

## **Kansas State University**

### **Policy Regarding International Visitors & Scholars**

International collaboration is vital to K-State's mission. The University strongly encourages engagement with international partners in accordance with relevant U.S. government laws and regulations, and University mission, objectives, values, and policies. However, international collaboration may involve risk to the researcher and university facilities, intellectual property (IP), data and reputation. K-State has instituted this policy to evaluate, address, and mitigate this risk. All international visitors must be screened according to this policy, whether or not they are part of a formal collaboration or involved in research during their visit.

#### **Purpose**

The purpose of this policy is to outline the evaluation criteria, which includes 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 (ECCR) for international visitors and scholars is required by the Kansas Board of Regents ([KBOR](#)) and National Security Presidential Memorandum 33 ([NSPM-33](#)).

#### **Research Security Considerations**

Kansas State University acknowledges important contributions from international collaboration but also has an obligation to meet NSPM-33, KBOR, and federal government requirements regarding the protection of federally funded research results. The screening procedures described in this policy help assess research security related risk to K-State and our faculty and staff. Additional processes and mitigating steps may be put into place to protect the results of research conducted at K-State from inappropriate use or transfer.

#### **Export Control Regulations**

The Export Administration Regulations (EAR)<sup>1</sup> (15 CFR Parts 770-774) and the International Traffic in Arms Regulations (ITAR)<sup>2</sup> (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization (i.e. deemed export license) from the U.S. Government before releasing controlled technology or technical data to Foreign Nationals. 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 or citizen of the United States, or any other protected individual<sup>3</sup>.

#### **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.<sup>4</sup>
- 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 may be 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 entity and may be self-supported or will be supported by the University (as in Category 1 Short Term Visitors and Category 4 Non-immigrant Employees). All International Visitors/Scholars at Kansas State University will maintain an association with a host faculty/staff member and Department that will serve as the intellectual home for the Visitor. Please read the category descriptions below carefully before determining the appropriate category.

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 Residence: 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. Short Term Visitors may have requested a campus visit or may be responding to 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/or 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 an International Visitor, Scholar, Employee 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.

**An approved International Visitor, Scholar & Employee form must be received before the visitor arrives on campus.**

## **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 International Visitor, Scholar, Employee form in [IRBManager](#)
- A detailed CV and Timeline must be provided: see Timeline requirements below.

**Research activity cannot begin until the Export Controls Compliance Review (ECCR) has been completed and the International Visitor, Scholar, Employee form has been 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:

- Host must complete an International Visitor, Scholar, Employee form in [IRBManager](#)
- A detailed CV and Timeline must be provided: see Timeline requirements below

**Research activity cannot begin until the Export Controls Compliance Review (ECCR) has been completed and the International Visitor, Scholar, Employee form has been 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:

- Host must complete an International Visitor, Scholar, Employee form in [IRBManager](#)
- A detailed CV and Timeline must be provided: see Timeline requirements below
- An additional review and attestation are 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 Office of Research Integrity, Compliance, and Security (ORICS) will notify the Department and hiring supervisor. If necessary, ORICS is responsible for requesting a license from the relevant federal agency.
- ORICS 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 and technical data is not released to the proposed employee until the required authorization has been received from the relevant U.S. federal agency, when applicable.
- Where appropriate, ORICS 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 completed and the International Visitor, Scholar, Employee form has been 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
- Review of CV and Timeline (see timeline requirements listed 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)
- Vice President for Research (VPR) Review (if applicable)

## **CV and Timeline Requirements:**

A detailed CV and a complete timeline must be uploaded into IRB Manager when the International Visitor, Scholar, Employee form is completed for visitors in Categories 2-4. The timeline must be prepared by the international scholar, or employee, according to the instructions listed below. The ECCR process will be delayed if the timeline does not meet the requirements.

### **Timeline Instructions:**

- List your full name and the month/year of your birth at the top of the timeline.
- Create a complete timeline including all education, employment, training, and military service.
- Begin the timeline with the month/year that you turned 18 years of age.
- All items on the timeline must have a month/year start date and month/year end date (except the current position where the end date should be listed as “current”).
- Fill gaps in the timeline (if any) with a brief description of activity during the gap periods (i.e., preparing for entrance exams, applying for positions, vacation, travel, moving, caring for sick

relative, parental leave, working on portfolio, obtaining a visa, etc.)

- List the location (city and country) for each item on the timeline.
- All entities on the timeline must be listed in English.
- The name of all entities must be spelled out the first time they are listed on the timeline, i.e., Kansas State University (KSU).
- Add this attestation statement to the bottom of the timeline: "I hereby attest that the information provided above is true, accurate, and complete to the best of my knowledge."
- Add your signature or type your name and add the date to the timeline, under the attestation statement.
- The timeline may be submitted in Word, PDF, or Excel format.

## 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, Office of Research Integrity, Compliance, and Security (ORICS) 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.

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For questions, contact the Office of Research Integrity, Compliance, and Security (ORICS)

[Email: comply@k-state.edu](mailto:comply@k-state.edu) or [exportcontrols@k-state.edu](mailto:exportcontrols@k-state.edu)

Tel: 785-532-3224

<sup>1</sup> <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>

<sup>2</sup> [https://www.pmddtc.state.gov/regulations\\_laws/itar.html](https://www.pmddtc.state.gov/regulations_laws/itar.html)

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

<sup>4</sup> Comprehensively embargoed countries include Cuba, Crimea, Luhansk and Donetsk Regions 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>