

# Export Control Standard Operating Procedures – Red Flags

## Purpose

Sponsored research or other agreements with outside partners often involve university activities with elevated export control risks, such as international shipments, international collaborations or work with export controlled technology. UC Merced agreement negotiators and reviewers will recognize and escalate Export Control red flags.

## Applicability

UC Merced staff whose role or responsibilities include oversight of contracts and grants, international agreements, service and sales agreements, non-disclosure agreements, confidentiality agreements, material transfer agreements, technology transfer agreements or intellectual property licenses, and other types of agreements that may bind UC will utilize the Export Control Red Flag Guidance and training to recognize and escalate Export Control red flags.

## Background

While the policy and regulatory carve out for fundamental research [([NSDD 189](#)), EAR ([15 CFR § 734.8](#)) and ITAR ([22 CFR 120.11\(a\)\(8\)](#))] protect highly collaborative, open and international engagements at higher education institutions like UC, not all university operations or activities meet this exemption.

*Some examples of activities that are not exempt* under the Fundamental Research Exclusion (FRE) as outlined in the [UC Export Control Policy](#) include:

- Transfer of proprietary information related to controlled items or technology,
- Transfer of ITAR-controlled items (particularly if UC receives ITAR items or technical data),
- Sales and service agreements related to controlled items or technology,
- Physical exports outside the U.S. of hardware, software, or technology,
- Engagements and transactions with restricted parties or entities that are not covered by the FRE,
- Defense services,
- Restricted end uses, or
- Transactions involving embargoed or sanctioned parties/countries.

Given these limitations, specific activities must be reviewed to identify applicability of compliance requirements and ensure implementation of appropriate mitigation measures.

## Export Control Red Flags

Red Flags are organized into the following categories and fully described in the Export Control Red Flags Guidance:

- Controlled Technologies
- Country Restrictions
- Sponsor
- Export Control Language
- Physical Exports
- Restricted Parties

## Procedures

### Responsibilities and process

1. Agreement Reviewers and Negotiators
  - a. Attend Export Control Red Flag training/refresher annually
  - b. Identify red flags in agreements
    - i. Escalate agreements with red flags to the ECO at [exportcontrols@ucmerced.edu](mailto:exportcontrols@ucmerced.edu)
    - ii. Coordinate with ECO in assessing
2. Export Control Office
  - a. Continued identification of areas with concentration of Export Control red flags
  - b. Provide training, guidance and oversight to campus community on Export Control Red Flags
  - c. Consult with individuals involved in transaction to determine next steps