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(Required Form #5)
DEEMED EXPORT CERTIFICATION FOR H-1B PETITIONS

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Deemed Export Certification for H-1B Petitions

The United States Citizenship and Immigration Services (USCIS) recently issued a new Form I-129 including a certification that went into effect as of February 20 of this year. The Form I-129 is a petition for a non-immigrant alien to come to the United States temporarily in a specialty occupation. This new regulation will primarily affect H1-B visa petitions.

The new form requires a "deemed export certification." This means that the University must certify whether or not the beneficiary of the visa petition will have access to export controlled information or technology through his or her work at Rutgers. The certification is based on knowledge as of the time of the application. If the beneficiary's work responsibilities change subsequent to the certification, the certification does not need to be amended.

The certification reads as follows:

With respect to 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 and has determined that:

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

This formal certification is made as part of the visa petition process conducted by the Center for International Faculty and Student Services upon advice from the Office of General Counsel. While the department does not make the certification, the certification cannot be completed without information from the department. The visa petition cannot be processed without the certification so it is very important that department provide the necessary information as promptly as possible.

Please note that the certification is made under penalty of perjury. Therefore the information provided must be as complete and accurate as possible. Both the information we require and the certification statement appear on page 2 of this document.

PROCESSING INSTRUCTIONS:

1. The fully executed copy of the form on the next page and all necessary documentation related to this form should be sent to: Robert Phillips, Export Compliance Manager, 848-932-4522, deemedexport@rutgers.edu, Administrative Services Bldg. II, Cook Campus. NOTE: all questions about this form and documentation can be directed to Robert Phillips as well.
2. A single photocopy of the fully executed form (form ONLY – no documentation) must be included along with the rest of the H-1B packet submitted to: Sallie Kasper, Newark Coordinator for International Faculty, Hill Hall, Rm. 325.

DEEMED EXPORT CERTIFICATION FOR H-1B PETITIONS FORM

The following needed information can be provided by department/center administrators:

1. A general description of the beneficiary's duties
2. Name and contact information for faculty sponsor and Chair of Department
3. Name and contact information for beneficiary
4. A copy of any and all grants, contracts and awards to which beneficiary is assigned as of date of visa petition if there are any

The following information (as well as any unanswered questions above) should be provided by the beneficiary's faculty sponsor and/or department chair or center director:

To the extent known at time of visa petitions, will the beneficiary be:

- Yes No Working on any grant, contract or award containing publication restrictions
- Yes No Working on any grant, contract or award restricting participation of foreign nationals
- Yes No Working on corporate sponsored contracts with access to company proprietary information
- Yes No Having access to technology or equipment designed or developed with military or space applications
- Yes No Working on high-tech or experimental equipment (e.g. high speed computers, lasers, satellites)

If the answer to any of the above is yes, please explain.

The following certification must be signed by the beneficiary's faculty sponsor and the chair of the relevant department or director of the relevant center.

I certify under penalty of perjury that, to the best of my knowledge, the information herein provided is true and accurate as it pertains to the H-1B petition for:

_____ name of beneficiary

And that, with respect to the beneficiary's expected duties at Rutgers:

- A license is not required from either the US Department of Commerce or the US Department of State to allow beneficiary access to the technology or technical data he/she will use or be exposed to while working for Rutgers.
- A license is required from the US Department of Commerce and/or the US Department of State in order for beneficiary to access certain export controlled technology or technical data beneficiary will use or be exposed to while working for Rutgers. Please note, if a license is required, beneficiary may have no access to said export controlled materials until and unless a proper license is in place.

Faculty Sponsor Name _____	Center Director or Dept. Chair Name _____
Signature _____ Date: _____	Signature _____ Date: _____

The new I-129 form is available at <http://www.ucis.gov/files/form/i-129.pdf>. Rutgers H-1B petitions should be submitted to the appropriate campus office and prepared in accordance with that office's instructions.

Further information on EAR and ITAR can be found at the website of the Office of Vice President for Research <http://vpr.rutgers.edu/export.php>