

Deemed Export Questionnaire

J-1 Visa Applicant/Beneficiary Deemed Export Questionnaire & Certification for Sponsored & Non-Sponsored Activities

Important Background- Please Read:

Because of the several mandates implemented by the federal government, numerous federal agencies are currently focusing attention on “Foreign Influence” concerns among Higher Education and research institutions. Specifically, the United States Citizenship and Immigration Service requires that an employer, when hiring a foreign national certify that

- (i) it has reviewed the Export Administration Regulations (EAR) administered by the U.S. Department of Commerce and the International Traffic in Arms Regulations (ITAR) administered by the U.S. Department of State, and
- (ii) (ii) it has determined whether or not a license (prior authorization) is required from either of these Government agencies to allow foreign national employee access to export controlled items or technology (laboratory equipment/research instruments, materials, software or technology/technical data) controlled under the EAR or ITAR. (Please refer to Questions 1-5 below following the Instructions.)

In the case of J-1 Visa Exchange Visitors, specifically visiting Researchers and Scholars, the institution is also required to determine whether the J-1 visa candidate will be exposed to export control items or technology. (Please refer to Questions 1-5 below following the Instructions.)

The transfer or release to a foreign national of such controlled items by any means is deemed to be an export to the foreign national’s country of citizenship or permanent residence, potentially requiring a U.S. export license unless a particular authorized license exemption applies.

Instructions: The questionnaire must be answered by the sponsoring faculty member who is directly knowledgeable of the visa applicant/beneficiary’s activities, and not by someone acting on behalf of the sponsor who is not directly knowledgeable. Please complete the form as comprehensibly as possible.

If you do not have the information necessary to complete this Questionnaire and Certification, please contact your campus Export Control Administrator who, in turn will forward the inquiry to CUNY’s Export Control Director in the Office of Research. The director will then assist you in completing the questionnaire and as necessary, work with you to determine whether the activities intended for the visa applicant require prior export control authorization from a governing U.S. agency or a Technology Control Plan to restrict access.

SECTION I

Visa Applicant/Beneficiary Information (required)*:

First Name

Last Name

Date of Birth:

MM/ DD/ YYYY

Country of Citizenship (required)*:

Current Visa Type (If Applicable):

Requested Visa Type*:

Position to be Held (at the CUNY College)*:

SECTION II

Faculty/ Sponsor Information (required)*:

First Name

Last Name

Title*:

Department*:

Phone*:

Email*:

CC Email (please insert email of anyone else who should receive notification of approval)*:

SECTION III

Will the visa applicant be working in one of the following areas?

- Biomedical Sciences
- Computer Sciences
- Space or Space Launch Sciences
- Any Engineering or Scientific Discipline (may include but are not limited to the following: Chemical, Electrical, Semiconductor, Materials Science, Physics, Mechanical, Geophysical, Geospatial, Marine, Meteorological, Astronomy, Nuclear, Artificial Intelligence or Robotics).

Check one *:

- NO: the assignment will not involve, expose or potentially expose the applicant to any scientific or engineering discipline identified above, or if involved in such scientific discipline, will be acting in a teaching-only capacity, with no research involvement. Please sign and date this form below and click the CONTINUE button, which will route the Form to Export Control for review.
- YES: the assignment will involve, expose or potentially expose the applicant to a scientific or engineering discipline (including but not limited to one or more of those listed above). In the space provided immediately below please provide a brief explanation of work assignment(s).

Brief explanation of work assignment(s).

You are also required to check all the applicable boxes for Questions 2-5. Where the answer is Yes or Not Sure, this will alert us to a potential deemed export situation that we will promptly review with you and resolve. [Note: any technical data that has been invented by the Institution or another entity as the result of fundamental research (basic and applied research conducted without sponsor mandated publication and/or citizenship restriction) and is the subject of a potential or actual research publication, conference presentation, course curriculum, or patent publication (i.e. already in the public domain) is exempt from deemed export access restrictions.] Upon completion of the form, please sign, date, and then send it to your campus Export Control Administrator (ECA), who will review and determine if prior government authorization is required.

2. Will the visa applicant/beneficiary perform any activity under a sponsored research agreement (e.g. grant, CRADA, contract, recharge service agreement, Capstone, etc.) that restricts or prohibits the participation of foreign nationals (i.e. there are restrictive clauses or requirements pertaining to foreign nationals or non-U.S. persons participating in the research)?

YES NO NOT SURE

SECTION IV

3. Will the visa applicant/beneficiary perform any activity under a sponsored research agreement (e.g. grant, CRADA, contract, recharge service agreement, Capstone, etc.) that restricts or prohibits the research team's right to publish any of the data or research results, except for the sponsor's right to review and exclude from intended publication proprietary or confidential data that, under the terms of the Agreement, is exempt from publication.

YES NO NOT SURE

4. Will the visa applicant/beneficiary be provided access to any of the following (whether or not actually required for his/her work assignment and whether through hard or soft copy:

• **Technical data or information that has been stamped or otherwise designated by the sponsor or collaborating institution as being "export controlled";**

YES NO NOT SURE

• **Sponsor or third-party proprietary or confidential information, materials, or software that is the subject of a Non-Disclosure Agreement (NDA) or equivalent confidentiality agreement;**

YES NO NOT SURE

• **Third party, proprietary technology for the development of cryptography, or source code containing cryptographic functionality;**

YES NO NOT SURE

• **Third party, proprietary information pertaining to the "use" or "development" or "production" of instruments, materials, software or scientific processes (technology): for purposes of this Question:**

- "use" means that the foreign national would be performing one or more of the following types of activities pertaining to a controlled item beyond merely operating the item for its intended purpose: installation, maintenance, repair, and overhaul/refurbishing – based on a proprietary and controlled (non-public domain) manufacturer manual or other equivalent documentation
- "development" means technology pertaining to a sponsor's proprietary R & D and development project - - i.e. not intended for publication: design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, or configuration design
- "production" means technology pertaining to sponsor-proprietary product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

YES NO NOT SURE

5. In performing the activity under the visa, will the visa beneficiary/applicant be provided access to research equipment, instruments, materials, software, and/or technical data in any form (e.g. blue print, sketches, specifications, documented technology, vendor operational manual/instructions, data results) that is governed under the ITAR.

ITAR covers any item (equipment, instruments, materials, software, and/or technical data as exemplified above) specially designed, developed or modified for military, defense or space applications) and may include such items whether procured from a vendor, or otherwise received by a research sponsor or collaborating research institution. (For a list of the high-level ITAR categories that identify such defense, military and space items please use click on the following link: https://www.pmdotc.state.gov/ddtc_public?id=ddtc_public_portal_itar_landing)

For purposes of this question, “access” means any visual or physical access to the item, regardless of whether such access is actually required by the visa applicant to perform his/her work assignment.

- YES NO NOT SURE

In the event that the above-indicated information changes with respect to the visa applicant/ beneficiary's activities, please notify [Export Control] on a timely basis.

Section V

Host/Supervising Faculty Member or Business Department Supervisor Signature:

Name (please)	Signature	Title
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Date

MM/	DD/	YYYY