

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

NORTHWESTERN UNIVERSITY POLICY

Northwestern University policy states that the University does not enter into agreements to conduct "secret" or "classified" research, nor does it agree to any requirements that restrict the freedom of a scholar to publish or disseminate findings. Further, University policy states that the University does not discriminate on the basis of citizenship status.

Research activities are excluded from export controls because of a general exception for fundamental research provided in the National Policy on the Transfer of Scientific, Technical and Engineering Information as set forth in National Security Decision Directive 189 (NSDD 189). Fundamental research is basic and applied research in science and/or engineering where the resulting information is ordinarily published and shared broadly in the scientific community. By not accepting any restriction on publication or foreign nationals, Northwestern maintains the fundamental research exclusion.

For further information please see the Northwestern University Office for Sponsored Research website for the following information: "Foreign Nationals in Research: U.S. Export Control Regulations in the University Setting"
http://www.research.northwestern.edu/osr/export_controls.html.

DEPARTMENT AUTHORIZATIONS

I hereby certify that the technology or technical data released or otherwise provided access to the beneficiary is considered fundamental research. This fundamental research is in compliance with Northwestern University policy. A license from U.S. Department of State or U.S. Department of Commerce is NOT required to release such technology or technical data to a foreign national.

I have read and acknowledge the information provided on the second page of this form and will keep it for my records.

If there are any changes in the release of technology or technical data to the beneficiary during the term of the beneficiary's employment, I will contact the Office for Sponsored Research and the Office of the General Counsel for approval.

Hiring Principal Investigator or Faculty Sponsor

Printed Name Signature* Date

Department Chair

Printed Name Signature* Date

**These must original signatures, signed in blue ink. No stamps please.*

FURTHER INFORMATION ON DEEMED EXPORT CONTROL

U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons

The Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) 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 EAT 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 the 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 CFF Part 774, Supp. 1. See http://www.access.gpo.gov/bis/war/war_data.html#ccl*. The USML is at 22CFR 121.1. See http://www.pmdtc.state.gov/regulations_law/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.

**Some of the links may not work directly off the form and you may have to copy and paste them into your browser*