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U.S. Department of Justice (DOJ)

Title

UC Comments in Response to Notice of Proposed Rulemaking on Provisions Pertaining to Presenting Access to the U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons (Docket No. NSD 104)

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November 27, 2024

U.S. Department of Justice
National Security Division
Foreign Investment Review Section
175 N Street, N.E., 12th Floor
Washington, D.C. 20002

RE: UC Comments in Response to Notice of Proposed Rulemaking on Provisions Pertaining to Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons ([Docket No. NSD 104](#))

To Whom It May Concern:

I write on behalf of the University of California (UC) system responding to the Notice of Proposed Rulemaking (NPRM) on Provisions Pertaining to Preventing Access to U.S. Sensitive Personal Data and Government-Related Data by Countries of Concern or Covered Persons ([Docket No. NSD 104](#)) issued on October 29, 2024.

The UC system is comprised of ten campuses, six academic health centers, and three affiliated U.S. Department of Energy national laboratories. As a system, UC receives over \$4.4 billion from more than thirty Federal agencies to conduct research throughout all its locations.

UC reviewed the NPRM, which prohibits or restricts certain transactions related to bulk U.S. government-related and sensitive personal data if they involve Countries of Concern or Covered Persons, and which provides several exemptions, including exemptions relevant to federally funded research and clinical activities. We appreciate the Department of Justice's (DOJ) efforts to safeguard sensitive personal and government-related data, but we urge DOJ to carefully consider the NPRM's impacts on academic research.

UC supports the concerns and recommendations outlined in the Council on Governmental Relations (COGR)'s comment letter on this NPRM. We recommend that DOJ adopt COGR's recommendations in the final rule. Specifically, we echo COGR's concerns regarding the absence of an exemption for data transactions under non-federally funded research. Limiting exemptions to

federally funded research and certain clinical investigations impede the ability of U.S. research institutions to engage in critical research that addresses public health, environmental threats, national security, and other emerging issues. Cross-border collaboration and data sharing are essential for advancing science, addressing arising global threats, and maintaining U.S. leadership in innovation. Moreover, without an exemption for data transactions under non-federally funded research, the proposed rule may curtail U.S. persons' opportunities to participate in and gain access to studies that may not fit into one of the existing exemptions, including research which individuals may have previously consented to according to existing federal and state regulations. UC urges DOJ to add an exemption within the final rule to permit Covered Data Transactions associated with non-federally funded research projects.

Additionally, UC supports COGR's call for clarity on key definitions and compliance expectations within the proposed rule. Addressing ambiguities in terms such as "Covered Persons," "Sensitive Personal Data," and "Data Brokerage" will help ensure that institutions can interpret and implement the rule consistently and effectively. Furthermore, UC urges DOJ to provide detailed guidance, tools, and sufficient lead time to facilitate compliance.

The NPRM represents a significant shift in the regulation of research-related data transactions. Without careful adjustments and an additional exemption for non-federally funded research, the rule risks curtailing the U.S. academic community's ability to collaborate globally and produce research that benefits public health, national security, and economic competitiveness.

UC appreciates the opportunity to provide these comments. If you have any questions concerning these comments, please contact Agnes Balla, Director, Research Policy Analysis and Coordination at Agnes.Balla@ucop.edu.

Sincerely,



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