

What is a *Malign* Foreign Talent Recruitment Program (MFTRP)?

The National Science Foundation, Department of Defense, and other federal funding agencies are beginning to prohibit sponsored research personnel from participating in Malign Foreign Talent Recruitment Programs (MFTRPs), as required by the CHIPS and Science Act of 2022. But not all foreign talent recruitment programs are *malign*.

How do you know if an arrangement is a MFTRP? If the arrangement is described in Box A below, **and** has at least one factor from Box B **and** at least one factor from Box C, the arrangement falls within the CHIPS and Science Act's definition of a MFTRP. Please do not hesitate to contact the Export Controls Officer with any questions.

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—

B. Problematic Obligations/Activities

In exchange for the individual—

- (1) 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;
- (2) being required to recruit trainees or researchers to enroll in such program, position, or activity;
- (3) 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;
- (4) being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;
- (5) 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;
- (6) 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;
- (7) 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;
- (8) 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**
- (9) having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award;

C. Problematic Sponsorship

And is a program sponsored by—

- (1) a foreign country of concern (FCOC), currently defined as:
 - China,
 - Iran,
 - North Korea, and
 - Russia;
- (2) an entity based in a FCOC, whether or not the program is directly sponsored by the government of the FCOC; **or**
- (3) an academic institution or a foreign talent recruitment program identified by the Department of Defense