

Foreign Government Talent Recruitment Programs (FGTRP) and Malign Foreign Government Talent Recruitment Programs (MFGTRP)¹

Purpose.

The Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022 prohibits federal employees, contractors, and awardees—including institutions, individual investigators, and other key personnel—from participating in Malign Foreign Government Talent Recruitment Programs (MFGTRPs). Additionally, sponsors may have requirements around the disclosure of and restrictions involving participation in any Foreign Government Talent Recruitment Program (FGTRP) regardless of country of affiliation. Definitions of these terms may vary by sponsor and change over time. Contact UK's Office of Sponsored Projects Administration (OSPA; ospa@uky.edu) if you think you may be involved in one of these programs, or if you receive an invitation to participate in one.

Definitions. (Current as of March 1, 2024.)

A **Covered Individual** means 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. Agencies may also define other individuals as covered persons as appropriate and consistent with their mission.

A **Foreign Country of Concern** includes 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.

Foreign Talent Recruitment Programs.

A **Foreign Talent Recruitment Program** is 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.

¹ A full copy of this policy can be accessed here:

<https://www.whitehouse.gov/wp-content/uploads/2024/02/OSTP-Foreign-Talent-Recruitment-Program-Guidelines.pdf>

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.

Malign Foreign Talent Recruitment Programs.

(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. 4001 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. 4001 note; Public Law 115-232).

Resources.

OSTP-Foreign Talent Recruitment Program Guidelines

<https://www.whitehouse.gov/wp-content/uploads/2024/02/OSTP-Foreign-Talent-Recruitment-Program-Guidelines.pdf>

CHIPS and Science Act

<https://www.congress.gov/bill/117th-congress/house-bill/4346/text>

National Science Foundation (NSF) Research Security Resources

<https://new.nsf.gov/research-security>