

Export Control and Foreign Influence Prevention

DBA Meeting January 11, 2024
Angelica Grado-Wright, Export Control Officer
Office of Ethics and Compliance



Agenda

- **OVERVIEW OF EXPORT CONTROL INITIATIVES**
- **DEEMED EXPORT**
- **H-1B and J-1 VISA CANDIDATE ASSESSMENT FORMS**
- **INTERNATIONAL TRAVEL FORM**

OVERVIEW

- ❑ Federal and State laws set forth specific requirements for the protection of sensitive research and the maintenance of national security interests in a university setting.
 - National Security Presidential Memorandum 33 (NSPM-33)
 - Texas Senate Bill 1565
- ❑ UH has made Research Security including Export Control, Foreign Influence Prevention, and Cybersecurity a Compliance priority in FY2024.
- ❑ We have multiple initiatives to address improvements in processes and awareness relating to export control, research security, and foreign influence prevention across the university

How Do Export Controls Apply to UH's Business Activities?

Sponsored
Research

Visa Sponsorship

International
Shipping & Imports

Student Programs

**International
Travel**

Distance Education

Engagements &
Collaboration with
Foreign Entities

Technology
Transfer

Procurement of
items, equipment,
materials, and
software

Controlled Biologics
(Incl. Select Agents
& Toxins)

IT and Data
Security

Receipt of Gifts
from Foreign
Entities

Work-for-Hire/
Recharge Services

Facility Clearance

Defense Services


What is a Deemed Export?

- A **deemed export** is the release of technology or technical data to any foreign national in the U.S., including **students, post-docs, faculty, visiting scientists, or training fellows**.
- A deemed export is treated as an export to that person's home country.
- The terms **technology** and **technical data** mean specific information necessary for the development, production, or use of a commodity, and usually takes the form of blueprints, drawings, photographs, plans, diagrams, models, formulae, tables, engineering specifications, and documentation.
- It generally does not include basic marketing info on function, purpose or general descriptions of defense articles.
- Technology or technical data that is publicly available does not require a license to export.
- Information that arises through **fundamental research** where the information is ordinarily published is not subject to the regulation.
- However, information or technology received through an NDA that is not considered publicly available would be subject to export control regulations.
- Technology is “released” for export when:
 - it is available to foreign nationals for visual inspection (such as reading technical specifications, plans, blueprints, etc.);
 - technology is exchanged orally; or
 - technology is made available by practice or application under the guidance of persons with knowledge of the technology.

New Candidate Affiliation Due Diligence and Deemed Export Assessment

Key changes to the form:

- It is a **DocuSign** form.
- It adds a component for the foreign national visa candidate to complete.
- The questions are more targeted to assess whether the fundamental research exception will apply to the activities planned for the visa employee/visiting scholar.
- Expands the application of the form to **J-1 visiting scholars/researchers**.

 UNIVERSITY OF HOUSTON Login to

Human Resources

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UH Home > Human Resources > Employees > Foreign Nationals > Non-Immigrant (Temporary Visa) Worker > H-1B Specialty Occupation > H-1B Request Procedures

FOREIGN NATIONALS

- I-9 Employment Eligibility Verification
- Non-Immigrant (Temporary Visa) Worker
 - F-1 Student
 - OPT (Optional Practical Training)
 - H-1B Specialty Occupation
 - H-1B Request Procedures
 - H-1B FAQ
 - Labor Compliance Notices
- TN NAFTA Professional
- O-1 Extraordinary Ability
- E-3 Australian Professional
- J-1 Exchange Visitor
- B-1 Business Visitor
- Visa Waiver (VWP)


Immigrant (Permanent Visa) Worker

- Change in Terms of Employment
- Change of Address
- Taxation
- Termination of Employment

H-1B Request Procedures

Important Note: Only Human Resources is authorized to sign USCIS H-1B forms on behalf of UH.

The hiring department is responsible for completing, signing, and submitting to the Immigration Specialist the following forms:

1. Copy of offer letter (not applicable if it is an H-1B extension petition)
2. Request to Petition for H-1B
3. Employer Labor Condition Statement
4. Actual Wage Determination Worksheet
5. Export Control Form: Visa Candidate and Deemed Export Assessment
 - Department Administrator or designee should access the **Visa Candidate and Deemed Export Assessment** template via DocuSign.
 - Department Administrator or designee will enter names and email addresses for the Visa Candidate, Faculty/Staff Sponsor, and Department Chair (or equivalent).
 - The Visa Candidate (prospective/current H-1B employee) must complete and sign Part I of the form.
 - The Faculty/Staff Sponsor must complete Part II of the form and sign/certify in Part III.
 - The Department Chair (or equivalent) must sign and certify in Part III.
 - Information about Export Control requirements is available at [UH Export Control](#).
6.  **Employee Checklist-Questionnaire** (for the H-1B worker)

New Instructions Available for Deemed Export Assessment

- Please check the HR webpage at <https://www.uh.edu/human-resources/employees/foreign-nationals/non-immigrant/h-1b/h-1b-requests/> for updated instructions on H-1B and O-1 visas.
- The old form will not be accepted going forward.
- The visa initiator (normally the College/Department Business Administrator) will access the DocuSign Template: **Visa Candidate Affiliation and Deemed Export Assessment**
- The CBA/DBA will enter their name and email address as well as the name and email address for the Visa Applicant, Faculty Sponsor, and Department Chair.
- On the form, the CBA/DBA will select the university campus and submit the form which will route it to the Visa Applicant.
- A pre-set email will provide instructions to each signer.
- Email addresses for the Export Control Office and Office of General Counsel are pre-set.

[Update from your administrator](#)

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FOLDERS +

SHARED FOLDERS

- Academic Affairs
- Business and Finance
- Compliance**
- Concur
- Property Management
- PS Finance Access

Compliance

Search Shared Folder

FILTERS

Name	Owner	PowerForms	Created Date	Last Change	
★ Visa Candidate Affiliation and Deemed Export Assessment Eligible for matching	Susan F Koch		12/11/2023 01:10:57 pm	12/11/2023 02:42:44 pm	USE

Visa Candidate Affiliation Due Diligence and Deemed Export Assessment Form

Add recipients

Some of the recipients are locked and cannot be changed [Learn More...](#)

Set signing order [View](#)

1

College/Department Business Administrator

NEEDS TO SIGN CUSTOMIZE

Name *

Email *

1

Visa Applicant/Beneficiary

NEEDS TO SIGN CUSTOMIZE

Name *

Email *

2

Faculty/Staff Sponsor

NEEDS TO SIGN CUSTOMIZE

Name *

Email *

3

Department Chair or Equivalent

NEEDS TO SIGN CUSTOMIZE

Name *

Email *

4

Export Control Office

NEEDS TO SIGN CUSTOMIZE

Signing Group Name *

Export Control/Compliance

Signing Group Members

5

Immigration Specialist/Office of General Counsel

CC RECEIVES A COPY CUSTOMIZE

Name *

Casmin Hicks

Email *

cghicks@uh.edu

+ ADD RECIPIENT + ADD DELAY

**Visa Candidate Affiliation Due Diligence and
Deemed Export Assessment Form
For Sponsored Research and Non-Sponsored Activities**

Instructions: Part I is to be completed and signed by the Visa Applicant. Parts II and III of this form must be answered by the sponsoring faculty or staff member who is directly knowledgeable of the visa applicant/beneficiary's planned activities, and not by someone acting on behalf of the sponsor who is not directly knowledgeable. Please complete the form as comprehensively as possible.

University:

UH Main
 UH Clear Lake
 UH Downtown
 UH Victoria

PART I

Visa Applicant/Beneficiary:

 First Name Last Name

Date of Birth:

MM/DD/YYYY

Country of Citizenship:

Phone:

Email:

Current Visa Type (If Applicable):

Requested Visa Type:

Position to be Held:

Yellow completed by DBA

Blue completed by visa candidate

Please identify the name and address of all entities with whom you hold an affiliation. Please refer to the definition of "affiliation" below. If funding source(s) is/are different from the affiliated entity(ies), please identify every source of funding from any institution, organization, or agency that makes it possible for you to participate in this visa program.

An *affiliation* with an institution or program in a foreign (non-U.S.) country includes any academic, professional, or institutional appointments or positions, board/advisory positions or collaborative projects (whether paid or unpaid, full-time or part-time), and even if described as honorary, courtesy, visiting, adjunct, volunteer, or other similar description -- with any foreign government, university or other entity in a foreign country (including but not limited to your country of citizenship). Included in this definition is any involvement in a talent program (e.g., a program in which you have been recruited and/or funded by a foreign university, entity or government).

Do you participate (whether on a paid or unpaid basis) in any government, military, intelligence agency, or police entity? If not currently, have you participated in past service? If yes, indicate any on-going obligation with the entity(ies).

NO YES If yes, please list entity and dates of service:

Sign
↓

Visa Applicant/Beneficiary Signature

Date Signed

Date

Thank you for completing these responses for our due diligence process. A UH representative may contact you for a routine follow-up conversation if any clarifications are needed.

Part II Faculty/Staff Sponsor

PART II

Faculty/Staff Sponsor Information:

<input type="text" value="First Name"/>	<input type="text" value="Last Name"/>
First	Last
Title:	
<input type="text" value="Title"/>	
College/Department/Center:	
<input type="text" value="Text"/>	
Phone:	Email:
<input type="text" value="Text"/>	<input type="text" value="Email"/>

Important Background- Please Read: The United States Citizenship and Immigration Service requires that an employer, when filing a H-1B or O-1 petition, certify that (1) 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 (2) 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 1-6 below.)

In the case of J-1 Visa Exchange Students and Visiting 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 1-6 below.)

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.

If you do not have the information necessary to complete this Questionnaire and Certification, please contact UH's Export Control Officer at exportcontrol@uh.edu. The Export Control Officer will 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.

1. Will the visa applicant be working in one of the following areas? Check all that apply.

- Biomedical Sciences
- Computer Sciences
- Space or Space Launch Sciences
- Forensic Sciences
- Any Engineering or Scientific Discipline (may include *but not limited to* the following: Chemical, Electrical, Semiconductor, Materials Science, Physics, Mechanical, Geophysical, Geospatial, Marine, Meteorological, Astronomy, Nuclear, Artificial Intelligence or Robotics).
- None of the above

Please check one of the following:

- 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.**
- 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).

If YES, please provide a brief explanation of work assignment(s) in the space provided immediately below AND complete Questions 2-6. Please check all the applicable boxes. 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.

Brief explanation of work assignment(s).

Purple completed by faculty/staff sponsor

Part II Continued

Note: Any technical data that has been invented by UH 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.

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

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 PI/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

Part III and Part IV

- The Department Chair/Equivalent review is needed to ensure that the ECO is notified if there are any changes in the access provided to the visa applicant.
- The Office of Ethics and Compliance has a group export control email address so that we can review and complete the form as quickly as possible.

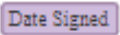
6. Will the visa beneficiary/applicant be engaged in any international collaborative activity involving international travel or a research collaborative exchange with his/her home country institution?

YES
 NO
 NOT SURE

PART III

In signing this document, I confirm that I have reviewed UH Export Control policies and protocols and the answers I have provided are true and correct to the best of my knowledge. I also confirm that I will timely notify the Export Control Officer at exportcontrol@uh.edu before:

1. Any technology or technical data is released to the visa beneficiary/applicant; and/or
2. The visa beneficiary/applicant moves to a new office or lab or begins work activity outside my control or knowledge.

 <hr/> Faculty/Staff Sponsor	 <hr/> Date
 <hr/> Department Chair or Equivalent	 <hr/> Date

Part IV

- A license is not required from either the U.S. Department of Commerce or the U.S. Department of State to release such technology or technical data to the foreign person
- 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.

 <hr/> Export Control Officer	 <hr/> Date
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New International Travel Export Control and Travel Embargo Form

Key changes to the form:

- It is a **DocuSign** form—we are hoping to make it a PowerForm which will allow the traveler to access the form without a DocuSign account.
- Form will be routed to Export Control office automatically depending upon responses to certain fields on the form.
- Forms not requiring Export Control review will be completed upon signature of DBA.
- Primary Country destination is a dropdown. Additional countries to be visited may be entered in the optional text fields.

Add recipients

1

Traveler ✎ NEEDS TO SIGN ▾ CUSTOMIZE ▾ 🗑️

Name *



Email *

2

Department Business Administrator ✎ NEEDS TO SIGN ▾ CUSTOMIZE ▾ 🗑️


Name *



Email *

3

Routing Group Name * ✎ NEEDS TO SIGN ▾ CUSTOMIZE ▾



Export Control/Compliance ▾

**International Travel
Export Control and Travel Embargo Form**

Employee Name:	<input type="text" value="Full Name"/>	Job Title:	<input type="text" value="Title"/>
College/Division:	<input type="text" value="Company"/>	Dept Name:	<input type="text" value="Text"/>
Primary Country:	<input type="text" value="Select"/>	Dates of Travel:	<input type="text" value="Text"/>
Other Country:	<input type="text" value="Text"/>	Other Country:	<input type="text" value="Text"/>

Purpose of Travel [check one or more where applicable]:

Research related

- Independent research
- Collaborative research with an internationally based/affiliated person or entity
 - Name of person or entity
- Exploration of future inter-institutional collaborative research relationship
 - Name of institution
- Conference attendance
 - Name/website of conference
- Conference presentation
 - Name/website of conference
 - Name of presentation
- Other (please describe)

Academic activity

- Teaching or guest lecture with course curriculum
- Provide training
 - Name of person/organization receiving training
 - Topic of training
- Exploration of future inter-institutional collaborative academic relationship
 - Name of institution
- Other (please describe)

Professional Development

- Receiving award or recognition
- Attending a course (credit or non-credit; continuing education)
- Other (please describe)

UH business/operations activities

- Student recruitment
- International campus/exchange programs
- Advancement/philanthropy
- Other (please describe)

Approved Sabbatical (Name of international institution)

Consulting on behalf of UH (pursuant to a UH sponsored agreement)

Consulting (not pursuant to a UH sponsored agreement)

Study Abroad (Name of international institution)

Other not referenced above (please describe)

Please answer the following questions to the best of your ability. If you are uncertain about any of the responses, please default to YES and our export controls officer will contact you for further assistance.

1. Will you be transporting (either through carry-on luggage or checked bags) laboratory instruments, tools, samples, raw materials, or prototypes?

YES NO

If YES, please describe items, purpose, and whether you will be bringing all such items back to the U.S. with you or whether some items will remain or be consumed there.

2. Will you be traveling with a portable electronic device containing proprietary data; confidential or export controlled i.e. data associated with an export-restricted research project that you have been or are working on currently (even if such data has nothing to do with the purpose of your immediate travel)?

YES NO

If YES, please describe the nature of the data.

Text

3. Will you be transporting any device that incorporates specialized scientific software (not including typical operational software such as Microsoft Office, Adobe, etc.) or software programs containing or constituting specialized cryptographic functionality (not including routine commercial laptop cryptographic protection)?

YES NO

If YES, please describe nature or type of specialized software (source or executable code etc.)

Text

4. Will you be providing any specific training or technical assistance to another individual, entity, or governmental institution (or representatives) beyond scientific collaboration in fundamental research?

YES NO

If YES, please describe scope of activity, who will be the recipient, and whether to the best of your knowledge, the recipient is or represents a military/defense organization or function.

Text

5. Are you planning to engage with an institution or organization for any purpose including but not limited to research, product development, consulting, or provision of services with whom UH does not currently have an inter-institutional partnering agreement or Memorandum of Understanding (MOU) in place?

YES NO

If YES, please provide name of institution or organization.

Text

Traveler's Statement: I confirm the above responses are true and correct to the best of my knowledge.

Traveler Signature:	<div style="border: 1px solid black; background-color: #FFD700; padding: 2px; display: inline-block;">Sign ↓</div>		Date:	<div style="border: 1px solid black; background-color: #FFD700; padding: 2px; display: inline-block;">Date Signed</div>	
DBA/CBA Signature:	<div style="border: 1px solid black; background-color: #ADD8E6; padding: 2px; display: inline-block;">Sign ↓</div>		Date:	<div style="border: 1px solid black; background-color: #ADD8E6; padding: 2px; display: inline-block;">Date Signed</div>	
Export Control Officer Signature	<div style="border: 1px solid black; background-color: #9370DB; padding: 2px; display: inline-block;">Sign ↓</div>		Date:	<div style="border: 1px solid black; background-color: #9370DB; padding: 2px; display: inline-block;">Date Signed</div>	

Thank you! If you have answered any of the above questions with "YES" or you are traveling to an OFAC sanctioned country (e.g. Iran, Cuba, Syria) or other country of concern, we will assist you within 2 business days to ensure that you and UH do not violate any export control or trade sanction regulations during your travels.