

April 9, 2010

Stephen Tarragon  
Deputy Chief, Regulatory Products Division, Clearance Office  
USCIS  
Department of Homeland Security  
111 Massachusetts Avenue, NW, Suite 3008  
Washington, DC 20529-2210

Re: OMB Control Number 1615-0009

Dear Mr. Tarragon:

The Association of Public and Land-grant Universities (A·P·L·U) appreciates this opportunity to comment on the proposed changes to Form I-129, Petition for Nonimmigrant Worker, as described in the February 8, 2010 edition of the *Federal Register*.

A·P·L·U is an association of 186 public research universities and 27 state university systems, including 74 land-grant institutions. Founded in 1887, A·P·L·U member campuses enroll more than 3.5 million undergraduate and 1.1 million graduate students, employ more than 645,000 faculty members, and conduct nearly two-thirds of all academic research, totaling more than \$34 billion annually. As the nation's oldest higher education association, A·P·L·U is dedicated to excellence in learning, discovery and engagement.

Because of our mission and our members' search for the brightest individuals from around the globe, A·P·L·U is greatly interested in and impacted by changes to the nonimmigrant worker program, including possible changes to application forms for the H-1B program. Specifically, we are concerned about adding questions related to "deemed exports" to the application with respect to potential H-1B employees. We share the views of the Association of American Universities (AAU) and the Council on Governmental Relations (COGR) that the proposed changes to the form are ill-timed and unwarranted, exceed the authority of the United States Citizenship and Immigration Service (USCIS), and do not reflect appropriate understanding of the academic environment.

The academic community greatly appreciates the sensitivities surrounding deemed exports and export controls in general and has worked cooperatively with the departments of Commerce and State. As a result of interactions between the federal government and the private sector, including higher education, a Deemed Export Advisory Committee (DEAC) was created to

address issues and concerns regarding the matter. The community continues to be a part of these discussions. The DEAC was created as a result of the interactions with the Bureau of Industry and Security (BIS) at the Department of Commerce, the agency with the authority to oversee activities and policies on deemed exports. A·P·L·U believes BIS activities in response to the DEAC report, rather than the I-129 employment application, are the appropriate channels through which concerns surrounding deemed exports should be raised and addressed. We believe the dialogues with the federal government on deemed exports have led to progress and are concerned these new questions on an employment application form are unnecessary.

In that vein, we also must explicitly raise our serious reservations about the jurisdiction of the USCIS over deemed exports. A·P·L·U believes the Department of Commerce and BIS are the agencies with regulatory authority to address concerns surrounding deemed exports. In our view, the proposed changes to the I-129 form, an application for temporary work authorization, are not the correct vehicle for a discussion on deemed exports.

In addition, A·P·L·U believes the proposed additions do not take into account the nature of academia. While an individual may not be exposed to deemed exports at the start of employment, work in academia, especially in the sciences, could redirect the individual to an area of inquiry which could require a review of possible deemed export implications in the future. This may be the case in many non-academic settings as well. We believe these proposed questions are an oversimplified attempt to address a problem that does not seem to exist.

This nation's public and land-grant institutions respectfully request that USCIS withdraw the proposal to add these questions. We appreciate the opportunity to comment on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter McPherson". The signature is fluid and cursive, with the first name "Peter" and last name "McPherson" clearly distinguishable.

Peter McPherson  
President