This questionnaire provides a basis for accurate completion of the “Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States” set forth in Part 6 of Form I-129, Petition for a Nonimmigrant Worker.

**Instructions:** This form can be used to document a review of controlled technology requirements for all visa petitions, including J-1, H-1B, H-1B1, L-1, and O-1. Route for completion and approval signature(s) and then send to the Export Control Manager by fax, campus mail, or email to **ovpr@nmsu.edu**. A response will be returned to you, and at your request will be copied to the relevant NMSU office (such as HRS or International Programs). Record retention: Research Administration will retain a readable copy of the signed document for 5 years from date of signature. Completed form contains PII; for NMSU internal use only.

*Questions can be directed to JoAnne Dupre, Export Control Manager; phone 646-4463, email ovpr@nmsu.edu*

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| **1. Unit Contact Information** | | |
| Sponsoring Department/Unit (petitioner): | | |
| Petitioner Contact Name:       Phone: | | |
| **2. Visa Information** | | |
| Visa Applicant (Full name): | | |
| Country of Citizenship: | Year of Birth: | Type of Visa: |
| **3. Activity Information** | | |
| Visa Applicant will participate in the following capacities: Teaching Admin Staff Technical Staff Research  Employed by NMSU Visitor Visiting Scholar Other Institutional Affiliation, if any:  Briefly describe the activities or work assignment, and location:  Name of individual with direct oversight : | | |
| **4. Access to Technical Data or Technology** | | |
| Will the applicant participate in research activities in any of the following scientific fields: No Yes   * If Yes, pages 2-3 should be completed and signed by the Principal Investigator or Director with direct oversight.   Biomedical/BSL-2 Laboratory Computer Sciences Space/ Space Launch Sciences IT System Administrator  Engineering or Scientific (for example: Chemical, Electrical, Mechanical, Materials Science, Physics, Marine, Astronomy, Nuclear)  Specific field of study:       Other technology (please specify): | | |
| Additional comments: | | |
| **5. Approval** | | |
| **I hereby certify that this information is true and accurate to the best of my knowledge.**  **Director/Department Head Signature**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |
| **NMSU Export Manager Recommendation for Part 7 of USCIS Form I-129.** | | |
| With respect to the technology or technical data the petitioner will release or otherwise provide access to the beneficiary, NMSU Export Manager and the responsible unit contact(s) have reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR), and recommend selecting the following in Part 6 of the I-129.  1. A license is not required from either U.S. Dept. of Commerce or the U.S. Dept. of State to release such technology or technical data to the foreign person; or  2. A license is required from the U.S. Dept. of Commerce and/or the U.S. Dept. 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.  **Export Control Manager Signature:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |

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| **Questionnaire for Export Control Certification / Technology Assessment Page 2**  *Complete this section for a visa beneficiary who will participate in research activities.*  *Background*  **U.S. Export Controls on Release of Controlled Technology or Technical Data to Foreign Persons.** 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 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 as H-1B, H-1B1, L-1, or O-1A beneficiaries.  **Controlled Technology and Technical Data.** The licensing requirements described above will affect only a small percentage of petitioners because most types of technology are not controlled for export or release to foreign persons. The technology and technical data that are, however, controlled for release to foreign persons are identified on the EAR’s Commerce Control List (CCL), found at *15 CFF Part 774, Supp. 1* (see http://www.access.gpo.gov/bis/ear/ear\_data.html#ccl), and the ITAR’s U.S. Munitions List (USML), 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.  *Instructions*: This technology assessment should be completed and signed by the Principal Investigator or other individual with direct knowledge and oversight of the visa applicant’s research activities.  *Questions: contact Dr. JoAnne Dupre, ovpr@nmsu.edu, ph. (575) 646-4463.*  Visa Applicant (Full name):  Will the applicant participate in sponsored research? No Yes Possibly, in a future project  If Yes, provide the following information:  Project Title:        ARGIS/Institution Number:       Sponsoring Agency:  Research Discipline (please specify the scientific, technology, or engineering field:  Name of person completing this form:       Date of this form completion:  Please answer these questions for the technology evaluation.   1. Are the activities associated with an agreement (grant/contract/terms) that prohibits participation of “foreign persons”, “foreign nationals” or “non-U.S. persons”? yes no 2. Are the activities associated with any agreement that restricts the publication of research results, other than a review for the purpose of excluding the sponsor’s proprietary data? yes no 3. Will the visa beneficiary have the ability to access any of the following (regardless of whether the access is necessary for the activity)? yes no   (a) technical data or items that are marked, stamped or otherwise designated as “export controlled”, or  (b) proprietary or confidential information, materials, or software that is the subject of a Non-Disclosure Agreement (NDA) or a confidentiality agreement, or  (c) third-party proprietary technology for the use or development of cryptography, or source code containing cryptographic functionality, or  (d) third-party proprietary information for the “use”, “development”, or “production” of any item or software, that is **not** in itself the subject or result of fundamental research eligible for publication.   * “use” means that one or more of the following types of activities occur beyond merely operating a device or software: installation, maintenance, repair, or overhaul/refurbishing; * “development” refers to all stages prior to serial production, such as design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, or configuration design; * “production” means product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.  1. Will the visa beneficiary be provided access to research equipment, instruments, materials, software, and/or technical data in any form (e.g., blue print, sketches, specifications, photos, documents, vendor operational manual/instructions, data results) that is governed under the **International Traffic in Arms Regulations (ITAR)**?   yes no   * ITAR covers any item that is “specially designed”, developed, or modified for military, defense, or non-commercial space applications; this includes items procured from a vendor, items received from a research sponsor or collaborating research institution, and items created by NMSU. * For purposes of this certification, “access” means any visual or physical access to the item, regardless of whether such access is actually required by the visa applicant to perform his/her work assignment or activity. * Note: any technology that has been invented as the result of fundamental research and is the subject of a research publication (i.e., already in the public domain) may be exempt from this access restriction, pending confirmation by the Export administrator that the visa applicant is not otherwise prohibited or barred.  1. Check this box if an export license is needed, or evaluation is still in progress. A **Technology Control Plan (TCP)** will be used to temporarily or permanently secure the export-controlled technology, items, or technical data to prevent access by unauthorized individuals. Contact the export control manager (send email to ovpr@nsmu.edu) for a TCP template.   CERTIFICATION  I hereby affirm that the contents of this questionnaire are true to the best of my knowledge, information, and belief. I understand that the statements above will be used to make an assessment of compliance to the U.S. Government export control regulations, and inaccurate responses can result in violations for which civil and criminal penalties can be assessed against NMSU and individuals.  **PI/Director Signature**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **NMSU Export Manager Review** |
| **Visual Compliance Restricted Party Screening (RPS) resulted in no matching alerts on date**:  **RPS results were evaluated as “not a match” on date**:        **License determination**:  **Export Control Manager Signature:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Date**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |