
VISA DEEMED EXPORT QUESTIONNAIRE (VDEQ)
-Background Information and Key Definitions-

First-time users: Please do **not** complete the VDEQ below until you have read the following material thoroughly.

Introduction:

The United States Citizenship & Immigration Services (USCIS) Form I-129, "Petition for a Nonimmigrant Worker," drives employers' attention to the issue of ***deemed exports** (see definitions below). Part 6 of the I-129 requires employers to certify their compliance with deemed export licensing requirements. This is necessary as a part of the visa application process for certain nonimmigrant workers. Employers of nonimmigrant workers (and their employees) are subject to export control laws and required to comply with federal Export Control Regulations. Form I-129 forces employers to address export compliance requirements early in the hiring process, and necessitates increased cooperation among many departments.

General Overview:

U.S. law prohibits the ***export** of controlled ***technology** and ***technical data** to certain ***foreign nationals** located within the United States without a license to do so. U.S. law treats an export, in this regard, as the release of controlled technology or technical data to a foreign national working in the United States, even if the company does not engage in any other exporting activities. In addition to electronic methods such as emails, text messages, phone calls and teleconferences; in-person, verbal or audible speech *can* also be considered an export (depending on what information is ***accessed**, shared, discussed, or disseminated). In many cases, ***access restrictions** are necessary to prevent accidental or unintentional access from occurring.

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. By law, such exports of controlled technology or technical data **must** be authorized through an export license issued by the U. S. Bureau of Industry and Security (BIS) or the Directorate of Defense Trade Controls (DDTC) **before** being made accessible to the non-immigrant foreign national.

Immigration regulations require a US employer to attest that export compliance regulations have been properly met as they pertain to international employees. Completion of Part 6 of the I-129 form requires an employer evaluate the technology or technical data that will be released to, or be accessed by, a prospective foreign national employee.

In order to comply with these immigration regulations, the foreign national's ***Sponsor** or Department Chair (or their designee) must complete the export compliance license certification on the ***beneficiary's** behalf. To complete the certification, the Sponsor or Department Chair must determine whether the beneficiary will have access to export controlled technology (*EAR-centric) or technical data (*ITAR-centric).

Complete information, as provided in the Visa Deemed Export Questionnaire (VDEQ) survey, assists Vanderbilt University Medical Center Export Controls (VUMC EC) in making the necessary determination regarding any applicable licensing requirements for the foreign national.

Key Definitions:

Access - The freedom or ability to obtain or make use of items, technology or technical data. 'Access' could include discussions about technology or technical data, training related to the technology, availability of technology/technical data on shared drives or websites, and use of laboratories and equipment.

Access restrictions - Controls placed on access to export controlled articles based on nationality.

Applied Research - An original investigation undertaken in order to acquire new knowledge directed primarily toward a *specific*, practical aim or *objective*.

Basic Research - Experimental or theoretical work undertaken primarily to acquire new knowledge in the underlying foundation of phenomena and observable facts, *without* specific applications toward processes or products in mind.

Beneficiary - The foreign national for whom the VDEQ or I-129 petition is being submitted.

Deemed Export - A release of technology or source code that is subject to the Export Administration Regulations (EAR) to a foreign national. Such release is "deemed" to be an export to the home country or countries of the foreign national.

Dual-Use - (of equipment, goods, or technology) Designed or suitable for both civilian and military purposes.

Export Control Classification Number (ECCN) - A five-character alphanumeric number used to identify commodities, software, and technology listed on The Bureau of Industry and Security's (BIS) Commerce Control List (CCL) that are controlled for export. This number assists in identifying the type of controls associated with the items contained in the entry.

Export - An actual shipment of articles or related technology/technical data out of the United States or providing export-controlled technical data or technology to restricted parties **anywhere**, including within the United States.
(See "deemed export")

Export Administration Regulations (EAR): (15 CFR §§730-774) EAR regulates the export of commercial and "dual-use" items.

Technology - (15 CFR Section 772) Refers to specific information necessary for the development, production, or use of a *controlled* product.

Note: This definition does not include information concerning general scientific, mathematical or engineering principals commonly taught in schools, colleges and universities, or information in the public domain.

Foreign national - Any person who is not a citizen or a lawful permanent resident of the United States.

Note: This definition includes representatives of foreign corporations, associations, and governments.

International Traffic in Arms (ITAR): (22 CFR §§120-130) ITAR regulates items and information inherently military in design, purpose, or use.

Technical Data - (22 CFR Section 120.10) Refers to information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of a *defense article* (military specific). This includes information in the form of blueprints, drawings, plans, instructions, diagrams, photographs, formulae, tables, engineering designs and specifications, and manuals and instructions written, recorded, or contained on media or devices such as disk, tape, or storage device. *Software* also comes under the general definition of "technical data."

Note: This definition does not include information concerning general scientific, mathematical or engineering principals commonly taught in schools, colleges and universities, or information in the public domain.

Restricted Party Screening (RPS) - The process of screening potential denied parties involved in any export transaction for the purpose of complying with U.S. Export Control Laws.

Sponsor - In the immigration field, the term sponsor means to bring to the United States or "petition for." It can also mean the person who completes the requisite forms on the foreign national's behalf.

If you have questions regarding this form, please contact Vanderbilt University Medical Center Export Compliance (VUMC EC) at export@vumc.org.

Incomplete responses will result in review delays. VUMC EC may contact you directly for clarification if additional information is needed or required based on your responses.

VUMC EC will review all documented deemed export information provided and advise the VUMC Sponsor if the need for a Deemed Export License occurs.

****Important Note:** If an export license is required, the licensing process can (generally) take between 4-8 weeks for full approval. During this time, the foreign national is not approved or permitted to access, work with, be involved in, or be exposed to (intentionally or unintentionally) export-controlled products, equipment, technology, or technical data until such time that a fully approved and reviewed license can be procured.

- If a license is **required**, VUMC EC will coordinate the development and submission of the deemed export license application(s) and assist the VUMC Sponsor or Department Chair in protecting the technology or technical data from improper access until license approval.

- If it appears that a license is **not required**, this form will be signed by VUMC EC and forwarded to the VUMC Sponsor.

****This *completed* form serves as official documentation. In the event of an audit, please retain a copy of this *fully executed* form in your records for five years from the last date of activity regarding this transaction.****

Important Note to VUMC Sponsor:

After review of the information provided, *if* it appears that an export control license is not required for the Beneficiary, as required by federal export control laws and regulations, the Beneficiary's access to technology and technical data should be periodically evaluated for compliance. This should occur on a continuing basis as any new technology/technical data are utilized for the performance of his/her job duties.

- Please contact export@vumc.org with any questions or concerns. -