

## Q&As on the Bureau of Industry and Security's Validated End-User Program

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### **Question: How does a company apply for Validated End User (VEU) authorization?**

#### **Answer:**

- Requests for authorization must be submitted in the form of an advisory opinion request, as described in 15 CFR 748.3(c)(2), and in accordance with the requirements of 15 CFR 748.15 (Authorization Validated End-User). Requests for authorization must be submitted to:

The Office of Exporter Services, Bureau of Industry and Security  
U.S. Department of Commerce  
14th Street and Pennsylvania Avenue, NW, Room 2705,  
Washington, DC 20230; or to

The Office of Exporter Services, Bureau of Industry and Security  
U.S. Department of Commerce  
P.O. Box 273,  
Washington, DC 20044.

Mark the package sent to either address "Request for Authorization Validated End-User."

### **Question: What information does a company need to submit in the VEU authorization request?**

#### **Answer:**

- As set forth in Supplement No. 8 to part 748, the following information must be included in a VEU authorization request:
  - 1) Name of proposed VEU candidates, including all names under which the candidate conducts business; complete company physical address (simply listing a P.O. box is insufficient); telephone number; fax number; e-mail address; company Web site (if available); and name of individual who should be contacted if BIS has any questions. If the entity submitting the application is different from the prospective validated end-user identified in the application, this information must be submitted for both entities. If the candidate has multiple locations, all physical addresses located in the eligible destination must be listed.
  - 2) Provide an overview of the structure, ownership and business of the prospective validated end-user. Include a description of the entity, including type of business activity, ownership, subsidiaries, and joint-venture projects, as well as an overview of any business activity or corporate relationship that the entity has with either government or military organizations.

- 3) List the item(s) proposed for VEU authorization approval and their intended end- uses. Include a description of the item(s); the ECCN(s) for all items, classified to the subparagraph level, as appropriate; technical parameters for the items including performance specifications; and end-use description for the items. If BIS has previously classified the item, the Commodity Classification Automated Tracking System (CCATS) number may be provided in lieu of the information listed in the foregoing provisions in this paragraph.
- 4) Provide the physical address(es) of the location(s) where the item(s) will be used, if this address is different from the address of the prospective validated end-user provided in (a).
- 5) If the prospective validated end-user plans to reexport or transfer the item, specify the destination to which the items will be reexported or transferred.
- 6) Specify how the prospective validated end-user's record keeping system will allow compliance with the recordkeeping requirements set forth in §748.15(e) of the EAR. Describe the system that is in place to ensure compliance with the VEU end-user requirements.
- 7) Include an original statement on letterhead of the prospective validated end-user, signed and dated by a person who has authority to legally bind the prospective validated end-user, certifying that the end-user will comply with all VEU requirements. This statement must include acknowledgement that the prospective end-user:
  - (i) Has been informed of and understands that the item(s) it may receive as a validated end-user will have been exported in accordance with the EAR and that use or diversion of such items contrary to the EAR is prohibited;
  - (ii) Understands and will abide by all authorization VEU end-use restrictions, including the requirement that items received under authorization VEU will only be used for civil end-uses and may not be used for any activities described in part 744 of the EAR;
  - (iii) Will comply with VEU recordkeeping requirements; and
  - (iv) Agrees to allow on-site reviews by U.S. Government officials to verify the end-user's compliance with the conditions of the VEU authorization.

**Question: Who is eligible for VEU authorization?**

**Answer:**

- Any end-user in an eligible country may apply to use Validated End-User authorization. All applications will be considered on a case-by-case basis.

- Subsidiaries of U.S. or foreign companies in India, as well as Indian companies, may apply to receive products that might otherwise need an individual license.

**Question: How will the Commerce Department evaluate VEU applicants?**

**Answer:**

- In evaluating an end-user for eligibility under authorization VEU, BIS, in consultation with the Departments of State, Energy, and Defense and other agencies, as appropriate, will consider a range of information, including the entity's record of engagement in civil end-use activities; the entity's compliance with U.S. export controls; the need for an onsite review prior to approval; the entity's capability of complying with the requirements of authorization VEU; the entity's agreement to on-site reviews to ensure adherence to the conditions of the VEU authorization by representatives of the U.S. Government; and the entity's relationships with U.S. and foreign companies.
- In addition, when evaluating the eligibility of an end-user, agencies will consider the status of export controls and the support and adherence to multilateral export control regimes of the government of the eligible destination.
- Agencies will formally evaluate VEU candidates through the End-User Review Committee, as specified in Supplement No. 9 to part 748.

*End-User Review Committee*

- The End-User Review Committee (ERC), composed of representatives of the Departments of State, Defense, Energy, and Commerce, and other agencies, as appropriate, is responsible for determining whether to add to, to remove from, or otherwise amend the list of validated end-users and associated eligible items, which will be published in Supplement No. 7 to part 748.
- The Department of Commerce chairs the ERC.
- Unanimous vote of the Committee is required to authorize VEU status for a candidate or to add any eligible items to a pre-existing authorization. Majority vote of the Committee is required to remove VEU authorization or to remove eligible items from a pre-existing authorization.
- The ERC will accept requests for VEU authorization from exporters, re-exporters or end-users that are submitted in accordance with 15 CFR 748.15. The ERC will also consider candidates for VEU authorization that are identified by the U.S. Government. When the U.S. Government identifies a candidate for VEU authorization, relevant parties (i.e., end-users and exporters or re-exporters, when they can be identified) will be notified, before the ERC determines whether VEU authorization is appropriate, as to which end-users have been so-identified. End-users are not obligated to accept the Government's nomination.

- The ERC will make determinations whether to grant VEU authorization to each VEU candidate no later than 30 calendar days after the candidate's complete application is circulated to all ERC agencies. The Committee may request additional information from the candidate or appropriate representative related to a particular VEU candidate's application. The period during which the ERC is waiting for additional information from a candidate or appropriate representative is not included in calculating the 30 calendar day deadline for the ERC determination.
- If an ERC agency is not satisfied with the decision of the ERC, that agency may escalate the matter to the Advisory Committee on Export Policy (ACEP). The procedures and time frame for escalating any such matters are the same as those specified for license applications in Executive Order 12981, as amended by Executive Orders 13020, 13026 and 13117, and referenced in section 750.4 of the EAR.
- The Deputy Assistant Secretary of Commerce for Export Administration will communicate the determination on each VEU request to the requesting party and the end-user.

**Question: Are there specific items or end-uses that will not be eligible for VEU authorization?**

**Answer:**

- *Item restrictions:* Items controlled under the EAR for missile technology (MT) and crime control (CC) reasons may not be exported or reexported under this authorization.
- *Transfer restrictions:* Exports, reexports, or transfers made under authorization VEU may only be made to an end-user listed in Supplement No. 7 to part 748 if the items will be consigned to and for use by the validated end-user.
- *Eligible end-users who obtain items under VEU may only:*
  - (1) Use such items at the end-user's own facility located in an eligible destination or at a facility located in an eligible destination over which the end-user demonstrates effective control;
  - (2) Consume such items during use; or
  - (3) Transfer or reexport such items only as authorized by BIS.

**Question: What are the consequences if a company is denied VEU authorization?**

**Answer:**

- If VEU authorization is denied to an end-user, no new license requirement is triggered. In addition, being denied VEU authorization will not impact a company's future ability to receive export licenses from the Commerce Department. Those end-users who are not validated end-users will have to apply for individual export licenses under the current licensing system.

**Question: Will companies that have Special Comprehensive Licenses (SCL) receive automatic VEU authorization?**

**Answer:**

- No. The VEU authorization process is completely separate from the SCL process.
- Because SCLs are provided to exporters and VEU status is provided to eligible customers in eligible countries, BIS believes that it is important to maintain different procedures and criteria for VEU authorization and SCLs.

**Question: Will VEU also allow the release of technology (i.e., deemed exports) to eligible nationals in the United States?**

**Answer:**

- If a validated end-user is approved to receive specific eligible technology under the VEU authorization, then its foreign national employees from the eligible country are also authorized to receive the same technology, including through a transfer inside the United States.