



## Deemed Export Overview and Questionnaire

Effective February 20, 2011, organizations that employ foreign nationals with H-1B nonimmigrant classifications are required to ensure compliance with designated federal laws that provide strict guidance in regard to “deemed export” rules. (See definitions) There are essentially two main sets of regulations that comprise the body of laws that govern these “deemed export” rules: Export Administration Regulations (EAR) and International Traffic in Arms Regulations (ITAR). Both are briefly described as follows:

### Export Administration Regulation (EAR)

The Department of Commerce is the party responsible for overseeing the Export Administration Regulations (EAR). According to the EAR, licenses may be required for foreign nationals who will be involved with dual use articles, software, and technologies that have potential applications to military/terrorist/criminal purposes in addition to the usual commercial uses. The Department of Commerce has provided a comprehensive list of broad categories that have been identified as controlled technologies. If a H-1B nonimmigrant classification employee has access to controlled technology, (with minimal exception) the employer must initiate the process to obtain an export license from the US Government.

### EAR Definitions:

1. **Dual use**-Indicates use of both commercial and military applications (15 CFR 772.1)
2. **Technology**- Any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, manuals, or software- or in intangible form, such as training or technical services) that is required for the development, production, or use of a good, but not the good itself. (15 CFR 772)
3. **Release**- Visual inspection by foreign nationals of US-origin equipment and facilities, oral exchanges or information in the United States or abroad OR the application to situations abroad of personal knowledge or technical experience acquired in the United States.
4. **Deemed Export** –An actual shipment or transmission of items subject to EAR out of the United States or release of technology or software subject to the EAR to a foreign national. Regardless of where the foreign national is located at the time of the release (either on US soil or in his country), it is deemed an export.

### International Traffic in Arms (ITAR)

According to the International Traffic in Arms (ITAR) definitions, licenses may be required for foreign nationals who are working on projects that involve defense-related articles, services and technical data. If the article, service, or technical data used falls into one of the ITAR categories identified in “ITAR U.S. Munitions” table (shown in the questionnaire), the employer must initiate the process to obtain an export license from the US Government.

### International Traffic in Arms (ITAR) Definitions

1. **Defense Article**-Any item or technical data designated in the U.S. Munitions List
2. **Technical Data**-Refers to information required for the design, development, production, manufacture, assembly, operation, repair, testing, maintenance, or modification of a defense article. This includes information in the form of blueprints, drawings, plans, instructions, diagrams, photographs, formulae, tables, engineering designs and specifications, and manuals and instructions written or recorded on other media or devices such as disk, tape, or read only memories. The ITAR 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.
3. **Deemed Export**-According to ITAR, “Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad” would constitute a deemed export.

# The University of Mississippi Medical Center

## Deemed Export Questionnaire

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**FORM COMPLETION INSTRUCTIONS:** Read Overview page prior to completing questions. This will provide a summary of the regulations that provoke the following questions. Please complete Sections 1, 2, and 3. On applicable questions, please thoroughly describe your responses.

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### **SECTION 1:**

#### ***BENEFICIARY INFORMATION***

Beneficiary Name: \_\_\_\_\_

Faculty Sponsor Name: \_\_\_\_\_

Nationality: \_\_\_\_\_

Department: \_\_\_\_\_ Phone: \_\_\_\_\_

Visa Type: \_\_\_\_\_

Email: \_\_\_\_\_

Beneficiary Job Duties:

Will the beneficiary be involved in any research projects? If so, please describe in detail the research that will be performed, including whether the research results will be taught, published or shared with the public.

Beneficiary's work will be supported by:

Grant     Government Contract

If Grant or Contract, please include award number or contract number: \_\_\_\_\_

UMMC Funds

Other \_\_\_\_\_

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**SECTION 2:**

**EXPORT ADMINISTRATION REGULATIONS (EAR)**

**QUESTION 1:** Will the beneficiary be provided access to any UMMC- owned or third party-owned EAR controlled technology? ? (A comprehensive list of EAR controlled categories are listed below)

YES  NO

Export Administration Regulations (EAR) Controlled Categories	
<input type="checkbox"/>	Nuclear Materials, Facilities, and Equipment and Miscellaneous
<input type="checkbox"/>	Materials, Chemicals, "Microorganisms," and Toxins
<input type="checkbox"/>	Materials Processing
<input type="checkbox"/>	Electronics Computers
<input type="checkbox"/>	Telecommunications and Information Security
<input type="checkbox"/>	Lasers and Sensors
<input type="checkbox"/>	Navigation and Avionics
<input type="checkbox"/>	Marine
<input type="checkbox"/>	Aerospace and Propulsion

**QUESTION 1a:** If yes to question 1 above, please specify items, software, or technical data. Failure to thoroughly specify may delay processing of application:

**QUESTION 1b:** If yes to question 1 above, will the beneficiary be working on research projects where he/she will come in contact with technologies that could be used for military/terrorist/criminal purposes in addition to the usual commercial uses?

**QUESTION 2:** Does the intended work of the beneficiary meet any of the following exemptions or license exceptions: (Please refer to comprehensive list of exceptions below)

YES  NO

Export Administration Regulation (EAR) Exemptions	
<input type="checkbox"/>	Publicly available technology -any technology available that has been, is about to be, or is ordinarily published.
<input type="checkbox"/>	Educational information
<input type="checkbox"/>	Fundamental research- basic and applied research in science and engineering, the results of which are published or shared broadly within the scientific community. <b>Research will not qualify as fundamental if:</b> <ul style="list-style-type: none"><li>• The university accepts any restrictions on the publication of the information resulting from the research</li><li>• Research is federally funded and specific access and dissemination controls regarding the resulting information have been accepted by the university or the researcher.</li></ul>
	*Fundamental research exemption does not apply to controlled items such as export of equipment or certain types of software

**SECTION 3:**

**INTERNATIONAL TRAFFIC IN ARMS (ITAR)**

**QUESTION 1:** Will the beneficiary be provided access to any UMMC- owned or third party-owned defense related articles, services, or technical data? (Please refer to ITAR U.S. Munitions list below)

YES  NO

ITAR U.S. Munitions List	
<input type="checkbox"/>	Category I-Firearms
<input type="checkbox"/>	Category II-Artillery Projectors
<input type="checkbox"/>	Category III-Ammunition
<input type="checkbox"/>	Category IV-Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
<input type="checkbox"/>	Category V-Explosives, Propellants, Incendiary Agents, and Their Constituents
<input type="checkbox"/>	Category VI-Vessels of War and Special Naval Equipment
<input type="checkbox"/>	Category VII-Tanks and Military Vehicles
<input type="checkbox"/>	Category VIII-Aircraft, [Spacecraft] and Associated Equipment
<input type="checkbox"/>	Category IX-Military Training Equipment
<input type="checkbox"/>	Category X-Protective Personnel Equipment
<input type="checkbox"/>	Category XI-Military [and Space] Electronics
<input type="checkbox"/>	Category XII-Fire Control, Range Finder, Optical and Guidance and Control Equipment
<input type="checkbox"/>	Category XIII-Auxiliary Military Equipment
<input type="checkbox"/>	Category XIV-Toxicological Agents and Equipment and Radiological Equipment
<input type="checkbox"/>	Category XV-Spacecraft Systems and Associated Equipment
<input type="checkbox"/>	Category XVI-Nuclear Weapons Design and Test Equipment
<input type="checkbox"/>	Category XVII-Classified Articles, Technical Data and Defense Services Not Otherwise Enumerated
<input type="checkbox"/>	Category XX-Submersible Vessels, Oceanographic and Associated Equipment
<input type="checkbox"/>	Category XXI- Miscellaneous Articles

**QUESTION 1a:** If yes to question 1 above, please circle the specific category (ies) that apply? Please specify items or technical data: Failure to thoroughly specify may delay processing of application

**QUESTION 1b:** If yes to question 1 above, is the information or software being accessed by the beneficiary published, patented or generally accessible and available to the public? Please justify your response.

**QUESTION 2:** Do you have any reason to believe that the beneficiary could use the obtained item, information, or software to design, develop, produce, stockpile, or use a nuclear explosive device, chemical or biological weapon, or missiles?

YES  NO

QUESTION 3: Will the beneficiary receive, share, transmit, or transfer UMMC- developed or owned encryption software or equipment and/or travel outside of the country with such software or equipment?

YES  NO

**Sponsor Statement of Attestation**

I attest that the responses, provided by me in Sections 1, 2, and 3 of the University of Mississippi Medical Center’s *Deemed Export Questionnaire*, are accurate and true.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

For Compliance and Human Resources use only:

**SECTION 4:**

***ESCALATED REVIEW –For Internal Use Only:***

QUESTION 1: Did the beneficiaries name appear on any of the denied persons/restricted party lists?

QUESTION 2: Based on the Commerce Country Chart is the beneficiary required to obtain a license?

- 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
- A license is required from the U.S. Department of Commerce and/or the US 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.

Reviewer Name/Date:

\_\_\_\_\_

HR Approval Name/Date:

\_\_\_\_\_

For questions, please email the Office of Integrity and Compliance at [deemedexports@umc.edu](mailto:deemedexports@umc.edu).