



Policy Title: RE7010 – Malign Foreign Talent Recruitment Programs

Subject Area: Research

Responsible Official(s): Executive Vice President for Research and Innovation

Responsible Office(s): Research and Innovation

Policy Statement

The Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022 provides funds to support the domestic production of semiconductors and authorizes various programs and activities of federal agencies. Subtitle D, Section 10632 of the CHIPS and Science Act of 2022 requires all federal agencies to establish a policy that prohibits researchers from participating in “malign foreign talent recruitment programs.” Higher education institutions must certify that their researchers are aware of and have complied with this requirement. The Office of Science and Technology Policy (OSTP) subsequently developed Guidelines for Federal Research Agencies Regarding Foreign Talent Recruitment Programs.

Based on the CHIPS and Science Act of 2022 mandate, some federal funding agencies, including the Department of Defense (DoD) and the National Science Foundation (NSF), have issued such requirements, and other agencies are also expected to do so. As a recipient of federal funding, the University of Memphis (“University”) is required to comply with relevant federal laws and federal agency policies. This policy specifies the federal agency requirements that must be fulfilled by the University and any individuals applying to federal agencies for research and development award funding.

Definitions

Covered Individual(s) – 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 agency; and
2. is designated as a Covered Individual by the federal agency concerned. Federal agencies may also define other individuals as covered persons as appropriate and consistent with their mission.

Disclosure(s) – information that is required to be provided on all outside professional activities and/or significant financial interests in external entities, and includes foreign talent recruitment programs by University employees, graduate research assistants (GRAs), and Covered Individuals in advance of performing the activity or whenever the situation associated with the activity changes.

Foreign Country(ies) of Concern – 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 U.S. Secretary of State, as defined in federal law.

Foreign Talent Recruitment Program – 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.

A Foreign Talent Recruitment Program does not include the following international collaboration activities, so long as the activity is not funded, organized, or managed by an academic institution or a Foreign Talent Recruitment Program on the lists developed under paragraphs (8) and (9) of Section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115-232)¹;

1. Making scholarly presentations and publishing written materials regarding scientific information not otherwise controlled under current law;
2. Participating in international conferences or other international exchanges, research projects or programs that involve open and reciprocal exchange of scientific information, and which are aimed at advancing international scientific understanding and not otherwise controlled under current law;
3. Advising a foreign student enrolled at an institution of higher education or writing a recommendation for such a student, at such student's request; and
4. Engaging in the following international activities:
 - a. Activities that are partly sponsored or otherwise supported by the United States such as serving as a government appointee to the board of a joint scientific fund (e.g., the U.S.-Israel Binational Industrial Research and Development Foundation); providing advice to or otherwise participating in international

technical organizations, multilateral scientific organizations, and standards setting bodies (e.g., the International Telecommunications Union, Intergovernmental Panel on Climate Change, etc.); participating in a Fulbright Commission program funded in whole or in part by a host country government; or other routine international scientific exchanges and interactions such as providing invited lectures or participating in international peer review panels.

- b. Involvement in national or international academies or professional societies that produce publications in the open scientific literature that are not in conflict with the interests of the federal agency (e.g., membership in the Pontifical Academy of Sciences or The Royal Society).
- c. Taking a sabbatical, serving as a visiting scholar, or engaging in continuing education activities such as receiving a doctorate or professional certification at an institution of higher education (e.g., the University of Oxford, McGill University) that are not in conflict with the interests of the federal agency.
- d. Receiving awards for research and development which serve to enhance the prestige of the federal agency (e.g., the Nobel Prize).
- e. Other international activities determined appropriate by the federal agency head or designee.

Graduate Research Assistant(s) (GRAs) – a registered graduate student who is enrolled full-time in a graduate degree program at the University and works on a research project under the direct supervision of a faculty member.

Malign Foreign Talent Recruitment Program – defined as follows:

1. 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:
 - a. engaging in the unauthorized transfer of intellectual property, materials, data products, or other nonpublic information owned by a U. S. 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;

- b. being required to recruit trainees or researchers to enroll in such program, position, or activity;
 - c. 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;
 - d. being unable to terminate the Foreign Talent Recruitment Program contract or agreement except in extraordinary circumstances;
 - e. 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;
 - f. 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;
 - g. being required to omit acknowledgment of the recipient institution with which the individual is affiliated or the federal agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the federal research and development award;
 - h. being required to not disclose to the federal agency or employing institution the participation of such individual in such program, position, or activity; or
 - i. having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the federal research and development award; and
2. 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;
 - 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. 2358 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. 2358 note; Public Law 115-232).

Outside Professional Activities – any paid or unpaid activity with an external entity that is beyond the scope of a University employee's institutional responsibilities but is still within their discipline, area of expertise, or the practice of their profession and includes either professional service or consulting.

Research and Development – basic or applied research and/or development and includes the development or marketing of University-owned intellectual property, the acquisition of services of a University employee by an entity for research and development purposes, or participation in State economic development programs.

Significant Financial Interest – anything of monetary value, including, but not limited to, salary or other payments for services (e.g., consulting fees or honoraria); equity interest (e.g., stocks, stock options or other ownership interests); intellectual property rights (e.g., patents, copyrights and royalties from such rights); and/or positions outside of the University that involve fiduciary responsibility to an external entity, whether compensated or not.

University Employee(s) – all faculty and staff employed by the University, regardless of title, FTE, full- or part-time status.

Policy

Participation in foreign talent recruitment programs (FTRPs) can involve risks that warrant careful consideration, mitigation, and in some cases complete avoidance. Congress, the Federal Bureau of Investigation, and other government organizations view aspects of certain FTRPs as threats to the integrity and security of the national research enterprise. The CHIPS and Science Act of 2022 directs federal research sponsors to maintain policies that:

1. require covered individuals to disclose all participation in FTRPs, and;
2. prohibit recipients of federal support from participating in any malign FTRPs (MFTRPs).

OSTP's [Guidelines for Federal Research Agencies Regarding Foreign Talent Recruitment Programs](#) was released February 14, 2024, in accordance with Section 10631(b) of the CHIPS and Science Act of 2022. The University prohibits the participation of University employees and Graduate Research Assistants (Covered Individuals) in Malign Foreign Talent Programs in accordance with the federal requirement.

Requirements for Federal Funding:

1. Covered Individuals are required to submit a Disclosure to UofM Research Compliance if they are a party to any Foreign Talent Recruitment Programs, in addition to any Disclosures of Outside Professional Activities and Significant Financial Interests required by federal/state law, federal agency guidance, and/or University of Memphis policies and procedures.
2. Covered Individuals, as defined by this Policy or a federal agency, are prohibited from participating in a Malign Foreign Talent Recruitment Program.
3. As part of the proposal submission process for a Research and Development award from a federal agency:
 - a. Each Covered Individual listed on a proposal must certify that they are not a party to a Malign Foreign Talent Recruitment Program. This certification must also be renewed annually for the duration of an award; and
 - b. Subject to federal agency requirements, the University's Authorized Organization Representative (AOR) may rely on the certification provided by a Covered Individual to complete their certification prior to proposal submission.

Procedures

Covered Individuals who fail to comply with this policy and other Disclosure requirements associated with federal funding may be a violation of federal law.

Covered Individuals found to be in violation of this policy, University policies and procedures, and/or federal agency requirements based on any form of dishonesty or by acting in bad faith, including failure to submit or knowingly submitting an incomplete, erroneous, or misleading Disclosure, or failure to comply with required certifications, may face disciplinary action, including but not limited to, freezing federally-funded research accounts, suspension and/or termination of employment or expulsion from the graduate program, in accordance with University policies or Graduate School policies, as applicable.

If you have joined a talent program or have questions about these programs, please reach out to the Research Compliance team at researchcompliance@memphis.edu.

Related Documents, Policies and Forms

[GE2021 - Conflict of Interest](#)

[RE7003 - Disclosure of Financial Interests Related to Sponsored Research](#)

Last Revision Update Log: 01/27/2025