

I. Introduction

The United States federal government regulates the exportation of certain items, technology and software to specific foreign destinations and individuals through three main bodies of law, which are collectively referred to as “Export Controls”: (1) The Export Administration Act of 1979, which is implemented by the Export Administration Regulations (“EAR”) and administered by the U.S. Department of Commerce; (2) The Arms Export Control Act, which is implemented by the International Traffic in Arms Regulations (“ITAR”) and administered by the U.S. Department of State, Directorate of Defense Trade Controls; and (3) Economic and trade embargoes and sanctions administered by the U.S. Department of Treasury, Office of Foreign Asset Control (“OFAC”).

TCU Office of Research is committed to full compliance with Export Controls. In furtherance of this commitment, all research faculty, staff, students, visiting scientists and scholars, post-doctoral fellows, and other persons retained by or working at the university in association with research are expected to comply with all Export Controls as such relates to TCU research activities.

Many of TCU research-related activities are excluded from Export Controls because a Fundamental Research exception may be asserted. Nevertheless, research-related activities such as (1) the shipment, transmission or transfer of certain items, software, technology and services from the U.S. to foreign countries; (2) actual use or application of covered technology on behalf of or for the benefit of any foreign entity or person anywhere; and 3) the disclosure or transfer of certain items, software, technology, information or materials to Foreign Persons located in the U.S. (a “Deemed Export”), may be subject to Export Controls.

Therefore, before engaging in any TCU research-related activities, members of the TCU research community must understand and identify any potential Export Controls requirements and limitations and, in consultation with the Office of Research, conduct a preliminary review and determination.

II. Definitions

Covered Person. Any person engaged in research and/or scholarly activities under the auspice of TCU.

Foreign Person. Any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the U.S.; any international organization, foreign government and any agency or subdivision of foreign governments; and any person (including a student) who is not a U.S. citizen, a lawful permanent resident of the U.S. or who does not have refugee or asylum status in the U.S.

Fundamental Research. Fundamental Research means basic or applied research in science and engineering performed or conducted at an accredited institution of higher learning in the United States where the resulting information is ordinarily published and shared broadly in the scientific community. Fundamental research is distinguished from research that results in information that is restricted for proprietary reasons or national security reasons (EAR) or pursuant to specific U.S. government access and dissemination controls (ITAR).

TCU research is considered to be fundamental to the extent that researchers do not accept restrictions on the publication of scientific and technical information resulting from the research.

Temporary delays in publication for the protection of sponsor proprietary information do not remove research from the fundamental domain. However, if that sponsor's proprietary information is subject to the export controls, then that information remains subject in the conduct of the research.

III. Applicability

This policy applies to Covered Persons. This policy relates only to the research function at TCU. Other requirements may exist for TCU in general. If you have any questions regarding exports controls related to research, contact the Office of Research. For information regarding non-research export control matters, contact the TCU Chief Compliance Officer.

IV. Policy Requirements

- A. Principal Investigators.** The primary responsibility for compliance with Export Controls rests with a principal investigator ("PI"). The PI must:
- Acquire a level of understanding of Export Control requirements appropriate for their role through education, information, and support resources
 - Comply with applicable Export Controls, this policy, and all related guidance and procedures
 - Identify when any potential export control issue applies to the PI's proposed or existing project; technical data related to the design, methodology, results and analysis of the project and notify the Office of Research of the potential issues
 - Document review and determination, and maintain such documents with other project records
 - Ensure that all individuals involved in the PI's research determined to be subject to Export Controls have cleared restricted party screening
 - Ensure a technology control plan is implemented and maintained throughout the project, when necessary
 - Obtain all necessary licenses
- B. International Travel.** Covered Persons who engage in international travel within the scope of employment are responsible for understanding how Export Controls apply to their respective situations, including the impact on any students, employees, collaborators, consultants, or other personnel who they ask to accompany them or attend on their behalf. If any controlled information, technology, software, or equipment will be transferred to a foreign party overseas, a license may be required prior to the transfer unless a valid licensing exception or exclusion applies. Before traveling, Covered Persons must obtain any necessary licenses and register their travel with TCU International Studies.
- C. Restricted Party Screening.** Export Controls restrict or prohibit U.S. individuals and companies from exporting or providing services of any kind to any party contained in U.S. government export denial, debarment, and blocked persons lists. A restricted party screening involves a review of these lists to ensure that the person or entity with whom you are interacting is not restricted. Covered Persons must contact the Office of Research and request a restricted party screening prior to engaging in any research that is subject to Export Controls.

D. International Shipping. All research-related materials, technologies, or equipment being sent outside of the U.S. must be shipped through TCU Mailing Services.

V. Enforcement

Failure to comply with this Policy exposes both the individuals involved and TCU to severe criminal and civil penalties as well as administrative sanctions. TCU may take administrative actions consistent with applicable law and TCU policies, including termination of employment.

VI. Questions/Reports

If you have any questions about this Policy or would like to report a potential violation, please contact the Office of Research. Reports regarding violations of this Policy may be submitted anonymously by using the independent Ethics and Compliance Hotline at 1-877-888-0002. If you would like to request a workshop or training for your research project personnel, please contact the Office of Research, Director of Research Compliance Support and Training.

VII. Related Policies and Procedures

Research Integrity Policy and Procedures
Code of Conduct
Restricted Party Screening Procedures
Export Controls and Research Procedures

VIII. History

Effective Date: December 12, 2017
Last Revised Date: