
INTERNATIONAL SCHOLAR VETTING

KEY TAKEAWAY

Campuses should implement efficient processes to conduct international scholar vetting to address export control risks including “Know Your Collaborator” red flags. Implementation processes will involve many parties across the institution and therefore specific roles and responsibilities should be determined.

This document was created to provide guidance to UC locations on assessing risk and identifying and vetting international scholars, including postdoctoral researchers, visiting scholars, and graduate students (including for incubators and accelerators) and their associated entities, to facilitate compliance with export control regulations.

SUMMARY

The University of California (UC) is committed to its mission of research, education and public service while providing an open, inclusive environment that strives for equity and diversity. UC is an active member of the global academic community, involving faculty, researchers and students from around the world. And at the same time, as an internationally-engaged organization, UC locations must consider how to maintain compliance with federal export control regulations.

While policy and regulatory carve outs for fundamental research (such as the Fundamental Research Exclusion ([NSDD 189](#)), EAR ([15 CFR § 734.8](#)) and ITAR ([22 CFR 120.11\(a\)\(8\)](#))) exist to protect the highly collaborative, open and international engagements driving fundamental research and higher education at institutions like UC, not all university operations or activities qualify for these carve outs. **Some examples of activities that are not exempt** under the Fundamental Research Exclusion 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 controlled 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.

Engagements with international parties appearing on one of several U.S. government debarred, denied or sanctioned lists, collectively referred to as “restricted parties,” carry specific legal requirements and therefore pose significant compliance risk. As such, screening for restricted parties, known as restricted party screening or “RPS,” is a foundational part of an organization’s export control compliance program to ensure no interactions or engagements with restricted parties occur without proper U.S. government authorization. Restricted parties can include both individuals and organizations, and there are a number of universities and research institutions currently listed.

The Department of Commerce has outlined “Know Your Customer Guidance¹” which guides institutions to “take into account any abnormal circumstances in a transaction that indicate that the export may be destined

¹ [Supplement No. 3 to part 732](#) of the Export Administration Regulations

for an inappropriate end-use, end-user, or destination.” For UC, we apply that framework as “Know Your Collaborator.” Export controls compel U.S. organizations and individuals to consider potential risk areas, such as where an international scholar has an association with an entity that is a restricted party (including universities). Such restricted parties may be subject to strict export controls and require a license for tangible exports or sharing of controlled technology (or “know how”), a technology control plan (TCP), or other compliance strategy.

Locations can mitigate the risk of an export control violation by implementing a process to “Know Your Collaborator” by performing restricted party screening and other risk-appropriate vetting processes. It is important to screen not only the individual, but also the institutions with which they are associated. Locations must be aware of affiliations with these entities to make appropriate risk-based decisions. This process should be incorporated into instances where the institution is supporting a visa application and screening can be integrated into the internal approval process. However, in cases where individuals are not tracked through existing mechanisms and processes, locations will need to identify and address those awareness gaps. This will require more intensive communication, training, and management. A risk-based approach may be warranted.

Your location process will involve many parties across the institution. The goal is to minimize the amount of regulatory knowledge and understanding needed by non-compliance professionals, while maximizing the efficiency of reviews where there is significant export control risk.

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.

BACKGROUND

Export Controls are U.S. laws and regulations that govern and restrict the transfer of certain items, information, technology, and/or services overseas or to foreign nationals within the U.S. and to restricted parties. Transfers include physical shipments, as well as electronic, verbal, written or visual disclosures. The federal government enacted export control laws in order to protect the U.S. economy, and support U.S. foreign policy goals. The consequences of violating export control regulations can be severe and can result in both civil and criminal penalties for the individual and the institution. The process outlined here can facilitate compliance with export controls by identifying restricted party engagements.

Restricted parties are individuals and organizations inside *and* outside the U.S. which:

- Appear on any one of the U.S. government restricted party lists 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 (for example, the Department of Treasury Specially Designated Nationals List (SDN) or the Department of Commerce Entity List). Such entities have generally been found by the U.S. government to represent a threat to national security or foreign policy interests including human rights violations

Entities of concern are individuals and organizations inside *and* outside of the U.S. which may present significant business and reputational risk exposure to the University due to:

- Their involvement in weapons or military related research and development for a foreign government; and/or
- Being the subject of federal indictment or under investigation by federal law enforcement for issues related to violations of federal export control law or other U.S. foreign policy concerns.

For the purposes of this guidance, “International Scholars” are foreign postdoctoral researchers, visiting scholars, graduate students, and individuals coming to work as part of incubators and accelerators. Because campus/location procedures vary, examples of every applicable situation are not described here. But generally, “International Scholars” as defined here includes those in employment categories (such as Visiting Professors, Visiting Researchers, Postdocs, visiting grads appointed as Jr Specialists), short term visitors (Visiting

Scholars, Visiting Graduate Students) who are engaged in research activities *and* those that participate in or observe teaching, research, incubator, accelerator or public service activities not captured by the prior categories. Note that a location may choose to identify more risk categories and utilize the processes developed under this guidance for *all* individuals.

AUDIENCE

Depending on organizational structure and the existing processes at each UC location, various aspects of the “Know Your Collaborator” process may be assigned as a required job duty of specific administrative functions. This document is meant to provide guidance to locations on implementation of a process including the appropriate people to involve. What information to consider in the screening process and screening outcomes will depend on many variables, including but not limited to: organizational structure, risk exposure and tolerance, existing operational processes and compliance program resources.

PROCESS

STEP ONE: SCREEN VISA APPLICANTS AND IDENTIFY OTHER POPULATIONS TO BE SCREENED

Add RPS where UC is sponsoring a visa.

The “Know Your Collaborator” process should be incorporated into instances where the UC location is supporting a visa application for an International Scholar. As a sponsor, UC is required to collect certain information, and a “Know Your Collaborator” process can be more easily integrated into internal processes. For example, the Department of State (DoS) manages Exchange Visitor Programs, nonimmigrant exchange visitors in the [J visa](#) classification and their dependents. The federal Student Exchange Visitor Program (SEVP) manages schools, nonimmigrant students in the F and M visa classifications and their dependents. Both DoS and SEVP use the [Student and Exchange Visitor Information System \(SEVIS\)](#) to track and monitor schools, exchange visitor programs, and F, M and J nonimmigrants while they visit the United States and participate in the U.S. educational system. As SEVIS institutions sponsoring visas, UC locations are responsible for knowing where visa recipients are and that they are conducting work or study covered by their visa.

Review procedures and address gaps to identify International Scholars not currently being screened.

Locations should review their procedures, and detect any gaps, for identifying International Scholars that should be screened, including those that participate in or observe teaching, research, and incubator, accelerator or public service activities, or receive training related to any of these (e.g., safety/laboratory training). For example, gaps may include cases where UC is not sponsoring the visa, and a person may have a visa sponsored by another U.S. institution or entity, enter the U.S. on a B-1 or B-2 business visitor visa, or enter the U.S. under the Visa Waiver Program.

Where existing mechanism do not identify International Scholars working at or visiting the campus/location, local resource- and risk- based procedures should be developed. Examples of how UC locations have approached this include:

- require that all international scholars be given an academic appointment, tracked in a central database, and/or tracked as Contingent Worker in UC Path.
- require that international scholars (that are not given an academic appointment) be registered by their faculty host and information provided about the individual and their activities.

STEP TWO: COLLECT INFORMATION AND REVIEW

Determine review criteria and information collection.

The baseline review is restricted party screening for the individual scholar and their associated institution(s), and should include escalation procedures for review, risk analysis and risk mitigation. See UCOP Restricted

Party Screening Roles and Responsibilities Procedure Guidance for guidance on implementation of RPS procedures, and UCOP Restricted Party and Entity of Concern Escalation Procedure Guidance for more information on internal escalation procedures.

Associated entities may include entities which a person is representing, employed by, receiving support from or holds a joint appointment with. See this FAQ from the Department of Commerce as an example of how to determine associated entities:

If a person on the Entity List enters the United States, can I do business with that person?

BIS does not prohibit the sale or transfer of commodities subject to the EAR to persons on the Entity List if those persons are in the United States. **However, the release of software source code or technology in the United States to a person on the Entity List or a person employed by or representing an organization on the Entity List may require a license as a “deemed export.”** Should such a person depart the United States, a license will be required for the export of commodities and software (other than software source code) consistent with the entity’s listing on the Entity List. In addition, if at the time of the domestic sale or transfer in the United States, the transferor or seller had “knowledge” that the person on the Entity List or the person employed by or representing the organization on the Entity List intended to export the item(s) out of the United States without obtaining BIS authorization, a violation of the EAR under §736.2(b)(10) (General Prohibition Ten) and §764.2(e) may occur. BIS recommends that exporters exercise a high level of due diligence prior to entering into a transaction with any person on the Entity List, regardless of where that person is located. Note also that the release outside of the United States of software source code or technology subject to the EAR to a person on the Entity List or a person employed by or representing an organization on the Entity List may require a license or other EAR authorization prior to the “deemed reexport” of that software source code or technology.

Generally speaking, most issues identified as part of the “Know Your Collaborator” process can be addressed through a technology control plan or other control plan in coordination with your Export Control Office. In most cases, the goal of the review is to identify export control risks or license requirements and manage those requirements through control plans, awareness, training on export license requirements and risks and, when applicable, licensing. In very rare cases, a location may decide not to proceed with an engagement with an International Scholar. For this reason, the review process should be implemented as early as practical and **prior** to the extension of an offer for employment, written or verbal, (and ideally before engagement). If an offer of employment needs to be retracted as a result of this process, then campus counsel must be consulted prior to the retraction.

As noted in the UCOP Restricted Party and Entity of Concern Escalation Procedure Guidance, in cases where a high degree of risk is involved, the evaluation process can include a tiered progression of reviews ending with a senior leader or authorized University official or office making and communicating a final decision.

Ideally information for review is collected as part of an existing process. For example, some locations use electronic systems for processing and tracking academic appointments, visa status, or acknowledgement of the UC Patent Policy. If electronic systems are not in place, the information collection process can be added to paper forms that are already required or a paper information collection form can be added to an existing process checklist.

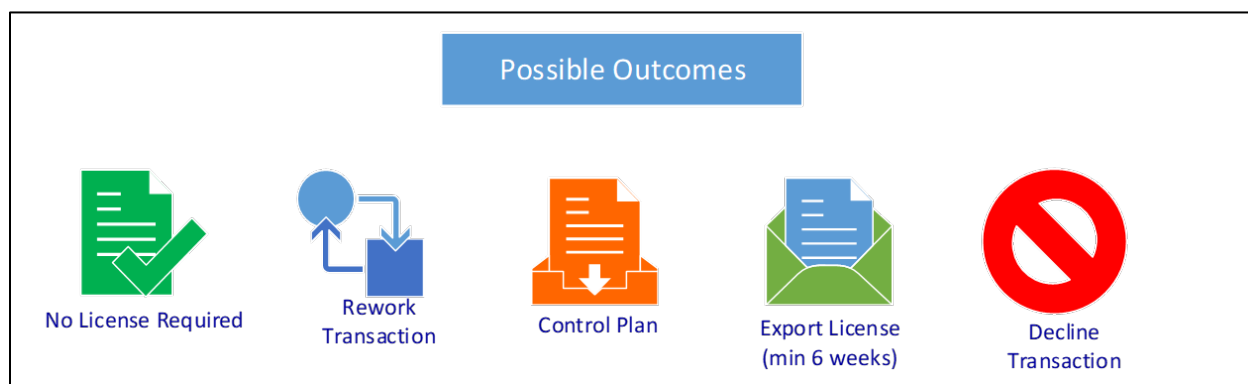
Campuses should evaluate which information should be collected based on legal requirements (for example, an export license determination is required for H1-B visas), resources available, the risk tolerance of the location, and what the International Scholar will do on campus. Examples of information to collect include:

- CV
- Funding source
- Associated institution(s)
- Proposed activity while they are on campus
- Acknowledgement of the UC Patent Policy

In some cases, a questionnaire is instituted to determine if the International Scholar will work on: 1) any service agreements for which UC is selling a particular service to an outside party, or 2) sponsored research. If so, the form might also ask for:

- Sponsor name
- Agreement number (so the agreement can be looked up if needed)
- Topic of the research, project or other work
- Information related to access to or use of:
 - Technology received under an agreement that includes the requirement of non-disclosure or is subject to access restrictions
 - Sponsor or third-party proprietary or confidential information, materials, software
 - Encryption source code
 - Equipment or technology that has been designated as, or known to be, export controlled, including equipment or technology designed or developed for military, intelligence, nuclear, Unmanned Aerial Vehicle or space applications

The goal of the review is to screen the individual and associated institution(s), for export control license requirements and risks. The campus/location Export Control Officer conducts export license reviews. The result should be one of the following:



Reviews may consider:

- [Emerging technology](#) research
- Export controlled technology, materials or equipment
- Restricted Party or Entity of Concern status
- Sensitive country such as a Military End Use controlled destination such as Cambodia, China, Russia or Venezuela or a comprehensively sanctioned country such as Cuba, Iran, North Korea, Syria or Ukraine (Crimea region).
- Military or Military Intelligence end use or end user ([EAR Part 744.21 and 744.22](#))

STEP THREE: DESIGNATE ROLES AND RESPONSIBILITIES

Determine who will own the review process and be responsible for implementing and monitoring it.

A broad range of internal stakeholders should be represented during both process creation and post-implementation. These stakeholders should be integrated into the process according to the relevancy of their roles to international scholars. Examples include: visa/international services offices, sponsored projects offices, general counsel, export control, information technology, administrative units involved in visa processing, research compliance, graduate deans, postdoctoral scholars affairs and academic personnel.

Some effective practices include:

- Assigning responsibilities to a single office to manage export control compliance and research interests
- Developing consistent visa/immigration guidelines for all international visitors
- Ensuring that export control and any designated research security offices are involved

- Engaging faculty interests and concerns on the front-end of the process
- Working with IT Chief Information Security Officer (CISO) to determine and provide network access at the level needed and appropriate IT controls when necessary, e.g., with a technology control plan.

Whether the “Know Your Collaborator” process is centralized or decentralized, the final policy or guidance should be readily available. If possible, a central website should be created as a one-stop location that contains or links to all necessary guidance, including definitions, frequently asked questions, agreement templates, training materials, and contact information. Communication should be provided around any procedural changes.

Training should be offered in different formats and made available to those identified as stakeholders in the process. Stakeholders may include faculty, administrative staff, and central office staff who have a direct role in the process. Training materials may be tailored to the audience and aimed specifically at individual roles or created for universal applicability.

Below are example roles and responsibilities. A documented local process should clarify the steps for escalation and ensure a consistent approach for analysis and decision making.

Office	Actions required
Academic Personnel, Graduate Division, Postdoctoral Scholar Affairs	<ul style="list-style-type: none"> • Provide HR-related advice when needed (for example, if a J-1 scholar is presently at UC and their associated foreign entity is added to the restricted party list)
Chief Information Security Officer	<ul style="list-style-type: none"> • Provide input for risk analysis • Advise on risk mitigation measures
Export Control	<ul style="list-style-type: none"> • Review transaction for export license requirements • Develop a proposed technology control plan as needed • Provide training to stakeholders on restricted party requirements and risks • Provide input for risk analysis and decision making
Campus Counsel	<ul style="list-style-type: none"> • Provide legal advice when requested
International Students and Scholars Center	<ul style="list-style-type: none"> • Provide guidance/information on visa compliance/status if needed (for example, export control compliance can sometimes be dependent on visa status)
Research Integrity	<ul style="list-style-type: none"> • Provide input for risk analysis • Advise on risk mitigation measures
Individual or unit requesting the transaction with the restricted party	<ul style="list-style-type: none"> • Provide information as needed • Attend briefings as requested • Implement technology control plan and/or follow license requirements
Designated office(s) for coordination (i.e., International Office, Export Control, Compliance or other)	<ul style="list-style-type: none"> • Gather information for the risk analysis • Route restricted party transaction for decision making escalation procedure • Maintain records
Designated Decision maker(s) (i.e., a senior leader(s), such as a Chair, Dean, Business Unit Head, etc., and/or other University officials or offices as designated by the campus/location)	<ul style="list-style-type: none"> • Review risk analysis and indicate outcomes such as: <ul style="list-style-type: none"> ○ Gather or request more information ○ Approve engagement as outlined ○ Approve engagement with additional risk mitigations factors ○ Decline engagement
Export Control UCOP	<ul style="list-style-type: none"> • Provide support and resources as requested (e.g., guidance, benchmarking, best practices across locations)
General Counsel UCOP	<ul style="list-style-type: none"> • Legal advice when requested