

University of Michigan Policy Prohibiting Participation in Malign Foreign Talent Recruitment Programs

Policy

In accordance with federal requirements, the University of Michigan [U-M] prohibits participation in malign foreign talent recruitment programs. Per the [CHIPS and Science Act of 2022](#), the term “malign foreign talent recruitment program” means:

“(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; [Per the Act, 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 determined to be a country of concern by the Department of State.]
 - (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).”
- [Lists referenced in items B. (ii) and (iii) are available in Part 3 of the Department of Defense (DoD) document [Countering Unwanted Foreign Influence in Department-funded Research at Institutions of Higher Education](#)]

In addition, U-M requires that researchers comply with all sponsor policies and certifications regarding foreign talent recruitment programs as they are developed and implemented, and that disclosures are true, complete and accurate to the best of the faculty member's knowledge. False, fictitious, or fraudulent statements or claims (including intentional omissions) in violation of this policy may result in criminal, civil, administrative or University penalties.

Background

Section 10632 of the CHIPS and Science Act, signed into law on August 09, 2022, requires federal research funding agencies to establish a policy requiring “covered individuals”¹ (senior/key personnel) to certify at proposal, and annually for the duration of the award, that they are not a party to a malign foreign talent recruitment program, and that the institution [U-M] certify that such individuals have been made aware of the requirement. Agencies are required to have these policies in place by August 09, 2024. Certifications will not apply to awards made prior to the implementation of agency policy. Agencies are also directed to require senior/key personnel to disclose participation in foreign talent recruitment program contracts, agreements, or other arrangements per section 10631 of the Act.

Section 10631 of the Act also calls on the White House Office of Science and Technology Policy and the National Science and Technology Council’s Research Security Subcommittee to develop guidelines for research funding agencies that prohibit R&D awards from being made to senior personnel participating in malign FTRPs and, “to the extent practicable”, require recipient institutions to prohibit these individuals from working on projects supported by R&D awards. On June 30, 2023, DoD released [Countering Unwanted Foreign Influence in Department-funded Research at Institutions of Higher Education](#), which includes a *Policy on Risk-based Security Reviews of Fundamental Research*. In the associated *Decision Matrix*, DoD recommended mitigation measures where, for the period after August 09, 2022, the policy of the proposing institution does not prohibit participation in a malign foreign talent recruitment program, and prohibits DoD funding after August 9, 2024 if the proposing institution does not have this policy/prohibition in place.

Contact

For questions or additional information, please contact InternationalResearchGuidance@umich.edu

¹ A. Contributes in a substantive, meaningful way to the scientific development or execution of a research and development [R&D] project proposed to be carried out with an R&D award from a federal agency; B. is designated as a covered individual by the Federal research agency concerned.