Kansas State University

Policy Regarding the Export Controls Compliance Review for International Visitors & Scholars

International collaboration is a vital part of K-State's mission. The University strongly encourages engagement with international partners in accordance with all relevant U.S. government laws and regulations, and University mission, objectives, values, and policies.

Purpose

The purpose of this policy is to outline the export controls compliance review procedures to be followed when hosting international visitors or hiring international scholars, to ensure compliance with U.S. export control laws and regulations. An Export Controls Compliance Review for international visitors and scholars is required by the Kansas Board of Regents (KBOR) and National Security Presidential Memorandum 33 (NSPM-33).

Background

K-State welcomes international visitors and scholars to our campuses. International Visitors/Scholars are foreign nationals who wish to visit the University to conduct research, provide instruction, collaborate with university faculty, and observe University instruction or faculty research. The designation "International Visitor/Scholar" is a privilege accorded to scholars temporarily in residence at the University or hired as non-immigrant employees. The University requires that certain International Visitors/Scholars be approved, undergo the appropriate background check, and execute certain agreements.

Export Control Regulations

The Export Administration Regulations (EAR)[1] (15 CFR Parts 770-774) and the International Traffic in Arms Regulations (ITAR)[2] (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons or foreign nationals located in the United States (hereafter referred to as Foreign Nationals), controlled technology or technical data. Release of controlled technology or technical data to a Foreign National in the United States, even by an employer, is deemed an export to that person's country or countries of nationality. Foreign National is defined as a person who is not a lawful permanent resident of the United States, citizen of the United States, or any other protected individual[3].

Export Controlled Activities

The Host/Supervisor and Department need to be aware of how export control regulations may apply to activities conducted with International Visitors/Scholars. The following are examples of when export control regulations may apply:

- When activities the International Visitor will engage in include research that cannot be categorized as fundamental research (i.e., projects contain foreign

national restrictions and/or publication restrictions).

- When the International Visitor will have access to export controlled materials, information or technology or will have access to secure facilities.
- When the International Visitor is a national of a sanctioned or embargoed country.[4]
- When the International Visitor and/or the institution they are affiliated with appears on any of the restricted/prohibited parties lists.

Unless a student or graduate student, an Export Controls Compliance Review must be conducted when the International Visitor/Scholar will:

- Be involved in research projects or any type of collaboration or will have access to laboratories or other research facilities to observe or conduct research.
- Be issued a K-State identification card, keys to offices or labs, or given access to the K-State computing system.
- Receive payment, including honorarium, or reimbursement of expenses.

Categories of International Visitors/Scholars

International Visitors/Scholars are Foreign Nationals who are supported or sponsored by foreign academic institutions, foreign government agencies, or other foreign entities that will be guests on our campus for a specified amount of time and for a specific academic or research purpose. In some cases, an International Visitor is not affiliated with another institution or entity and so will be self-supported or will be supported by the University (as in Category 4 Non-immigrant Employees). All International Visitors/Scholars at Kansas State University will maintain an association with a host faculty member and Department that will serve as the intellectual home for the Visitor.

Category 1: Short Term Visitors: Short-term, non-laboratory visits lasting less than 14 days

Category 2: Visiting Scholars: Visits of any length that involve laboratory or clinically based research; research involving aerospace equipment or technology; access to K-State intellectual property, research data, research facilities, networks, or secure physical spaces; and any stay 14 days or longer

Category 3: Students: Certain Graduate Students, Undergraduate Students and Student Workers who are involved in projects that contain export controlled material, technology, or information: see details below

Category 4: Non-immigrant Employees: Foreign nationals who are being employed at K-State in research and teaching positions

Note: Permanent Residents: Individuals being sponsored for permanent residency also undergo an export controls compliance review but are not included in the scope of these guidelines. Please click here for additional information.

1. Category 1 Short Term Visitors

Category 1 Short Term Visitors are Foreign Nationals who are not enrolled as students or employed at K-State, who come to the University for less than 14 days as a result of a verbal or written invitation made by a K-State faculty member, researcher, or administrator (hereafter referred to as Host). The purpose of such visits includes, but is not limited to, collaboration on areas of mutual interest and participation in general academic and scientific meetings or presentations.

Examples of Category 1 Short Term Visitors:
- Potential collaborator comes to meet with K-State colleague to discuss a research project or collaboration where no export controlled information or technology is exchanged.
- International Visitor comes to tour labs or research facilities (with host escort) that are not controlled by a Technology Control Plan, or otherwise restricted. [This does not include performing lab work: if any work is being done by the visitor in a laboratory or research facility, the visitor becomes a Category 2 Visitor.]
- Faculty from a foreign university comes to participate in general academic or scientific meetings, presentations, seminars, or conferences.
- Foreign government official(s) visit K-State to tour campus, attend meetings, sign a Memorandum of Understanding.

Requirements for Category 1 Short Term Visitors:
In addition to other visitor approval processes that may be required by the Department:
- The Host must complete a Category 1 Short Term Visitor Form in IRB Manager
- A CV is not required, unless requested by the Export Controls Compliance Officer
- An abbreviated Export Control Compliance Review will be done by the Export Controls Compliance Officer, involving Restricted Party Screening, a review of the purpose for the visit, and a research security review, if applicable.

2. Category 2 Visiting Scholars

Category 2 Visiting Scholars are Foreign Nationals who are not enrolled as students or employed at K-State, who will perform laboratory or clinically based research, have access to K-State intellectual property, research data, research facilities, networks, or secure physical spaces and all International Visitors/Scholars staying 14 days or longer. Their visit is a result of a verbal or written invitation made by a K-State faculty member, researcher, or administrator (hereafter referred to as Host). The purpose of such visits includes but is not limited to, collaboration on research areas of mutual interest, conducting research in K-State facilities, and participating in general academic and scientific meetings or presentations.

Examples of Category 2 Visiting Scholars:
- Visiting scholars who perform research at K-State before returning to finish a degree in their home country

- Summer interns
- Researchers with an F1-OPT Visa
- Fulbright Scholars

Requirements for Category 2 Visiting Scholars:
In addition to other visitor approval processes that may be required by the Department:
- the Host must complete an ECCR form in IRBManager
- A detailed CV must be attached to the form: see CV requirements below.
- A Visiting Scholar Agreement must be signed by the Visiting Scholar and Host

Research activity cannot begin until the Export Controls Compliance Review (ECCR) has been reviewed and approved.

3. Category 3 Students

Category 3 Students include Foreign Nationals who are Graduate Research Assistants (GRAs), Graduate Teaching Assistants (GTAs), Graduate Assistants (GAs), Student Workers, and Undergraduate students who perform research AND meet the requirements outlined below.

Category 3 Students will be subject to export controls compliance review when:
- The graduate or undergraduate student will perform research, work with equipment, or work in a facility that is subject to a Technology Control Plan (TCP) or export license.
- The graduate or undergraduate student will be involved in sponsored research that restricts participation of foreign nationals.
- The graduate or undergraduate student will be involved in sponsored projects where any portion of the research results may not be published.
- The graduate or undergraduate student will have access to export controlled technology/technical data or Controlled Unclassified Information (CUI).
- The graduate or undergraduate student is a national of a sanctioned or embargoed country (including, but not limited to Cuba, Iran, North Korea, Syria)
- The graduate or undergraduate student will participate in research that cannot be categorized as fundamental research.

Examples of Category 3 Students:
- Graduate student working on a project with export controlled material where the associated technical data is in the public domain.
- Graduate student from Iran who will perform fundamental research in biology.

Requirements for Category 3 Students:
In addition to other visitor approval processes that may be required by the

Department:
- the Host must complete an ECCR form in IRBManager
- A detailed CV must be attached to the form: see CV requirements below.
- A Visiting Scholar Agreement must be signed by the Student and Supervisor

Research activity cannot begin until the Export Controls Compliance Review (ECCR) has been reviewed and approved.

4. Category 4 Non-Immigrant Employees

Category 4 Non-Immigrant Employees are Foreign Nationals who are being employed at K-State in positions that include, but are not limited to, teaching and research.

Examples of Category 4 Non-Immigrant Employees:
- Assistant Professor, Teaching Assistant Professor, Research Assistant Professor
- Instructor
- Research Associate/Post-Doc

Requirements for Category 4 Non-Immigrant Employees:
In addition to other visitor approval processes that may be required by the Department:
- the Host must complete ECCR form in IRBManager
- A detailed CV must be attached to the form: see CV requirements below.
- A Visiting Scholar Agreement must be signed by the Employee and Supervisor
- An additional review and attestation is required for H1B visas: see below

H1B Visas: The information required on the Export Controls Compliance Review (ECCR) form will be used to determine whether an export license is required for a Foreign National to access export controlled technology or software. The review process must be completed before the proposed employee is hired. The entire review process, including the H1B review, is handled through IRBManager.

- If a license is required, the University Research Compliance Office (URCO) will notify the Department and hiring supervisor. If necessary, URCO is responsible for requesting a license from the relevant federal agency.
- URCO will notify the Department Business Office and ISSS once the H1B review is complete. The Associate Vice President for Research, Compliance, or designee, will sign the Export Control Attestation required for H-1B Visa petitions, indicating whether a license is required, and will submit a signed copy to ISSS for processing as appropriate.
- The Department and hiring supervisor must ensure that controlled technology or technical data is not released or otherwise provided to a proposed employee until K-State has received the required authorization from the relevant U.S. federal agency, when applicable.

- Where appropriate, URCO will assist the Department/Supervisor in developing a Technology Control Plan (TCP) to safeguard controlled technology or technical data.

Research activity cannot begin until the Export Controls Compliance Review (ECCR) has been reviewed and approved.

Export Controls Compliance Review

The Export Controls Compliance Review (ECCR) workflow is managed in IRBManager.

The ECCR review is performed by the Export Controls Compliance Officer and includes:

- Restricted Party Screening (RPS)
- Review of the job description, position description and/or Statement of Work
- Review of the ECCR Checklist
- Funding source(s) review
- License Determination
- CV Review (see CV requirements below)
- Verification of required Export Compliance training
- Screen Commerce Control List and/or U.S. Munitions List for keywords, if applicable
- OFAC review (if International Visitor is from a sanctioned/embargoed nation)
- Research Security Review (if applicable)
- Export Control Strategic Working Group Review (if applicable)

CV Requirements:

A detailed CV must be uploaded into IRB Manager when the Export Controls Compliance Review (ECCR) form is completed for visitors in Categories 2-4.

The CV must include:
  A. All education, training, work experience, and military service, whether or not related to the current position or field of study;
  B. Beginning and end dates, including month and year, for all education, training, and experience;
  C. Location, including city and country, for all education, training, and experience;
  D. An explanation for any time gaps on the CV: explanation(s) can be added to CV or submitted in an attached memo (i.e., vacation, travel, moving, applying for positions, studying for entrance exams, caring for sick relative, working on portfolio; sick leave, unemployed, etc.);
  E. The complete name of all entities: *DO NOT use acronyms or abbreviations*: the complete name of each entity must be spelled out the first time they are listed on the CV. For example, "Kansas State University", not "K-State", "KS State" or "KSU";

F. An English translation, if necessary: names of all entities must be provided in English.

Visiting Controlled Spaces

Access to spaces controlled by a Technology Control Plan (TCP) must be limited. Tours of controlled spaces may not be given without prior review and approval; visitors to these spaces, if approved, must be escorted at all times. Please submit the ECCR form at least 3-4 weeks prior to a planned visit to controlled spaces and describe exact spaces that will be visited, controlled and sensitive materials/information contained in those spaces, and planned strategies to mitigate risk during tours.

Changes to Visitor's Scope of Work

The Department and the Host/Supervisor are responsible for notifying the Department Business Office, University Research Compliance Office (URCO) and International Student & Scholar Services (ISSS) of any anticipated change in job duties or purpose of the visit before such changes are implemented. Changes in job responsibilities or in nature and purpose of a visit may trigger a need for a new license, and therefore could require a fresh export controls compliance review.

Record Retention

Records must be maintained consistent with K-State record retention policy and retained for no less than five years after termination of employment or completion of all activities related to the visit.

University Research Compliance Office (URCO)
Email: comply@k-state.edu or exportcontrols@k-state.edu
Tel: 785-532-3224

[1] https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear

[2] https://www.pmddtc.state.gov/regulations_laws/itar.html

[3] As defined by 8 U.S.C. 1324b(a)(3), protected individual includes a person admitted as a refugee or one granted asylum.

[4] Comprehensively embargoed countries include Cuba, Crimea Region of Ukraine, Iran, North Korea, and Syria. A list of sanction programs and country information are available on OFAC's website https://www.treasury.gov/resource- center/sanctions/Programs/Pages/Programs.aspx