

 UNIVERSITY OF DENVER	UNIVERSITY OF DENVER POLICY MANUAL MALIGN FOREIGN TALENT GOVERNMENT RECRUITMENT PROGRAMS	
<p><u>Responsible Department:</u> Office of Research and Sponsored Programs <u>Recommended By:</u> Senior Vice Provost, Research & Graduate Education, Associate Vice Chancellor, Chief Risk and Compliance Officer <u>Approved By:</u> Chancellor</p>	<u>Policy Number</u> ORSP-43	<u>Effective Date</u> 1/15/2025

I. INTRODUCTION

- A. Federal agencies have defined concerns about inappropriate foreign 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.
- B. The [Creating Helpful Incentives to Produce Semiconductors \(CHIPS\) and Science Act of 2022](#) (the Chips and Science Act) prohibits federal employees, contractors, and awardees—including institutions, individual investigators, and other key personnel—from participating in malign foreign government talent recruitment programs.
- C. This Policy applies to all faculty and staff who engage in or propose to engage in sponsored projects. This includes University personnel:
- who contribute 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 a Key Personnel or Covered Individual (each as defined below) by the Federal research agency concerned.

II. POLICY OVERVIEW

- A. The University prohibits participation in Malign Foreign Talent Recruitment Programs (MFTRP).
- B. The University requires that all Key Personnel or Covered Individuals comply with all sponsor policies and certifications regarding MFTRP as they are developed and implemented, and certify that disclosures are true, complete, and accurate to the best of the covered individual's knowledge.

- C. The University requires a Covered Individual to comply with federal research agency policies and to:
 - 1. certify at proposal, and annually for the duration of the award, that they are not a party to a MFRTP, and
 - 2. disclose all participation in Foreign Government Talent Recruitment Program (FTRP) contracts, agreements, or other arrangements.

Certifications will not apply to awards made prior to August 9, 2022.

- D. The University must certify that Covered Individuals have been made aware of the requirements set forth in this Policy.

III. PROCESS OVERVIEW

- A. Faculty and staff proposing to engage in federally funded research and development activities and who are determined to be Covered Personnel will attest that they are not, nor will they be, a participant in a malign foreign talent recruitment program.
 - 1. Attestations will be requested on the annual research financial conflict of interest disclosures (which include foreign collaborator questions); and
 - 2. Attestations will be requested from individuals applying for external funding on the [Proposal Review and Approval Form](#) (completed on InfoEd).
- B. Disclosures must be submitted annually and updated within 30 days of any material changes.

C. EXEMPTIONS

Consistent with Section 10632(d) of the Act, 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. 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 research 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 research agency.
 - d. Receiving awards for research and development which serve to enhance the prestige of the federal research agency (e.g., the Nobel Prize).
 - e. Other international activities determined appropriate by the federal research agency head or designee.

IV. DEFINITIONS

- A. **“Covered Individuals”** has the following meaning under CHIPS and this Policy:
 1. 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
 2. designated as a Key Personnel or Covered Individual by the Federal research agency concerned.
 3. It includes most graduate students.
- B. **“Foreign Government Talent Recruitment Program (FTRP)”** is defined under the Office of Science and Technology Policy’s (OSTP) National Security Presidential Memorandum-33 implementation guidance 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). 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."

C. "Malign Foreign Talent Recruitment Program (MFTRP)" has the following meaning under the CHIPS and Science Act, and for the purposes of this Policy:

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.
 - (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
2. 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; For the Act, this "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
- (ii) 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 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]."*

V. RESOURCES

- A. [Countering Unwanted Foreign Influence in Department-funded Research at Institutions of Higher Education](#)
- B. [Creating Helpful Incentives to Produce Semiconductors \(CHIPS\) and Science Act of 2022](#)
- C. [Guidance for Implementing National Security Presidential Memorandum 33 \(NSPM-33\) on National Security Strategy for United States Government-Support Research and Development](#)
- D. [National Institute of Health Dear Colleagues Letter](#)

Revision Effective Date	Purpose