



UNITED STATES DEPARTMENT OF COMMERCE
Bureau of Industry and Security
Washington, D.C. 20230

November 19, 2007

Dear Mr. :

This will respond to your Advisory Opinion request dated July 17, 2007, in which you requested that our interpretation of "permanent employees" as published on the Bureau of Industry and Security website on 24 February 2006 be further clarified. In your letter, you correctly note that the key element in the imposition of the "permanent employee" condition is defining an employment relationship where the corporation can be held responsible for the employee's actions under the Export Administration Regulations, such that the company's agreement to comply with the conditions of a license can be considered to cover actions of the employee.

After consideration of the relevant information concerning this license condition including the background information you have presented, the Bureau of Industry and Security has determined that it will interpret "permanent employees" as follows: Individuals who are in a long term employment arrangement with the consignee, or to contract employees who satisfy all of the following criteria:

- The individual would work at the company's location or at locations assigned by the company (remote sites, travel, etc);
- The individual would use the company's equipment, tools and supplies in his or her activities;
- The individual would work under the company's direction and control on projects assigned by the signatory;
- The individual would work full time and exclusively for the company;
- The company would be responsible for determining the individual's work schedule and duties;
- The company would pay the staffing agency for the individual's labors (rather than for particular work products or end results), and the staffing company would pass some or all of that compensation to the individual;
- The individual would execute confidentiality certifications not to disclose confidential information received as part of his or her work for the company; and
- The staffing agency that has seconded the individual would have no role in the work the



individual performs other than providing the individual for that work, and would not have access to any controlled technology governed by the license.

This guidance supercedes that contained in the Bureau of Industry and Security interpretation opinion of 24 February 2006 and is applicable to all licenses issued with conditions using the term "permanent employees".

Thank you for your input on this matter. If there are any further questions, please contact me at (202) 482-2984 or at gchristi@bis.doc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Gene Christiansen", with a long horizontal flourish extending to the right.

Gene Christiansen
Office of National Security and
Technology Transfer Controls