



# EXPORT COMPLIANCE PLAN STANDARD OPERATING PROCEDURE (SOP)

Agreements, Contracts & Grants  
Research & Economic Development (“RED”)  
Contracting Offices

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## Revision History

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<b>Revision</b>	<b>Date</b>	<b>Description</b>	<b>Drafted by</b>	<b>Checked by</b>
New	10/4/2021	Initial release	Roberto Galvan Ramos, Jr.	RED Contracting Offices
A	2/22/2022	1. Update Export Control Review and Escalation steps to incorporate ECAS Guidance Document – Export Control Red Flags Guidance dated December 2021; 2. Replaced Appendix A - Infographic with Appendix A - Red Flags Check List 3. Updated Appendix B - Export Controlled Items and Appendix C - Export Controlled Materials 4. Minor grammatical changes and updated reference links throughout.	Roberto Galvan Ramos, Jr.	RED Contracting Offices

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## INTRODUCTION

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This Standard Operating Procedure (“SOP”) outlines the processes used to foster a culture of compliance with U.S. Export Controls<sup>1</sup> and the University of California - Policy on Export Control (“Export Control Policy”)<sup>2</sup>. This SOP is in furtherance of the local Export Compliance Program Plan (“ECP”) maintained and regularly reviewed and updated by the campus Export Control Office.

## PURPOSE AND SCOPE

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The University of California’s strategy for complying with applicable U.S. Export Controls is based upon maintaining an open, fundamental research environment, such that scientific data and results qualify as being publicly available or in the public domain, and to protect the fundamental research exclusion by negotiating the elimination of all requirements that restrict university control of publications or limit access to or participation in research.

To facilitate compliance with this strategy and applicable U.S. Export Controls, this SOP establishes basic and minimal responsibilities for Research & Economic Development (“RED”) contracting offices, with the objective of providing an export control review standard for proposals, and for agreements, contracts, and grants (collectively “Agreements”<sup>3</sup>) and identify activities that may require escalation to the Export Control Office for further review and assistance.

## RESPONSIBILITIES

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RED contracting offices are responsible for:

- Performing Restricted Party Screening (“RPS”)<sup>4</sup> using Visual Compliance for all foreign sponsors, subrecipients, and collaborators that are parties to the Agreement.
- Reviewing and approving projects for protection under the fundamental research exclusion.
- Reviewing projects for activities with entities or persons from embargoed and/or sanctioned countries.
- When warranted in an Agreement, ensure the appropriate export control clause is utilized.
- Negotiate with sponsors to remove, if possible, any restrictive language (e.g., publication restrictions, foreign national restrictions, proprietary research) which could take the project out of the safe harbor protection under the fundamental research exclusion and thereby subject the project to export control regulations.
- When identified, escalate to the Export Control Office any potential export control “Red Flags” (as defined in the section below), or export-controlled items or materials identified in an Agreement.

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<sup>1</sup> U.S. Export Controls include without limitation the Export Administration Regulations (“EAR”), International Traffic in Arms Regulations (“ITAR”), and regulations and orders administered by the Treasury Department’s Office of Foreign Assets Control (“OFAC”)

<sup>2</sup> University of California – Policy on Export Control dated June 21, 2018, as amended. <https://policy.ucop.edu/doc/2000676/ExportControl>

<sup>3</sup> See UCR Contracting Guide dated March 2021 for types of contracts. [https://bfs.ucr.edu/sites/g/files/rcwecm751/files/2021-03/UCR\\_Contracting\\_Guide.pdf](https://bfs.ucr.edu/sites/g/files/rcwecm751/files/2021-03/UCR_Contracting_Guide.pdf)

<sup>4</sup> See Standard Operating Procedure (SOP) Restricted Party Screening, End-Use & End-User Checks for instructions on performing an RPS. <https://exportcontrol.ucr.edu/documents-and-procedures>

- Assist with requesting export control classification information for incoming items, materials, and information.
- On a case-by-case basis, assist the Export Control Office, as may be reasonably requested, with the implementation of any recommended measures for the receipt of export-controlled items, materials, or information, including any departmental awareness notices, signoffs, or any required control plans.

## EXPORT CONTROL REVIEW AND ESCALATION

Even in the conduct of fundamental research, some activities may require escalation to the Export Control Office for further export control review. The following steps are provided as a general guide to assist RED contracting offices during the Agreement review lifecycle.

S1. During the proposal review process<sup>5</sup>, review the responses provided by the Principal Investigator (PI) or designated Contract and Grant Analyst (CGA) to the following export control questions:

- Is travel outside the U.S. required in order to complete this project?
  - If Yes, is the destination a sanctioned country or country of concern such as: Cuba, Iran, Syria, North Korea, Russia, Belarus, or Ukraine? (Refer to U.S. Department of Treasury Sanctions Programs and Country Information for current listings: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>).
    - If Yes, contact the Export Control Office for licensing review.
- Will any equipment, materials or software be exported to other countries?
  - If Yes, contact the Export Control Office for licensing review.
- Are foreign subrecipients/subcontractors or foreign collaborators involved?
  - If Yes, see S3.

S2. During the Material Transfer Agreement (MTA) process, review the responses provided by the Principal Investigator (PI) or other MTA designated official in the On-Line Material Transfer Request System for the following export control questions:

- Will the Material be exported to other countries?
  - If Yes, contact the Export Control Office for licensing review.
- Are foreign recipients or foreign collaborators involved?
  - If Yes, see S3.

**Note:** For incoming MTA's, proceed to S3 when materials or technology are provided by a foreign entity.

S3. Perform RPS using Visual Compliance for all **foreign** sponsors, subrecipients, and collaborators that are parties to the Agreement. Positive RPS results are to be escalated to the Export Control Office for further review. (Refer to Standard Operating Procedure (SOP) Restricted Party Screening, End-Use & End-User Checks for further information on the RPS process <https://exportcontrol.ucr.edu/documents-and-procedures>).

<sup>5</sup> Internal Procedures Proposal Review: <https://redit.ucr.edu/intranet/sp/reference.aspx>

S4. Review Agreement language, including Scope of Work and project activity to determine if any Red Flags are present that warrant escalation to the Export Control Office for further review.

Note: Red Flags are defined by the Export Administration Regulations (EAR) as “any abnormal circumstances in a transaction that indicate that the export may be destined for an inappropriate end-use, end-user or destination,” and may involve an elevated risk of non-compliance with the EAR, reputational or political risk, and added administrative costs for managing high-risk engagements.

Red Flags may include:

- An Agreement or other furnished documentation (e.g., Scope of Work) that indicates the project will be subject to export control, trade controls, foreign national restrictions, or publication restrictions.
- A sponsor, subrecipient, or collaborator has not accepted the recommended export control clause or has proposed alternative language.
- A project involves a sponsor, subrecipient, or collaborator identified on a U.S. Government restricted party list.
- A project involves collaborations with or travel to a sanctioned country or countries of concern such as: Cuba, Iran, Syria, North Korea, Russia, Belarus, or Ukraine. (Refer to U.S. Department of Treasury Sanctions Programs and Country Information for current listings: <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information>).
- A project involves a defense contractor, foreign government, foreign military, or Military End User, whether direct or indirect.
- A project includes emerging technologies<sup>6</sup>, sensitive technology, or equipment, items, or materials (e.g., military, space, nuclear, bio agent, encryption, UAV, or weapons technology.)
- A project involves the transfer / shipment (i.e., export) of technical information, equipment, items, software, or materials to international destinations.

When identified, Red Flags should be escalated to the Export Control Office for review and assistance.

## EXPORT CONTROL CLAUSES

The following are UCR’s recommended export control clauses and their order of preference for use in standard Agreements. In the event a sponsor, subrecipient, or collaborator does not agree with the use of clauses 1, 2 or 3, please check with the Export Control Office for acceptable language.

### Standard Agreements

**Clause 1** – A general reciprocal clause for use in Agreements to identify the applicable export regulations the parties agree to comply with.

In performing the obligations of this Agreement, the parties agree to comply with all applicable U.S. export, import, and sanctions laws, as they may be amended from time to time, including without limitation the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations

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<sup>6</sup> Critical and Emerging Technologies List Update (whitehouse.gov): <https://www.whitehouse.gov/wp-content/uploads/2022/02/02-2022-Critical-and-Emerging-Technologies-List-Update.pdf>

("ITAR"), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, "Export Controls").

**Clause 2** – Building on clause 1, use this clause in Agreements where a sponsor wants assurance that UCR will comply with the stated regulations and where UCR asserts that it intends to conduct the project as "fundamental research" under applicable export regulations.

In performing the obligations of this Agreement, the parties agree to comply with all applicable U.S. export, import and sanctions laws, as they may be amended from time to time, including without limitation the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, "Export Controls"). Notwithstanding anything to the contrary under this Agreement it is understood by the parties that the conduct of any research project by the University hereunder shall be limited to fundamental research, as defined under applicable Export Controls.

**Clause 3** – Expanding on clauses 1 and 2, use this clause if the parties know or are unsure if information or items from the sponsor are needed to perform the research project (Note: The PI may need to sign an informed participation letter and must be the one to confirm whether information or items are needed from the sponsor).

In performing the obligations of this Agreement, the parties agree to comply with all applicable U.S. export, import and sanctions laws, as they may be amended from time to time, including without limitation the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, "Export Controls"). Notwithstanding anything to the contrary under this Agreement, it is understood and agreed that the University intends to conduct the research project hereunder as fundamental research, as defined under applicable Export Controls and, thus, prefers to receive no material from Sponsor that is controlled technology or technical data under the applicable Export Controls and treated as Sponsor's Confidential and Proprietary Information ("Export Controlled Proprietary Information"). To the extent that any such Export Controlled Proprietary Information is required in performance of this Agreement, the Sponsor shall not provide any Export Controlled Proprietary Information to the University until a control plan, for receipt of the Export Controlled Proprietary Information, is developed between the University and Sponsor. Prior to providing the University any Export Controlled Proprietary Information, the Sponsor shall contact the University's authorized representative (identified in Article\_\_\_\_) and they shall develop a control plan for receipt of the Export Controlled Proprietary Information. If the parties are unable to develop an acceptable control plan to both parties, the University reserves the right to not receive the Export Controlled Proprietary Information.

## RECORDKEEPING

All documents created or modified in the performance of this SOP shall be retained and managed in accordance with relevant Export Control regulations and as captured in the UC Records Retention Schedule<sup>7</sup>. In the event of conflict between the retention periods in the regulations and the UC Records Retention

<sup>7</sup> University of California – Records Retention Schedule <https://recordsretention.ucop.edu/>

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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. To verify or obtain record retention information and instructions please contact the Export Control Office.

## QUESTIONS

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Should you have questions or concerns regarding the applicability of the contents of this SOP, please contact the Export Control Office at [exportcontrol@ucr.edu](mailto:exportcontrol@ucr.edu) for assistance.

## APPENDIX A - RED FLAGS CHECK LIST



### RESTRICTED PARTIES

Individual or organization on a restricted list?

Specially Designated Nationals, Denied Parties, Entity or other lists

Use Restricted Party Screening (RPS) tool to identify Restricted Parties or Countries with certain restrictions



### COUNTRY RESTRICTIONS

Comprehensively Sanctioned Countries

Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk and Luhansk Regions of Ukraine

Other Countries with Restrictions

Examples: Belarus, Cambodia, China, Myanmar, Russia, or Venezuela



### CONTROLLED TECHNOLOGIES

Does the work involve any of the following (non-exhaustive list)?

- Military
- Space
- Nuclear
- Bio agent
- Encryption
- UAV
- Weapon technology



### EXPORT CONTROL LANGUAGE

Publication Restrictions

Foreign National Restrictions

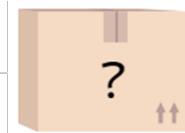
- Possible receipt of controlled items, information or software (DFARS 7000, Export Control terms)
- IT security requirements (DFARS 7012, 7019, 7020, etc.)
- Anti-terrorism, trade compliance, or sanctions language



### SPONSOR

Sponsor (foreign or domestic) works in sensitive technology end-uses?

- Military (DOD, DARPA) or defense contractor
- Space agency (NASA, JPL)
- Nuclear agency (NETL, NNSA)



### PHYSICAL EXPORTS

International shipments or hand carries of tangible items outside the U.S.

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## APPENDIX B - EXPORT CONTROLLED ITEMS

For a complete list of export-controlled items, please click on the appropriate source link provided below. Please contact the Export Control Office should you have any questions or encounter any of the listed items during Agreement review.

### **U.S. Department of Commerce, Bureau of Industry and Security (BIS)**

Regulations: Export Administration Regulations ("EAR," 15 CFR Part 730-774)

Focus: "dual use" items and technologies having both legitimate commercial purposes and potential military applications

Control List: [Commerce Control List \(CCL\)](#)

- [CCL Index \(for reference only\)](#)
- [Category 0 – Nuclear Materials Facilities & Equipment \[and Miscellaneous Items\]](#)
- [Category 1 – Materials Chemical Microorganism and Toxins](#)
- [Category 2 – Materials Processing](#)
- [Category 3 – Electronics Design Development and Production](#)
- [Category 4 – Computers](#)
- [Category 5 Part 1 – Telecommunications](#)
- [Category 5 Part 2 – Information Security](#)
- [Category 6 – Sensors and lasers](#)
- [Category 8 – Marine](#)
- [Category 9 – Aerospace and Propulsion](#)

### **U.S. Department of State, Directorate of Defense Trade Controls (DDTC)**

Regulations: International Traffic in Arms Regulations ("ITAR," 22 CFR 120-130)

Focus: Critical defense articles, technical data and services enumerated on the United States Munitions List

Control List: [United States Munitions List \(USML\)](#)

- [Category I - Firearms and Related Articles](#)
- [Category II - Guns and Armament](#)
- [Category III - Ammunition and Ordnance](#)
- [Category IV - Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs, and Mines](#)
- [Category V - Explosives and Energetic Materials, Propellants, Incendiary Agents, and Their Constituents](#)
- [Category VI - Surface Vessels of War and Special Naval Equipment](#)
- [Category VII – Ground Vehicles](#)
- [Category VIII - Aircraft and Related Articles](#)
- [Category IX – Military Training Equipment and Training](#)
- [Category X - Personal Protective Equipment](#)
- [Category XI – Military Electronics](#)
- [Category XII - Fire Control, Laser, Imaging, and Guidance Equipment](#)
- [Category XIII – Materials and Miscellaneous Articles](#)
- [Category XIV - Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment](#)
- [Category XV - Spacecraft and Related Articles](#)
- [Category XVI – Nuclear Weapons Related Articles](#)
- [Category XVII - Classified Articles, Technical Data, and Defense Services Not Otherwise Enumerated](#)
- [Category XVIII – Directed Energy Weapons](#)
- [Category XIX - Gas Turbine Engines and Associated Equipment](#)
- [Category XX – Submersible Vessels and Related Articles](#)
- [Category XXI - Articles, Technical Data, and Defense Services Not Otherwise Enumerated](#)

### **Nuclear Regulatory Commission (NRC, Title 10, CFR)**

Control List: [10 CFR 110.8](#)

List of Controlled Items: [Appendix A – K to Part 110](#)

### **The Department of Energy (DOE)**

Control List: [10 CFR § 810.7](#)

List of Controlled Items: See Control List

## APPENDIX C - EXPORT CONTROLLED MATERIALS

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For a complete description of export-controlled materials, please click on the appropriate source link provided below. Please contact the Export Control Office should you have any questions or encounter any of the listed materials during Agreement review.

**Note:** the listed materials (e.g., chemical, chemical mixtures, test kits, biological agents, vaccines, biopharmaceuticals) are controlled for export regardless of quantity or attenuation, genetic elements or genetically modified organisms for such agents or “toxins”, including small quantities or attenuated strains of select biological agents or “toxins” that are excluded from the lists of select biological agents or “toxins” by APHIS, CDC, or DHHS.

### **U.S. Department of Commerce, Bureau of Industry and Security (BIS)**

Regulations: Export Administration Regulations (“EAR,” 15 CFR Part 730-774)

Control List: [Commerce Control List \(CCL\)](#) |

Control Category: [Category 1 – Materials Chemical Microorganism and Toxins](#)

List of Items Controlled:

- ECCN [1C350](#) - Chemicals that may be used as precursors for toxic chemical agents
- ECCN [1C351](#) - Human and animal pathogens and “toxins”
- ECCN [1C353](#) - Genetic elements and genetically modified organisms
- ECCN [1C354](#) - Plant pathogens
- ECCN [1C355](#) - Chemical Weapons Convention (CWC) Schedule 2 and 3 chemicals and families of chemicals
- ECCN [1C395](#) - Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits
- ECCN [1C991](#) - Vaccines, immunotoxins, medical products, diagnostic and food testing kits
- ECCN [1C995](#) - Mixtures and Medical, Analytical, Diagnostic, and Food Testing Kits
- ECCN [1C999](#) - Specific Materials, n.e.s.

### **U.S. Department of State, Directorate of Defense Trade Controls (DDTC)**

Regulations: International Traffic in Arms Regulations (“ITAR,” 22 CFR 120-130)

Control List: [United States Munitions List \(USML\)](#)

Control Category: [Category XIV - Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment](#)

List of Items Controlled: See Control Category

### **Nuclear Regulatory Commission (NRC)**

Regulations: Title 10, CFR

Control List: [10 CFR 110.9](#)

List of Controlled Items: See Control List