

VANDERBILT  UNIVERSITY
MEDICAL CENTER

Policy: Participation in Foreign Talent Recruitment Programs

Category	Research
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Effective Date	July 2024
Supersedes	NEW

Applicable to VUMC Areas (and associated workforce members):

VUMC

Approval Committee(s)

Compliance and Corporate Integrity Committee

Content Expert(s)

Clint Brown, Office of Sponsored Programs
Maria Garner, Office of Legal Affairs
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I. Purpose:

Vanderbilt University Medical Center (VUMC) is committed to fostering a collaborative learning environment of open scientific research, the intellectual exchange of ideas, and international academic research collaborations and engagement. VUMC is also committed to ensuring the security of this research. As required by Section 10631(d) of the federal Creating Helpful Incentives to Produce Semiconductors (CHIPS) & Science Act of 2022, this policy defines Foreign Talent Recruitment Programs and outlines acceptable and prohibited international collaboration activities.

II. Policy:

Any VUMC employed faculty, staff, and trainees defined as “Covered Individuals” by a U.S. federal funding agency who are engaged in U.S. federally funded activities are required to disclose participation in, or application to, programs or projects sponsored or supported by foreign governments, instrumentalities, or entities associated directly or indirectly with a foreign government (including affiliations, appointments, and other support). Such Covered Individuals are prohibited from participating in a Malign Foreign Talent Recruitment Program as defined here per guidance issued from the Office of Science Technology Policy (OSTP) and in accordance with both the National Security Presidential Memorandum-33 (“NSPM-33”) and the Creating Helpful Incentives to Produce Semiconductors (CHIPS) & Science Act of 2022 (H.R.4346 Sections 10631-10632). See References.

Participation in any form of Foreign Talent Recruitment Program by Covered Individuals is subject to institutional review and must be disclosed via the appropriate VUMC COI disclosure systems at least annually. For federal grant applications, investigators and

senior/key personnel will be required to disclose any Foreign Talent Recruitment Program participation at the time of submission. The principal investigator (PI) will be required to certify that they do not participate in any Malign Foreign Talent Recruitment Program per funding agency requirements, prior to an award.

III. Definitions:

- A. **Covered Individual** – any VUMC faculty, staff, or trainee who is funded by a federal award and contributes in a substantive, meaningful way to the scientific development or execution of a research and development project proposed to be carried out with a research and development award from a Federal research agency; and who is designated as a covered individual by the Federal research agency concerned.
- B. **Foreign Talent Recruitment Program** – any program, position, or activity that includes compensation in the form of cash, in-kind compensation, including research funding and staff, 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 an individual, whether or not directly or indirectly stated in the arrangement, contract, or other documentation at issue.
- C. **Malign Foreign Talent Recruitment Program** – a program, position, or activity that meets the criteria for either Type 1 or Type 2 activities outlined below.
 1. Type 1: Participation in a Foreign Talent Recruitment Program where compensation or remuneration from any foreign country outside the U.S. is provided to the Covered Individual in exchange for any of the following:
 - a. Engaging in the unauthorized transfer of intellectual property, materials, data products, or other nonpublic information owned by a U.S. entity or developed with a U.S. 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;
 - b. Being required by a foreign country to recruit trainees or researchers to enroll in such program, position, or activity;
 - c. 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 U.S. federal research and development award;

- d. Being unable to terminate the Foreign Talent Recruitment Program contract or agreement except in extraordinary circumstances;
 - e. 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;
 - f. 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;
 - g. Being required to omit acknowledgment of the recipient institution with which the individual is affiliated, or the U.S. federal research agency sponsoring the research and development award, contrary to the institutional policies or standard terms and conditions of the U.S. federal research and development award;
 - h. Being required to not disclose to the U.S. federal research agency or employing organization the participation of a Covered Individual in such program, position, or activity; or
 - i. Having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the U.S. federal research and development award.
2. Type 2: Where a Covered Individual is sponsored or supported 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). Foreign Countries of Concern currently include:
- a. The People's Republic of China;
 - b. The Democratic People's Republic of Korea (North Korea);
 - c. The Russian Federation;
 - d. The Islamic Republic of Iran; or
 - e. An academic institution or foreign talent recruitment program on the list developed under §1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115–232).
- D. **International collaboration** – activities (such as research, training, and/or education) involving open and reciprocal exchanges of scientific information aimed at advancing international scientific understanding, with one or more international/foreign entities, occurring either domestically or internationally.

- E. **Acceptable international collaboration activities** - a Malign Foreign Talent Recruitment Program **does not** include the following international collaboration activities, so long as the activity is not funded, organized, or managed directly or indirectly by an academic institution or a foreign talent recruitment program as defined in section III.C above:
1. Making scholarly presentations and publishing written materials regarding scientific information not otherwise controlled under current law;
 2. Participating in international conferences or other international exchanges, research projects, or programs that involve open and reciprocal exchange of scientific information, and which are aimed at advancing international scientific understanding and not otherwise controlled under current law;
 3. Advising a foreign student enrolled at an institution of higher education or writing a recommendation for such a student, at such student's request;
 4. Engaging in the following international activities:
 - a. Activities that are partly sponsored or otherwise supported by the United States such as serving as a government appointee to the board of a joint scientific fund (e.g., the U.S. – Israel Binational Industrial Research and Development Foundation); providing advice to or otherwise participating in international technical organizations, multilateral scientific organizations, and standards setting bodies (e.g., the International Telecommunications Union, Intergovernmental Panel on Climate Change, etc.); participating in a Fulbright Commission program funded in whole or in part by a host country government; or other routine international scientific exchanges and interactions such as providing invited lectures or participating in international peer review panels.
 - b. Involvement in national or international academies or professional societies that produce publications in the open scientific literature that are not in conflict with the interests of the federal research agency (e.g., membership in the Pontifical Academy of Sciences or The Royal Society).
 - c. Taking a sabbatical, serving as a visiting scholar, or engaging in continuing education activities such as receiving a doctorate or professional certification at an institution of higher education (e.g., the University of Oxford, McGill University) that are not in conflict with the interests of the U.S. federal research agency.
 - d. Receiving awards for research and development which serve to enhance the prestige of the U.S. federal research agency (e.g., the Nobel Prize).
 - e. Other international activities determined appropriate by the U.S. federal research agency head or designee.

IV. Endorsement:

Research Compliance Committee July 2024
Compliance and Corporate Integrity Committee July 2024

V. Approval:

Wright Pinson July 16, 2024
CEO of Vanderbilt Health System
Deputy CEO of Vanderbilt University Medical Center
Chair, Compliance and Corporate Integrity Committee

VI. References:

VUMC Policies & SOPs. (2024). Retrieved from <https://vanderbilt.policytech.com>.
[Compliance Policy - Conflict of Interest and Commitment](#)

OSTP Foreign Talent Recruitment Program Guidelines. (2024). Retrieved from
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CHIPS & Science Act of 2022, 42 U.S.C. §19232; Public Law 116-167 (2022). Retrieved from
<https://uscodeweb1.house.gov/view.xhtml?path=/prelim@title42/chapter163/subchapter6/partC&edition=prelim>.

NSPM-33 United States Government-Supported Research and Development National Security Policy (2021). Retrieved from:
<https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-united-states-government-supported-research-development-national-security-policy/>

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John S. McCain National Defense Authorization Act for Fiscal Year 2019, 10 U.S.C. 4001 note; Public Law 115–232. Retrieved from

<https://www.govinfo.gov/app/details/PLAW-115publ232/summary>

Section 1286 of the John S. McCain NDAA retrieved from:

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