

Policy for Risk-Based Security Reviews of Fundamental Research

Bindu R. Nair
Director, Basic Research
OUSD(R&E)

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POC: Bindu Nair, (571) 372-6418





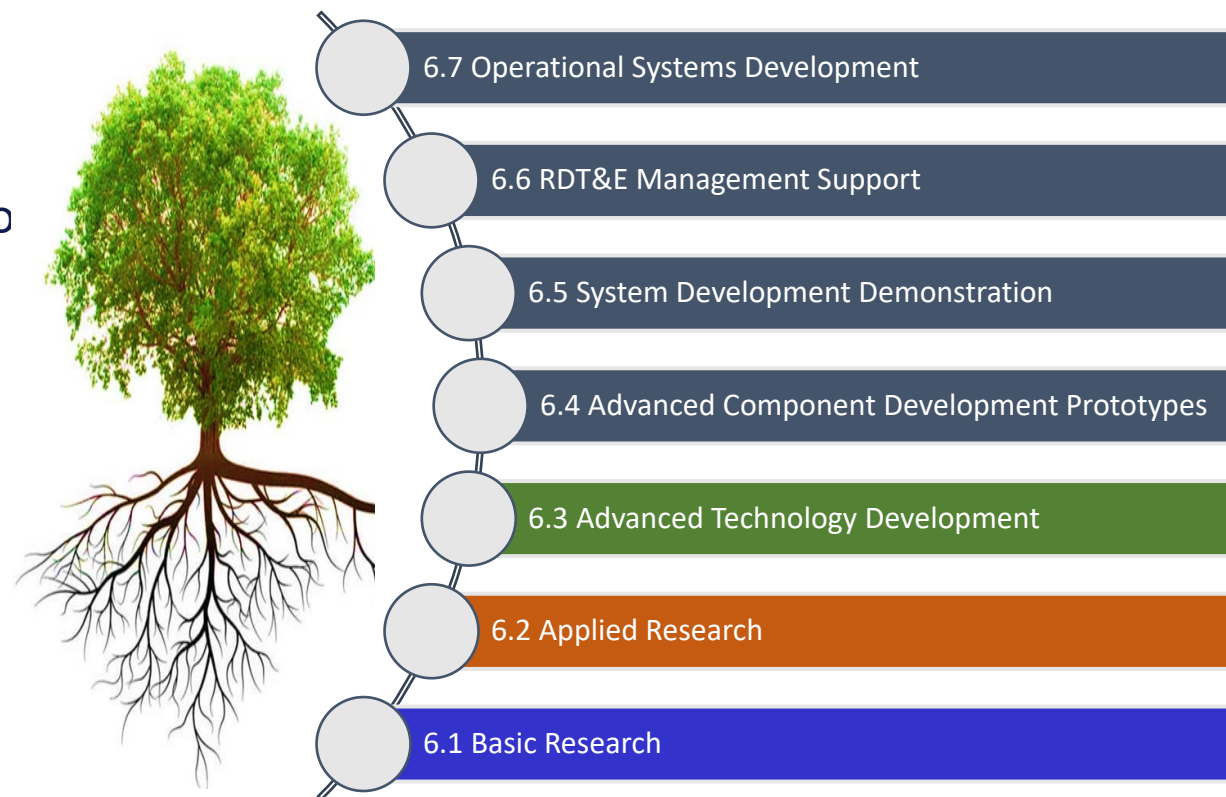
Outline

- Fundamental research and the open research enterprise
- Policy on risk-based security review processes pursuant to National Security Presidential Memorandum-33
 - New risk-based security review policy
 - DoD Component risk-based security reviews
 - Mitigation or rejection decisions
 - Oversight by the Office of the Under Secretary of Defense for Research and Engineering
 - Decision matrix
 - 1286 lists



Securing DoD Dominance in Science and Technology Requires Investment in Open Science

- DoD invests in high technology readiness level research to advance known technologies. It has many protections around this type of research and does not conduct it in the open
- Investing in today's known problems is not enough to secure DoD's future advantage in science and technology
- DoD invests in fundamental research to source **radical ideas** that will lead to breakthroughs that will **reshape the military capabilities of the future**
- **Radical ideas come from highly trained highly creative people who are engaged in the global science conversation**
- DoD only engages in open science when the benefit outweighs the risk





The Open Research Enterprise

- This brief is focused solely on proposals for fundamental research conducted by academic institutions. This means:
 - Research that is largely free from restrictions such as publication reviews or restrictions on foreign nationals.
- Fundamental research and open international collaborations are invaluable for scientific creativity that enables the DoD to maintain a competitive research advantage.
- The Department is enacting risk-based security reviews of fundamental research projects to comply with National Security Presidential Memorandum - 33



DoD's policy stems from an interagency directive

2021: National Security Presidential Memorandum – 33 (NSPM-33)

- ❑ NSPM-33 is an interagency coordinated activity to address foreign influence at academic institutions
- ❑ One directive is that heads of research funding agencies require disclosure of information related to potential **conflicts of interest & commitment** from participants in Federally-funded R&D
- ❑ 2022 National Science and Technology Council Implementation Guidance states: “Agencies should incorporate measures that are risk-based, in the sense that they provide meaningful contributions to addressing identified risks to research security and integrity and offer tangible benefit that justifies any accompanying cost or burden”



Current status on Department-Wide Risk Based Review Procedures

- The Deputy Secretary of Defense signed a memorandum on 14 Dec 2022 on National Security Presidential Memorandum – 33 Implementation
- The Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)) is directed to ensure a consistent implementation of NSPM-33 across the Department and to ensure the Department’s policies are aligned with the interagency and OSTP



DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010

DEC 14 2022

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Department of Defense Memorandum on National Security Presidential Memorandum-33 Implementation

National Security Presidential Memorandum-33 (NSPM-33) on “United States Government-Supported Research and Development National Security Policy” (attached), dated January 14, 2021, directs a national response to safeguard the security and integrity of Federally-funded research and development in the United States. The Director of the Office of Science and Technology Policy (OSTP) is leading Federal research funding agencies, including the DoD, in developing research security measures and implementing NSPM-33. The National Science and Technology Council (NSTC) will serve as OSTP’s lead office, charged to deliver an all-of-government approach to research security and a coordinated response to the threats facing the Nation’s research enterprise.

As my representative to the NSTC, I am assigning the Under Secretary of Defense for Research and Engineering (USD(R&E)) the responsibility for oversight of NSPM-33 implementation for the DoD. In accordance with this assignment, the USD(R&E) is directed to ensure consistent implementation of NSPM-33 across the Department and to ensure that the Department’s policies are aligned with those developed by other Federal agencies and those recommended by OSTP. To fulfill the requirements of NSPM-33, each of your Components is directed to take appropriate steps to secure Component-funded research efforts, including efforts for fundamental research, remain consistent with the NSTC’s January 4, 2022 implementation guidance (attached) and any direction provided by the USD(R&E).

Within 30 days of this memorandum, I direct all Department Components to designate a point of contact for NSPM-33 implementation. Within 90 days of this memorandum, the USD(R&E) shall compile and disseminate a draft Department-level NSPM-33 implementation plan.

The USD(R&E) shall develop additional Department-level guidance, as necessary, to carry out the Department-level NSPM-33 implementation plan.

Attachments:
As stated



OSD005055-22/CMD006428-22



Policy for Risk-Based Security Reviews of Fundamental Research Policy

- The Countering Unwanted Foreign Influence in Department-Funded Research Institutions of Higher Education policy and enclosures was publicly released June 30, 2023
- **Policy for risk-based security reviews of fundamental research**
 - Intent is to ensure consistent application of risk-based security reviews for fundamental research project proposals across the DoD
- **DoD Component Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions**
 - A guide to assist program managers and DoD components in reviewing fundamental research proposals for potential conflicts of interest and conflicts of commitment.
- **FY22 Lists Published in Response to Section 1286 of NDAA 2019**
 - The 1286 List includes foreign institutions that have been confirmed as engaging in problematic activity as described in Section 1286(c)(8)(A) of the NDAA for FY 2019, as amended. It also identifies the foreign talent programs that have been confirmed as posing a threat to the national security interests of the United States as described in Section 1286(c)(9)(A) of the NDAA for FY 2019, as amended. Per the Decision Matrix, certain engagements with these institutions will require mitigation before a proposal can be funded.

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RELEASE
IMMEDIATE RELEASE

Department of Defense Strengthening Efforts to Counter Unwanted Foreign Influence on DOD-Funded Research at Institutions of Higher Education

June 30, 2023 | f t r

The Department of Defense today announced the publication of a list of foreign entities that have been confirmed as engaging in problematic activity as described in Section 1286 of the Fiscal Year 2019 National Defense Authorization Act, as amended. These include practices and behaviors that increase the likelihood that DOD-funded research and development efforts will be misappropriated to the detriment of national or economic security or be subject to violations of research integrity or foreign government interference.

"Protecting and maintaining the integrity of our research enterprise is integral to national security," said Heidi Shyu, Under Secretary of Defense for Research and Engineering (USD(R&E)). "The publication of these foreign entities underscores our commitment to ensuring the responsible use of federal research funding and safeguarding our critical technologies from exploitation or compromise."

<https://www.defense.gov/News/Releases/Release/Article/3445601/department-of-defense-strengthening-efforts-to-counter-unwanted-foreign-influen/>

<https://media.defense.gov/2023/Jun/29/2003251160/-1/-1/1/COUNTERING-UNWANTED-INFLUENCE-IN-DEPARTMENT-FUNDED-RESEARCH-AT-INSTITUTIONS-OF-HIGHER-EDUCATION.PDF>



Key Takeaways

- The Department is committed to preserving open science, international collaboration, and involvement of talented foreign students and researchers in DoD-funded fundamental research
- The Department's policy is to mitigate potential conflicts of interest listed in the Decision Matrix to the maximum extent possible
- Policy implementation will be transparent and consistent across the Department
- The Department will not discriminate on the basis of race or national origin
- The Department will not penalize researchers for activities believed acceptable prior to the USD(R&E) Griffin Letter to Academia, dated 10 October 2019
- The Department is interested in collecting feedback from the academic community as it implements its policy. The decision matrix may be updated to incorporate changes in law and policy, account for lessons learned, and ensure consistency with other Federal agencies.



DoD component risk-based security review

Every fundamental research proposal selected for award based on technical merit will undergo a risk-based review

Component policies must:

- Ensure a proposal is fundamental research
- Use the Decision Matrix
- Use the disclosures and Standard Form 424 submitted by the proposing institution for all covered individuals listed in fundamental research project proposals selected for award to identify potential research security risks and employ relevant publicly available information, at a minimum, to verify the information submitted in the disclosures and Standard Form 424
- Conduct annual reviews of funded research projects using the Research Performance Progress Report
- Not discourage international research collaboration
- Not impact time to award if no mitigation is necessary.
 - Working with the institution to mitigate conflicts of interest may result in additional time to award
- Define the level of research security risk mitigation determination that is appropriate for the components to follow their customary process to recommend and make funding decisions and when a decision by component leadership (or designee) is required



Mitigating potential risks

- Mitigation is the preferred option for Components to take concerning any risks uncovered
- Mitigation measure examples:
 - Require the covered individual(s) to complete insider risk awareness training;
 - Require increased frequency of reporting by the covered individual(s) through the Research Performance and Progress Report (RPPR);
 - Replace individuals listed in the fundamental research project proposal who are deemed a research security risk;
 - Provide DoD the covered individual's(s') contracts for review and clarity relationships, affiliations, and/or associations considered risky; and
 - Require the covered individual(s) to resign from positions deemed problematic by the risk-based security review.



Denials

- Denials shall only occur when risks are unable to be mitigated or if required by law
- Denials must be explained in writing to proposing institutions, including unclassified rationale
- Institutions may challenge a denial and OUSD(R&E) will mediate



OUSD(R&E) Oversight

- Denials must be reported to OUSD(R&E) and other Components
- Components shall provide OUSD(R&E) with a summary of risk-based security reviews including number of reviews, denials, and description of denials on an ongoing basis
- OUSD(R&E) may also conduct periodic spot checks independent of the Component process
- OUSD(R&E) must ensure that Components' policies and implementation are in line with other Components' and Federal agencies' policies



Decision Matrix



Decision matrix considers four factors to determine whether mitigation measures are needed

- **Foreign talent recruitment programs** – is a way a Foreign Country of Concern (FCOC) corrupts the open research enterprise by conducting secretive dealings between recipients and the FCOC, including transfer of knowledge and personnel outside of norms
 - Malign foreign talent recruitment program – defined in CHIPS
- **Funding sources** – accepting funding from FCOCs may create a conflicting obligation to that FCOC
- **Patents** – patents arising from US–funded research filed in a foreign country before being filed in the U.S. can be an indicator of undisclosed agreements with a foreign country
- **Entity lists** – problematic actors that affiliation or association with could create a conflict of interest or conflict of commitment
 - Affiliation = Academic (not including undergraduate or graduate students), professional, or institutional appointments or positions with a foreign government or a foreign government-connected entity, whether fulltime, part-time, or voluntary (including adjunct, visiting, post-doctoral appointment, or honorary), **where monetary reward, non-monetary reward, or other quid-pro-quo obligation is involved.**
 - Association = Academic (not including undergraduate or graduate students), professional, or institutional appointments or positions (including adjunct, visiting, voluntary, post-doctoral appointment, or honorary) with a foreign government or a foreign government-connected entity **where no monetary reward, non-monetary reward, or other quid-pro-quo is involved.**



Prohibited factors – prohibited by law

Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
<p>For the Period after 9 Aug 2024</p> <p>Indicators of participation in a malign foreign talent recruitment program (MFTRP) meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p> <p>Policy of Proposing Institution employing the covered individual does not prohibit participation in a MFTRP.</p>			



No mitigation needed

Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
<p>No indicator(s) of participation in an MFTRP; or</p> <p>No indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p>	<p>No indicator(s) that the covered individual is receiving or has received funding from an FCOC or an FCOC-connected entity.</p>	<p>All patent application(s) or patent(s), resulting from research funded by the USG, have been filed in the U.S. prior to filing in any other country.</p>	<p>No indicator(s) of any association or affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032, or superseding EOs, Sec. 1260H of the NDAA for FY 2021, Sec. 1286 of the NDAA for FY 2019, as amended, and no indicator(s) of publication in S&E journals co-authored with an individual on the U.S. BIS Denied Persons List.</p>



Mitigation measures suggested

Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
<p>For the period after 10 Oct 2019:</p> <p>Covered individual's co-author(s)⁹ on publications in scientific and engineering (S&E) journals are participants in an MFTRP or an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p> <p>For the period prior to 10 Oct 2019:</p> <p>Indicator(s) of participation in a FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p>	<p>For the period prior to 10 Oct 2019:</p> <p>Indicator(s) that the covered individual received limited or partial funding from a FCOC or an FCOC-connected entity.</p>	<p>Patent application(s) or patent(s) not disclosed in fundamental research project proposal, that resulted from research funded by the USG, that were filed in a non-FCOC prior to filing in the U.S. or on behalf of an entity in a non-FCOC.</p> <p>Co-patent applicant with a person on the U.S. BIS Denied Persons List.¹⁰</p>	<p>For the period after 10 Oct 2019:</p> <p>Covered individual's co-author(s) on publications in S&E journals are affiliated with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.</p> <p>Covered individual is a co-author on a publication in an S&E journal with a person on the U.S. BIS Denied Persons List.</p> <p>For the period prior to 10 Oct 2019:</p> <p>Indicator(s) of association with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.</p>



Mitigation measures recommended

Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
<p>For the period between 10 Oct 2019⁸ and 9 Aug 2022:</p> <p>Indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p> <p>For the period after 9 Aug 2022:</p> <p>Policy of proposing institution employing each covered individual does not prohibit participation in a MFTRP.</p>	<p>For the period between 10 Oct 2019 and 9 Aug 2022:</p> <p>Indicator(s) that the covered individual received funding from a FCOC or an FCOC-connected entity.</p>	<p>Patent application(s) or patent(s) disclosed in proposal, resulting from research funded by the USG, that were filed in an FCOC prior to filing in the U.S. or on behalf of an FCOC-connected entity.</p>	<p>For the period between 10 Oct 2019 and 9 Aug 2022:</p> <p>Indicator(s) of association with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.</p> <p>For the period prior to 10 Oct 2019:</p> <p>Indicator(s) of an affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.</p>



Mitigation measures required, factors discouraged by DoD policy, rejection of proposal if no mitigation possible

Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
<p>For the period after 9 Aug 2022¹:</p> <p>Indicator(s)² of participation³ in a foreign talent recruitment program (FTRP) meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.</p>	<p>Indicator(s) that the covered individual is currently receiving funding from a Foreign Country of Concern (FCOC) or a FCOC-connected entity.</p>	<p>Patent application(s) or patent(s) not disclosed in proposal, that resulted from research funded by the U.S. Government (USG), that were filed in an FCOC prior to filing in the U.S. or filed on behalf of an FCOC-connected entity.</p>	<p>For the period after 9 Aug 2022:</p> <p>Indicator(s) of association with an entity on: the U.S. Bureau of Industry and Security (BIS) Entity List,⁴ the Annex of Executive Order (EO) 14032⁵ or superseding EOs, Sec. 1260H of the National Defense Authorization Act (NDAA) for FY 2021,⁶ or Sec. 1286 of the NDAA for FY 2019, as amended.⁷</p> <p>For the period after 10 Oct 2019:⁶:</p> <p>Indicator(s) of affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.</p>



1286 Lists

FY22 Lists Published in Response to Section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232), as amended



FY22 Lists Published in Response to Section 1286 of Public Law 115-232, as amended

- The 1286 List includes foreign institutions that have been confirmed as engaging in problematic activity as described in Section 1286(c)(8)(A) of the NDAA for FY 2019, as amended. It also identifies the foreign talent programs that have been confirmed as posing a threat to the national security interests of the United States as described in Section 1286(c)(9)(A) of the NDAA for FY 2019, as amended.
 - Table 1: List of Institutions of the People's Republic of China, Russian Federation, and other Countries with Specific Characteristics
 - Table 2: Foreign Talent Programs that Pose a Threat to National Security Interests of the United States
- Documentation on problematic behaviors engaged in by the institutions on the 1286 list can be found in USG published sources
 - Entities List
 - Justice Department Court Cases



Table 1: List of Institutions of the People's Republic of China, Russian Federation, and other Countries with Specific Characteristics - Page 1 of 2

Academy of Military Medical Sciences (AMMS)
Academy of Military Medical Sciences, Field Blood Transfusion Institution
Academy of Military Medical Sciences, Institute of Basic Medicine
Academy of Military Medical Sciences, Institute of Bioengineering
Academy of Military Medical Sciences, Institute of Disease Control and Prevention a.k.a. <ul style="list-style-type: none"> Disease Control and Prevention Institute
Academy of Military Medical Sciences, Institute of Health Service and Medical Information
Academy of Military Medical Sciences, Institute of Hygiene and Environmental Medicine
Academy of Military Medical Sciences, Institute of Medical Equipment
Academy of Military Medical Sciences, Institute of Microbiology and Epidemiology a.k.a. <ul style="list-style-type: none"> Institute of Microbial Epidemiology
Academy of Military Medical Sciences, Institute of Radiation and Radiation Medicine a.k.a. <ul style="list-style-type: none"> Institute of Radiation and Radiation Medicine Institute of Electromagnetic and Particle Radiation Medicine
Academy of Military Medical Sciences, Institute of Toxicology and Pharmacology a.k.a. <ul style="list-style-type: none"> Institute of Toxicology and Drugs
Academy of Military Medical Sciences, Military Veterinary Research Institute
Beijing Aeronautical Manufacturing Technology Research Institute (BAMTRI) a.k.a. <ul style="list-style-type: none"> Aviation Industry Corporation of China's (AVIC) Institute 625
Beijing Computational Science Research Center (BCSRC) a.k.a. <ul style="list-style-type: none"> Beijing Computing Science Research Center CSRC
Beijing Institute of Technology
Beijing University of Aeronautics and Astronautics (BUAA) a.k.a. <ul style="list-style-type: none"> Beihang University
Beijing University of Posts and Telecommunications (BUPT)
Center for High Pressure Science and Technology Advanced Research (HPSTAR) a.k.a. <ul style="list-style-type: none"> Beijing High Voltage Research Center

Chinese Academy of Engineering Physics (CAEP) a.k.a. <ul style="list-style-type: none"> Ninth Academy Southwest Computing Center Southwest Institute of Applied Electronics Southwest Institute of Chemical Materials Southwest Institute of Electronic Engineering Southwest Institute of Environmental Testing Southwest Institute of Explosives and Chemical Engineering Southwest Institute of Fluid Physics Southwest Institute of General Designing and Assembly Southwest Institute of Machining Technology Southwest Institute of Materials Southwest Institute of Nuclear Physics and Chemistry (a.k.a., China Academy of Engineering Physics (CAEP) 902 Institute) Southwest Institute of Research and Applications of Special Materials Factory Southwest Institute of Structural Mechanics The High Power Laser Laboratory, Shanghai The Institute of Applied Physics and Computational Mathematics, Beijing 901 Institute
Chinese Academy of Sciences - Shenyang Institute of Automation
Federal Research Center Boreskov Institute of Catalysis
Federal State Budgetary Institution of Science P.I.K.A. Valiev RAS of the Ministry of Science and Higher Education of Russia a.k.a. <ul style="list-style-type: none"> FTIAN IM K.A. Valiev RAS FTI RAS FTIAN
Harbin Engineering University
Harbin Institute of Technology
Hefei National Laboratory for Physical Sciences at the Microscale
Institute of High Energy Physics (IHEP) a.k.a. <ul style="list-style-type: none"> Kurchatovskiy Institute ITEP
Institute of Solid-State Physics of the Russian Academy of Sciences (ISSP) a.k.a. <ul style="list-style-type: none"> Institute of Solid-State Physics of the Academy of Sciences SSSR Federal State Budgetary Institution of Science Institute of Solid-State Physics N.A. Yu. A. Osipyanof of the Russian Academy of Sciences
Mabna Institute
Moscow Institute of Physics and Technology (MIPT) a.k.a. <ul style="list-style-type: none"> MFTI



Table 1: List of Institutions of the People’s Republic of China, Russian Federation, and other Countries with Specific Characteristics - Page 2 of 2

<p>Moscow Order of the Red Banner of Labor Research Radio Engineering Institute JSC a.k.a.</p> <ul style="list-style-type: none"> • MNIRTI JSC
Nanjing University of Aeronautics and Astronautics
Nanjing University of Science and Technology
<p>National University of Defense Technology (NUDT) a.k.a.</p> <ul style="list-style-type: none"> • Central South CAD Center • CSCC • Hunan Guofang Keji University
<p>Northwestern Polytechnical University a.k.a.</p> <ul style="list-style-type: none"> • Northwestern Polytechnic University • Northwest Polytechnic University • Northwest Polytechnical University
Ocean University of China
<p>Rzhanov Institute of Semiconductor Physics, Siberian Branch of Russian Academy of Sciences a.k.a.</p> <ul style="list-style-type: none"> • IPP SB RAS • Institute of Semiconductor Physics IM A.V. Rzhanov
Sichuan University
Sun Yat-Sen University
<p>Tactical Missile Corporation, Concern “MPO—Gidropribor” a.k.a.</p> <ul style="list-style-type: none"> • Joint Stock Company Concern Sea Underwater Weapons Gidropribor • Research Institute “Gidpropridor”
<p>Tactical Missile Corporation, Joint Stock Company GosNIIMash a.k.a.</p> <ul style="list-style-type: none"> • PPORosprofprom V “GOSNIIMASH” • State Research Institute of Mechanical Engineering • Pervichnaya Profsoyuznaya Organizatsiya Rossiskogo Profsoyuza Rabotnikov Promyshlennosti V • “GOSNIIMASH” • Joint Stock Company “State Research Institute of Mechanical Engineering” named after “V.V.Bakhirev” • SKB DNIKhTI
Tianjin University
University of Electronic Science and Technology of China



Table 2: Foreign Talent Programs that Pose a Threat to National Security Interests of the United States

Changjiang Scholar Distinguished Professorship
Hundred Talents Plan
Pearl River Talent Program
Project 5-100
River Talents Plan
Thousand Talents Plan
Any program that meets one of the criteria contained in Section 10638 (4)(A) and either Section 10638 (4)(B)(i) or (ii) in the CHIPS and Science Act



Contact Us

- Contact the **Academic Liaison** for any questions/concerns/issues pertaining to research security at institutions of higher education at:
osd.mc-alex.ousd-r-e.mbx.academic-liaison@mail.mil
- DoD research security information:
 - **Academic research security pertaining to fundamental research**
Basic Research Office website at:
<https://basicresearch.defense.gov/Programs/Academic-Research-Security/>
 - **Efforts to balance the promotion and protection of critical and emerging technology through the technology development cycle**
Science and Technology Program Protection Office's Maintaining Technology Advantage website at: <https://rt.cto.mil/stpp/mta/#>
 - **DoD's public release of the Policy for Risk-Based Security Reviews** including the decision matrix and 1286 lists: Defense.gov:
<https://www.defense.gov/News/Releases/Release/Article/3445601/departments-of-defense-strengthening-efforts-to-counter-unwanted-foreign-influen/>



- Back up slides



Legislative Direction: Section 1286

2019 NDAA Section 1286 as amended – Initiative to Support Protection of National Security Academic Researchers from Undue Influence and other Security Threats

- Directs the Department to establish an initiative
 - (1) to support protection of intellectual property, controlled information, key personnel, and information about critical technologies relevant to national security;
 - (2) to limit undue influence, including through foreign talent programs, by countries to exploit United States technology within the Department of Defense research, science and technology, and innovation enterprise; and
 - (3) to support efforts toward development of domestic talent in relevant scientific and engineering fields.
- Directs the department to develop and publish
 - List of problematic foreign Influence programs
 - List of academic institutions that have a history of improper technology transfer
- Directs Annual Report



Legislative Direction: CHIPS and Science Act of 2022

Creating helpful incentives to produce semiconductors (CHIPS) and Science Act of 2022

Subtitle D – Research Security

SEC. 10631. REQUIREMENTS FOR FOREIGN TALENT RECRUITMENT PROGRAMS.

(a) PURPOSE.—The purpose of this subtitle is to direct actions to prohibit participation in any foreign talent recruitment program by personnel of Federal research agencies and to prohibit participation in a malign foreign talent recruitment program by covered individuals involved with research and development awards from those agencies.

(b) GUIDANCE.—Not later than 180 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy, in coordination with the interagency working group established under section of the National Defense Authorization Act for Fiscal Year 2020 (42 U.S.C. 6601 note; Public Law 116–92), shall publish and widely distribute a uniform set of guidelines for Federal research agencies regarding foreign talent recruitment programs. Such policy guidelines shall—

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Legislative Direction: Section 223

2021 NDAA Section 223 – Disclosure of Funding Sources in Application for Federal Research And Development Awards

(a) **DISCLOSURE REQUIREMENT.**—Each Federal research agency shall require, as part of any application for a research and development award from such agency—

(1) that each covered individual listed on the application—

(A) disclose the amount, type, and source of all current and pending research support received by, or expected to be received by, the individual as of the time of the disclosure;

(B) certify that the disclosure is current, accurate, and complete; and

(C) agree to update such disclosure at the request of the agency prior to the award of support and at any subsequent time the agency determines appropriate during the term of the award; and

(2) that any entity applying for such award certify that each covered individual who is employed by the entity and listed on the application has been made aware of the requirements under paragraph (1).

(b) **CONSISTENCY.**—The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council and in accordance with the authority provided under section 1746(a) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116–92; 42 U.S.C. 6601 note) shall ensure that the requirements issued by Federal research agencies under subsection (a) are consistent.



Legislative Direction: Section 1746-Securing American Science and Technology

2020 NDAA Section 1746 – Securing American Science and Technology

- (a) **INTERAGENCY WORKING GROUP.— (1) IN GENERAL.—**The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council, in consultation with the National Security Advisor, shall establish or designate an interagency working group to coordinate activities to protect federally funded research and development from foreign interference, cyber attacks, theft, or espionage and to develop common definitions and best practices for Federal science agencies and grantees, while accounting for the importance of the open exchange of ideas and international talent required for scientific progress and American leadership in science and technology.
- (b) **NATIONAL ACADEMIES SCIENCE, TECHNOLOGY AND SECURITY ROUNDTABLE.— IN GENERAL.—**The National Science Foundation, the Department of Energy, and the Department of Defense, and any other agencies as determined by the Director of the Office of Science and Technology Policy, shall enter into a joint agreement with the Academies to create a new “National Science, Technology, and Security Roundtable”
- PURPOSE.—**The purpose of the roundtable is to facilitate among participants—
- A. exploration of critical issues related to protecting United States national and economic security while ensuring the open exchange of ideas and international talent required for scientific progress and American leadership in science and technology;
 - B. identification and consideration of security threats and risks involving federally funded research and development, including foreign interference, cyber attacks, theft, or espionage;
 - C. identification of effective approaches for communicating the threats and risks identified in subparagraph (b) to the academic and scientific community, including through the sharing of unclassified data and relevant case studies;
 - D. sharing of best practices for addressing and mitigating the threats and risks identified in subparagraph (B); and
 - E. examination of potential near- and long-term responses by the Government and the academic and scientific community to mitigate and address the risks associated with foreign threats.



Research Security Review

- USD(R&E) released a policy on June 8, 2023 requiring that all fundamental research proposals selected for funding undergo a research security review to identify conflicts of interest arising from foreign influence.
- DoD developed a decision matrix to guide DoD Components in determining how to identify and assess risk of foreign influence in fundamental research projects at U.S. universities
- The review considers associations, affiliations, patent applications, funding sources, and participation in foreign talent plans
- The decision matrix is accompanied by a list of foreign institutions that have been confirmed as engaging in problematic activity

Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions

Prohibited Factors	Programs			
	For the period after 9 Aug 2024: Indicators of participation in a malign foreign talent recruitment program (MFRTP) meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022. Policy of proposing institution employing the covered individual does not prohibit participation in an MFRTP. For the period after 9 Aug 2022: ¹			
Factors discouraged by DoD policy; mitigation measures required, rejection of proposal required if no mitigation possible	Indicator(s) ² of participation ³ in a foreign talent recruitment program (FTRP) meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.	Indicator(s) that the covered individual is currently receiving funding from a foreign country of concern (FCOC) or an FCOC-connected entity.	Patent application(s) or patent(s) not disclosed in proposal, that resulted from research funded by the U.S. Government (USG), that were filed in an FCOC prior to filing in the U.S. or filed on behalf of an FCOC-connected entity.	Indicator(s) of association with an entity on: the U.S. Bureau of Industry and Security (BIS) Entity List, ⁴ the Annex of Executive Order (EO) 14032 ⁵ or superseding EOs, or Sec. 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021. ⁶ For the period after 10 Oct 2019: ⁶ Indicator(s) of affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021. For the period between 10 Oct 2019 and 9 Aug 2022:
Mitigation measures recommended	For the period between 10 Oct 2019 ⁷ and 9 Aug 2022: Indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.	For the period between 10 Oct 2019 and 9 Aug 2022: Indicator(s) that the covered individual received funding from an FCOC or an FCOC-connected entity.	Patent application(s) or patent(s) disclosed in proposal, that resulted from research funded by the USG, that were filed in an FCOC prior to filing in the U.S. or on behalf of an FCOC-connected entity.	Indicator(s) of association with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021. For the period prior to 10 Oct 2019: Indicator(s) of an affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021.
Mitigation measures recommended	For the period after 9 Aug 2022: Policy of proposing institution employing the covered individual does not prohibit participation in an MFRTP. For the period after 10 Oct 2019:			
Mitigation measures suggested	Covered individual's co-author(s) ⁸ on publications in scientific and engineering (S&E) journals are participants in an MFRTP or an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.		Patent application(s) or patent(s) not disclosed in fundamental research project proposal, that resulted from research funded by the USG, that were filed in a non-FCOC prior to filing in the U.S. or on behalf of an entity in a non-FCOC.	For the period after 10 Oct 2019: Covered individual's co-author(s) on publications in S&E journals are affiliated with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021. Covered individual is a co-author on a publication in an S&E journal with a person on the U.S. BIS Denied Persons List
No mitigation needed	For the period prior to 10 Oct 2019: Indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022. No indicator(s) of participation in an MFRTP; or No indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.	For the period prior to 10 Oct 2019: Indicator(s) that the covered individual received limited or partial funding from an FCOC or an FCOC-connected entity. No indicator(s) that the covered individual is receiving or has received funding from an FCOC or an FCOC-connected entity.	Co-patent applicant with a person on the U.S. BIS Denied Persons List. ⁹ Indicator(s) that the covered individual received limited or partial funding from an FCOC or an FCOC-connected entity. All patent application(s) or patent(s), resulting from research funded by the USG have been filed in the U.S. prior to filing in any other country.	For the period prior to 10 Oct 2019: Indicator(s) of association with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021. No indicator(s) of any association or affiliation with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding EOs, or Sec. 1260H of the NDAA for FY 2021, and no indicator(s) of publication in S&E journals co-authored with an individual on the U.S. BIS Denied Persons List.