



**Audit of Export Controls and
Selected Foreign Influence Compliance**

**Report No. 22/23-01
August 22, 2022**



Office of Internal Audit

Date: August 22, 2022

To: Jennifer LaPorta Baker, Chief Compliance and Privacy Officer

From: Trevor L. Williams, Chief Audit Executive

A handwritten signature in blue ink, reading "Trevor L. Williams", is placed over the "From:" line.

Subject: Audit of Export Controls and Selected Foreign Influence Compliance – Report No. 22/23-01

We have completed an audit of export controls and selected foreign influence compliance for the period July 1, 2021, through February 28, 2022, and have assessed the current practices through June 2022.

Export control laws prohibit the export of certain items and information, or the export of items and information to certain destinations, without an authorization (license). In 2021, the State of Florida passed House Bill CS/HB 7017: *Foreign Influence*, which placed additional emphasis over export controls, as well as the universities' relationships with foreign sources. During the audit, we reviewed University policies and procedures to ensure compliance with federal and state requirements, and to ensure that processes were effective at identifying and managing potential violations.

In summary, we concluded that the University has developed a comprehensive Export Compliance Program. However, we identified areas for process improvement that could enhance compliance with export controls and House Bill CS/HB 7017. We offered eight recommendations to address the issues identified during the audit. Management has agreed to implement all recommendations offered.

We want to take this opportunity to express our appreciation to you and your staff, as well as the Office of General Counsel, the Office of Research and Economic Development, the Office of the Controller, and the FIU Foundation for the cooperation and courtesies extended to us during the audit.

Attachment

C: FIU Board of Trustees

Kenneth A. Jessell, Interim University President

Elizabeth M. Bejar, Interim Provost, Executive Vice President, and Chief Operating Officer

Aime Martinez, Interim Chief Financial Officer and Vice President for Finance and Administration

Javier I. Marques, Vice President for Operations & Safety and Chief of Staff, Office of the President

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EXECUTIVE SUMMARY

Introduction

Export control laws prohibit the export of certain items and information, or the export of items and information to certain destinations, without a license. Recently, the State of Florida passed House Bill CS/HB 7017 (2021) – Foreign Influence, which placed additional emphasis over export controls, as well as the universities’ relationships with foreign entities or persons.

What We Did

We performed this audit to determine whether the University has established processes for managing export controls and in-scope foreign influence compliance requirements.

What We Concluded

Florida International University (FIU) has developed a comprehensive Export Compliance Program. However, we have identified opportunities to improve the export control and foreign influence process. Specifically, controls could be strengthened by the following actions:

Foreign Gifts and Contracts Reporting:

For the reporting cycle reviewed (July 1, 2021, through December 31, 2021), we noted:

- The Office of the General Counsel (OGC) limited its request from Procurement Services (“Procurement”) to only those foreign contracts received directly or indirectly totaling \$50,000 or more, either individually or in the aggregate, during the fiscal year. Procurement did not consider the possible combination of contracts, resulting in two foreign suppliers with combined contract values that exceeded the \$50,000 threshold not being reported to the State University System of Florida Board of Governors (BOG). We recommended that Procurement follow up with the OGC to obtain clarification on the interpretation of what should be reported, and report foreign contracts accordingly.
- Based on section 286.101, F.S., *Foreign gifts and contracts*, suppliers of competitively solicited contracts of \$100,000 or more are required to inform FIU if they have received any foreign gifts, grants, or contracts from foreign countries of concern within the previous five years. Although not a statutory requirement for FIU, to remind suppliers of their obligation, consider adding language to competitively solicited contracts of \$100,000 or more that asks suppliers if they have received any foreign gifts, grants, or contracts from foreign countries of concern within the previous five years.
- Three instances in which foreign sponsors were not reported to the OGC for review, pursuant to the OGC’s request. Ultimately, none of these instances met the BOG’s reporting threshold. In one case the incorrect Sponsor Type was used, while in the other two cases, the awards had not been entered into PantherSoft. The Office of Research and Economic Development (ORED) should develop a mechanism to assess whether projects are timely and correctly input into PantherSoft.

International Travel:

- *Foreign Travel and Guidance Screening Surveys* were not completed. Review the Travel Authorization (TA) mapping for all foreign countries to ensure that employees are not allowed to bypass the *Foreign Travel Guidance and Screening Survey*.
- TAs and *Foreign Travel and Guidance Screening Surveys* were not received in time for approval by the Office of Export Controls before travel began. Establish a timeframe by which foreign travelers should create their TA in advance of their trip.
- Effective July 1, 2022, the Expense Report is to be used for the foreign travel post-trip reporting requirements of section 1010.36, F.S. However, Expense Reports for 40 of the 98 foreign trips scheduled to occur from January through May 2022 were not completed, as the University's Travel guidelines do not require all travelers to complete an Expense Report. This could render the new foreign travel post-trip reporting process confusing and ineffective. Update the University's Office of the Controller Travel & Other Expenses Manual to require foreign travelers to complete Expense Reports, whether requesting reimbursement.
- Six employees traveled to an international destination to work with a foreign government and incorrectly responded "No" to the corresponding question in the *Foreign Guidance and Screening Survey*, thus bypassing the Office of Export Controls review. Consider expanding the guidance to the questions on the *Foreign Travel Guidance and Screening Survey*.

International Shipments:

Information is lacking in the international shipment process to ensure that export control reviews are being conducted when needed. Evaluate and develop mechanisms to assess whether the current process for international shipping is effective and provides reasonable assurance that employees are complying with University policies.

The reportable conditions found and the background giving rise to the foregoing recommendations are detailed in the Observations and Recommendations section beginning on page 9 of this report. We have also included the mitigation plans management has proposed in response to our observations and recommendations, along with their implementation dates and complexity ratings.

OBJECTIVES, SCOPE, AND METHODOLOGY

Pursuant to the Office of Internal Audit (OIA) approved annual plan for the 2022-2023 fiscal year, we have completed an audit of export controls and selected foreign influence compliance. The primary objective of our audit was to evaluate the effectiveness of the University's efforts to comply with applicable federal export control regulations and selected foreign influence state statutes,¹ specifically as it relates to:

- foreign gifts and contracts
- foreign travel
- deemed exports
- research

Our audit period was July 1, 2021, through February 28, 2022. Additionally, we assessed the current practices through June 2022.

The audit was conducted in conformance with the *International Standards for the Professional Practice of Internal Auditing*, promulgated by The Institute of Internal Auditors. The audit included tests of the supporting records and such other auditing procedures, as we considered necessary under the circumstances. Audit planning and fieldwork were conducted from March 2022 to June 2022.

During the audit, we:

- reviewed University policies and procedures, and applicable laws, rules, and regulations (federal and state, accordingly),
- interviewed responsible personnel,
- obtained an understanding of management's processes related to export controls and selected foreign influence regulations,
- evaluated documentary evidence, and
- reviewed and evaluated in-scope controls.

Sample sizes selected for testing were determined on a judgmental basis applying a nonstatistical sampling methodology.

We reviewed all internal and external audit reports issued during the last three years for recommendations related to the scope and objective of this audit and found one report, *Audit of Conflict of Interest and Related Party Transactions*, Report No. 21/22-05, issued March 7, 2022, with a related recommendation which we followed up and reported herein.

¹ Florida House Bill CS/HB 7017 (2021), *Foreign Influence*, approved by the Governor on June 7, 2021, and became effective July 1, 2021, requires public disclosure of foreign gifts, scrutiny of grant applicants and vendors with certain foreign connections, and thorough scrutiny of foreign applicants for research positions and of foreign travel and activities of employees of major research institutions. The scope of our audit did not include International Cultural Agreements (section 288.860 F.S.) or Screening Foreign Researchers (section 1010.35 F.S.).

BACKGROUND

FIU's export compliance program is led by the Office of University Compliance and Integrity. The FIU Office of Export Controls, overseen by University Compliance staff, is responsible for facilitating the University's export compliance procedures across all academic, research, operational, and business activities.

Export Controls

Export control laws prohibit the export of certain items and information, or the export of items and information to certain destinations, without a license. The term "export" is defined to include the transmission of goods outside of the United States, as well as the transmission of information by any means to foreign nationals, whether in the U.S. or abroad.²

More specifically, "exports" are defined in two principal ways:

- Shipments of items or data abroad by any means – such as, cargo shipments; electronic data transmission (email), spoken communication, hand carried articles, fax, and courier.
- Disclosure of visual and computer access to export-controlled items, technology or technical data (hard or soft copy), occurring in the U.S. by foreign persons of certain countries validly here on temporary student or employment visas, but who are neither U.S. citizens nor permanent residents; the export is "deemed" to occur upon the foreign national's return to his/her home country. This also includes any company not incorporated in the United States.

Export controls are regulated by the following regulations:

Regulation	Governance
Export Administrative Regulations (EAR) (15 CFR § 730.1 - 15 CFR § 774.2)	"Dual-use" items. These are items having both civilian and military or defense applications.
International Traffic in Arms Regulations (ITAR) (22 CFR § 120.1 - 22 CFR § 130.17)	Defense articles and activities, as well as all space launch related items and activities.
Office of Foreign Assets Controls (OFAC) Regulations (31 CFR § 501.101 - 31 CFR § 598.901)	Exports and other transactions with economically embargoed countries and parties as well as those designated as sponsoring terrorism.

Failure to adhere to these regulations can result in severe monetary penalties (up to \$1 million per violation), revocation of export privileges, debarment from federal funding,

² A "Foreign National" is any person who is NOT a: U.S. Citizen or National; U.S. Lawful Permanent Resident; or Person Granted Asylum/Refugee Status.

and civil or criminal enforcement (up to 20 years imprisonment, as applicable) against both FIU and/or the individual/Principal Investigator (PI) to whom a violation is attributed.

Export Control concerns may arise not only in research but also in activities unrelated to research. However, most campus activities will not be subject to export controls or licensing requirements, as they will fall under one of the following three common exclusions:

- 1. Fundamental Research Exclusion (FRE)** - Basic or applied research in science and/or engineering at an accredited institution of higher learning in the U.S. resulting in information that is ordinarily published and shared broadly within the scientific community. University research will not qualify for this exclusion if: (1) the university or investigator accepts any restrictions on the publication of the information resulting from the research or (2) the research has dissemination restrictions including restrictions on access based on citizenship. Moreover, the fundamental research exclusion applies only to information and does not apply to a sponsor's existing proprietary information when some or all of that information is required to be held confidential.
- 2. Educational Information Exclusion** - Export control regulations do not apply to information released in academic catalog-listed courses or in teaching labs associated with those courses. This exclusion is based on the recognition in ITAR that "information concerning general scientific, mathematical, or engineering principles commonly taught in schools, colleges, and universities, or information in the public domain" should not be subject to export control restrictions.
- 3. Publicly Available or Public Domain Information Exclusion³** - Information that is published and generally available to the public, as well as publicly available technology and software, are outside the scope of the export control regulations. This exclusion does not apply to encrypted software, to information if there is reason to believe it may be used for weapons of mass destruction, or where the U.S. government has imposed access or dissemination controls as a condition of funding.

³ Public domain is defined as information that is published and generally accessible to the public: (1) through sales at newsstands and bookstores; (2) through subscriptions available without restriction to anyone who may want to purchase the published information; (3) through second class mailing privileges granted by the U.S. government; (4) at libraries open to the public or from which the public can obtain documents; (5) through patents available at any patent office; (6) through unlimited distribution at a conference, meeting, seminar, trade show, or exhibition that is generally accessible to the public and is in the U.S.; (7) through public release (i.e., unlimited distribution) in any form (not necessarily published) after approval by the cognizant U.S. government department or agency; and (8) through fundamental research.

Below are examples of research and non-research activities that may be subject to export controls compliance requirements.

Activities that may be Subject to Export Controls Compliance Requirements	
Research	Non-Research
<ul style="list-style-type: none"> • Outbound shipments to foreign destinations • Laboratory access to controlled equipment and technical data • International collaborations • Teaching/lecturing abroad and participating in international conferences • Foreign travel • Hosting foreign national visitors (non-U.S. persons) • Any research activities not covered by the FRE needs to be evaluated for export compliance purposes 	<ul style="list-style-type: none"> • Outbound shipments to foreign destinations • Laboratory access to controlled equipment and technical data • Teaching/lecturing abroad and participating in international conferences • Foreign travel • Hosting foreign national visitors (non-U.S. persons)

Source: FIU Export Control

Foreign Influence Overview

Effective July 1, 2021, Florida House Bill 7017, *Foreign Influence*, requires public disclosure of foreign gifts, scrutiny of grant applicants and vendors with certain foreign connections, and thorough scrutiny of foreign applicants for research positions and of foreign travel and activities of employees of major research institutions. The Bill was codified into Florida Statutes in the following sections:

- 1010.25, *Foreign Gift Reporting*
- 286.101, *Foreign Gifts and Contracts*
- 288.860, *International Cultural Agreements*
- 1010.35, *Screening Foreign Researchers*
- 1010.36, *Foreign Travel; Research Institutions*

Foreign Gifts and Contracts Reporting

Sections 1010.25 and 286.101, F.S., require institutions of higher education to report any foreign gifts or contracts, respectively, received semiannually (January 31 and July 31) to the BOG. Reporting must include the amount of the gift, the date the gift was received, the contract start and end dates, the name of the foreign source, and a copy of the agreement. If a foreign source provides more than one gift directly or indirectly and the total value exceeds \$50,000, all gifts from that foreign source must be included in the report.

Foreign Travel

Section 1010.36, F.S., requires that by January 1, 2022, each state university or specified entity with a research budget of \$10 million or more, establish an international travel approval and monitoring program, which must require preapproval and screening by a research integrity office for any employment-related foreign travel and activities engaged in by faculty, researchers, and research department staff.⁴ Additionally, the statute requires the state university or entity to provide an annual report of foreign travel to countries of concern,⁵ with specified information, to the applicable governing entity, and that a specified inspector general perform an operational audit regarding implementation of the statute by July 1, 2025.

The University amended its TA process in 2021 to include an Export Questionnaire for International travel to address the requirements of section 1010.36, F.S. The new TA process was launched in January 2022, and includes Foreign Influence filters, a review of all foreign travel via a screening tool, and a new approval workflow. Anyone traveling to a foreign destination must complete the questionnaire now embedded into the TA. This screening must be answered before travel is approved, and it is applicable to any trip where FIU is the business reason, even if the trip is being sponsored by another institution.

⁴ FIU's 2021 - 2022 annual budget for Contracts and Grants expenses was \$234.3 million.

⁵ Iran, Syria, North Korea, Cuba, China, Russia, and Venezuela.

OVERALL ASSESSMENT OF INTERNAL CONTROLS

Our overall assessment of internal controls is presented in the table below.

INTERNAL CONTROLS ASSESSMENT			
CRITERIA	SATISFACTORY	OPPORTUNITIES TO IMPROVE	INADEQUATE
Process Controls		X	
Policy & Procedures Compliance	X		
Effect	X		
Information Risk	X		
External Risk	X		
INTERNAL CONTROLS LEGEND			
CRITERIA	SATISFACTORY	OPPORTUNITIES TO IMPROVE	INADEQUATE
Process Controls: Activities established mainly through policies and procedures to ensure that risks are mitigated, and objectives are achieved.	Effective	Opportunities exist to improve effectiveness	Do not exist or are not reliable
Policy & Procedures Compliance: The degree of compliance with process controls – policies and procedures.	Non-compliance issues are minor	Non-compliance issues may be systematic	Non-compliance issues are pervasive, significant, or have severe consequences
Effect: The potential negative impact to the operations- financial, reputational, social, etc.	Not likely to impact operations or program outcomes	Impact on outcomes contained	Negative impact on outcomes
Information Risk: The risk that information upon which a business decision is made is inaccurate.	Information systems are reliable	Data systems are mostly accurate but need to be improved	Systems produce incomplete or inaccurate data which may cause inappropriate financial and operational decisions
External Risk: Risks arising from events outside of the organization's control, e.g., political, legal, social, cybersecurity, economic, environment, etc.	None or low	Potential for damage	Severe risk of damage

OBSERVATIONS AND RECOMMENDATIONS

Areas Within the Scope of the Audit Tested Without Exception:

Export Control Program

We obtained the *Export Compliance Guidelines* from the U.S. Department of Commerce, Bureau of Industry and Security, which outlines best-practice elements for the basic structure of an effective export compliance program (ECP). These elements include:

- Management Commitment
- Risk Assessment
- Export Authorization
- Recordkeeping
- Training
- Audits
- Handling export violations and taking corrective actions
- Build and maintain your ECP

We reviewed the University's export compliance program and concluded that it was robust and incorporated the eight elements.

International Travel and Approval Program

The University has developed an international travel approval and monitoring program that adequately satisfies the requirements of section 1010.36(1), F.S., *Foreign Travel; Research Institutions*. The established program requires preapproval and screening by the Office of Export Controls prior to any employee engaging in foreign travel on behalf of the University.

Export Control Training

The University's *Export Control Policy* (2370.010) states that, "all University personnel (research, academic, operational, administrative); students, visitors, and courtesy faculty appointments conducting any research, academic, operational/administrative or business activity on behalf of FIU shall, respectively, comply with FIU's Export Compliance and Trade Sanctions procedures."

The University recently introduced on-demand export control training, which is available through FIU Develop. The trainings include *Export Control Basics*, *Export Control for Health Sciences Professionals*, and *Export Control for Research and Operations Personnel*.

While all members of the University community are encouraged to partake in the trainings, currently, the trainings are not mandatory. However, export control training will become a requirement for all personnel engaged in externally funded research beginning Fall 2022. Therefore, we did not review these trainings for overall completion. Instead, we reviewed the content embedded into each training and concluded that the material effectively addressed export control regulations, University policies, and common export control processes.

Supplemental export control training is available for employees engaged in research and is provided through a third-party, Collaborative Institutional Training Initiative (CITI) Program. The content effectively addresses an overview of U.S. export control regulations, including Export Administration Regulations, the International Traffic in Arms Regulations, and the Treasury Department's Office of Foreign Assets Control.

Restricted Party Screenings

Export Control regulations across various governing agencies broadly restrict a U.S. person (which for these purposes includes a U.S. institution such as FIU) from conducting or facilitating an export, re-export, or deemed export activity with watch-listed persons or entities that have been flagged because of national security, nuclear, chemical/biological, economic sanctions, or other federal concerns. These prohibitions also extend to conducting financial and/or service transactions with so-called "blocked" or "prohibited" persons or entities identified by OFAC's Specially Designated Nationals List (SDNL).

We performed restricted party screenings of 50 foreign suppliers (23%), 50 foreign donors (54%), and 50 foreign national employees engaged in research (7%) from the respective databases and did not identify any matched entities or persons that were flagged as blocked or prohibited by OFAC.

Sponsored Research Pre-Award Expenses

To ensure that projects were reviewed for export control prior to expenses being incurred, we compared the project's creation date in PantherSoft to when expenses were first charged. We judgmentally sampled 30 research projects of 484 (6%) that were started July 1, 2021, through February 28, 2022. We noted five instances (17%) in which research-related purchases began prior to the projects created date. However, these were transactions for award continuations (that had predated the project start date) or were for projects that permitted pre-award spending. We validated that none of these transactions involved export-controlled items. Nevertheless, pre-award expenditures of non-continuing awards permitted by the sponsors could potentially be subject to export controls in other circumstances.

FIU Foundation Foreign Gift Reporting

We identified 33 donors with associated foreign addresses who made financial donations to the University during the reporting period and judgmentally selected a sample of 15 donors. We reviewed the respective gifts and found that all gifts were reported to the OGC, as well as to the BOG in accordance with section 1010.25, F.S.

Aggregate Analysis of Foreign Gifts and Contracts

We conducted an aggregate analysis, which took into consideration all in-scope foreign gifts and contracts⁶ under the \$50,000 BOG reporting threshold to identify any foreign entities or persons, which may have met the reporting threshold using distinct methods (i.e., research award, donation, purchase order) and no exceptions were noted. The OGC conducts a similar analysis when reviewing foreign entities or persons that should be reported.

Review of Potential Foreign Influence Disclosures

As a result of a previous audit recommendation noted in our *Audit of Conflict of Interest and Related Party Transactions*, Report No. 21/22-05, question 2 of the *Outside Activity/Conflict of Interest* form dealing with foreign influence activity was revised. For the period of March 29, 2022, through June 6, 2022, we identified 121 instances in which employees answered “Yes” to question 2, and we judgmentally selected a sample of 30 submissions. We found that ORED completed reviews on all these instances.

⁶ Total Contract Manager (TCM) contracts, purchase orders, unencumbered payments, purchasing card transactions, ORED awards, ORED agreements, and FIU Foundation gifts.

Areas Within the Scope of the Audit Tested With Exception:

1. Foreign Gifts and Contracts Reporting

Florida Statutes sections 1010.25, *Foreign Gift Reporting* and 286.101, *Foreign Gifts and Contracts*, require institutions of higher education to report semiannually (by January 31 and July 31) to the BOG any foreign gifts or contracts received directly or indirectly with a value of \$50,000 or more, either individually or in the aggregate, during the fiscal year.

For the reporting period of July 1, 2021, through December 31, 2021, any units that received gifts from a foreign source, entered into contracts with a foreign source, or received any payments under already-existing contracts or gifts with a foreign source were required to report all such gifts, contracts, and payments (regardless of dollar value) to the OGC.

We validated that the University timely reported foreign gifts and contracts to the BOG prior to the January 31, 2022, deadline. Additionally, we sampled select units, including Procurement, ORED, and the FIU Foundation to determine whether all foreign gifts and contracts were reported to the OGC for review, and if applicable, reported to the BOG.⁷ The results of this test are detailed below.

Procurement

We evaluated the adequacy of Procurement's process for compiling contracts with foreign suppliers⁸ and noted the following deficiencies:

- Total Contract Manager (TCM) contracts,⁹ purchase orders, unencumbered payments, and purchasing card ("PCard") transactions were only provided to the OGC if they met or exceeded \$50,000 during the fiscal year. On December 2, 2021, the Office of University Compliance & Integrity sent an email to University members responsible for reporting stating, "*Units that, between July 1, 2021 and December 31, 2021 (the "Reporting Period"), (i) received Gifts from a Foreign Source; (ii) entered into Contracts with a Foreign Source; or (iii) received any payments under already-existing Contracts or Gifts with a Foreign Source, must report all such Gifts, Contracts and payments of **any dollar value** to the OGC.*" Additionally, the instructions provided to Units on the *Foreign Gifts & Contracts*

⁷ Following the submission for the July 1, 2021, through December 31, 2021, reporting period, the BOG issued supplemental guidance in April 2022 which clarified that the term "contracts" includes procurement contracts as interpreted by the BOG and that the University should report procurement contracts meeting the monetary threshold when: (1) the University purchases, leases, or barter for property or services from a foreign country of concern, or (2) any foreign source purchases, leases, or barter for property or services from the University.

⁸ Suppliers with a foreign address shown in PantherSoft.

⁹ TCM is an application FIU uses for creating, maintaining, and managing procurement contracts.

Reporting Workbook reiterated the same instructions noted in the December 2, 2021, email. However, due to the large quantity of Procurement transactions, the OGC made an exception for Procurement on December 16, 2021, noting that they were limiting their request to only those contracts, purchase orders, or unencumbered payments with foreign suppliers that met the following criteria:¹⁰

1. Procurement contracts, purchase orders, and/or unencumbered payments with foreign suppliers with a value of \$50,000 or more during the period, including:
 - A single contract, purchase order or unencumbered payment with a foreign supplier with a value of \$50,000 or more;
 - Multiple contracts, purchase orders, or unencumbered payments (or any combination thereof) with a foreign supplier with a total value of \$50,000 or more; and
2. Procurement contracts, purchase orders, and/or unencumbered payments of any dollar value with a foreign country of concern.

After performing detailed testing of Procurement's contracts (detailed below) we found that Procurement did not properly calculate the total value of supplier contracts when a combination of procurement methods was used for a supplier, resulting in incorrect contract values being reported to the OGC.

- Purchase orders created during the reporting period were compiled based on paid vouchers, not on the total value of the purchase order (as a portion of open and unfulfilled purchase orders remained unpaid as of the reporting date). The OGC's interpretation of the threshold for purchase orders created during the reporting period is the purchase order's value and not what has been paid.

To determine if Procurement reported all applicable foreign contracts to the OGC for the reporting period established by section 1010.25, F.S., *Foreign gift reporting*, we extracted foreign suppliers with:

- TCM contracts executed during the reporting cycle with total values (whether paid or not) of \$50,000 or more;
- TCM contracts executed prior to the reporting cycle with total paid vouchers of \$50,000 or more;
- Purchase orders created during the reporting cycle with total values (whether paid or not) of \$50,000 or more;
- Purchase orders created prior to the reporting cycle with total paid vouchers of \$50,000 or more;

¹⁰ The OGC informed us that as part of their follow-up discussions (post December 16, 2021, email) with Procurement, the OGC has determined that PCard transactions should also be reported in Procurement's template. The OGC has informed us that they have now referenced PCard transactions specifically in the template for future reporting cycles.

- Unencumbered payments of \$50,000 or more; and
- Purchasing card transactions of \$50,000 or more.

Although the BOG issued subsequent guidance in April 2022 (See *supra* note 7, page 12) to limit the reporting to foreign countries of concern and none of the suppliers were so identified, the OGC requested that all foreign suppliers be included in the submission. As such, we examined the population of 36 foreign suppliers and judgmentally selected a sample of 20 for testing. We found deficiencies with 10 suppliers, including:

- Five foreign suppliers not reported to the OGC. Of the five, two had contracts (totaling \$207,086) with values that exceeded the \$50,000 or more threshold and were not reported to the BOG. Procurement did not report the three other suppliers to the OGC because of the revised criteria for reporting that the OGC established as explained on page 13).
- Five foreign suppliers reported to the OGC with incorrect contract values, which the OGC thereafter reported to the BOG.

However, as previously noted, none of the 10 foreign suppliers were from countries of concern and, thus, did not need to be reported to the BOG.

Additionally, section 286.101(3)(a), F.S., states:

“Any entity that applies to a state agency or political subdivision for a grant or proposes a contract having a value of \$100,000 or more shall disclose to the state agency or political subdivision any current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern if such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous 5 years.”

Although the responsibility to disclose such information to the University lies with the supplier, we observed that suppliers with contracts of \$100,000 or more are not asked during onboarding whether they have received any foreign gifts, grants, or contracts from foreign countries of concern (See *supra* note 5, page 7) within the previous five years. Doing so would serve as a reminder of the supplier’s obligation to the University and is a process improvement. The OGC has interpreted the term “contracts” in relation to a state agency or political subdivision as referring to competitive solicitations.

Office of Research and Economic Development

We met with ORED to evaluate the adequacy of its process for identifying foreign gifts and contracts that are reported to the OGC. ORED's submission of gifts and contracts with foreign entities or persons includes:

- All active awards that have foreign sponsors, regardless of award amount.
- All agreements (i.e., Memorandums of Understanding, Material Transfer Agreements, Collaboration Agreements, Teaming Agreements, Data Use/Sharing Agreements) with foreign entities or persons that have a financial component, regardless of agreement amount.

To determine whether ORED reported all applicable foreign contracts to the OGC for the reporting period, we identified:

- Active awards with foreign sponsors, regardless of the award amount.
- Active agreements with foreign entities or persons.

We identified a population of 23 foreign awards that were active during the reporting period and judgmentally sampled 15. We found deficiencies with three foreign awards, including:

- Three instances in which foreign sponsors were not reported to the OGC for review. We determined that one of the instances resulted from the incorrect *Sponsor Type* being input into PantherSoft, which caused the foreign award to be excluded from the results of the query used to extract reportable foreign awards. The other two were input after the query had been run. None of these instances met the BOG's reporting threshold.

Additionally, we identified 37 foreign agreements and judgmentally selected a sample of five for testing.¹¹ We found no exceptions as none of the five agreements tested met the reporting criteria.

The Foreign Influence bill subjects an Institute of Higher Education that negligently fails to disclose required information to a civil penalty of 105 percent of the amount of the undisclosed gift, payable from nonstate funds. We found no evidence of negligence on the University's behalf.

¹¹ Foreign agreements do not have to be reported to the BOG unless they have a financial component with a value of \$50,000 or more. Due to the nature of agreements, we were unable to determine from the population report alone, whether a foreign agreement had a financial component and when applicable, its value. Therefore, we limited our sample to five foreign agreements, of which one had a foreign component with a value under \$50,000.

Recommendations

Procurement Services should:	
1.1	Follow up with the Office of General Counsel to obtain clarification on the interpretation of what should be reported to them and follow through on reporting the required foreign contracts pursuant to said clarification.
1.2	Consider adding language to competitively solicited contracts of \$100,000 or more asking suppliers whether they have received any gifts, grants, or contracts from foreign countries of concern within the previous five years (Florida Statute 286.101, <i>Foreign gifts and contracts</i>).
The Office of Research and Economic Development should:	
1.3	Establish a mechanism (i.e., query) to periodically assess whether project data, including sponsor information, are timely and correctly input into PantherSoft.

Management Response/Action Plan

- 1.1 Procurement Services will work closely with the OGC to determine what should be reported and will report on the required foreign contracts.

Implementation date: December 30, 2022

Complexity rating: 1 - Routine

- 1.2 Procurement Services will work closely with the OGC to add language to competitively solicited contracts of \$100,000 or more that will ask suppliers whether they have received any gifts, grants, or contracts from foreign countries of concern within the previous five years (Florida Statute 286.101, *Foreign gifts and contracts*).

Implementation date: December 30, 2022

Complexity rating: 1 - Routine

- 1.3 A supplemental query will be created to review foreign addresses on a semi-annual basis to ensure that foreign sponsors are set up appropriately.

Implementation date: November 15, 2022

Complexity rating: 2 - Moderate

2. Foreign Travel

Foreign travel by University employees or students is subject to foreign influence state regulations and may also be subject to federal export control regulations, depending on the travel destination, nature of travel, and the hardware, software, and/or technical data that is taken on the trip.

Foreign Travel Guidance and Screening Surveys

To comply with section 1010.36, F.S., *Foreign travel; research institutions*, as of January 1, 2022, all FIU faculty, staff, students, and other personnel traveling abroad on FIU-sponsored trips, or for any international travel on behalf of FIU, are required to read and acknowledge their understanding of the University's Guidance for International Travel. This Guidance includes essential information about complying with Foreign Influence, Export Controls, and OFAC trade sanctions.

We identified all foreign travel authorization requests created between January 1, 2022, and April 30, 2022, that met one of the following criteria:

- The destination on the TA was to a foreign country of concern (*See supra* note 5, page 7);
- The traveler responded "Yes" or "Not Sure" to any of the questions on the Foreign Travel Guidance and Screening Survey; or
- A Survey was not completed.

For the period tested, we identified 87 foreign travel authorization requests, which met at least one of the criteria above and judgmentally selected a sample of 30 TAs to determine if travelers completed the *Foreign Travel Guidance and Screening Survey* and whether the travel was timely reviewed and approved, prior to the travel occurring. We found deficiencies for 10 (33%) of the TAs tested. Specifically:

- Seven instances in which *Foreign Travel Guidance and Screening Surveys* were not completed by the travelers, resulting in a review by the Office of Export Controls not being conducted. Six of these instances were caused by a mapping issue, in which Seville, Spain was set up as a domestic location, rather than a foreign location, and the remaining instance was the result of Nice, France also being set up as a domestic location. Therefore, any travel to these destinations was not mapped to require completion of the survey. The mapping to Seville, Spain and Nice, France has since been corrected by the Office of the Controller.
- Two instances in which the TA and *Foreign Travel Guidance and Screening Surveys* were not received by the Office of Export Controls in time for approval before travel began. Although the Office of Export Controls completed its review timely (within seven days of receiving the Surveys, as established by the Office of Internal Audit), travelers were allowed to travel to a foreign country, without the required preapproval and screening by the Office of Export Controls, in violation of section 1010.36, F.S.

- One instance in which the Office of Export Controls review was not completed in a reasonable time frame (seven days). The survey took 12 days to approve, due to the transition of duties when an Office of Export Controls team member went on family leave.

Records of Post-trip Expenses

Section 1010.36, states:

"The state university or entity must maintain records of all foreign travel requests and approvals; expenses reimbursed by the university or entity during such travel, including for travel, food, and lodging; and payments and honoraria received during such travel and activities, including for travel, food, and lodging. The state university or entity must also keep records of the purpose of the travel and any records related to the foreign activity review. Such records must be retained for at least 3 years or any longer period of time required by any other applicable state or federal law."

At the time of testing, the post-trip expense reporting requirement was addressed by the Office of Export Controls requesting that foreign travelers complete a post-trip Qualtrics survey. Beginning July 1, 2022, this post-trip questionnaire has been embedded into the Expense Report. Therefore, we reviewed Expense Reports to assess their reporting effectiveness and to identify any weaknesses that may affect the new post-trip expense reporting process.

We identified all foreign travel that was scheduled to occur January 1, 2022, through May 12, 2022, and identified a population of 98 trips. However, as of the date tested, we found that 40 trips (40.8%) did not have Expense Reports completed. The count of elapsed days between the end-of-travel date and our test date ranged from 12 to 129. Our follow up with the Office of the Controller revealed that several of the travelers did not complete Expense Reports since the trips were not funded by the University and, therefore, reimbursements were not required. The University's *Office of the Controller Travel & Other Expenses Manual* does not mention that an Expense Report is required if travel is fully funded by another entity, only if costs are paid by the University or split between the University and another entity. Although the foregoing results might not have been indices of non-compliance with the University's existing post-travel expense reporting guidelines, they demonstrated a gap in the expense reporting process that, if not addressed, could adversely impact the effectiveness of the University complying with the post-trip reporting requirements of section 1010.36, F.S.

For the remaining 58 trips, we judgmentally selected a sample of 30 Expense Reports and validated that post-trip expense details were recorded and supported.

Foreign Travel Potentially Involving Export Controls

Pursuant to U.S. Government Federal Export Control regulations, we identified 241 instances of foreign travel that were scheduled to take place July 1, 2021, through February 28, 2022. We judgmentally selected a sample of 40 TAs to determine if the University complied with federal export regulations and found the following exceptions:

Six instances (one trip) in which employees traveled to an international destination to work with a foreign government and prior review from the Office of Export Controls was not obtained. The six travelers incorrectly responded “No” to the corresponding question in the *Foreign Guidance and Screening Survey* which would have prompted the TA to be routed to the Office of Export Controls for review. The Office of Export Controls subsequently confirmed that after their review of the trip details (post-travel), the trip did not require a federal export authorization (license).

Failing to adhere to State and Federal regulations may result in significant civil fines and/or criminal prosecution at the individual and/or institutional level, as well as suspension of export privileges.

Recommendations

The Office of the Controller should:	
2.1	Review the Travel Authorization mapping for all foreign countries to ensure that employees are not allowed to bypass the <i>Foreign Travel Guidance and Screening Survey</i> .
2.2	Establish a timeframe by which foreign travelers should create their TA in advance of their trip so that the Office of Export Controls can complete their screening and approve the TA well in advance of the travel date.
2.3	Update the Travel Manual to require foreign travelers to complete an Expense Report whether a reimbursement is being requested.
The Office of Export Controls should:	
2.4	Consider expanding the guidance provided to the questions on the <i>Foreign Travel Guidance and Screening Survey</i> , possibly including examples, so that travelers can better understand scenarios that may require export control review.

Management Response/Action Plan

- 2.1 The FSSS (Financial Systems Support Services) area will review and make the necessary system changes to prevent the bypass of the Foreign Travel Guidance and Screening Survey questions.

Implementation date: December 30, 2022

Complexity rating: 1 - Routine

- 2.2 Foreign travelers should create their TA at least 7 business days in advance of their trip so that the Office of Export Controls can complete their screening in advance of the travel date. This requirement will be incorporated in the Travel Training, Travel Manual, and communicated to the University Community.

Implementation date: October 1, 2022

Complexity rating: 1 - Routine

- 2.3 The Travel Department will update the Travel Manual to require foreign travelers to complete an expense report regardless of whether reimbursement is being requested.

Implementation date: October 1, 2022

Complexity rating: 1 - Routine

- 2.4 The Office of Compliance/Export Controls expanded the questions and language of the questions on the Foreign Travel Guidance and Screening Survey and launched the updated survey on January 1, 2022 (updates were to the survey questions that were evaluated during the audit period). We will continue to monitor questions and responses to the survey by travelers to foreign destinations to determine if additional examples or wording is necessary.

Implementation date: January 31, 2023

Complexity rating: 2 - Moderate

3. International Shipments

Current U.S. Government Export Control regulations require that certain international shipments be institutionally reviewed to determine if any federal export authorizations (license) are needed.¹² Effective October 20, 2021, all employees shipping anything internationally were to complete an *International Shipping Attestation* form, in which a shipper attests that no export control review is required or that approval from the Office of Export Controls was obtained. If applicable, an *International Shipping Review Request* form is routed to the Office of Export Controls for review, so that an export license determination can promptly occur to determine if authorization is needed.

Identification of Shipments

International shipments may be routed through University Mail Services or departments may ship directly through carriers (e.g., FedEx, UPS). Both methods require that shippers complete an *International Shipping Attestation* form. If shipping through University Mail Services, the form is embedded into the Mail Services' *Shipping Review Form*. If shipping directly through a carrier, employees are asked to access the Office of Export Controls' website and to submit the *International Shipping Attestation* form. Additionally, units may submit an *Export Control International Shipment Annual Attestation Agreement for Certain Bulk or Recurring Shipments Form*, which is submitted annually to the Office of Export Controls for approval of specific recurring volume shipments that do not require export control review.

Currently, the *International Shipping Attestation* form does not prompt the employee to disclose the destination country or the shipment's contents. Moreover, there is not a centralized log, which identifies the population of University-wide international shipments. Although disclosure of said information is not required regulation, its absence poses a challenge to the University for assuring that export control reviews are being conducted when needed.

Review of International Shipments

For the period of October 20, 2021, through February 28, 2022, we extracted the limited data available to us to assess whether *International Shipping Attestation* forms were consistently submitted. Specifically, we extracted PCard transactions for select carriers (FedEx and UPS), which indicate the shipment's destination country.

For the period tested, we identified a population of nine international shipments and reviewed all noted instances. We found five instances (56%) in which the Office of Export Controls was unable to conclude if there was a related *International Shipping Attestation* form or an *Export Control International Shipment Annual Attestation Agreement for Certain Bulk or Recurring Shipments Form* due to the lack of information on either form.

¹² Export Administration Regulations (15 CFR § 730.1 - 15 CFR § 774.2), International Traffic in Arms Regulations (22 CFR § 120.1 - 22 CFR § 130.17), Office of Foreign Assets Controls Regulations (31 CFR § 501.101 - 31 CFR § 598.901).

As a result, we were unable to conclude if a review by the Office of Export Controls should have occurred or if an export control authorization was needed.

Where required, the failure to obtain federal export authorization from the appropriate government agency may result in significant civil fines and/or prosecution at the individual and/or institutional level, as well as suspension of export privileges.

Recommendation

The Office of Export Controls should:	
3.1	Evaluate and develop mechanisms to assess whether the current process for international shipping is effective and provides reasonable assurance that employees are complying with University policies.



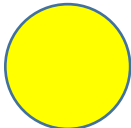

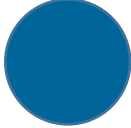

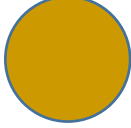
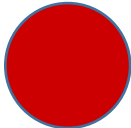

Management Response/Action Plan

- 3.1 The Office of Compliance/Export Control has added a shipping destination question to the shipping attestation form. The Office of Compliance/Export Controls will leverage some of the testing mechanisms used by Internal Audit and determine whether other opportunities exist to periodically assess adherence to the shipping attestation and Export Review request form.

Implementation date: January 31, 2023

Complexity rating: 3 - Complex

APPENDIX I – COMPLEXITY RATINGS LEGEND

Legend: Estimated Time of Completion		Legend: Complexity of Corrective Action	
	Estimated completion date of less than 30 days.		Routine: Corrective action is believed to be uncomplicated, requiring modest adjustment to a process or practice.
	Estimated completion date between 30 to 90 days.		Moderate: Corrective action is believed to be more than routine. Actions involved are more than normal and might involve the development of policies and procedures.
	Estimated completion date between 91 to 180 days.		Complex: Corrective action is believed to be intricate. The solution might require an involved, complicated, and interconnected process stretching across multiple units and/or functions; may necessitate building new infrastructures or materially modifying existing ones.
	Estimated completion date between 181 to 360 days.		
	Estimated completion date of more than 360 days.		Exceptional: Corrective action is believed to be complex, as well as having extraordinary budgetary and operational challenges.

*The first rating symbol reflects the initial assessment based on the implementation date reported by Management, while the second rating symbol reflects the current assessment based on existing conditions and auditor's judgment.

APPENDIX II – OIA CONTACTS AND STAFF ACKNOWLEDGMENT:

OIA contact:

Joan Lieuw 305-348-2107 or jlieuw@fiu.edu

Contributors to the report:

In addition to the contact named above, the following staff contributed to this audit in the designated roles:

Brian Del Pino (auditor);
Natalie San Martin (auditor in-charge);
Manuel Sanchez (supervisor and reviewer); and
Vivian Gonzalez (independent reviewer).

Definition of Internal Auditing

Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.