

(c) PVAMU does not need to sponsor the International Visitor for immigration purposes because he or she is traveling or has entered the United States under the Visa Waiver Program, a B-1/B-2 visa or other nonimmigrant visa status as indicated on a properly annotated I-94.

#### 5.4 Procedure to Notify and Request Authorization to Visit

PVAMU employees inviting and hosting International Visitors must complete, prior to the visit, a request for Approval of a Visiting Scholar, available in Appendix D of this Manual, to the ECO.

The ECO will conduct an RPS on the International Visitor and report hits that cannot be ruled out on secondary screenings to the Empowered Official for review and resolution. If there is no RPS hit, the ECO will forward a copy of the approved form to the PVAMU host. For instances in which PVAMU needs to sponsor the International Visitor, or the International Visitor is traveling under the Visa Waiver Program, a B-1/B-2 visa or other nonimmigrant visa status as indicated on a properly annotated I-94, a copy of the approved form will be sent to Procurement and Disbursement Services (PDS). PDS will ensure that the visitor has the appropriate visa for their travel before payment is processed.

#### 5.5 Change in Nature, Purpose, or Duration of Visit

In the event that a change in the nature, purpose, or duration of a visit is anticipated, the host is responsible for completing, submitting, and obtaining approval prior to the effective date of the change.

### 6. Export Control Employee Screening

#### 6.1 Position Screening for Export Controls

At the time of position creation, the ECO will review all research and grant-funded positions to ensure that no export control concerns are associated. If the position is flagged as export controlled by the ECO, further screening will occur at the time of hiring.

#### 6.2 Hiring Proposal Screening for Export Controls

Before extending an employment offer to foreign nationals, the ECO will be contacted by Human Resources (HR) or hiring department to conduct an RPS for the employee. HR is responsible for ensuring that personnel hired in positions that are flagged as having a restriction on citizenship are U.S. citizens.

### 7. Distance Education

#### 7.1 Distance education at Prairie View A&M University refers to credit-bearing, transcript courses where the course delivery occurs in a setting where the registered students and faculty member of record are not in the same place at the same time. 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.

The information taught in course catalog courses and teaching laboratories associated with these courses

are considered publically available, and are not export controlled. However, due to the element of distance in this education delivery method, some export control concerns may arise. Courses that include encryption, principles not commonly taught, and sensitive nuclear technology may be subject to export control regulations. Under the EAR, encryption software controlled under 5D002 that is not publically available and mass market encryption software with symmetric key length greater than 64 bits does not meet this exclusion (15 CFR 734.3 & 740.13). Under the ITAR, information or software concerning general scientific, mathematical or engineering principles commonly taught in universities or information in the public domain are not subject to export controls (22 CFR 120.10 –11).

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 are addressed with the ECO. Particular guidance is provided in the following areas for review of export control in distance education:

#### 7.1.1 Course Content Delivered by Distance Education

All content of existing courses offered via distance education is limited to information from commonly available sources and meet the educational information exclusion provided in export control regulations (15 CFR§734.7 and 15 CFR§734.11).

### 8. International Activities

PVAMU 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 the ECO. In the case of university activities conducted outside the United States, it is the responsibility of the university activity organizer to seek and obtain appropriate export control approvals from the ECO for activities including, but not limited to, the following:

- (a) execution of agreements performable outside the United States
- (b) non-credit bearing study abroad courses
- (c) making payments to Foreign Person vendors.

#### 8.1 Travel

PVAMU employees and students traveling on PVAMU business or traveling with PVAMU 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 the ECO with any potential export control concerns.

When planning a trip abroad, travelers should think about the purpose of their trip, whom they plan to interact with, what they will take, where they will go and how long will they be gone when making export control assessments. Items that are not needed should not be taken abroad. Travelers should consult with the ECO if they are thinking about taking encrypted software, controlled items/information

or unpublished research data or data not in the public domain abroad, or if traveling to an embargoed country to conduct university activities. Some travel-related activities/destinations may be prohibited, and others may require a license. The ECO can help with these assessments and ensure compliance with export control requirements.

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 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.

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

If personal computers and other storage devices are taken abroad that contain encrypted software, a government license or other government approval for export may be required when traveling to certain countries. Temporary exports under the "Tools of Trade" license exception apply when the laptop, PDA, cell phone, data storage devices, and encrypted software are:

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

Generally, no government export license is required as 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.

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 may need to take other PVAMU equipment temporarily outside of the United States for use in university activities. Often, but not always, the tools of trade license exception applies. Some equipment (e.g., global positioning systems (GPS), thermal imaging cameras, inertial measurement

units, and specialty software) is highly restricted and may require an export license, even if one hand carries it. Individuals intending to take PVAMU equipment other than a laptop computer, PDA, cell phone, or data storage devices, abroad should contact ECO to determine if an export license or other government approval is required prior to taking the equipment out of the country.

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

## 8.2 Non-Employees Participating in PVAMU International Activities

All foreign persons acting on behalf of but not employed by PVAMU (e.g., independent contractors; volunteers; foreign collaborators) and are not currently employed by a college or university based in the United States, should undergo RPS prior to participation in research or educational programs at an international center.

## 9. Purchasing and Financial Transactions

The Office of Business Affairs, in cooperation with ECO, 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 in Panther Buy (eProcurement system) include conducting RPS for all vendors at the time vendors are established in the accounting system. For purchases handled by PVAMU, it is the responsibility of Procurement and Disbursement to ensure that the ECO conducts such screening as described below and pursuant to the procedures set forth in Section 3.2 Restricted Party and Technology Screening. Any potential export control issues will be referred to the ECO.

During the purchasing process, the department requesting the purchase will be required to certify in Panther Buy (if applicable) whether or not any items contained in the purchase are export-controlled. If the certification indicates that the purchase contains export-controlled items, a notification will be sent to the ECO. Individuals who will be making purchases within their departmental delegation including payment cards will be responsible for ensuring their purchases comply with export control laws and regulations.

## 10. PVAMU Department of Contract Administration

The Department of Contract Administration will ensure that the ECO conducts an RPS on sponsors and vendors that have not been screened by Purchasing or screened as set forth in Section 4 of this Manual. Any potential export control issues will be referred to the ECO for further handling as appropriate.

## 11. Shipping

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

item is cleared through Customs, it may still require an export control license.

The simple act of sending a package to a foreign collaborator can result in a violation of export controls. Also, shipping to countries subject to embargoes must first be cleared by the ECO. Departmental personnel who are responsible for shipping packages out of the country should obtain a list of contents before shipping and contact the ECO and Office of Risk Management and Safety with any questions.

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

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

## **12. Recordkeeping**

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

- (a) the record retention period required by the applicable export control regulations

(See 15 CFR Part 762 (EAR); 22 CFR. Sections 122.5, 123.22, and 123.26 (ITAR); and 31 CFR 501.601 (OFAC), or

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

Records will be maintained by the ECO or as otherwise designated in this Manual.

PVAMU'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 PVAMU 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).

## **13. Training**

University Rule 15.02.99.P1 Export Controls Program Management requires basic export control training for all university employees. Below is an outline of PVAMU's current export control training plan.

13.1 Export Controls & Embargo Training - Basic Course delivered via TrainTraq is required for all university employees. University employees with managerial or supervisory authority over Foreign Persons or projects involving Controlled Information or Controlled Physical Items are required to take the basic export control online training course at least once every two years.

13.2 International Safety Training, delivered via TrainTraq is required for all PVAMU faculty, staff and students traveling to a foreign country, including Mexico. Requested trips will not be approved if the course has not been completed.

13.3 Technology Control Plan Training delivered via TrainTraq is required for all personnel identified on proposed Technology Control Plans processed through PVAMU's ECO. Training must be completed at least every two years for the life of the project.

## **14. Monitoring**

Export control compliance and monitoring is a shared responsibility coordinated by Prairie View A&M University's Research Compliance Office in cooperation with various other offices across Prairie A&M University (including its branch campuses), and at The Texas A&M University System.

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

### **14.1 PVAMU Research Compliance Office**

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

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

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

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

14.1.3 The ECO will work with PVAMU offices to ensure that any deficiencies identified will be rectified by the affected PVAMU 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 the Empowered Official and/or President as appropriate.

## 14.2 Other PVAMU Offices

14.2.1 PVAMU offices with responsibility for administering components of PVAMU'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 as outlined above. The scope of these internal reviews should be consistent with section 14.1.1 above and are not intended to replace the reviews described in section 14.1.

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

## 14.3 Office of Sponsored Projects

14.3.1 PVAMU's sponsored research activities are administered by OSP in accordance with established OSP procedures.

14.3.2 The Director of Research Services conducts periodic routine monitoring of OSP procedures and processes, including a review of OSP's export control compliance procedures and processes. The results of such reviews are reported to the Associate Vice President for Research and the ECO, and/or Empowered Official.

14.3.3 OSP is responsible for notifying the ECO and Empowered Official of suspected violations and the extent to which projects, contracts, or employees are affected.

14.3.4 Ultimate responsibility for export control compliance remains with the principal investigator.

## 15. Possible Violations

Each PVAMU employee has the responsibility to report possible violations of U.S. export control laws or regulations. Suspected violations should be reported to the Empowered Official, with the details of the suspected violation. Suspected violations may also be reported to the ECO at [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu) or (936) 261- 3518.

Possible violations of U.S. export control laws or regulations will be investigated by the Empowered Official, or designee, to the extent deemed necessary. In accordance with TAMUS policies and regulations, and PVAMU rules and procedures, the Empowered Official is authorized to suspend or terminate a research, teaching, testing, or other activity if the Empowered Official, or designee, determines that the activity is not in compliance or will lead to noncompliance with export control laws and regulations. The

Empowered Official may determine whether notification to an appropriate government agency is required.

## **16. 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 PVAMU rules and procedures and TAMUS policies and regulations.

## **17. Related Statutes, Policies or Requirements**

Export Administration Regulations (EAR) 15 CFR Parts 700-799

International Traffic in Arms Regulations (ITAR) 22 CFR Parts 120-130

Office of Foreign Assets Control (OFAC) 31 CFR Parts 500-599

Texas A&M University System Policy 15.02, Export Controls Program Management

Prairie View A&M University Rule 15.02.99.P1, Export Controls Program Management

## Appendices

### 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 CFR Parts 730-774 and 22 CFR Parts 120-130 for further details.)

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

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

**Defense Article**—Any item or technical data designated on the United States Munitions List. See ITAR, 22 CFR §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 ITAR, 22 CFR §120.10), whether in the U.S. or abroad; or
- (3) Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. 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 ITAR, 22 CFR §124.1)

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

**Export**—An export occurs when a controlled physical item or controlled information is transmitted outside the U.S. borders or transmitted to a Foreign Person in the United States, which is a deemed export.

Complete definitions of the term “export” are contained in the federal regulations;

**Foreign National/Foreign Person**—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). For export control purposes, a Foreign Person includes any individual in the U.S. in nonimmigrant status (i.e., H-1B, H-3, L-1, J-1, F-1, B-1, Practical Training) and individuals unlawfully in the U.S. 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 U.S. For export control purposes, a Foreign Person is not an individual who is a U.S. citizen, a lawful permanent resident of the U.S., 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 affiliates of Prairie View A&M University, and are coming to Prairie View A&M University on a temporary basis as a result of a verbal or written invitation made to the Foreign Person by a faculty member, researcher, or administrator of Prairie View A&M University.

**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, CFR §120.21)

**Material Transfer Agreements (MTA)**—A contract that governs the transfer and use of tangible research materials.

**Non-disclosure Agreements (NDA)**—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 U.S.

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

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

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

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

**Technology Control Plan (TCP)**—A Technology Control Plan lays out the requirements for protecting export-controlled information and equipment for projects conducted at Prairie View A&M University. Prairie View A&M University has adopted a TCP template for use on such projects. See Appendix B of this manual for the Prairie View A&M University sample form.

**Technical Data**—Includes information “required for” the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of defense articles. It may take the form of blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, and instructions written or recorded on other media or devices.

**Trip Leader**—Prairie View A&M University employees who conduct an international field trip or short program abroad and are accompanied by a group of students, either graduate, and/or undergraduate.

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

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

**Visiting Scholar Host**— The individual who extends the offer, secures approval for, visits and takes responsibility for overseeing and monitoring the Visiting Scholar when that individual is accessing Prairie View A&M University facilities and Prairie View A&M University resources.

## Appendix B | Technology Control Plan

### OFFICE OF RESEARCH TECHNOLOGY CONTROL PLAN (TCP)

The purpose of the Technology Control Plan is to ensure compliance with federal laws or contract commitments regarding export control compliance and/or confidentiality.

Prairie View A&M University (PVAMU) is committed to export control compliance. It is the policy of PVAMU 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.

In general, a Technology Control Plan is a written document, signed by the person at PVAMU responsible for complying with the terms in the plan and PVAMU's Empowered Official for export control compliance, which outlines the terms upon which particular items, technical data, or technology may be kept and used on campus and/or outside the United States. The applicable laws might include, for example, the Department of State's International Traffic in Arms Regulations (ITAR), the Department of Commerce's Export Administration Regulations (EAR), or other legal obligation(s).

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, biologicals, 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.

If there is any information you do not understand, please contact PVAMU's Export Controls Officer at 936-261-1553 or [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu).

**Contact Information for Primary Responsible Party (Principal Investigator, Person in Whose Lab or Office the Item/Technical Data will be stored/reside):**

<b>Name:</b>	
<b>Primary Phone Number:</b>	
<b>Primary Email Address:</b>	
<b>Physical Address:</b>	

**(Optional) Name and Contact Information for an Additional Administrative Contact for the Primary Responsible Party (e.g., a Business Administrator; a Secretary; etc.)**

*Please list lab manager or coordinator or other staff person who will be responsible for maintaining the technology control plan and who will serve as the contact person for questions concerning the plan if applicable.*

<b>Name:</b>	
<b>Primary Phone Number:</b>	
<b>Primary Email Address:</b>	
<b>Physical Address:</b>	

**Title of Project or Activity**

*Please list the grant title(s) if applicable*

<b>Title:</b>	
---------------	--

**Description of the Export Controlled Item, Technology, Software or Technical Data (e.g., manufacturer notified you that equipment is controlled or you have received the data as part of a non-disclosure agreement that indicated information is export controlled):**

*For equipment, list the items including manufacturer and model number.*

<b>Item Name:</b>	<b>Manufacturer:</b>	<b>Model Number:</b>

*For technology (e.g. software) list the name and version of the program.*

<b>Name:</b>	<b>Version:</b>

*If you have received information as part of a non-disclosure agreement related to the effort, state who the parties to the agreement are and the general nature of the restriction (e.g., information is company proprietary and controlled under the ITAR or EAR)*

<b>Name:</b>	<b>Nature of the Restriction:</b>

**Detailed description of why the Item, Technology, Software or Technical Data is controlled (e.g., this equipment is an item controlled under the ITAR, this data or technology may not be exported from the U.S. without prior authorization)**

*Please list the reason for control. For instance, to obtain the software license, we were required to agree not to export the software. If known, please provide the applicable control number for items enumerated on the Commerce Control List. This is also called the Identified Export Control Classification Number (ECCN).*

*Another example might be that the manufacturer provided a statement that the equipment is controlled under the ITAR and we may not export it without a license from the Department of State Directorate of Defense Trade Controls. If so, please provide the ITAR Category.*

<b>Description:</b>

**Servicing of Item, if Any: (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)**

<b>Name of Item:</b>	<b>Description:</b>

**Security Measures, if Any: (e.g., Labeling or Other Identification of Item, Technology, Software or Technical Data, Secure log-on access and/or encryption to maintain security of electronic files, Limited access areas, sign-in to obtain access to equipment, locked cabinets, etc.)**

*The security measures are generally project specific and will depend on what is being secured. For instance, software may be protected by not being loaded on computers that will be leaving the U.S. on international travel. Electronic technical data may be secured through encryption, password protection, or storage in non-networked locations. Paper files may be appropriately stored under lock and key (e.g., in a secured locked file cabinet in an office that is locked when unoccupied).*

*Small pieces of equipment might be stored in locked cabinets with established sign-out procedures so that a log of chain of custody is maintained. Larger equipment might require limited access facilities with an ability to track who has entered and exited.*

*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 items.”*

**Description:**

**Agreed upon list of Individual(s) authorized to access the Items, Technology, Software or Technical Data (please notify [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu) as individuals need access changes):**

Name:	U.S. Citizen or permanent resident	Access/level limitations	TCP and Export Control Training Complete (Y/N)
Name of Individual	Yes if person is U.S. citizen, green card holder or has asylum status	For equipment: person will have a key and will be able to freely access, person will be able to use item under direct supervision, person will be responsible for maintenance of item, etc.	<i>It is important that all individuals working with controlled items and technologies understand their specific responsibilities in maintaining the plan.</i>
		For technology and technical data: Will person be able to directly access the data, be given minimal information required to perform related fundamental research, or simply participate in discussions?	<b>All individuals must log onto Train Traq and complete the Texas A&amp;M University online training course # 2111873 “Export Controls – Technology Control Plans”</b>

*The information provided above is used to screen eligibility of persons to access controlled information (i.e. to ensure that the individuals do not appear on banned parties and specially designated nationals lists). It is important that this screening occurs prior to giving individuals access to export controlled items or information. Please make sure this information is kept current. Any change in personnel will require an amendment to this plan. On departure of any of the personnel described above, appropriate measures must be implemented to secure the subject matter of the TCP, including all keys and updating access controls.*

## What will be done with the controlled technical data, or item at the end of the project?

*The end of a sponsored research activity does not eliminate the obligation to safeguard export controlled equipment, technology, software or technical data. As a result, a technology control plan needs to remain in effect as long as the export controlled materials remain on campus. Please indicate here if the materials will be retained on campus, returned to the sponsor, or destroyed. The Director of Research Compliance will work with the PI to determine when controls of retained materials and information are no longer required.*

**Description:**

**Thank you very much** for your cooperation in implementing this Technology Control Plan. If you have any questions, please contact the Director of Research Compliance at 936-261-1588 or [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu). Then, please sign and date below, and return to [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu).

**Certification:** I hereby certify that I have read and understand this Technology Control Plan and my obligations under federal law regarding the item, technology, software or technical data identified in this TCP. I certify that all information found in this TCP is accurate and complete to the best of my knowledge. I agree to take the actions set forth in this TCP and, if applicable, to comply with the terms of any license governing the item, technology, software or technical data and the terms in any contract regarding such item, technology, software or technical data. I agree to brief my staff on the requirements of this TCP. I understand that any changes to the approved plan, including personnel changes and location changes, must be approved in writing.

Date: \_\_\_\_\_

[INSERT NAME OF PRIMARY RESPONSIBLE PARTY]

**Reviewed by:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Crysta Mendes, M.A.  
Associate Director of Research Compliance  
Export Controls Officer

Date: \_\_\_\_\_

\_\_\_\_\_  
Magesh Rajan, Ph.D., P.E., MBA  
Empowered Official  
Vice President for Research and Innovation

CC: Chair of Department for Responsible Faculty Member

## Appendix C | Approval of Visiting Scholar

### Approval of Visiting Scholar (Visiting Scholars, Scientists, and Interns)

\_\_\_\_\_ (Department/College) requests authorization to make a faculty visitation agreement with a visiting scholar, as outlined in the Prairie View A&M University Export Controls Compliance Manual.

**Person:**

Last Name \_\_\_\_\_ First Name \_\_\_\_\_ Middle Name \_\_\_\_\_

Country (Citizenship) \_\_\_\_\_ Title \_\_\_\_\_

**Institution:**

Name of Institution \_\_\_\_\_ Country \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_

**Home address:**

Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ Country \_\_\_\_\_

**Visitation Period:** From: \_\_\_\_\_ MM/DD/YYYY Through: \_\_\_\_\_ MM/DD/YYYY

**Identify source(s) of financial support for scholar during visit:****Provide summary, description of education, and background or attach resume or vitae:**

**Describe the nature and purpose of the visit, and how the visit is research-related:**

<p>The following questions are intended to address export-controlled issues. Please check “yes” or “no” regarding work contemplated during the scholar’s visit, both funded and unfunded. Hosts should review System and PVAMU policies, regulations, rules, and procedures regarding export controls on host responsibilities.</p>		
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Yes	No	Question:
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Can the research be categorized as classified?</b></p> <p><i>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 the Department of Defense National Industrial Security Program Operating Manual (NISPOM) requirements. Publication of classified research results can be legally withheld or restricted.</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Can the research be categorized as controlled unclassified information?</b></p> <p><i>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 (1) pertinent to the national interests of the United States or to the important interests of entities outside the federal government, and (2) 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).</i></p>
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Can the research be categorized as proprietary?</b></p> <p><i>Proprietary research, usually privately funded, is defined as research activities undertaken pursuant to a contract between PVAMU and an outside sponsor with commercial interests, and carried out under the auspices of PVAMU. Publication of proprietary research results can be withheld or restricted, contractually.</i></p>
Yes	No	Question:
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Does the project restrict participation to U.S. citizens or permanent residents only?</b></p>
<input type="checkbox"/>	<input type="checkbox"/>	<p><b>Can the research be categorized as restricted?</b></p> <p><i>Restricted research is research where publication may require advance review by or permission of the funding entity. Restricted research may have constraints</i></p>

		<i>imposed by the funding entity, whether it is the state, a federal agency, or a private sponsor with or without commercial interests.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<b>Can the research be categorized as “fundamental?”</b>  <i>“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.</i>
<input type="checkbox"/>	<input type="checkbox"/>	<b>Will the visiting scholar 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 Web, information from teaching laboratories, or information available to interested communities either for free or where the price does not exceed the cost of production?</b>

**Host:**

Name \_\_\_\_\_ Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 Signature \_\_\_\_\_ Date \_\_\_\_\_

**Approved by: (Department Chair/Unit Head)**

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**Approved by: (College Dean/Director’s Office)**

Name \_\_\_\_\_ Signature \_\_\_\_\_ Date \_\_\_\_\_

**This section to be completed by Prairie View A&M University's Empowered Official (or designated person) (Attach RPS screening form/documentation)**

Yes       No      **Passed denied person/embargo list**

Yes       No      Any restrictions? If yes, explain:

1. **What is the primary purpose of the study?**

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Screener Name (Research Compliance Officer)	Signature	Date
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Screener Name (Empowered Official)	Signature	Date
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## Appendix D | International Travel- Export Control Screening Checklist

### INTERNATIONAL TRAVEL EXPORT CONTROL SCREENING CHECKLIST

Please complete and submit this form to the Export Controls Officer for an evaluation of export control travel concerns at least 10 business days prior to travel outside of the United States. If an export license or other government authorization is required, it must be in place prior to travel.

When traveling internationally, Faculty, Staff and Students may plan on taking information, technology, and equipment with them that could be subject to U.S. export control laws. You must ensure that any information that you will present or discuss, and any items you will take with you, are either not export controlled or, if controlled, licenses or other government authorizations are obtained. You and PVAMU may be liable for violations of export control laws and regulations as a result of where you travel, what you take, and what information is disclosed. This checklist will assist in recognizing and identifying potential export control violations before they occur.

Export controlled materials may include technology, software, and information related to the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, operation, demilitarization, processing or use of controlled items or items with military application. This does not include basic marketing information on function or purpose; information regarding general scientific, mathematical or engineering principles commonly taught in universities; or information that is generally accessible in the public domain.

#### Contact Information for International Traveler:

Name:	
College/Dept/Office:	
Primary Phone Number:	
Primary Email Address:	

#### Traveler Checklist

1.	Do you plan to travel to an embargoed destination (e.g. Iran, North Korea, Sudan, Syria, Cuba)?  <u><a href="#">Current List of Embargoed Countries</a></u> <i>If yes, a license may be required, or travel prohibited.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
2.	Except for the countries listed in question 1, please list the countries you are traveling to?  <i>Export control regulations vary by country. The current list of embargoed countries and export restrictions can be found <a href="#">HERE</a>.</i>	Please list:
3. (a)	Purpose of travel: (Check all that apply) <input type="checkbox"/> Conference or meeting <input type="checkbox"/> Research <input type="checkbox"/> Collaborating with a foreign entity <input type="checkbox"/> Other	If other, please provide details:

(b) (c) (d)	<p>If attending a conference or meeting, please provide the name of the conference or meeting, including the website, if available.</p> <p>Who is sponsoring the conference or meeting?</p> <p>Will you be presenting at the conference or meeting? <i>If yes, proceed to question 4. If no, proceed to question 5.</i></p>	<p>Title: Website:</p> <p>Sponsor:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
4.	<p>Your presentation could include export controlled data/information that may require an export license. Information provided at a conference or meeting must be evaluated for possible export control issues. If you are not sure whether your presentation includes export controlled information, please contact the Export Control Officer for further assistance.</p> <p>(a) If presenting at a conference or meeting, what is the subject matter of the presentation?</p> <p>(b) Will the presentation only include information that is:</p> <ul style="list-style-type: none"> <li>i. Publicly available or in the public domain</li> <li>ii. Fundamental research?</li> </ul> <p>(c) After evaluating your material for possible export control issues, did you determine if any of the information in the presentation is export controlled?</p> <p>(d) If yes to 4(c), is it EAR or ITAR controlled? <i>If unsure, contact the Export Control Officer.</i></p>	<p>Subject Matter:</p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> EAR <input type="checkbox"/> ITAR</p>
5.	<p>What entities, organizations or persons (e.g. companies, universities, professors, researchers) will you visit or meet with?</p> <p><i>There are entities and persons that the federal government prohibits PVAMU from transacting business with or requires PVAMU to obtain an export license prior to doing business.</i></p>	<p>Please list:</p>
6.	<p>Will you receive compensation for your travel expenses or other compensation from a foreign sponsor or government? If yes, please specify.</p> <p><i>See comment in question 5.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No            Please specify:</p>
7. (a) (b)	<p>Will you hand-carry or ship any of the following items: laptop, flash drive, PDA/smart phone, or other equipment, data, technology, or software (other than Microsoft Office, Internet Explorer, Adobe, Firefox) when traveling abroad?</p> <p>If yes, please list software, equipment and technology (or attach list). <i>An export license or license exception may be required depending on what you are taking and the country you are traveling to.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please list equipment (include serial #), software, etc.:</p>

	If yes to 7(a), will the above mentioned item: Be used only as a “tool of trade” to conduct PVAMU business?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, explain:
(c)	Be returned to the US within 12 months?	<input type="checkbox"/> Yes <input type="checkbox"/> No If no, explain:
(d)	Be under the “effective control” of PVAMU personnel? (Effective control is defined as retaining physical possession of an item or maintaining it in a secure environment, such as a hotel safe or a locked or guarded facility).  <i>If a license is required, there are license exceptions that may be used in lieu of a license for shipping/carrying certain technical data and equipment if conducting PVAMU business or taking personal items. The exception form must be filled out prior to travel. If you have questions, contact the Export Control Officer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No
8.	Have you, or will you, remove all export controlled information from electronic storage devices (laptops, memory sticks, PDAs/smart phones, etc.)?  <i>If yes, no export control license is usually required to take the items to most countries.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> No export controlled information
9.	Are you taking any of the following: controlled biological or hazardous materials; controlled toxins; genetic elements of any toxins; or controlled chemicals or chemical compounds?  <i>If yes, an export control license may be required. Contact the Export Control Officer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No  If yes, please describe:
10.	Will you:  (a) Share PVAMU developed, non-commercial encryption software in source code or object code?  (b) Take with or share items, documents, information, or data that is related to export controlled research?  <i>If yes, an export control license may be required. Contact the Export Controls Officer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Yes <input type="checkbox"/> No
11.	Could the information or software you will be sharing or your activities while traveling be considered a defense service (e.g., assisting in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles or be considered military training)?  <i>If yes, an ITAR license will be required. Contact the Export Controls Officer.</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No

12.	Is the value of any item to be exported greater than \$2,500?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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**Certification:** I hereby certify that I have read and understand the information provided regarding compliance with export laws and regulations. I understand that I could be personally liable if I unlawfully export or disclose export controlled information or technology to foreign nationals without prior approval. I have, to the best of my knowledge, provided complete information in responding to the questions listed above.

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Signature

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Date

If you have any questions, please contact the Export Controls Officer at 936-261-1553 or [researchcompliance@pvamu.edu](mailto:researchcompliance@pvamu.edu).

## Appendix E | Request to Activate/Deactivate Access to Export Control Compliance Software

### Texas A&M University Export Control Office

#### Request to Activate/Deactivate Access to Export Control Compliance Software

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

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#### **SECTION A**

(  ) Deactivate Account(s)\* Please specify account name(s) \_\_\_\_\_.

Please deactivate the account(s) listed above effective \_\_\_\_\_ 202\_\_.

#### **Requesting Department/Unit/System Member Export Control Representative:**

(signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

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

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#### **SECTION B**

(  ) Activate New Account. Complete Section B below.

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_

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

2. The proposed user has a business need to use and access the Software.
3. The proposed user has completed the basic on-line export control training course made available on The Texas A&M University System website.

**2111212 : Export Controls & Embargo Training - Basic Course-**

**Date Completed:** \_\_\_\_\_

4. If the proposed user's employment responsibilities or status changes, so that use and access to the Software is no longer necessary or appropriate, the requesting department/unit head/system member export control representative is responsible for providing prompt notice to TAMU's Export Control Office.
  
5. The proposed user will use the Software in accordance with applicable System and Texas A&M University policies, regulations, rules and procedures; and will use the Software only as needed to conduct Texas A&M University/Texas A&M University System business.

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

**Proposed User:**

<u>First Name</u>	<u>Last Name</u>	<u>Title</u>
<u>Email</u>	<u>Telephone</u>	<u>UIN</u>
<u>Address</u>	<u>City, State</u>	<u>ZIP Code</u>
<u>Signature</u>	<u>Date</u>	

**Requesting Department/Unit/System Member Export Control Representative:**

(signature)

Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Dated: \_\_\_\_\_



## 15.02 Export Controls Program Management

Revised [February 6, 2020](#) (MO -2020)

Next Scheduled Review: February 6, 2025 Click to view [Revision History](#).

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### Policy Summary

The Texas A&M University System (system), its members, employees and students must comply with all United States export control laws and regulations, including but not limited to those implemented by the Department of Commerce through its Export Administration Regulations (EAR), the Department of State through its International Traffic in Arms Regulations (ITAR), and the Department of Treasury through its Office of Foreign Assets Control (OFAC).

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### Definitions

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Click to view [Definitions](#).

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### Policy

#### 1. PURPOSE AND BACKGROUND

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” which are releases of controlled technology or source code to foreign persons located in the United States.

Several federal agencies implement export control rules and regulations. Each agency possesses jurisdiction over specific types of technology or restricted trade activities or controlled physical items. Among other regulations, the Department of Commerce regulates exports through the EAR 15 CFR 730-774, the Department of State regulates exports through the ITAR 22 CFR 120-130 and the Department of Treasury regulates exports and transactions involving certain countries, individuals and organizations through the OFAC. Each agency possesses different and changing rules and lists for specifying who or what is considered export sensitive. The restrictions enforced by the OFAC can be in addition to the requirements of the ITAR or EAR.

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. Although many member activities could be excluded from export control laws, some activities may be restricted. The application of export control laws involves a fact-specific analysis. While most exports do not require specific approval from the federal government, certain exports require a license and others are prohibited.

## 2. RESEARCH SECURITY OFFICE (RSO)

In accordance with the system's commitment to upholding the highest ethical standards and conduct regarding export control laws and regulations in carrying out the mission and business standards of the system, the RSO is the responsible office for advising members in export control-related matters. As a shared service resource, the RSO serves as the responsible system office for facilitating development of effective risk-based mitigation strategies, educational and outreach opportunities, risk assessment tools, best practices, potential non-compliance investigations, assistance in federal agency licensing applications, commodity jurisdictions, commodity classifications, voluntary disclosures, and any other export control-related practitioner function. The RSO will establish, maintain, and lead a system wide affinity group. The member's empowered official must coordinate with the RSO and OGC prior to communicating with federal regulatory bodies.

## 3. SYSTEM MEMBER RESPONSIBILITY

3.1 Each member must develop a rule implementing an export control compliance program to reduce the risk of export control violations. Compliance programs should include the following elements:

- (a) an export control decision-making tree or similar guideline to use in analyzing export control issues;
- (b) identification of the member's "empowered official(s)" who will have decision making authority for the resolution of export control issues;
- (c) methods to identify and account for ITAR and EAR controlled physical items and controlled information;
- (d) procedures to screen contacts and countries;
- (e) record keeping responsibilities;
- (f) training and educational programs; and
- (g) mechanisms for notification of violations and penalties.

3.2. Each member must conduct an export controls-specific risk assessment annually before the start of each fiscal year. The risk assessment includes identification of the member's export control risk portfolio and corresponding risk mitigation strategies. The member risk assessment is submitted to the RSO and must be included as an attachment to the member's annual compliance plan.

3.3. Monthly, each member must share applications and all associated documents regarding visiting scholars and employment of non-U.S. persons from countries of concern pursuant to guidance provided by the RSO quarterly and derived from various federal regulatory bodies in order to satisfy requirements of the federal government's insider threat program. These documents are provided to the designated insider threat program senior official, appointed

by the chancellor, for review.

#### 4. INDIVIDUAL RESPONSIBILITY

All faculty, staff 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 rules and regulations. Any required license/approval must be in place before exporting anything that is deemed controlled. Each member will provide assistance to faculty, staff and students in assessing the applicability of export control regulations; however, primary responsibility for compliance rests with the individuals involved in the export, including principal investigators and others in supervisory positions.

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### **Related Statutes, Policies, or Requirements**

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[International Traffic in Arms Regulations \(ITAR\) 22 CFR 120-130](#)

[Export Administration Regulations \(EAR\) 15 CFR 730-774](#)

[Office of Foreign Assets Control \(OFAC\) 31 CFR 500-598](#)

[National Security Decision Directive 189](#)

[Atomic Energy Act of 1954 and Nuclear Regulatory Commission Regulations to 10 CFR Part 110](#)

[System Regulation 16.01.01, Ethics and Compliance Programs](#)

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### **Member Rule Requirements**

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A rule is required to supplement this policy. See Section 3.

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### **Contact Office**

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System Research Security Office

(979) 862-1965

# Appendix G | PVAMU Rule- Export Controls Program Management 15.02.99.P1

## PRAIRIE VIEW A&M UNIVERSITY UNIVERSITY RULE



### 15.02.99.P1 Export Controls Program Management

Approved August 28, 2014

Revised October 24, 2017

Revised July 9, 2020

Next Scheduled Review: July 9, 2025

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### Rule Statement

Prairie View A&M University (PVAMU) must comply with all United States (U.S.) export control laws and regulations including, without limitation, those implemented by the [Department of Commerce](#) through its Export Administration Regulations (EAR), the [Department of State](#) through its International Traffic in Arms Regulations (ITAR), and the [Department of Treasury](#) through its Office of Foreign Assets Control (OFAC).

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### Reason for Rule

PVAMU has an obligation to implement an export control compliance program to mitigate the risk of export control violations through education and awareness. All individuals conducting work for, and on behalf of the university must be aware of and responsible for the export control implications of their work, and ensure that their activities conform to federal export control laws and regulations, and those imposed by the state and the associated system policies, regulations, and procedures. There are severe institutional and individual sanctions imposed by federal agencies, for violations of export control laws and regulations, including the loss of research funding, loss of export privileges, as well as civil and criminal penalties including imprisonment.

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### Official Procedures and Responsibilities

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#### 1. GENERAL

- 1.1 PVAMU encourages and supports faculty, staff, students, and collaborative relationships in the pursuit of securing resources for the advancement of the university's mission and goals. The university supports open research and the free interchange of information among scholars, and the educational benefit to cultivate and invest in students as professionals that contribute to the advancement of the research, scholarship, and economic enhancement of society. The university also recognizes that the U.S. has enacted laws and regulations restricting the transmission of controlled information and controlled physical items for the purpose of protecting national, economic, security, and foreign policy interests. These federal export control laws and regulations establish the conditions under which controlled information and controlled physical items can be transmitted to anyone outside the United States and to non-U.S. persons in the United States. In addition, the export control laws and regulations restrict or prohibit the transaction of business with certain countries, persons, and entities that have been sanctioned by federal agencies as a threat to important U.S interests.

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#### 2. INDIVIDUAL RESPONSIBILITY

- 2.1 All PVAMU employees and students, visiting professors/scientists, postdoctoral fellows, and other

persons retained by, or working at, or for the university, irrespective of location, must conduct their affairs in accordance with U.S. export control laws and regulations. Compliance with all applicable federal and state legal requirements is nonnegotiable. In advancing the overall scholarship and research agenda of the university, it is equally important to maintain and facilitate an environment that works to achieve transparency in the participation of the researchers and collaborators from international settings.

- 2.2 PVAMU employees and students engage in a broad range of innovative and important research activities that may involve foreign persons in the U.S. or abroad. When these activities also include the use of controlled information or controlled physical items, the university requires that each individual, involved directly or indirectly, comply with the applicable requirements of U.S. export control laws and regulations.
- 2.3 Depending upon the nature of their activities and/or job functions, university employees may be required to participate in formal training as determined by the university's Empowered Official (EO) and/or the employees' supervisors.
- 2.4 All PVAMU employees and students will comply with the provisions of any export license, governmental approval requirements, required certifications, technology control plans, and procedures.

### **3. KEY ACTORS RESPONSIBLE FOR EXPORT CONTROL COMPLIANCE**

- 3.1 Empowered Official
  - 3.1.1 The Vice President for Research and Innovation (VPRI) or their designee is the university's EO for all purposes relating to applicable federal export control laws and regulations. The EO is responsible for license applications and other approvals required for compliance with export control laws and regulations, and serves as the university's representative and point of contact with such agencies. The EO is the university official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of the university and to bind the university in any proceedings before government agencies with export control responsibilities.
  - 3.1.2 As the EO, the VPRI is the PVAMU official with final responsibility for ensuring compliance with export control laws and regulations.
- 3.2 Export Controls Officer
  - 3.2.1 The Export Controls Officer (ECO) is designated by the VPRI and has been delegated with the responsibility of ensuring compliance with the export control laws and regulations for the university.
  - 3.2.2 The ECO, in cooperation with other appropriate offices, is responsible for directing and monitoring the university's export control compliance program, record keeping, and for implementing procedures and/or guidelines to comply with federal export control laws and regulations, including developing, implementing, and updating the [Export Control Compliance Program Manual](#) as set forth in Section 4.6 below.
  - 3.2.3 When requested, the ECO will assist other offices and employees in export control assessments to determine compliance obligations with respect to PVAMU activities involving foreign persons, or international activities under applicable export control laws and regulations, and to determine the applicability of available exclusions.. The ECO will also assist with and conduct restricted party screening (RPS) and consult with the System Research Security Office (RSO) and/or System Office of General Counsel (OGC) on export control matters as appropriate.

3.2.4 Annually, the ECO will conduct an export control-specific risk assessment of the university's compliance with export control laws and regulations. The risk assessment will include contacting and meeting with the responsible areas for export control functions, to ensure that activities are conducted according to the procedures in the Export Control Compliance Program Manual. The ECO will report their findings to the VPRI and/or the President and the System RSO.

3.3 University Administrators

3.3.1 All PVAMU employees with managerial or supervisory authority over non-U.S. persons or projects involving controlled information or controlled physical items should view export control compliance as an important part of their day-to-day responsibilities. These individuals must support the ECO in implementing the procedures set forth by the university and as otherwise deemed necessary by the EO for export control compliance.

3.4 Principal Investigators

3.4.1 The Principal Investigator (PI) for a research project or program has the best understanding of the research and shall work closely with the ECO when determining whether particular technology, data, or information involved is subject to export control regulations.

3.4.2 PIs and research assistants are responsible for learning about export controls by completing the export control compliance training offered via TrainTraq, in addition to working with the ECO to ensure compliance with export control laws and regulations. This training must be completed prior to the initiation of a research project or program and every three years thereafter.

## 4. EXPORT CONTROL COMPLIANCE PROGRAM

4.1 Research

4.1.1 Research Contract Administration

4.1.1.1 The PVAMU Office of Sponsored Programs (OSP), or such other appropriate office(s), is responsible for screening sponsored research proposals for export control red flags during the proposal submission stage and RPS during the contract development stage. OSP will forward potential export control concerns to the ECO for export control determinations. Export control compliance related to sponsored research at PVAMU is the shared responsibility between the Principal Investigator (PI) and PVAMU. PIs must inform the ECO if there are deviations in the execution of the research plan that would require export control reviews.

4.1.1.2 The ECO is responsible for making export control determinations for compliance with export control laws and regulations. When the ECO determines that export control issues exist, they will ensure compliance with export control regulations through the adoption of a technology control plan or other procedures as needed.

4.2 International Hiring

4.2.1 Before extending an employment offer to non-U.S. persons, Human Resources (HR) or the hiring department must contact the ECO to conduct an RPS for the employee.

4.2.2 Monthly, the ECO must provide all applications and associated documents regarding employment of non-U.S. persons from countries of concern to the RSO, pursuant to System Policy 15.02.

4.3 International Visitors

4.3.1 It is the responsibility of all PVAMU employees intending to host an International Visitor to submit a written request for approval of such visit from the ECO before the arrival of the International Visitor.

4.3.2 Monthly, the ECO must provide all applications and associated documents regarding visiting scholars of non-U.S. persons from countries of concern to the RSO, pursuant to System Policy 15.02.

4.3.3 Restricted Party Screening for International Visitors

4.3.3.1 In general, International Visitors intending to visit PVAMU must undergo RPS as a prior condition of their visit to PVAMU as provided below.

4.3.4 Subjected International Visitors

4.3.4.1 All International Visitors whether present or not in the U.S. must undergo RPS.

4.3.4.2 It is the fiduciary responsibility of all PVAMU employees to comply with the initial terms and intent of the visit as communicated to the International Visitor, and to immediately notify in writing the VPRI and ECO of any changes in the intent of the visit prior to engaging the International Visitor in any activity that was not a component of the initial terms and intent of the visit.

#### 4.4 International Activities

4.4.1 In the case of PVAMU activities conducted outside the U.S., it is the responsibility of the PVAMU activity organizer to obtain appropriate export control approvals from the ECO, for the following activities, without limitation:

4.4.1.1 Execution of agreements to be performed outside the United States;

4.4.1.2 Non-credit bearing study abroad courses; and,

4.4.1.3 Making payments to foreign person vendors.

4.4.2 The ECO, in coordination with other appropriate offices, is responsible for developing and implementing procedures to screen international programs, centers, and activities for compliance with export control laws and regulations.

#### 4.4.3 Students Studying Abroad

4.4.3.1 The Office of International Affairs is responsible for ensuring the performance of RPS on all the students enrolled in a PVAMU credit bearing program outside the United States who:

4.4.3.1.1 Are non-U.S. persons;

4.4.3.1.2 Have not previously attended PVAMU; and,

4.4.3.1.3 Are not enrolled as continuing students at a college or university based in the U.S.

#### 4.5 Distance Education

4.5.1 Those responsible for offering distance education courses, in coordination with the Provost and Senior Vice President for Academic Affairs and the ECO, will screen courses and

international students accessing those courses as appropriate for purposes of compliance with export control laws and regulations, and in accordance with the university's Export Control Compliance Program Manual.

**4.6 Purchasing and Financial Transactions**

- 4.6.1 The Procurement and Contracts Offices, in coordination with the ECO, will develop and implement procedures to screen vendors as appropriate for compliance with export control laws and regulations.

**4.7 Export Control Compliance Program Manual**

- 4.7.1 The ECO in coordination with other applicable PVAMU offices, will maintain and update on a biennial basis, the Export Control Compliance Program Manual for the university to serve as a guide for identification, administration, and resolution of export control issues.

**4.8 Training**

- 4.8.1 The ECO, in coordination with other applicable offices, will maintain an appropriate PVAMU training program.
- 4.8.2 All university employees are required to complete the Export Controls & Embargo Training - Basic Course delivered via [TrainTraq](#) at least once every three years.
- 4.8.3 All PVAMU faculty, staff, and students traveling to a foreign country, including Mexico and Canada, are required to complete the International Safety Training delivered via [TrainTraq](#). Requested trips will not be approved if the course has not been completed.
- 4.8.4 All personnel identified on proposed Technology Control Plans (TCPs) are required to complete the TCP Training delivered via [TrainTraq](#) at least once every two years.
- 4.8.5 Depending on the nature of an individual's activities and/or job functions, a PVAMU employee may be required to complete the TrainTraq basic export control online training course and/or supplemental export control training annually as deemed appropriate by the individual's supervisor, ECO, and/or the EO.

**4.9 Shipping**

- 4.9.1 It is the responsibility of PVAMU personnel who are shipping items outside the U.S. (including hand-carried items such as research equipment, materials, data, and biological materials) to comply with export control laws and regulations, including contacting the ECO and the Office of Risk Management and Safety.

**5. RESOLVING EXPORT CONTROL CONCERN**

- 5.1 Once a potential export control concern is identified, the ECO will work with all parties involved to determine what course of action will be taken to address the concern. In each case, the ECO will determine:

- 5.1.1 If the conditions merit an application for a license or other authorization;
- 5.1.2 If the conditions are such that an exclusion or license exception may be utilized; or,
- 5.1.3 If a TCP or other requirements for conducting research will be necessary to prevent unauthorized export of technology from occurring.

**6. POSSIBLE VIOLATIONS**

- 6.1 Each PVAMU employee has the responsibility to report possible violations of U.S. export control laws or regulations. Suspected violations and the details of the suspected violation should be reported to the ECO and/or the university's Empowered Official. Suspected violations may also be reported via the [Texas State Auditor's Office Fraud, Waste or Abuse Hotline or the Texas A&M University System Risk, Fraud & Misconduct Hotline \(Ethics Point\)](#).
- 6.2 Possible violations of United States export control laws or regulations will be investigated by the EO or their designee to the extent deemed necessary.
- 6.3 The EO will determine whether notification to an appropriate government agency is required.

## **7. DISCIPLINARY ACTIONS**

- 7.1 The EO is authorized to suspend or terminate a research, teaching, testing, or other export activity if the EO determines that the activity is not in compliance, or will lead to noncompliance, with export control laws and regulations.
- 7.2 Employees and students may be subject to disciplinary action, up to and including termination per System Policies and Regulations, for violating U.S. export control laws or regulations.

## **8. RECORD KEEPING**

- 8.1 Records required to be maintained by export control laws and regulations shall be kept for the longer of:
  - 8.1.1 The record-retention period required by the applicable export control regulations (see [15 C.F.R. Part 762 \(ITAR\)](#); [22 C.F.R. § 122.5](#), [22 C.F.R. § 123.22](#) and [22 C.F.R. § 123.26 \(EAR\)](#); and [31 C.F.R. § 501.601 \(OFAC\)](#), or
  - 8.1.2 The period required for the retention of records as set forth in System Policies and Regulations and University Rules.
- 8.2 Records will be maintained by the Office of Research Compliance and/or the appropriate office responsible for the export or activity.

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### **Related Statutes, Policies, Regulations and Rules**

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[International Traffic in Arms Regulations \(ITAR\) 22 C.F.R. §§120-130](#)

[Export Administration Regulations \(EAR\) 15 C.F.R. §§730-774](#)

[Office of Foreign Assets Control \(OFAC\) 31 C.F.R. §§500-598](#)

[National Security Decision Directive 189](#)

[Atomic Energy Act of 1954 and Nuclear Regulatory Commission Regulations 10 C.F.R. Part 110](#)

[System Policy 15.02 Export Controls Program Management](#)

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## **Appendix**

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## **Definitions**

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**Deemed Export** - the transfer of controlled information or controlled physical items, or the provisional defense services to a non-U.S. person in the United States is deemed to be an export to the home country or countries of the non-U.S. person, and is subject to the export control laws and regulations.

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

**International Visitors** - International Visitors are non-U.S. persons having a residence in a foreign country, who are not employees or enrolled students of PVAMU, and are visiting PVAMU at the request of a faculty member, researcher, or administrator of PVAMU.

**Restricted Party Screening** – determining whether a person or entity is included on various restricted lists included in the screening software made available by the Office of Research Compliance.

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## **Contact Office**

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Office of Research Compliance      936-261-1553

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The Office for Research and Innovation at Prairie View A&M University supports many robust, state-of-the-art research programs and components.

The office provides information, support, training and leadership for advancement through the research process. By providing continuous assistance to our faculty, staff and students, we aim to uphold the university's tripartite mission of teaching, research, and service.

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Revised July 2020