

Deemed Export Compliance Attestation [DECA] For H-1B Sponsors

The Department of Homeland Security – U.S Citizenship and Immigration Services (USCIS) requires each employer sponsoring an H-1B nonimmigrant worker to make certifications regarding the release of controlled technology or technical data to foreign persons in the United States.

This certification is made under penalty of perjury (28 USC 1746). Penalties for providing false information may include, but are not limited to, fines, criminal prosecution, and disbarment from the H-1B program.

Instructions

The Office of Research Compliance will review the information provided below and make an assessment of how to complete the statements and assurances regarding export control representations in the USCIS Form I-129 Petition for Nonimmigrant Worker. Due to the nature of this attestation, this document must be signed by the beneficiary's Principal Investigator(s) (if applicable), and the H-1B sponsoring The University of Texas Rio Grande Valley Department Chair, and applicable Dean. **Signatures by other personnel/designees and stamp or digital signatures are impermissible.**

Because the H-1B must be sponsored by a single department, the sponsoring department is responsible for reviewing participation in all projects and programs, access to equipment, software and laboratory materials under which the H-1B nonimmigrant employee will be executing his/her responsibilities externally or internally funded or not, including those housed in other departments.

Please complete the form, print and route for required signatures. The Dean's office should submit a signed copy of the Attestation to the Research Compliance Office. The Research Compliance Office will then forward the complete form to the Immigration Services Manager at the Office of Human Resources.

Attestation Information [to be completed by the sponsoring UTRGV department]

Beneficiary Name :

Beneficiary Nationality :

Foreign Institution | Entity Affiliation [if applicable] :

- I Please describe the position and responsibilities of the beneficiary for which this H-1B application is being filed [attach additional pages if necessary] :

- II Please review all projects and programs under which the H-1B employee will be funded or involved in, the accompanying Export Controls Memorandum, and the definitions of 'Fundamental Research' and 'Public Domain' information prior to answering the questions.

Fundamental research is described under the Export Administration Regulations and the International Traffic in Arms Regulations as "information arising from basic and applied research in science and engineering at an accredited institute of higher learning within the U.S., where the resulting information is ordinarily published and shared broadly with the scientific community." Please note that the Fundamental Research exclusion only covers the results of the research conducted; it does not cover the access to, and use of, restricted equipment, software or other materials as part of the research conducted, or the use of prior research results that were not fundamental.

Information in the public domain is described by the EAR and ITAR, respectively, as the following:

ITAR

Information which is already published and generally accessible to the public is not subject to ITAR. Information that is available through books, periodicals, patents, open conferences in the United States, websites accessible to the public with no access controls, or other public release authorized by the U.S. government, is considered in the public domain.

EAR

Publicly available technology and non-encryption software, such as information that is the subject of an open patent application, published in a book or periodical, released at an open conference anywhere, available on a website accessible by the public with no access controls or information that will be published is not subject to the EAR. This includes submission of manuscripts to journals for consideration with the understanding that the article will be published if favorably received.

Questions of the Beneficiary

- 1 Will the beneficiary only be performing fundamental research?
Yes No NA [Beneficiary does not perform research]

- 2 Will the activities of the beneficiary only involve information that is found in the public domain?
Yes No NA [Beneficiary does not perform research]

If you answered **Yes** or **NA** to both questions, please skip to **Question 3**.

If you answered **No** to either question, please complete the following.

- A Please describe the nature of the research the employee will be involved in or information they will have access to.
 - A.1 Does the research include the use of prior research results that were not fundamental?
Yes No

- B Does the research or information referred to above have potential military application?
Yes No

- C Will the beneficiary at the UTRGV be provided with technology, data, software, or other material that was disclosed to UTRGV from an outside party?
Yes No
 - C.1 Does the technology, data, software, or other material have restrictive markings?
[e.g. "Export-Controlled", "FOUO", "Proprietary", etc.]
Yes No

 - C.2 Is there a material transfer agreement, confidentiality agreement or other non-disclosure agreement in place under which this technology, data, software, or material was transferred to the University?
Yes No

- 3 Will the beneficiary's position at UTRGV be funded by or be performing work for a sponsored project or program?
 Yes No

If you answered **Yes** to **Question 3**, provide the UTRGV internal grant numbers :

- 4 Please provide a list of specialized equipment/software, materials [biological, chemical, hazardous, etc.] or technical data that he/she will have access to. Do not include typical office equipment/software [MS Word, MS Access, MS Excel, etc.].

Signatures

The signatory certifies that he/she has read the Export Controls Memorandum attached, that the above information is accurate, complete, and current as of the date of signature, to the best of his/her knowledge, and understands that the form I-129 attestations are made by the Immigration Services Manager or by the Director of Human Resources under penalty of perjury.

Principle Investigator Signature [if applicable] Principle Investigator Printed Name Date

Please add additional pages if there are additional Principal Investigators. If there is no Principal Investigator, or if the PI is also one of the signatories below, please note that in the signature box above.

Department Chair Signature Department Chair Printed Name Date

Department Dean Signature Department Dean Printed Name Date

Certification [to be completed by The Office of Research Compliance]

The Office of Research Compliance, which administers the research related export controls compliance program at the University of Texas Rio Grande Valley, has reviewed the attestations above. After review of associated agreements and the information provided by the sponsoring department, which is kept on file in the ORC grant and contract file and export controls database, the Office of Research Compliance has determined that, as of the date signed :

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

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.

Signature Senior VP for Research, Innovation, and Economic Development Date