

# University of California's Systemwide Restrictions on Engagements with Huawei

## Background

On January 28, 2019, the U.S. Department of Justice issued two business practice indictments against Huawei and its U.S. affiliate Huawei Devices USA, containing 23 counts for theft of trade secrets, wire fraud, obstruction of justice, money laundering, conspiracy to defraud the United States, and sanction violations. See <https://www.justice.gov/opa/pr/chinese-telecommunications-device-manufacturer-and-its-us-affiliate-indicted-theft-trade> and <https://www.justice.gov/opa/pr/chinese-telecommunications-conglomerate-huawei-and-huawei-cfo-wanzhou-meng-charged-financial>. Furthermore, on May 21, 2019, the U.S. Department of Commerce placed Huawei and 68 of its non-U.S. affiliates on the Bureau of Industry and Security's Entity List, indicating that the Federal government finds that the firm represents a threat to national security and imposing controls on exports to the firm, with a license review policy of presumptive denial. See <https://www.federalregister.gov/documents/2019/05/21/2019-10616/addition-of-entities-to-the-entity-list>.

Subsequently, the Department of Commerce gave the company a 90-day relief period from export controls, through a "temporary general license," through August 19, 2019, to allow an orderly transition of its supplier relationships. While there are exceptions to export controls for the sharing of research results that arise during or result from fundamental research, the measures described below are intended to mitigate risk, including the possibility of participants at UC-sponsored research exchanges sharing technical information that may be deemed "dual-use," and that is not the product of fundamental research and thus subject to export controls.

Given the serious government actions against Huawei and the Huawei affiliates added to the Entity List, which have legal implications for UC researchers as well as reputational risks for the University, the University of California (UC) is providing the following guidance to the campuses on engagements with Huawei (Futurewei, a U.S.-based subsidiary of Huawei, is not implicated in these actions.).

**The points outlined below are intended to address the current relationship between Huawei and the Federal Government and will allow the University of California (UC) to responsibly manage risk with as little disruption to the system as possible. It should be kept in mind that the situation is fluid and UC will revisit collaborations with Huawei and its non-U.S. affiliates as circumstances dictate.**

### I. [Moratorium on any future engagement with Huawei<sup>i</sup>](#)

While Huawei remains on the Bureau of Industry and Security Entity List and is under Department of Justice indictment for violations of sanction restrictions, UC will not accept new engagements or renew existing engagements with Huawei. This moratorium will prohibit purchasing equipment or devices, receiving research grants or contracts, accepting gifts, entering into MOUs, membership or consortium agreements, technology transfers or licensing of UC IP, or exchanging any technical information with Huawei.

### II. [Cessation of all pending projects, gifts, purchases or engagements with Huawei](#)

UC will implement a Systemwide moratorium to prevent any project, gift, purchase, or engagement that is pending but yet to be funded or executed from going forward.

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## III. Best practices for existing agreements

The moratorium includes a prohibition on agreement renewals. All existing agreements should wind down with all funds expended as soon as possible. For any existing agreement that is currently funded, campuses should proceed with the following best practice criteria:

1. UC students and employees should refrain from visiting any Huawei site. Likewise, existing agreements should, during the wind-down period, be implemented so as to prevent inviting or knowingly hosting official Huawei representatives, including visiting scholars, to campus meetings or events.
2. UC should not accept any Huawei commodities or software inputs, and there should be no UC exports to Huawei.
3. Any informational exchange must be strictly limited to fundamental research intended to be published or already published information.
4. All Technology Transfer units should actively screen their commercial IP licensees to ensure there is no engagement with Huawei entities.
5. All Conflicts of Interest/Commitment reporting questions involving relationships with Huawei or the 68 Huawei affiliates placed on the Bureau of Industry and Security Entity List should be reviewed and have a management plan for winding down. Faculty should be reminded that these COI and COC forms must contain the most accurate and up-to-date information.
6. Balancing academic freedom concerns, UC locations should conduct reviews of UC co-authorship on pending publications involving Huawei entities.

## IV. Managing engagement risks with Huawei's U.S. subsidiary

This particular international entity on the Entity List has a U.S. subsidiary, Futurewei. UC campuses can continue to receive support and engage in research and other collaborations with Futurewei. However, there is the possibility of future government actions directed against the U.S. subsidiary. Therefore, we recommend that campuses consider a moratorium on accepting new funding as well as incremental renewal funding for existing multiyear agreements from Futurewei. If a campus chooses to continue accepting funding and engaging in research and other collaborations with Futurewei, the campus and its participating scholars should understand the risks involved and ensure there is a contingency plan to cover the returned/denied funding from the U.S. subsidiary should circumstances change.

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<sup>i</sup> The Final Rule published May 21, 2019 in the Federal Register by the Bureau of Industry and Security (BIS) added *Huawei* to the BIS Entity List under the destination of China, prohibiting unlicensed export to Huawei of "all items subject to the EAR," and adopting a license policy of "presumption of denial." This final rule also adds to the Entity List sixty-eight non-U.S. affiliates of Huawei located in twenty-six destinations: Belgium, Bolivia, Brazil, Burma, Canada, Chile, China, Egypt, Germany, Hong Kong, Jamaica, Japan, Jordan, Lebanon, Madagascar, Netherlands, Oman, Pakistan, Paraguay, Qatar, Singapore, Sri Lanka, Switzerland, Taiwan, United Kingdom, and Vietnam. Please note, that as a US established firm, FutureWei (Huawei's US based Research and Development arm) is not on the Entity List.

See <https://www.federalregister.gov/documents/2019/05/21/2019-10616/addition-of-entities-to-the-entity-list>