What are some areas for review under export control regulations when hiring staff?

What is the Denied Persons List?
The Denied Persons List, administered by the Bureau of Industry and Security within the Department of Commerce is a list of individuals and entities that have been denied export privileges. Any dealings with a party on this list that would violate the terms of its denial order are prohibited.

Are there other lists of concern?
There are over fifty lists issued by governmental agencies that restrict transactions with specific individuals, groups and entities.

Is there a simple way to screen against these lists for compliance?
The University utilizes eCustoms Visual Compliance Software that allows for a user to complete a restricted party screening in a matter of minutes.

Who is a foreign national under the federal export regulations?
A person who is NOT:
- Granted permanent U.S. residence, as demonstrated by the issuance of a permanent residence card, i.e., a "Green Card"
- Granted U.S. citizenship
- Granted status as a "protected person" under 8 U.S.C. 1324b(a)(3), e.g., political refugees, political asylum holders, etc.
- It also means any foreign corporation, business association, partnership, trust, society or any other entity or group that is not incorporated or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of foreign governments (e.g., diplomatic missions)

What is the I129 Deemed Export Attestation?
Form I-129 requires a Deemed Export Attestation for a foreign person on an H-1B, H-1B1 Chile/Singapore, L-1 or O-1A visa petition, as follows:
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 the US Department of Commerce or the US Department of State to release such technology or technical data to the foreign person; or
2. A license is required from the US Department of Commerce or the US 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.

What is a Deemed Export?
The release of technology or software subject to the Export Administration Regulations to a foreign national in the U.S. (although this term in not expressly stated in the International Traffic in Arms Regulations the same principles apply).
Deemed exports can be conveyed through visual inspection, oral exchange, electronic/digital exchange, made available by practice/application (e.g. training). A "deemed" export situation can occur by access/use in research or training, visual inspection, or an oral exchange of information.

**What is the Bona-Fide Full-time Employee Exclusion?**

Under the International Traffic in Arms Regulations (not the Export Administration Regulations), full-time employees have a license exemption. This exemption applies to disclosures in the U.S. by U.S. universities of unclassified technical data to foreign nationals. However, this exclusion may be void unless these conditions are met:

- the person must be a full-time, regular employee - post-docs, students and visiting researchers usually do not qualify
- the employee must have a permanent U.S. residence during his or her period of employment
- the employee is not a foreign national of an embargoed country
- the university must notify the employee in writing that technical data cannot be transferred or re-exported to other foreign nationals without prior government approval.