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**SECTION: INSTITUTIONAL COMPLIANCE****AREA: GENERAL ADMINISTRATION****SUBJECT: EXPORT CONTROL MANAGEMENT AND COMPLIANCE POLICY**

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### **PURPOSE**

This policy communicates UAMS' commitment to comply with U.S. export control laws and regulations, including, but not limited to those found in the Export Administration Act and the Export Administration regulations.

### **SCOPE**

This policy applies to all UAMS faculty, staff, students, visitors, and guests (collectively referred to herein as 'workforce'), and it applies to certain software, hardware, technology and other restricted items (collectively referred to as 'restricted items') that are carried or sent outside of the United States by any means or released to in-country, foreign nationals.

### **DEFINITIONS**

Export – The shipment or transfer, by whatever means, of controlled items, software, technology, or services out of U.S.

Deemed Export – Release or transmission of information or technology subject to export control to any foreign national in the U.S., including graduate students and training fellows. Such a release of information is considered to be an export to the foreign national's home country.

Foreign National – Anyone who is (1) not a U.S. citizen, or (2) who is not a lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Any foreign corporation, business association, partnership, trust, society, or any other foreign entity or group as well as international organizations and foreign governments are considered foreign national(s).

Fundamental Research – Fundamental research is research in science, engineering, or mathematics, the results of which ordinarily are published and shared broadly within the research community, and for which the researchers have not accepted restrictions for proprietary or national security reasons. The techniques used during the research are normally publically available or are part of the published information.

Export Controls – Federal laws and regulations that regulate and restrict the release of critical materials and services to foreign nationals and foreign countries for reasons of national security, foreign policy, anti-terrorism or nonproliferation. When faculty, staff, and/or students look to collaborate internationally or with foreign persons within the US or abroad, individuals are dealing with the Export Control Regulations of the United States, as defined below. Export control regulations apply to all activities – not just sponsored research.

The three main export regulations applicable to UAMS are (1) the International Traffic in Arms Regulations (ITAR), (2) the Export Administration Regulations (EAR), and (3) the Office of Foreign Assets Control (OFAC). However, other federal agencies also regulate the export, re-export or re-transfer of certain items and technologies, including, but not limited to, the Nuclear Regulatory Commission (nuclear equipment and materials), the Department of Energy (nuclear technology, high-energy lasers, etc.), the Food and Drug Administration (drugs and medical devices) and the Drug Enforcement Agency (drugs and certain chemicals). (All aforementioned regulations are collectively referred to herein as the “Export Control Regulations”).

## **POLICY**

UAMS is committed to compliance with all U.S. government export control laws and regulations. Export control regulations limit the export of certain restricted items for reasons of national security, foreign policy, competitive trade reasons and national defense. UAMS supports efforts against terrorism and efforts to prevent transactions involving entities engaged in prohibited missile, nuclear, chemical or biological warfare activities. UAMS acknowledges that while international collaboration benefits the medical and academic communities as a whole, the government has an interest in regulating certain transactions and working agreements. Accordingly, in some circumstances, UAMS may be required to obtain prior approval from the appropriate agency before allowing foreign nationals to participate in research, collaborate with a foreign company, or share research results with foreign nationals. Therefore, UAMS has implemented an Export Management and Compliance Program to help prevent restricted items from being exported in violation of U.S. export regulations, and to prevent foreign nationals from accessing restricted items unless a valid export license has been obtained or an exemption from licensing requirements applies.

While all activities at UAMS need to be in compliance with export controls, it should be noted that many research activities will be exempted from export control laws. The Fundamental Research Exclusion covers scientific research that results in publications and open dissemination of research results, as is typically found in academic research. Generally speaking, if the information to conduct research is in the public domain and the results of the research are publishable, the research is covered by the Fundamental Research Exclusion. However, all workforce members engaged in research and research administration involving contact with foreign nationals must be aware of the potential applicability of federal laws and regulations on export controls and recognize when an export license may be required.

For export control purposes, high risk areas include, but are not limited to, research involving contact with foreign nationals and originating in the fields of Engineering, Space Sciences, Computer Sciences, Biology, Biomedical, Energy, Agricultural Development, Chemistry, and Physics. All foreign nationals seeking affiliation with UAMS are required to comply with this policy and U.S. export control regulations. On-going education and training opportunities will be provided through the Export Control Office.

UAMS will assist its workforce in complying with export control laws, including pursuing licenses from U.S. Government agencies, where appropriate. However, the primary responsibility for export control regulatory compliance rests with the individual(s) involved in any given project, as they are the most informed about the details of their respective project(s). The UAMS

Export Management and Compliance Program Guide has been developed to assist with U.S. export control compliance and can be accessed on the UAMS Website at: <http://exportcontrol.uams.edu/>. For questions or further information, please contact the Office of Institutional Compliance, Director of Export Control.

### **TITLE VII DISCLAIMER**

Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, or national origin. UAMS does not condone discrimination of any sort, including discrimination based on national origin. The federal export laws that this policy aims to address only apply to non-citizens. Different restrictions apply to persons of different nationalities. Because of these restrictions, UAMS may be required to impose certain prohibitions upon, or request accommodations from, foreign nationals. These actions are based on federal law and citizenship status and are not discriminatory under Title VII.

### **SANCTIONS**

Penalties for noncompliance can be imposed on institutions and individuals. These may include partial or complete denial of export privileges, civil fines, or seizure of equipment. Criminal penalties for willful violations of U.S. export regulations may include fines of up to \$1,000,000.00 and imprisonment for up to a period of 20 years.

Any workforce member who becomes aware of a potential violation of this policy must immediately report the violation to their supervisor or the Office of Institutional Compliance.

Violation of this Policy may result in disciplinary action, in accordance with UAMS *Administrative Guide Policy 4.4.02, Employee Discipline* or the University of Arkansas System Board of Trustees Policy 405.1, *Appointments, Promotion, Tenure, Non-Reappointment, and Dismissal of Faculty*, as applicable.

### **REFERENCES**

[Bureau of Industry and Security \(BIS\)](#)  
[Export Administration Regulations \(EAR\)](#)  
[International Traffic in Arms Regulations \(ITAR\)](#)  
[Office of Foreign Assets Control](#)

Signature:  \_\_\_\_\_ Date: **February 13, 2018**