

THE RESEARCH CORPORATION OF THE UNIVERSITY OF HAWAII H-1B/O-1 EXPORT COMPLIANCE CERTIFICATION

PART I: PURPOSE OF CERTIFICATION

The [Export Administration Regulations \(EAR\)](#) (15 CFR 770-774) and the [International Traffic in Arms Regulations \(ITAR\)](#) (22 CFR Section 120-130) require U.S. persons to seek and receive authorization from the U.S. Government before releasing to foreign persons in the United States controlled technology or technical data. Under both the EAR and the ITAR, release of controlled technology or technical data to foreign persons in the United States – 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 in H-1B, L-1, or O-1A beneficiaries. (Excerpt from the USCIS Form I-129 Instructions, available at <http://www.uscis.gov/i-129>).

In order for The Research Corporation of the University of Hawaii (RCUH) to file an H-1B or O-1 petition on behalf of a beneficiary, the Principal Investigator must certify that it (1) has reviewed the EAR and ITAR, (2) has determined whether it will require a U.S. government export license to release the controlled technology or technical data to the employee beneficiary, and (3) will not provide access to the technology or technical data to the beneficiary if a license is required until it has received U.S. Government authorization.

- The EAR-controlled list (Commerce Control List or CCL) can be found at <http://www.access.gpo.gov/bis/ear/pdf/indexccl.pdf>
- The ITAR-controlled list (U.S. Munitions List or USML) can be found at http://www.pmdtc.state.gov/regulations_laws/documents/official_itar/ITAR_Part_121.pdf

Any questions relating to EAR/ITAR compliance should be directed to Leonard R. Gouveia Jr., the University of Hawaii Administrative and Export Compliance Officer, Office of the Vice President for Research, at (808) 956-4740, or lgouveia@hawaii.edu.

PART II: PROJECT & BENEFICIARY INFORMATION

Name of H-1B/O-1 Beneficiary:
Title of Sponsored Research Project and Project Number Beneficiary will be charged to:

PART III: ACKNOWLEDGEMENT & CERTIFICATION

1. I have reviewed the relevant EAR and ITAR regulations and determined that the above-referenced nonimmigrant beneficiary will participate in research that:
 - Does NOT involve technologies or technical data that is covered by either EAR or ITAR
 - Involves technologies or technical data that is covered by either EAR or ITAR
2. I certify that according to EAR and ITAR regulations, I have determined that:
 - A license is NOT required from either the U.S. Department of Commerce or the U.S. Department 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 U.S. Department of State to release such technology or technical data to the beneficiary and I will prevent access to the controlled technology or technical data by the beneficiary until and unless we have received the required license or other authorization to release to the beneficiary

PART IV: SIGNATURE AND CERTIFICATION

By signing this certification form, I verify that I have reviewed and understood the United States Munitions List [identified in the Arms Export Control Act (22 U.S.C. 2778)] and the Commerce Control List [identified in the Export Administration Act (50 U.S.C. 2401)]. I understand that I am responsible to ensure that I am in compliance with any and all U.S. Export Laws and Regulations, as well as, any and all policies and procedures of the University of Hawaii and the RCUH. I will ensure that a new certification form is submitted to the RCUH Human Resources Department immediately if the foreign national's work assignment or work environment changes where exposure to ITAR/EAR regulated technologies may be present. Changes include but are not limited to: Changes to job duties exposing foreign national to ITAR/EAR technologies, purchases of new ITAR/EAR equipment, etc. I also understand that it is my responsibility to monitor the United States Munitions List and the Commerce Control List for any changes that may encompass my program's particular research or the by-products of my research. Falsification of this document will lead to the immediate termination of my employee's employment and visa status, in addition to all support provided to me and my program by the RCUH. Lastly, I will be responsible of all penalties for perjury including fines and imprisonment if I fail to provide accurate information.

Name of Principal Investigator

Signature of Principal Investigator

Date

Name of Dean/Director

Signature of Dean/Director

Date

Name of RCUH Representative

Signature of RCUH Representative

Date

Name of UH Validating Official

Signature of UH Validating Official

Date