

Visa Deemed Export Certification

Background

The U.S. Citizenship and Immigration Services (USCIS) recently issued a new form I-129 that requires a change in procedures when the University hires a foreign person as faculty and staff. A key change to the form is the inclusion of a “Deemed Export Attestation,” which requires the petitioner (i.e. the University) to certify whether visa petitions for certain classes of foreign person work visas will require a license or other government authorization for the release of export-controlled technology or technical data to the foreign person in the United States during their employment. Under the export control laws, the transfer of such information is “deemed” an export to the country of origin of the individual with whom you are communicating.

Harvard International Office Visa Intake Form

To meet this requirement, the University’s visa application now includes a “Deemed Export Certification.” This certification must be signed by the Principal Investigator or Department Chair and the School’s Compliance Officer, attesting whether or not a deemed export license is required prior to the release of technology or technical data to the foreign person.

Export Control Exclusions

Universities frequently take advantage of a number of exclusions in the regulations and thereby avoid the necessity of securing a deemed export license. If one of the exclusions applies, no deemed export license would be required.

The most common exclusions are those for “fundamental research” and for “educational information.” In general, if the visa applicant will be conducting basic or applied research in science and engineering at an accredited university in the United States and the resulting information is ordinarily published and shared broadly in the scientific community, the research will fall within the fundamental research exclusion.

In general, the release of information by instruction in catalog courses and associated teaching laboratories is eligible for the educational information exclusion. Additional details about some of the most relevant exclusions can be found at the links below:

- [Fundamental Research Exclusion \(FRE\)](#)
- [Publicly Available/Public Domain Exclusion](#)
- [Educational Information](#)

Compliance

To ensure compliance with this new requirement, the PI/Chair in collaboration with the Compliance Officer need to review the work the foreign person will be undertaking to

determine if one of the above exclusions is applicable. It is understood that visa applications are frequently time sensitive.

To initiate the review process please provide the following to the Compliance Officer

1. Name of the applicant
2. Country of origin
3. Letter of support (from visa application)
4. Additional information will be requested as needed to complete the review

For additional information, please contact:

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