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Fwd: Please Distribute: Federal Government Updates - Research Security

1 message

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Wed, Aug 9, 2023 at 8:21 AM

From: **Susan Gasparo** <susan.gasparo@stonybrook.edu>
Date: Wed, Aug 2, 2023 at 7:33 AM
Subject: Please Distribute: Federal Government Updates - Research Security

The landscape of [research security](#) has been evolving over the past few years. We have seen a rise in federal government involvement from using export control regulations, restricted party lists, embargoes/sanctions and other policies and lists to protect U.S. national security and U.S. competitive advantage. I'd like to bring to your attention a few recent actions that affect the university community.

ByteDance Applications: New contracting clause that can be applied to federal awards (in particular to contracts/subcontracts) but may soon be applied to grants. Restricts the use of ByteDance applications (e.g., TikTok, Capcut, Lemon8) on information technology that is used to any extent on a government award (including personal devices).

Reminder: Telecommunications and Surveillance Equipment: Contracting clause that prohibits all purchase of services, hardware, and software from the Kapersky Lab, or any of the following and their subsidiaries - ZTE Corporation, Zhejiang Dahua Technology, Co., Huawei Investment and Holding Co., Hangzhou Hikvision Digital Technology, Co., Hytera Communications Corporation. Products are banned from use on campus or use in federal awards - if anyone has these products, they should contact me for further review and discussion.

Foreign Talent Recruitment Program and Malign Foreign Talent Recruitment Program. The federal government and federal sponsor agencies have increased their scrutiny over foreign activities. This includes reporting of foreign talent programs in bio-sketches and other support, risk reviews prior to awards, and the possibility of the loss of funding. Recently, the federal government has released definitions of a foreign talent recruitment program and a malign foreign talent recruitment program (see definitions below).

Reminder: Appointments at Domestic/Foreign Institutions

Faculty and staff should request institutional approval prior to accepting domestic or foreign appointments. Staff should have the approval of their supervisors. See Provost guidance for faculty: https://www.stonybrook.edu/commcms/provost/faculty/handbook/employment/approval_of_appointments_at_other_institutions

Important! Requests from faculty or staff that are involved in research should be reviewed by the Research Security Program as part of the institutional approval process. Participation in a malign foreign talent program may affect faculty and/or institutional ability to receive federal funds. [Requests should be sent to me via email](#) and include information about the proposed appointment including the name of the institution, proposed activity, dates. A copy of any agreement may be requested.

Foreign Institutions and Foreign Talent Programs of Concern. The Department of Defense released a list of foreign institutions confirmed to be engaging in problematic activity and foreign talent programs that pose a threat to U.S. national security. This list is in response to Section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232). Any activities with any of these institutions should be reviewed by the Research Security Program. [Requests should be sent to me via email](#) and include information about the proposed activity and the name of the institution. The list is available at: [Pages 17-21 of Countering Unwanted Foreign Influence in Department-Funded Research at Institutions of Higher Education \(Department of Defense, June 29, 2023\)](#)

What to do if you already have a collaboration, project or other involvement with a party listed on the Academic Institution and Foreign Talent Recruitment Program Lists

If you have any existing collaborations, projects, or other involvement with any of these institutions, the activity should be reviewed by the Research Security Program. [Requests should be sent to me via email](#) and include information about the proposed activity and the name of the institution. The list is available at: [Pages 17-21 of Countering Unwanted Foreign Influence in Department-Funded Research at Institutions of Higher Education \(Department of Defense, June 29, 2023\)](#)

Definitions

Foreign Talent Recruitment Program

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). (National Science and Technology Council implementation guidance for NSPM-33).

Malign Foreign Talent Recruitment Program

(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).

For purposes of (B) above:

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

Academic Institution and Foreign Talent Recruitment Program Lists: Part 3: Introduction to FY22 Lists Published in Response to Section 1286 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Public Law 115-232) as amended. [Pages 17-21 of Countering Unwanted Foreign Influence in Department-Funded Research at Institutions of Higher Education \(Department of Defense, June 29, 2023\)](#)

Please let me know if you have any questions.

Thank you,
Susan

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