
RESTRICTED PARTY SCREENING ROLES AND RESPONSIBILITIES

KEY TAKEAWAY

The U.S. Federal government maintains multiple lists of “bad actors”—such as weapons proliferators, terrorist organizations, and drug traffickers—in an effort to limit support to them by U.S. organizations and individuals. Rules regarding interactions with these restricted parties vary depending on the list and related concerns. Under export control regulations, U.S. entities are expected to identify and properly address any legal or regulatory requirements prior to engaging with restricted parties.

SUMMARY

Export control regulations present complex and nuanced compliance challenges at institutions of higher education where interactions with international parties are numerous and expected. Engagements with international parties appearing on one of several U.S. government lists of debarred, denied or sanctioned parties, collectively referred to as “restricted parties,” carry specific legal requirements and can pose significant compliance risk. Restricted party screening, or “RPS,” is a foundational part of an organization’s export control compliance program. RPS is used to identify restricted parties prior to engagements which may result in export control violations. Restricted parties can include both individuals and organizations. A number of universities and research institutions are currently listed as restricted by the U.S. government.

This document serves to define and describe common roles and responsibilities for University community (faculty and other academic appointees, staff, students and non-employee participants in University programs) who may be engaged in activities that trigger a requirement for restricted party screening to be conducted under a location’s compliance program.

Understanding that compliance measures add administrative burden, any new or expanded processes or protocols should be evaluated for efficiency, ease of use (for example, simplified and standardized forms and systems) and effectiveness.

1. PURPOSE

As a standard practice, RPS should take place at first contact, prior to the export, re-export, transfer or transaction taking place, and should be performed for international activities. RPS should include every non-UC individual or entity involved in the transaction, including the end user, affiliated entity for international scholars and collaborators and any other parties involved in throughout the transaction, including partner resources such as supercomputing centers.

The following is a list of transactions where RPS should be performed:

- Financial transactions with an international element (e.g., purchases from international vendors, international travel payments, reimbursements to international parties)
- Awards or agreements with international entities (e.g., contracts/grants, sales and service, subawards, gifts)
- International collaborations (e.g., visitors, visiting scholars & postdocs, or working with students and scholars at international institutions)
- International shipments (e.g., physical and digital transfers outside the U.S.)

The table in section 5 provides a detailed overview of activities and transactions that should be screened and an associated office/unit to which screening responsibility can be assigned.

RPS may be performed by almost any member of UC's community. As such, this document is meant to provide guidance to locations on identifying the appropriate personnel or units to screen for restricted parties based on a number of variables, including but not limited to: organizational structure, risk exposure and tolerance, existing operational processes and compliance program resources.

2. EXPORT CONTROL POLICY

The [UC Export Control Policy](#) clearly establishes that compliance is a shared responsibility at UC, and important component of a UC location's compliance program. This guidance document elaborates on steps locations can take to meet these expectations.

- 1) The policy defines a restricted party as:

"An individual, organization or entity appearing on any one of the U.S. government restricted party lists (e.g., the Department of Treasury Specially Designated Nationals List (SDN) or the Department of Commerce Entity List) as a party prohibited from receiving U.S. exports or financial transactions and/or with whom U.S. persons are restricted from engaging in export or financial transactions."

- 2) The policy also references restricted party screening's role in an institutional compliance program as follows:

[Export controls control] financial transactions, exports, re-exports, and deemed exports of items and information to Restricted Parties or End Users, or for Restricted End Uses

Transactions, items, or activities that may require export licenses, control plans, or other approaches to ensure compliance with the export control regulations include, but are not limited to: [...] Dealings with restricted parties or entities

- 3) IX. Appendix A of the policy lists potential UC members and units that may have full or partial responsibility for screening for international activities.
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3. RPS ROLES AND RESPONSIBILITIES

While export control compliance is a shared responsibility, the policy allows individual UC locations to assign RPS responsibilities in order to accommodate the varying size, risk profile and organizational structure between locations.

Each UC location should take the following steps to determine RPS Roles and Responsibilities:

- 1) Identify any Restricted Party Screening currently being done, through [VisualCompliance](#) or other types of screening tools
- 2) Identify any other units/offices/labs/departments most likely to engage in activities that might require RPS (see section 5 for suggestions)
- 3) Identify any existing procedures for specific transactions or activities
- 4) Determine if existing offices/units performing RPS and existing risk-based procedures are sufficient. Where needed, revise and implement new RPS procedures. The procedures may be standalone or incorporated into existing business processes related to the relevant transaction or activity. RPS procedures should optimally:
 - a. Identify risks prior to the activity (and potential violation) taking place

- b. Minimize RPS administrative burden
- 5) Develop screening guidance designed to train users on:
 - a. What transactions and activities must be screened
 - b. What tool to use for screening
 - c. How to identify positive matches
 - d. Who to escalate matches to for further review for export license or other regulatory requirements
- 6) Provide RPS training and screening tools (e.g. a [VisualCompliance](#) account) to individuals assigned screening as part of their role

The following are general actions to complete RPS using the [VisualCompliance](#) RPS tool:

Screen: Enter the information for the party to be screened into the [VisualCompliance](#) RPS tool (or relevant tool) and click “screen.” Screeners should be provided clear guidance and training on the following:

- 1) How to determine which parties to screen;
- 2) Which information must be entered into the RPS tool (e.g. first name, last name, affiliated country, or any relevant screening notes);
- 3) How to acquire the information needed for the screening;
- 4) Whether the information needed is sensitive or regulated under any UC policy or local, state or federal law (e.g. Personally Identifiable Information – PII or visa information);
- 5) How to determine the results of the screening. Possible results include:
 - a. No matches found
 - b. Same or similar match
 - c. Country alert; and
- 6) Finally, what to do with potential matches or alerts (see the steps below)

Evaluate: Name matches and country alerts need to be evaluated to assess whether 1) the screened name or information match the RPS results and 2) whether the results relate to legal requirements or risk based on the location’s compliance program and business processes.

For example, if a person named John Smith is screened, and a positive match for “Joe Smythe” is returned by [VisualCompliance](#), the evaluator decides whether the information screened matches enough to validate it as a positive match. Additionally, in this example, Joe Smythe appears on the U.S. Federal SNAP (food assistance) debarred list, which would likely not impact any transaction involving the university. Each location should decide whether a person assigned to review matches and alerts is authorized to either evaluate 1) the name match, 2) applicability of results, or 3) both.

Escalate: Evaluated positive matches should be escalated to the appropriate subject matter expert (SME) to determine compliance with any regulatory or legal requirement and, where appropriate, make risk-based business decisions or recommendations for the location. For example, the Export Control Officer (ECO) would be the appropriate SME for export control related lists.

Important note: Activities or transactions in process involving the screened party should be paused until a final determination can be made.

Determine: Each location should select and designate a SME—a person(s) or office with the subject matter expertise, role or designated authority to make a determination on the match or alert under review. For export control related lists, export license determinations should be made by the ECO or designated export control staff.

Approve/Disapprove/Approve with Conditions:

The designated subject matter expert (SME) provides an assessment based on requirements and risks. Depending on the party, transaction and risk, the SME may need to provide relevant information to leadership and other experts (General Counsel, Research Compliance, etc.) or stakeholders (Faculty members or researchers impacted) in order to reach a final decision. Depending on the facts, potential final actions include:

- Approve: Move forward with the transaction involving the match without further action
- Disapprove: Do not move forward with the transaction involving the match and notify the appropriate parties
- Approve with Conditions: Move forward with all or part of the proposed transaction involving the match with provisos to address legal requirements or risk.

Recordkeeping: Records of screenings and returned matches/alerts can be saved and managed within the [VisualCompliance](#) system, but your location or ECO may require additional recordkeeping to document the screening, assessment, validation, determination and final decision.

Monitoring: The Export Control Office or other centralized office charged with RPS oversight should develop a risk based monitoring plan and procedures to ensure screenings are conducted, in accordance with local processes. At minimum, monitoring should be done periodically and include sampling to ensure screenings are performed in line with local procedures and that matches are escalated for review and determination.

These actions were developed with [VisualCompliance](#) as a model, so actions for screening may vary slightly with the use of other screening tools, but the same actions will generally apply to whichever screening tool is used.

A list of units or roles responsible for each of the RPS actions should be kept on record with the Export Control Office or other central office assigned authority. Likewise, the protocols for conducting screening should also be documented and maintained.

The following is a brief, non-exhaustive list of offices, units and leadership to whom locations should consider assigning one or more of the RPS responsibilities/roles outlined above:

- Export Control Office and Export Control Officer (ECO)
- International Students and Scholars (ISS) Office and Director
- Global Affairs/Engagement Office and Senior International Officer (SIO)
- Research Administration, Compliance and Sponsored Projects Office and the Vice Chancellor for Research
- School Deans, Department Chairs or other unit heads on a case-by-case basis
- Business and Financial Services (i.e. Procurements, Disbursements, etc.)
- School, Department, Research or other unit's Business Office Administrators
- Faculty, Researchers or other support employees

Locations may want to conduct a restricted parties risk assessment prior to creating location-specific roles and responsibilities guidance beyond what is listed here.

Locations should consider organizing a committee or workgroup of stakeholders who can review factors, such as current screening and risk profile, and recommend best practices to address risks and conduct screening in alignment with local organizational structure and resources.

Centralized vs. Distributed Screening Models

The types of transactions or activities that expose UC to potential violations or risk are broad. The shared variable of each is the involvement of an international party or destination.

Locations may choose to conduct an organizational review as noted above, to determine the most appropriate place to conduct screening on a particular transaction. Screening done in a central administrative office (e.g. sponsored projects or procurement) may reduce risk and leverage the greatest opportunity for efficiency and minimizing impact. Alternatively, decentralized screening conducted by the UC member initiating the transaction or activity (e.g. a lab member shipping outside the US runs RPS on the recipient prior to exporting) may be the most direct way to ensure compliance on activities, especially when the location does not have a central office for certain functions (e.g. a central shipping department). A hybrid model is also acceptable.

The nature of the transaction or activity should be considered when making this determination. For instance, the purchase of expensive lab equipment will likely be routed through a central procurement office, where existing systems and processes can be augmented to run screening. However, other transactions, like international collaborations of faculty or international shipping or procurement outside of a centralized office or system, may necessitate screening by the faculty or shipper, or decentralized administrators (e.g. at the department or organized research unit level).

4. TOOLS FOR RESTRICTED PARTY SCREENING

In most cases at the UC system, Restricted Party Screening is completed through a third-party, web-based tool offered by [Descartes VisualCompliance](#), although there are additional tools or methods available to screen for Restricted Parties that also meet regulatory due diligence standards to ensure compliance. Descartes VisualCompliance's Restricted Party Screening (RPS) screens various lists, including but not limited to export control.

UC locations must develop local resources and guidance that instruct RPS responsible personnel or units on the selected screening tool to use and how to use it.

5. SAMPLE TABLE OF RPS ROLES AND RESPONSIBILITIES

Agreement or Activity Type	Responsible Party	Activity of Risk to Screen
Gifts	Development or unit responsible for gift processing	International financial transaction
Vendor Setup	Business/Financial/Disbursements	Purchase and financial transaction
Wire Transfer Payments	Business/Financial/Disbursements	Financial transaction
Traveler	Business/Financial/Disbursements or Travel Department	Financial payments to travelers who are or are affiliated with a restricted party. Travel to sanctioned countries.
Clinical Trial-- PI or Industry initiated	Clinical Trials Office, Sponsored Projects Office or other responsible unit	Interactions with international parties

Agreement or Activity Type	Responsible Party	Activity of Risk to Screen
Sponsored Projects Research Agreements <ul style="list-style-type: none"> • Contracts • Grants • Other sponsored research awards 	Sponsored Projects Office or other responsible unit	Funding from or interactions with international parties (including providing or receiving services) during the course of research projects. Note: Research project proposals may outline separate, individual activities, such as purchasing export restricted equipment, shipping internationally, or collaborating with international parties, that would require restricted party screening
Subawards-incoming and outgoing	Sponsored Projects Office or Business / Financial Operations	Financial transaction or interactions with international parties
Sales or Service Agreements	Sponsored Projects Office, Business / Financial Operations, Departments, Research Units or responsible unit for service agreements	Financial transaction or interactions with international parties
Data Use Agreement (DUA)	Sponsored Projects Office or responsible unit for DUAs	Data use agreements may involve access to proprietary software / information that is subject to export control regulations
Equipment Loan Agreement (ELA)	Sponsored Projects Office or responsible unit for ELAs	Transfer of items, material or information
Material Transfer Agreement (MTA) – both outgoing and incoming	Sponsored Projects Office or Industry Relations/Technology Transfer, or the responsible unit for institutional MTAs	Transfer of items, material or information
Memorandum of Understanding (MOU)	Sponsored Projects Office, International Office, VC Research's Office, or responsible unit for MOUs	Interactions with international parties
Nondisclosure Agreement (NDA), Confidential Disclosure Agreement (CDA), or similar agreements	Sponsored Projects Office or Industry Relations/Technology Transfer, or the responsible unit for institutional NDAs	Information or material received under an NDA is not in the public domain, and is therefore subject to export control regulations. An export license may be required in order to provide export controlled information or items to certain parties, including restricted parties (or to provide a "deemed export" of such information to a non-U.S. person in the U.S., depending on country-specific restrictions)
Software License Agreement (SLA)	Sponsored Projects Office or responsible unit for SLAs	Software license agreements may involve access to proprietary software or information that is subject to export control regulations
Teaming Agreement (TA)	Sponsored Projects Office or responsible unit for TAs	Interactions with international parties
Unfunded Collaboration Agreement (UCA) or Research Agreement	Sponsored Projects Office or responsible unit for UCAs	Interactions with international parties Note: Research collaborations may outline other activities, such as purchasing export restricted equipment, shipping internationally, or visitor/student exchanges, that would require restricted party screening

Agreement or Activity Type	Responsible Party	Activity of Risk to Screen
Incoming Visiting Scholars or Grad Students	International Office, Academic Personnel or Department HR	Interactions with international parties Note: In contrast to matriculated students enrolled in courses at UC, visiting scholars and students maintain their affiliation with their home institution and are therefore viewed as a representative of that institution under export control regulations. The visitors as well as any current affiliations should be screened using RPS
International Shipping	Central Shipping or Mail or any person shipping on behalf of UC	Transfer of items, material or information outside the US
Export Licenses	Export Control Office	Prior to submitting an export license to the cognizant federal agency, any parties associated with the license and the requested activities therein need to be screened to ensure none are restricted parties
Technology Control Plans (TCPs)	Export Control Office	Prior to allowing access to export restricted items, technology or information under a TCP, any parties to be granted access need to be screened to ensure none are restricted parties
University Extension and other customized education provided to students outside the U.S.	University Extension or other responsible Department or unit providing customized educational service	Education offered through customized online or remote courses must consider Export Controls and OFAC sanctions in particular. Matriculated students enrolled at UC and issued a student visa from the State Department to study in the U.S. are largely exempt from export controls if the courses offered constitute catalog courses consisting of publicly available, educational information. Customized courses or education services provided to certain parties, including restricted parties, or to individual residents to or citizens of a sanctioned country are not exempt and may require an export license. University Extension or other unit providing service should conduct screening on international students, institutions and countries and work with the local Export Control Office to navigate sanctions compliance successfully
Study Abroad Programs	Global Affairs/Engagement Office, Student Affairs, etc.	Students studying outside the U.S. should be aware of the potential impact of interacting with sanctioned parties or countries. Screening should be performed in connection with studies in sanctioned countries to identify potential requirements and to identify potential engagements with restricted parties abroad
International collaborations	Sponsored Projects Office, Department administrators, individual faculty, or other appropriate units	International collaboration is an integral part of academic pursuits like education and research; however, individual activities within a broader collaborative partnership must be considered when engaging with international institutions. Any number of the aforementioned activities can take place during the course of collaboration, and if the international collaborator is a restricted party, regulatory requirements and risks must be considered