New York University

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FORM 7

Deemed Export Questionnaire
for H-1B and O-1A Petitioners Only
[to be completed by the foreign national's NYU academic sponsor and returned with signatures to the School/Department administrator who is centralizing the visa petition]

1. Background

The U.S. Citizenship and Immigration Services agency requires the University to determine whether an export license must be obtained for a visiting foreign national ("Scholar") at the time of the H-1B or O-1A visa application. **The University cannot process the application until this Questionnaire has been completed.**

The transfer or release, even by means of solely visual access, of export controlled technology to a foreign national is "deemed" to be an export to the foreign national's country(ies) of citizenship or permanent residence, potentially requiring an export license unless a particular authorized license exemption applies. The person sponsoring the Scholar ("Sponsor") must certify that they have (i) reviewed the International Traffic in Arms Regulations ("ITAR") administered by the U.S. Department of State; (ii) reviewed the Export Administration Regulations ("EAR") administered by the U.S. Department of Commerce; and (iii) determined whether or not a license is required from either of these Government agencies to allow the Scholar access to export controlled items or technology (e.g. laboratory equipment, research instruments, materials, software, or technology/technical data). For purposes of this Questionnaire, "access" means any visual or physical access to the item, regardless of whether such access is actually required for the Scholar to perform their work assignment.

For the University's website covering export control laws and containing helpful resources please see: https://www.nyu.edu/about/policies-guidelines-compliance/compliance/export-compliance.html.

2. Scholar Information

First Name	Middle Name	Last Name

Country of Citizenship	Country of Permanent Residence

Any Additional Countries of Citizenship or Legal Permanent Residence

College/School/Institute	Department (if applicable)

NYU Job Title

3. Work Assignment Summary

3(a). Will the Scholar be working in (or <u>potentially</u> exposed to) any of following areas: biomedical sciences, computer sciences, space or space launch sciences, or *any* engineering or scientific discipline?

Engineering or scientific disciplines may include <u>but are not limited to</u> the following: Chemical, Electrical, Semiconductor, Materials Science, Physics, Mechanical, Geophysical, Marine, Aerospace, Astronomy, Nuclear, Computer, Cryptography, Artificial Intelligence, or Robotics.

Yes_____   No _____

Please provide a brief explanation of the work assignment. Specifically reference any high tech equipment, high performance computers, experimental equipment, physical prototypes and/or software to be developed. Attach additional pages if needed.

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3(b). Will the Scholar be working under a sponsored research agreement that restricts or prohibits publication of the research results, or requires the sponsor's prior approval of proposed publications (except for the sponsor's right to review the intended publication for removal of proprietary or confidential information)?

Yes_____   No _____

3(c). Will the Scholar be working under a sponsored research agreement that restricts or prohibits participation of foreign nationals and/or requires additional information on foreign nationals (such as their nationality or immigration status)?

Yes_____   No _____

4. Access to Export Controlled Technology

4(a). Will the Scholar be provided access to any of the following? (*If Yes, please provide an explanation on additional pages.*)
   • Technical data, project, or instrument currently secured through a Technology Control Plan ("TCP");
   • Technical data or information that has been stamped or otherwise designated by the sponsor or a third party as being "export controlled";
   • Sponsor or third-party proprietary or confidential information, materials, or software, whether or not subject to a specific Non-Disclosure Agreement ("NDA"), equivalent confidentiality agreement, Material Transfer Agreement ("MTA") etc.;
   • Proprietary (to sponsor or a third party) technology for the development of cryptography, or proprietary source code containing cryptographic functionality; and
   • Information pertaining to the "use" or "development" or "production" of instruments, materials, software, or scientific processes (technology) that is not in itself the subject or result of fundamental research (i.e. third-party technology or NYU proprietary technology considered outside fundamental research). For purposes of this Question:
      o "use" means that most or all of the following 6 types of activities occur: operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing. (For space-related research only: "use" means any one of the foregoing activities.)
      o "development" is related to all stages prior to serial production, such as: design, design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes,

design data, process of transforming design data into a product, configuration design, integration design, layouts.

- o "production" means all production stages, such as: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.

Yes_____   No _____

4(b). Will the Scholar be provided access to research equipment, instruments, materials, software, and/or technical data in any form (e.g. blueprints, sketches, specifications, documented technology, operational manual/instructions, data results, including items procured from a vendor or received from a sponsor or collaborator) that is governed under the ITAR or EAR?

4(b)(1). For the ITAR's United States Munitions List ("USML") Categories I-XXI that identify defense, military, and space items please see: https://www.ecfr.gov/cgi-bin/text-idx?node=pt22.1.121#se22.1.121_11. **Review before answering.**

Yes_____   No _____

4(b)(2). For the EAR's Commerce Control List ("CCL") Categories 0-9 that identify "dual use" (designed for civilian use but may have military applications) items please see: https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear. **Review before answering.**

Yes_____   No _____

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- After completing the Questionnaire, the Sponsor may fill in and sign Section 5, have it signed by their Dean or Dean's Designee, and submit the Questionnaire to the School/Department administrator centralizing the visa application. **HOWEVER**, if any of the answers in Sections 3 or 4 are "Yes," further review by the University's Office of Compliance and Risk Management ("OCRM") will be needed.

- Please contact Tatiana Shapiro, Assistant Compliance Officer and Export Control Specialist, OCRM, at tatiana.shapiro@nyu.edu if you have questions or need guidance to complete this Questionnaire.

5. Certifications and Signatures

I hereby certify that I have reviewed the ITAR and EAR as referenced above, and hereby affirm that the contents of the foregoing Questionnaire are true to the best of my knowledge, information and belief.

I understand that failure to accurately complete the foregoing Questionnaire can result in the U.S. Government export laws violations for which civil and criminal penalties can be assessed against (i) any individual found to have caused or facilitated a violation, and/or (ii) NYU.

Sponsor: _____
                Signature

                _____
                Name (please print)

_____

Title

_____

Phone

_____

Email

_____

Date

Dean, or Dean's Designee:

(if different from Sponsor)

_____

Signature

_____

Name (please print)

_____

Title

_____

Phone

_____

Email

_____

Date

Secondary review by OCRM (ONLY if required under Sections 3 and/or 4):

☐ Neither a license nor a TCP is required.

☐ A license is not required, but a TCP is required to permanently restrict the Scholar's access to only what is not export controlled. The Sponsor will work with OCRM to develop and implement the TCP.

☐ A license is required from the U.S. Dept. of State or the U.S. Dept. of Commerce to release the technology or technical data to the Scholar. A TCP is required to restrict the Scholar's access to only what is not export controlled until the license or other authorization is received. The Sponsor will work with OCRM to develop and implement the TCP.

Office of Compliance and Risk Management:

_____

Signature

_____

Name (please print)

_____

Title

_____

Date