James E. Shepard, Founder

Certification Pertaining to the Release of Controlled Technology or Technical Data to Foreign Persons in the United States

Name of H-1B/L-1/O1-A Worker: _____

Country of Citizenship: _____

Position: _____

Duties: _____
_____
_____

Department: _____

The Export Administration Regulations ("EAR") (15 CFR Parts 770-774) and the International Traffic in Arms Regulations ("ITAR") (22 CFR Parts 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons in the U.S. controlled technology or technical data. Under both the EAR and the ITAR, release of controlled technology or technical data to foreign persons in the U.S.--even by an employer--is deemed to be an export to that person's country or countries of nationality. One implication of this rule is that a U.S. company must seek and receive a license from the U.S. Government before it releases controlled technology or technical data to its nonimmigrant workers employed as H-lB, L-l or O-IA beneficiaries.

Requirement to Certify Compliance with U.S. Export Control Regulations: The U.S. Government requires each company or other entity to certify that it has reviewed the EAR and ITAR and determined whether it will require a U.S. Government export license to release controlled technology or technical data to the beneficiary. If an export license is required, then the company or other entity must further certify that it will not release or otherwise provide access to controlled technology or technical data to the beneficiary until it has received from the U.S. Government the required authorization to do so**.** The petitioner must indicate whether or not a license is required as part of the H-1B petition filed with U.S. Citizenship and Immigration Services.

Controlled Technology and Technical Data: The technology and technical data that are controlled for release to foreign persons are identified on the EAR's Commerce Control List (CCL) and the ITAR's U.S. Munitions List (USML). The CCL is found at 15 CFF Part 774, Supp. 1.See http://www.access.gpo.gov/bis/ear/ear_data.html#cci. The USML is at 22 CFR 121.1. See http://www.pmddtc.state.gov/regulations_laws/itar.html. The EAR-controlled technology on the CCL generally pertains to that which is for the production, development, or use of what are generally known as "dual-use" items. The ITAR-controlled technical data on the USML generally pertains to that which is directly related to defense articles. Information about the EAR and how to apply for a license are at www.bis.doc.gov. Specific information about EAR's requirements pertaining to the release of controlled technology to foreign persons is at www.bis.doc.gov/deemedexports. Information about the ITAR and how to apply for a license are at www.pmdtc.state.gov. Specific information about the ITAR's requirements pertaining to the release of controlled technical data is at http://www.pmddtc.state.gov/faqs/license_foreignpersons.html.

Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States (For H- IB, H- IB I Chile/Singapore, L- I, and 0-IA petitions only).

Check Box 1 or Box 2 as appropriate:
With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, the petitioner certifies that it has reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR) and has determined that:

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

☐ 2. 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.

_____

Name (Print) Signature Title Date

[Revised USCIS Form I-129, effective 12/22/2010]