



**OFFICE OF GENERAL COUNSEL
Executive Offices, 2nd Floor Library
Kent, OH 44242**

Request for H-1B Status for International Professionals and Faculty

As summarized by U.S. Citizenship and Immigration Services¹:

The H-1B nonimmigrant classification is a vehicle through which a qualified alien may seek admission to the United States on a temporary basis to work in his or her field of expertise. An H-1B petition can be filed for an alien to perform services in a specialty occupation, services relating to a Department of Defense (DoD) cooperative research and development project or coproduction project, or services of distinguished merit and ability in the field of fashion modeling. Prior to employing an H-1B temporary worker, the U.S. employer must first file a Labor Condition Application (LCA) with the Department of Labor (DOL) and then file an H-1B petition with USCIS. The LCA specifies the job, salary, length, and geographic location of employment. The employer must agree to pay the alien the greater of the actual or prevailing wage for the position.

To qualify as a specialty occupation, the position must meet one of the following requirements: (1) a bachelor's or higher degree or its equivalent is normally the minimum entry requirement for the position; (2) the degree requirement is common to the industry in parallel positions among similar organizations or, in the alternative, the position is so complex or unique that it can be performed only by an individual with a degree; (3) the employer normally requires a degree or its equivalent for the position; or (4) the nature of the specific duties is so specialized and complex that the knowledge required to perform the duties is usually associated with attainment of a bachelor's or higher degree. See 8 CFR 214.2(h)(4)(iii)(A).

In order to perform services in a specialty occupation, an alien must meet one of the following criteria: (1) hold a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university; (2) possess a foreign degree determined to be equivalent to a U.S. bachelor's or higher degree as required by the specialty occupation from an accredited college or university; (3) have any required license or other official permission to practice the occupation (for example, architect, surveyor, physical therapist) in the state in which employment is sought; or (4) have education, specialized training, or progressively responsible experience (or a combination thereof) that is equivalent to completion of a U.S. bachelor's degree or higher in the specialty occupation, and have recognition of expertise through progressively responsible positions directly related to the specialty occupation. See 8 CFR 214.2(h)(4)(iii)(C). Specialty occupations may include, but are not limited to, computer systems analysts and programmers, physicians, professors, engineers, and accountants. See 8 CFR 214.2(h)(4)(ii).

Before moving forward, please be certain the position and employee meet these requirements.

¹ USCIS. *Characteristics of H-1B Specialty Occupation Workers*. March 12, 2012. Retrieved at: <http://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/H-1B/h1b-fy-11-characteristics.pdf>

THE H-1B PROCESS

H-1B status is limited to six years, but may be renewed on an annual basis if the international worker has certain eligible petitions pending for over 365 days (i.e. Section 106a Exceptions, AC21 104 Extensions, etc.). This packet should be completed for new employees, as well as for employee requiring extensions of current status.

Dependents. Dependents of H-1B professionals (spouses, children) are eligible for H-4 status, but the individual bears the cost for this petition and is responsible for its preparation as the University is not responsible for its filing. The University can file it with the H-1B petition filed on behalf of the employee, or the dependent can file separately.

Payment of fees. The petition, Form I-129, is filed and sponsored by the petitioner (the University), not the individual. **The University department is responsible for all application fees. However, if the prospective employee holds a foreign degree, the employee must get a credential evaluation from an acceptable vendor (ex: ece.org, usces.org, evaluation services, etc.) and must incur those costs.**

Consular Processing. For applicants/new hires that are outside the United States, the petitioning process is a little different. The person must first receive approval of the H-1B petition before setting an appointment with the local U.S. Consulate to obtain the visa “stamp.” This process can further delay the employee’s entry into the country without warning, so please make sure you provide notice to the Office of General Counsel (OGC) if this is the case. In cases involving consular processing, a second copy of the complete application (and all accompanying materials) will be included in the petition sent to USCIS by the Office of the General Counsel. The second copy will then be forwarded to the foreign consulate by USCIS when the application is approved.

THIS PACKET

Once an international professional or faculty member has been selected for the position, OGC should be notified as soon as possible. DO NOT wait for the applicant or another department to call OGC. It is the responsibility of the appointing authority to inform OGC of the new hire. The ideal application timeline is four (4) months before the employee’s start date. *Procedures are available to expedite the application process, and provide for a 17-day review of the application (not necessarily approval, but “review”) at a cost of \$1,632 extra to the requesting department.*

After notifying General Counsel of the new hire, the designated department representative may contact Michael Pfahl (x2982), Associate Counsel, to discuss the application (actual wage, prevailing wage, department postings, the Labor Condition Application which must be filed on the employee’s behalf, etc.). **General Counsel cannot move forward without first obtaining information directly from the department and by receiving this completed form.** Also, remember to inform General Counsel if the employee is currently in the United States as this process may require extra documentation.

Please follow the procedures outlined in this document.

ALL SECTIONS MUST BE COMPLETED IN ENTIRETY.

RETURN PACKET TO:

**MICHAEL PFAHL
Office of General Counsel
Kent State University
Executive Offices, 2nd Floor Library
Kent Campus
Kent, OH 44242**

Or the packet may be sent through email to: mpfahl@kent.edu

Once all the documentation is completed and signed, General Counsel (OGC) will prepare the final application materials and send it to the USCIS processing center. USCIS processing takes 4 to 5 months (current processing time) to review the petition. When the "Notice of Approval" is received, Form I-797A, OGC will notify the individual. When all materials are received, the employee may use such approval to provide evidence of work authorization to either Academic Affairs (faculty) or Human Resources (staff). In some instances, the USCIS approval may be mailed directly to a U.S. Consulate abroad if the individual is not yet in the United States.

BECAUSE OF THE SENSITIVE NATURE OF THE DATA ENCLOSED IN THIS PACKET, IT MUST BE SUBMITTED ONLY THROUGH A KENT.EDU EMAIL USING A KENT STATE UNIVERSITY COMPUTER EQUIPPED WITH THE MOST RECENT SECURITY PROTOCOLS AS DETERMINED BY INFORMATION SERVICES. FOR GREATER SECURITY, THE PDF FILE SHOULD BE ENCRYPTED USING THE "ZIP" PROGRAM, AND A PASSWORD EXCHANGED OVER THE PHONE. FOR ULTIMATE SECURITY, THE PACKET SHOULD BE SENT VIA CAMPUS MAIL.

IT IS CRUCIAL THAT ALL OF THIS INFORMATION IS COMPILED IN A TIMELY MANNER.

IT IS ILLEGAL TO EMPLOY AN INTERNATIONAL PROFESSIONAL OR FACULTY MEMBER WITHOUT PROPER WORK AUTHORIZATION AND VISA APPROVAL.

H-1B Non-Immigrant Worker

A Checklist for the Sponsoring KSU Department to Complete

Documents required for initial and extension requests – all immigration classifications

- Form A:** completed and signed by department
- Offer Letter:** signed by the Dean/Chair/Director of the college
- Form B:** completed and signed by the prospective employee/scholar
- Supporting Documentation from prospective employee/scholar** (see “A Checklist for the Prospective Employee/Scholar”)
- H-1B Supplement Form**
- KSU Export Control Attestation**

Filing Fees:

- \$460 Check:** I- 129 filing fee made payable to “US Department of Homeland Security”
- \$500 Check:** Anti-fraud fee made payable to “US Department of Homeland Security”
(for initial applications)
- \$1410 Check:** Fee made payable to “US Department of Homeland Security” if needed
Premium Processing expedited service

This packet is adapted (with permission) from the form used by the University of New Hampshire Office of International Student and Scholars.

KSU Department Form A

Request for Visa-Related Documents for an International Employee
To be Completed by Department (Refer to checklist for additional documents required)

Office of General Counsel (OGC)	2nd Floor Library, Executive Offices	Kent, Ohio	44242
Telephone: (330) 672-2982	mpfahl@kent.edu	Facsimile: (330) 672-2982	

A. Department Information

College:		Campus:	
Department:		Date:	
Department Address: <small>(include building, room number, and street address)</small>			
Supervisor Name:		Department Contact Name:	
Supervisor Title:		Department Contact Title:	
Supervisor Phone:	Supervisor Fax:	Department Contact Phone:	Department Contact Fax:
Supervisor E-mail:		Department Contact E-mail:	

B. Requested Visa Classification (please select one)

<input type="checkbox"/> H-1B	<input type="checkbox"/> H-1B EXTENSION
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C. Scholar/Employee Name (as it appears on the passport) and other information

Family Name / Surname:	First/Given Name:	Middle Name(s), if any:
Date of Birth (mm/dd/yy):	Gender: <input type="checkbox"/> Female <input type="checkbox"/> Male	KSU ID #, if applicable:
Is the scholar currently in the U.S.? <input type="checkbox"/> No <input type="checkbox"/> Yes. In what immigration (visa) status? <input type="checkbox"/> J-1 <input type="checkbox"/> H-1B <input type="checkbox"/> F-1 <input type="checkbox"/> Other _____		SSN #, if applicable:

D. Appointment Information

Personnel Title:	Proposed Appointment Start Date:	Proposed Appointment End Date:
Field of Specialization:		
All addresses where this scholar will work (if employed) or engage in activity (if not employed). If more than one location, use separated sheet. Include complete address(street, city, state, zip)		
Brief, non-technical description of research / teaching / work:		
What type of work will the job involve? <input type="checkbox"/> Teaching <input type="checkbox"/> Research <input type="checkbox"/> Staff <input type="checkbox"/> Other _____	Is the position a continuing appointment? <input type="checkbox"/> No <input type="checkbox"/> Yes If no, dates: _____	
Total annual salary and/or other funding:	Appointment: <input type="checkbox"/> Full-time (40hrs/wk) <input type="checkbox"/> Part-time: hrs/wk _____	If part-time, percent of full-time: *See below _____% If part-time, rate per hour: \$ _____ per hr
The salary will be paid by: <input type="checkbox"/> KSU <input type="checkbox"/> Other – Please explain: _____		
Tenure status: <input type="checkbox"/> Non-tenured <input type="checkbox"/> Tenure Track <input type="checkbox"/> Neither	Is this position covered by AAUP? <input type="checkbox"/> Yes <input type="checkbox"/> No	Will this scholar receive benefits? <input type="checkbox"/> Yes <input type="checkbox"/> No

E. Handling Instructions For Approval Notice

E-mail department contact for pick up. Express to scholar by department mail

Note: Scholars who are also employees who are extending their status will be required to pick up their new documents at the OGC so a new I-9 can be completed.

***WHEN A DEPARTMENT HIRES A PART-TIME H-1B EMPLOYEE (IMPORTANT REMINDER!):**
 20 CFR 655.731 requires the department to keep records of "hours worked each day and each week" for the part-time H-1B employee. By supporting this H-1B and filing this request, the employing department affirms that it is responsible for ensuring that it maintains such documentation in the department for the duration of the appointment. Such records must be kept at least three years from the date that they are created (and destroyed afterwards in accordance with the university record destruction process).

Name of Scholar / Employee: _____

F. Source of Financial Support Must be Completed for Duration of Appointment

KSU salary:	U.S.\$
U.S. Government Agency: (NSF, NASA, USAID, Etc.)	U.S.\$
International Organization(s):	U.S.\$
The exchange visitor's government:	U.S.\$
The bi-national commission of the visitor's country:	U.S.\$
All other organizations providing support (please specify):	U.S.\$
Personal Funds:	U.S.\$
Total Funding:	U.S.\$

WE CERTIFY THE FOLLOWING

1. We have read all of the information on both sides of this form as well as on the corresponding Supplement form (Supplement, H or TN) and it is, to the best of my knowledge, true and correct.
2. All nonimmigrant petitions (i.e. H, TN) must be channeled through the OGC; and all immigrant petitions (i.e., permanent residence, also known as "green card") require approval of the Provost.
3. If the terms of this scholar's employment (or activity, if not employed) change in any way, or if the scholar ceases to be employed before the expiration of the approval documentation, we will immediately notify the OGC in writing.
4. Timing of requests: We understand that this department must submit requests for initial appointments, extensions, and changes in the scholar's employment / activity in accordance with the OGC's processing timelines. We understand that failure to comply with the timeline specific to this scholar's immigration status (visa type) could result in one of the following (NOTE: this is particularly important for time-sensitive petitions such as TN and H-1B.)
 - a. A significant delay in beginning employment / activity.
 - b. A period of time in which the scholar must stop employment / activity without any possibility of compensation (retroactive payments are not permitted).
 - c. Require the scholar (and her / his dependents) to travel to her / home country.
5. We understand that the visa category petitioned for is determined by the OGC in accordance with University policy and government regulations and is case specific.
6. We understand that other provisions and restrictions may apply before employing / hosting the scholar based upon the prospective employee's individual circumstances and visa history. For example: individuals who are currently or have been recently in the U.S. in "J" nonimmigrant status may be subject to a home country physical presence ("residence") requirement which may prevent a change of status.
7. We understand that noncompliance with federal and state regulations to which we are attesting through this and other documentation we have and will submit can result in significant fines and will jeopardize KSU's ability to sponsor international scholars in the future.
8. Change in date of arrival: if the scholar will not arrive by the appointed start date, we understand that we are required to report this to the OGC immediately as it may require additional immigration processing.
9. If the scholar will obtain H-1B status, this department attests to the following:
 - a. Employment of this individual will not adversely affect the working conditions of workers similarly employed. Further, this employee will be afforded working conditions on the same basis, and in accordance with the same criteria, as offered to similarly employed U.S. workers.
 - b. The department will pay at least the higher of either the actual wage to be paid by the department to all other individuals with similar experience and qualifications for the specific employment in question or, the prevailing wage as determined by the Department of Labor for those in similar occupations in the region.
 - c. If the H-1B employee is terminated by Kent State University prior to the expiration date of the approved petition, the department will pay the reasonable travel expenses necessary for the employee to return to her / home country.
 - d. There is no strike or work stoppage in the department at the time of signing this form.
 - e. The H-1B employee will not be placed on unpaid leave or any type of non-pay status at any time without OGC notice.
10. We understand that we may not make the following changes unless the OGC files a new or amended petition and receives approval (retroactive payments are not permitted) pursuant to U.S. law and related procedures:
 - a. Promotion or other change in job title or rank.
 - b. Substantial changes in job duties / responsibilities.
 - c. Any decrease in salary / benefits.
 - d. A substantial increase in salary / benefits.
 - e. Change in location of work.

Certification

Dept. Chair/Supervisor			
Dean_(Regional)			

Signature

Print Name

Date

KSU Department H-1B Supplement

Request for H-1B petition to be filed on behalf of prospective employee
To be Completed by Department and submitted with Form A

A. KSU Department Information

Department:	Department Contact Name:
Supervisor Name:	Title:

B. Scholar/Employee Name

Family Name / Surname:	First / Given Name:	Middle Name(s), if applicable:
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C. Additional Appointment Information

Title of this scholar's position:	Number of full-time employees (not students) this scholar will supervise:
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Describe fully the job duties to be performed. Include amount and type of supervision required. This information will be used to obtain the prevailing wage from the US Department of Labor and in completing the I-129

What are the **minimum** requirements for this position? List **only** the minimum qualifications needed to perform in this position; do **NOT** simply list the applicant's qualifications. The more experience and education required, the higher the prevailing wage determination. Please refer to your AP/HR contact for guidance when completing the information requested below.

Education:

Total years of post-secondary education required: _____ Highest degree required: _____ or equivalent
Major field of study: _____ or closely related field

Training (Does the position require specialized training in addition to the above education?)

Number of years of training required: _____ Plus/ or number of months: _____

Briefly describe the training required: _____

Experience: (does this position require experience in the job offered of in a related occupation?)

Experience required in the job offered: Years _____ Months _____
Experience required in the related occupation:* Years _____ Months _____

*Specify occupation: _____

Other special requirements: _____

A. Department Information

College:	Campus:
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Department:

B. Scholar/Employee Name

Family Name / Surname:	First/ Given Name:	Middle Name(s), if any:
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C. Appointment Information

Personnel Title:	Appointment Start Date:	Appointment End Date:
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D. Actual Wage Information

Salary offered to applicant: \$ _____	Salary range of employees with same title in accordance with chart below: \$ _____ to \$ _____	<input type="checkbox"/> There are no other employees in this department/section holding the same title. Therefore, no employees are listed below and the salary offered constitutes the "actual wage"
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Instructions: The information requested here is required by the Department of Labor for the Public Access File that will be kept in relation to this application. In the chart below, list **all** employees – including US citizens – with the same title as the applicant and complete all pertinent information. In the block below the chart, explain any variations in salaries (e.g., "Employee #3 has 6 years of experience at KSU" or "Employee #8 has been granted two patents") This chart determines the "actual wage" (see definitions on page 2) paid in your department to those with the same title. If additional space is needed, please continue on a separate sheet.

Position Title	Salary at Time of Hire	Current Salary	Hire Date	Highest Degree	Year Received
1.					
2.					
3.					
4.					
5.					

Please explain any substantial or unclear variations in the salaries listed above. For Example, "Employee #2 has 6 years of experience at KSU" or "Employee #4 has been granted two patents."

Which of the following factors were considered in determining the applicant's salary (please check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Degree(s) earned | <input type="checkbox"/> Comparable rate of pay at similar institutions |
| <input type="checkbox"/> Previous work experience | <input type="checkbox"/> Premium to hire away from another institution |
| <input type="checkbox"/> Academic honors | <input type="checkbox"/> Particular skills this individual possesses |
| <input type="checkbox"/> Area of specialization | <input type="checkbox"/> Demonstrated decision-making ability |
| <input type="checkbox"/> Supervisory responsibilities | <input type="checkbox"/> Other: _____ |

FOR OGC USE ONLY

Reviewed by: _____

Date: _____

Higher wage is:

Actual Prevailing

NOTE: Individual salaries are determined by taking into consideration various factors, specifically:

- * educational background, including the level of education obtained, notable educational accomplishments, and/or reputation of degree granting institution;
 - * job responsibilities and functions, and the degree of supervision, if any, to be exercised;
 - * length and depth of relevant experience;
 - * possession of specialized knowledge, skills or training;
 - * professional recognition in the particular discipline;
 - * other indicators of performance and ability, including references, evaluations, publications, awards, prizes or other acknowledgements;
 - * other legitimate business factors are also considered including, but not limited to, the availability of similarly qualified individuals within the labor market.
- The use of the foregoing in determining the "actual wage" in this case conforms to recognized principles of salary determination in the field of higher education and research. Salaries of employees are adjusted on an annual basis, based upon budget reviews and costs of living assessments. If required to do so, Academic Personnel or HR will provide documentation, including the names and payroll records of similarly employed individuals to the Department of Labor to verify the information provided above.

Signature:			
Department Director/ Dean	<i>Signature</i>	<i>Print Name</i>	<i>Date</i>

Kent State University Export Control Attestation

Export control laws are federal regulations that control the conditions under which certain information, technologies, and commodities can be transmitted overseas.

Please note that effective February 20, 2011 United States Department of Homeland Security (USDHS) and United States Citizen and Immigration Services (USCIS) require employers filing Form I-129 for H visa status on behalf of foreign nationals to certify that they have:

- (1) reviewed the Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR), and
- (2) have made a determination as to whether or not an export control license is required to release any controlled technology or technical data to the foreign national.

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

Check Box 1 or Box 2:

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.

Signatures Read the information on penalties in the instructions before completing this section.

H-1B Employee Name: _____

I certify, under penalty of perjury that this petition and the evidence submitted with it are true and correct to the best of my knowledge. I authorize the release of any information from my records, or from the petitioning organization's records that USDHS/USCIS needs to determine eligibility for the benefit being sought. I recognize the authority of USDHS/USCIS to conduct audits of this petition using publicly available open source information. I also recognize that supporting evidence submitted may be verified by USDHS/USCIS through any means determined appropriate by USDHS/USCIS, including but not limited to, on-site compliance reviews.

_____	_____	_____	_____
Department Chair			
Dean (Regional)			
	<i>Signature (in blue ink)</i>	<i>Print Name</i>	<i>Date</i>

Director of Sponsored Programs Administration Signature (If grant-sponsored programming).

_____	_____
Print Name	Daytime Phone Number
_____	_____
Signature (in blue ink)	Date (mm/dd/yyyy)

NOTE: If you do not completely fill out this form and the required supplement, or fail to submit required documents listed in the instructions, the person(s) filed for may not be found eligible for the requested benefit and the H1B non-immigrant petition may be withdrawn and or denied.

An Export Control Attestation is required for ALL H-1B petitions

It is presumed that most research conducted within the Kent State University is “fundamental research” and therefore exempted from export control requirements. Fundamental research includes basic or applied research in science and/or engineering at an accredited institution of higher learning in the U.S. where the resulting information either is ordinarily published and shared broadly in the scientific community or where the resulting information has been or is about to be published. Nonetheless, the Dean, Principal Investigator, Director and or Supervisor is required to affirm whether a license is required.

If you have questions about whether an export license is required please refer to:

www2.kent.edu/research/sponsoredprograms/resources.htm

www.bis.doc.gov/complianceand enforcement/index.htm

www.access.gpo.gov/bis/ear/ear_data.html#ccl

<http://www.bis.doc.gov>

Additional Information

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, L-1 or O-1A 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.

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) and the ITAR’s U.S. Munitions List (USML).

The CCL is found at 15 CFF Part 774, Supp. 1. See http://www.sccess.gpo.gov/bis/ear/ear_data.html#ccl.

The USML is at 22 CFR 121.1. See http://www.pmdt.c.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.

The U.S. Department of Commerce’s Bureau of Industry and Security administers the CCL and is responsible for issuing licenses for the release to foreign persons of technology controlled under the EAR. The U.S. Department of State’s Directorate of Defense Trade Controls (DDTC) administers the USML and is responsible for issuing licenses for the release to foreign persons of technical data controlled under the ITAR.

Information about the EAR and how to apply for a license from BIS 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 from DDTC are at www.pmdt.c.gov.

Specific information about the ITAR’s requirements pertaining to the release of controlled technical data is at http://www.pmdt.c.state.gov/faqs/license_foreignpersons.html.

Key Terms Definitions:

ITAR: International Traffic in Arms Regulations control items, services, and technical data that have a *military* or *space-related* application.

EAR: Export Administration Regulations control dual-use items and technology. Dual-use items are non- military in purpose, but could be modified or utilized for military purposes. While this term is used informally to describe items that are subject to the EAR, purely commercial items are also subject to the EAR.

Export: Under the ITAR *Export* means:

- 1 Sending or taking a defense article out of the United States in any manner, except by mere travel outside of the United States by a person whose personal knowledge includes technical data; or
- 2 Transferring registration, control or ownership to a foreign person of any aircraft, vessel, or satellite technology covered by the U.S. Munitions List, whether in the United States or abroad; or
- 3 Disclosing (including oral or visual disclosure) or transferring in the United States any defense article to any agency or subdivision of a foreign government; or
- 4 Disclosing (including oral or visual disclosure) or transferring technical data to a foreign person, whether in the United States or abroad; or
- 5 Performing a defense service on behalf of, or for the benefit of, a foreign person, whether in the United States or abroad.

Under the EAR *Export* means:

- 1 An actual shipment or transmission of items out of the United States.
- 2 Furnishing technical data allowing an individual to develop or produce controlled technology.
- 3 Furnishing technical data which allows an individual to do **all** of the following: operate, install, maintain, repair, overhaul, and refurbish a controlled piece of equipment.

Defense Article: (ITAR): Any item or technical data recorded or stored in any physical form, models, mock- ups or other items that reveal technical data directly relating to any item on the United States Munitions List (USML) ITAR Part 121.

Defense Service (ITAR):

- 1 The furnishing of assistance (including training) to foreign persons, whether in the United States or abroad in the design, development, engineering, manufacturing, production, assembly, testing, repair, maintenance, modification, operation, destruction, **or** processing of defense articles.
- 2 The furnishing to foreign persons of any ITAR-controlled technical data, whether in the United States or abroad.
- 3 Military training of foreign units and forces, regular and irregular, including formal or informal instruction of foreign persons in the United States or abroad, or by correspondence courses, technical, educational, or information publications and media of all kinds, training aids, orientation, training exercise, and military advice.

Encryption Items (EAR): The phrase encryption items include all encryption commodities, software, and technology that contain encryption features and are subject to the EAR. This does not include encryption items specifically designed, configured, adapted or modified for military applications (including command, control and intelligence applications), which are controlled by the Department of State on the U.S. Munitions List, under the ITAR.

Technical Assistance (EAR): May take forms such as instruction, skills training, working knowledge, consulting services. “Technical assistance” may involve transfer of “technical data.”

Technical Data:

As defined in the ITAR:

- 1 Information other than software, which is required for the design, development, engineering, manufacturing, production, assembly, testing, repair, maintenance, modification, operation, destruction, or processing of defense articles. This includes information in the form of blueprints, drawings, photographs, plans, instructions and documentation.
- 2 Information covered by an invention secrecy order.
- 3 Classified information relating to defense articles.
- 4 Software directly related to defense articles.
- 5 This definition does not include information concerning general scientific, mathematical or engineering principles commonly taught in schools, colleges, and universities.

As defined in the EAR:

Blueprints, plans, diagrams, models, formulate, tables engineering designs and specifications, manuals and instructions written or recorded on other media or devices such as disk, tape, read- only memories.

Technology (EAR): Specific information necessary for the development, production, or use of a product.

Technology Control Plan (TCP): A Technology Control Plan (TCP) is a compliance document developed between the Principal Investigator and the Export Control Administrator. The TCP states the type of export- controlled information associated with a research project, and the measures and safeguards to be taken by the PI to ensure access to the export-controlled information is managed.

A TCP is required when:

A research project involves the receipt of export-controlled information from an outside party, such as via a nondisclosure agreement or sponsored research agreement. Such a research project is not considered fundamental research and the research results may contain export-controlled information. A project that is unpublished, restricted, proprietary, or classified is not fundamental research.

H-1B Non-Immigrant Worker

A Checklist for the Prospective Employee/Scholar to Complete

Please read carefully the checklist below and submit all necessary documents with Form B. Your application cannot be processed without these documents. Form B and all documents must be submitted to Kent State University department hosting you. This is a preliminary list. You may be required to submit further documentation after we review your application.

All Statuses (Visa Types)

- 1. Form B completed and signed
- 2. Current resume or curriculum vitae
- 3. Passport: copy of data page(s) including passport expiration date, plus any U.S. visa stamps.
- 4. If currently in the U.S., or if you left the U.S. less than one year prior to the proposed start date of this appointment, provide the following. If you are/were in visitor status (B-1/B-2, WB, WT), copies of your passport, visa and I-94 card will suffice.
 - Copy of all forms DS-2019 or IAP-66, if in J-1 status.
 - Copy of all H-1B Approval Notices, if in H-1B status.
 - Copy of all Forms I-20, if in F-1 status.
 - Copy of I-94 Departure Record (small white card stapled in passport), front and back, if currently in the U.S.
 - Copy of all Employment Authorization Documents (cards), if any.
 - Copy of your three most recent pay stubs if you are currently in the U.S. in H-1B, O-1 or TN status.
 - Copy of approval of waiver of J-1/J-2 two-year home residence requirement (212e), if applicable, or copy of application receipt if you have applied for a waiver but it has not yet been approved.
- 5. Copy of diplomas from all college/university degrees/transcripts.
- 6. Copy of transcripts from additional coursework, **if KSU will apply for H-1B or TN status for you and if the courses taken are related to the position.**
- 7. If required for the position, copy of licenses or certificates showing professional qualifications (i.e., medical or dental license).

DEPENDENTS (Spouse and/or children under the age of 21) – ALL STATUSES

- 8. Copy of all family members' passports, I-94 cards and all other immigration related documents **if they are currently in the U.S. with you, or if they will accompany you to the U.S.**
- 9. If your dependents are in the U.S. and will need to extend or change their status, please include the following (not required for dependents in J-2 status):
 - Form I-539: *Application to Change/Extend Nonimmigrant Status*, completed by dependents
 - Filing fee of \$370 (check payable to "Department of Homeland Security")
 - Copies of all immigration documents for each dependent as well as copies of birth/marriage certificates demonstrating relationship to you.

COPIES: Photocopies (except financial documents) may be submitted if the original is available for comparison by U.S. Citizenship and Immigration Services or a U.S. consular officer should this be requested at a later date. All photocopies should be on **8 ½" x 11" paper, one-sided only. Please do not staple pages together.**

OFFICIAL TRANSLATIONS: Documents that are not in English must be translated by someone other than the applicant or the applicant's immediate family who is competent in both English and the language of the documents. The translation must be signed and certified with the following statement: "I, (name), hereby certify that I am competent to translate from the (name the language) language into English and that the attached is a true and accurate translation of the original document."

Scholar's Name: _____

D. Basic Information About the Proposed Employment and Employer

Job Title: _____

Address: _____		Street _____	
City: _____	State/Province: _____	Country: _____	Postal Code: _____

E. Visa Application Information

If you are outside the United States or a requested extension of stay or change of status cannot be granted, state the U.S consulate or inspection facility you want notified if this petition is approved.

Type of office (*check one*): Consulate Pre-flight inspection Port of Entry

Office Address (<i>city</i>) _____	U.S. State or Foreign Country: _____
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F. Visa Eligibility

1. Are you currently in the U.S.?	<input type="checkbox"/> No	<input type="checkbox"/> Yes, my current immigration status is _____
2. Have you ever applied for lawful U.S. permanent resident status (a "Green Card") or has anyone ever applied for you?	<input type="checkbox"/> No	<input type="checkbox"/> Yes. Please explain on Page 16, Section I.
3. Have you ever been arrested or convicted of a crime in the U.S.?	<input type="checkbox"/> No	<input type="checkbox"/> Yes. Please explain on Page 16, Section I.
4. Have you ever been in removal ("deportation") proceedings in the U.S.?	<input type="checkbox"/> No	<input type="checkbox"/> Yes. Please explain on Page 16, Section I.
5. If you are filing a new petition within the past 7 years, have you: a. Ever been given the classification you are now requesting? b. Ever been denied the classification you are now requesting?	<input type="checkbox"/> No <input type="checkbox"/> No	<input type="checkbox"/> Yes. Please explain on Page 16, Section I. <input type="checkbox"/> Yes. Please explain on Page 16, Section I.
6. Have you ever been a J-1 exchange visitor or J-2 dependent of a J-1 exchange visitor?	<input type="checkbox"/> No	<input type="checkbox"/> Yes

7. If yes to #7, provide the dates you maintained status as a J-1 exchange visitor or J-2 dependent. Also, provide evidence of this status by attaching a copy of either a DS-2019, Certificate of Eligibility for Exchange Visitor status, Form IAP-66, or a copy of the passport that includes the J visa stamp.

Dates: _____

8. Have you ever been denied H-1B, J-1 or TN status? No Yes. Please explain on **Page 16, Section I.**

9. If you have ever been granted J status, were you subject to the two-year home residence requirement (212e)? No Yes. Please answer number **10** below.

10. If you checked that you were subject to the two-year home residence requirement. ("Yes" to #9 above), please check the appropriate box below:

- I am still subject to the requirement
- I applied for a waiver of the requirement on _____
- My application for a waiver of the requirement was approved (please attach a copy of approval)
- I satisfied the requirement by living at home for at least two years.

11. If you are currently in the U.S., please mark all of the following that apply and attach copies of all immigration documents:

- I am requesting a program transfer or extension of my current immigration status
- I am requesting a change of immigration status
- I will be leaving the U.S. and returning before I begin my appointment at Kent State University (complete #12 below).

12. Travel Plans: Please list below **any** international travel plans as these may affect your immigration status and/or the processing of this request. This is particularly important if you are currently in the U.S. and plan to travel *out* of the U.S. before this application or petition is approved; or if you are currently outside the U.S. and plan *to* the U.S. before this application or petition is approved. If there is not enough space here to list all of your travel dates and destinations, please attach a separate sheet.

Dates of travel: _____ Destination(s): _____

Dates of travel: _____ Destination(s): _____

Scholar's Name: _____

G. Visa History

Please list your entire history of visits to the U.S. If you need additional space, please continue on a separate sheet.
It is not necessary to include time spent in visitor status (i.e., B-1, B-2, WT, WB).

Dates in the U.S. (date status began – date status ended)	Immigration Status (visa classification)	Employer or Host Institution

H. Family Information

Your spouse and your children (under the age of 21) are eligible to apply for dependent visas to accompany you to the U.S. or to follow to join you at a later time. Please complete the information below about each dependent whether or not they will be included in your visa/status applications.

1. Do you have any dependents (as defined above)?	<input type="checkbox"/> No	<input type="checkbox"/> Yes. How many? _____
2. Are your dependents currently in the U.S.?	<input type="checkbox"/> No	<input type="checkbox"/> Yes
3. Will your family travel with you to the U.S.?	<input type="checkbox"/> No	<input type="checkbox"/> Yes
4. Will your family travel to the U.S. separately?	<input type="checkbox"/> No	<input type="checkbox"/> Yes. When? _____

	Dependent 1	Dependent 2	Dependent 3	Dependent 4
Family Name				
First Name(s)				
Middle Name(s)				
Date of Birth				
City of Birth				
Country of Birth				
Country of Citizenship				
Country of Legal Permanent Residence				
Relationship*				
Current immigration status, if in U.S.				

* Please enter "Wife," "Husband," "Son," or "Daughter". If you have more than four dependents, list them on an additional sheet

Scholar's Name: _____

I. Explanation Page

Print Name

Date (mm/dd/yyyy)

Signature