

(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

(iii) applicants for awards under the SBIR and STTR programs (as such terms are defined in section 638(e) of title 15.

(2) Stakeholder input

Prior to entering into the agreement under paragraph (1), the Director of the Office of Science and Technology Policy shall seek input from academic, private sector, intelligence, and law enforcement stakeholders regarding the scope and content of security training modules, including the diversity of needs across institutions of higher education and other recipients of different sizes and types, and recommendations for minimizing administrative burden on recipients and researchers.

(3) Development

The Director of the Office of Science and Technology Policy shall ensure that the entity referred to in paragraph (1)—

(A) develops security training modules that can be adapted and utilized across Federal research agencies; and

(B) develops and implements a plan for regularly updating such modules as needed.

(Pub. L. 117-167, div. B, title VI, §10634, Aug. 9, 2022, 136 Stat. 1667.)

§ 19235. Person or entity of concern prohibition

No person published on the list under section 1237(b) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 1701 note) or entity identified under section 1260h¹ of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note; Public Law 116-283) may receive or participate in any grant, award, program, support, or other activity under—

(1) the Directorate established in part G of subchapter III of this chapter;

(2) section 3722a(b)(1) of title 15, as added by section 10621; or

(3) the Manufacturing USA Program, as improved and expanded under part D of subchapter II of this chapter.

(Pub. L. 117-167, div. B, title VI, §10636, Aug. 9, 2022, 136 Stat. 1669.)

Editorial Notes

REFERENCES IN TEXT

Section 10621, referred to in par. (2), means section 10621 of Pub. L. 117-167.

Part D of subchapter II of this chapter, referred to in par. (3), was in the original “subtitle E of title II of this division”, meaning subtitle E (§§10261-10263) of title II of div. B of Pub. L. 117-167, which is classified principally to part D of subchapter II of this chapter. For complete classification of subtitle E to the Code, see Tables.

§ 19236. Nondiscrimination

In carrying out requirements under this part, each Federal research agency shall ensure that policies and activities developed and implemented pursuant to this part are carried out in

¹ So in original. Probably should be “1260H”.

a manner that does not target, stigmatize, or discriminate against individuals on the basis of race, ethnicity, or national origin, consistent with title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(Pub. L. 117-167, div. B, title VI, §10637, Aug. 9, 2022, 136 Stat. 1669.)

Editorial Notes

REFERENCES IN TEXT

The Civil Rights Act of 1964, referred to in text, 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.

§ 19237. Definitions

In this part:

(1) Covered individual

The term “covered individual” means an individual who—

(A) 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

(B) is designated as a covered individual by the Federal research agency concerned.

(2) Foreign country of concern

The term “foreign country of concern” means the People’s Republic of China, the Democratic People’s Republic of Korea, the Russian Federation, the Islamic Republic of Iran, or any other country determined to be a country of concern by the Secretary of State.

(3) Foreign entity of concern

The term “foreign entity of concern” means a foreign entity that is—

(A) designated as a foreign terrorist organization by the Secretary of State under section 1189(a) of title 8;

(B) 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);

(C) 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);

(D) alleged by the Attorney General to have been involved in activities for which a conviction was obtained under—

(i) chapter 37 of title 18 (commonly known as the Espionage Act);

(ii) section 951 or 1030 of title 18;

(iii) chapter 90 of title 18 (commonly known as the Economic Espionage Act of 1996);

(iv) the Arms Export Control Act (22 U.S.C. 2751 et seq.);

(v) section 2274, 2275, 2276, 2277, or 2284 of this title;

(vi) the Export Control Reform Act of 2018 (50 U.S.C. 4801 et seq.); or

(vii) the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(E) 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.

(4) Malign foreign talent recruitment program

The term “malign foreign talent recruitment program” means—

(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;