Information on Malign Foreign Talent Recruitment Program

Malign foreign talent recruitment programs were defined by Congress in the [CHIPS and Science Act of 2022](https://www.congress.gov/bill/117th-congress/house-bill/4346). The definition distinguishes between “malign” programs and those that aren’t malign. Malign foreign talent recruitment programs are programs, positions or activities sponsored by a country of concern (China, Iran, North Korea or Russia) or by certain academic institutions. They include one or more of the following indicators:

* Engagement in the unauthorized transfer of intellectual property or other nonpublic information.
* Recruiting trainees or researchers to enroll in such program, position, or activity.
* Establishment of a laboratory, employment or appointment in a foreign country in violation of the terms and conditions of a U.S. federally funded research award.
* Inability to terminate program contract or agreement.
* Overcapacity, overlap or duplication.
* Research funding from the foreign institution’s government.
* Omission of U.S. home institution and/or funding agency acknowledgement.
* Nondisclosure of program participation.
* Conflict of interest and/or [conflict of commitment](https://research.missouri.edu/international-activities/malign-foreign-talent-recruitment-programs#commitment).

It is not illegal to engage in malign foreign talent recruitment programs. However, by August 2024, Missouri University of Science and Technology will have a policy prohibiting participation in the programs. Additionally, the CHIPS Act has prohibited federal funding agencies from issuing awards to anyone who participates in a malign program.

If you think you may be in a [malign foreign talent recruitment program](https://research.missouri.edu/international-activities/malign-foreign-talent-recruitment-programs#mftrp), please contact the Associate Director of Compliance immediately. UM System Research Security and Compliance can help confirm whether your program is, in fact, a malign foreign talent recruitment program and discuss mitigation measures we may be able to take. Research Security and Compliance also proactively reviews conflicts of interest disclosures to identify the indicators pursuant to [standard operating procedures](https://docs.research.missouri.edu/export_controls/OEC_COI_coordination.pdf).

**Definitions**

**Conflict of commitment**

The definition from [NSPM-33](https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-united-states-government-supported-research-development-national-security-policy/) is: A situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities.  Many organizational policies define conflicts of commitment as conflicting commitments of time and effort, including obligations to dedicate time in excess of organizational or research agency policies or commitments.   Other types of conflicting obligations, including obligations to improperly share information with, or to withhold information from, an employer or research agency, can also threaten research security and integrity, and are an element of a broader concept of conflicts of commitment used in this document.

**Malign foreign talent recruitment program**

The definition from [CHIPS and Science Act of 2022](https://www.congress.gov/bill/117th-congress/house-bill/4346) is: 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;
  + (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).