



Policy Title: Macalester College FGCR Policy for Foreign Organizations and Parties to Malign Foreign Talent Recruitment Programs Policy

Policy Owner: Foundation, Government and Corporate Relations (FGCR)

Responsible Office: Foundation, Government and Corporate Relations (FGCR)

Pertinent Dates:

Policy developed: May 20, 2024
Policy reviewed: August 14, 2024
Policy approved: August 14, 2024

Entities Affected: All Macalester College faculty, staff, and students involved in National Science Foundation (NSF) research or grant proposals.

Who needs to know about this policy: All faculty, staff, and students involved in research or grant proposals that may have project affiliations with a foreign talent recruitment program (FTRP) or may be an malign foreign talent recruitment program (MFTRP) if the program is sponsored by a foreign country of concern or an entity based in a foreign country of concern (currently China, Iran, North Korea or Russia) or any other foreign sponsor identifies in the National Defense Authorization Act of 2019 Section 1286(c)(8) or 1286(c)(9).

Preamble: Macalester College recognizes that projects affiliated with our institutions often involve parties outside our United States, and that according to the National Science Foundation, this may impact a senior/key person on projects if they are party to an MFTRP. This applies to individuals designated as senior/key persons on a proposal.

Policy Statement: Any individual who is a current party to an MFTRP is ineligible to serve as a senior/key person on an NSF proposal or award. This requirement applies to any proposal submitted or due on or after May 20, 2024. Macalester College’s Proposal Preparation and Grant Management Guide PPGMG supports these goals.

Additional Policy-Specific Guidelines:

A 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) (iii) being required to recruit trainees or researchers to enroll in such program, position, or activity; 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; Proposal & Award Policies & Procedures Guide xv NSF 24-1

(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 organization 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 organization, 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 § 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 § 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).

The following are not considered malign foreign talent recruitment programs 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):

(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; and

(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. j. Principal Investigator (PI) – see PAPPG Exhibit II-3, Definitions of Categories of Personnel. For purposes of this document, when used throughout, the term Principal Investigator also includes Project Director and the term co-Principal Investigator also includes co-Project Director. A proposal submitted to NSF must include a PI and a maximum of four co-PIs. k. Recipient - means an entity that receives an award directly from NSF. The term recipient does not include subrecipients or individuals that are beneficiaries of the award. NSF awards are normally made to organizations rather than to the PI and any co-PIs identified on a proposal. Categories of eligible proposers may be found in Chapter I.E.

Ongoing Policy Review: The FGCR Policy ad hoc committee will systematically review college Policies annually to ensure they remain relevant and up-to-date.

Policy Education and Training: FGCR will facilitate education and training on this Policy and other college Policies as needed.

This Policy is effective immediately upon approval and supersedes all previous Policy development procedures at Macalester College.