Export Escalation for Procurement Agreements

**Objective**

Ensure review of agreements for export license or technology control plans are completed to comply with federal export control regulations. Certain agreement types, like NDAs, procurement agreements, and transactions like shipments do not have the coverage of the fundamental research exclusion and technology control plans or export licenses may be required.

This process outlines the export control review requirements for all non-sponsored research agreements. Sponsored Research Agreements are handled through the Electronic Proposal Development (EPD) system research export control questionnaire and Export Control Special Review Process.

**Responsible Parties**

Contracts and Grants (OCGA, SIO C& G, OCTA), Office of Innovation and Commercialization (OIC), Procurement, Export Control, PIs, External Entities (companies or institutions)

**Requirement for All Agreement Types:**

* Sanctioned Countries

Any agreement involving imports/exports/ collaboration with sanctioned countries or persons or entities located in sanctioned countries (Cuba, Iran, North Korea, Syria or Sudan) require export license reviews by Export Control ([export@ucsd.edu](mailto:export@ucsd.edu) ) and must be escalated as early as possible to address export license requirements.

* Restricted Party Screening (RPS)

All agreements with foreign entities must be run through visual compliance restricted party screening (RPS). Any persons at UCSD with access to proprietary confidential information, ITAR items or participation in service agreements must be run through RPS. More information on this requirement is on the [Export Website](http://blink.ucsd.edu/sponsor/exportcontrol/rps.html).

* Restricted Parties

Any hits on the restricted party screening must be escalated to Export Control for review and export license review. Any persons associated with restricted entities or transactions involving restricted entities require export license review.

* Restricted End Uses

Any interactions direct or indirect with foreign military require Export Control license reviews to ensure no export licenses are required for defense services. Any end uses for biological or chemical weapons, missile, nuclear, rocket, or UAV (unmanned aerial vehicles) require Export Control license reviews.

**Equipment Loan Agreements**

Equipment loans of export restricted equipment or associated proprietary technical data may require export licensing or control plans for foreign persons to access that equipment or information.

Required Escalations to Export Control ([export@ucsd.edu](mailto:export@ucsd.edu) )

* Any equipment loans for equipment or items with export classifications of ITAR or 500 or 600 series ECCNs.
* Any equipment loans that include export restricted proprietary information
* Any foreign equipment loan agreements must be reviewed by Export Control to determine export license obligations.
* Any export control clauses that indicate more than basic compliance with export control regulations require Export Control review

**Non Disclosure Agreements (NDAs) /Confidential Disclosure Agreements (CDAs)**

Since proprietary information is NOT covered by the fundamental research exclusion there may be export license or technology control plan requirements with foreign parties or for foreign nationals with access to the proprietary information.

[OCGA Unfunded Agreement Form](http://blink.ucsd.edu/sponsor/ocga/forms.html#Unfunded-Agreement-Form) Export Control Questions:

The intake form for unfunded agreements is completed by the PI/Dept. Any “yes” responses are to be escalated to Export Control for further export license review.

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| 1. Will this agreement involve foreign travel, shipments or hand carrying of material outside the U.S.? |
| 1. Will this agreement involve MILITARY, SPACE or ENCRYPTION equipment, software, materials, or components accessed, used or developed? |
| 1. Will this agreement involve an End Use or Research Aim restricted under Export Control regulations: Nuclear, Foreign Military, UAV, Rocket or Missile, Chemical or Biological Weapons? |
| 1. In addition to the PI, will others at UCSD need access to the information covered under this agreement?   \*If **Yes**, please list names, email addresses, and positions here: Click here to enter text. |

UCSD standard export clause

UCSD’s export control clause requiring the discloser to provide export classification in advance is the preferred approach.

“The Disclosing Party shall notify the Receiving Party in writing of any Information disclosed under this Agreement that is subject to the U.S. Department of State International Traffic in Arms Regulations (“ITAR”), U.S. Department of Commerce Export Administration Regulations (“EAR”) or any similar laws or regulations regarding the export of goods or technical data.  The Receiving Party shall not apply for any export license without the prior consent of the Disclosing Party.  The Disclosing Party will not disclose Confidential Information that is subject to such U.S. Export Control laws and regulations to the Receiving Party without: (a) providing the Export Control Classification Number, ITAR category or other legal identifier to the Receiving Party, and (b) receiving prior written confirmation from Receiving Party’s authorized contracting officer that it is prepared to accept such restricted Confidential Information.”

If this is not possible the entity should provide the export classification (ECCN or ITAR category) and this needs to be provided to Export Control ( [export@ucsd.edu](mailto:export@ucsd.edu) ) to determine control plan or export licensing requirements based on the classification and the persons having access to the restricted technical data/technology.

Required Escalations to Export Control ([export@ucsd.edu](mailto:export@ucsd.edu) )

* NDAs/CDAs with foreign entities require export license review
* Any NDAs/CDAs that do not include the UCSD standard export clause or any export classifications other than EAR99 require export license review
* Any export control clauses that indicate more than basic compliance with export control regulations require Export Control review

**Procurement Agreements**

Procurement serves as a critical gate keeper in the UC San Diego Export Control program to identify language in procurement agreements that indicate export restricted status, foreign procurement activities or problematic export control language. Items that are export restricted may require export licenses or control plans for foreign national access in labs or for international field research. Identifying these items in the procurement process ensures that the University may implement the required security or obtain the export licenses to enable research and operations.

Required Escalations to Export Control ([export@ucsd.edu](mailto:export@ucsd.edu) )

* Any ITAR, 500 or 600 series or military strategic goods export restricted equipment purchases
* Any foreign procurements which require UCSD export of proprietary technical data or physical exports for to the foreign vendor require Export Control Review.
* End User Statement (EUS) Certification Letters
* Any export control clauses that indicate more than basic compliance with export control regulations require Export Control review

All export restricted items require UCIDs marked as “restricted” in CAMS so these items may be monitored for movement and disposition in accordance with export control regulations.

**Related Documents:** [UC Procurement Terms and Conditions](http://www.ucop.edu/procurement-services/_files/uc-terms-and-conditions-of-purchase.pdf)

**Export Control Resources:**

**UCSD Export Control Website:** [**http://blink.ucsd.edu/sponsor/exportcontrol/index.html**](http://blink.ucsd.edu/sponsor/exportcontrol/index.html)

**Online Export Control Training:** [**http://blink.ucsd.edu/sponsor/exportcontrol/training.html**](http://blink.ucsd.edu/sponsor/exportcontrol/training.html)

**Systems:** Marketplace- Procurement, Subawards