

# Policy on Foreign-Government Talent-Recruitment Programs

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FRA Governance Management System Policy #2019-08

## 1. Purpose

The purpose of this policy is to declare, communicate, and ensure Fermi Research Alliance, LLC's (FRA) compliance with DOE Order 486.1 *Department of Energy Foreign Government Talent Recruitment Programs* that was added to the FRA Prime Contract on August 16, 2019.

This policy ensures the continued flow of scientific and technical information consistent with the Department of Energy's (DOE) broad scientific mission, while also ensuring protection of U.S. competitive and national security interests and DOE program objectives; and limiting unauthorized transfers of scientific and technical information.

## 2. Scope

This policy applies to all activities and personnel operating under FRA contract number DE-AC02-07CH11359 ("Prime Contract").

## 3. Applicability

The DOE Order addresses FRA employees and certain subcontractors and joint appointees. This policy applies specifically to FRA employees and joint appointees performing work related to Fermilab's science-and-technology mission and applicable subcontractors performing said work on-site.

Collaborators participating under DOE-approved laboratory agreements such as a Cooperative Research and Development Agreement (CRADA), Strategic Partnership Project (SPP), or Proprietary/Non-Proprietary User Agreement (P/NPUA) are explicitly exempt.

For completeness and out of precaution, FRA may use some of this policy's implementing procedures to assess relative risks presented by non-subcontracted collaborators accessing the laboratory and its resources without supporting CRADAs, SPPs, or P/NPUAs.

## 4. Effective date

This policy goes into effect September 24, 2019.

## 5. Policy

It is FRA's commitment to maintain a warm, welcoming environment for its workers and those from around the world in order to contribute most effectively to the Fermilab mission.

With respect to the work being performed under the Prime Contract, FRA shall undertake due diligence to ensure that neither it nor any of its employees, joint appointees, and applicable subcontractors, working at any level, participate in a Foreign-Government Talent-Recruitment Program (FGTRP) of a foreign country of risk while performing work within the scope of the Fermilab mission. FRA shall not expend its or DOE's resources to support such programs. FRA will not allow its employees, applicable subcontractors and joint appointees to participate in them.

By monitoring outside employment and real or perceived conflicts of interest for its employees, joint appointees, and applicable subcontractors, FRA provides additional mitigation of risks to U.S. interests and unauthorized transfers of scientific and technical information.

## 6. Definitions

The Order provides crucial definitions, reproduced here.

*Demonstration Subcontract.* An FRA subcontract for the performance of work that involves a project designed to determine the technical feasibility and economic potential of a technology on either a pilot or prototype scale.

*Foreign Country of Risk.* Any foreign country determined to be of risk by DOE communicated through the DOE Fermi Site Office to the Office of the Laboratory Director.

*Foreign-Government Talent-Recruitment Program (FGTRP).* In general, such programs include any foreign-state-sponsored attempt to acquire U.S. scientific-funded research or technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States. These recruitment programs are often part of broader whole-of-government strategies to reduce costs associated with basic research while focusing investment on military development or dominance in emerging technology sectors. Distinguishing features of a foreign government talent recruitment program covered by this Order include:

- (1) Compensation provided by the foreign state to the targeted individual in exchange for the individual transferring their knowledge and expertise to the foreign country. The compensation can take several forms, such as cash,

research funding, honorific titles, career advancement opportunities, promised future compensation, or other types of remuneration or consideration.

- (2) Recruitment in this context refers to the foreign-state-sponsor's active engagement in attracting the targeted individual to join the foreign-sponsored program and transfer their knowledge and expertise to the foreign state. The targeted individual may be employed and located in the U.S., or in the foreign state. Recruitment would not necessarily include any invitation for engagement extended by the foreign state, for example, an invitation to attend or present work at an international conference.
- (3) Many, but not all, programs aim to incentivize the targeted individual to physically relocate to the foreign state. Of particular concern are those programs that allow for continued employment at U.S. research facilities or receipt of DOE research funds while concurrently receiving compensation from the foreign state.

*On-Site Work.* Work within the scope of an applicable FRA subcontract, at any level or duration performed by a subcontractor employee under a R&D or Demonstration subcontract or a joint appointee at the Fermilab site/facility, including DOE-leased space.

*R&D Subcontract.* A subcontract for the performance of work that involves efforts and scientific and technological work of scientists, researchers, and engineers involving research activities, both basic and applied, and all development activities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

## **7. Responsibilities**

The Chief of Staff in the Office of the Laboratory Director is responsible for this policy and overseeing implementing procedures including DOE-reporting requirements. The Chief of Staff may delegate some of these functions and responsibilities to other members of his/her office. The Chief of Staff will consult with the General Counsel when positive indications (both self-reported and non-self-reported) of FGTRP participation are received in order to confirm reportability.

The Head of the Workforce Development and Resources Section is responsible for maintaining the Outside Employment and Conflict of Interest programs to detect and identify FRA employee participation in an FGTRP.

The Acquisition Officer is responsible for flowing down these requirements to relevant subcontracts and collecting reports from applicable subcontractors.

The General Counsel is responsible for advising on adequacy of supporting procedures

and working with the Government Management System Owner to address changes in this requirement. The General Counsel advises the Chief of Staff on reportability of reported and probable participation in FGTRPs.

The Governance Management System Owner is responsible for ensuring this policy is up to date and providing reasonable assurance that this policy is being implemented appropriately across the enterprise.

## **8. Owner**

This policy is owned by the Office of the Director with responsibility assigned to the Chief of Staff who oversees the relevant FRA programs implementing the policy.

## **9. Review cycle**

This policy is to be reviewed at least every three years as part of the Governance Management System.

## **10. Notes**

- The implementing procedures are available in the *directorate-docdb* area associated with this policy.
- Regular status reports are due to DOE as part of the Order's Contractor Requirements Documents.
- Positive confirmations of FGTRP participation may require prompt reporting to DOE.