

Conflict of Commitment

- University SAP 15.99.99.M0.02



History

- Why do we have another SAP?



Foreign Influence

- Federal agencies have expressed concern that foreign entities may be using the academic research enterprise in an attempt to compromise the United States' economic competitiveness and national security.
- Federal funding agencies have sought to clarify longstanding policies and issued new guidance.
- Federal agencies are stressing the importance of disclosures of both conflicts of interest AND conflicts of commitment.



What is a Conflict of Commitment?

- A Conflict of Commitment (COC) exists when a faculty or staff member's external relationships or activities have the possibility (either in actuality or in appearance) of interfering or competing with the University's educational, research, or service missions, or with that individual's ability or willingness to perform the full range of duties and responsibilities associated with his or her position. The COC policy requires disclosure of the performance of duties for an external entity substantially similar to or in competition with any portion of the individual's employment responsibilities as described in the individual's position description, letters of appointment, and workload assignments.



Who does this apply to?

- Employees involved in external relationships or activities, including external activities that include the performance of duties substantially similar to any portion of the individual's employment responsibilities.



What needs to be disclosed?

- Basically, any external employment or other compensated activities related to the employee's University responsibilities or professional expertise.
- Includes:
 - Voluntary or paid expert witness services.
 - Private lessons in art, music, or any field of study.
 - Private counseling for financial aid, career development, and academic considerations.
 - All service on external boards (exceptions).
 - Any uncompensated activity that reasonably appears to create a conflict of commitment.



Exemptions

- Yes, there are exemptions that do not require disclosure.
- Examples
 - Serving on a committee, panel or commission of a U.S. federal, state or local government agency, court, or as an appointee thereof, or U.S. non-profit organization operating under a charter.
 - Acting in an editorial capacity for a professional journal, unless compensated.
 - Reviewing journal manuscripts, book manuscripts, grant or contract proposals.
 - Attending and presenting talks at conferences.
 - Developing scholarly communications.
 - Serving as a committee member, board member, or an officer of a professional or scholarly organization.



What do I do?

- Complete the Conflict of Commitment Form and submit to your unit head.



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Questions





Export Controls

Council of Principal Investigators

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United States Export Controls

- Regulate the transmission of certain information, technologies, services, and items to Foreign Persons in the United States and everyone abroad.
- Restrict/prohibit certain transactions to countries, persons, and entities that have been sanctioned by federal agencies as a threat to important United States interests.
- Violations can result in institutional and personal liability including loss of research funding, significant fines, jail time, debarment, and unwanted publicity.



Restricted or Prohibited Party Lists

- Lists of parties of concern – if a party to a transaction appears on one of the lists, additional due diligence is required before proceeding.
- Depending on the list, a match could indicate strict export prohibition, a specific license requirement, or presence of a "red flag".
- Individuals as well as entities can be on the lists.
- This is why we conduct Restricted Party Screening



Reminders of Export Control Concerns in a University Setting

- Taking/shipping items (equipment, materials, information) out of the United States, or re-export/transfer in a foreign country.
- Engaging in transactions involving certain individuals, entities or countries (Denied Parties and Sanctions).
- Accepting publication restrictions or other restrictions on the distribution of research results or participation of certain persons.
- Foreign Person involvement in teaching or research activities related to controlled equipment or technology (potential deemed export).
- International activities (conferences, collaboration, teaching, travel, etc.).



International Shipping

- Items can be considered “shipped” even if hand carried or if controlled technical data is emailed or transported on a flash drive.
- Exclusions are NOT applicable to shipped items.
- TAMUQ is an international destination.
- Please contact ECO in advance for a license determination for items to be shipped internationally – this includes equipment, chemicals, biologicals, and other items in addition to software and technology.
- Other compliance concerns such as AES/EEL filing with Census Bureau, Hazardous Materials, Fish & Wildlife, etc.



International Shipping Questions

1. What is it?
2. What is the export classification (ECCN and HTS/Schedule B)?
3. What is the value?
4. Where is it going?
5. Who will access/use/maintain it?
6. How will it be used (end use)?
7. Temporary or permanent export?



International Travel

- Traveling with a loaner laptop is strongly recommended.
- When registering travel in Concur:
 - Including specific details regarding the travel helps the review process.
 - Include details like: name of collaborators, their institutional affiliation, locations being visited, if traveling with equipment.



International Travel Questions

1. Where are you traveling to? Will you travel to an embargoed destination?
2. Will you take information, software, or items subject to export control regulations? Includes equipment, biologicals, hazardous materials, etc.
3. Will your activities involve presenting or sharing information not in the public domain?
4. Do you know or believe that the information or activities have a military use?
5. What is the purpose of the travel?
6. Who will you interact with?
7. Will you be furnishing financial assistance or anything of value to a blocked or sanctioned country, individual or entity?



Export Authorizations

- After reviewing a specific scenario, the Export Controls Office determines which of the following will apply:
 - No license required
 - License exception (must meet all the requirements)
 - General license (most commonly for certain activities in embargoed countries)
 - Specific License - requires submission to U.S. Government; this takes additional time and is not guaranteed to be granted



Regulation Trends and Updates

- General trend toward tighter controls and heightened scrutiny of exports.
- Still awaiting changes based on “emerging technologies” – the original published list was very broad and included almost every current research area.
- Recently announced increased controls and filing requirements for many exports to China, Russia, and Venezuela.
- Recently removed a license exception.
- Parties are constantly being added to various lists, so re-screening or dynamic screening is important.
- Focus on Foreign Influence and Conflict of Commitment – seeing different actions and requirements per specific funding agencies rather than broad regulations.



Export Control Resources

- “Export Controls & Embargo Training – Basic Course” #2111212 via TrainTraq
- ECO website: <https://vpr.tamu.edu/initiate-research/export-controls>. Links to the Export Controls Compliance Program Manual, checklists, guidelines, etc.
- Seek guidance from the Export Controls Office. We are here to help you!



Export Controls Office Contacts

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Questions?

Thank you!

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Things to Consider When Agreeing to Host a Visiting Research Scholar

Autumn Biggers

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Definition of a Visiting Research Scholar

A Visiting Research Scholar is an individual employed or affiliated with another organization who has been invited and approved by Texas A&M University to come to the campus for an extended period of time to collaborate on specific research, clinical, or other scholarly activities.



Definition of a Visiting Research Scholar

Visitors who are **NOT** designated as a Visiting Research Scholar are those:

- 1) accompanied by authorized university personnel;
- 2) not accessing university facilities or resources (including UIN, email address, library, etc.);
- 3) not performing “hands-on” research or teaching; **and**
- 4) visiting for a short duration of time (approximately 10 days or less)

Examples of these visits include campus tours, conferences, collaboration meetings, presentation of a paper, etc.



Visiting Research Scholar Responsibilities

An approved Visiting Research Scholar is responsible for:

- Following all University rules and policies
- Following all federal and state laws
- Reporting any IP rights or obligations that may conflict with the obligations of being a Visiting Research Scholar
- Not representing themselves as an employee of the University
- Only accessing facilities and using resources for the purposes of their visiting research scholar assignment and not sharing these resources with another individual (i.e., family, friends, travel companions, etc.)



Host Faculty Member Responsibilities

The host faculty member of an approved Visiting Research Scholar is responsible for the following:

- Supervising the Visiting Research Scholar
- Identifying an alternate host/supervisor if traveling for an extended period of time
- Notifying the OVPR if there is a potential for IP or a need to protect sensitive information
- Notifying the OVPR if the duration, purpose, or location of the visit changes
- Completing the basic export control training in SSO if the Visiting Research Scholar is not a U.S. Citizen
- Ensuring the Visiting Research Scholar has completed any required trainings
- Notifying the appropriate compliance committee if applicable (i.e. IBC, IRB, IACUC)
- Notifying sponsors if the visiting research scholar will be working on a sponsored award, if applicable



Things to Consider Before Hosting a Visiting Research Scholar

- Will the Visiting Research Scholar be exposed to any confidential information, technology, data, etc.?
 - *If yes, it is best to execute an NDA prior to the arrival*
- Will the Visiting Research Scholar be conducting research where development of IP is anticipated?
 - *If yes, it is best to execute an IP agreement prior to the arrival*
- Will the Visiting Research Scholar be performing activities on a sponsored research award?
 - *If yes, the sponsor may need to be notified*
 - *The Visiting Research Scholar should be aware of any applicable terms and conditions associated with the award*



Things to Consider Before Hosting a Visiting Research Scholar

- Will the Visiting Research Scholar be bringing or leaving with any research equipment, materials, chemicals, biologicals, data, etc.?
 - *If yes, separate a MTA and/or export control review may be needed*
- Is the lab covered by a TCP or does it have select agents?
 - *If yes, please contact the export controls office*
- Will the Visiting Research Scholar be working in a shared lab space?
 - *If yes, those working in a shared space should be notified of the Visiting Research Scholar*
- Do you have extended travel planned during the visitation period?
 - *If yes, then a backup host/alternate supervisor will need to be assigned*
- Can the research and results be classified as fundamental?
 - *If no, a license from the federal government may be required prior to any activities being conducted*



Potential Triggers for Export Control Concerns

- Host has a security clearance
- Host is working on federal research awards that contain controlled unclassified information (CUI)
- Research is intended for military purposes
- Activities performed will be related to the spread or increase of nuclear, chemical, or biological weapons or missile technology
- Requesting Visiting Research Scholar does not have relatable experience in the host's field
- No previous connections with a requesting Visiting Research Scholar



Visiting Research Scholars and Foreign Influence

- If a visiting research scholar is performing any activity on a federally funded sponsored award:
 - Look at federal agency guidance
 - The PI is responsible for making the determination and notifying the sponsor



Visiting Research Scholars and Foreign Influence

NIH Foreign Component

- The performance of a significant scientific element of the NIH-supported project outside of the United States.
- Once a recipient determines that a portion of the project will be conducted outside of the U.S., the recipient then will need to determine if the activities are considered significant.
- If both criteria are met, then there is a foreign component.



Visiting Research Scholars and Foreign Influence

Significant Element of a Project

- The recipient institution should evaluate the element of the project that is being conducted outside of the United States within the context of the project as a whole when making determinations about significance. Some examples of activities that may be considered a significant element of the project include, but are not limited to:
 - collaborations with investigators at a foreign site anticipated to result in co-authorship
 - use of facilities or instrumentation at a foreign site
 - receipt of financial support or resources from a foreign entity



Visiting Scholars and Foreign Influence

NIH FAQ

I am PI on an NIH award to a domestic university. I will have a visiting fellow joining my lab whose salary will be supported by a foreign university. Do I need NIH prior approval before the fellow can work on my NIH funded research?

- Since specific circumstances may vary, it would be best to discuss with your Grants Management Officer.





Questions?

Thank you!

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