



# EXPORT COMPLIANCE PROGRAM PLAN (ECP)

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## Revision History

Revision	Date	Description
New	10/01/2021	Initial release
A	9/9/2022	Deleted 'Drafted by' and 'Checked by' columns from Revision History. Updated regulatory citations and hyperlinks in sections IV. Summary of U.S. Export Controls and IX. Government Agency Imposed Penalties. Revised text in sections V. Standard Operating Procedures, VI. Program Review and Assessments, and VII. Outreach and Training.

## Reference Documents

Document	Revision	Reference No.
University of California Export Control Program Assessment Report	January 10, 2018	None
University of California – Policy on Export Control	June 21, 2018	None
GAO   Export Controls: State and Commerce Should Improve Guidance and Outreach to Address University-Specific Compliance Issues	May 2020	GAO-20-394

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## INTRODUCTION

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As described in the University of California – Policy on Export Control<sup>1</sup> (“Export Control Policy”),

Federal export control laws and regulations restrict the transfer of specific items, information, and/or services for reasons of national security or trade protection. In general, export control regulations control:

- The export from the United States to a foreign country of certain items, information, or software;
- Verbal, written, electronic, or visual disclosures or transfer of scientific and technical information related to controlled items to foreign persons or entities inside or outside the United States;
- Transactions with, or travel to, certain sanctioned or embargoed countries<sup>2</sup> for the conduct of activities such as teaching or research, or attending conferences; and
- Financial transactions, exports, reexports, and deemed exports of items and information to restricted parties or end-users, or for restricted end-uses.

The purpose of the Export Compliance Program Plan (hereinafter the “ECP” or “Export Compliance Plan”) is to provide mandatory guidance and describe areas of responsibility to ensure compliance with applicable U.S. export control laws and regulations and the Export Control Policy.

The ECP will be updated as necessary to accommodate changes in U.S. export control laws and regulations and to articulate general standards of conduct and procedures that are necessary to promote regulatory compliance and best practices at the University of California, Riverside (“UCR”).

This ECP should be read together with the Export Control Policy, and capitalized terms not defined in this plan have the definition given in the policy.

## MANAGEMENT COMMITMENT

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The University of California maintains an open academic environment in support of its mission of teaching, research, and public service. At the same time, U.S. export control laws and regulations prescribe and limit the conditions under which certain information, technologies, and commodities can be exported overseas to anyone, including U.S. citizens, or to a foreign national within the U.S. UCR is committed to full compliance with U.S. export control regulations and sanction laws (collectively, “Export Controls”), including without limitation the Export Administration Regulations (“EAR”), the International Traffic in Arms Regulations (“ITAR”), and regulations and orders administered by the Treasury Department’s Office of Foreign Assets Control (“OFAC”). This commitment of compliance extends to all research and non-research activities covered by Export Controls and conducted at UCR or other locations by its faculty, academic appointees, staff, students, including student employees (collectively, “UCR Members”) and non-employee participants in UCR programs.

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<sup>1</sup> University of California – Policy on Export Control dated June 21, 2018, as amended. <https://policy.ucop.edu/doc/2000676/ExportControl>

<sup>2</sup> 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>



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To this end, UCR has established an Export Control Office within the office of Research and Economic Development. The mission of the Export Control Office is to aid UCR Members in their research and non-research activities to ensure continued compliance with applicable Export Controls and the Export Control Policy. UCR recognizes that despite such efforts, irregularities or instances of non-compliance may arise. UCR is committed to prompt and effective response to any suspected violation of Export Controls or the Export Control Policy.

## ORGANIZATIONAL GOVERNANCE

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Key partners and departments with a shared responsibility in Export Controls include:

### **Vice Chancellor for Research & Economic Development (“VC-RED”)**

The overall responsibilities and obligations of the VC-RED are to:

- Charge the Export Control Risk Advisory Group (“ECRAG”).
- Approves changes and additions to ECRAG membership.
- Act as first line of reporting for reports of suspected export control violations (this may be delegated to an Associate Vice Chancellor or other leadership position within the VC-RED office).

### **Associate Vice Chancellor for Research (“AVCR”)**

The overall responsibilities and obligations of the AVCR are to:

- Provide leadership and support to empower the Export Control Officer and ensure successful implementation of the local ECP.
- Provide managerial oversight of the Export Control Office.
- Act fully on behalf of the Export Control Officer to manage basic export control and compliance matters during the absence of the Export Control Officer.

### **Export Control Office**

Housed within UCR’s office of Research and Economic Development, the mission of the Export Control Office is to aid UCR Members in their understanding of export control matters to ensure continued compliance with applicable Export Controls.

### **Export Control Officer (“ECO”)**

In accordance with the Export Control Policy, the overall responsibilities and obligations of the ECO are to:

- Serve as the primary campus point of contact and subject matter expert for export control matters.
- Set up procedures in cooperation with stakeholders, specific to campus activities as part of its ECP.
- Provide on-going communication, awareness, and training on export compliance.
- Remain current on relevant export control regulations and sanctions laws, as they may be amended from time to time, to determine their applicability to campus activities.



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- Coordinate with relevant personnel to determine export licensing requirements, exceptions, or other export authorizations.
- Collaborate with the Chief Compliance Office and other campus officers and committees including the Ethics & Compliance, Risk and Audit Controls Committee.
- Regularly monitor and assess the overall effectiveness of the ECP and implement risk based corrective and preventative control plans.

The ECO is appointed by the VC-RED and reports directly to the AVCR.

### **Export Control Risk Advisory Group (“ECRAG”)**

The ECRAG is a campus advisory group comprised of various responsible offices and stakeholders to facilitate communication and provide input to the ECO. The ECRAG meets annually, or as otherwise deemed necessary, to review and evaluate ECP risk assessments, suspected non-compliance reports, recommended corrective actions and process improvements for export control compliance. The ECRAG is chaired by the AVCR with representatives invited from the following units:

- Chief Compliance Office
- Office of Legal Affairs
- International Affairs
- Office of Academic Personnel
- School of Medicine Compliance Office
- Internal Audit
- Research and Economic Development
- Planning, Budget & Administration
  - Auxiliary Services
  - Business & Financial Services (BFS)
  - Environmental Health & Safety (EH&S) e.g., Risk Management
  - Facilities & Services e.g., Business Operations
  - Financial Planning & Analysis (FP&A)
  - Human Resources

### **Chief Compliance Office (“CCO”)**

The Chief Compliance Office is responsible for promoting the UC's ethics and compliance program at UCR, including by addressing compliance risks.

### **Locally Designated Official (“LDO”)**

The Chief Compliance Officer is UCR's Local Designated Official (“LDO”) responsible for receiving and investigating complaints under the UC Whistleblower and Whistleblower Protection policies. The LDO chairs the Investigation Group and works with other campus units to oversee investigations.

### **UCR Members**

All faculty, academic appointees, staff, students, including student employees share the responsibility of ensuring that all activities subject to Export Controls comply with applicable Export Controls, this ECP,



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and the Export Control Policy; completing assigned training; and seeking guidance from the ECO, as necessary, before undertaking any such activities.

All academic and administrative deans, directors, department heads and staff share the responsibility of overseeing export control compliance in their respective colleges, campuses, schools, departments, centers, institutes, and units and for supporting the ECO in implementing campus process and procedures as deemed necessary for compliance with applicable Export Controls, this ECP, and the Export Control Policy.

## SUMMARY OF U.S. EXPORT CONTROLS

This section provides a general overview and summary of applicable U.S. Export Controls. It serves as a high-level description of the reach of Export Control but the links to the actual regulations and policies herein provided should be consulted for more specific details.

Export Controls are federal laws that govern the conditions under which certain information, technologies, commodities, and services can be exported, re-exported or transferred to a foreign national, entity, or country. The primary goal of Export Controls is to protect U.S. national security and promote U.S. foreign policy interests without constraining legitimate international trade.

Examples of university activities that may be subject to Export Controls include, but are not limited to:

- Research collaborations and agreements with international parties.
- Technology and material transfers, whether physical or electronic.
- International travel for conferences, teaching, research, and other university business.
- Inviting and hosting international scholars and visitors.
- Purchases from, and the subsequent payment to, international suppliers.
- Financial transactions, including contributions and donations of funds, material or support.
- Shipments, whether physically shipped, hand-carried or electronically transferred.

Awareness and compliance with applicable Export Controls are essential to maintaining an open academic environment in support of the Export Control Policy and mission of teaching, research, and public service. Export Controls are administered and enforced by three key federal agencies:

### [Department of State, Directorate of Defense Trade Controls \(DDTC\)](#)

- Administers the [International Traffic in Arms Regulations \(ITAR\)\(22 CFR Parts 120-130\)](#)
- Regulates the export of critical defense articles and services enumerated on the United States Munitions List (USML) ([22 CFR Part 121](#))

### **Key ITAR Terminology**

Defense article <a href="#">§ 120.31</a>	Defense service <a href="#">§ 120.32</a>	Technical data <a href="#">§ 120.33</a>	Public domain <a href="#">§ 120.34</a>
Fundamental research <a href="#">§ 120.34(a)(8)</a>	U.S. person <a href="#">§ 120.62</a>	Foreign person <a href="#">§ 120.63</a>	Export <a href="#">§ 120.50(a)</a>
Deemed Export <a href="#">§ 120.50(b)</a>	Reexport <a href="#">§ 120.51</a>	License <a href="#">§ 120.57(a)</a>	Specially designed <a href="#">§ 120.41</a>

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**ITAR Requirements**

Any person who engages in the United States in the business of manufacturing or exporting or temporarily importing defense articles, or furnishing defense services, is required to register with the Directorate of Defense Trade Controls pursuant to Part 122 of the ITAR.

Any person who intends to export or to import temporarily a defense article must obtain authorization from the U.S. Department of State’s Directorate of Defense Trade Controls prior to the export or temporary import, unless the export or temporary import qualifies for an exemption under the provisions of the ITAR.

**Record Keeping Requirements**

Pursuant to ITAR Part 122, a registrant must maintain records concerning the manufacture, of defense articles; of technical data; the provision of defense services (to include copies of all documentation on exports using exemptions and applications and licenses and their related documentation); brokering activities; and information on political contributions, fees, or commissions furnished or obtained, as required under [§ 130.14](#) of the ITAR.

Electronic records must be maintained in a process or system capable of reproducing all records on paper and must exhibit a high degree of legibility and readability. Documents may not allow for alteration and must be stored in a manner that protects the original content.

The record retention period under the ITAR is five (5) years from the expiration of the license or other approvals relevant to the export transaction using an exemption.

**Department of Commerce, Bureau of Industry and Security (BIS)**

- Administers the [Export Administration Regulations \(EAR\) \(15 CFR Parts 730-774\)](#)
- Regulates the export of dual-use goods and goods that are not controlled by other regulations and less significant military items listed on the Commerce Control List (CCL) ([Supplement No. 1 to Part 774](#) of the EAR).

**Key EAR Terminology**

Dual Use <a href="#">§ 730.3</a>	Subject to the EAR <a href="#">§ 734.2</a>	Items subject to the EAR <a href="#">§ 734.3</a>	Activities of U.S. and Foreign persons subject to the EAR <a href="#">§ 734.5</a>
Published <a href="#">§ 734.7</a>	Fundamental research <a href="#">§ 734.8</a>	Patents <a href="#">§ 734.10</a>	Export <a href="#">§ 734.13(a)</a>
Deemed export <a href="#">§ 734.13(b)</a>	Reexport <a href="#">§ 734.14(a)</a>	Deemed reexport <a href="#">§ 734.14(b)</a>	Release <a href="#">§ 734.15</a>
Transfer <a href="#">§ 734.16</a>	ECCN <a href="#">§ 738.2(d)</a>	License <a href="#">§ 772.1</a>	License Exception <a href="#">§ 740.1</a>
U.S. Person <a href="#">§ 772.1</a>	Foreign person <a href="#">§ 772.1</a>	Technology <a href="#">§ 772.1</a>	



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**General Prohibitions**

[§ 736.2](#) of the EAR contains ten (10) general prohibitions that describe certain exports, reexports, and other conduct, subject to the scope of the EAR, in which you may not engage unless you either have a license from BIS or qualify under part 740 of the EAR for a License Exception for each applicable general prohibition. The EAR’s ten (10) general prohibitions are:

General Prohibition One	Export and reexport of controlled items to listed countries (Exports and Reexports).
General Prohibition Two	Reexport and export from abroad of foreign-made items incorporating more than a de minimis amount of controlled U.S. content (U.S. Content Reexports).
General Prohibition Three	Foreign-produced direct product of specified “technology” and “software” (Foreign-Produced Direct Product Rule)
General Prohibition Four	Engaging in actions prohibited by a denial order (Denial Orders).
General Prohibition Five	Export or reexport to prohibited end-uses or end-users (End-Use End-User).
General Prohibition Six	Export or reexport to embargoed destinations (Embargo).
General Prohibition Seven	Support of proliferation activities (U.S. person proliferation activity).
General Prohibition Eight	In transit shipments and items to be unladen from vessels or aircraft (Intransit).
General Prohibition Nine	Violation of any order, terms, and conditions (Orders, Terms, and Conditions).
General Prohibition Ten	Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur).

**Record Keeping Requirements**

Pursuant to [§ 762.2](#) of the EAR, the following types of records are to be maintained, in addition to any export control document for transactions subject to the EAR:

• Memorandum	• Notes	• Correspondence
• Contracts	• Invitations to bid	• Books of accounts
• Financial records	• Restrictive trade practices or boycott documents and reports	• Notifications from BIS regarding license RWA, license denials, or a Commodity Classification or Encryption review

Electronic records must be maintained in a process or system capable of reproducing all records on paper and must exhibit a high degree of legibility and readability. Documents may not allow for alteration and must be stored in a manner that protects the original content.

The record retention period under the EAR is five (5) years from the latest of the following times:

- 1) The export from the United States of the item involved in the transaction to which the records pertain or the provision of financing, transporting or other service for or on behalf of end-users of proliferation concern as described in [§§ 736.2\(b\)\(7\)](#) and [744.6](#) of the EAR.
- 2) Any known reexport, transshipment, or diversion of such item.
- 3) Any other termination of the transaction, whether formally in writing or by any other means; or



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- 4) In the case of records of pertaining to transactions involving restrictive trade practices or boycotts described in [part 760](#) of the EAR, the date the regulated person receives the boycott-related request or requirement.

#### Department of the Treasury, Office of Foreign Assets Control (OFAC)

- Administers and enforces [Economic and Trade Sanctions Programs \(31 CFR Parts 500-599\)](#) based on US foreign policy and national security goals against targeted foreign countries and regimes, terrorists, international narcotics traffickers, those engaged in activities related to the proliferation of weapons of mass destruction, and other threats to the national security, foreign policy or economy of the United States.
- OFAC administers a number of different [sanctions programs](#). The sanctions can be either comprehensive or selective, using the blocking of assets and trade restrictions to accomplish foreign policy and national security goals.

#### **Key OFAC Terminology**

- Prohibited Transaction - Prohibited transactions, as described in OFAC's [FAQ 3](#), are trade or financial transactions and other dealings in which U.S. persons may not engage unless authorized by OFAC or expressly exempted by statute. Because each program is based on different foreign policy and national security goals, prohibitions may vary between programs.
- [General license](#) - A general license is authorization from OFAC that authorizes a particular type of transaction for a class of persons without the need to apply for a license.
- [Specific license](#) - A specific license is a written document issued by OFAC to a particular person or entity, authorizing a particular transaction in response to a written license application.
- [Specially Designated Nationals \(SDN\)](#) - As part of its enforcement efforts, OFAC publishes a list of individuals and companies owned or controlled by, or acting for or on behalf of, targeted countries. It also lists individuals, groups, and entities, such as terrorists and narcotics traffickers designated under programs that are not country specific. Collectively, such individuals and companies are called "Specially Designated Nationals" or "SDNs." Their assets are blocked, and U.S. persons are generally prohibited from dealing with them without prior authorization from OFAC.

#### **OFAC Requirements**

U.S. persons must comply with OFAC regulations, including all U.S. citizens and permanent resident aliens regardless of where they are located, all persons and entities within the United States, all U.S. incorporated entities and their foreign branches. In the cases of certain programs, foreign subsidiaries owned or controlled by U.S. companies also must comply. Certain programs also require foreign persons in possession of U.S.-origin goods to comply. Persons engaging in transactions pursuant to general or specific licenses must make sure that all conditions of the licenses are strictly observed.

#### **Record Keeping Requirements**

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Except as otherwise provided, every person engaging in any transaction subject to the provisions of [31 CFR § 501.601](#) shall keep a full and accurate record of each such transaction engaged in, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least five (5) years after the date of such transaction. Except as otherwise provided, every person holding property blocked pursuant to the provisions of [31 CFR § 501.601](#) or funds transfers retained pursuant to [31 CFR § 596.504\(b\)](#) shall keep a full and accurate record of such property, and such record shall be available for examination for the period of time that such property is blocked and for at least five (5) years after the date such property is unblocked.

Additional regulatory agencies within the U.S. Government that have a hand in exporting activity, include:

- [U.S. Customs & Border Protection \(CBP\)](#)
- [U.S. Census Bureau, Foreign Trade Regulations \(FTR\)](#)
- [U.S. Department of Agriculture \(USDA\)](#)
- [U.S. Department of Energy, National Nuclear Security Administration \(NNSA\)](#)
- [U.S. Nuclear Regulatory Commission \(NRC\)](#)
- [U.S. Department of the Interior, U.S. Fish & Wildlife Service](#)
- [U.S. Environmental Protection Agency \(EPA\)](#)

## STANDARD OPERATING PROCEDURES

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UCR has implemented local procedures (hereinafter “Standard Operating Procedures” or “SOPs”) to outline processes used to foster a culture of compliance with Export Controls and the Export Control Policy. The following SOPs are in furtherance of this ECP and are made available under the Documents and Procedures page of the Export Control website at <https://exportcontrol.ucr.edu/>:

- Agreements, Contracts & Grants
- Export Jurisdiction, Classification & License Requirements
- Handling Export Violations & Corrective Actions
- Procurement Services / Purchasing
- Research and Technology Controls – Research Activities
- Restricted Party Screening / End-Use & End-User Checks
- ScotSurplus / Receiving Services / Mail Services

For additional guidance on specific projects or department process and procedures, please contact the Export Control Office.

## PROGRAM REVIEW AND ASSESSMENTS

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This ECP and its associated SOPs shall be assessed regularly by the ECO to identify challenges faced, and risks posed by any gaps in the program’s implementation. As an integral part of routine self-assessments, the ECO shall review to ensure that:

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- UCR Members have sufficient knowledge of export compliance procedures and regulations including completion of training.
- Export control processes and procedures are being followed.
- Resources to effectively manage the implementation of the ECP are efficient.
- Export control training materials are effective.

## OUTREACH AND TRAINING

UCR makes available a series of training resources such as on-line videos, infographics, handouts and in-person meetings to provide continued awareness on Export Controls applicable to university activities. These resources are made available to all UCR Members under the Training Resources block of the Export Control website at <https://exportcontrol.ucr.edu/>.

UCR Members are encouraged to review these resources to remain informed on applicable Export Controls as new content is made available.

## REPORTING NON-COMPLIANT ACTIVITIES

Failure to comply with Export Controls is misconduct subject to discipline and may lead to civil or criminal liability as described in the next section of this ECP.

It is the policy of the University of California to respond promptly to all reports of suspected violations of law and other non-compliance with the Export Control Policy, and to take appropriate action to correct and prevent future violations. Accordingly, any unauthorized, suspected, or illegal export activities, whenever discovered, must be ceased, and reported immediately for review and investigation.

Reports of a suspected non-compliant activity can be made either in person or electronically (e.g., by telephone, email or online) without fear of retaliation. Sufficient information must be provided to allow the designated officials to pursue an appropriate course of action in the event of an actual or potential violation. All reports of potential violations are kept confidential in accordance with applicable laws. When reporting on a suspected non-compliant activity, individuals are encouraged to report all known facts and details as available.

Reports can be sent to:

<b>Export Control Office</b>	<b>Chief Compliance Office / Locally Designated Official</b>
900 University Ave. 200 University Office Building Riverside, CA 92521	900 University Ave. 365 Skye Hall Riverside, CA 92521
Telephone: 1-951-827-4889	Whistleblower hotline: 1-800-403-4744
Email: <a href="mailto:exportcontrol@ucr.edu">exportcontrol@ucr.edu</a>	<a href="#">Online reporting</a>

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## GOVERNMENT AGENCY IMPOSED PENALTIES

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Individuals and institutions who violate federal laws and regulations that govern the conduct of export-controlled activities and exports are subject to penalties, including fines, jail terms, suspensions, denial of export or research privileges, and debarment from government contracting.

Violations of Export Controls can expose UCR and UCR Members to the following penalties:

- ITAR Criminal (22 CFR § 127.3): \$1 million per violation, 20 years in jail, or both
- ITAR Civil (22 CFR § 127.10): \$1,272,251 per violation
- EAR Criminal (15 CFR § 764.3(b)): \$1 million per violation, 20 years in jail, or both
- EAR Civil (15 CFR § 764.3(a)(1)): \$328,121 per violation or twice the value of the transaction, whichever is greater
- OFAC (31 CFR § 501): One-Half of Transaction Value or applicable statutory maximum per violation, whichever is greater (penalties vary based on statute and country specific sanctions programs)
- PLUS, possible debarment or denial of export privileges/denial of right of foreign parties to receive U.S. goods and technology.
- The U.S. Government can also suspend the right to contract with U.S. Government agencies.

## RECORDKEEPING

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All export control documents, including all related training records, shall be retained, and managed in accordance with relevant Export Control regulations and as captured in the UC Records Retention Schedule<sup>1</sup>. 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. To verify or obtain record retention information and instructions please contact the Export Control Office.

## QUESTIONS

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If you have any questions or require clarification at any time regarding export activities that you are contemplating, about to initiate or in which you are engaged, contact UCR's Export Control Office at [exportcontrol@ucr.edu](mailto:exportcontrol@ucr.edu).

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<sup>1</sup> University of California – Records Retention Schedule <https://recordsretention.ucop.edu/>