

EXPORT CONTROL REGULATION COMPLIANCE
(Please read carefully and answer questions on second page)

Due to recent additional federal regulatory requirements, the Form I-129 Petition for a Nonimmigrant Worker now requires a “Certification Regarding the Release of Controlled Technology Data to Foreign Persons in the United States” for all workers on an H-1B, L-1 or O-1A visa.

BACKGROUND

Any data or technology to which the nonimmigrant worker will have access must be reviewed against the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) to determine whether the data or technology is covered by the regulations. If the data or technology falls under the EAR or the ITAR a license is required from the U.S. Department of Commerce and/or the U.S. Department of State before the access to the nonimmigrant worker may occur. The export control regulations each impose severe monetary and criminal penalties for failure to comply with their requirements, and the Form I-129 now requires a certification that we are in compliance with those export control regulations.

The export control regulations impose access, dissemination and participation restrictions on the transfer and retransfer of “controlled” software code and information and on the export and reexport of tangible items. An export is defined as the shipment of tangible items and the transmission or transfer of software code or information to another country, while a “deemed export” is the disclosure of controlled software code or information to foreign nationals in the U.S. The U.S. Department of Commerce must issue an export license or provide an exception to or exclusion from the license requirement before any controlled tangible item, software or information on the U.S. Commerce Control List (CCL) may be exported or reexported. The CCL may be accessed at http://www.gpo.gov/bis/ear/ear_data.html, Part 774 categories 0-9 and supplements 2 and 3. The U.S. Department of State must issue an export license or provide an exception to or exclusion from the license requirement before any controlled tangible item, software or information on the U.S. Munitions List (USML) may be exported or reexported. The USML may be accessed at http://www.access.gpo.gov/nara/cfr/waisidx_99/22cfr121_99.html

Deemed export restrictions do not apply to the conduct of *fundamental research*, which is defined as basic and applied research in science and engineering conducted within the U.S. where the resulting information is ordinarily published and shared broadly within the scientific community. Fundamental research can be distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary reasons or specific, national security reasons. Research conducted by scientists and students at a university normally will be considered to be fundamental research and therefore exempt from the export control regulations as long as there are no access, dissemination, participation, or publication restrictions imposed by the sponsor. University based research cannot be considered fundamental research if the university or the researchers accept restrictions on the publication of scientific and/or technical information resulting from the research activity. The initial transfer of information from a sponsor to university researchers is subject to EAR if the parties have agreed that the sponsor may withhold from publication some or all of the information provided. Fundamental research conducted outside the U.S. is subject to export controls as are shipments of certain tangible items, software or information outside the U.S.

Will the worker for which this petition is being completed be conducting any research at or with UAMS, **YES** or **NO** (**Please circle appropriate answer**)? If **YES**, please answer the following questions to help us in determining whether an export license is required:

1. Does the research involve any equipment, software, chemical, bio-agent, or technology on the U.S. Munitions List?
2. Does the research involve any equipment, software, chemical, bio-agent, or technology that is designed or modified for military use or use in outer space?
3. Does the research involve any equipment, software, chemical, bio-agent, or technology for which there is a reason to know or believe that it will be used for or in weapons of mass destruction?
4. Does the research involve any equipment, software, chemical, bio-agent, or technology which is listed on the U.S. Commodity Control List?
5. Does the research grant or contract contain a restriction on the export or access by foreign nationals?
6. Does the research grant or contract contain a restriction on the publication or presentation of research results?
7. Does the research grant or contract contain a prohibition on the results or deliverables from being disclosed or delivered to any country or persons?
8. Does the research involve encrypted software?
9. Does the research involve foreign travel?

Name of Alien _____

Department/Division: _____

Sponsor: _____ Signature: _____ Date: _____

Dept. Administrator: _____ Signature: _____ Date: _____