

The Shapiro Law Group

Illinois Business Immigration Lawyer

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Practice Areas

BUSINESS

L-1 Visas

H-1B

H-1B Transfers

Visas

TN Visas (NAFTA)

Special Visas for Other Countries:

- Australia
- Chile / SingaporeE-1

E-1 Visas

E-2 Visas

PERM Labor Certification

HOSPITALS /HEALTHCARE

H-1C Visas

H-1B Visas for Doctors

FAMILY

Spouse / Fiancée Visas

Permanent Residence for Family within U.S.

Naturalization /Citizenship

AMNESTY

[Technology Export Issues Impact Employers of Foreign Workers](#)

Posted: December 28th, 2010

As part of an effort to crack down on technology and technical data leaks to foreign countries, the U.S. Citizenship and Immigration Services (“USCIS”) recently mandated the filing of a new Form I-129 to be completed by employers of foreign workers.

The new form includes a “Certification Regarding the Release of Controlled Technology or Technical Data to Foreign Persons in the United States” which must be completed by those who employ or seek to employ foreign nationals under various visa programs, including those covered by H, L and O nonimmigrant visas (such as H-1B, H-2B, H-3, L-1, and O-1 visas).

To comply with the law, an employer must determine the nature of the technology and technical data to which a foreign worker will be exposed, and must further determine if a technology export license will be required in order to sponsor such a worker.

The new form specifically requires an affirmation that:

- A technology export license is not required from the Department of Commerce or the Department of State to release any technological or technical data the employer has; or
- The employer will prevent access by any foreign worker to any of its controlled technology or technical data (as defined by federal regulations) until a technology export license or other appropriate authorization has been received.

Under the Export Administration Regulations (“EAR”) and International Traffic in Arms Regulations (“ITAR”) an export of controlled technology is deemed to have occurred when a foreign national employee has been given access to source code, blueprints or other technical data that is subject to EAR, ITAR or other federal regulations. Such an export, if unauthorized, can constitute a federal crime.

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Those responsible for completing Form I-129 should therefore consult with counsel to determine whether their company needs to procure a technology export license and/or needs to implement appropriate technology disclosure safeguards.

If you are an employer or agent of an employer responsible for compliance with immigration rules, please do not hesitate to contact our office for help at (847)564-0712. You are also welcome to visit the pertinent section of [our Website](#) for additional information about our services.