

# Export Controls



*April 2017*

**The University of Texas at Austin  
Office of Internal Audits  
UTA 2.302  
(512) 471-7117**

**The University of Texas at Austin  
Institutional Audit Committee**

Mr. William O'Hara, External Member, Chair  
Dr. Gregory Fenves, President  
Dr. Maurie McInnis, Executive Vice President and Provost  
Ms. Patricia Ohlendorf, Vice President for Legal Affairs  
Dr. Daniel Jaffe, Vice President for Research  
Dr. Soncia Reagins-Lilly, Vice President for Student Affairs and Dean of Students  
Mr. Darrell Bazzell, Senior Vice President and Chief Financial Officer  
Ms. Mary Knight, CPA, Associate Vice President for Finance  
Mr. Paul Liebman, Chief Compliance Officer, University Compliance Services  
Mr. Cameron Beasley, University Information Security Officer  
Ms. Christine A. Plonsky, Women's Athletics Director and Executive Senior Associate  
Athletics Director for External Services  
Mr. Tom Carter, External Member  
Ms. Susan Whittaker, External Member  
Ms. Liz Yant, External Member  
Mr. Michael Vandervort, Chief Audit Executive, Office of Internal Audits  
Mr. J. Michael Peppers, Chief Audit Executive, University of Texas System Audit Office

**The University of Texas at Austin  
Office of Internal Audits**

Chief Audit Executive:	Michael Vandervort, CPA
Associate Director:	Jeff Treichel, CPA
Assistant Director:	Angela McCarter, CIA, CRMA Chris Taylor, CIA, CISA
Audit Manager:	*Brandon Morales, CISA, CGAP
Auditor IV:	Cynthia Martin-Hajmasy, CPA
Auditor III:	Julie Drennan *Bill Furman, CIA Stephanie Grayson
Auditor II:	Jason Boone Bobby Castillo *Sumithra Sripatham, CPA
Auditor I:	Ryan Kothlow
IT Auditor:	Joshua Alcala Mike McIntosh Tiffany Yanagawa

\* denotes project members

This report has been distributed to Internal Audit Committee members, the Legislative Budget Board, the State Auditor's Office, the Sunset Advisory Commission, the Governor's Office of Budget and Planning, and The University of Texas System Audit Office for distribution to the Audit, Compliance, and Management Review Committee of the Board of Regents.

**Export Controls  
Project Number: 17.002**



OFFICE OF INTERNAL AUDITS  
THE UNIVERSITY OF TEXAS AT AUSTIN

1616 Guadalupe Street, Suite 2.302 • Austin, Texas 78701 • (512) 471-7117 • FAX (512) 471-8099

April 6, 2017

President Gregory L. Fenves  
The University of Texas at Austin  
Office of the President  
P.O. Box T  
Austin, Texas 78713

Dear President Fenves,

We have completed our audit of Export Controls. Our scope included current export control administration at The University of Texas at Austin (UT Austin).

Based on interviews with relevant staff, reviews of policies and procedures, and testing of sampled sponsored research projects, we conclude that UT Austin has control procedures in place to ensure its employees comply with export control regulations and UT Austin policies. Our audit report provides detailed observations regarding Principal Investigator Memo documentation. Suggestions are offered throughout the report for improvement in the existing control structure.

We appreciate the cooperation and assistance of the Office of Sponsored Projects throughout the audit and hope that the information presented herein is beneficial.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Vandervort".

Michael W. Vandervort, CPA  
Chief Audit Executive

cc: Institutional Audit Committee Members  
Dr. Dan Jaffe, Vice President for Research, Office of the Vice President for Research  
Mr. Jason Richter, AVP and Director of Sponsored Projects (Interim), Office of  
Sponsored Projects  
Ms. Patricia Ohlendorf, Vice President for Legal Affairs  
Mr. Jeff Treichel, Associate Director, Office of Internal Audits



## TABLE OF CONTENTS

Executive Summary .....	1
Background .....	2
Scope, Objectives, and Procedures .....	3
Audit Results .....	3
Conclusion .....	4
Appendix .....	5



## EXECUTIVE SUMMARY

### **Conclusion**

Based on interviews with relevant staff and reviews of policies, procedures, and a sample of sponsored research projects; the Office of Internal Audits (Internal Audits) concludes that The University of Texas at Austin (UT Austin) has procedures in place to comply with export control rules and regulations. However, one recommendation was made to enhance compliance with UT Austin policies and procedures.

### **Summary of Recommendations**

The issue has been ranked according to The University of Texas System Administration Audit Issue Ranking guidelines. Please see the Appendix for ranking definitions. Internal Audits identified one issue regarding a Memorandum to a Principal Investigator describing export controls that was not documented.

The recommendation provided is minor in significance.

### **Audit Scope and Objective**

The scope of this audit included current export control administration at UT Austin. The objectives were to gain an understanding of export-related activities at UT Austin, determine whether a UT Austin-wide export control compliance program has been established, and determine whether the review process for export controls is in accordance with relevant rules and laws.

### **Background Summary**

Export control regulations are federal laws that prohibit the unlicensed shipment or transfer of controlled items, software, technology, services or information out of the United States (U.S.) for reasons of national security or protections of trade. Most exports do not require government licenses. However, licenses are required for exports that the U.S. government considers "license controlled" such as computers or pathogens and defense-related items and services.

The Office of Sponsored Projects (OSP) serves as the coordinating office for externally-funded research projects at UT Austin. The University Export Control Officer at OSP, among other duties, helps to identify export control issues and provides support for their solution.

Export control regulations affect not only research conducted on campus, but also travel and shipping of items outside the U.S. The consequences of violating these regulations can be quite severe, ranging from loss of research contracts to monetary penalties to jail time for the individual violating these regulations.



## BACKGROUND

The Office of Sponsored Projects (OSP) serves as the coordinating office for externally-funded research projects at The University of Texas at Austin (UT Austin). The goal of the OSP is to assist faculty and professional research staff in their efforts to secure and ensure proper stewardship of external funding.<sup>1</sup> The University Export Control Officer (UECO) at OSP helps to identify export control issues and provides support for their solution. In addition, the UECO develops control procedures to ensure UT Austin remains in compliance with export control regulations and educates UT Austin stakeholders about export controls.

Export control regulations are federal laws that prohibit the unlicensed shipment or transfer of controlled items, software, technology, services or information out of the U.S. for reasons of national security or protections of trade. Export controls usually arise for one or more of the following reasons:

- The nature of the export has actual or potential military applications or economic protection issues;
- United States (U.S.) government concerns about the destination country, organization, or individual;
- U.S. government concerns about the declared or suspected end use or the end user of the export.

Most exports do not require U.S. government licenses. However, licenses are required for exports that the U. S. government considers "license controlled" under:

- The Department of Commerce's Export Administration Regulations (EAR). The EAR is concerned with dual-use items, such as computers or pathogens that are designed for commercial use but have the potential for military application.
- The Department of State's International Traffic In Arms Regulations (ITAR) cover defense-related items and services.
- In addition, the Treasury Department's Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions that have been imposed against specific countries based on reasons of foreign policy, national security, or international agreements.<sup>2</sup>

Research on many university campuses is excluded from export control regulations under the Fundamental Research Exclusion. This exclusion allows researchers who are conducting research with the intent of publishing and sharing their results with other researchers an exemption to the export control laws and regulations.

---

<sup>1</sup> OSP Website <https://research.utexas.edu/osp/>

<sup>2</sup> OSP Website <https://research.utexas.edu/osp/manage-awards-and-subawards/export-control/> Export Control Regulations Overview





However, if the research or other activities fall under the export control regulations and universities are not in compliance, the consequences of violating these regulations can be quite severe, ranging from loss of research contracts to monetary penalties to jail time for the individual violating these regulations.

## **SCOPE, OBJECTIVES, AND PROCEDURES**

The scope of the audit included current export control administration at UT Austin. The objectives were to:

- Gain an understanding of export-related activities at UT Austin;
- Determine whether a UT Austin-wide export control compliance program has been established including the development of policy and procedures, training, monitoring and the identification and assignment of responsible officials on all export control activities; and
- Determine whether the review process for export controls is in accordance with UT Austin requirements.

To achieve these objectives, Internal Audits:

- Interviewed relevant staff;
- Reviewed internal and external resources related to export control regulations; and
- Tested a sample of sponsored projects from FY16.

This audit was conducted in accordance with the *International Standards for the Professional Practice of Internal Auditing* and with *Government Auditing Standards*.

## **AUDIT RESULTS**

Export controls cover a wide variety of situations that may be present at any location on campus. A high concentration of export controlled activity flows through the OSP on a regular basis, therefore, Internal Audits focused on this area for testing. Internal Audits chose not to include international travel as part of this audit because of a planned audit of international travel later this fiscal year. UT Austin has procedures in place to comply with export control rules and regulations and has established a UT Austin-wide export control compliance program, however, an opportunity for improvement was identified.

The following recommendation was made to enhance compliance with export control laws, regulations, and UT Austin policy. The issue was ranked according to The University of Texas System Administration Audit Issue Ranking guidelines. Please see the Appendix for ranking definitions.



**Memorandum to Principal Investigator Not Documented**  
**Audit Issue Ranking: Medium**

The Principal Investigator Memorandum (PI Memo) describing export controls could not be located for one (10%) of the 10 projects tested. The OSP Grants and Contracts Specialist responsible for identifying export control issues did not include a copy of the PI Memo in the project folder and there was no evidence in the project folder indicating the PI Memo was issued to the PI. Without documented evidence that a PI Memo was issued, there is an increased risk that the PI may not be aware of export control regulations and penalties.

Section V, C of the *Export Compliance Program Manual* states “If his or her project is awarded, regardless the project’s nature, each PI will receive a PI Memo describing export controls.”

**Recommendation:** Management should ensure that a PI Memo is issued for each project awarded describing export controls and maintain a copy per UT Austin records retention requirements.

**Management’s Response and Corrective Action Plan:** We agree with the recommendation and plan corrective action as follows:

*Negotiated Awards*

Emails to the Principal Investigator (PI), after an initial contract is negotiated, are sent by a negotiator in Office of Sponsored Projects (OSP) detailing the terms of the award; including any export controlled terms or information. These emails are referred to as “PI memos” and will be printed and placed in the paper file. PI memos will not be issued on existing awards that receive supplemental funding or no-cost time extensions, unless new and additional work is contemplated under the project which may need export control review and notices provided to those investigators.

Supervisors will apply a consistent review of all new award documentation to assure that Principal Investigator (PI) memos are issued to principal investigators.

*Non-negotiated Awards*

The Non-negotiated Team often processes awards that are unilateral and do not require signatures by the institutions to officially accept the funding. Therefore, the non-negotiated process includes provision of PI memos after the documents have been processed and the memos are typically sent out by the administrative staff. The Non-negotiated Team will implement quality control procedures including quality control checks to assure that memos are sent out on a consistent basis.





**Responsible Person:** David Hawkins, Associate Director, Negotiated Awards  
Christian Pfeiffer Flores, Assistant Director for Non-Negotiated Awards

**Planned Implementation Date:**

*Negotiated Awards*

Implementation of consistent checks for PI memos in the award documentation file describing the terms of the agreement and export control for negotiated awards will begin immediately (March 15, 2017).

*Non-negotiated Awards*

Quality control procedures to be implemented for non-negotiated awards will be written and implemented within the next thirty (30) days (before April 15, 2017).

**Post Audit Review:** Internal Audits will follow-up in the fourth quarter of FY17.

## CONCLUSION

Based on interviews with relevant staff and reviews of policies, procedures, and a sample of sponsored research projects; the Office of Internal Audits concludes that The University of Texas at Austin has procedures in place to comply with export control rules and regulations. However, one recommendation was made to enhance compliance with UT Austin policies and procedures.

In accordance with directives from The University of Texas System Board of Regents, the Office of Internal Audits will perform follow-up procedures to confirm that the audit recommendation has been implemented.



## APPENDIX

### Audit Issue Ranking

Audit issues are ranked according to the following definitions, consistent with UT System Audit Office guidance. These determinations are based on overall risk to UT System, UT Austin, and/or the individual college/school/unit if the issues are left uncorrected. These audit issues and rankings are reported to UT System directly.

- **Priority** – A Priority Issue is an issue that, if not addressed immediately, has a high probability to directly impact achievement of a strategic or important operational objective of UT Austin or the UT System as a whole.
- **High** – An issue that is considered to have a medium to high probability of adverse effects to UT Austin either as a whole or to a significant college/school/unit level.
- **Medium** – An issue that is considered to have a low to medium probability of adverse effects to UT Austin either as a whole or to a college/school/unit level.
- **Low** – An issue that is considered to have minimal probability of adverse effects to UT Austin either as a whole or to a college/school/unit level. Issues with a ranking of “Low” are reported verbally to the unit and are not included in the final report.