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31 January 2023

Human Rights Commission
Allara House
56 Allara Street
Canberra, ACT 2601

CEA RESEARCH AND DEVELOPMENT – DISCRIMINATION EXEMPTION

NI2022-621

JANUARY 2023 REPORT

As required by notifiable instrument NI2022-621, the first Discrimination Exemption report is included below.

Given the restricted business operating periods since the Exemption approval in late 2022, CEA has commenced the following initiatives towards the implementation of the exemption and compliance with the conditions:

CEA will report on the progress of these initiatives in our next report due 31 July 2023.

1. Steps CEA has taken to comply with the conditions associated with this exemption order

1. A new workplace policy to specifically address the use of this exemption is currently being drafted. This document will cover:
 - a. Steps to ensure all ITAR exemptions, exceptions and other provisions have been considered prior to the enactment of this exemption.
 - b. Steps to assess likelihood and/or to apply for special consideration under US agreements to allow for access to controlled material for dual nationals of proscribed countries.
 - c. Guidelines for the provision of information to the US government that include personal information (also see additions to the privacy policy).
 - d. Information about rights, options, how the exemption may affect individuals and where to receive advice.
 - e. Guidelines for conversations to move a person to a project where ITAR/EAR controls are not a concern, and/or to find work where the exemption does not need to be enacted before any adverse actions are undertaken.

- f. Information stating how this exemption may be used (e.g. only in conjunction with legal requirements of the Australian and US Government).
2. CEA's recruitment policies and procedures will be updated to include guidance on the use of the exemption to cover:
 - a. The involvement of the Export Control Manager in the decision making process where the exemption may be applied. This person holds the necessary expertise to ensure ITAR/EAR context of positions is appropriate and applied correctly.
 - b. Additional advertising requirements to ensure conditions related to conditional offers and contact information are included.
 - c. Guidelines for communication on rights, options and potential adverse effects to potential employees.
3. The Head of Human Resources and Export Control Manager will analyse positions within the company where ITAR/EAR restrictions are relevant to support advertising, recruitment and human resources management functions.
4. CEA's Privacy Policy will be updated to include:
 - a. What instances a person's information may be used in conjunction with this exemption.
 - b. Where consent must be sought prior to providing information to the US Government.
5. Review of existing CEA governance documents ensuring sufficient support of the requirements of the exemption including:
 - a. Should CEA be required to set up a specific ITAR only workspace, security passes will be coded to allow access to required locations. CEA policy is that passes are coded electronically and there is no requirement to add physical indicators. CEA's current system supports ensuring passes do not display nationality. CEA's current security program also supports that all pass, clearance and access information is restricted to relevant CEA employees. These elements are managed by CEA Security and the information is locked down to relevant personnel such as security, relevant supervisors, Human Resources and the Export Control Manager.
 - b. ITAR documentation is kept on a separate ITAR server, and this is the mechanism by which ITAR information is segregated within the organisation. Dual nationals will not be granted access to this server only. All other CEA information and data are kept on separate systems to ensure that dual nationals of proscribed countries are only segregated from appropriate documentation. Access to this server is overseen by the Export Control Manager.
 - c. CEA rely heavily on ITAR exemptions and utilise them to their full potential. These clauses are noted in Technical Assistance Agreements (TAAs) that CEA sign. CEA work closely with licence holders during the 'data gathering' stage of TAAs to ensure that where possible, dual nationals are requested to gain access, and that clauses added to agreements are as broad as possible.

2. The number of persons affected by this exemption, the nature of the effects, and the steps taken to address any adverse effects

1. **Current Employees** CEA have 13 existing employees who are dual nationals of an ITAR proscribed country. CEA Head of Human Resources will speak with all these people in the coming weeks to ensure they are comfortable with the exemption and understand impacts. In all cases, identified employees are able to continue in their current roles whilst being quarantined from ITAR material. In some cases, identified employees will require access permissions to be updated to ensure accidental access does not occur. In the event an issue with a current project arises during the course of these discussions, work allocation changes will be managed.
2. **Prospective Employees** since the granting of this exemption, CEA are yet to find any person unsuitable for a role based on ITAR proscribed dual nationality. Process are currently being implemented to ensure the exemption is applied correctly, and that all appropriate positions are advertised as ITAR positions, as per the policy information provided under Question 1.

3. The anti-discrimination training of employees

CEA will include the discrimination exemption in the existing 'Anti Bully, Discrimination and Harassment' annual mandatory training module. This will be completed by 31 March 2023 ensuring all employees will receive this training in the 2023 compliance training rollout.

4. Implementation and compliance generally with the terms of this exemption order

CEA continues to work towards full implementation of the exemption, and will provide a more comprehensive report in July 2023.

CEA welcomes feedback from the Commission on this report, and the initiatives contained prior to the submission of the July 2023 Report.

Yours sincerely,

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CEA Research and Development Pty Limited

