

7A-39 Malign Foreign Talent Recruitment Program Participation

Responsible Executive: Vice President for Research

Approving Official: Vice President for Research

Effective Date: August 5, 2024*

Revision History: New, August 5, 2024

*subject to notice and final VP approval; may be subject to revision on final Cabinet review

I. INTRODUCTION

The Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022 prohibits federal employees, contractors, and awardees – including institutions, individual investigators, and other key personnel – from participating in Malign Foreign Talent Recruitment Programs.

II. POLICY

a. Definitions

- i. A **covered individual** is defined as an individual who:
 1. Contributes, in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and
 2. Is designated as a covered individual by the Federal research agency concerned.
- ii. A **foreign country of concern** is defined as the People’s Republic of China, the Russian Federation, the Islamic Republic of Iran, the Democratic People’s Republic of Korea, the Republic of Cuba, the Venezuelan regime of Nicolas Maduro, the Syrian Arab Republic, or any other country determined to be a country of concern by the U.S. Department of State.
- iii. A **foreign talent recruitment program** is any program, position, or activity that includes compensation in the form of cash, in-kind compensation, including research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement opportunities, or other types of remuneration or consideration directly provided by a foreign country at any level (national, provincial, or local) or their designee, or an entity based in, funded by, or affiliated with a foreign country, whether or not directly sponsored by the foreign country, to an individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue.

- iv. A **malign foreign talent recruitment program** is:
1. a program that is sponsored by
 - a. a foreign country of concern or an entity based in a foreign country of concern, whether or not directly sponsored by the foreign country of concern; or
 - b. an academic institution on the list developed under section 1286(c)(8) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115-232); or
 - c. a foreign talent recruitment program on the list developed under section 1286(c)(9) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115-232); or
 2. any foreign talent recruitment program that requires, incentivizes, or encourages a participating covered individual to:
 - a. engage in the unauthorized transfer of intellectual property, materials, data products, or other nonpublic information owned by a United States entity or developed with a Federal research and development award to the government of a foreign country or an entity based in, funded by, or affiliated with a foreign country regardless of whether that government or entity provided support for the development of the intellectual property, materials, or data products; or
 - b. recruit trainees or researchers to enroll in such program, position, or activity; or
 - c. establish a laboratory or company, accept a faculty position, or undertake any other employment or appointment in a foreign country or with an entity based in, funded by, or affiliated with a foreign country if such activities are in violation of the standard terms and conditions of a Federal research and development award; or
 - d. be unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances; or
 - e. through funding or effort related to the foreign talent recruitment program, limit a covered individual's capacity to carry out a research and development award or required to engage in work that would result in substantial

- overlap or duplication with a Federal research and development award; or
- f. apply for and successfully receive funding from the sponsoring foreign government's funding agencies with the sponsoring foreign organization as the recipient; or
- g. omit acknowledgment of the recipient institution with which the individual is affiliated, or the Federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the Federal research and development award; or
- h. not disclose to the Federal research agency or employing institution the participation of such individual in such program, position, or activity; or
- i. have a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award.

b. Disclosure and certification requirements:

- i. Covered individuals are prohibited from participating in a federally funded research and development project if they are currently participating in a malign foreign talent recruitment program, and must disclose if they are a party to any other foreign talent recruitment program through processes established by the Office of Research.
- ii. Each covered individual must certify annually, or more frequently if required, compliance with this policy through processes established by the Office of Research.

III. LEGAL SUPPORT, JUSTIFICATION, AND REVIEW OF THIS POLICY

Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022, BOG 1.001(3)(m)

These policies will be reviewed periodically and changes made when necessary.

 /s/ Stacey Patterson

[Proof of approval retained in file]