

Deemed Export Attestation
Instructions

1. Lehigh Sponsor/Principal Investigator: Please complete, sign and date the attached questionnaire and forward to your Department Chair for signature.
2. Department Chair: Please review, sign and date the completed questionnaire.
3. Lehigh Sponsor/Principal Investigator or Department Chair: Please forward a copy of the completed questionnaire to both the Office of Research and Sponsored Programs (inors@lehigh.edu or 526 Brodhead Avenue) and the Office of General Counsel (inogc@lehigh.edu or 27 Memorial Drive West).
4. General Counsel's Office: Complete, sign and date (after consultation with the Office of Research and Sponsored Programs) the "For Internal Use Only" box on the signature page of the questionnaire and forward the completed form to the Office of International Students and Scholars.

Form I-129 - Deemed Export Attestation

Introduction: U.S. Citizenship and Immigration Services (USCIS) recently put into effect a new form I-129, “Petition for a Nonimmigrant Worker”, which will require a change in procedure for the hiring of non-immigrant aliens as faculty and staff. Through the new Part 6 of the I-129, USCIS - for the first time - requires employers to certify their compliance with deemed export licensing requirements as part of the visa application process for certain nonimmigrant workers. As a legal matter, little has changed, as employers of nonimmigrant workers have long been subject to export control laws. Yet as a practical matter, this new part of the I-129 forces colleges and universities to address export compliance earlier in the hiring process, and will require increased cooperation between University administrators and faculty across departments.

General Overview: U.S. law prohibits the “export” of controlled technology and technical data to certain foreign nationals located within the United States (“deemed export”) without a license. U.S. law treats as an export the release of controlled technology or technical data to a foreign national working in the United States, even if the employer does not engage in any other exporting activities. Technology or source code is considered “released” for export when it is made available to foreign nationals for visual inspection (such as reading technical specifications, plans, blueprints, etc.); when technology is exchanged orally; or when technology is made available by practice or application under the guidance of persons with knowledge of the technology. Such exports of controlled technology or technical data must be authorized through an export license issued by USCIS or the Directorate of Defense Trade Controls before release to the non-immigrant foreign national.

Thus, to properly complete the new Part 6 Certification of the I-129 form, an employer must evaluate the technology or technical data that will be released to, or be accessed by, a prospective foreign national employee. In order for the Office of the General Counsel to conduct this evaluation prior to the filing of any I-129, the principal investigator/Lehigh University sponsor (or faculty member administrative director for non-academic positions) and department chair must complete the attached Visa Deemed Export Questionnaire.

Furthermore, each departmental chair must continue to monitor foreign nationals working in the department to ensure that changes in job functions or departmental operations do not pose a risk of the employee accessing restricted technology. Implementing this process will ensure that the necessary information is communicated between departments that hire foreign nationals and the university officials that are responsible for processing the I-129 so that compliance with immigration and export control requirements is maintained.

If you have questions regarding the I-129, the Visa Deemed Export Questionnaire, or deemed exports, please contact the Office of the General Counsel at 8-3572.

**VISA DEEMED EXPORT
QUESTIONNAIRE**

Beneficiary's¹ Name: _____

Country of Citizenship/Permanent Residency: _____

Department / Unit: _____

Principal Investigator Name: _____

(Person completing this form)

Principal Investigator LU phone number / email: _____

Principal Investigator Title/Position at LU: _____

Department Chair Name: _____

Department Chair LU phone number / email: _____

Beneficiary's work will be supported by:

- Grant Contract

If Grant or Contract, please include award number, contract number, or other appropriate identifying number: _____

- LU funds
 Other

Anticipated period of time the Beneficiary will be employed by LU:

From: _____ To: _____

Beneficiary's duties will be (mark all that apply)

- | | | |
|---|-------------------------------|---|
| <input type="checkbox"/> Administrative | | |
| <input type="checkbox"/> Research | If Research, is the research: | <input type="checkbox"/> Basic ² |
| <input type="checkbox"/> Teaching | | <input type="checkbox"/> Applied ³ |
| <input type="checkbox"/> Technician | | |

Briefly describe the Beneficiary's regular job duties, including any research in which he/she will be involved:

¹ The "Beneficiary" is the foreign national for whom the I-129 is being submitted.

² Basic research is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view.

³ Applied research, like basic research, is also original investigation undertaken in order to acquire new knowledge. It is, however, directed primarily towards a specific aim or objective.

List any chemicals and/or scientific equipment/instruments, including highly specialized computing equipment, that the Beneficiary will be using in the performance of his/her job duties: (Include equipment name, manufacturer, and where equipment is located. Use extra pages if necessary.)

Questions:

Please answer the following questions:

1. Will the Beneficiary's access to the equipment described above be limited to simple operation of the equipment?

Yes No

2. Will the Beneficiary have access to information that would permit him/her to install, maintain, repair and refurbish the equipment?

Yes No

3. Will the Beneficiary be exposed to equipment that was specifically designed or developed for military or outer space applications (e.g. night vision cameras, satellite technology, controlled imaging equipment, Y-code GPS, etc.)?

Yes No

4. Will the Beneficiary have access to any Lehigh University-owned technical data or technology that is considered proprietary or confidential to Lehigh?

Yes No

If 'yes', describe briefly.

5. Will the Beneficiary have access to any third-party owned or controlled technical data or technology that is considered proprietary or confidential to the third party? This includes U.S. government furnished technical data or information with dissemination controls or other restrictive markings, as well as ITAR-controlled software.

Yes No

If 'yes', describe briefly.

6. Will the Beneficiary be working with experimental equipment or prototypes (examples would be high speed computers, sensors, materials, electronics, lasers, telecommunication devices or other non-commercial equipment)?

Yes No

7. If the Beneficiary will be involved in any research projects sponsored, in whole or in part, by either Lehigh or an external sponsor, including the federal government:

a. Are there any restrictions on participation in the project based on country of origin or citizenship?

Yes No

b. Does the project grant the sponsor a right of pre-publication review?

Yes No

If 'yes', please provide the reason(s) listed for the review.

c. Does the project limit publication or dissemination of the research results in any manner?

Yes No

If 'yes', please provide the specific restriction(s).

d. Does the project provide that any part of the sponsoring, granting, or resulting documents should not be disclosed?

Yes No

e. Please identify the source(s) of funds supporting the grant(s) under which the research will be conducted.

f. If the Beneficiary will be working on corporate, DOD, DOE or NASA sponsored research, is the research product development research or testing research?

Yes No

8. Will the Beneficiary be working with materials obtained under a Materials Transfer Agreement?

Yes No

If 'yes', please provide the name of the material(s).

9. Do you know or have any reason to believe that the item, information, or software to be shared with the Beneficiary will support the design, development, production, stockpiling, or use of a nuclear explosive device, chemical or biological weapons, or missiles?

Yes No

If you have questions regarding this form, please contact the Office of General Counsel at 8-3572.

Please submit the completed form to **both** the Office of Research and Sponsored Programs (inors@lehigh.edu or 526 Brodhead Avenue) **and** the Office of the General Counsel (inogc@lehigh.edu or 27 Memorial Drive West). Incomplete responses will result in review delays. You may be contacted for clarification or for additional information.

Signature of LU Sponsor/PI: _____ Date: _____

Signature of Department Chair: _____ Date: _____

For Internal Use Only:

Received by Office of General Counsel: _____

The Beneficiary will only have access to information which is not classified as controlled technology or technical data under the EAR or ITAR. Therefore, 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 Beneficiary.

A license from the U.S. Department of Commerce or the U.S. Department of State is required to release such technology or technical data to the Beneficiary. The investigator has been instructed to, and will prevent access to the controlled technology or technical data by the Beneficiary until and unless the investigator has received the required license or other authorization to release it to the employee.

Signature of Reviewer: _____ Date: _____