

Carnegie Mellon University

Export Compliance Questionnaire For I-129 Petition for a Non-Immigrant Worker

Date: _____ Non-immigrant status being sought: H-1B ☐ O-1 ☐

Information about current/proposed employee:

Name: _____ Country of Citizenship: _____
First name Last/Family Name

Applicant/employee's current location (state or country): _____

CMU Department (where employee will be working): _____

Applicant/Employee's CMU Supervisor: _____

Departmental contact if other than Supervisor: _____

Complete this form to expedite the Carnegie Mellon export review process and ensure compliance with Part 6 of the I-129 Petition for Nonimmigrant Worker Form, "Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States". Attached are instructions and definitions to help complete this form. This form **must** be completed before the H-1B or O-1 petition can be filed. If you have questions or need assistance with this form, please contact the Export Compliance Office at 412-268-3745 or export-compliance@andrew.cmu.edu. If you have questions about the H-1B or O-1 application process, contact Linda Gentile in the Office of International Education at 412-268-5231 or lgentile@cmu.edu.

Part 1: Please answer each question completely and to the best of your knowledge at this point in time to ensure a thorough export compliance review.

1. Will the applicant participate in

☐ sponsored research

Sponsor name: _____

☐ non-funded research (includes internal funding from CMU)

☐ research related activities (data analysis, lab asst. , technician, etc.)

☐ a Non Disclosure Agreement (NDA)

☐ no exposure to research, the transfer of technical data or technology, or laboratory related duties

☐ duties limited to academic activities: e.g., teaching, advising or publishing

2. Describe the duties or research that the applicant will perform, in detail:

3. Is the applicant a citizen of Cuba, North Korea, Iran, Syria or Sudan? No ☐ Yes ☐

4. Will the research or activities of the applicant involve any of the following:

No ☐ Yes ☐ (check all that apply below) (*keyword definitions attached)

☐ Fundamental research in science and engineering where the results are or will be published broadly among the scientific community

☐ Research under a Technology Control Plan (TCP)*

☐ Publication preapproval or publication restrictions by sponsor

☐ Restrictions and/or pre-approval of foreign national participation

☐ Access to and/or creation of encryption items*, software or encryption technology

☐ Access to and/or creation of potential military applications (defense articles* or defense services*)

☐ Access to and/or creation of ITAR* or EAR* export controlled items, technical data, software, or technology

☐ Access to and/or creation of dual use* items, software or technology

☐ Export* of any physical item, or transmission of technical data*, to a foreign country

5. Additional Information or Comments:

I attest that the information provided, is true, accurate, and to the best of my knowledge as of this date.

Supervisor Signature: _____ Date: _____

Email: _____ Phone: _____

Person completing form if other than supervisor (name, title and email):

Please return completed form to export-compliance@andrew.cmu.edu.

Part 2 (For export review and office use only)

Part 6. Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States

(For H-1B, H-1B1 Chile/Singapore, L-1, and O-1A petitions only. This section of the form is not required for all other classifications. See Page 3 of the Instructions before completing this section.)

Check Box 1 or Box 2 as appropriate:

With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies that it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and has determined that:

- ☐ 1. A license is not required from either U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the foreign person; or
- ☐ 2. A license is required from the U.S. Department of Commerce and/or the U.S. Department of State to release such technology or technical data to the beneficiary and the petitioner will prevent access to the controlled technology or technical data by the beneficiary until and unless the petitioner has received the required license or other authorization to release it to the beneficiary.

Export Reviewer Comments:

Reviewer Name/Title: _____ Date: _____

Signature: _____

Instructions & Definitions for Completing the Compliance Questionnaire

Instructions:

Form should only be completed by applicant's direct supervisor, or a person with intimate knowledge of the work that will be performed by the applicant. Signature indicates responsible party of applicant's work.

Please do not leave any blanks. If a question does not apply, indicate with N/A. If a question will apply in the future but the details are unknown at the present time, indicate with TBD.

Question 1: If you expect the applicant to work on a sponsored project now or in the future, but the sponsor is unknown at the present time, write TBD on sponsor line .

If proposal has been submitted, but not awarded, put sponsor name and "pending".

Mark Non-Disclosure Agreement (NDA) box if an NDA exists or will exist for the activity or research, regardless of whether applicant will sign NDA.

Question 2: Please describe the topic and purpose of the research and the associated duties of the applicant.

Question 3: If citizenship is unknown, contact Office of International Education (OIE) for assistance.

Question 4: Definitions of key terms used are below.

Question 5: If needed, provide further explanation about any answer that you gave, or additional information that may be helpful in the review process.

If you have questions about this form, call the Export Compliance Office at 412-268-3745 or email at export-compliance@andrew.cmu.edu.

Key Terms Definitions:

ITAR: International Traffic in Arms Regulations: Controls items, services, and technical data that have a military or space related applications.

EAR: Export Administration Regulations: Controls dual-use items and technology

Dual use: (EAR): Items that have both commercial and military or proliferation applications. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also subject to the EAR.

Export: Under the ITAR *Export* means:

1. Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or
2. Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite covered by the U.S. Munitions List, whether in the United States or abroad; or
3. Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to an embassy, any agency or subdivision of a foreign government (e.g., diplomatic missions); or
4. Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or
5. Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.

Under the EAR *Export* means:

1. an actual shipment or transmission of items out of the United States.

Defense Article: (ITAR): Any item or technical data recorded or stored in any physical form , models, mock-ups or other items that reveal technical data directly relating to any item on the United States Munitions List (USML) ITAR Part 121.

Defense Service: (ITAR):

1. The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, destruction, or processing of defense articles.
2. The furnishing to foreign persons of any technical data controlled, whether in the United States or abroad.
3. Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, training exercise, and military advice.

Encryption items: (EAR): The phrase encryption items includes all encryption commodities, software, and technology that contain encryption features and are subject to the EAR. This does not include encryption items specifically designed, developed, configured, adapted or modified for military applications (including command, control and intelligence applications) which are controlled by the Department of State on the U.S. Munitions List.

Technical assistance (EAR): May take forms such as instruction, skills training, working knowledge, consulting services. “Technical assistance” may involve transfer of “technical data”.

Technical Data:

As defined in the ITAR:

1. Information other than software which is required for the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, destruction, or processing of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation.
2. Information covered by an invention secrecy order.
3. Classified information relating to defense articles.
4. Software directly related to defense articles.
5. This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges and universities.

As defined in the EAR:

blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read-only memories.

Technology (EAR): Specific information necessary for the development, production, or use of a product.

Technology Control Plan (TCP): A Technology Control Plan (TCP) is a compliance document prepared by the Principal Investigator and approved by the CMU Export Compliance Officer. The TCP states the type of export-controlled information associated with a research project, and the measures and safeguards to be taken by the PI to ensure access to the export-controlled information is managed.

A TCP is required when:

A research project involves the receipt of export-controlled information from an outside party, such as via a nondisclosure agreement or sponsored research agreement. A research project is not considered fundamental research and the research results may contain export-controlled information. A project that is restricted, proprietary, or classified is not fundamental research.