



University of California  
Office of the President

Senior Vice President—  
Business and Finance

Research Administration Office

# Memo

## Operating Guidance

No. 00-05  
October 31, 2000

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### CONTRACT AND GRANT OFFICERS (CAMPUS AND LAB)\* VICE CHANCELLORS--ADMINISTRATION

**Subject: Unacceptable Controls Based on U.S. Citizenship Status**

Enclosed is a recent restatement of UC policy regarding unacceptable restrictions on access to and participation in research activities based on citizenship status. Any requirement that restricts employment or participation in University research on the basis of citizenship is contrary to policy and should not be accepted. The only exception is for classified research at UC/DOE Laboratories and selected off-campus locations.

Please continue to keep our office informed of any proffered contract clauses that restrict foreign national's participation in university research or that control the dissemination of research findings.

A copy of this memo and enclosure are available electronically on the Research Administration Website at <http://www.ucop.edu/raohome/cgmemos/00-05.html>.

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510-987-9848

Subj Index: 01, 24  
Org Index: U115

Sincerely,

David Mears  
Director, Research Administration Office

\*Note: The addressees above represent the standard distribution of Contract and Grant Memos. Additional addressees, if any, may be added based on the subject of the Memo. See cc's.

# UNIVERSITY OF CALIFORNIA

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OFFICE OF THE PROVOST AND SENIOR VICE PRESIDENT—  
ACADEMIC AFFAIRS

OFFICE OF THE PRESIDENT  
1111 Franklin Street  
Oakland, California 94607-5200

December 15, 1999

**VICE CHANCELLORS FOR RESEARCH  
CHAIR, UNIVERSITY COMMITTEE ON RESEARCH POLICY**

Dear Colleagues:

Recently, there have been growing efforts by the federal government to control access to and participation in University research projects, including:

- Efforts to include the Air Force Acquisition Clause 5353.227-9000, Export-Controlled Data Restrictions in selected contract awards, requiring an export license prior to assigning any foreign national to work on the project or allowing foreign persons access to the work, equipment, or technical data generated by the project.
- Efforts to include a requirement for all staff working on DOD projects to complete a Questionnaire for Public Trust Positions and be subjected to a favorable National Agency Check/background investigation; such National Agency Checks can only be completed for U.S. citizens.
- Requests for the University or individual employees to sign the Militarily Critical Technical Data Agreement, DD2345, in order to attend DOD-sponsored conferences, to access DOD web sites, or to receive DOD-controlled technical data; such agreements can only be signed by U.S. citizens or permanent residents, and preclude dissemination of the technical data to foreign nationals, whether in the United States or abroad.

This general topic promises to be an on-going challenge for all of us involved with promoting and supporting the University-based research enterprise. I ask for your advice on your general observations and any specific incidents that you may have encountered in your experience.

In response to the increase in attempts to control participation in University research on the basis of citizenship, I take this opportunity to clarify the University's position on these matters and to outline some actions we intend to take to address the matter. As always, I welcome your input.

1. It is University policy, as adopted by the Council of Chancellor's in June, 1988, regarding Acceptance of Funds Restricted to U.S. Citizens, that:

It will continue to be University policy that discrimination in employment based on citizenship is unacceptable. Only in selected cases where there are compelling circumstances in support of legitimate public interests bearing on individual job requirements is an exception acceptable. The Chancellor may recommend such an exception to the President for his approval.



2. Consistent with this policy, it is University practice that access to University classrooms, libraries, laboratories, and specialized research facilities is open, without regard to citizenship, residency status, or Visa category. Questions regarding citizenship status may not be asked of those entering such facilities, unless the Chancellor and the President have approved an exception to the policy. At present, the only exception is for classified research conducted at the UC/DOE Laboratories and selected off-campus locations.
3. I have notified the UCOP Facility Clearance Office (a unit within the DOE Laboratory Administration Group) that National Agency Checks should not be processed for campus based student, faculty, or staff, unless an exception to policy has been recommended by the Chancellor and approved by the Office of the President.
4. I have asked the Research Administration Office in the Office of the President to remind campus Contract and Grant Offices that any clause which restricts employment or participation in University research on the basis of citizenship, such as the Air Force clause on Export Controls, the requirement for the Questionnaire for Public Trust Positions and National Agency Check, or completion of the Militarily Critical Technical Data Agreement, is contrary to policy and should not be accepted.
5. I have requested my staff to develop a brief outline of the problems associated with such clauses, questionnaires, and agreements, for use and dissemination by the Vice Chancellors for Research, alerting faculty to the consequences of accepting such provisions, including notification that such actions will not be accepted by the University for University sponsored research, discouraging faculty, staff, and students from accepting such restrictions as private individuals, and outlining the alternatives for compliance with export regulations, including the exceptions for published or publicly available information and information resulting from fundamental research.
6. I have referred our concerns about increased contract controls incorporated into federal awards to the American Association of Universities, with the suggestion that: a) AAU update the materials developed by AAU in 1987 under the Export Controls Information Project; and b) that AAU, working with other national organizations, undertake a review of whether it should continue to be federal policy, as expressed in National Security Decision Directive 189 issued September 21, 1985, that the mechanism for control of information generated during federally-funded fundamental research in science, technology and engineering at colleges, universities and laboratories is classification. Under this policy, no restrictions may be placed upon the conduct or reporting of federally-funded fundamental research that has not received national security classification

Please contact me or either Rulon Linford or Allison Rosenberg on my staff if you have any questions about University policy. It is essential that the University of California community maintain our resolve on these matters, preserving the ability to communicate and disseminate the results of fundamental research among scientists, scholars, students, and postdoctoral researchers, without the necessity of inquiry or concern for citizenship or residency status. To divide our community or limit access to our research programs, libraries, or facilities is both unworkable and unproductive.

Sincerely,



Robert N. Shelton  
Vice Provost for Research

cc. Provost King  
Senior Vice President Kennedy  
Associate Vice Provost Linford  
Director Rosenberg  
Coordinator Mears  
Contract and Grant Officers