

Export Control Questionnaire for Foreign National Employees

What is the purpose of this questionnaire?

The United States government regulates the export of sensitive technologies, materials, and information to certain foreign countries *and to foreign nationals within the U.S. (deemed exports)*. In some cases, a deemed export requires a license from the U.S. government. Controlled items often found in university labs include high technology equipment, software, chemicals, and biological materials. Controls vary with item and country. Additionally, multiple U.S. Government agencies have either restricted grant funding to participants in foreign government talent acquisition programs, or have signaled their intent to do so in the near future. The University must determine whether a visiting scholar/scientist is eligible for grant funding from certain federal agencies, or whether they may participate in University projects that receive such funding.

Many activities of foreign nationals in the university setting do not require deemed export licenses because the activities and/or technologies fall under certain exemptions. Nonetheless, the University must determine in each instance whether there are export control risks and if any exemptions apply. In the case of H-1B and O-1 visa applications, the University is legally required to certify on Form I-129 (Nonimmigrant Petition) for the foreign national's employment that a) no export license is needed, or b) a license is needed and will be obtained, or access to the controlled technologies will be prevented.

Instructions

1. This questionnaire must be completed and signed by the Principal Investigator (PI) or Supervisor (if there is no PI) who is responsible for hiring, or continuing to employ, the foreign national. Other lab personnel may be consulted when filling out the questionnaire.
2. The Office of Research Compliance & Assurance will review the completed questionnaire. Additional follow up may be necessary (for example to review lists of controlled items).
3. Based on the information received, a recommendation is made on whether an export risk exists. A determination of risk does not mean that the foreign national will not be approved. In that case, the Office of Research Compliance & Assurance will work with the PI or supervisor to determine a course of action.
4. When a final determination is made, the Office of Immigration will receive clearance for immigration paperwork creation and/or information on what to check on the I-129 form.

The University will not submit the Form I-129 until a completed questionnaire has been received and reviewed by the Office of Research Compliance & Assurance. Timely completion of this questionnaire will prevent delays in visa application processing.

The University of South Alabama is committed to compliance with export control laws and to the accuracy of its certifications on the Form I-129. Both the University and the department can face criminal and civil penalties if export control violations occur.

For export control questions contact the Office of Research Compliance and Assurance, dlayton@southalabama.edu or aswilliams@southalabama.edu. For questions regarding immigration, contact The Office of Immigration at immigration@southalabama.edu or 251-460-6050. Please return this form to the Immigration Office.

Export Control Questionnaire for Foreign National Employees

Name of Foreign National (FN): _____

Is this H-1B/O-1 petition an extension of the same position? Yes No

*If yes, answer questions in Section A *only*. If no, you may begin at Section B.

A. Extension of Same Position

1. Has there been any change in role or duties of the Foreign National (FN) since the last H1B approval? Yes No I am unable to answer

If yes, please describe changes.

2. Are there any new or alternate sponsors for the work this FN will be conducting since the last H-1B/O-1 approval? Yes No I am unable to answer
3. Are there any changes in the foreign collaborations since the last H-1B/O-1 approval?
 Yes No I am unable to answer
4. Will the FN have access to any new equipment, materials, software, technology since the last H-1B/O-1 was approved? Yes No I am unable to answer

If yes, please describe.

5. Are there any new publication restrictions on the work the FN will be doing (beyond a brief review of proprietary information by an industry sponsor)?
 Yes No I am unable to answer
6. Are there any new citizenship requirements or restrictions on participation by foreign nationals for the work this FN will participate since the last H-1B/O-1 approval?
 Yes No I am unable to answer

****If you have answered “yes” to Section A, skip sections B, C, D, and E. Proceed to the Signature Section on the last page.****

B. General Information

1. The Foreign National's work will include (mark all that apply):

- Research
- Technician/Technical Support
- Clinical/Patient Care
- Teaching/Education Activities
- Other: _____

Who is funding the project/employment/research of the FN? List all sources, including financial support from home government and/or institution.

Provide scope of the FN's work while at USA or USA Health.

2. Will the FN participate in activities which involve the receipt of proprietary information from a sponsor? Yes No I am unable to answer

If yes, to your knowledge, is this proprietary information export controlled? Yes* No I am unable to answer

*If yes, the FN must complete a Non-Disclosure Agreement.

3. Will the work result in a tangible product, piece of equipment, or software?

Yes No I am unable to answer If yes, please describe.

B. General Information (cont'd)

4. Does the FN's work involve the design, development, or alteration of encryption, encrypted items, or source code?

Yes No I am unable to answer If yes, please describe.

5. Will the FN participate in any activities that stipulate compliance with U.S. export control regulations or refer to government licenses or permits? Such stipulations could occur in grants, contracts, project requirements or purchase documentation for equipment, materials, hardware, or software.

Yes No I am unable to answer If yes, please describe.

6. Will the FN's work involve collaborations and/or travel outside the U.S.?

Yes No I am unable to answer If yes, what countries?

7. Will the FN participate in projects connected to the U.S. Military or which have direct military applications?

Yes No I am unable to answer If yes, what is the connection?

8. Is the FN a member of or connected to a foreign military organization?

Yes No I am unable to answer If yes, please explain.

B. General Information (cont'd)

9. Is the FN a participant in a foreign government Talent Recruitment Program?

Yes No I am unable to answer If yes, which country?

10. Does any of the FN's research/work related to the spread or increase of nuclear, biological, and chemical weapons or delivery systems?

Yes No I am unable to answer If yes, please explain.

11. Will any of the FN's research/work involve access to any research, resources or facilities subject to a Technology Control Plan?

Yes No I am unable to answer If yes, please explain.

C. Access to Possible Control Items

1. Will the FN be working in an open/shared lab or office space where other researchers will be working on other projects? Yes No I am unable to answer

If there are access restrictions to any parts of the lab or space, please describe the type of restrictions (e.g. badge or key card access).

C. Access to Possible Control Items (cont'd)

2. Will the FN's activities include access to technical or scientific third party information, materials, equipment, or manuals that are **not** in the public domain (*other than* HIPAA protected patient information, or data not yet published but which is expected to be published in the future)?

Yes No I am unable to answer

If yes, include access to unrelated projects which may occur in a shared lab or open lab environment.

3. Are you aware of any equipment, materials, software, technical data, or encrypted software or hardware that would be export licensable under the **International Traffic in Arms (ITAR) Regulations** or the **Export Administration Regulations (EAR)** that the FN would have access to, including in an open/shared lab or office environment?

Yes No I am unable to answer

If yes, please indicate type(s) or item(s) that is (are) export controlled.

4. Will the FN have access to any equipment, material, software, or technical data (directly or through unrelated projects occurring in an open lab or office environment) which have been or are currently being specifically designed, developed, configured, adapted, or modified for a military, satellite, or space application?

Yes No I am unable to answer

5. Does this project or any projects that will be accessible to the FN (directly or through unrelated projects occurring in an open lab or office environment) have any **National Defense Classified** aspects relating to equipment, materials, technology, software, or encryption? Yes No I am unable to answer If yes, please explain.

C. Access to Possible Control Items (cont'd)

6. If applicable, please indicate the types of significant equipment the FN will be utilizing in connection with his/her position. (e.g., examples include sophisticated spectrographic instruments, chromatography instruments, laminar flow hoods, fermenters, centrifugal separators, cross-flo filtration equipment, incubators, lasers, magnets, high speed cameras, high-technology electronic sensors).

This question is not applicable to the FN.

For any of the items described in question C6, will the FN have access to technical information which would enable them to develop, produce, or “use” the item? For the purposes of this question, the definition of “use” includes *all six* of the following tasks: installation; operation; maintenance; repair; refurbishing; overhaul.

Yes No I am unable to answer

If yes, for which equipment will they have access to this information?

D. Determination of Fundamental Research Status

*If you checked “research” or “technician/technical support,” please answer Section D. Otherwise, you may skip Section D and proceed to the Signature Section.

1. Please read the U.S. Government's definition of Fundamental Research:

“Fundamental Research means basic and applied research in science and engineering the results of which ordinarily are published and shared broadly within the scientific community as distinguished from proprietary research and industrial development, design, production and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons”

Do you consider the work this FN will be doing to be “Fundamental Research”?

Yes No I am unable to answer

D. Determination of Fundamental Research Status (cont'd)

2. Will the FN participate in any activities or projects that contain restrictions (formal or informal) on publication or presentation of results in any way beyond a brief review by an industry sponsor for elimination of proprietary information?

Yes No I am unable to answer

3. Will the FN participate in research where the results are not expected to be published or shared broadly within the academic or scientific community, even if there are no sponsor mandated restrictions on publication? Yes No I am unable to answer

4. Will the FN participate in any activities that stipulate limitations on participation based on citizenship, such as restricting foreign nationals from performing work or accessing certain information or results? Yes No I am unable to answer

5. Will the FN participate in activities that involve non-disclosure agreements or confidentiality agreements with an external sponsor (i.e. the U.S government or an industry sponsor), collaborator, or third party, either written or unwritten?

Yes No I am unable to answer

Certification by Principal Investigator (PI) or Supervisor (if there is no PI)

I have completed the online CITI Program's [export control training](#) module designated for faculty and researchers. I have knowledge of the nature of the proposed visit/ employment, and the answers I have provided are true and correct to the best of my knowledge and belief.

I certify that I work in a capacity to know and/or I have provided responses after consulting with others who know of the foreign national's anticipated work duties, funding, and access to technologies while working at the University of South Alabama and/or USA Health. The responses on this questionnaire are accurate and complete to the best of my knowledge. If I have any questions concerning this questionnaire, I will contact the Office of Research Compliance & Assurance.

Signature

Date

Name (please print)

Title

Office of Research Compliance and Office of Information Technology and Risk Compliance Use Only

Comments: _____

Reviewed and Approved by:

Office of Research Compliance

Date

Office of Information Technology and Risk Compliance

Date