

Research Security – Federal Agency Updates

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National Security Presidential Memorandum 33:

- First Released January 2021 – Final Guidance July 2024
- Covered Entity = \$50 million federal science and engineering funding
- Research Security Program
 - Cyber Security
 - Research Security Training
 - Export Control
 - Foreign Travel Security

CHIPS & Science Act of 2022:

- Covered Individuals = Key Personnel on Federal Research Grants
- Disclosure Requirements for Researchers
- Designates Countries of Concern
- Malign Foreign Talent Recruitment Program
 - Defines MFTRP
 - Prohibits Participation for Covered Individuals
 - Requires Institutions Employing Covered Individuals to Query and Provide Notice

National Science Foundation:

- **Research Security Training – Required at time of submission for all Key Personnel beginning May 2025**
- **Foreign Travel Registry – Required as of January 2026**
- **NSF TRUST Process – Risk Assessments / Due Diligence Pilot Program for 2025 (3 criteria)**
 - **Active Appointments by Personnel (proscribed parties, MFTRP, Entity Lists)**
 - **Undisclosed Appointments**
 - **National Security Application of Research**
 - **Awards based strictly on merit of submission – security issues handled separately**

National Science Foundation:

Previous NSF Attestation – Signed by University Authorized Representative

By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances * and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 18, Section 1001)

Current Attestation – Signed by the PI (May 2024)

When the individual signs the certification on behalf of themselves, they are certifying that the information is current, accurate, and complete. This includes, but is not limited to, information related to current, pending, and other support (both foreign and domestic) as defined in 42 U.S.C. §§ 6605. Misrepresentations and/or omissions may be subject to prosecution and liability pursuant to, but not limited to, 18 U.S.C. §§ 287, 1001, 1031 and 31 U.S.C. §§ 3729- 3733 and 3802.

Department of Energy:

- **Research Security Training – As of May 1, 2025, required at time of award for all project participants**
- **Collaboration prohibited with “Countries of Concern (March 2024)**
- **Attestation from Key Personnel that they are not members of a Malign Foreign Talent Recruitment Program (Date TBD)**
- **For awards over \$10 million, no collaborations with “entities of concern” (1286 list)**
- **Risk Assessments and Reviews – triggered by collaborations with institutions on foreign military connections list (1260h) or entity list**
- **Attestation by institution of a Research Security program compliant with NSPM-33 requirements (Date TBD)**

National Institutes of Health:

- **New requirements for storage of “Controlled-Access Human Genome Data (January 25, 2025)**

All data only stored on NIST 800-171 compliant systems

If stored with a 3rd party cloud provider, must have attestation from provider

Attestation from data recipient required for all new and renewed Data Use Certifications

Foreign Talent Recruitment Program:

NSF Definition - Compensation Provided by a foreign entity to an individual in exchange for the transfer of knowledge and expertise to the foreign country. The compensation can take several forms such as:

- **Cash**
- **Research Funding**
- **Honorific Titles**
- **Career Advancement Opportunities**
- **Promised Future Compensation**

Foreign Talent Recruitment Program:

Malign Characteristics:

- “Country of Concern”
- Requests unauthorized transfer of intellectual property
- Compliance violates terms and conditions of existing federal award (establishment of laboratory, acceptance of faculty position)
- Extremely difficult to terminate – requires litigation in foreign country
- Requirement to not disclose to employer
- Requirement to recruit others
- Requirement to engage in work that duplicates existing federal research award
- All original Agreement documents in foreign language

Foreign Talent Recruitment Program

Consequences of Non-Disclosure

- Criminal Prosecution (as of 2023, only if evidence of actual tech transfer / economic espionage)
- Federal False Claims Act civil action
- Award Suspension
- Award Termination
- Final Payment Cancelled
- USG wide Suspension
- Debarment (University and/or Researcher)
- Voluntary Exclusions
- Bar on Serving as a Reviewer, Panelist or Consultant

Foreign Talent Recruitment Program

Additional University Resources:

“Guidance Regarding Foreign Influence in University Research” web page

<https://www.southalabama.edu/departments/research/spa/foreign-influence.html>

Office of Research Compliance and Assurance

<https://www.southalabama.edu/departments/research/compliance/>

Questions

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