



Export Controls Compliance Program Manual *June 2021*

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<https://agrifeas.tamu.edu/ethics-compliance/export-controls/>

Export control laws are complex, fact-specific, and analyzed on a case-by-case basis. Laws, regulations, rules, procedures, and lists specifying either who or what is considered export control sensitive and where export controls apply are subject to change.

The intention of this program manual is to provide the basics regarding export control information. This program manual should not be relied upon exclusively nor should it be considered or construed as legal advice.

Some portions of this manual are adapted from and based upon the Texas A&M University Export Control Compliance Program Manual with the permission of Texas A&M University.

For questions, contact AgriLife Ethics and Compliance, exportcontrols@ag.tamu.edu.

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abbreviations

BIS	Department of Commerce Bureau of Industry and Security
CCL	Commerce Control List
DDTC	Department of State Directorate of Defense Trade Controls
DFAR	Defense Federal Acquisition Regulation
EAR	Export Administration Regulations
ECCN	Export Control Classification Number
FAR	Federal Acquisition Regulations
FRE	Fundamental Research Exclusion
IPC	Texas A&M AgriLife Intellectual Property & Commercialization
ISFS	Immigration Services for Faculty and Scholars – Texas A&M University
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
PI	Principal Investigator
RPS	Restricted Party Screenings
RSO	The Texas A&M University System Research Security Office
SRS	Texas A&M University Sponsored Research Services
TAA	Technical Assistance Agreement
TAMU	Texas A&M University
TTC	Texas A&M University Technology Commercialization
TCP	Technology Control Plan
UNSPSC	United Nations Standard Products and Services Code
USML	United States Munitions List

Texas A&M AgriLife Export Control Procedures

Section 1.0 | A Commitment to Compliance

Texas A&M AgriLife is committed to upholding the highest standard of ethical conduct and compliance with the legal obligations of the AgriLife components. For the purposes of this manual, the term “AgriLife” incorporates the following agencies: Texas A&M AgriLife Research, Texas A&M AgriLife Extension Service, and the Texas A&M Veterinary Medical Diagnostic Laboratory.

The export of certain items and information is regulated for reasons of national security, foreign policy, the prevention of the spread of weapons of mass destruction, and competitive trade reasons, and in accordance with The Texas A&M University System (A&M System) Policy 15.02, *Export Controls*, AgriLife is committed to operating in compliance with the United States (U.S.) export control laws and regulations including those implemented by the Department of Commerce through the Export Administration Regulations (EAR)¹ and the Department of State through the International Traffic in Arms Regulations (ITAR)², as well as those imposed by the Treasury Department through the Office of Foreign Assets Control (OFAC)³. Because of the complexity of the U.S. export control laws and regulations, potential export-controlled activities will be evaluated on a case-by-case basis.

All employees of AgriLife are ultimately individually responsible for ensuring compliance with U.S. export controls laws and regulations, as well as A&M System policies and regulations and AgriLife rules and procedures. It is imperative that AgriLife employees maintain open communication with their respective unit/department head and supervisor about these matters, and to recognize that export control laws and regulations apply broadly—not just to sponsored research projects or educational activities. This *AgriLife Export Controls Compliance Manual* is designed to assist AgriLife employees in the area of export control compliance. Additionally, this manual supplements corresponding export controls rules and procedures of the AgriLife agencies, and provides guidance in properly obtaining required administrative approvals while taking a proactive stance towards compliance with associated federal laws, and A&M System policies and regulations. To the extent this manual conflicts with A&M System Policy 15.02, *Export Controls*, or agency rules and procedures, the A&M System Policy supersedes. Acronyms are defined in the Abbreviations section. For the purpose of this manual, definitions are contained in the Glossary.

AgriLife Ethics and Compliance maintains a Web site with export control information and resources located at: <https://agrilifeas.tamu.edu/ethics-compliance/export-controls/>. Questions regarding export controls should be directed to AgriLife Ethics and Compliance at 979.845.4789 or exportcontrols@ag.tamu.edu.

Section 2.0 | Key Parties Responsible for Export Control Compliance

2.1 INDIVIDUAL RESPONSIBILITY

All AgriLife employees must conduct their affairs in accordance with U.S. export control laws and regulations, while being aware of and responsible for export control implications associated with their work and institutional responsibilities. While compliance with all applicable legal requirements is imperative, it is equally important to maintain an open environment that welcomes the participation of individuals from around the world as part of the AgriLife mission. To maintain this balance, AgriLife personnel must be familiar with the U.S. export control laws and regulations—including important exclusions and exemptions, as they relate to their responsibilities. Depending upon the nature of their activities and/or job functions, AgriLife personnel

¹ The Export Administration Regulations (EAR) 15 CFR 700-799 can be found at <https://ecfr.federalregister.gov/current/title-15/subtitle-B/chapter-VII>.

² The International Traffic In Arms Regulations (ITAR) 22 CFR 120-130 can be found at <https://ecfr.federalregister.gov/current/title-22/chapter-I/subchapter-M>.

³ The Office of Foreign Assets Control (OFAC) 31 CFR 500-599 can be found at <https://ecfr.federalregister.gov/current/title-31/subtitle-B/chapter-V>.

may be required to participate in formal training as determined by the AgriLife Empowered Official(s) and/or the employees' supervisors.

Principal Investigators (PIs), with the assistance of AgriLife Ethics and Compliance and other relevant AgriLife units, are responsible for compliance with all federal, A&M System, and AgriLife export control laws, regulations, policies, rules, and procedures in the conduct of their research or educational activities. Violation of the export control laws can directly affect PIs through potential fines, loss of research funding, and/or personal criminal liability. To meet this obligation PIs should:

- A. understand his or her export control obligations and participate in regular trainings to be able to identify export control issues;
- B. be aware of the export control indicators in Section 3 (but not limited to) below, and note such information on any internal compliance or assurance forms;
- C. determine—prior to initiation of research or educational activity—whether any information or technology involved in his or her research or educational activity is subject to export control laws or regulations;
- D. periodically review his or her research to ensure continuing compliance with export control laws and regulations;
- E. if undertaking an export-controlled project, brief those involved in the project of their export control obligations; and
- F. understand that any informal discussions, agreements, or understandings entered with sponsors or entities can impose export control obligations on the PI and may negate the opportunity to claim key exclusions such as the Fundamental Research Exclusion (FRE⁴).

AgriLife employees are to report suspected or known violations to the empowered official for AgriLife—the agency Director or AgriLife Director for Ethics and Compliance. Additionally, AgriLife employees shall maintain their commitment to promoting a culture of compliance with all associated laws, regulations, policies, rules, and procedures.

2.2 EMPOWERED OFFICIAL

The agency Director will serve as the AgriLife empowered official for all purposes relating to applicable federal export control laws and regulations. The AgriLife empowered official is responsible for obtaining approvals required for compliance with export control laws, regulations, policies, rules, and procedures, as well as license application acquisitions. The AgriLife empowered official serves as AgriLife's representative and point of contact for export control matters involving AgriLife. The AgriLife empowered official is authorized to bind AgriLife in any proceedings before government agencies with export control responsibilities and has final responsibility for compliance with export control laws and regulations. In the event of the reporting of a suspected violation, the AgriLife empowered official will investigate the suspected violation to the extent deemed necessary.

The AgriLife empowered official or designee (Director of Ethics and Compliance) is the AgriLife official authorized to sign license applications and other authorizations required by export control laws and regulations on behalf of AgriLife, and to bind AgriLife in any proceedings before government agencies with export control responsibilities. All AgriLife interactions with government officials related to export control matters will be coordinated with the Texas A&M University System Research Security Office and the Office of the General Counsel prior to communicating with federal regulatory bodies. These interactions will be managed, made, and administered by the AgriLife empowered official as deemed appropriate. Any communications from government officials relating to AgriLife's export control compliance program should be

⁴ As defined: Per the Bureau of Industry and Security Part 734.8, the Exclusion applies to "Fundamental research means research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons."

forwarded to the AgriLife empowered official.

2.3 AGRILIFE ETHICS AND COMPLIANCE

AgriLife Ethics and Compliance, in cooperation with other appropriate offices, is responsible for directing and monitoring AgriLife'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, AgriLife Ethics and Compliance will determine, or assist other offices and employees in export control assessments to determine compliance obligations with respect to AgriLife activities involving foreign persons or international activities under applicable export control laws and regulations, and to determine the applicability of the FRE or other exclusions provided by law. AgriLife Ethics and Compliance will also assist with and conduct Restricted Party (RPS)⁵ and Technology Screenings. As appropriate, AgriLife Ethics and Compliance will consult with the A&M System Office of General Counsel (OGC) and A&M System Research Security Office (RSO) on export control matters.

2.4 TEXAS A&M UNIVERSITY SPONSORED RESEARCH SERVICES (SRS)

AgriLife's sponsored research activities are administered by TAMU Sponsored Research Services (SRS) in accordance with established SRS procedures.

SRS works closely with AgriLife Ethics and Compliance, PIs, and A&M System Members as appropriate in identifying export control issues related to research, and to ensure that appropriate approvals are in place before the initiation of projects.

2.5 AGRILIFE ADMINISTRATORS

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

Section 3.0 | *Identifying Export Control Concerns*

3.1 EXPORT CONTROL RED FLAGS

The following—*but not limited to*—are indicators that an export control review should be conducted to ensure that no violations will occur:

- A. The results of research and educational activities conducted at AgriLife or by AgriLife employees are intended for military purposes or for other restricted end uses under EAR99.
- B. Foreign persons will have access to controlled physical items on campus or AgriLife property.
- C. Software that includes encryption features will be developed or purchased.
- D. AgriLife employees will export or travel abroad with research equipment, chemicals, biological materials, encrypted software, or controlled physical items; or travel abroad with laptops or cell phones containing controlled information.

⁵ As defined: "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 Division of Research."

- 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 biologicals to a foreign country.
- H. Other Red Flag Indicators: The BIS has posted a list of Red flag Indicators for Things to Look for in Export Control Transactions: <https://www.bis.doc.gov/index.php/enforcement/oe/compliance/23-compliance-a-training/51-red-flag-indicators>.

3.2 RESTRICTED PARTY AND TECHNOLOGY SCREENINGS

A. 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.

AgriLife must screen individuals and entities as provided in this manual in order to ensure that AgriLife is not doing business with individuals or entities that have been debarred, denied export privileges, or are otherwise on one of the government restricted party lists. AgriLife Ethics and Compliance has licensed export control compliance software that permits authorized users to screen restricted party lists electronically. The export control compliance software performs restricted party screening against all relevant U.S. Government lists, including: OFAC Sanctions, BIS Denied Persons List, BIS Entity List and Unverified List, Department of State Arms Export Control Act Debarred Parties, Department of State Designated Terrorist Organizations, Department of State Nonproliferation Orders.

B. Technology Screening

The U.S. Department of Commerce, and the U.S. Department of State, along with various other government agencies control what technology, items, goods, services, etc. (technology) may be permissibly exported outside of U.S. territory. In order to ensure that AgriLife is in compliance with all export regulations, AgriLife 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 AgriLife plans to export via the EAR/Commerce Control List (CCL), and ITAR/U.S. Munitions List (USML). The export control compliance software will notify the screener if a potential match is found on another listing and what applicable licenses may be required. Contact AgriLife Ethics and Compliance for assistance in determining controlled items, controlled information, and screening against restricted party lists.

C. Returned Results (“Hits”)

AgriLife Ethics and Compliance will conduct screenings in accordance with their 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 person within AgriLife Ethics and Compliance should verify that it is a possible match by screening with additional detailed information to confirm. If the hit cannot be ruled out, another review will be conducted. AgriLife Ethics and Compliance is responsible for maintaining records of its determinations, in accordance with Section 12, *Recordkeeping*.

Section 4.0 | *Research and Educational Activities, Material Transfers, and Non–Disclosure Agreements*

Most data and information involved in AgriLife research and educational activities could possibly be excluded from export control regulations under the ITAR or EAR based on several key provisions:

- A. the Public Domain Exclusion;

B. the FRE; and

C. the Exclusion for Educational Information.

It is imperative for researchers and others involved in research and educational activities to be aware of these key exclusions, and to understand that their benefits can be lost if certain provisions are present in research and educational activities–related agreements. For this reason, PIs should avoid entering into informal understandings or “side agreements” with sponsors that restrict foreign person access to the research or that impose sponsor controls on the publication or dissemination of the results. It is also important to remember that the restrictions enforced by OFAC are not affected by the ITAR, EAR, or FRE.

4.1 CONTRACT PROVISIONS OF CONCERN

Certain research and educational activities agreement provisions may negate the FRE and require seeking a license or undertaking monitoring or other activities.

If any of the following provisions are present (and cannot be negotiated away) in a research or educational activities agreement or subcontract, a Material Transfer Agreement (MTA), or Non-Disclosure Agreement (NDA) related to research or educational activities, the agreement should be submitted to AgriLife Ethics and Compliance for further review prior to execution of the agreement:

- A. Sponsor maintains the right to restrict or approve publication or release of research or educational activity results (other than AgriLife’s standard customary brief delay to protect a sponsor’s confidential information or to preserve the patentability of an invention).
- B. Research or educational activity data and/or other research or educational activity 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 or educational activity.
- 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 or educational activity results (see Section 4.2, below).
- E. Restrictions on or prohibitions against, the participation of research or educational activity 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 or educational activity.
- G. Equipment or encrypted software is required to be delivered as part of the project.
- H. The research project or educational activity will involve the use of export–controlled items or technical information obtained from a third party.
- I. The research or educational activity 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 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. DFARS 252. 204-7000 (Disclosure of Information)

States, "Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g.; film, tape, document), pertaining to any part of this contract or any program related to this contract." Three exceptions apply:

- (1) if the contracting officer has given prior written approval;
- (2) where the information is already in the public domain prior to date of release; or
- (3) if the research is determined in writing to be fundamental research by the Contracting Officer.

Refer to 27.404(2) & (3) and NSDD-189 as justification for getting the restriction removed. Also, can refer to IRS Ruling 76-296. May also add alternate language that allows for review and comment on publications.

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

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

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

All foreign nationals must be approved before beginning work on the project. Contractor is required to divulge if any foreign nationals will be working on the project. Provision of name, last country of residence, citizenship information, etc. is required. This clause is commonly found in contracts involving controlled technology and sponsored by military agencies. May need to require the PI to certify that no foreign nationals will be working on the project. If 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. Need to ask the PI if the project is basic or applied research. If yes, it may fall under an ITAR exclusion. May also ask the defense contractor if foreign nationals are permitted work on the project. If yes, obtain confirmation in writing.

4.3 PROCEDURES APPLICABLE TO RESEARCH AGREEMENTS AND SUBCONTRACTS

- A. In the case of sponsored research agreements administered through SRS, processes and procedures have been established.
- B. For other sponsored research related agreements and non-sponsored research agreements (i.e., Material Transfer Agreements, Non-Disclosure Agreements, Data Transfer Agreements, etc.) administered through the AgriLife Contracts Office, processes and procedures have been established.

4.4 RESOLVING EXPORT CONTROL ISSUES

A. AgriLife Ethics and Compliance

When a potential export control issue is identified, AgriLife Ethics and Compliance 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, AgriLife Ethics and Compliance will determine whether:

- (1) the conditions merit an application for a license or other authorization;
- (2) the conditions are such that an exclusion or license exception may be obtained; or
- (3) a technology control plan (TCP), or other requirements for the conduct of the research such as but not limited to completion of the AG-723, *Acknowledgment of Restriction of Distribution of Publication* will be necessary to prevent an unauthorized deemed export of the technology from occurring.

AgriLife Ethics and Compliance will notify the parties involved of AgriLife Ethics and Compliance’s export control determinations. AgriLife Ethics and Compliance will maintain records of its determinations on a project basis, as provided in Section 12, *Recordkeeping*.

B. Technology Control Plan (TCP)

(1) Development

If AgriLife Ethics and Compliance determines a project, facility, or item is export–controlled, AgriLife Ethics and Compliance will work with the PI, department/unit representatives, facility managers, and A&M System members—as appropriate—to develop and implement a TCP to secure the controlled technology from access by unauthorized foreign persons. A TCP will typically include:

- a. a commitment to export controls compliance;
- b. identification of the relevant export control categories and controlled technologies;
- c. identification of the project’s sponsors;

- d. identification and nationality of each individual participating in the project;
- e. appropriate physical and informational security measures;
- f. personnel screening measures and training; and
- g. appropriate security measures for the duration of the project for and following project termination.

(2) Appropriate Security Measures

The TCP will include physical and informational security measures appropriate to the export control categories related to the facility, project, or item. Examples of security measures are specific to the project or item and can include:

- a. *Laboratory Compartmentalization*—Project operation may be limited to secured laboratory areas physically shielded from access or observation by unauthorized individuals. These areas must always remain locked.
- b. *Time Blocking*—Project operation may be restricted to secure time blocks when unauthorized individuals cannot observe or access.
- c. *Marking*—Export-controlled items or 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 or greater Secure Sockets Layer encryption, or other federally approved encryption technology. Database access should be managed via a Virtual Private Network⁶.
- 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.

(3) 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 AgriLife Ethics and Compliance, AgriLife Ethics and Compliance will consult with the PI and other appropriate parties to gather all the information needed to submit the appropriate documentation to seek a license or other authorization. AgriLife Ethics and Compliance will inform the empowered official of the details of the export control issue and recommend that a license or other authorization should be obtained. The empowered official or

⁶ A mechanism for providing secure, reliable transport over the Internet. A VPN uses authentication to deny access to unauthorized users, and encryption to prevent unauthorized users from reading the private network packets. The VPN can be used to send any kind of network traffic securely, including voice, video or data.

designee (Director of Ethics and Compliance) will request the license or other authorization from the appropriate agency with assistance from AgriLife Ethics and Compliance and the OGC.

Section 5.0 | Visitors

5.1 RESPONSIBILITY TO REQUEST AUTHORIZATION TO VISIT

All AgriLife employees intending to invite or host visitors have the responsibility to notify AgriLife Ethics and Compliance in advance of the proposed visit, per AgriLife agency procedures and College Guidelines:

- [College of Agriculture and Life Sciences Guideline, Visiting Scholars, Scientists, or Interns \(Domestic and International\)](#)
- [AgriLife Extension Service Procedure 15.99.99.X0.01, Visiting Scholars, Scientists, or Interns \(Domestic and International\)](#)
- [AgriLife Research Procedure 15.99.99.A0.01, Visiting Scholars, Scientists, or Interns \(Domestic and International\)](#)
- [TVMDL Procedure 15.99.99.V0.01, Visiting Scholars, Scientists, Externs, or Interns \(Domestic and International\)](#)

For the purposes of these procedures, visitors have been delineated into two categories: exempt and non-exempt. Qualifications for these statuses as well as procedures and responsibilities associated with inviting visitors are fully outlined in the agency procedures indicated above.

5.2 VISITOR AUTHORIZATION TO ACCESS CONTROLLED INFORMATION OR PHYSICAL ITEMS

No visitor may have access (whether verbal, written, electronic, and/or visual) to controlled information or controlled physical items unless expressly permitted via an approved TCP, license, or as authorized in writing by AgriLife Ethics and Compliance. It is the responsibility of the AgriLife employee hosting the visitor to ensure compliance with export control restrictions, and to promptly disclose and report any violations to the empowered official or AgriLife Ethics and Compliance.

5.3 RPS OF VISITORS

Screening of visitors includes the screening of the visitor's employer and/or sponsoring entity. Screening is needed whenever a written or verbal invitation to visit AgriLife is made to a visitor regardless of whether:

- A. The visitor is present or not in the U.S.
- B. AgriLife needs to sponsor the visitor for immigration purposes under the J-1 Exchange Visitor Program⁷.
- C. AgriLife does not need to sponsor the visitor for immigration purposes because the visitor is traveling or has entered the U.S. 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

- A. Exempt Visitors

⁷ For example, Foreign Persons may come to visit AgriLife under the J-1 exchange visitor program in the following instances: (a) Sabbaticals with their own funding; (b) Conducting collaborative research funded by their home institution or government; (c) Fulbright or other similar type of sponsorship; and (d) Student internship, paid or unpaid.

AgriLife employees intending to host visitors of which are determined to be exempt visitors (as defined in AgriLife procedures indicated in section 5.1) will contact AgriLife Ethics and Compliance in advance of the intended visit, will conduct RPS and work directly with the host in determination of any potential export controls issues associated with such visit.

Any changes in the initial terms and intent of the visit that would make such exempted visitor fall under one or more of the conditions subject to the Visitor Exchange Program (as defined in AgriLife procedures indicated in section 5.1) require the host employee to immediately notify AgriLife Ethics and Compliance. The host will be responsible for completing AG-713, *Export Controls Compliance Review | Visitor Exchange Programs and Employment*, as described below.

B. Non-Exempt Visitors and Visitor Exchange Program

Prior to the visit, faculty, researchers, and administrators inviting and hosting visitors as non-exempt international visitors and visiting scholars, domestic visitors and visiting scholars, scientists, or interns must complete AG-713 and AG-718, *Visiting Scholar Agreement*—or any other form identified by AgriLife Ethics and Compliance.

These forms must be submitted to AgriLife Ethics and Compliance. Submission is required regardless of whether the visit involves or results in a financial disbursement (i.e. honorarium, reimbursement of expenses, and alike) payable to the visitor. AgriLife Ethics and Compliance will conduct export controls review of the proposed visit for AgriLife Research, AgriLife Extension, TVMDL, and TAMU (only when the visitor will be put on payroll) ADLOC'd hosts. If the hosting faculty, researcher, or administrator is ADLOC'd to TAMU (02) and the visitor will not be put on payroll, AgriLife Ethics and Compliance will forward AG-713 to TAMU Division of Research for approval. Any other export control issues raised in AG-713 will be addressed by AgriLife Ethics and Compliance and TAMU as appropriate, and the requesting host. If RPS results cause restrictions to be imposed, AgriLife Ethics and Compliance will notify the requestor in attempt to resolve such issues if possible. Once approved, a copy of the approval (and associated documents) will be sent to the unit, TAMU Division of Research (as applicable), and TAMU Immigration Services for Faculty and Scholars to initiate the immigration process for those instances in which AgriLife needs to sponsor an international visitor, as well as for those in which an international visitor is traveling under the Visa Waiver Program, a B-1/B-2 visa, or other nonimmigrant visa status as indicated properly on the annotated I-94.

Monthly, AgriLife Ethics and Compliance will provide AG-713s and associated documents regarding visiting scholars from countries of concern per guidance from the Texas A&M University System Research Security Office to satisfy requirements of the federal government's insider threat program.

Section 6.0 | *Employment of Foreign Nationals*

It is imperative for AgriLife hiring departments/units to be aware that the ability to hire foreign nationals for certain positions may be restricted or prohibited by export control laws. For example, 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. If foreign nationals are prohibited by export control laws from performing the employment responsibilities associated with a position, the Notice of Vacancy (NOV) may be posted in such a way that those individuals are notified ahead of time they cannot be considered. The following statement may be added to the "Comments to Applicant" section of the NOV: *Non-immigrant foreign nationals are prohibited by export control laws from performing the employment responsibilities associated with this position; sponsorship is not available.*

After extending an employment offer to foreign nationals, hiring units are required to submit AG-713 to AgriLife Ethics and Compliance. AgriLife Ethics and Compliance will conduct RPS and return AG-713 to hiring unit as notification of the completed export control review. Upon an accepted offer, the hiring unit will coordinate with TAMU ISFS to complete the hiring process (if applicable). When hiring individuals under certain visa statuses (not including J-1, J-2, and F-1 OPT), supervisors are required to complete a Deemed Export Control Attestation certifying that technology or technical data to

be released or accessed by the foreign national as a result of the offered employment may or may not require a license. Records will be kept in accordance with Section 12, *Recordkeeping*. Units will submit the finalized AG-713, along with in-processing documents, to Workday.

Monthly, AgriLife Ethics and Compliance will provide AG-713s and associated documents regarding employment of non-US citizens from countries of concern per guidance from the Texas A&M University System Research Security Office to satisfy requirements of the federal government's insider threat program.

Section 7.0 | *International Activities*

In the case of AgriLife activities conducted outside the U.S., it is the responsibility of the traveler to seek and obtain appropriate export control approvals from AgriLife Ethics and Compliance for activities including, but not limited to, the following: execution of agreements performable outside the U.S.; and making payments to foreign person vendors.

7.1 TRAVEL—GENERAL

AgriLife employees traveling on AgriLife business or traveling with AgriLife property are responsible for complying with export control laws and regulations when traveling outside the U.S. Per formal agency procedures, AgriLife employees will complete AG-710, *International Travel Export Controls Certification*, before international travel commences.

In addition to export controls related compliance associated with international travel, AgriLife employees should review agency procedures which outline approval processes, high risk travel, and other compliancy areas related to international travel before planning a trip abroad:

- [College of Agriculture and Life Sciences Guideline, *International Travel*](#)
- [AgriLife Extension Service Procedure 24.01.99.X0.01, *International Travel*](#)
- [AgriLife Research Procedure 24.01.99.A0.01, *International Travel*](#)
- [TVMDL Procedure 24.01.99.V0.01, *International Travel*](#)

Regarding export controls compliance, 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 AgriLife Ethics and Compliance with any potential export control concerns.

When planning a trip abroad, travelers should review export control regulations and embargoes. Travelers should include on their AG-710 the purpose of their trip, who they plan to interact with, what they will take, where they will go, and how long they will be traveling abroad. Individuals should ensure that any information that will be discussed or any items that will be taken are not controlled, or—if controlled—that appropriate licenses are in place. Travelers should consult AgriLife Ethics and Compliance if they are planning on taking encrypted software, controlled items/information, or unpublished research data or data not in the public domain, or if traveling to an embargoed country. Not only could AgriLife be held liable, but individuals may also be held liable for improperly transferring controlled information or controlled physical items.

Most travel for conferences will fall under an exclusion to the export control regulations, e.g., the Publicly Available/Public Domain Exclusion, 22 CFR §120.11 and 15 CFR §734.3. Information that is published and is generally accessible to the public through publication in books or periodicals available in a public library or in bookstores or information that is presented at a conference, meeting, seminar, trade show, or other open gathering is considered to be in the public domain. An open gathering is one in which members of the general public are eligible to attend, and attendees are permitted to take notes.

AgriLife employees traveling outside the U.S. with laptops, 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 AgriLife Ethics and Compliance. There are a few exceptions and exclusions that 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. For more information, please refer to "Traveling with Laptops" on page 22 of this manual.

Temporary exports under the "Tools of Trade" license exception apply when the laptop, cell phone, data storage devices, and encrypted software are:

- (1) Hand-carried with the individual while traveling,
- (2) Carried in the luggage or baggage that travels with the individual, or
- (3) 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 so long as an individual:

- (1) retains his or her laptop computer, cell phone, data storage devices and encrypted software under their personal custody and effective control for the duration of travel; (Note: In some instances, personal custody requires the person to have with them during meals, etc.)
- (2) does not intend to keep these items in these countries for longer than 1 year; and
- (3) is not traveling to an embargoed country⁸.

Note that this license exception is not available for equipment, components, or software designed for use in/by/with most satellites or spacecraft. "Effective control" means retaining physical possession of an item or maintaining it in a secure environment.

Researchers frequently need to take other AgriLife equipment temporarily outside of the U.S. for use in AgriLife activities. Often, but not always, the tools of trade license exceptions apply. Some equipment (e.g., global positioning systems [GPS], thermal imaging cameras, inertial measurement units, night vision goggles, and specialty software) is highly restricted, and may require an export license, even if one hand carries it. If taking AgriLife equipment other than a laptop computer, cell phone, or data storage devices, contact AgriLife Ethics and Compliance to determine if an export license or other government approval is required prior to taking the equipment out of the country.

If an employee decides to utilize a loaner laptop during their international travel, please email first-call@tamu.edu a minimum of two weeks prior to the trip.

If items or information are stolen while traveling abroad, travelers shall immediately contact AgriLife Information Technology (979-985-5737; first-call@tamu.edu) and AgriLife Ethics and Compliance (979-845-4789; exportcontrols@ag.tamu.edu).

If an employee submits an international alternate work location request, an AG-724, *International Alternate Work Locations Export Controls Certification*, form is required to be submitted to AgriLife Ethics and Compliance to conduct an export control review.

It is important to note that activities involving teaching or training foreign persons on how to use equipment may require a license. Contact AgriLife Ethics and Compliance for information applicable to travel exemptions and exceptions.

⁸ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions.

7.2 NON-EMPLOYEES PARTICIPATING IN AGRILIFE INTERNATIONAL ACTIVITIES

All foreign persons acting on behalf of but not employed by AgriLife (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.

7.3 STUDENT TRAVEL

In accordance with TAMU Rule 13.04.99.M1, *Student Travel*, all students traveling outside the U.S. for academic purposes must register with the Study Abroad Programs Office. AgriLife employees/trip leaders organizing and/or accompanying such travel are required to abide by TAMU Rule 13.04.99.M1.

Section 8.0 | *Financial Transactions, Conferences, Procurement, and Non-Sponsored Contracts*

AgriLife (Banking & Receivables, Procurement & Contracts, and Disbursements), in cooperation with AgriLife Ethics and Compliance, is responsible for developing and implementing procedures to screen financial transactions as appropriate for compliance with export control laws and regulations.

8.1 FINANCIAL TRANSACTIONS

A. Vendors

With the implementation of AggieBuy, TAMU will conduct RPS for international non-employee vendors in accordance with their internal procedures. AgriLife Procurement will notify AgriLife Ethics and Compliance through AggieBuy or email to screen the vendor. Once completed, AgriLife Ethics and Compliance will inform AgriLife Procurement of RPS results. Records will be kept in accordance with Section 12, *Recordkeeping*.

B. Wire Transfers

RPS will be conducted for all international outgoing wire transfers before the transaction process takes place. AgriLife Banking and Receivables or other appropriate offices will notify AgriLife Ethics and Compliance of a completed AgriLife form AG-212, *Wire Transfer Request*, when wire transfers are requested—and before funds are released—so RPS can be conducted. AgriLife Ethics and Compliance will notify AgriLife Banking and Receivables or other appropriate offices of the completed RPS. From this point, normal procedures for AgriLife Banking and Receivables will commence. Records will be kept in accordance with Section 12, *Recordkeeping*.

C. Accounts Receivables

Only departments and units (other than AgriLife laboratories performing diagnostic services, and the AgriLife Bookstore) invoicing foreign persons or entities will contact AgriLife Ethics and Compliance before sending the invoice or invoice request. Units shall contact AgriLife Ethics and Compliance with associated documentation, who will then conduct RPS and respond to the department or unit as notification of the completed RPS. Records will be kept in accordance with Section 12, *Recordkeeping*.

8.2 AGRILIFE HOSTED CONFERENCES ALLOWING INTERNATIONAL PARTICIPATION

A. AgriLife Conference Services Managed Conferences

AgriLife Conference Services will provide AgriLife Ethics and Compliance access to conference registration rosters for those conferences offering international participation. AgriLife Ethics and Compliance will conduct RPS for international registrants periodically as the conference date approaches. Additionally, AgriLife Ethics and Compliance will contact the AgriLife host to ensure no further export

controls compliance action items are needed in relation to such conference. Records will be kept in accordance with Section 12, *Recordkeeping*.

B. AgriLife Conferences Managed by Other Entities

If an AgriLife employee intends to host a conference not managed through AgriLife Conference Services and allowing international participation, the host will contact AgriLife Ethics and Compliance to work through any potential export controls concerns. RPS will be conducted by AgriLife Ethics and Compliance as well as working with the host in ensuring no further export controls compliance action items are needed in relation to such conference.

8.3 PROCUREMENT & AGGIEBUY

- A. AgriLife employees making international purchases with procurement cards or under unit delegation will be responsible for ensuring such transactions comply with export control laws and regulations, as well as coordinating with AgriLife Ethics and Compliance to resolve any export control issues prior to the purchase. Units should contact AgriLife Ethics and Compliance to conduct RPS prior to an international purchase if feasible.

International purchases coordinated through AgriLife Procurement will be forwarded to AgriLife Ethics and Compliance to conduct RPS. Additionally, language indicating the need for vendors to provide AgriLife Ethics and Compliance with applicable export control classification numbers and/or indicate if the item to be purchased is export controlled will be added to terms and conditions documents routed through AgriLife Procurement. Items to be purchased identified through risk-based monitoring plans will also be forwarded by AgriLife Procurement to AgriLife Ethics and Compliance to aid in identification of potentially export-controlled items. Corresponding TCPs will be implemented if deemed necessary based upon the corresponding export control-related risk. Contracts will be reviewed for export control-related language and forwarded to AgriLife Ethics and Compliance for additional review if deemed necessary.

If units are unsure of any export controls compliance associated with procurement such as purchasing of export-controlled equipment or items, please contact AgriLife Ethics and Compliance.

- B. For purchases made through AggieBuy, AgriLife Ethics and Compliance will be notified based on the purchases' UNSPSC code. AgriLife Ethics and Compliance will determine applicable export control classification numbers and/or indicate if the item to be purchased is export controlled. Corresponding TCPs will be implemented if necessary.

8.4 NON-SPONSORED AGREEMENTS, NON-SPONSORED CONTRACTS, AND INDEPENDENT CONTRACTORS

A. Non-Sponsored Agreements and Contracts

For contracts (such as Memorandum of Understandings, Memorandum of Agreements, or Material Transfer Agreements) processed through AgriLife Contracts, RPS will be conducted on all international sponsors, and such agreements will be assessed for export control implications. AgriLife Contracts will notify AgriLife Ethics and Compliance by forwarding agreements and non-sponsored contracts so RPS and export control assessments can be conducted. AgriLife Ethics and Compliance will return such agreements to AgriLife Contracts as notification of the completed RPS and assessment. Records will be kept in accordance with Section 12, *Recordkeeping*.

B. Independent Contractors

For independent contractor requests processed through AgriLife Contracts, RPS will be conducted for international independent contractors before the work and transaction processes take place. Units are required to complete AG-106, *Independent Contractor Status Certification*, when requesting approval of independent contractors. AgriLife Procurement and Contracts will notify AgriLife Ethics and Compliance by forwarding completed AgriLife form AG-106—before approved—so RPS can be conducted. AgriLife

Ethics and Compliance will return AG-106 to AgriLife Procurement and Contracts as notification of the completed RPS. Records will be kept in accordance with Section 12, *Recordkeeping*.

Section 9.0 | Technology Commercialization

TAMU Technology Commercialization and AgriLife Intellectual Property & Commercialization has developed, implemented, and maintained procedures to address the export control implications of their work, including procedures related to RPS, invention disclosure screening, etc. All new AgriLife technology disclosures will be reviewed by AgriLife Ethics and Compliance. Any potential export-controlled issues will be referred to AgriLife Ethics and Compliance or appropriate A&M System member compliance office for recommended handling.

Section 10.0 | Shipments

It is the responsibility of AgriLife employees who are shipping items outside or inside the U.S. (including hand-carrying items such as research equipment, computers, materials, data, or biological 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 U.S. Customs, it may still require an export control license. Contact AgriLife Ethics and Compliance with assistance in shipping.

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 embargoes⁹ must first be cleared by AgriLife Ethics and Compliance. Department/unit personnel who are responsible for shipping packages out of the country should obtain a list of contents before shipping, and contact AgriLife Ethics and Compliance with any questions.

Once AgriLife Ethics and Compliance reviews the shipment and determines the materials will not require an export control license or obtain the export control license, an AG-124, *Outgoing Material Transfer Questionnaire* will need to be filled out if the PI intends to ship any materials created, discovered, or isolated by an AgriLife Employee or with AgriLife funding. When an AG-124 is filled out, an MTA must be created to ensure that AgriLife will have ownership over the materials. Contact AgriLife Ethics and Compliance with work with AgriLife Contracts and/or TTC/IPC in order to obtain a completed MTA.

Every effort should be made to correctly label a package and accurately represent the classification of the item because mislabeling and misclassification, regardless of intent, is a violation of the law. Under-invoicing or under-valuing an exported item is a violation of law or reporting an incorrect export value on a Shippers Export Declaration also violates export regulations.

Section 11.0 | Appeals

If a proposed activity is denied by a corresponding AgriLife Associate Director or College Associate Dean, and the employee would like to appeal the decision, they may do so by completing an AG-725, *Formal Appeal Denied Activity Based Upon Export Controls Review*. This form shall be submitted to AgriLife Ethics and Compliance no later than seven business days of the initial denial.

If the AG-725 is received after seven business days of the initial denial, AgriLife Ethics and Compliance will notify the submitter of the timeframe requirements, and that the appeal will not move forward. If the AG-725 is received in the appropriate timeframe, AgriLife Ethics and Compliance will route to the Empowered Official for further consideration. The Empowered Official will review and deny or approve the appeal. This decision is the final decision, and notification to the requestor will be made by AgriLife Ethics and Compliance.

⁹ See OFAC's Sanctions Program and Country Summaries at <http://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx> for the most current list of embargoed countries and U.S. sanctions.

Section 12.0 | Recordkeeping

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

- A. the record retention period required by the applicable export control regulations (see 15 C.F.R. Part 762 (EAR); 22 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 System policies and regulations, university and agency rules/procedures, and the System records retention schedule.

Records will be maintained by AgriLife Ethics and Compliance or other AgriLife Administrative Services or TAMU offices, as appropriate.

Unless otherwise provided for, all records indicated herein will be maintained consistent with the AgriLife record retention policy, and must be retained no less than five 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 regulations). AgriLife Ethics and Compliance export controls records will be maintained in Laserfiche.

Section 13.0 | Training

The A&M System provides an online training course via Single Sign On, TrainTraq Course #2111212, *Export Controls and Embargo Training*. Although this training is currently not required for all employees (except as those instances provided below), TrainTraq Course #2111212 is highly recommended because it is ultimately the individual's responsibility to comply with export control laws, regulations, policies, rules, and procedures.

AgriLife employees with managerial or supervisory authority over foreign persons or projects involving controlled information or controlled physical items are required to take TrainTraq Course #2111212, basic export control online training course at least once every two years. AgriLife unit/department heads, resident directors, and those hosting visiting scholars are required to take the online training course at least once every two years. Additionally, the information security awareness training program delivered via TrainTraq includes an export control component and is required for all AgriLife employees. Depending on the nature of an individual's activities and/or job functions, an AgriLife employee may be required to take TrainTraq Course #2111212, basic export control online training and/or supplemental export control training as deemed appropriate by the individual's supervisor and/or the empowered official.

Additionally, face-to-face training opportunities will be made available to AgriLife employees in efforts to raise awareness and further explain employee responsibilities. Contact AgriLife Ethics and Compliance to schedule face-to-face training sessions.

Section 14.0 | Internal Audit and Monitoring

To assist departments/units in complying with export control procedures, the AgriLife Internal Management Review Team may conduct periodic reviews as deemed appropriate. Additionally, a yearly export control specific risk-assessment will be conducted before the start of each fiscal year. This risk assessment is submitted to The Texas A&M University System Research Security Office and is also included as an attachment to the annual compliance plan.

Section 15.0 | Information Technology: Protection of Export–Controlled Electronic Documents

A. AgriLife Employee Responsibilities

AgriLife employees shall not:

- electronically store export–controlled documents on “cloud servers” (e.g. iCloud, DropBox, Google Drive, Microsoft SkyDrive); or
- allow unauthorized second–party access to export–controlled electronic documents.

AgriLife employees shall strictly adhere to protocols outlined in technology control plans assigned to specific projects, items, and/or information to protect unauthorized access—*inclusive of electronic data protection*—of such items. Further information technology requirements and responsibilities are contained in AgriLife Information Technology Procedures:

- [AgriLife Extension Service Procedure 29.01.03.X0.01, Information Resource Procedures](#)
- [AgriLife Research Procedure 29.01.03.A0.01, Information Resource Procedures](#)
- [TVMDL Procedure 29.01.03.V1.01, Information Security, Computer Use, and Software Installation/Use](#)

B. AgriLife People On–Boarding System

AgriLife Ethics and Compliance will receive automatic email notification—*via the AgriLife People on–boarding information technology system*—of a department/unit’s intent to authorize international persons access to AgriLife Information Technology resources (such as, but not limited to email and file server services). Once notification is received, AgriLife Ethics and Compliance will verify that the AG-713 has been completed and approve the IT services request.

Section 16.0 | Possible Violations

Each AgriLife employee has the responsibility to report possible violations of U.S. export control laws or regulations. Suspected violations should be reported by one of the following methods:

- (1) AgriLife Ethics and Compliance at (979) 845-4789 or exportcontrols@ag.tamu.edu; or
- (2) through the [EthicsPoint](#) website;

Possible violations of U.S. export control laws or regulations will be investigated by the empowered official, to the extent deemed necessary. The empowered official is authorized by the agency director 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. All such decisions will be communicated to the agency director prior to implementation.

Section 17.0 | 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 up to and including imprisonment. Additionally, employees may be subject to disciplinary action up to and including termination in accordance with AgriLife rules and A&M System policies and regulations.

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](#)

[System Policy 15.02, *Export Controls*](#)

[AgriLife Extension Service Rule 15.02.99.X1, *Export Controls*](#)

[AgriLife Extension Service Procedure 15.02.99.X1.01, *Export Controls*](#)

[AgriLife Research Rule 15.02.99.A1, *Export Controls*](#)

[AgriLife Research Procedure 15.02.99.A1.01, *Export Controls*](#)

[TVMDL Rule 15.02.99.V1, *Export Controls*](#)

[TVMDL Procedure 15.02.99.V1.01, *Export Controls*](#)

[College of Agriculture and Life Sciences Guideline, *Visiting Scholars, Scientists, or Interns \(Domestic and International\)*](#)

[AgriLife Extension Service Procedure 15.99.99.X0.01, *Visiting Scholars, Scientists, or Interns \(Domestic and International\)*](#)

[AgriLife Research Procedure 15.99.99.A0.01, *Visiting Scholars, Scientists, or Interns \(Domestic and International\)*](#)

[TVMDL Procedure 15.99.99.V0.01, *Visiting Scholars, Scientists, Externs, or Interns \(Domestic and International\)*](#)

[AgriLife Extension Service Procedure 24.01.99.X0.01, *International Travel*](#)

[AgriLife Research Procedure 24.01.99.A0.01, *International Travel*](#)

[TVMDL Procedure 24.01.99.V0.01, *International Travel*](#)

[AgriLife Extension Service Procedure 29.01.03.X0.01, *Information Resource Procedures*](#)

[AgriLife Research Procedure 29.01.03.A0.01, *Information Resource Procedures*](#)

[TVMDL Procedure 29.01.03.V1.01, *Information Security, Computer Use, and Software Installation/Use*](#)

Traveling with Laptops

Below are recommended protocols when preparing to travel internationally with laptops.

- Avoid taking laptops if possible.
- Backup any data and leave a safe copy of any DATA files at office prior to departure.
- If taking a laptop is required then password-protect, encrypt or remove all student, personal, and proprietary information stored on your laptop.
- Make sure the system patches and antivirus is updated and the laptop FIREWALL is turned on.
- Install the TAMU VPN software by going to <http://connect.tamu.edu> before departure and utilize a VPN connection at all times while in foreign country.
- If items or information are stolen while traveling abroad, travelers shall promptly contact AgriLife Information Technology (979-985-5737; first-call@tamu.edu) and AgriLife Ethics and Compliance (979-845-4789; exportcontrols@ag.tamu.edu).

While traveling, carrying laptops could fall under the temporary license exclusion known as the “tools of the trade” exclusion. EAR makes an exception to licensing requirements for the temporary export or re-export of certain items, technology, or software for professional use as long as the criteria below are met. The exception does not apply to any EAR satellite or space-related equipment, components, or software, or to any technology associated with high-level encryption products. In addition, this exception does not apply to items, technology, data, or software regulated by the ITAR. 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. Temporary exports under the “tools of the trade” license exception (as defined in Appendix B) apply when the laptop, cell phone, data storage devices, and encrypted software are:

- hand-carried with the individual while traveling;
- carried in the luggage or baggage that travels with the individual; or
- 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 so long as an individual:

- retains his or her laptop computer, cell phone, data storage devices, and encrypted software under their personal custody and effective control for the duration of travel;
- does not intend to keep these items in these countries for longer than 1 year; and
- is not traveling to an embargoed country.

If an employee decides to utilize a loaner laptop during their international travel, please email first-call@tamu.edu a minimum of two weeks prior to the trip.

For more information or additional trainings, contact AgriLife Ethics and Compliance (979-845-4789; exportcontrols@ag.tamu.edu).

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 “EAR99” and, while they may be exported to most destinations, may still be controlled for export to certain sanctioned entities or a few prohibited destinations.

Exempted International Visitor—Exempted international visitors are international visitors who are visiting if no honorarium or reimbursement of expenses will occur and if one or more of the following conditions exist with respect to the anticipated visit of the International Visitor:

1. meet with colleagues to discuss a research project or collaboration,
2. tour labs or research facilities that are not otherwise restricted under U.S. export control laws, or
3. participate in general academic or scientific meetings, presentations, or interviews.

Export—An export occurs when a controlled physical item or controlled information is transmitted outside the U.S. borders, or when a controlled physical item or controlled information is transmitted to a foreign person in the U.S. When a controlled physical item or controlled information is transmitted to a foreign person in the U.S., it is known as a deemed export.

The term “export” is broadly defined. It generally includes:

1. actual shipment of any controlled physical items;

2. the electronic or digital transmission of any controlled information;
3. any release or disclosure, including verbal disclosures and visual inspections, of any controlled information; or
4. actual use or application of controlled physical items or controlled information on behalf of or for the benefit of a foreign entity or person anywhere. Complete definitions of the term “export” are contained in the federal regulations.

Foreign National/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, 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 of AgriLife, and are coming to AgriLife 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 AgriLife. See AgriLife procedures indicated in section 5.1 for delineation between exempt and non-exempt qualifications.

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:

1. the export of ITAR controlled technical data or defense articles; or
2. 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 (MTAs)—A contract that governs the transfer and use of tangible research materials.

Non-Disclosure Agreements (NDAs)—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:

1. visual inspection by foreign persons of U.S.-origin equipment, facilities, or documentation;
2. oral or written exchanges of information in the U.S. or abroad; or
3. the application to situations abroad of personal knowledge or technical experience acquired in the U.S.

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 TCP lays out the requirements for protecting export–controlled information and equipment for projects conducted at AgriLife. AgriLife has developed a TCP template for use on such projects.

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

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

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

Visiting Scholar Host—The AgriLife employee who extends the offer, secures approval for visits, and takes responsibility for overseeing and monitoring the visiting scholar when that individual is accessing AgriLife facilities and AgriLife resources.