



Export Control Procedure

Responsible Official:	Assistant Vice Chancellor for Research and Export Control Officer
Responsible Office:	Research Compliance and Integrity
Issuance Date:	September 21, 2022
Effective Date:	October 1, 2022
Summary:	This procedure addresses UC Merced's compliance with U.S. Export Control laws in research and non-research activities.
Scope:	All members of the UC Merced community, including faculty and other academic appointees, visiting scholars, staff, students, and non-employee participants in university programs.

Contact:	Leslie Teixeira-Porto, Assistant Vice Chancellor for Research
Email:	exportcontrols@ucmerced.edu
Phone:	(209) 288-4613

I. REFERENCES AND RESOURCES

Federal Laws and Regulations

- [International Traffic in Arms Regulations](#)
- [Export Administration Regulations](#)
- [U.S. Department of the Treasury: Office of Foreign Assets Control \(OFAC\)](#)

UC Policies

- [UC Policy on Export Control](#)

Guidelines/Resources

- [UC Export Control Website](#)
- [UC Export Compliance Plan](#)
- [UC Merced Export Control Website](#)
- [UC Merced Export Control Compliance Manual](#)
- [UC Merced Export Control Standard Operating Procedures – Restricted Party Screening](#)
- [UC Merced Export Control Standard Operating Procedures – Red Flags](#)
- [UC Merced Export Control Guidance – Red Flags](#)

II. PROCEDURE SUMMARY & SCOPE

Consistent with the UC Export Control policy, all campus community members must be aware of and comply with all U.S. export control laws and any applicable policies and procedures prior to engaging in any activities that may trigger export control compliance issues. The University is committed to complying with all U.S. export control laws, including the Export Administrative Regulations (EAR), the International Traffic in Arms Regulations (ITAR) and the regulations of the Office of Foreign Assets Control (OFAC).

Prior to commencement of any activity that may trigger export control compliance issues members of the UC Merced community should consult with the campus Export Control Office (ECO), who will assist in obtaining an export license where a license is required. No University activity requiring an export license shall be commenced prior to obtaining a license. The consequences of violating export control regulations can be severe and can result in both civil and criminal penalties for the individual and for the institution. Suspected violations must be reported to the ECO. Additionally, the university will respond promptly and effectively to any reports of non-compliance, and take the necessary action to prevent, correct or discipline behavior that violates the Export Control policy.

This procedure describes responsibilities for university compliance with U.S. export control laws, including laws restricting unlicensed shipping or transmission of certain types of physical items, sensitive information and technologies (including software) out of the U.S. or providing access to certain controlled information and technologies to non-U.S. individuals within the U.S. Compliance with the export control regulations requires the cooperation and shared responsibility of many offices and persons. This procedure applies to all members of the campus community (including faculty and other academic appointees, visiting scholars, staff, students and non-employee participants in university programs) for all university activities (research and nonresearch) including, but not limited to, international travel, shipping, agreements and collaborations, educational activities, purchasing, and other activities, including activities related to federally- embargoed countries that may create export control risk.

AREAS OR ACTIVITIES REQUIRING REVIEW BY ECO:

- Physical international shipments
- Classification of materials, software, equipment, or technical data to be exported
- Exports (or deemed exports) to restricted entities or individuals
- International travel
- Purchase of export restricted items
- Positive "hits" on Restricted Party Screening (RPS)
- Research contracts and agreements; specifically, those that contain access/dissemination restrictions or export control language
- Access to or use of ITAR-controlled technology of equipment
- Material transfer agreements, license agreements, sales and services agreements and other agreements with international entities/organizations or export control language

III. DEFINITIONS

Responsible Party: The person who assumes primary responsibility for ensuring compliance with a license or Technology Control Plan.

Technology Control Plan (TCP): A documented plan that outlines how access and dissemination of export-controlled information, technology or equipment will be controlled to prevent access by unauthorized persons.

Additional definitions of terms are available in the [UC Export Control policy](#).

IV. PROCEDURES

A. EXPORT CONTROL

Prior to commencing any activity that may trigger export control compliance issues, members of the UC Merced community should consult with the campus Export Control Office. The Export Control Office will determine if an activity is regulated under export control laws. This includes making the following determinations:

1. Determine if action falls under export control regulations by reviewing the appropriate regulations, policies and guidance for the activity. If the activity is determined to fall under export control regulation, the ECO will proceed with any or all of the following actions:
 - a. Conducting RPS (described in the UC Merced Restricted Party Screening SOP) when appropriate, for foreign vendors, foreign sponsors, foreign donors, H1-B and J1 Visa holders, foreign collaborators, and any other relevant entity or individual.
 - b. Applying for a license from the federal government
 - i. Determine whether the activity requires a general license, or qualifies for an exception or exemption, and provide the appropriate documentation.
 - ii. If a license is required, authorize and submit a request to the appropriate regulatory authority, and/or, in the case of ITAR licenses, coordinate with the Systemwide Export Control Officer to do so.
 - iii. Provide a copy of the approved license or letter of exception or exemption to the Responsible Party.
 - iv. Monitor the license expiration date and inform the Responsible Party prior to expiration.
 - v. ECO will obtain ITAR licenses through coordination with UCOP.

- c. Implementing a Technology Control Plan
 - i. Determine the Responsible Party.
 - ii. Determine who will have access to the technology
 - iii. Determine how the technology will be secured.
 - iiii. Determine how the technology will be disposed or transferred.
 - v. Create the Technology Control Plan document and obtain Responsible Party signatures.
 - vi. Monitor compliance with TCP annually.

B. RESTRICTED PARTY SCREENING

Prior to commencing any activity with foreign vendors, foreign sponsors, foreign donors, international shipments (including hand-carry), H1-B and J1 Visa holders, foreign collaborators, and any other relevant entity or individual, Export Control Liaisons will take the following action:

1. Conduct RPS (described in the UC Merced Restricted Party Screening SOP)
 - a. Escalate any positive "hits" to the ECO.
 - b. Pause commencing activity until ECO provides approval.

C. EXPORT CONTROL RED FLAGS

Members of the UC Merced community who review and negotiate agreements on behalf of the institution should identify and escalate Export Control red flags to the ECO. Export Control red flags (fully summarized in the UC Merced Export Controls Red Flags Guidance) fall into the below categories:

1. Controlled and Emerging Technologies
In general, controlled technologies relate to technology areas and items listed as export controlled [i.e., appearing on the Commerce Control List (CCL) or U.S. Munitions List (USML)]. Relevant technologies typically involve military, space, nuclear, and similarly sensitive applications. Emerging technologies relate to broader areas where there is an economic or strategic defense advantage to control proliferation of those technologies such as biotechnology, artificial intelligence and machine learning, and robotics.
2. Country Restrictions
Countries under comprehensive sanctions or with tighter technology controls under the EAR or ITAR are considered higher risk. Comprehensively sanctioned countries include Cuba, Iran, North Korea, Syria and Ukraine (Crimea region). Other countries with restrictions include Cambodia, China, Russia, Myanmar (Burma) and Venezuela.

3. Sponsor

When UC receives funding from or contracts with outside parties, there is inherent Export Control risk, as many sponsors, industry partners and other organizations operate outside the Fundamental Research Exclusion (FRE). Examples of sponsors that may hold additional export control risk include Boeing, Defense Advanced Research Projects Agency (DARPA), Department of Defense (DoD), Department of energy (DoE), National Aeronautics Space Administration (NASA) and SpaceX.

4. Export Control Language

There are two primary scenarios where export control language within an agreement would present an inherent risk to the University:

- a. The agreement from the outside party contains export control language that indicates the activity covered by the agreement may require restrictions or approval
- b. Agreements without export control language that protects UC from disclosure of export controlled items or information.

5. Physical Exports

Transporting items outside the U.S. may require an export license depending on the items and destination country. The act of exporting includes shipments, regardless of method or carrier (FedEx, UPS, DHL, Freight Forwarder), and items hand carried or packed in baggage during travel. Contemplated exports for UC-related purposes or operations (research, education, business, etc.) must be reviewed to determine license requirements prior to leaving the U.S.

6. Restricted Parties

Refers to individuals and organizations on one of several government restricted lists. RPS should be performed on international individuals and organizations where UC Merced is entering into a formalized agreement, with limited exceptions.

V. RESPONSIBILITIES

A. EXPORT CONTROL OFFICER (ECO):

1. Develop, maintain, monitor, and oversee the Export Control Compliance Program.
2. Administer the Export Control workgroup and serve as the central authority and resource for compliance with applicable export control laws and regulations.
3. Ensure compliance with all U.S. regulatory recordkeeping requirements as well as adherence to the [UC Records Retention Schedule](#).
4. Determine the applicability of export regulations to proposed campus activities, including options for export licensing, exceptions, exemptions, or control plans to mitigate risk based on review of applicable regulations and polices.

5. Respond to reports of suspected violations, including, as deemed necessary, halting transactions, taking appropriate action to correct and prevent future violations, and reporting suspected violations to the Systemwide Export Control Officer and to UC Legal.
6. Coordinate with local leadership, including the local compliance officer and counsel (and, in the case of ITAR matters, with the Systemwide Export Control Officer) to determine whether/when to report a compliance violation to the appropriate government agency via a self-disclosure.
7. Develop education, training, and outreach for the university to promote Export Control Compliance Program awareness.
8. Coordinate with appropriate stakeholders, update training materials, and ensure employees and students engaged in export-controlled activities receive the appropriate briefing.

B. EXPORT CONTROL WORKGROUP:

1. Chaired by the ECO; include staff and faculty representatives from applicable campus departments.
2. Meet at least quarterly to provide high level oversight on export compliance.
3. Evaluate and recommend potential solutions for implementing, maintaining and tracking export control compliance.
4. Review suspected violations and recommend corrective actions.
5. Advise on complicated or special export control matters.

C. EXPORT CONTROL LIASIONS

1. Conduct RPS (described in the UC Merced Restricted Party Screening SOP) prior to commencing any activity with foreign vendors, foreign sponsors, foreign donors, international shipments (including hand-carry), H1-B and J1 Visa holders, foreign collaborators, and any other relevant entity or individual.
2. Escalate positive "hits" to the ECO and pause commencing activity until approval received.
3. Complete training (Export Controls and Restricted Party Screening trainings available on the UCLC) annually.

D. ALL MEMBERS OF THE CAMPUS COMMUNITY INVOLVED IN ACTIVITIES THAT ARE POTENTIALLY SUBJECT TO EXPORT CONTROL:

1. Ensure activities comply with UC Export Control policies, regulations, and the Export Control Compliance Program (ECCP) outlined in the [Export Control Compliance Manual](#), and seek guidance from the ECO as necessary before undertaking any activities that may trigger export control compliance issues.
2. Coordinate requests for export licenses with the ECO.
3. Report suspected or actual export control violations to the ECO.

4. Complete training (Export Controls and Restricted Party Screening trainings available on the UCLC) and/or attend outreach sessions regarding export control compliance and regulations.

E. RECORD-KEEPING

The Export Control Office will keep copies of all export documentation as required by the controlling regulations, and will archive export reviews, applications, licenses and other related records, such as shipping paperwork, Technology Control Plans (TCP), and financial records. Licensing documentation will be retained according to the regulations and as captured in the [UC Records Retention Schedule](#). In the event of conflict between the retention periods in the regulations and the UC Records Retention Schedule, the periods specified by the regulations shall take precedence. If the controlling agencies have no stated requirements, records should be kept no longer than as required by the UC Records Retention Schedule.

VI. POLICY OR PROCEDURE REVISION HISTORY

Date	Action/Summary of Changes
October 1, 2022	Added RPS, Red Flags, and Record Keeping; Issued in Final
August 1, 2021	Interim Procedure Issued