

Approved: 9-4-2020

SUBJECT: FOREIGN GOVERNMENT SPONSORED OR AFFILIATED ACTIVITIES

1. **PURPOSE.** To ensure the continued flow of scientific and technical information consistent with the Department of Energy's (DOE) broad scientific mission, while also:
 - a. ensuring protection of U.S. competitive and national security interests and DOE program objectives;
 - b. preventing potential conflicts of interest, e.g., financial interests, conflicts of commitment, and outside employment, which may undermine the DOE research enterprise; and
 - c. limiting unauthorized transfers of scientific and technical information.

This Order applies to participation in Foreign Country of Risk¹ Sponsored or Affiliated Activities, i.e., Foreign Government-Sponsored Talent Recruitment Programs and Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk, as defined in Attachment 2 to this Order. Foreign Government-Sponsored Talent Recruitment Programs are prohibited for DOE Employees and Contractor Personnel whereas Other Foreign Government Sponsored or Affiliated Activities are restricted for DOE Employees and Contractor Employees. DOE may approve or disapprove requests for exemption to permit DOE Employee or Contractor Employee participation in such Other Foreign Government Sponsored or Affiliated Activities.

2. **CANCELS/SUPERSEDES.** DOE O 486.1, *Department of Energy Foreign Government Talent Recruitment Programs*, dated 6-7-2019, is hereby superseded. Cancellation of a directive does not, by itself, modify or otherwise affect any contractual or regulatory obligation to comply with the directive. Contractor Requirements Documents (CRDs) that have been incorporated into a contract remain in effect throughout the term of the contract unless and until the contract or regulatory commitment is modified to either eliminate requirements that are no longer applicable or substitute a new set of requirements.
3. **APPLICABILITY.**
 - a. **Departmental Applicability.** This Order applies to all Departmental Elements, including those created after the Order is issued.

The Administrator of the National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their responsibilities under this directive. Nothing in this directive will be construed to interfere with the NNSA

¹ As defined in Attachment 2.

Administrator's authority under section 3212(d) of Public Law (P.L.) 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

- b. DOE Contractors. Except for the equivalencies/exemptions in paragraph 3.c., the Contractor Requirements Document (CRD), Attachment 1, sets forth requirements of this Order that will apply to contracts that include the CRD.

Specifically, the CRD or its requirements must be included in the following:

- (1) Management and Operating (M&O) contracts;
 - (2) Non-M&O Major Site/Facility contracts; and
 - (3) Other contracts (e.g., support services contracts), as determined by Heads of Departmental Elements in accordance with paragraph 5.r.(2).
- c. Equivalencies/Exemptions for DOE O 486.1A. Exemptions and equivalencies to this Order in its entirety will be processed in accordance with Appendix E of DOE O 251.1, Departmental Directives Program, current version, except that approval for all exemptions or equivalencies to this Order must be obtained from the Secretary.
- (1) Exemption. This Order does not apply to the following:
 - (a) users conducting research under a DOE User Facility Agreement; and
 - (b) Contractor Personnel, as defined in Attachment 2, paragraphs 4.b. and 4.c., performing activities specifically implementing a DOE program-sponsored international collaboration project and within the scope of a DOE-level or U.S. Government-level bilateral or multilateral international agreement.
 - (2) Equivalency. In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 USC sections 2406 and 2511 and to ensure consistency throughout the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this Directive for activities under the Director's cognizance, as deemed appropriate.

4. REQUIREMENTS.

- a. DOE Employees and Contractor Personnel, as defined in Attachment 2, are prohibited from participating in Foreign Government-Sponsored Talent Recruitment Programs of a Foreign Country of Risk. In addition, DOE Employees and Contractor Employees are restricted from participation in Other Foreign Government Sponsored or Affiliated activities of a Foreign Country of Risk, as

defined in Attachment 2. Disclosure of pending and current participation is required. Exemptions for participation in such Other Foreign Government Sponsored or Affiliated activities may be granted. Exemptions are not permitted for participation in such Foreign Government-Sponsored Talent Recruitment Programs.

- b. The Director, Office of Intelligence and Counterintelligence, must develop and maintain a list of Foreign Government-Sponsored Talent Recruitment Programs of Foreign Countries of Risk.
- c. Departmental Elements must ensure that the CRD or its requirements are incorporated into applicable DOE contracts.
- d. DOE Employees must disclose to their immediate supervisor and DOE's Designated Agency Ethics Official (DAEO) prior to entering into discussions about participating in a Foreign Country of Risk Sponsored or Affiliated Activity. Discussions are permitted only when the DAEO has determined that the activity is in compliance. DOE Employees should obtain ethics advice before entering into discussions about participating in a sponsored or affiliated activity of any foreign country or government. There are restrictions that apply to DOE Employees that may prohibit them from engaging in these activities for any foreign country or government.
- e. If, as of the effective date of this Order, a DOE Employee is already participating in a Foreign Country of Risk Sponsored or Affiliated Activity, the employee must disclose in writing such participation to their immediate supervisor and DOE's DAEO within 30 days of the issuance of this Order.² Failure to comply with the terms of this Order will subject the employee to discipline up to and including removal from federal service.
- f. DOE's DAEO must determine if the DOE Employee's participation in the reported activity, whether current or pending, is in compliance with legal requirements, including the Emoluments Clause and DOE policies and directives. The decision of DOE's DAEO is not subject to grievance and other alternative dispute resolution procedures.
- g. If DOE's DAEO determines that participation in the reported activity is not in compliance with legal requirements, then:
 - (1) the DOE employee must not enter into discussions to participate in the reported activity, or
 - (2) the DOE employee must cease their participation in the reported activity within 30 days of notification, as applicable.

² Disclosures for foreign government-sponsored talent recruitment programs of foreign countries of risk covered under DOE O 486.1 were due 30 days from the approval date of the original Order, June 7, 2019.

- h. If DOE's DAEO determines that the reported activity complies with legal requirements, and if the reported activity falls within Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk for which exemptions may be granted, then the DOE Employee may request an exemption to participate in such activity. An exemption request will be processed as an outside activity request according to 5 C.F.R. § 3301.103, subject to final approval or disapproval by the Secretary as provided in paragraph 5.a.(2). The applicable provisions of the requirements in this Order must be incorporated as terms and conditions of employment for all current and future DOE Employees.
- i. Exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of Foreign Countries of Risk must be submitted through the cognizant PSO and CSO for approval by the Secretary or his/her designee. Exemption requests must be approved by the Secretary or his/her designee to participate in such activities.

5. RESPONSIBILITIES.

a. Secretary.

- (1) Establishes Departmental policy with respect to Foreign Country of Risk Sponsored or Affiliated Activities as described in this Order.
- (2) Provides final approval or disapproval of exemption requests for DOE Employee and Contractor Employee participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk, as defined in Attachment 2 to this Order.
- (3) Delegates approval or disapproval of exemption requests to the Deputy Secretary, as appropriate.

b. Deputy Secretary.

- (1) Assists the Secretary in establishing Departmental policy with respect to participation in Foreign Country of Risk Sponsored or Affiliated Activities, as described in this Order.
- (2) Reviews and concurs/non-concurs on exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk, prior to the Secretary's final approval/disapproval of the exemption request.
- (3) If delegated, approve or disapprove exemption requests for DOE Employee and Contractor Employee participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk, as defined in Attachment 2 to this Order.

- c. Under Secretary of Energy, Under Secretary for Science, Under Secretary for Nuclear Security (as appropriate). Review and concur/non-concur on exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk, prior to the Deputy Secretary's review of the exemption request.
- d. Under Secretary for Science.
 - (1) Establishes and maintains oversight of this Order.
 - (2) Consults with and seeks assistance from the Under Secretary of Energy and the Under Secretary for Nuclear Security on the establishment of policies and procedures for implementation of this Order.
 - (3) Determines and identifies Foreign Countries of Risk in consultation with the Under Secretary of Energy; the Under Secretary for Nuclear Security; and the Office of Intelligence and Counterintelligence; and informs Departmental Elements, as needed.
- e. Under Secretary of Energy. Consults with and provides assistance to the Under Secretary for Science on the establishment of policies and procedures for implementation of this Order.
- f. Under Secretary for Nuclear Security.
 - (1) Consults with and provides assistance to the Under Secretary for Science on the establishment of policies and procedures for implementation of this Order.
 - (2) Implements and oversees requirements and practices pertaining to this Order for activities under the NNSA Administrator's responsibilities under this Order, consistent with NNSA Administrator's authority under sections 3212(b) and 3220 of Public Law (P.L.) 106-65.
- g. DOE Federal Oversight Advisory Body (FOAB).
 - (1) Review quarterly reports submitted to DOE by DOE Contractors.
 - (2) Review exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk.
- h. Cognizant Secretarial Officers (CSO). Review and concur/non-concur on exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk.

- i. Program Secretarial Officers (PSO). Review and concur/non-concur on exemption requests for participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk.
- j. Director, Office of Intelligence and Counterintelligence.
 - (1) Provides counterintelligence and security advice on the risks of participation in Foreign Country of Risk Sponsored or Affiliated Activities.
 - (2) Develops and maintains a list of Foreign Government-Sponsored Talent Recruitment Programs of Foreign Countries of Risk.
 - (3) Reviews all quarterly reports submitted to DOE by DOE Contractors, in coordination with the Heads of Field Elements and other cognizant Department Elements.
 - (4) Assists Departmental Elements with the assessment of such reports and other information pertaining to DOE Employee and Contractor Personnel participation in Foreign Country of Risk Sponsored or Affiliated Activities.
 - (5) Advises on the determination of the Heads of Field Elements and other cognizant Departmental Elements whether a disclosed or otherwise identified activity is a Foreign Country of Risk Sponsored or Affiliated Activity.
 - (6) As appropriate, consults with the Heads of Field Elements and other cognizant Departmental Elements on the review of a request for exemption to permit participation in Other Foreign Government Sponsored or Affiliated Activities of a Foreign Country of Risk.
- k. Chief Human Capital Officer.
 - (1) Advises Departmental Elements on this Order as it pertains to DOE Employees, consulting with the Office of Science as needed.
 - (2) Implements the applicable provisions of the requirements in this Order as terms and conditions of federal employment.
- l. Office of the General Counsel (GC). Provides guidance to Departmental Elements regarding legal compliance with this Order as it relates to DOE Employees and Contractors and any implementing policies and procedures.
- m. Office of the General Counsel, National Nuclear Security Administration. Provides guidance to NNSA regarding legal compliance with this Order as it relates to NNSA employees and Contractors and any implementing policies and procedures. NNSA GC guidance concerning legal compliance with this Order will

be coordinated with the Office of the General Counsel in advance of providing any guidance.

- n. Designated Agency Ethics Official (DAEO). Provides legal advice to DOE Employees and management concerning the Emoluments Clause and other legal requirements or restrictions concerning DOE Employee participation in any Foreign Country of Risk Sponsored or Affiliated Activities and makes determinations as described in section 4. As part of this process, consults with the Office of Intelligence and Counterintelligence, as appropriate.
- o. Senior Procurement Executives (SPEs). If necessary, develop and issue procurement guidance to contracting officers regarding their responsibilities under this Order.
- p. Heads of Departmental Elements.
 - (1) Consult with the Office of the Chief Human Capital Officer as they develop and administer internal policies, procedures, and safeguards to enable compliance with the provisions of this Order as they pertain to DOE Employees.
 - (2) Determine which contracts under their purview must incorporate the CRD or its requirements, and notify cognizant Heads of Contracting Activities (HCAs) regarding the CRD's applicability to those contracts. For such contracts incorporating the requirements of the CRD and administered at Headquarters, the following responsibilities apply:
 - (a) In coordination with the cognizant contractor and Office of Intelligence and Counterintelligence, determine if a disclosed or otherwise identified activity is participation in a Foreign Country of Risk Sponsored or Affiliated Activity.
 - (b) If the activity is a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk, work with the cognizant Contractor to ensure that appropriate action is taken in accordance with this Order.
 - (c) If the activity is an Other Foreign Government Sponsored or Affiliated Activity of a Foreign Country of Risk, work with the cognizant Contractor to ensure that appropriate action is taken in accordance with this Order, including a decision on whether to request an exemption.
 - (d) If the cognizant Contractor submits an exemption request, review and concur/non-concur on such requests in consultation with the Office of Intelligence and Counterintelligence, as appropriate.

- (e) Review quarterly reports submitted to DOE by DOE Contractors for such contracts.

- q. Heads of Contracting Activity (HCAs). After notification from Head of Departmental Elements, notify contracting officers under their purview to incorporate the CRD of this Order or its requirements into applicable contracts.

- r. Heads of DOE Field Elements.
 - (1) Develop and implement local procedures for the review and approval of actions taken under this Order.
 - (2) Review quarterly reports submitted to DOE by DOE Contractors.
 - (3) In coordination with the cognizant contractor and the Office of Intelligence and Counterintelligence, determine if a disclosed or otherwise identified activity is participation in a Foreign Country of Risk Sponsored or Affiliated Activity.
 - (4) If the activity is participation in a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk, work with the cognizant Contractor to ensure that appropriate action is taken in accordance with this Order.
 - (5) If the activity is participation in an Other Foreign Government Sponsored or Affiliated Activity of a Foreign Country of Risk, work with the cognizant contractor to ensure that appropriate action is taken in accordance with this Order, including a decision on whether to request an exemption.
 - (6) If the cognizant Contractor submits an exemption request, review and concur/non-concur on such requests in consultation with the Office of Intelligence and Counterintelligence, as appropriate.

- s. Contracting Officers.
 - (1) Once notified of contract applicability, ensure that the CRD of this Order or its requirements are incorporated into applicable contracts under their purview.
 - (2) Communicate official Departmental decisions to the contractor, as needed.

6. REFERENCES.

- a. Emoluments Clause of the Constitution, Article I, Section 9, Clause 8.
- b. Intergovernmental Personnel Act, 5 U.S.C. 3371-3375.

- c. “Department of Energy Policy on Foreign Government Talent Recruitment Programs,” Secretarial Memorandum dated January 31, 2019.
 - d. DOE O 142.3, *Unclassified Foreign Visits and Assignments Program*, current version.
 - e. DOE O 251.1, *Departmental Directives Program*, current version.
 - f. DOE O 475.1, *Counterintelligence Program*, current version.
 - g. DOE O 470.4, *Safeguards and Security Program*, current version.
7. DEFINITIONS. Definitions are addressed in Attachment 2.
8. CONTACT. For questions or comments concerning this Order, please contact the Office of the Under Secretary for Science at (202) 586-9947.

BY ORDER OF THE SECRETARY OF ENERGY:



MARK W. MENEZES
Deputy Secretary

ATTACHMENT 1: CONTRACTOR REQUIREMENTS DOCUMENT
DOE O 486.1A, FOREIGN GOVERNMENT SPONSORED OR AFFILIATED ACTIVITIES

Regardless of the performer of the work, the Contractor is responsible for complying with the requirements of this CRD. The definitions found in Attachment 2 to DOE O 486.1A, referenced in and made a part of this CRD, provide information applicable to contracts in which this CRD is inserted. The Contractor is responsible for flowing down the requirements of this CRD to R&D or Demonstration subcontracts, at any tier, to the extent necessary to ensure the Contractor's compliance with the requirements, where the subcontractor's work within the scope of the DOE contract is performed on or at a DOE/NNSA site/facility, including DOE/NNSA/contractor leased space.

Contractor Personnel participation in any Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk, as defined in Attachment 2, is prohibited. Contractor Employee participation in any Other Foreign Government Sponsored or Affiliated Activity is restricted.

The Contractor must utilize due diligence to ensure that (1) Contractor Personnel performing work within the scope of the DOE contract, working at any level, are not participants in any Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk; and (2) Contractor Employees performing work within the scope of the DOE contract, working at any level, are not participants in any Other Foreign Government Sponsored or Affiliated Activity.

1. The Contractor must work with the cognizant DOE Head of Field Element or other cognizant Departmental Element, and the Office of Intelligence and Counterintelligence, as needed, to determine if any disclosed or otherwise identified activity is participation in a Foreign Country of Risk Sponsored or Affiliated Activity.
2. The Contractor must ensure that Contractor Personnel currently participating in a disclosed or otherwise identified Foreign Government Talent Recruitment Program of a Foreign Country of Risk and Contractor Employees currently participating in a disclosed or otherwise identified Other Foreign Government Sponsored or Affiliated Activity either stop performing work within the scope of the DOE contract or stop participation in such activity within a reasonable period of time, not to exceed 30 days, until DOE makes a final determination according to this CRD, including a decision on an exemption request under paragraph 4, if applicable.
3. If it is determined that any disclosed or otherwise identified activity is participation in a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk, the Contractor must take appropriate action in accordance with the requirements of this CRD.
4. If it is determined that any disclosed or otherwise identified activity is participation in an Other Foreign Government Sponsored or Affiliated Activity of a Foreign Country of Risk, the Contractor must take appropriate action in accordance with this CRD, including a decision on whether to request an exemption, in consultation with the cognizant DOE

Head of Field Element or other cognizant Departmental Element, and the DOE Office of Intelligence and Counterintelligence. If an exemption request is desired, the Contractor must prepare such requests for DOE review according to DOE guidance.

5. The Contractor must file reports with the DOE Office of Intelligence and Counterintelligence and the cognizant DOE Head of Field Element or other cognizant Departmental Element, on a quarterly basis providing the following information for each disclosed or otherwise identified activity:
 - a. laboratory;
 - b. country;
 - c. description of activity;
 - d. type of activity, i.e., Foreign Government-Sponsored Talent Recruitment Program or Other Foreign Government Sponsored or Affiliated Activity, of a Foreign Country of Risk;
 - e. funding or other value received or expected;
 - f. duration;
 - g. technical area;
 - h. contractor action;
 - i. status or disposition; and
 - j. any other information requested by DOE.

NOTE: Each disclosed or otherwise identified activity must be included in each quarterly report until all DOE and contractor actions for an activity are reported as complete under subparagraph j., above.

6. If a cognizant contracting officer notifies the Contractor in writing of any noncompliance with this CRD, the Contractor must take appropriate action to ensure that, within 30 days or other reasonable time period determined by the contracting officer, the Contractor is in compliance with the requirements of the CRD.
7. Failure by the Contractor to reasonably ensure compliance in accordance with the requirements of this CRD, may result in DOE/NNSA exercising contractual remedies in accordance with federal regulations and the terms of the contract.

ATTACHMENT 2: DEFINITIONS

1. Cognizant Secretarial Officer (CSO). Headquarters Assistant Secretaries, Deputy Administrator, and Directors responsible for oversight or institutional management of DOE/NNSA facilities.
2. Contractor. This term, for the purposes of this Order, means an entity that has a contract with DOE/NNSA that incorporates the CRD or its requirements.
3. Contractor Employee. This term, for purposes of this Order, means any DOE or NNSA contractor employee performing work within the scope of a DOE contract which incorporates the CRD or its requirements regardless of where the work is performed.
4. Contractor Personnel. This term, for purposes of this Order, means:
 - a. any Contractor Employee;
 - b. any research and development (R&D) or Demonstration subcontractor employee, joint appointee from another institution, and any other individual performing R&D work, whether compensated or uncompensated, within the scope of the prime DOE contract either on-site at the DOE/NNSA site/facility or in DOE/NNSA/contractor leased space; and
 - c. any individual performing R&D work, whether compensated or uncompensated, within the scope of a Cooperative Research and Development Agreement, Strategic Partnership Project, or Agreement for Commercializing Technology, either on-site at the DOE/NNSA site/facility or in DOE/NNSA/contractor leased space.
 - d. The following are not included in this definition, consistent with paragraph 3.c.(1):
 - (1) Users performing work under a DOE User Facility Agreement; and
 - (2) Individuals under paragraphs 4.b. and 4.c. of this Attachment, above, considered Contractor Personnel solely because they perform activities at a DOE/NNSA site or DOE/NNSA/contractor leased space:
 - (a) specifically implementing a DOE program-sponsored international collaboration project; and
 - (b) within the scope of a DOE-level or U.S. Government-level bilateral or multilateral international agreement.
5. Demonstration Subcontract. A subcontract, in effect on or after the approval date of this Order, 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.

6. DOE Employee. Any federal employee employed by the DOE, including NNSA, and federal employees on detail from another federal agency to DOE, and any person on detail or appointment to DOE under the terms of the Intergovernmental Personnel Act. Special Government employees, including those serving on Federal Advisory Committee Act committees, are included in this definition.
7. DOE Federal Oversight Advisory Body (FOAB). A DOE group established to identify and assist program offices in implementing policy changes to address the risk associated with international research collaboration and foreign national access to the DOE scientific enterprise. The FOAB is responsible for reviewing and maintaining the Science and Technology Risk Matrix, processing exemption requests for instances where research collaboration is restricted, and providing feedback on Departmental science and technology engagement policies.
8. Foreign Country of Risk. Any foreign country determined to be of risk, following consideration of, but not limited to, the Office of the Director of National Intelligence WorldWide Threat Assessment and The National Counterintelligence Strategy of the United States of America, by the Under Secretary for Science in consultation with the Under Secretary of Energy; the Under Secretary for Nuclear Security; and the Office of Intelligence and Counterintelligence.
9. Foreign Country of Risk Sponsored or Affiliated Activity. Any foreign government-sponsored talent recruitment program or other foreign government sponsored or affiliated activity, as defined below, of a Foreign Country of Risk.
 - a. Foreign Government-Sponsored Talent Recruitment Program. An effort directly or indirectly organized, managed, or funded by a foreign government to recruit science and technology 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 physically relocate to the foreign state for the above purpose. Some programs allow for or encourage continued employment at U.S. 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 U.S. 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.
 - b. Other Foreign Government Sponsored or Affiliated Activity. Includes the following activities directly or indirectly involving a foreign country of risk entity, as defined below:

- (1) 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* foreign country of risk entity resources made available, directly or indirectly, 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, financial support for laboratory personnel, and participation of student and visiting researchers supported by other sources of funding. This further includes compensation, for example, current or promises of future: grants, awards, funding, scholarship, appointment, sabbatical, travel, university directed funding, and honoraria.
- (3) Current or pending participation in, or applications to programs, e.g., grant programs, sponsored by foreign governments, instrumentalities, or entities, if not a Foreign Government-Sponsored Talent Recruitment Program, as defined. Associated contracts, upon request by DOE, must be disclosed, in addition to the fact of participation.
- (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).
- (5) The following, considered alone, are not included in this definition:
 - (a) In-kind support under a fundamental research collaboration for the sole purpose of co-authorship to be made publicly available; and
 - (b) Support related specifically to implementing a DOE program-sponsored international collaboration project and within the scope of a DOE-level or U.S. Government-level bilateral or multilateral international agreement.

These 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.

For purposes of this definition, a foreign country of risk entity includes the following:

- (i) any foreign government or foreign government agency or instrumentality thereof of a Foreign Country of Risk;
 - (ii) any form of business enterprise or legal entity organized, chartered, or incorporated under the laws of a Foreign Country of Risk; and
 - (iii) any form of business enterprise or legal entity which is owned, controlled, or influenced¹ by an entity described in paragraphs 9(i) or 9(ii) above, or by any foreign national of a Foreign Country of Risk.
10. Heads of Departmental Elements. Heads of Departmental Elements include DOE's Under Secretaries, Assistant Secretaries, the NNSA Administrator, Program Office Directors, Power Marketing Administrators, or equivalent DOE officials, or any other official(s) the Head of Departmental Element designates to carry out his or her responsibilities under this Order.
 11. Heads of Field Elements/Field Office Managers. Officials who direct activities of DOE/NNSA field or site offices and field organizations reporting directly to Headquarters and serve as line management, site-level mission integrators, and as the authorizing officials for activities at the site on behalf of the Administrator.
 12. On-Site Work. Work within the scope of an applicable DOE contract at any level or duration performed by contractor personnel at the DOE/NNSA site/facility, including DOE/NNSA/contractor leased space.
 13. Program Secretarial Officer (PSO). Headquarters Assistant Secretaries, Deputy Administrator, and Directors who have management responsibility for program planning, budgeting, and execution of DOE/NNSA mission program activities.
 14. R&D Subcontract. A subcontract, in effect on or after the approval date of this Order,² 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.
 15. Scientific and Technical Information. Information products deemed by the originator to be useful beyond the originating site (i.e., intended to be published or disseminated), in any format or medium, which contain findings and technological innovations resulting

¹ Foreign ownership, control, or influence (FOCI) is described in DOE O 470.4B, *Safeguards and Security Program*, App. B, Section 2, as the following: "A U.S. company is considered under FOCI whenever a foreign interest has the power, direct or indirect, whether or not exercised, and whether or not exercisable through the ownership of the U.S. company's securities, by contractual arrangements or other means, to direct or decide matters affecting the management or operations of that company...."

² This statement refers to the approval date of the original Order, June 7, 2019.

from research and development (R&D) efforts and scientific and technological work of scientists, researchers, and engineers. Scientific findings are communicated through various media – e.g., textual, multimedia, audiovisual, and digital – and are produced in a range of products such as technical reports, scientific/technical conference papers, journal articles, workshop reports, program documents, invention reports, patent applications, patents, publicly available scientific research datasets, or other forms of scientific and technical information.