

THE WHITE HOUSE

WASHINGTON

January 14, 2021

NATIONAL SECURITY PRESIDENTIAL MEMORANDUM - 33

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF THE INTERIOR
THE SECRETARY OF AGRICULTURE
THE SECRETARY OF COMMERCE
THE SECRETARY OF HEALTH AND HUMAN SERVICES
THE SECRETARY OF TRANSPORTATION
THE SECRETARY OF ENERGY
THE SECRETARY OF EDUCATION
THE SECRETARY OF VETERANS AFFAIRS
THE SECRETARY OF HOMELAND SECURITY
THE ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF
THE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION
AGENCY
THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND
BUDGET
THE DIRECTOR OF NATIONAL INTELLIGENCE
THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY
THE ASSISTANT TO THE PRESIDENT FOR NATIONAL
SECURITY AFFAIRS
COUNSEL TO THE PRESIDENT
ASSISTANT TO THE PRESIDENT, DEPUTY COUNSEL TO THE
PRESIDENT FOR NATIONAL SECURITY AFFAIRS, AND
NATIONAL SECURITY COUNCIL LEGAL ADVISOR
THE DIRECTOR OF THE OFFICE OF SCIENCE AND
TECHNOLOGY POLICY
THE DIRECTOR OF THE NATIONAL SCIENCE FOUNDATION
THE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION
THE DIRECTOR OF THE FEDERAL BUREAU OF
INVESTIGATION
THE SECRETARY OF THE SMITHSONIAN
THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the following:

Section 1. Purpose. This memorandum directs action to strengthen protections of United States Government-supported Research and Development (R&D) against foreign government interference and exploitation. The United States Government provides significant support to R&D across a broad spectrum of research institutions and programs conducted both within and outside of the United States and its territories. This R&D, including both basic and applied research, is a key contributor to American science and technology (S&T) innovation and is essential to United States economic and national security.

Much of United States Government-supported R&D is broadly shared and includes fundamental research as defined in National Security Decision Directive (NSDD)-189 as well as scientific research using publicly available data. The open and collaborative nature of the United States R&D enterprise underpins America's innovation, S&T leadership, economic competitiveness, and national security.

Unfortunately, some foreign governments, including the People's Republic of China, have not demonstrated a reciprocal dedication to open scientific exchange, and seek to exploit open United States and international research environments to circumvent the costs and risks of conducting research, thereby increasing their economic and military competitiveness at the expense of the United States, its allies, and its partners. While maintaining an open environment to foster research discoveries and innovation that benefit our Nation and the world, the United States will also take steps to protect intellectual capital, discourage research misappropriation, and ensure responsible management of United States taxpayer dollars. This includes steps to ensure that participants with significant influence on the United States R&D enterprise fully disclose information that can reveal potential conflicts of interest and conflicts of commitment.

Sec. 2. Definitions. For the purposes of this memorandum:

(a) the term "participants in the United States R&D enterprise" includes researchers at academic research institutions, independent research institutes, medical centers

and institutes, private companies, and Federal Government research centers and laboratories, as well as those who participate in the process of allocating and awarding Federal R&D funding;

(b) the term "United States Government supported R&D" includes R&D projects funded by the United States Government, in whole or in part; projects that use United States Government equipment or facilities for conducting R&D; and R&D projects in which United States Government employee and contractor personnel participate, regardless of the project's funding source;

(c) the term "conflict of interest" or "conflicts of interest" means a situation in which an individual, or the individual's spouse or dependent children, has a financial interest or financial relationship that could directly and significantly affect the design, conduct, reporting, or funding of research;

(d) the term "conflict of commitment" or "conflicts of commitments" means a situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities. Many institutional policies define conflicts of commitment as conflicting commitments of time and effort, including obligations to dedicate time in excess of institutional or funding agency policies or commitments. Other types of conflicting obligations, including obligations to share improperly information with, or to withhold information from, an employer or funding agency, can also threaten research security and integrity, and are an element of a broader concept of conflicts of commitment;

(e) the term "foreign government-sponsored talent recruitment program" or "foreign government-sponsored talent recruitment programs" means an effort directly or indirectly organized, managed, or funded by a foreign government or institution to recruit S&T professionals or students (regardless of citizenship or national origin, and 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;

(f) the term "Federal personnel" means officers and employees of the Government of the United States and members of the uniformed services (including members of the Reserve Components); and

(g) the term "digital persistent identifier" or "digital persistent identifiers" means a unique digital identifier that permanently and unambiguously identifies a digital object or an individual.

Sec. 3. Roles and Responsibilities. (a) The heads of executive departments and agencies (agencies) that fund R&D activities (funding agencies) shall, consistent with applicable law:

(i) require that participants in the United States R&D enterprise who significantly influence the design, conduct, reporting, reviewing, or funding of Federally-funded research disclose appropriate information, consistent with section 4(b) of this memorandum, that will enable reliable determinations of whether and where conflicts of interest and commitment exist, consistent with applicable Federal laws and regulations;

(ii) cooperate with organizations receiving Federal funds to ensure that the organizations have established and administer policies and processes to identify and manage risks to research security and integrity, including potential conflicts of interest and commitment;

(iii) identify, in cooperation with agency Inspectors General and law enforcement agencies as appropriate and as consistent with applicable law, disclosures

that have the potential negatively to impact research funding, security, or integrity;

(iv) cooperate with agency Inspectors General and law enforcement, as appropriate, in investigation of suspected instances of failure to comply with disclosure requirements; and

(v) ensure the availability and application of appropriate and effective consequences for violations of disclosure policies and for engagement in other activities that threaten the security and integrity of the United States R&D enterprise.

(b) The Secretary of Education shall ensure that the Department of Education (ED) issues bi-annual public reports of information about gifts and contracts received by institutions from foreign sources disclosed from certain institutions that participate in the Title IV student assistance programs, as required by section 117 of the Higher Education Act, as amended.

(c) The Secretary of State is responsible for ensuring that the Department of State, in conjunction with the Department of Homeland Security (DHS), screens foreign individuals seeking to obtain a visa to participate in the United States R&D enterprise for national security risk, based on all applicable standards for visa eligibility. Additionally, the Secretary of State shall engage with key foreign allies and partners to limit the potential for foreign government exploitation of the international R&D enterprise.

(d) The Secretary of Homeland Security is responsible for ensuring that DHS, in conjunction with the Department of State, screens foreign individuals who are nonimmigrant students and exchange visitors seeking to participate or participating in the United States R&D enterprise for national security risks. The Secretary of Homeland Security is also responsible, consistent with applicable law, for ensuring that DHS maintains information regarding foreign students and researchers to protect national security while supporting lawful entry and stay of foreign individuals coming to the United States for educational and cultural exchange programs.

(e) The Director of the Federal Bureau of Investigation (FBI) is responsible for investigating violations of Federal law, including those related to research security and integrity,

that are not exclusively assigned to another agency, and, as vested by law and Presidential directive, carry out investigations within the United States of threats to the national security. Additionally, the Director shall:

(i) utilize established mechanisms as appropriate, including legal process, to access information disclosed to institutions and agencies that may be of evidentiary value in an investigation;

(ii) ensure that the FBI shares information regarding research security threats, as appropriate and consistent with applicable law, with agencies and research institutions; and

(iii) ensure that FBI Field Offices expand and enhance their existing relationships with universities and research institutions or, in cases where there is no current relationship, establish and maintain relationships with universities and research institutions within their area of responsibility, in coordination with other agencies.

(f) The Attorney General is responsible for enforcing, as appropriate, criminal laws relating to activities that undermine research security and integrity, such as economic espionage, theft of trade secrets, grant fraud, false statements to Federal officials, computer intrusions, and others.

(g) The Director of National Intelligence (DNI) shall coordinate Intelligence Community efforts to identify and assess the capabilities, activities, and intentions of foreign actors as they relate to the security of the United States R&D enterprise.

(h) The Director of the Office of Science and Technology Policy (OSTP), through the National Science and Technology Council (NSTC), shall coordinate activities to protect Federally funded R&D from foreign government interference, and outreach to the United States scientific and academic communities to enhance awareness of risks to research security and Federal Government actions to address these risks.

Sec. 4. Priorities. It is the policy of the United States to:

(a) Enhance Awareness of Research Security Risks and Protections.

(i) Consistent with applicable law, the Director of OSTP, in coordination with the DNI and heads of other agencies as appropriate, shall engage with the United States R&D enterprise to enhance awareness of risks to research security and integrity and policies and measures for mitigating these risks. This outreach will seek to:

1. Explain the threats posed by some foreign government-sponsored efforts, including some foreign government-sponsored talent recruitment programs, that seek to exploit the United States R&D enterprise;
2. Explain Federal policies and actions to mitigate risks to research security and integrity;
3. Promulgate guidelines for research institutions to mitigate risks to research security and integrity; and
4. Increase awareness among agencies and research institutions about existing law, regulations, and other mechanisms that can protect against the unauthorized transfer of United States technology and intellectual property (e.g., classification, economic sanctions, export controls, trade enforcement actions), and any relevant limitations of these regulations and mechanisms.

(ii) The DNI shall develop, in coordination with the heads of other agencies, information and intelligence products related to research security that are suitable for dissemination, in accordance with applicable law, to other agencies; to Federal, State, local, and tribal officials; to research institutions; the private sector; and to allies and partners. Where appropriate, the DNI should consider declassifying or reducing the level of classification of relevant information to ensure that decision makers in and out of government have the details they need to understand

research security threats and to develop targeted risk mitigation strategies and policies. These materials will seek to:

1. Explain foreign government supported collection methods and means of exploitation;
2. Help identify R&D activities and collaborations with significant risk of exploitation; and
3. Provide counterintelligence awareness training.

(b) Strengthen Disclosure Requirements and Processes. The heads of United States research funding agencies shall require the disclosure of information related to potential conflicts of interest and commitment from participants in the Federally funded R&D enterprise. Participants' disclosures should be provided to the organization applying for or receiving the Federal funding, the funding agency, or both, consistent with the funding agency policies and applicable laws and regulations. The appropriate disclosure requirement varies depending on the individual's role in the United States R&D enterprise. Disclosure requirements outlined in this memorandum should supplement, but do not replace, existing disclosure requirements set forth in law and United States Office of Government Ethics regulations, which apply to some elements of the United States R&D enterprise.

(i) Agencies shall require disclosure, as specified in section 4(b)(iii) below and where consistent with relevant United States law, regulation, contract, agreement and award, from the following segments of the Federally funded R&D enterprise:

1. Principal investigators (PIs) and other senior/key personnel seeking or receiving Federal R&D funding (i.e., extramural funding);
2. Individuals participating in the process of allocating Federal funding: program officers, peer/merit reviewers, and members of advisory panels and committees; and

3. Researchers at Federal agency laboratories and facilities (i.e., intramural researchers, whether or not Federally employed), including government owned, contractor-operated laboratories and facilities.

(ii) Agencies shall require the following disclosures, where consistent with relevant United States law, regulation, contract, agreement and award depending on the role of the individual in the United States R&D enterprise as specified in section 4(b)(iii) below:

1. Organizational affiliations and employment;
2. Other support, contractual or otherwise, direct and indirect, including current and pending private and public sources of funding or income, both foreign and domestic. 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 institution, 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, gifts provided with terms or conditions, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding;
3. Current or pending participation in, or applications to, programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs. Agencies or their Inspectors General shall require that individuals disclose associated contract(s), upon request of the recipient research institution or the funding agency, in addition to the fact of participation; and

4. Positions and appointments, both domestic and foreign, including affiliations with foreign entities or governments. This includes titled academic, professional, or institutional appointments whether or not remuneration is received, and whether full-time, part-time, or voluntary (including adjunct, visiting, or honorary).

(iii) Within 12 months of the date of this memorandum, and consistent with applicable law, the heads of United States research funding agencies shall establish policies requiring disclosure of the information reflected in the table below. Depending on their particular circumstances, agencies may also require disclosure of additional information, and/or disclosure from a broader range of R&D enterprise participants, either as a matter of course or upon agency request. Disclosures and disclosure requirements may be modified or excluded when so authorized by agencies for national security purposes.

	Affiliations /Employment	Other support	Foreign government sponsored talent recruitment programs	Positions/ Appointments
<u>Tier I</u> <ul style="list-style-type: none"> • Principal Investigators & other key personnel • Program officers • Intramural funding recipients 	Y	Y	Y	Y
<u>Tier II</u> <ul style="list-style-type: none"> • Peer reviewers • Advisory Committee/Panel members 	Y	N	Y	Y

(iv) Consistent with applicable law, agencies shall require initial disclosures and updates to disclosure reporting. Relevant agency employees and contractor personnel should provide initial disclosure when hired or assigned relevant duties. Funding applicants should provide initial disclosure as part of the proposal or award process, per agency requirements. Updates should occur annually, or more frequently where appropriate to account for individuals' changing circumstances and for additions to funded research teams. Agencies should ensure that individuals have reasonable recourse to correct or address inaccurate or incomplete information.

(v) Consistent with applicable Federal laws and statutory authorities, within 1 year of the date of this memorandum, funding agencies shall establish policies regarding requirements for individual researchers supported by or working on any Federal research grant to be registered with a service that provides a digital persistent identifier for that individual.

(vi) Agencies shall standardize disclosure processes, definitions, and forms across funding agencies to the extent practicable. The Director of the Office of Management and Budget (OMB) shall work with OSTP, the Office of Government Ethics, and other agencies to coordinate the standardization of policies and forms related to disclosure of conflicts of interest and commitment. Where appropriate and consistent with applicable Federal laws and regulation, agencies should standardize forms for initial disclosures as well as annual updates, integrating digital persistent identifiers wherever appropriate and practicable, and should provide clear instructions to accompany these forms and to minimize any associated administrative burden.

(vii) The Secretary of Education shall continue to support the balance between academic freedom and national security by promoting financial transparency in the relationship between institutions of higher education (IHEs) and foreign sources through enforcement of section 117 of the Higher Education Act. ED shall continue to ensure that it provides,

and updates as necessary, clear public guidance to IHEs on compliance with section 117 requirements, and shall continue to ensure that disclosed information is made publicly available in a format that is readily accessible and usable.

(viii) Agencies shall, as appropriate, work with their Inspector General, General Counsel, law enforcement, university program offices and security officers, and the private sector to strengthen mechanisms and capabilities to identify and investigate potential violations of agency disclosure requirements. Where appropriate, funding agencies or their Inspectors General shall cooperate and assist with administrative and law enforcement investigations and analyses aimed at uncovering violations, including sharing information from disclosure statements, to the extent that such sharing is consistent with privacy laws and other legal restrictions and does not interfere with law enforcement activities.

(ix) Agencies shall ensure appropriate and effective consequences for violation of disclosure requirements and engagement in other activities that threaten research security and integrity. Depending on the nature of the violation, agencies may consider a range of consequences including but not limited to the following:

1. Termination of Federal employment or contract;
2. Termination of a grant, cooperative agreement, contract, or award;
3. Preserving a grant, cooperative agreement, contract, or award, but requiring or otherwise ensuring that individual(s) do not perform work under the grant, contract, or award;
4. Ineligibility for participation in United States Government review panels and other activities;
5. Suspension or debarment of eligibility for Federal funding; and

6. Suspension or denial of Title IV funds.

In addition to these measures, civil and criminal penalties under United States Federal and State laws may apply in some cases, such as when individuals intentionally provide incomplete or incorrect information in the grant funding process, or misappropriate trade secrets or export controlled information. Federal agencies should consult with their Inspectors General, General Counsel, security officers, and/or law enforcement agencies as appropriate, to avoid compromising ongoing investigative and law enforcement activities when evaluating actions towards those who violate disclosure requirements or otherwise threaten research security and integrity.

(c) Limit Access and Participation.

(i) Heads of agencies shall ensure that their respective agencies have policies and processes to control and track access to and utilization of United States Government research facilities, consistent with applicable law and appropriations. These should include processes for controlling and tracking physical access, vetting and securely hosting foreign visitors, and evaluating research partnerships or contracts with outside entities.

(ii) Within 12 months of the date of this memorandum, and consistent with applicable law, heads of agencies shall establish policies, or clarify existing policies where applicable, that prohibit Federal personnel currently employed by their respective agencies who are also participants in the United States R&D enterprise from participating in foreign government-sponsored talent recruitment programs. Agency heads may consider agency-specific policies that would extend this prohibition to some or all agency contractor personnel to further protect research security and integrity. Agency heads may provide exemptions from this prohibition where they determine appropriate, and shall notify the President through the Assistant to the President for National Security Affairs (APNSA) within 30 days of any

establishment of or change in exemption criteria. For any personnel exempted from these prohibitions, disclosure requirements described in section 4(b) of this memorandum shall still apply.

(d) Vetting Foreign Students and Researchers. The Secretary of State, in coordination with the Secretary of Homeland Security, shall ensure that vetting processes for foreign students and researchers reflect the changing nature of the risks to United States R&D.

(i) The Secretary of State shall continue to apply a risk-based process to vet visa applicants seeking to study or conduct research activities in the United States, based on all applicable standards for visa eligibility. The Secretary shall take such steps as are necessary to ensure consular officers may collect and consider the following information pertaining to visa applicants, wherever relevant to the consular officer's adjudication of a visa application based on relevant standards under United States law:

1. Employment and employment history;
2. Sources of financial support;
3. Education history, including academic institutes, degree(s), and research advisor(s);
4. Current and prior R&D affiliations and projects;
5. Current and pending participation in foreign government-sponsored talent recruitment programs;
6. Program of study and/or research; and
7. Facility/facilities and location(s) of expected work.

(ii) The Secretary of Homeland Security shall assess, within 3 months of the date of this memorandum, any regulatory and technical updates necessary to require that relevant institutions:

1. Report the same information specified above in section 4(d)(i) in the Student and Exchange Visitor Information System (SEVIS), for foreign students and researchers subject to reporting in that system; and,
2. Provide updates in SEVIS annually, or more frequently where appropriate.
3. Within 3 months of the completion of this assessment, the Secretary shall provide to the APNSA a plan regarding implementation of such requirements.

(iii) The Secretary of Homeland Security, in coordination with the Secretary of State, shall assess, within 1 year of the date of this memorandum, the feasibility and utility of including the information specified in section 4(d)(i) in a searchable centralized database. This database should provide the capability to flag any disclosed or otherwise identified connections to organizations listed in Department of Commerce's Entity List.

(e) Information Sharing. To strengthen the effectiveness of response measures, heads of agencies shall share information about violators (e.g., those who violate disclosure or other policies promulgated pursuant to this memorandum, participate in foreign government-sponsored talent recruitment programs contrary to policies issued pursuant to section 4(c)(ii), or whose activities clearly demonstrate an intent to threaten research security and integrity) across Federal funding institutions and with Federal law enforcement agencies, the DHS, and State, to the extent that such sharing is consistent with privacy laws and other legal restrictions, and does not interfere with law enforcement or intelligence activities. Where appropriate and consistent with due process, privacy considerations, and all other applicable law, heads of agencies should consider providing notice to other Federal funding institutions in cases where significant concerns have arisen but a final determination has not yet been made. Where appropriate and consistent with applicable law and appropriations, funding agencies shall include within grant terms and conditions provisions that allow for such information sharing.

(f) The heads of funding agencies shall ensure that Federal agency personnel conducting R&D activities or participating in the process of allocating Federal R&D funding receive research security training. Training shall include, as appropriate, risks to the United States R&D enterprise, individuals' responsibilities related to research security and integrity, and circumstances and behaviors that may indicate risk to research security and integrity. Training programs shall include an initial orientation for new personnel, and annual refresher training.

(g) Risk Identification and Analysis. Within 12 months of the date of this memorandum, heads of funding agencies shall require that research institutions receiving Federal science and engineering support in excess of 50 million dollars per year certify to the funding agency that the institution has established and operates a research security program. Institutional research security programs should include elements of cyber security, foreign travel security, insider threat awareness and identification, and, as appropriate, export control training. Heads of funding agencies shall consider whether additional research security program requirements are appropriate for institutions receiving Federal funding for R&D in critical and emerging technology areas with implications for United States national and economic security.

(h) Promote and Protect International R&D Cooperation. The Secretary of State, in coordination with the Director of OSTP and the heads of other agencies, shall engage with foreign allies and partners with the goal of promoting policies and practices that increase awareness of risks to research security and improve cooperation on international protection and response efforts. Messaging should be designed to increase awareness and encourage foreign governments to undertake effective practices to assess and mitigate risks to research security and integrity.

Sec. 5. Implementation. The APNSA, in coordination with the Director of OMB and the Director of OSTP, shall coordinate the implementation of this memorandum, and, on an annual basis, shall prepare and submit a report to the President detailing activities taken by funding agencies to implement this memorandum.

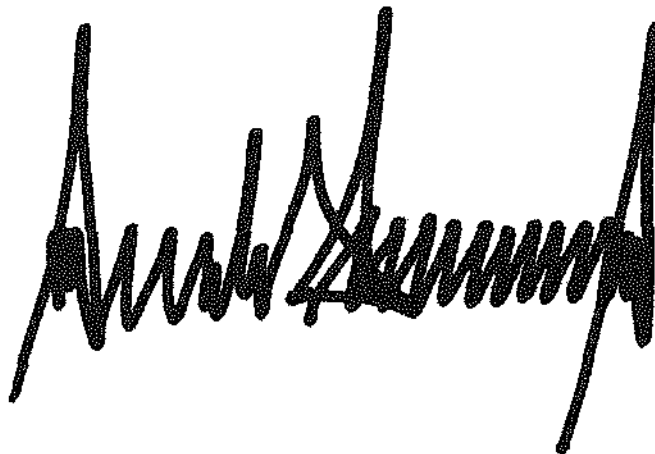
Sec. 6. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) The authority granted by law to an executive department or agency, or the head thereof; or

(ii) The functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and Presidential guidance, and subject to the availability of appropriations. The activities described in this memorandum should be conducted in a manner that is consistent with the Constitution; Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to: (i) the appropriate handling of information about United States Persons (as defined in Executive Order 12333) and other individuals protected by United States law; (ii) the protection of sources, methods, and activities; (iii) privacy, civil rights, and civil liberties; and (iv) the protection of other sensitive information.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A large, stylized handwritten signature in black ink, appearing to be 'Andrew G. ...' with a long, sweeping underline.