

University of Illinois
Certification Pertaining to the Release of Controlled Technology or Technical Data
to Foreign Persons in the United States

Applicable for H-1B, H-1B1, L-1 and O-1A Petitions Only

In order to comply with current immigration requirements, the employing entity (University of Illinois) through the office of International Student and Scholar Services must certify to U.S. Citizenship and Immigration Services (USCIS) that we are in compliance with U.S. Export Control Regulations with respect to the employment activities of certain foreign workers. Therefore, as the designated supervisor of the Identified Employee below, you must check the box that is appropriate. Please read the question carefully and provide your response. *Please keep a copy on hand and set up a system so that you can contact ISSS about completing a new form like this one prior to any future application for a deemed export license that may subsequently be required due to a change in circumstances.*

Identified Employee is:

Employee's Name: _____ UIN: _____
Country of Citizenship: _____
Country of Permanent Residence: _____
Job Title: _____ Department: _____

With respect to the technology or technical data the University will release or otherwise provide access to the Identified Employee, the Department certifies it has reviewed the Export Administration Regulations (EAR) and the International Traffic and Arms Regulations (ITAR) and determined for the Identified Employee:

Department Determination

<p><input type="checkbox"/> 1. A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release export controlled technology or technical data to the Identified Employee because of Export Administration Regulations (EAR) or the International Traffic in Arms Regulations (ITAR); or</p> <p><input type="checkbox"/> 2. A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such export controlled technology or technical data to the Identified Employee and the University will prevent access to the controlled technology or technical data by the Identified Employee until and unless the University has received the required license or other authorization to release it to the Identified Employee.</p>
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If you have any questions about determining whether the technology or technical data is subject to export controls with respect to the Identified Employee, please contact the campus Export Control Officer by e-mail at spadill@illinois.edu or by phone at 300-6385.

Please see the information on the reverse side of this certification, which is drawn from the I-129 Form and its instructions, and will be what the International Office completes as part of the employment process after receiving the information from you. It also contains information on Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR).

I certify, based on my review, that I have indicated the applicable box for the Identified Employee.
Typed Name and Signature: _____ Date: _____
Title: _____ Phone Number: _____ E-mail Address: _____

Acknowledgment by Department/Administrative Unit Head
Typed Name and Signature: _____ Date: _____

Background Information For Use in Completion of Deemed Export Certification for H-1B, H-1B1, L-1 and O-1A Petitions

The following is for informational purposes only while completing the certification on the previous page. The information you provide enables the International Office to complete portions of the USCIS Form I-129 as part of the employment process for foreign national employees on an H-1B, H-1B1, L-1 and O-1A visa.

Campus Support on Export Control Questions

The University's Export Control Officer, c/o the campus Office of the Vice Chancellor for Research, is responsible for coordinating efforts to obtain export licenses for the University's Urbana campus. All questions regarding export control and deemed export issues should be directed to the campus Export Control Officer.

Please note that in general a license is almost always required prior to releasing ITAR-controlled technology to any foreign national, while a license may be required prior to releasing EAR-controlled technology depending upon the type of technology and the home country of the foreign national.

Deemed Export Attestation Instructions for Form I-129 Effective 12/22/2010

These USCIS instructions are aimed at International Office Personnel, but do provide references to source material on EAR and ITAR. While these instructions provide general guidance, the law is found in the regulations and statutes themselves. Please consult your campus Export Control Officer for specific guidance. For example, the first paragraph on "U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons" does not make it clear that certain foreign persons in the United States may access some controlled technology or technical data, depending on the foreign national's country and the technology or data. Thus, it is important to work with your campus Export Control Officer in resolving export control and deemed export issues.

U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons. The Export Administration Regulations (EAR) (15 CFR Parts 770-774) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons in the United States controlled technology or technical data. Under both the EAR and the ITAR, release of controlled technology or technical data to foreign persons in the United States—even by an employer—is deemed to be an export to that person's country or countries of nationality. One implication of this rule is that a U.S. company must seek and receive a license from the U.S. Government before it releases controlled technology or technical data to its nonimmigrant workers employed as H-1B, L-1 or O-1A beneficiaries.

Requirement to Certify Compliance with U.S. Export Control Regulations. The U.S. Government requires each company or other entity to certify that it has reviewed the EAR and ITAR and determined whether it will require a U.S. Government export license to release controlled technology or technical data to the beneficiary. If an export license is required, then the company or other entity must further certify that it will not release or otherwise provide access to controlled technology or technical data to the beneficiary until it has received from the U.S. Government the required authorization to do so. The petitioner must indicate whether or not a license is required on Page 6, Part 7 of Form I-129.

Controlled Technology and Technical Data. The licensing requirements described above will affect only a small percentage of petitioners because most types of technology are not controlled for export or release to foreign persons. The technology and technical data that are, however, controlled for release to foreign persons are identified on the EAR's Commerce Control List (CCL) and the ITAR's U.S. Munitions List (USML). The CCL is found at 15 CFR Part 774, Supp. 1. See http://www.access.gpo.gov/bis/ear/ear_data.html#ccl. The USML is at 22 CFR 121.1. See http://www.pmdtc.state.gov/regulations_laws/itar.html. The EAR-controlled technology on the CCL generally pertains to that which is for the production, development, or use of what are generally known as "dual-use" items. The ITAR-controlled technical data on the USML generally pertains to that which is directly related to defense articles.

The U.S. Department of Commerce's Bureau of Industry and Security administers the CCL and is responsible for issuing licenses for the release to foreign persons of technology controlled under the EAR. The U.S. Department of State's Directorate of Defense Trade Controls (DDTC) administers the USML and is responsible for issuing licenses for the release to foreign persons of technical data controlled under the ITAR. Information about the EAR and how to apply for a license from BIS are at www.bis.doc.gov. Specific information about EAR's requirements pertaining to the release of controlled technology to foreign persons is at www.bis.doc.gov/deemedexports. Information about the ITAR and how to apply for a license from DDTC are at www.pmdtc.gov. Specific information about the ITAR's requirements pertaining to the release of controlled technical data is at http://www.pmdtc.state.gov/faqs/license_foreignpersons.html.