

DSCC Foreign Talent Recruitment Program Policy

I. Purpose

To comply with federal law and to require that all Covered Individuals (1) disclose any participation in a Foreign Talent Recruitment Program and (2) certify that they are not participating in a Malign Foreign Talent Recruitment Program.

II. Scope

Establish procedures to comply with federal law and to require that all Covered Individuals (1) disclose any participation in a Foreign Talent Recruitment Program and (2) certify that they are not participating in a Malign Foreign Talent Recruitment Program.

III. Policy

I. Disclosure by Covered Individuals

A. Any College faculty or staff member defined as a Covered Individual who is engaged in U.S. federally funded research activities must disclose participation in a Foreign Talent Recruitment Program. If participating in a Foreign Talent Recruitment Program, a Covered Individual must certify that they are not participating in a Malign Foreign Talent Recruitment Program.

B. For federal grant applications, investigators and senior/key personnel will be required to disclose any Foreign Talent Recruitment Program participation at the time of grant submission. The principal investigator, as well as any co-principal investigators and others identified by the principal investigator, are also required to certify that they do not participate in any Malign Foreign Talent Recruitment Program.

C. Disclosures must be made to the College, both annually and upon submission of any federal grant application, through the College's Conflict of Interest disclosure system.

D. The College will use the established Conflict of Interest Disclosure Review Committee established in DSCC 12:05:01:00 Conflict of Interest Policy (hereafter, Committee) for:

1. Reviewing disclosures by Covered Individuals and verifying the accuracy and completeness of the information provided, and assessing whether participation in the Foreign Talent Recruitment Program aligns with TBR and college policies and complies with federal regulations;
2. Providing guidance to Covered Individuals on compliance with this policy;
3. If potential involvement with a Malign Foreign Talent Recruitment Program is identified, undertaking further investigation, and taking

appropriate action, which may include obtaining legal advice from the Office of General Counsel, recommending suspension of certain activities, and taking corrective measures;

4. Maintaining accurate records of all disclosures and taking action to ensure ongoing compliance with this policy, including reviews of research activities as necessary; and
5. Providing training to faculty and staff about disclosure requirements, the implications of participation in a Foreign Talent Recruitment Program, and the implications of non-compliance.

E. Covered Individuals are prohibited from participating in a Malign Foreign Talent Recruitment Program, in accordance with the CHIPS and Science Act of 2022 and National Security Presidential Memorandum-33.

IV. Compliance

The college will ensure covered individuals comply with this guideline.

V. Definitions

- A. "Covered Individual" means any College or System Office faculty or staff member who is funded by a federal award and 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 is designated as a covered individual by the federal research agency concerned. Colleges shall consider the principal investigator, as well as any co-principal investigators to be Covered Individuals and require that they provide applicable disclosures and certifications.
- B. "Foreign Talent Recruitment Program" means 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 or not directly or indirectly stated in the arrangement, contract, or other documentation at issue.
- C. "Malign Foreign Talent Recruitment Program" means any Foreign Talent Recruitment Program that meets either one of the following two criteria:
 1. Where compensation or remuneration from any foreign country is provided to the Covered Individual in exchange for any of the following:
 - 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 U.S. 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 by a foreign country 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 U.S. 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 U.S. federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the U.S. federal research and development award;
 - h. Being required to not disclose to the U.S. federal research agency or employing organization the participation of a Covered 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 U.S. federal research and development award.
2. Where a Covered Individual is sponsored or supported 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). Foreign countries of concern currently include:
 - a. China;
 - b. North Korea;
 - c. Russia;
 - d. Iran; or
 - e. An academic institution or foreign talent recruitment program on the list developed under §1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115-232) available at <https://basicresearch.defense.gov>.

D. Acceptable International Collaboration Activities. 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 identified in Section II.C.2.

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

VI. Revision History

Approved by Administrative Council on 8/14/2024.

Authority

T.C.A. § 49-8-203;

History

New Guideline August_, 2024.