

UNIVERSITY OF KENTUCKY
POLICY ON DISCLOSURE AND PARTICIPATION IN
FOREIGN TALENT RECRUITMENT PROGRAMS

BACKGROUND

The [Creating Helpful Incentives to Produce Semiconductors \(CHIPS\) and Science Act of 2022](#) (the Chips and Science Act) requires federal research funding agencies [e.g., National Science Foundation (NSF), the National Institutes of Health (NIH), the Department of Energy (DOE), etc.] to establish policies that require “covered individuals” to (a) disclose all participation in foreign talent recruitment programs (FTRPs) and (b) certify that they are not a party to a malign foreign talent recruitment program (MFTRP) at the time of proposal and annually thereafter for the life of an award. Further, as a recipient of federal research funding, the University of Kentucky must certify that such individuals have been made aware of the requirement.

Federal agencies have defined concerns about inappropriate interference by foreign governments over federally funded research. Such interference is not consistent with the core principles of the U.S. scientific research enterprise, which include transparency, integrity, and fair competition. One significant source of concern is malign foreign talent recruitment programs, as defined below. Federal sponsors may deny funding to individuals engaged in foreign talent recruitment programs or other activities associated with foreign entities of concern. Furthermore, failure to have a policy addressing malign foreign talent recruitment programs could lead to the University being ineligible for any funding from these agencies.

Effective May 20, 2024, the University began its compliance with the NSF’s requirements for senior/key personnel submitting proposals to disclose and certify they are not a party to a malign foreign talent program on their biosketch and current/pending documents, and this policy further outlines the University’s commitment to that expectation and the additional requirement of other agencies.

APPLICABILITY

This policy is applicable to “Covered Individuals.” This includes any individual who contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with an award from a federal research agency and who is designated as Key Personnel or Covered Individual by the federal research agency concerned.

POLICY STATEMENT

- A. The University of Kentucky prohibits Covered Individuals from participating in malign foreign talent recruitment programs.
- B. The University of Kentucky requires all Covered Individuals to comply with federal agency policies to:

1. Disclose all participation in foreign talent recruitment program (malign or otherwise) contracts, agreements, or other arrangements, and, depending on federal sponsor requirements, certify their lack of involvement in such activities.
 2. Certify at the time of a project proposal, and annually for the duration of the award, that they are not a party to a malign foreign talent recruitment program.
- C. The University of Kentucky requires that Covered Individuals comply with all sponsor policies and certifications regarding foreign talent recruitment programs as they are developed and implemented, and any future changes to those policies and certifications. Disclosures must be true, complete, and accurate to the best of the Covered Individual's knowledge.

PROCEDURES

Procedures for compliance will be incorporated into established processes covering outside activity disclosures, including but not limited to conflict of interest, overload approval, and disclosure to external funding agencies.

COMPLIANCE

Fraudulent statements or claims or omissions in violation of this policy may result in criminal, civil, administrative or university penalties including termination.

DEFINITIONS AND ACRONYMS

Covered individuals: An individual who 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 designated as Key Personnel or Covered Individual by the federal research agency concerned.

Foreign Country of Concern: The term "foreign country of concern" currently includes 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 determined to be a country of concern by the Secretary of State. Note, this list is subject to change.

Foreign Entity of Concern: Any foreign entity that is (a) designated as a foreign terrorist organization by the Secretary of State; (b) included on the specially designated nationals and blocked persons list maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control; (c) owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country listed in section 10 U.S.C. § 4872(d); (d) convicted for activities in violation of various laws, including activities related to espionage, foreign agents, arms export control, or the International Economic Emergency Powers Act (50 U.S.C. § 1701 et seq); or (e) determined by the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is

detrimental to U.S. national security or foreign policy. 15 U.S.C. § 4651(8).

Foreign Government Talent Recruitment Program (FTRP): 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). Some foreign government-sponsored talent recruitment programs operate with the intent to import or otherwise acquire from abroad, sometimes through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government. Many, but not all, programs aim to incentivize the targeted individual to relocate physically to the foreign state for the above purpose. Some programs allow for or encourage continued employment at United States research facilities or receipt of federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to United States entities. Compensation could take many forms including cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.

Malign Foreign Talent Recruitment Program (MFTRP): A Malign Foreign Talent Recruitment Program is defined as:

- 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—
 - 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;
 - being required to recruit trainees or researchers to enroll in such program, position, or activity;
 - 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;

- being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;
- 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;
- 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;
- 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;
- 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
- having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the federal research and development award; and
- a program that is sponsored by:
 - 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;
 - 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
 - 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). [Lists referenced above are available in Part 3 Countering Unwanted Foreign Influence in Department-Funded Research at Institutions of Higher Education of the document [Countering Unwanted Foreign Influence in Department-funded Research at Institutions of Higher Education](#)].

ADDITIONAL GUIDANCE

FOR QUESTIONS, CONTACT RESEARCH LEGAL COUNSEL IN THE UNIVERSITY OFFICE OF LEGAL COUNSEL OR THE OFFICE OF SPONSORED PROJECTS ADMINISTRATION RESEARCH SECURITY ADMINISTRATOR.