

Global Engagement/International Activities

September 21, 2023

*Office of Export Controls, Conflict of Interest, and Responsible
Conduct of Research
Division of Research*



International Activities and Collaborations

Texas A&M embraces a culture of excellence which values international collaborations and an environment that promotes innovation and creativity in research. As a global leader, the university acknowledges the importance of collaborations, locally as well as around the world, to advance society.

Texas A&M is committed to:

- Protecting the strength and vitality of its research enterprise
- Championing academic freedom
- Encouraging our researchers and scholars to collaborate with the brightest minds in the world
- Advancing knowledge and the application of that knowledge

International Activities and Collaborations

Universities such as Texas A&M are actively responding to concerns from federal agencies and sponsors regarding foreign influence in academic research.

This influence may range from conflicting commitments of researchers to foreign entities to the misappropriation of research results and intellectual property.

While we value and encourage international collaborations that promote openness in research and scholarship, Texas A&M must comply with U.S. laws and agency regulations that govern how we manage and report international engagements. Understanding the regulatory environment, the risks, and importance of transparency is an individual responsibility as well as an organizational commitment.

Texas A&M encourages its faculty to establish global engagements in the pursuit of mutually beneficial fundamental scientific inquiries, cultural, or educational opportunities.

International Collaborations

International Activities and Collaborations

- **Foreign influence:** refers to actions and behaviors by foreign entities against a U.S. party/parties.
- U.S. sponsor concerns when they appear to operate with the intent to further the military and/or economic goals of a foreign government by:
 - acquiring proprietary technology or software, unpublished data and methods, or other intellectual property
- Possible actions include:
 - Foreign employment arrangements
 - Foreign grant support that creates problems with overlap, or over-commitment
 - Non-disclosure of substantial foreign research support as required by Federal sponsor and/or University requirements
 - Undisclosed foreign grants and/or hidden transfers of information, know-how, data, person-time
- Federal agencies have issued statements expressing growing concerns over the potential for foreign influence:
 - failure by some researchers to disclose contributions of resources from other organizations, including foreign governments
 - diversion of intellectual property to foreign entities
 - sharing of confidential information by peer reviewers with others, including in some instances with foreign entities, or otherwise attempting to influence funding decisions

International Activities and Collaborations

What are the Feds doing?

➤ Federal Agencies

- Defense Advanced Research Projects Agency (DARPA)
 - DARPA was the first to go public with a Risk Rubric
 - Included risk-based measures to assess potential undue foreign influence/COI/COC
- Department of Army
 - Army Research Risk Assessment Program Risk Matrix/Rubric
 - Identified Specific Actions of the Senior/Key Personnel
- Department of Defense (DoD)
 - In progress
 - Possibly may be the most restrictive/burdensome for Universities
 - Will discuss in further detail
- Others are in the works
 - Example: National Science Foundation (NSF) may not accept a proposal if it has the potential to negatively impact research security and integrity due to credible information of a national security concern (although, NSF does think this would be a rare occurrence)

➤ National Presidential Memorandum 33

➤ CHIPS and Science Act

National Security Presidential Memorandum 33 (NSPM-33)

Guidance for Implementing NSPM-33 on National Security Strategy for United States Government-Supported Research and Development – January 2022

- Strengthen protections of U.S. Government-supported R&D against foreign government interference and misappropriation, while maintaining an open environment to foster research discoveries and innovation that benefit the United States and the world.
- Outlined commitments in the following areas:
 - Engaging regularly with the research community and other stakeholders to share information
 - Standardizing disclosure information to assess potential conflicts of interest and conflicts of commitment
 - Coordinating agency policy development for researcher digital persistent identifiers
 - Developing research security program standards
- Specifically regarding research security programs, NSPM-33 directs research institutions receiving more than \$50M in Federal science and engineering support in the prior 2 fiscal years to establish a research security program that includes 4 elements:
 - Cybersecurity
 - Foreign Travel Security/Training
 - Research Security Training
 - Export Control Training

National Security Presidential Memorandum 33 (NSPM-33)

Requirements

- Must certify that they maintain a research security program that meets the requirements for foreign travel security, research security training, cybersecurity, and export control training (*details for each requirement included on next slides*). Self-certification will take place on Sam.gov on an annual basis and will begin one year from the issuance of the memorandum.
- Must maintain a description of the finalized research security program, made available on a publicly accessible website, with descriptions of each item contained in the memorandum.
- Must provide documentation of the maintained research security program within 30 days of a request from a research agency that is funding an R&D award or considering an application.
- Must designate a research security point of contact and provide publicly accessible means to contact that individual, such as a website.

National Security Presidential Memorandum 33 (NSPM-33)

Foreign Travel Security

- Establish and maintain international travel policies for covered individuals engaged in federally funded R&D who are traveling internationally for organization business, teaching, conference attendance, research purposes, or who receive offers of sponsored travel for research or professional purposes.
- International travel policies and procedures must include:
 - Maintenance of an organizational record of covered international travel by covered individuals engaged in federally funded R&D
 - A disclosure and authorization requirement in advance of international travel
 - Mandatory applicable security briefings, and advice regarding electronic device security (e.g. smartphones, laptops) prior to covered international travel, or to travel including electronic devices utilized for federally funded R&D or bought with Federal funding

National Security Presidential Memorandum 33

(NSPM-33)

Research Security Training

- Must implement research security training as a component of research security programs
- Below elements must be incorporated into existing training programs, such as RCR, and must provide training at initial orientation for new personnel as well as refresher training. Must maintain the ability to certify that personnel have completed the required training for the purposes of Federal R&D award applications as mandated by the CHIPs and Science Act.
 - Understanding why research security is important for the U.S. R&D enterprise and what constitutes foreign interference
 - The importance of non-discrimination as a guiding principle of U.S. research security policy
 - Disclosure policy and how it is used, particularly with regard to conflicts of interest and conflicts of commitment
 - Identifying, managing, and mitigating risk, particularly in the context of foreign talent programs and insider threats
 - Proper use of funds
 - The value of and challenges with international collaborations
 - Responsible international travel practices
 - Basic cybersecurity hygiene and data protection practices, including recognition of and response to social engineering threats and cyber breaches
 - IP and data protection requirements and best practices
- In the event of a research security breach finding, must conduct tailored training related to the finding as a component of the organization's response, and keep a record of such trainings for affected individuals.

National Security Presidential Memorandum 33

(NSPM-33)

Cybersecurity

- Must implement baseline safeguarding protocols and procedures for information systems used to store, transmit, and conduct federally funded R&D. The following protocols are required:
 - Limit information system access to authorized users and processes acting on behalf of authorized users, or devices (including other information systems), as described in Office of Management and Budget Memorandum [M-21-31](#) on Improving the Federal Government's Investigative and Remediation Capabilities Related to Cybersecurity Incidents.
 - Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
 - Verify and control/limit connections to, and use of, external information systems.
 - Control any non-public information posted or processed on publicly accessible information systems.
 - Identify information system users and processes acting on behalf of users, or devices.
 - Authenticate (or verify) the identities of those users, processes, and devices, as a prerequisite to allowing access to organizational information systems.
 - Monitor, control, and protect organizational communications (information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
 - Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
 - Identify, report, and correct information and information system flaws in a timely manner.
 - Provide protection from malicious code at appropriate locations within organizational information systems.
 - Update malicious code protection mechanisms when new releases are available.
 - Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, and executed.
- Must follow applicable cybersecurity requirements and controls beyond these baseline requirements for research involving classified information, controlled unclassified information (CUI), commercially sensitive information, or information that, if inadvertently or intentionally released, may harm US Government rights.

National Security Presidential Memorandum 33 (NSPM-33)

Export Control Training

- Must provide training to relevant personnel on requirements and processes for reviewing foreign sponsors, collaborators, and partnerships, and for ensuring compliance with Federal export control requirements and restricted entities lists. The training must emphasize that the “fundamental research” exception has explicit limitations. For example, federally funded R&D of “applied” energy technologies (i.e., “applied research”), many with dual-uses (civilian and military), fall outside of any exception and are subject to such laws.

CHIPS and Science Act of 2022

Includes several research security provisions:

- Prohibition of malign foreign government talent recruitment programs
- Requirements to establish a research security and integrity information sharing and analysis organization
- Research security training requirements for all covered personnel
(will not be required until NSF has the training modules available for use)
- Inclusion of research security training as part of RCR training
- Reporting on foreign financial transactions and gifts
 - Must report annually on foreign financial transactions on amounts over \$50,000 from countries of concern; reporting system is not yet in place; however, they anticipate that the first report will be due in July 2024
- Prohibition of Confucius Institutes
 - Would need a waiver to receive funding if you have a Confucius Institute

Department of Defense

- June 29, 2023: Released Memo - *Countering Unwanted Foreign Influence in Department-Funded Research at Institutions of Higher Education*
- Memo provides policy for the risk-based security reviews mandated by section 1286 of the National Defense Authorization Act and NSPM-33 for fundamental research project proposals
- Provides a “Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions” as a guide for reviewing fundamental research proposals for potential conflicts of interest and conflicts of commitment

Department of Defense (cont.)

A few key items to note:

- Beginning August 9, 2024, DoD is prohibited from providing funding to or making an award of a fundamental research project proposal in which a covered individual is participating in a malign foreign talent recruitment program or to a proposing institution that does not have a policy addressing malign foreign talent programs pursuant to Section 10632 of the CHIPS and Science Act of 2022
- Beginning in FY24, no U.S. institution of higher education that hosts a Confucius Institute may receive DoD funding unless the IHE has been issued a waiver by the Secretary of Defense
- Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions
- Includes a list of foreign institutions that have been confirmed as engaging in problematic activity, as well as identifies those foreign talent programs that have been confirmed as posing a threat to the national security interests of the U.S.

What is a Malign Foreign Talent Recruitment Program?

Any type of program, position or activity that involves one of more of the following:

- Unauthorized transfer of intellectual property, materials, data or other nonpublic information;
- Recruitment of trainees or researchers to enroll in such program, position or activity;
- Establishing a laboratory or entity in a foreign country in violation of terms and conditions of a federal research award;
- Accepting a faculty position, or undertaking any other employment or appointment in violation of the standard terms and conditions of a federal research award;
- Being unable to terminate the activity except in extraordinary circumstances;
- Being limited in capacity to carry out a federal research award;
- Requirement to engage in work that overlaps or duplicates a federal research award;
- Requirement to obtain research funding from the foreign government's entities;
- Requirement to omit acknowledgement of the U.S. home institution and/or the federal funding agency;
- Requirement to not disclose participation in the program, position, or activity; **OR**
- Having a conflict of interest or commitment contrary to a federal research award.

AND

Is sponsored by one of the following:

- A foreign country of concern (defined as the People's Republic of China including Hong Kong and Macau, 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); or
- An entity based in a foreign country of concern; or
- An institution or program on certain prohibited lists.

System Regulation 15.05.04 High Risk Global Engagements and High Risk International Collaborations

- New regulation effective August 18, 2022
- What is a High Risk Global Engagement?
 - contracts with one or more Foreign Persons based outside the United States in a Country of Concern
- What is a High Risk International Collaboration?
 - any of the following relationships with Foreign Persons based outside the United States in a Country of Concern: student and faculty exchanges; placements abroad; unfunded research relationships; technical assistance; unfunded professional development, training, and services; unfunded outside appointments, honorary positions, peer review, or distinguished positions; unfunded outside support including but not limited to lab space or other resources, provided either physically or virtually; activities with Foreign Persons traditionally compensated by a payment, honorarium, or paid travel expenses.
- Currently, what are the Countries of Concern?
 - China, Russia, Iran, and North Korea
- What does this mean?
 - High risk global engagements and high risk international collaborations will now require additional reviews and approvals, including final approval from the Texas A&M System Vice Chancellor for Research.
 - Currently, OGC has indicated that high risk global engagements and high risk international collaborations refers to “all academic and research (funded and unfunded) agreements between the university and an entity domiciled in or person located in, citizen of, or ordinarily resident in a country of concern.”

University Rule 15.05.04.M1

High Risk Global Engagements and High Risk International Collaborations

- **University was responsible for establishing a rule for global engagement in response to System Regulation 15.05.04, that must contain the following elements:**
 - Designation of individuals authorized to review and approve High Risk Global Engagements and High Risk International Collaborations
 - Academic agreements: Vice President for Academic and Strategic Partnerships, or designee
 - Research agreements: Vice President for Research, or designee
 - Process for reviewing and addressing COC, COI, Export Control, and undue foreign influence concerns
 - Process for obtaining approval from the Vice Chancellor for Research, in coordination with the System Research Security Office
 - Requirement to complete export control training once every two years
- **Entities List:**
 - Collaborations are not allowed with those on the list (examples – Harbin Institute of Technology; Nanjing University of Science and Technology)
 - Only includes entities located in countries of concerns, and is subject to change at any time
 - Currently for Russia, no collaborations are allowed, regardless of whether they are on the list
- **FAQs:**
 - Posted on our website along with the entities list, and includes answers to our most frequently asked questions
- **Huron:**
 - Huron is a disclosure system that is used to centralize and streamline Financial Conflicts of Interest disclosures (previously in Maestro), Conflict of Commitment disclosures, and Faculty Consulting/External Employment approval requests, as well as information required by NSPM-33.

What does this mean?

- **Any global engagement or international collaboration with a country of concern will require an additional approval from the System Vice Chancellor for Research**
 - **Travel**
 - **Sponsored projects**
 - **External Employment/Outside Activities**
 - **Appointments (including honorary positions)**
 - **Collaborations (funded or unfunded)**
 - **Agreements/Awards (funded or unfunded)**

System Regulation 15.01.03, Financial Conflicts of Interest in Sponsored Research

Significant financial interest (SFI) – a financial interest, including but not limited to one or more of the following interests of the investigator (and those of the investigator’s covered family members), that reasonably appears to be related to the investigator’s institutional responsibilities:

- (a) With regard to any publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000.
- (b) With regard to any non-publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure, when aggregated, exceeds \$5,000.
- (c) Intellectual property and royalty interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.
- (d) The occurrence of any reimbursed or sponsored travel (i.e., that which is paid on behalf of the investigator and not reimbursed to the investigator so that the exact monetary value may not be readily available), related to their institutional responsibilities; provided, however, that this does not include travel that is reimbursed or sponsored by a federal, state or local government agency, an institution of higher education as defined at 20 U.S.C. §1001(a), an academic teaching hospital, a medical center or a research institute that is affiliated with an institution of higher education.
- (e) Gifts, when the value of a single gift received by the investigator or a covered family member in the preceding 12 months exceeds \$250, or when the aggregated value of multiple gifts received from a single entity within the preceding 12 months exceeds \$250, excluding gifts received from a covered family member.
- (f) Any fiduciary position held by an investigator or a covered family member in a for-profit or nonprofit entity in the preceding 12 months, including a position as a member of the board of directors, an officer or other executive or management position for which the investigator or covered family member received any form of remuneration or reimbursement for expenses.

System Regulation 31.05.01, Faculty Consulting and/or External Professional Employment

- Updated April 2020
 - Faculty consulting and/or external professional employment – any work, advice or service related to a faculty’s field of discipline for which a system faculty member receives compensation, services, goods, or any other item of value. The term includes, but is not limited to, any fee-for-service or equivalent relationship with a third party, employment by an individual, self employment, or employment by an entity in which the faculty member is a principal owner. **In addition, the provision of certain types of scholarly or research expertise to foreign entities without compensation constitutes “faculty consulting and/or external professional employment” for purposes of this regulation. These types include, but are not limited to, participation in scholarly or scientific research projects or publications required to be disclosed to any agency of the U.S. government, as well as communication of any information subject to export control, publication restriction or confidentiality agreement.**
- Minor tweaks to underlined text in July 2023 as follows:
 - **While not technically “faculty consulting and/or external professional employment,”** the provision of certain types of scholarly or research expertise to foreign entities without compensation **must be disclosed to the member institution for purposes of System Policy 15.02, Export Control Program Management and System Regulation 15.05.04, High Risk Global Engagements and High Risk International Collaborations.** These types include, but are not limited to, participation in scholarly or scientific research projects or publications required to be disclosed to any agency of the U.S. government, as well as communication of any information subject to export control, publication restriction or confidentiality agreement.

* *Virtually identical definition for External Employment under System Regulation 31.05.02 External Employment*

University SAP 15.99.99.M0.02 Conflict of Commitment

- Conflict of Commitment (COC): exists when a faculty or staff member's external relationships or activities have the possibility (either in actuality or in appearance) of interfering or competing with the University's educational, research, or service missions, or with that individual's ability or willingness to perform the full range of duties and responsibilities associated with his or her position. It includes the performance of duties for an external entity substantially similar to or in competition with any portion of the individual's employment responsibilities as described in the individual's position description, letters of appointment, and workload assignments.
 - External employment or other compensated activities, including reimbursement of travel and other expenses, related to the employee's University responsibilities or professional expertise
 - Providing services as a voluntary or paid expert witness in the employee's individual capacity in any civil or criminal case
 - Providing private lessons in art, music or any field of study
 - Providing private counseling for financial aid, career development, and academic considerations
 - All service on external boards
 - Any uncompensated activity that reasonably appears to create a conflict of commitment

What can you do to remain compliant?

- Watch for updates!
- Disclose, and obtain required University approvals
- Financial Conflict of Interest
 - Regulation has not changed since 2012
 - Review not only for financial conflicts, but also export controls and foreign influence concerns
- Conflict of Commitment and Faculty Consulting and/or External Employment
 - Faculty: required approval for any work, advice or service related to a faculty's field of discipline for which compensation is received
 - Staff (includes faculty when external employment is not directly related to their professional discipline): required approval for any work, advice or service for which a system employee receives compensation, services, goods, or any other item of value.
 - *Also includes certain types of scholarly or research expertise to foreign entities whether compensation is received or not.*
- Global Engagements and International Collaborations
 - Ensure you receive University approvals, and allow additional time for System review and approval

Questions?

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