

## National Security Presidential Memorandum-33 Implementation Guidance

### Appendix: Definitions

Revised (insert date)<sup>1</sup>

(new definitions are highlighted in yellow)

**Academic appointments and positions** – positions that are identified as personnel on research grants and cooperative agreements where the senior/key person is identified as affiliated with an institution of higher education or on an indexed publication. Academic appointments and positions are those defined in institutional policy, and conveyed in a formal manner (e.g., via appointment letter, executed offer letter, employment contract), that relate to research, teaching, or associated scholarly activities at one or more foreign or domestic institutions. Examples include but are not limited to assistant professor, associate professor, and professor; adjunct and affiliate faculty positions of all ranks; visiting faculty positions of all ranks; visiting scholar or instructor; clinical faculty position of all ranks; lecturer; research faculty position of all ranks; and emeritus faculty position of all ranks. Also included are graduate research and teaching assistants at the master's and doctoral level, as well as post-doctoral scholars. Excluded from this definition are routine academic or university service activities, performed at the departmental, college or institutional level at one's primary or other collaborating institutions, such as serving on or chairing faculty or staff search committees, graduate student research or thesis committees, compliance committees, *ad hoc* task forces, graduate and undergraduate studies committees, capital improvement projects, or faculty governance committees.

**Conflict of commitment** – a situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities. Many organizational policies define conflicts of commitment as conflicting commitments of time and effort, including obligations to dedicate time in excess of organizational or research agency policies or commitments. Other types of conflicting obligations, including obligations to improperly share information with, or to withhold information from, an employer or research agency, can also threaten research security and integrity, and are an element of a broader concept of conflicts of commitment used in this document.

**Conflict of interest** – a situation in which an individual, or the individual's spouse or dependent children, has a significant financial interest, or financial relationship that could directly and significantly affect the design, conduct, reporting, or funding of research.

**Controlled unclassified information (CUI)** – information that requires safeguarding or dissemination controls consistent with applicable laws, regulations, and Government-wide policies, but is not classified.

**Covered individual or senior/key person** – 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. Consistent with NSPM-33, this means principal investigators (PIs) and other senior/key person seeking or receiving Federal research and development funding (i.e., extramural funding) and researchers at Federal agency laboratories and facilities (i.e., intramural researchers, whether or

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<sup>1</sup> This Appendix replaces the Definitions contained in the NSPM-33 Implementation dated January 2022.

not federally employed), including Government-owned, contractor-operated laboratories and facilities.

**Current and pending (other) support –**

(a) All resources made available, or expected to be made available, to an individual in support of the individual's research and development efforts, regardless of (i) whether the source is foreign or domestic; (ii) whether the resource is made available through the entity applying for a research and development award or directly to the individual; or (iii) whether the resource has monetary value; and (b) includes in-kind contributions requiring a commitment of time and directly supporting the individual's research and development efforts, such as the provision of office or laboratory space, equipment, supplies, employees, or students. This term has the same meaning as the term Other Support as applied to researchers in NSPM-33. For researchers, Other Support includes all resources made available to a researcher in support of and/or related to all of their professional R&D efforts, including resources provided directly to the individual rather than through the research organization, and regardless of whether or not they have monetary value (e.g., even if the support received is only in-kind, such as office/laboratory space, equipment, supplies, or employees). This includes resource and/or financial support from all foreign and domestic entities, including but not limited to, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding.

**Digital persistent identifier (DPI or digital PID)** – a digital identifier that is globally unique, persistent, machine resolvable and processable, and has an associated metadata schema. Consistent with NSPM-33, digital persistent identifiers for individuals are used to disambiguate and identify an individual person.

**Federal research agency or Research agency** – any Federal department or agency with an annual extramural research expenditure of over \$100,000,000. This term has the same meaning as “funding agency” in NSPM-33.

**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 deemed to be a country of concern as determined by the Department of State.

**Foreign government-sponsored talent recruitment program** – 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 having a full-time or part-time position). Some foreign government-sponsored talent recruitment programs operate with the intent to import or otherwise acquire from abroad, sometimes through illicit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government. Many, but not all, programs aim to incentivize the targeted individual to relocate physically to the foreign state for the above purpose. Some programs allow for or encourage continued employment at United States research facilities or receipt of Federal research funds while concurrently working at and/or receiving compensation from a foreign institution, and some direct participants not to disclose their participation to United States entities. Compensation could take many forms including cash, research funding, complimentary foreign travel, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration, including in-kind compensation.

**Gift** – includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, license, special access, equipment time, samples, research data, or other item having monetary value. A gift also includes services as well as gifts of training, transportation, local travel, lodging, meals, research hours, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has occurred. A gift by definition is given without expectation of anything in return.

**Honorarium** – a payment of money or anything of value for an appearance, speech, article, or other form of compensation or award.

**Insider threat** – the potential for an insider to use their authorized access or understanding of an organization to harm that organization. This harm can include malicious, complacent, or unintentional acts that negatively affect the integrity, confidentiality, and availability of the organization, its data, personnel, or facilities.<sup>2</sup>

**Institutional appointments and positions** – appointments and positions conveyed in a formal manner (e.g., via appointment letter, executed offer letter, employment contract) by one's primary place of employment or by another organization. For those in academia, the responsibilities of such appointments and positions reside in administration (e.g., president, chancellor, provost, or vice-president; associate or assistant vice-president; vice-provost; associate or assistant vice-provost; dean; associate or assistant dean; department, program, or institute director or chair), though of course such positions also sometimes involve teaching, research, and service. For those outside academia, institutional appointments and positions encompass a wide range of titles (e.g., chief executive officer, chief operating officer, chief technology officer, chief information officer, president, chief research officer; and vice president; regional manager; section, group or project leader, project member). Individuals within both academic and non-academic institutions also may be appointed by their institution to serve in a formal capacity at another organization, foreign or domestic (e.g., as a visiting researcher or faculty member, team member on a corporate project, or as a paid consultant to local, state or Federal organizations). Additionally, individuals within both academic and non-academic institutions may be appointed to an institutional position by an organization or organizations, foreign or domestic, other than their own.

**Intramural Researcher** – an agency employee who conducts research supported by the agency in which they are employed.

#### **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](#)

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<sup>2</sup>[https://www.cisa.gov/sites/default/files/publications/Insider%20Threats%20101%20What%20You%20Need%20to%20Know\\_508.pdf](https://www.cisa.gov/sites/default/files/publications/Insider%20Threats%20101%20What%20You%20Need%20to%20Know_508.pdf)

[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; 1 Public Law 115–232 ).

The following are **not** considered malign foreign talent programs:

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

(ii) 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;

(iii) advising a foreign student enrolled at an institution of higher education or writing a recommendation for such a student, at such student's request.

**Professional appointments and positions** – appointments and positions conveyed in a formal manner (e.g., via appointment letter, executed offer letter, employment contract) by one or more organizations, foreign or domestic, other than one's primary place of employment. They are undertaken owing to the individual's professional expertise (e.g., as a physician, structural engineer, mathematician) and usually are temporary in nature. In most cases, such appointments and positions consist of professional service activities (e.g., serving on or chairing local, state, regional, or national societies, boards, commissions, or committees; or serving as a professional staff member in local, state or Federal offices or agencies – such as a program officer at a Federal funding agency). Professional appointments and positions do not include service at purely charitable or faith-based organizations, or other activities that reside outside the individual's domain of professional expertise.

**Research and development (R&D)** – includes basic research, applied research, and experimental development. Basic research is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts. Applied research is original investigation undertaken in order to acquire new knowledge and directed primarily towards a specific practical aim or objective. Experimental development is creative and systematic work, drawing on knowledge gained from research and practical experience, which is directed at producing new products or processes or improving existing products or processes. Like research, experimental development will result in gaining additional knowledge. Experimental development includes the production of materials, devices, and systems or methods, including the design, construction, and testing of experimental prototypes. Experimental development also includes technology demonstrations in cases where a system or component is being demonstrated at scale for the first time, and it is realistic to expect additional refinements to the design (feedback R&D) following the demonstration.<sup>3</sup>

**Research and development award** – support provided to an individual or entity by a Federal research agency to carry out R&D activities, which may include support in the form of a grant, contract, cooperative agreement, or other such transaction. The term does not include a grant, award, contract, agreement, or other transaction for the procurement of goods or services to meet the administrative needs of a Federal research agency.

**Research integrity** – the use of honest and verifiable methods in proposing, performing, and evaluating research; reporting research results with particular attention to adherence to rules, regulations, and guidelines; and following commonly accepted professional codes or norms.

**Research security** – safeguarding the research enterprise against the misappropriation of research and development to the detriment of national or economic security, related violations of research integrity, and foreign government interference.

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<sup>3</sup> <https://www.whitehouse.gov/wp-content/uploads/2018/06/a11.pdf>

**Research organization** – an entity that has applied for or received an R&D award from a Federal research agency. This term has the same meaning as “entity” as defined in Section 223 of the NDAA for 2021.

**Scientific integrity** – the adherence to professional practices, ethical behavior, and the principles of honesty and objectivity when conducting, managing, using the results of, and communicating about science and scientific activities. Inclusivity, transparency, and protection from inappropriate influence are hallmarks of scientific integrity.

**United States Government supported research and development** – includes R&D projects funded by the U.S. Government, in whole or in part; projects that use U.S. Government equipment or facilities for conducting R&D; and R&D projects in which U.S. Government employee and contractor personnel participate, regardless of the project’s funding source.

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