



Section: Research Security

Policy Name: Policy on Participation in Malign Foreign Talent Recruitment Programs

Policy Owner: Vice President for Research, Scholarship and Innovation

Responsible University Office: Research Office

Origination Date: 8-21-2024

Revisions:

Legacy Policy Number:

Policy on Participation in Malign Foreign Talent Recruitment Programs

I. SCOPE OF POLICY

This policy prohibits all covered individuals employed by or enrolled at the University of Delaware from participating in a malign foreign talent recruitment program(s).

II. DEFINITIONS

1. Foreign government-sponsored talent recruitment program. Per National Security Presidential Memorandum - 33 (NSPM-33), a foreign government-sponsored talent recruitment program is defined as an effort organized, managed, or funded by a foreign government, or a foreign government instrumentality or entity, to recruit science and technology professionals or students (regardless of citizenship or national origin, or whether having a full-time or part-time position).

2. Malign foreign talent recruitment program. Per the CHIPS and Science Act, the term malign foreign talent recruitment program is defined as:

- (A) 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 the targeted individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue, in exchange for the individual—
- (i) engaging 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;
 - (ii) being required to recruit trainees or researchers to enroll in such program, position, or activity;
 - (iii) establishing a laboratory or company, accepting a faculty position, or undertaking 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;
 - (iv) being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;
 - (v) through funding or effort related to the foreign talent recruitment program, being limited in the

- 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;
- (vi) being required to apply for and successfully receive funding from the sponsoring foreign government's funding agencies with the sponsoring foreign organization as the recipient;
 - (vii) being required to 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;
 - (viii) being required to not disclose to the Federal research agency or employing institution the participation of such individual in such program, position, or activity; or
 - (ix) having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award; and
- (B) a program that is sponsored by—
- (i) 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;
 - (ii) 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. 2358 note; Public Law 115-232); or
 - (iii) 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. 2358 note; Public Law 115-232).

3. Covered Individual is an individual who:

- (A) 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
- (B) is designated as a covered individual by the Federal research agency concerned.

Consistent with NSPM-33, this means principal investigators (PIs) and other senior/key personnel seeking or receiving Federal research and development funding. Federal funding agencies also have the latitude to expand the definition of "covered individuals" as appropriate and consistent with their mission.

4. Foreign country of concern. Per NSPM-33, a foreign country of concern means the People's Republic of China, the Democratic People's Republic of Korea, the Russian Federation, the Islamic Republic of Iran, or any other country deemed to be a country of concern as determined by the Department of State.

III. POLICY STATEMENT

The University of Delaware strictly prohibits covered individuals employed by or enrolled at the University from participating in a malign foreign talent recruitment program(s).

IV. POLICY STANDARDS AND PROCEDURES

1. Covered individual's participation in a malign foreign talent recruitment program is prohibited.
2. Faculty, staff, and students participating in sponsored programs are required to comply with sponsor disclosure policies and certification requirements regarding foreign government-sponsored talent recruitment programs.
3. Disclosures regarding foreign government-sponsored talent recruitment programs must be true, complete and accurate to the best of the discloser's knowledge and belief.