

to disclose if such individuals are a party to a foreign talent recruitment program contract, agreement, or other arrangement;

(3) prohibit research and development awards from being made for any proposal in which a covered individual is participating in a malign foreign talent recruitment program; and

(4) to the extent practicable, require recipient institutions to prohibit covered individuals participating in malign foreign talent recruitment programs from working on projects supported by research and development awards.

(c) Definition of foreign talent recruitment programs

As part of the guidance under subsection (b), the Director of the Office of Science and Technology Policy shall define and describe the characteristics of a foreign talent recruitment program.

(d) Implementation

Not later than one year after August 9, 2022, each Federal research agency shall issue a policy utilizing the guidelines under subsection (b).

(e) Consistency

The Director of the Office of Science and Technology Policy shall ensure that the policies issued by the Federal research agencies under subsection (d) are consistent to the greatest extent practicable.

(Pub. L. 117-167, div. B, title VI, §10631, Aug. 9, 2022, 136 Stat. 1664.)

Editorial Notes

REFERENCES IN TEXT

The Intergovernmental Personnel Act of 1970, referred to in subsec. (b)(1), is Pub. L. 91-648, Jan. 5, 1971, 84 Stat. 1909, which is classified principally to chapter 62 (§4701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4701 of this title and Tables.

§ 19232. Malign foreign talent recruitment program prohibition

(a) In general

Not later than 24 months after August 9, 2022, each Federal research agency shall establish a policy that, as part of a proposal for a research and development award from the agency—

(1) each covered individual listed in such proposal certify that each such individual is not a party to a malign foreign talent recruitment program in the proposal submission of each such individual and annually thereafter for the duration of the award; and

(2) each institution of higher education or other organization applying for such an award certify that each covered individual who is employed by such institution of higher education or other organization has been made aware of the requirements under this section and complied with the requirement under paragraph (1).

(b) Stakeholder input

In establishing a policy under subsection (a), Federal research agencies shall publish a de-

scription of the proposed policy in the Federal Register and provide an opportunity for submission of public comment for a period of not more than 60 days.

(c) Compliance with existing law

Each Federal research agency and recipient shall comply with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) in the establishment of policies pursuant to under¹ subsection (a).

(d) International collaboration

Each policy developed under subsection (a) shall not prohibit, unless such activities are funded, organized, or managed by an academic institution or a foreign talent recruitment program on the lists developed under paragraphs (8) and (9) of section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 4001 note; Public Law 115-232)—

(1) making scholarly presentations and publishing written materials regarding scientific information not otherwise controlled under current law;

(2) participation 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; and

(4) other international activities determined appropriate by the Federal research agency head or designee.

(e) Limitation

The certifications required under subsection (a) shall not apply retroactively to research and development awards made or applied for prior to the establishment of the policy by the Federal research agency.

(f) Training

Each Federal research agency shall ensure that, as a requirement of an award from each such agency, recipient institutions provide training on the risks of malign foreign talent recruitment programs to covered individuals employed at such institutions, including those individuals who are participating in activities described in subsection (d).

(Pub. L. 117-167, div. B, title VI, §10632, Aug. 9, 2022, 136 Stat. 1665.)

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in subsec. (c), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

¹ So in original.

§ 19233. Review of contracts and agreements**(a) In general**

In addition to existing authorities for preventing waste, fraud, abuse, and mismanagement of Federal funds, each Federal research agency shall have the authority to—

(1) require, upon request, the submission to such agency, by an institution of higher education or other organization applying for a research and development award, of supporting documentation, including copies of contracts, grants, or any other agreement specific to foreign appointments, employment with a foreign institution, participation in a foreign talent recruitment program and other information reported as current and pending support for all covered individuals in a research and development award application;

(2) require such institution of higher education or other organization to review any documents requested under paragraph (1) for compliance with the Federal research agency's award terms and conditions, including guidance on conflicts of interest and conflicts of commitment; and

(3) upon receipt and review of the information provided under paragraph (1) and in consultation with the institution of higher education or other organization submitting such information, initiate the substitution or removal of a covered individual from a research and development award, reduce the award funding amount, or suspend or terminate the award if the agency head determines such contracts, grants, or agreements include obligations that—

(A) interfere with the capacity for agency-supported activities to be carried out; or

(B) create duplication with agency-supported activities.

(b) Limitations

In exercising the authorities under subsection (a), each Federal research agency shall—

(1) take necessary steps, as practicable, to protect the privacy of all covered individuals and other parties specified in the documentation submitted under paragraph (1) of such subsection;

(2) endeavor to provide justification for requests for supporting documentation made under such paragraph;

(3) require that allegations be proven by a preponderance of evidence; and

(4) as practicable, afford subjects an opportunity to provide comments and rebuttal and an opportunity to appeal before final administrative action is taken.

(Pub. L. 117-167, div. B, title VI, §10633, Aug. 9, 2022, 136 Stat. 1666.)

§ 19234. Research security training requirement for Federal research award personnel**(a) Annual training requirement****(1) In general**

Not later than 12 months after August 9, 2022, each Federal research agency shall establish a requirement that, as part of an application for a research and development award from the agency—

(A) each covered individual listed on the application for a research and development award certify that each such individual has completed within one year of such application research security training that meets the guidelines developed under subsection (b); and

(B) each institution of higher education or other organization applying for such an award certify that each covered individual who is employed by such institution or organization and listed on the application has completed such training.

(2) Consistency

The Director of the Office of Science and Technology Policy shall ensure that the training requirements established by Federal research agencies pursuant to paragraph (1) are consistent.

(b) Training guidelines

The Director of the Office of Science and Technology Policy, acting through the National Science and Technology Council and in accordance with the authority provided under section 1746(a) of the National Defense Authorization Act for Fiscal Year 2020 (Public Law 116-92; 42 U.S.C. 6601 note), shall, taking into consideration stakeholder input, develop guidelines for institutions of higher education and other organizations receiving Federal research and development funds to use in developing their own training programs to address the unique needs, challenges, and risk profiles of such institutions and other organizations, including adoption of security training modules developed under subsection (c), to ensure compliance with National Security Presidential Memorandum-33 (relating to strengthening protections of the United States Government-supported research and development against foreign government interference and exploitation) or any successor documents.

(c) Security training modules**(1) In general**

Not later than 90 days after August 9, 2022, the Director of the Office of Science and Technology Policy, in coordination with the Director of the National Science Foundation, the Director of the National Institutes of Health, the Secretary of Energy, and the Secretary of Defense, and in consultation with the heads of relevant Federal research agencies, shall enter into an agreement or contract with a qualified entity for the development of online research security training modules for the research community and participants in the United States research and development enterprise to ensure compliance with National Security Presidential Memorandum-33 or successor documents, including modules—

(A) focused on cybersecurity, international collaboration and international travel, foreign interference, and rules for proper use of funds, disclosure, conflict of commitment, and conflict of interest; and

(B) tailored to the unique needs of—

(i) covered individuals;
(ii) undergraduate students, graduate students, and postdoctoral researchers; and