INTRODUCTION

This Standard Operating Procedure ("SOP") outlines the processes and procedures used by Sponsored Programs to trigger an export control and sanctions review by the Export Control Officer (ECO).

PURPOSE

The University of Missouri-Kansas City is awarded various grants and contracts and is required to comply with export control and sanctions regulations to maintain eligibility to receive these awards. Contractual terms reveal a variety of export control and sanctions scenarios that need to be managed such as: (A) receiving export controlled technical data and technology; (B) generating export controlled technical data and technology; (C) traveling internationally with university equipment; (D) shipping university items internationally; (E) interactions with sanctioned or restricted parties. Additionally, many sponsors require that electronic format export controlled information be secured to meet certain data security requirements.

SCOPE

To facilitate compliance with applicable U.S. Export Controls and Sanctions, this SOP establishes basic and minimal responsibilities for Sponsored Programs staff, with the objective of providing an export control review standard for proposals, agreements, contracts, and grants (collectively "Agreements") and identify activities that may require escalation to the Export Control Officer for further review and assistance.

PROCEDURE

Sponsored Programs reviews sponsored research proposals and agreements that may trigger export control or sanctions concerns. As such, they are an important part of the broader Export Controls and Sanctions Program at UMKC. During their work, they may have additional steps to take or come across information that would require an export control and sanctions review by the ECO.

RESPONSIBILITIES

Sponsored Programs staff are responsible for:

- Ensuring additional language is added to agreements when the university may be receiving technical data, technology, or software ensuring that the other party provides the university with the export classification in advance and waits for approval from the university prior to sending the technical data, technology, or software to the university.
- Notifying the Export Control Officer if another party provides the university with an export classification for technical data, technology, or software they intend to provide to the university. Export classifications can either be a USML Category, an ECCN (5-digit alphanumeric code), or an EAR99 designation. In rare circumstances, they may take the form of a DOE or NRC designation.

- Negotiating with sponsors to remove, if possible, restrictive language (e.g., publication restrictions, foreign person restrictions, proprietary research) which could take the project out of the safe harbor protection under the fundamental research exclusion and thereby subject the project to export control regulations.
- Escalating to the Export Control Officer any potential export control "Red Flags" (as defined in the section below).
- Not executing agreements for projects identified by the Export Control Officer as requiring a Technology Control Plan until after the Technology Control Plan has been fully executed. Exceptions may be granted by the Export Control Officer.
- Applying the export control attribute in PeopleSoft for awards as requested by the Export Control Officer.

The UMKC Export Control Officer is responsible for:

- Performing restricted party screenings using Descartes Visual Compliance for all international parties the university may engage with.
- Reviewing proposals and awards flagged by Sponsored Programs to identify all exports that may occur.
- Ensuring that Technology Control Plans are implemented in accordance with the UM System Export Compliance Management Program.
- Reviewing the FACR, as appropriate, to ensure that activities with sanctioned parties fit the terms of a General License.
- Ensuring that a license determination is performed for all exports that the Export Control Officer is facilitating.
- Partnering with the Director, Research Security and Compliance in the event that a license application needs to be submitted.
- Communicating with faculty, staff, and students that may be performing exports or may be engaging with sanctioned parties to ensure there are clear expectations for ensuring the export or engagement complies with the regulations.
- For any activities that should not proceed, communicating with and coordinating with the Department Chair, Dean, or Vice Chancellor for Research, as appropriate.
- When reviewing awards, notifying Sponsored Programs when the review is complete with one of the following:
  - Any additional or changed contract language.
  - Approval to proceed with award execution if there are no further steps needed to mitigate export control or sanctions regulations.
  - A request to add the Export Controls Attribute in PeopleSoft (if a Technology Control Plan was implemented) and approval to proceed with award execution.
- Providing periodic training to Sponsored Programs on export controls and sanctions.

EXPORT CONTROL REVIEW AND ESCALATION

Even in the conduct of fundamental research, some activities may require escalation to the Export Control Officer (at export.control@umkc.edu) for further review. The following steps are provided as a general guide to assist Sponsored Programs staff during proposal and award review.

S1. During the proposal review process, review the responses provided by the Principal Investigator (PI) or Sponsored Programs and the proposal documents to answer the following export control questions:

- Is travel outside the U.S. required in order to complete this project?
  - If Yes, contact the Export Control Officer.
- Will any equipment, materials, or software be exported to other countries?
  - If Yes, contact the Export Control Officer.
- Are foreign subrecipients/subcontractors or foreign collaborators involved?
  - If Yes, contact the Export Control Officer.
- Is the federal awarding agency Department of Defense, a Department of Defense component, Department of Energy, NASA, or an intelligence agency (including pass through entities)?
  - If Yes, contact the Export Control Officer.
- Are there any indications that the final award will have access or dissemination restrictions?
  - If Yes, contact the Export Control Officer.
- Are there any indications that the final award will contain specific data security requirements beyond what we normally have? (Note: FAR 52.204-21 does not need to be sent for review. This will appear on all federal awards).
  - If Yes, contact the Export Control Officer.

Note: At the proposal stage, Sponsored Programs only needs to notify the Export Control Officer. They may move forward with proposal submission without waiting for a response from the Export Control Officer.

S2. Review Agreement language, including Scope of Work and project activity to determine if any Red Flags are present that warrant escalation to the Export Control Office for further review. When identified, Red Flags should be escalated to the Export Control Officer for review and assistance.

- Is travel outside the U.S. required in order to complete this project?
  - If Yes, contact the Export Control Officer.
- Will any equipment, materials, or software be exported to other countries?
  - If Yes, contact the Export Control Officer.
- Are foreign subrecipients/subcontractors or foreign collaborators involved?
  - If Yes, contact the Export Control Officer.
- Is the federal awarding agency Department of Defense, a Department of Defense component, Department of Energy, NASA, or an intelligence agency (including pass through entities)?
  - If Yes, contact the Export Control Officer.
- Are there any access or dissemination restrictions contained within the terms of the award?
  - If Yes, contact the Export Control Officer.
- Are there any specific data security requirements beyond what we normally have? (Note: FAR 52.204-21 does not need to be sent for review. This will appear on all federal awards).
  - If Yes, contact the Export Control Officer.

S3. When receiving and processing amendments to awards, review the new terms and conditions to determine if any Red Flags are present that warrant escalation to the Export Control Officer for further review. When identified, Red Flags should be escalated to the Export Control Officer for review and assistance.

- Is travel outside the U.S. required in order to complete this project?
  - If Yes, contact the Export Control Officer.
- Will any equipment, materials, or software be exported to other countries?
  - If Yes, contact the Export Control Officer.
- Are foreign subrecipients/subcontractors or foreign collaborators involved?

- o If Yes, contact the Export Control Officer.
- Are there any access or dissemination restrictions contained within the terms of the award?
  - o If Yes, contact the Export Control Officer.
- Are there any specific data security requirements beyond what we normally have? (Note: FAR 52.204-21 does <u>not</u> need to be sent for review. This will appear on all federal awards).
  - o If Yes, contact the Export Control Officer.

Export Control Clauses

For agreements that contain confidentiality language in which the other party might be providing the university with technical data/technology (schematics, blueprints, recipes, drawings, plans, etc.) or software, Sponsored Programs will insert additional language into the agreement:

Both parties acknowledge they may be subject to U.S. export control laws and regulations including but not limited to the International Traffic in Arms Regulations ("ITAR", 22 CFR §§ 120-130) or the Export Administration Regulations ("EAR", 15 CFR §§ 300-799). These laws, regulations, and orders include, but are not limited to, the release of equipment, software, technical data, and/or technology. Both parties acknowledge that the University of Missouri-Kansas City is a public university, and there exists a likelihood that faculty and/or students involved in fulfilling this agreement may be foreign persons (22 CFR § 120.16 and 15 CFR § 772.1). The transfer or release of export-controlled information may require a license from the cognizant agency of the U.S. government. Both parties agree to cooperate in securing any license which the cognizant agency deems necessary in connection with this agreement. As such, the Other Party agrees to provide written notification to and receive written approval from University of Missouri-Kansas City export.control@umkc.edu prior to transfer of anything enumerated on the United States Munitions List ("USML", 22 CFR § 121) or the Commerce Control List ("CCL", 15 CFR § 774). The University of Missouri-Kansas City shall have the right to refuse acceptance of such information from the disclosing party.

Both parties are subject to U.S. sanctions executive orders, laws, and regulations controlling transactions of goods and services with sanctioned or embargoed countries, entities, and individuals ("restricted parties"). Each party will take reasonable steps to ensure that no goods or services are exported to or imported from restricted parties without proper authorization from the cognizant agency.

Access / Dissemination Restrictions

Access Restrictions

Access restrictions are contractual requirements to limit access to the research to certain personnel, not based on their skills or expertise, but based on their citizenship or citizenship status. Access restrictions may limit project staff to U.S. Citizens or U.S. Persons (U.S. Citizens, U.S. Permanent Residents, U.S. Nationals, or other protected statuses like refugees and asylees). Whether the sponsor is limiting access to information they are providing to the university or they are limiting access to the entire research effort, additional mitigation measures may need to be taken at the university to ensure these requirements are met. Additionally, these types of restrictions may trigger export control requirements and nullify the fundamental research exemption.

Dissemination Restrictions

Dissemination restrictions are contractual requirements limiting the university's ability to freely publish the results of our research. Sometimes this is embedded in the publication section of agreements. Other times the project sponsor may consider the research results to be their proprietary information. In either case, when the university cannot freely publish the information arising during or resulting from the research, the fundamental research exclusion cannot be utilized, and project results may become subject to export control regulations.

RECORDKEEPING

All export control recordkeeping will be managed by the Export Control Officer in accordance with SOP #001: Recordkeeping.

Previous Version Dates:	N/A	
Signed by:	_(signature)_ Yusheng Liu, Ph.D. Vice Chancellor for Research	10/22/2023