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Introduction to Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions

The document “Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions” is a guide to assist program managers and DoD Components in reviewing fundamental research proposals for potential conflicts of interest and conflicts of commitment. This decision matrix identifies actions prohibited by law that would preclude an investigator or institution from receiving funding from the Department. The document also describes conditions under which mitigation is required or recommended prior to receiving funding from the Department, depending on the type of conflict and the timeframe in which it occurs. The Department is making this document public to be transparent about the types of behaviors the Department finds problematic and to provide DoD-funded researchers a better understanding about how their proposals may be received and reviewed.

DoD Component Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions

This document provides: factors to inform fundamental research assistance mitigation decisions, key definitions, reference materials, and corresponding implementation guidance for DoD Components making fundamental research project proposal award decisions.

DoD Components shall conduct an annual verification in accordance with Section 10632(a)(1) of the CHIPS and Science Act of 2022 (Public Law 117-167) to confirm that each participant listed on the Research Performance Progress Report (RPPR) is not a participant in a malign foreign talent recruitment program meeting any of the criteria in Section 10638(4)(A)(i)-(ix) of the CHIPS and Science Act of 2022.

DoD Components shall provide to the Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), on a semiannual basis, summaries of all risk-based security reviews, including the number of reviews conducted, the number of fundamental research project proposals rejected based on risk-based security review, and descriptions of the research security risks that led to the rejection of each rejected proposal. The OUSD(R&E) will change the frequency with which DoD Components must update these summaries as necessary to maintain adequate visibility into DoD Component usage of Table 1 for fundamental research proposal mitigation decisions.

Actions prohibited by law:

- Beginning August 9, 2024, the DoD is prohibited from providing funding to or making an award of a fundamental research project proposal in which a covered individual is participating in a malign foreign talent recruitment program or to a proposing institution that does not have a policy addressing malign foreign talent programs pursuant to Section 10632 of the CHIPS and Science Act of 2022.
- Beginning in Fiscal Year (FY) 2024, no U.S. institution of higher education that hosts a Confucius Institute may receive DoD funding unless the institution of higher education has been issued a waiver by the Secretary of Defense pursuant to Section 1062 of the William M. (Mac) Thornberry National Defense Authorization Act for FY 2021.

A covered individual's collaborations with international researchers, including researchers from foreign countries of concern, does not require mitigation if it does not include any of the factors described in Table 1 (below). Table 1 identifies collaboration factors as a relationship (e.g., co-authorship) with individuals or entities, regardless of country, that are known to engage in practices and behaviors that increase the likelihood that research and development efforts or results will be misappropriated to the detriment of national or economic security, as well as related violations of research integrity, and foreign government interference. International collaboration is an important mechanism for participating in the global scientific commons and promoting progress in fundamental research.

Table 1: Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions
Factors for Assessing a Covered Individual’s Associations, Affiliations, Collaborations, Funding, and the Policies of the Proposing Institution that Employs the Covered Individual

	Factor 1: Foreign Talent Recruitment Programs	Factor 2: Funding Sources	Factor 3: Patents	Factor 4: Entity Lists
Prohibited factors	<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>			
Factors discouraged by DoD policy, mitigation measures required, rejection of proposal required if no mitigation possible	<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>
Mitigation measures recommended	<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>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>

	Policy of proposing institution employing each covered individual does not prohibit participation in a MFTRP.			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.
Mitigation measures suggested	<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>
No mitigation needed	<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>

Note 1: The level of mitigation needed is elevated if any of the disclosed or identified indicators occurred after the signing of the CHIPS and Science Act of 2022.

Note 2: An indicator may reveal or acknowledge undue foreign influence. Examples include foreign funding or foreign affiliations revealed in proposal disclosures, publications, curriculum vitae (CV), institution website announcements, or social media posts.

Note 3: Participation may be identified by a contract between the covered individual and an FTRP, reported by the covered individual in the fundamental research project proposal or on a CV or resume, or identification in an acknowledgement in a publication listing the covered individual and an FTRP.

Note 4: An addition to the U.S. BIS Entity List is active on or after the Federal Register citation date provided on the U.S. BIS Entity List.

Note 5: EO 14032, “Addressing the Threat from Securities Investments That Finance Certain Companies of the People’s Republic of China,” dated June 3, 2021 (superseding EO 13959) bans new U.S. investment in of certain communist military companies (CCMCs). The DoD maintains and updates lists of CCMCs for the purposes of compliance with EO 14032.

Note 6: The Notice of Designation of Chinese Military Companies under section 1260H of the NDAA for FY 2021 is published in the Federal Register (86 FR 33994), effective 28 June 2021.

Note 7: The List of Institutions of the People's Republic of China, Russian Federation, and Other Countries with Specified Characteristics under section 1286 of the NDAA for FY 2019, as amended, is published at <https://rt.cto.mil/stpp/mta/>

Note 8: The level of mitigation need is elevated if any of the disclosed or identified indicators occurred after publication of the Under Secretary of Defense for Research and Engineering (USD(R&E)) Griffin Letter to Academia, dated 10 Oct 2019.

Note 9: Co-authorship is identified as a category where mitigation is suggested when a covered individual is collaborating with entities or persons associated with factors listed in this matrix and should not be a basis for rejection of a fundamental research project proposal.

Note 10: Individuals on the U.S. BIS Denied Persons List are active between the effective date and the expiration date provided on the U.S. BIS Denied Persons List.

Definitions

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 full-time, 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.

Applied Research: Original scientific investigation undertaken in order to acquire new knowledge and directed primarily towards a specific practical aim or objective.

Basic Research: Experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts.

Confucius Institute: As defined in Section 1062(d) of the NDAA for FY 2021, a Confucius Institute is a cultural institute funded either directly or indirectly by the Government of the People's Republic of China. A cultural institute does not need to be named a "Confucius Institute" to be deemed to be a Confucius Institute.

Covered Individual: An individual at an extramural research institution who contributes significantly to the design and/or execution of a fundamental research project that is, or if selected for award would be, funded, in whole or in part, by the DoD, and who is considered essential to the successful performance of the fundamental research project. Covered individuals include those listed as key personnel in fundamental research project proposals, such as the principal investigator or co-principal investigators.

DoD Component: A Military Department, Defense Agency, DoD field activity, or organization within the Office of the Secretary of Defense.

Entity: An organization, including government organizations, non-governmental organizations, and private corporations, whether foreign or domestic.

Entity in a Non-Foreign Country of Concern: An organization, including government organizations, non-government organizations, and private corporations, incorporated in a non-foreign country of concern or physically located in a non-foreign country of concern.

Extramural Research Institution: Any institution of higher education, independent research institution, Federally Funded Research and Development Center, or any other entity where DoD-funded research and development is conducted. Extramural research institutions do not include DoD laboratories or other laboratories that are owned and operated by the Federal Government.

Foreign Country of Concern: The People's Republic of China, the Democratic People's Republic of Korea, the Russian Federation, and the Islamic Republic of Iran.

Foreign Entity of Concern: As defined in Section 10638(3) of the CHIPS and Science Act of 2022 (Public Law 117-167), a foreign entity that is:

- Designated as a foreign terrorist organization by the Secretary of State under Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));
- Included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the SDN List);

- Owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as such term is defined in Section 4872 of Title 10, United States Code);
- Alleged by the Attorney General to have been involved in activities for which a conviction was obtained under:
 - Chapter 37 of title 18, United States Code (commonly known as the Espionage Act)
 - Section 951 or 1030 of Title 18, United States Code (U.S.C);
 - Chapter 90 of Title 18, U.S.C. (commonly known as the Economic Espionage Act of 1996);
 - The Arms Export Control Act (22 U.S.C. 2751 et seq.);
 - Section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);
 - The Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or
 - The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or
- Determined by the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

Foreign Government-Connected Entity: An organization, including government organizations, non-governmental organizations, and private corporations, owned or operated directly or indirectly by a foreign government.

Foreign Talent Recruitment Program: As set forth in the National Science and Technology Council implementation guidance for National Security Presidential Memorandum 33, a foreign talent recruitment program is an effort organized, managed, or funded by a foreign government, or a foreign government instrumentality or entity, to recruit science and technology professionals or students (regardless of citizenship or national origin or whether providing the recruited individual a full-time or part-time position).

Fundamental Research: As defined in National Security Division Directive 189, dated September 21, 1985, fundamental research is basic and applied research in science and engineering conducted at colleges, universities, and laboratories, the results of which ordinarily are published and shared broadly within the scientific community.

Malign Foreign Talent Recruitment Program: As defined in Section 10638(4) of the CHIPS and Science Act of 2022 (Public Law 117-167), the term “malign 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 the targeted individual, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue, in exchange for the individual:
 - 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;
 - Being required to recruit trainees or researchers to enroll in such program, position, or activity;
 - 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;
- Being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;
- 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;
- 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;
- 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;
- 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
- Having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award; and
- A program that is sponsored 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;
 - An academic institution on the list developed under Section 1286(c)(8) of the John S. McCain NDAA for FY 2019 (10 U.S.C. 2358 note; Public Law 115-232); or
 - A foreign talent recruitment program on the list developed under Section 1286(c)(9) of the John S. McCain NDAA for FY 2019 (10 U.S.C. 2358 note; Public Law 115-232).

Mitigation of Research Security Risk: The action of reducing the severity or the effects of research security risks identified in a fundamental research project proposal.

Participation in a Malign Foreign Talent Recruitment Program: Affiliation with or membership in a malign foreign talent recruitment program, including a contractual or other binding agreement between an individual and a malign foreign talent recruitment program; an individual reporting participation in a malign foreign talent program in a research proposal, curriculum vitae, or resume; or an individual's identification in a publication listing the individual and a malign foreign talent recruitment program.

Proposing Institution: An institution of higher education, independent research institution, Federally Funded Research and Development Center, or any other entity that submits a fundamental research project proposal for DoD Government funding, in whole or in part.

Research and Development: The creative and systematic work undertaken to increase the stock of knowledge and to devise new applications of available knowledge. This includes, but is not limited to, research in economics, education, linguistics, medicine, psychology, physical sciences, social sciences, statistics, and research involving human subjects or animals regardless of the funding appropriation used to support it.

Fundamental Research Project Proposal: A proposal for funding to be provided to an individual or entity, in whole or in part, by a Federal research agency to carry out fundamental research activities through grants, cooperative agreements, contracts, and other transactions.

Research Integrity: The standards of research that promote objective research with collaborations that are open, transparent, merit-based, and reciprocal in nature. Research collaborations conducted with integrity are

expected to disclose all financial and time obligations of the persons involved in the research, hire individuals or recruit students to participate in the research based on merit, and respect rules governing intellectual property.

Research Security Risk: An increased likelihood that research and development efforts or results will be misappropriated to the detriment of national or economic security, as well as related violations of research integrity and foreign government interference.