



UCSD
Export Control
Training:
What We Need to Know

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FISCHER & ASSOCIATES

> Training Agenda

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1. Introduction: Why is Awareness So Critical?
 2. What Are Export Controls? How Do They Work? How Are They Enforced?
 3. How Do Controls Impact *Me as a PI or Research Administrator*?
 4. How Do We Remain Compliant *and* Subject to As Few Controls As Possible?
 5. OFAC Embargoed Country Rules: How Are They Different From Other Controls?
 6. Do's and Don'ts: The Bottom Line
 7. Where Do I Go for Help?
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1. Introduction: Why Is Awareness So Critical?

Key Issue

While export controls potentially restrict certain foreign nationals on campus (including students, post docs, and visiting scholars) from gaining access to certain hardware, software, and technology during the course of research, and enforcement (civil and criminal) for violations is severe, limiting participation of foreign nationals in University research is not realistic and is contrary to the University's anti-discrimination policies based on citizenship.

This issue concerns all departments and campuses throughout UCSD (including Medical School) where research is conducted or contemplated, whether externally sponsored or internally funded through a UCSD Department.

UC Policy on Citizenship Restrictions

"...it is contrary to University policy to accept provisions in sponsored projects or gifts which require discrimination in employment, including discrimination based on citizenship"...except where the purpose of the project is workforce development.

Council of Chancellors, June 17, 1988

2. What Are Export Controls? How Do They Work? How Are They Enforced?

What constitutes exports of controlled commodity, software, technical data or technology?

Exports defined (EAR and ITAR):

Physical shipments of such items abroad by any means; electronic data transmission, spoken communication, hand carried articles.

Deemed Export (EAR)/Disclosing (ITAR) defined:

- “Release” concept: visual and computer access to export controlled technology or data, occurring in the U.S by foreign persons of certain countries validly on temporary student or employment visas, neither U.S. citizens nor Permanent Residents (export is “deemed” to occur upon foreign national’s return to home country); or release to foreign nationals abroad. Definition of “Foreign persons” includes companies not incorporated in the U.S., foreign governments, and international organizations.
- ITAR incorporates analogous concept for purposes of defense articles and services, but subject to ITAR country prohibitions.

Controls defined:

EAR-Commerce Department “Dual use” controls (15 CFR 700-799):

- Commodity/hardware, software, technical data with both civilian and potential military or nuclear proliferation capabilities.
- Technical data/technology: blueprints, plans, diagrams, models, formulae, tables, engineering designs, and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape read-only memories.

> 2. WHAT ARE EXPORT CONTROLS? HOW DO THEY WORK? HOW ARE THEY ENFORCED?

ITAR- State Department controls (22 CFR 120-130):

Defense Article:

- Hardware, software and technical data specifically designed, developed, configured, adapted or modified for a military application, and
 - Does not have predominant civilian applications, and
 - Does not have a performance equivalent (defined by form, fit or function) to those of an article or service used for civil applications; or
 - Is specifically designed, developed, configured, adapted or modified for a military application, and has significant military or intelligence applicability such that control under this subchapter is necessary.

Defense service:

- Providing technical assistance (including training) to foreign persons (whether in the U.S. or abroad) in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing or use of defense articles;
- Providing to foreign persons any technical data controlled under this subchapter (see below) whether in the U.S. or abroad;
- Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the U.S. or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aid, orientation, training exercise, and military advice.

Technical Data:

Information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance or modification of defense articles; Invention covered by a secrecy order; and software directly *related to a defense article*.

How do export controls work?

EAR – Dual Use Destination/End Use controls

- Exports of certain commodities (whether hardware, software, technology or technical data) identified on the Commerce Control List (CCL) with an Export Control Commodity Number (ECCN) require prior written authorization — an “export license” — or must meet an allowable exception.
 - License take at least 30 plus days to obtain and are often issued with mandatory end use/user conditions.
- Licensing depends on three factors:
 - Type of item;
 - Reason(s) for control e.g., anti nuclear proliferation (NP), missile technology (MT), national security (NS), chemical biological control (CB), or several other types of control could be placed on it ;
 - Whether country exported to is controlled for an item with that level of control, based on CCL Country Chart.
- Commerce Control List (CCL) 15 CFR 774 Categories 0-9:
 - 0 Nuclear Materials, Facilities, Equipment
 - 1 Materials, Chemicals, Microorganisms, Toxins
 - 2 Materials Processing
 - 3 Electronics
 - 4 Computers
 - 5 Telecommunications and Information Security
 - 6 Lasers and Sensors
 - 7 Navigation and Avionics
 - 8 Marine
 - 9 Propulsion Systems, Space Vehicles and Related Equipment

> 2. WHAT ARE EXPORT CONTROLS? HOW DO THEY WORK? HOW ARE THEY ENFORCED?

- Within each category 0-9 above, items are arranged according to the same five groups, A-E below:
 - A Equipment, Assemblies and Components
 - B Test, Inspection and Production Equipment
 - C Materials
 - D Software
 - E Technology
- Examples of controls and licensable destinations
 - ECCN: Example - ECCN 2B230
 - Pressure Transducers capable of measuring absolute pressures at any point in the range of 0 to 13 kPa and having both of the following characteristics (See List of Items of Controlled)
 - Reasons for Control: NP and AT
 - Examples of countries controlled for NP - license required: Singapore, China
 - **Note:** “know-how” technology also controlled for deemed export purposes
 - Example – ECCN 1C107
 - Graphite and ceramic materials other than those controlled by 1C007, which can be machined to any of the following products as follows (See List of Items Controlled)
 - Reasons for Control: MT and AT
 - Examples of countries controlled for MT – license required: Israel, Italy
 - **Note:** Items are controlled to their highest level. A non-controlled item can become highly controlled by loading a controlled component onto it. Example: Modem or transceiver loaded with controlled cryptography, advanced microprocessor capability.

ITAR - Military/Defense Controls

- Based on U.S. Munitions List (USML – 22 CFR 121) pertaining to definitions of defense article, service, or technical data defined above (including certain items “specially designed or modified for military application”): categories include:
 - Firearms
 - Artillery Projectors
 - Ammunition
 - Launch Vehicles
 - Explosives, Propellants, incendiary Agents and their constituents
 - Vessels of War and Special Naval Equipment
 - Tanks and Military Vehicles
 - Aircraft and Associated Equipment
 - Military Training Equipment
 - Protective Personnel Equipment
 - Military Electronics
 - Fire Control, Range Finder, Optical and Guidance Control
 - Toxicological Agents/Equipment, Radiological Equipment
 - Spacecraft Systems and Associated Equipment
 - Nuclear Weapons Design and related equipment
 - Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
 - Submersible Vessels, Oceanographic and Associated Equipment
- Exports require prior “authorizations” based on item, design, end use or defense service activity for any export unless a specific exemption applies.
 - EAR Items exported in furtherance of an ITAR defense service require authorizations
 - **Note:** Certain countries allowable or licensable for EAR exports are per se prohibited for ITAR, and presumed denied for ITAR purposes: e.g., China.

EAR/ITAR End User Controls/Prohibitions

Separate from above-referenced controls, government prohibits *exports to* or *export collaboration with* certain designated individuals and entities identified as export violators both in and outside the U.S.

- Compliance requirement to screen certain parties (for example foreign institutions, industrial sponsors) against government-published lists prior to export (Denied Parties List, Restricted Entities List, Debarred Parties List, Specially Designated Nationals List).
- **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS**

How are controls enforced?

- Civil and criminal enforcement authority over EAR and ITAR violations, resulting in loss of export privileges, severe monetary fines (millions of dollars), prosecution (criminal) — against University *and/or faculty member or administrator* to whom violation is found attributable.
 - Agencies exercise broad enforcement discretion
 - UC Santa Cruz civil enforcement action: 5 year look-back rule
 - Several other universities and medical campuses now under investigation
- Recent Criminal Prosecutions
 - Thomas Butler, Chief of Infection Disease Division, Texas Tech Dept. of Internal Medicine: Select Agent violations/export to Tanzania
 - J. Reece Roth, Professor Emeritus, University of Tennessee, Knoxville/technology transfer to foreign graduate students (China and Iran) contrary to explicit contractual provisions
 - UT itself not indicted based on mitigating record.

3. How Do Controls Impact Me As a PI or Research Administrator?

Key Point

“Exclusions”

Partially exempt University research activities from *some but not all* of the export control licensing requirements, rendering export compliance easier to achieve, and faculty/administrators less vulnerable to violation.

- Exclusions are the cornerstone of preserving fundamental research without discriminating against foreign national participation.

The Catch:

Exclusions must be used knowledgeably/correctly; otherwise, licensing requirement is triggered, failure of which to obtain is an export control violation.

Fundamental Research Exclusion (FRE) – EAR/Public Domain -ITAR

Definition

Basic and applied research in science and engineering conducted at a U.S. university, the results of which ordinarily are published and shared broadly within the scientific community.

UC Policy on Publication

- “It is a long-standing University policy that freedom to publish or disseminate results is a major criterion of the appropriateness of a sponsored project, and particularly of a research project.”
UC Contract and Grant Manual Section 1-410

> 3. HOW DO CONTROLS IMPACT ME AS A PI OR RESEARCH ADMINISTRATOR?

What is published information or for ITAR purposes, in the public domain?

Generally accessible to the public through:

- publication in periodicals, books, print, electronic, or other media available for general distribution (including websites that provide free uncontrolled access) or to a community of persons interested in the subject matter, such as those in a scientific or engineering discipline, either free or at a price that does not exceed the cost of reproduction and distribution;
- readily available at libraries open to the public or at university libraries;
- patents and published patent applications available at any patent office;
- release at an open conference, meeting, seminar, trade show, or other open gathering held in the U.S. (under ITAR) or anywhere (under EAR). Note, a conference or gathering is "open" if all technically qualified members of the public are eligible to attend and attendees are permitted to take notes or otherwise make a personal record of the proceedings and presentations.
- ITAR: general descriptions/marketing material relating to function/purpose of defense article.

Benefit

Even if results of the research might otherwise be export controlled under the EAR and therefore subject to deemed export restrictions as to who could participate in the research, the FRE generally allows anyone of any nationality access to the results of the research - consistent with University policy.

Caveat

Absolutely no restrictions can be accepted from a corporate or government sponsor that:

- directly or indirectly prohibit dissemination or publication of research results, or
- mandate foreign national restrictions as to who can access research.

> 3. HOW DO CONTROLS IMPACT ME AS A PI OR RESEARCH ADMINISTRATOR?

Except for:

Limited pre-publication review by research sponsors is acceptable within a reasonable timeframe but only to:

- prevent inadvertent divulgence of proprietary information or government classified information (as having been mutually defined) and provided by the sponsor, or
- to ensure that pre-defined proprietary content will not compromise the sponsor's patent rights.

Use technology

Certain types of technology per certain equipment under the EAR are controlled as “use technology” where the activity involved involves **all** of the following: operation, installation, maintenance, repair, overhaul and refurbishing, or otherwise conveys the know-how necessary to develop the equipment's capabilities.

- Providing this know-how or development technology to a research team compromises the FRE, *unless* it is already publicly available, in the public domain, or self-invented.
- However, data provided merely for the purposes of operating the machine (such as that contained within an operation manual) does not constitute export of controlled data.

Educational Information Exclusion - EAR and ITAR

“Educational information” released by instruction in catalogue courses or professional conferences where all technically qualified members of the public are eligible to attend and attendees are permitted to take notes of proceedings.

Employment Exclusion- ITAR

Information can be provided in the United States to a foreign person where “bona fide” employee of the University - working full time with full benefits (would not include grad students/post doctorates).

- Not a national from ITAR prohibited country (Belarus, Cuba ,Iran, North Korea, Syria, Burma, China, Haiti, Liberia, Somalia, Sudan, Afghanistan, Rwanda, Venezuela, and Democratic Republic of Congo).
- Resides at a permanent address in the U.S. while employed at University.
- Informed in writing by institution that information not transferable to other foreign persons absent DOS authorization. For example, where data is provided to foreign national employee and used for background purposes (including sharing with other U.S. citizen or permanent resident employee), but not with a foreign national student on the research team, even if the student is receiving a stipend.

4. How Do We Remain Compliant *and* Subject to As Few Controls As Possible?

Restrictive Clauses:

They **must** be negotiated out. Can occur in contracts, grants or cooperative agreements, through:

- Federal sponsor (primary or flow through via industry or other research institution)
- Industrial sponsor (as initiated by industrial sponsor or flow through from federal sponsor)
- Research institution (flow through from industry or federal agency)

DFARS 252.204-7000	Prohibitions on disclosure of information (reference to unclassified but sensitive)
ARL 52.004-4400	Approval of foreign nationals performing under contract, or reference to background checks
AFMC 5352.227-9000	Export Controlled Data Restrictions under ITAR
TACOM 52-227-4004	Approval by Contracting Officer prior to release
ARO 360-1 D1/2	Clearance and Release of Contractor Materials/Information
FAR 52.227-17 (d)	Release and Use restriction
DD2345	Military Critical Technical Data Agreement: places a restriction as a condition of attending a conference or receiving data from the government

Frequently Asked Questions

Q1 Our PI in the Engineering Department has been invited to compete for a NASA research grant on measuring the effect of heat combustion on solar rocket panels and developing heat resistant panels using nanometric technology. As part of the program, DOD plans on providing essential data it has on the subject, which it characterizes as “unclassified but sensitive.” We have been able to confirm that the data is not published, and therefore not in the public domain. Do I need to be concerned about export controls?

Yes: the “unclassified but sensitive” clause is likely an indication that the data is export controlled, and that by accepting it, there is an implicit restriction not to share it with the research team: the FRE would not apply. You would have to negotiate the clause out of the contract, or refuse to accept the data, which might mean declining the award.

Q2 Through my consulting agreement with a corporation, I am given development technology to enhance the company’s mass spectrometer, the *results* of which remain contractually proprietary to the company. For the majority of the work, I will be working off campus at the company’s facility. However, there are times when it will be more convenient to use the spectrometer in our own UC laboratory. My research assistant (who is from Singapore and in process of obtaining her permanent residency) would benefit tremendously from serving as my research assistant at both our UC laboratory and the sponsor’s labs. Is there an issue with using my assistant?

Two issues:

- 1) Since the work at the UC lab does not qualify under the FRE, export controls may apply, since providing the technology to the assistant - if controlled for Singapore – would be a deemed export. A deemed export license for the assistant to access the information would be required.
- 2) Utilizing the UC laboratory and research assistant in this context would likely be contrary to University policy.

> 4. HOW DO WE REMAIN COMPLIANT AND SUBJECT TO AS FEW CONTROLS AS POSSIBLE?

Q3 On a DOE research award, we would be subcontracted by the University of XX (UX) who is the prime. In looking at their contract, and speaking with their Sponsored Research office, we have determined that UX accepted a citizenship restriction clause in the contract that we, UC, would clearly not have accepted. Can we accept the subcontract and assume that, since we did not accept the clause as the prime, any work we do will be covered under the FRE?

Potentially. This is a “flow-down” situation. UC’s position is that where the restriction UX accepted is not explicitly referenced or otherwise incorporated by reference into the subcontract, the subcontract can be accepted. Where the clause does explicitly flow down or is incorporated, UX would first have to negotiate out the clause, before UC could accept the work.

Q4 I am a PI in the Physics Department and have recently received some internal funding to conduct new research on campus. Any data we use to get started is in the public domain. Our Office of Contracts and Grants Administration wouldn’t necessarily have visibility into this work, since it’s being funded internally. While there is every intention to publish the results of our work when complete, our results could contain data that the government might wish to control under EAR or ITAR, since it concerns radiological reactions under certain ruggedized test conditions. Is there an export control issue?

No, not under these facts. This is a clear case of “self invention” covered under the FRE or Public Domain exclusions.

Non Disclosure Agreements (NDA):

An NDA containing a confidentiality clause and/or an export control clause (should the data being provided be controlled) does not per se compromise FRE or public domain status, provided that:

- Where the purpose of the NDA is to safeguard proprietary background information and in no way restrict research results, the University can accept under its usual contractual standards.
- Where the purpose of the NDA is to safeguard both proprietary data *and* export controlled data or just export controlled data, PI and sponsor need to discuss amount of information and the extent to which the project can be performed with either no transfer of said data to the PI, or transfer to only one or two PI's, but not the balance of the research team — i.e., consistent with the data being used strictly for background purposes.
- **Note:** *As a practical matter it is better not to accept export controlled data where it can be avoided. Accepting ITAR data, even for background purposes, will require a limited technology control plan, for example - restricting IT access.*
- **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS** early to evaluate NDA and, if found acceptable, ensure that it is incorporated into the contract **prior** to any data being transferred.

Frequently Asked Questions

Q5 I am a PI conducting fundamental research on semiconductor etching technology, and per my NDA with a corporate sponsor, have received background information which I know is dual use technical data, export controlled for China. I have been invited to attend an unrelated professional conference in Beijing and while I don't plan to refer to the data I for purposes of that conference, I would like to be able study the data on my trip by downloading it onto my laptop. Can I take the data with me?

No. The ECCN for that technical background data makes it licensable for China. The fact that you do not plan to share it with anyone does not mitigate the fact that you are exporting the background data to China without a license, by virtue of it being downloaded on your laptop.

> 4. HOW DO WE REMAIN COMPLIANT AND SUBJECT TO AS FEW RULES AS POSSIBLE?

Q6 I am a Research Administrator working on a Fundamental Research project through a corporate sponsor. From the start, there was contractual agreement that we would be free to publish research results, with only a brief pre-publication restriction contemplated pending the sponsor's patent application. During the course of the research, the Sponsor notifies us of some additional "proprietary" data that would have a significant impact on the balance of our research. While there was no export controlled data involved to initiate the research, there is reason to believe that the new data is potentially export controlled under the EAR, though the sponsor has not confirmed this one way or the other. Should I accept the data?

Determine whether data is export controlled. If not, no export issue arises, though the "proprietary" condition triggers a contractual issue. If controlled, it can *only* be accepted where it can be treated as additional background information contained in a very specific NDA to this effect and, as such, not necessary to share with the research team. Accepting the data outside this condition compromises the FRE status of the research results.

CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS.

Special Considerations When Using Exclusions

Software and Encryption

Make University-created software "publicly available" so as to be excluded from the EAR:

- Software and related technical data are published when available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution.
- Where source code of software is publicly available, machine readable code compiled from the source code is publicly available.

> 4. HOW DO WE REMAIN COMPLIANT AND SUBJECT TO AS FEW CONTROLS AS POSSIBLE?

Note Special Encryption Rule

- Software and related technology controlled under ECCN 5D002 for “EI” (Encryption Items) reasons on the CCL as well as mass market encryption software with symmetric key length exceeding 64-bits, controlled under ECCN 5D002 remained controlled under the EAR, **not** covered by the FRE/Public Domain exclusions.
- License exception TSU (Technology & Software Unrestricted): source code and resulting object code for this encryption software that results from fundamental research can be freely exported or shared that meets the definition of “public availability” (i.e. if already or will be published. The source code and object code can be posted on internet, as long as Commerce is notified of internet location and is provided copy of the source code.)

So When Do I Need a License?

- Shipment of Equipment Abroad – Since the FRE **only** applies to technology and technical data, a license may be necessary to export equipment depending on ITAR or EAR requirements.
- Carrying export controlled technical data or development software - for example, cryptography development software or proprietary export controlled information on a laptop, abroad to a destination for which data is controlled.
- See Section 5 about specific OFAC licensing requirements.

When is a license required, but results in discriminatory impact contrary to University policy?

- Acceptance of Restrictive Clauses noted above, resulting in selective deemed export license situation.
- Sharing export controlled background data with the research team, resulting in a selective deemed export license situation.
- Transmitting export controlled technology or technical data abroad by any means, requiring an overseas site license.
 - Distinguishable from exporting FRE data results (must be uncontrolled results only) which does not require a license – **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS.**

What Can I Take with Me When I Travel?

Use License Exception TMP (Tools of Trade)

- Applies to usual and reasonable kinds/quantities of tools (commodities/software) for use by exporter.
- Must remain under effective control exporter or exporter's employee (physical possession, locked in safe, guarded).
 - Would generally not apply to laboratory equipment that cannot be protected. **CONTACT RISK MANAGEMENT OR THE TRAVEL OFFICE.**
- Must accompany exporter when traveling or be shipped within one month before departure or any time after departure, and be returned no later than one year post export.
- Does not apply to Cuba and Sudan (See OFAC rules below).

5. OFAC Embargoed Country Rules: How Are They Different From Other Controls?

Office of Foreign Assets Control - 31 CFR 501 et seq:

- Places economic embargos and sanctions on transactions by U.S. persons involving specific countries (Cuba, Iran, Syria, N. Korea, and Sudan) by prohibiting without a license
 - A broad range of services and transactions that benefit or provide value to those countries.
 - Export of products, software, and transfer of technical data.
 - Providing educational services and technical services, even where no monetary compensation occurs - see specific country regulations.
- Definition of U.S. Person includes:
 - Any person within the U.S. (including any non-U.S. entity that maintains an office or branch in the U.S.).
 - Any U.S. citizen or permanent resident alien, wherever physically located.
 - Any entity or institution organized under U.S. law, including foreign branches.
- **Note:** Licenses can be obtained from OFAC on case-by-case basis, but terms must be strictly complied with. **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS.**
 - Regulations permit attendance in U.S. of students from these countries with proper student visas, but employment is subject to U.S. funding restriction;
 - Certain restrictions apply to obtaining export licenses for proprietary export controlled source code.
Distance Learning programs subject to OFAC for providing a service.
 - Certain institutional and individual travel subject to restrictions.

Frequently Asked Question

Q7 I, along with another colleague, have received a request to provide peer review guidance to Professor K at the University of Tehran, whom both of us know well from international conferences. His work is strictly civilian and would not appear to have any connection to Iran's government or military establishment. While I am a U.S. citizen, my colleague is a British citizen living in the U.S., though originally from Iran. He visits Iran occasionally on personal matters, and mentions that Professor K is interested in strengthening his ties to UC for professional and personal reasons. Can we provide the peer review?

Potentially, not without an OFAC license. As a U.S. citizen subject to the OFAC rules, providing a peer review may constitute a "service" to Iran and is therefore prohibited without an OFAC license. The fact that you are not receiving compensation for the assistance or that the Iranian professor's work is purely civilian does not matter for purposes of the Iranian embargo regulation. While it is possible that OFAC might grant such a license, this cannot be assumed. As to your British colleague, the fact that he is living in the U.S. likely renders him subject to the same restriction. **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS.**

6. Do's and Don'ts: The Bottom Line

Shipping Items Out of the United States

- **Do NOT ship any item outside** the U. S. without first checking the ITAR (International Traffic in Arms Regulations, State Department) and EAR (Export Administration Regulations, Commerce Department) lists to determine if the item (including a commodity, software or technology) is controlled.
 - Schools and Departments should consider which of the CCL and ITAR categories they are likely to encounter from a laboratory equipment standpoint for export licensing purposes where equipment needs to be exported abroad.
 - Example: Chemistry Department, Medical and Veterinary School should consult Category 1, Chemical Pre-cursor List and Select Agents List.
 - Example: Computer Science Engineering Department should consult Category 5, Software and Cryptography provisions.
- **Do CONTACT THE UCSD SHIPPING COORDINATOR** for assistance in classifying items, securing an export license or to verify license exception prior to shipment.
- **Do** train your research staff regarding the shipment of controlled commodities, software and technology.
- **Do** identify projects with "deliverables" to foreign countries at the proposal/award stage.
- **Do** determine equipment licensing requirements early — particularly as to Tools of Trade and related equipment.

> 6. BOTTOM LINE: WHAT ARE MY DO'S AND DON'TS:

Technical Data Exchanges

- **Do NOT** enter into proprietary data agreements, NDA's or other confidentiality agreements where the commercial entity includes an export control notification, or restricts dissemination to others on the basis of nationality or citizenship –unless it can be accomplished without compromising FRE/Public Domain results. **CONTACT THE OFFICE OF CONTRACT AND GRANT ADMINISTRATION OR RESEARCH AFFAIRS.**
- **Do NOT** sign the DD2345, Militarily Critical Technical Data Agreement, as a condition of attending a conference or receiving materials from the government
- **Do** make sure that technical data about export controlled commodities qualifies as "public domain" or "publicly available" per EAR and ITAR definitions above.

Software

- **Do NOT** agree to:
 - software license restrictions on access to or use of foreign nationals.
 - restrictions on dissemination of the "direct product" of the software.
- **Do** "publish" software and technical data, that is, make it available for general distribution either for free or at a price that does not exceed the cost of reproduction and distribution.
- **Do** ask the software provider to identify the ECCN number that controls the software, and research (along with OCGA) the applicability of control, given the possibility that the software provider is being overly cautious and the software is not, in fact, controlled.

7. Where Do I Turn For Help?

Contact:

Carlos Molina

Office of Contract and Grant Administration

858-534-0247

Marianne Generales

Assistant Vice Chancellor for Research

Office of Research Affairs

858-534-4636

Paul Yu

Associate Vice Chancellor - Research Initiatives

Office of Research Affairs

858-534-3539

UCSD Shipping Coordinator

858-534-4636 ext 224

UCSD's Export Control Website provides key information through Office of Contract and Grant Administration including links to EAR and ITAR regulations.

**DON'T BE AFRAID TO ASK FOR HELP!
THANK YOU**