



DEPUTY SECRETARY OF DEFENSE  
1010 DEFENSE PENTAGON  
WASHINGTON, DC 20301-1010

MAY 13 2024

MEMORANDUM FOR SENIOR PENTAGON LEADERSHIP  
DEFENSE AGENCY AND DOD FIELD ACTIVITY DIRECTORS

SUBJECT: Defense Small Business Innovation Research and Small Business Technology Transfer Due Diligence Program

Small businesses across the country play an important role in sustaining America's military edge, producing systems and components that our warfighters need. As DoD's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs help discover, develop, and deliver capabilities to the warfighter at greater speed and scale, we have great responsibility to ensure these innovations and technologies are not compromised by foreign adversaries and competitors.

This memorandum and its associated attachments establish Department policy and provide implementation guidance for the Defense SBIR and STTR Due Diligence Program. This program will assess and mitigate security risks presented by small business concerns (SBC) in accordance with the SBIR and STTR Extension Act of 2022 (Public Law 117-183), which focuses on mitigating security risks presented by SBCs with ties to a foreign country of concern seeking an SBIR or STTR award.

The Under Secretary of Defense for Research and Engineering (USD(R&E)) is responsible for ensuring that common minimum standards — published through this policy for the Defense SBIR and STTR Due Diligence Program — are applied consistently across all DoD Components that make SBIR or STTR awards. The Defense SBIR/STTR Program Office, in the Office USD(R&E), will be responsible for overseeing the DoD Components' establishment and implementation of their DoD Component SBIR and STTR Due Diligence Programs.

DoD Components will follow the policies contained in the Defense SBIR and STTR Due Diligence Program Implementation Policy (Attachment 1) and the Defense SBIR and STTR Due Diligence Program Common Risk Matrix (Attachment 2) and review information in support of the Defense SBIR and STTR Due Diligence Program as they implement their DoD Component SBIR and STTR Due Diligence Programs. The USD(R&E) will, within one year from the signature of this memorandum, initiate staffing of a Defense SBIR and STTR Due Diligence Program DoD Instruction.

CLEARED  
For Open Publication

May 23, 2024

Department of Defense

OFFICE OF PREPUBLICATION AND SECURITY REVIEW

Attachments:  
As stated



OSD003584-24/CMD005099-24

# **ATTACHMENT**

**1**

## Attachment 1: Defense SBIR and STTR Due Diligence Program Implementation Policy

The Office of the Under Secretary of Defense for Research and Engineering (OUSD(R&E)), in collaboration with other Department of Defense (DoD) Components and the Small Business Administration (SBA), has established a risk-based Defense Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Due Diligence Program to assess **security risks**<sup>1</sup> presented by **small business concerns** (SBC) seeking an SBIR or STTR award from the DoD. Each DoD Component that has an SBIR and/or STTR program will establish and conduct a DoD Component-specific SBIR and STTR Due Diligence Program, consisting of the following elements:

- A. Disclosure Form at Proposal Submission: All SBIR and STTR proposals are required to include a completed, SBA-approved, “Disclosures of Foreign Affiliations or Relationships to Foreign Countries” form, hereafter referred to as the foreign disclosure form. DoD Components will disqualify any proposals for which the proposing SBC fails to submit the foreign disclosure form from receiving an SBIR or STTR award.
- B. Publicly and Commercially Available Information Business Review: The Air Force Office of Commercial and Economic Analysis (OCEA),<sup>2</sup> pursuant to funding support agreements and oversight of the Secretary of the Air Force, will conduct a **business review** based on **publicly available information (PAI)** and **commercially available information (CAI)** for each SBC that submits an SBIR or STTR proposal to identify potential **security risk indicators**; the PAI/CAI business review will be used to develop a business security risk indicator report.
- C. Due Diligence Review to Assess Security Risks: Each DoD Component will conduct a due diligence review to assess security risks posed by SBCs seeking an SBIR or STTR award.
- D. Referral Process for Counterintelligence (CI) Review: A DoD Component will refer the identities of SBCs that the due diligence review assesses may be under **foreign ownership, control, or influence** (FOCI) to the appropriate CI organization for a CI review.
- E. Risk Mitigation Review Board: Each DoD Component will establish a risk mitigation review board to evaluate SBCs that have been assessed as having prohibited factors, very high risk, high risk, or medium risk.

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<sup>1</sup> Bolded terms are defined in Enclosure 2: Defense SBIR and STTR Due Diligence Program Common Risk Matrix.

<sup>2</sup> The OUSD(R&E) is open to expanding the publicly and commercially available information business review process in the future if other DoD Components offer processes that are comparably as effective and sharable as the OCEA model.



The Defense SBIR and STTR Due Diligence Program ensures that SBIR and STTR awards made by the DoD Components will recognize and account for security risks posed by SBCs and helps to prevent awards that pose an unacceptable security risk to the Department that cannot be reasonably mitigated.

The Defense SBIR and STTR Due Diligence Program will be used to conduct reviews of all SBCs that submit SBIR or STTR proposals with an award value of less than \$5 million (including Phase I, Direct to Phase II (SBIR only), Phase II, Sequential Phase II, Cross-Agency Phase II, Enhanced Phase II, 3<sup>rd</sup> Phase II (SBIR only) under the Commercialization Assistance Pilot Program, and Phase III). Until further notice, the Defense SBIR and STTR Due Diligence Program will only be conducted on SBCs and key personnel identified in SBIR or STTR proposals and not on proposed subcontractors.

### **Small Business Compliance Reciprocity and Relationship to Other FOCI Programs**

Adherence to the Defense SBIR and STTR Due Diligence Program established in this memorandum constitutes compliance with section 223 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 (Public Law 116-283), *Disclosure of Funding Sources in Applications for Federal Research and Development Awards*, codified at title 42 United States Code (U.S.C.) section 6605.

Further, pursuant to section 847 of the NDAA for FY 2020 (Public Law 116-92), *Mitigating Risks Related to Foreign Ownership, Control, or Influence of Department of Defense Contractors or Subcontractors*, the Defense Counterintelligence Security Agency (DCSA) will assess FOCI factors and recommend mitigation actions for all SBCs that are assessed as being under FOCI and that submit SBIR or STTR proposals with an award value equal to or greater than \$5 million. DoD Components will conduct due diligence reviews of all SBIR or STTR proposals with an award value of \$5 million or greater until DCSA's program becomes operational.

### **Component-specific SBIR and STTR Due Diligence Program**

#### **A. Disclosure Form at Proposal Submission**

Each SBC submitting an SBIR or STTR proposal is required to complete and submit a foreign disclosure form, regardless of the award value and for all SBIR or STTR program phases. The information collected on the foreign disclosure form, in addition to PAI/CAI, will be used to inform the due diligence review to assess security risks, described in further detail below. If a proposal does not include the completed foreign disclosure form, the SBC will not be eligible for an SBIR or STTR award for that proposal.

#### **B. PAI/CAI Business Review**

The PAI/CAI business review is an analysis that utilizes PAI/CAI and analytical tools to identify potential security risk indicators. OCEA will conduct a PAI/CAI business review for each SBC that submits an SBIR or STTR proposal. The PAI/CAI business review will be performed in parallel with the technical evaluation of the proposal.

After the close of each SBIR and/or STTR Broad Agency Announcement or SBIR and/or STTR Commercial Solutions Opening, and after the Phase II proposal submission deadline, or any initial or subsequent Phase II proposal submission requested by a DoD Component in support of the Commercial Readiness Program or for continued technology development (i.e., reach back), the Defense SBIR/STTR Program Office shall provide OCEA data on each SBC that submits a proposal. The data will include information traditionally submitted by SBCs as part of an SBIR or STTR proposal but will not include the foreign disclosure form. OCEA will conduct a PAI/CAI business review to identify potential security risk indicators for each SBC in the following categories:

- cybersecurity practices;
- patent analysis;
- employee analysis; and
- foreign ownership, including the financial ties and obligations (including surety, equity, and debt obligations) of both the SBC and its employees to a foreign country, foreign person, or foreign entity, with a focus on foreign country of concern.

OCEA will use the results of each PAI/CAI business review to produce a business security risk indicator report that will be provided to the DoD Component's SBIR or STTR program office to which the SBC applied. DoD Components will use the business security risk indicator report in their due diligence review to assess security risks.

Within 90 days from the date of the implementation of the Defense SBIR and STTR Due Diligence Program, the Secretary of the Air Force, or designee(s), will enter into support agreements with the OUSD(R&E) and DoD Components with an SBIR and/or STTR program to establish the process by which the Department of the Air Force (DAF) will be reimbursed for costs associated with OCEA conducting PAI/CAI business reviews, including related oversight, compliance assistance, and support for the review and assessment process. DAF support under these support agreements shall not include routine legal or other support for award or contracting decisions of non-DAF organizations.

### **C. Due Diligence Review to Assess Security Risks**

Each DoD Component with an SBIR and/or STTR program will establish a due diligence policy and implement a due diligence review process to assess security risks of SBCs seeking an SBIR or STTR award. Within 90 days from the date of the implementation of the Defense SBIR and STTR Due Diligence Program, each DoD Component will submit its policy to the Defense SBIR/STTR Program Office.

At a minimum, each DoD Component's due diligence review to assess security risks policy will require:

- Review of SBCs:
  - with potential security risk indicators indicated in the business security risk indicator report; or



- that are submitting Sequential Phase II, Enhanced Phase II, Direct to Phase II (SBIR only), Cross-Agency Phase II, 3<sup>rd</sup> Phase II, or Phase III proposals.
- That the DoD Component's due diligence review be conducted in parallel with the technical evaluation of the SBIR or STTR proposal to meet the statutory timelines for award announcement.
- That the due diligence review be conducted by DoD Component acquisition security professionals, to the maximum extent practicable.
- An analyses of the foreign disclosure form submitted by the SBC to:
  - compare the SBC's disclosures to relevant PAI/CAI to ascertain if the disclosure is accurate and whether the SBC failed to disclose any relevant information; and
  - determine whether, based on any information the SBC disclosed or failed to disclose, the SBC is disqualified from further award consideration for the specific proposal, pursuant to 15 U.S.C. § 638(g)(15)(B). The criteria for disqualification from further award consideration pursuant to this statute is provided in Enclosure 2: SBIR and STTR Due Diligence Program Common Risk Matrix.
- Comparison of the information in the SBC's foreign disclosure form and the business security risk indicator report prepared for the SBC to the factors in Table 1 in Enclosure 2 to assess the SBC's risk and if mitigation measures for the SBC are suggested, recommended, or required.
- A written assessment to the DoD Component's SBIR or STTR program lead and, as applicable, the DoD Component's risk mitigation review board.

The written assessment resulting from the due diligence review to assess security risks will be stored in a due diligence program repository for information sharing, at an appropriate security level (e.g., Impact Level 4 or Impact Level 6), and will be accessible to authorized DoD Component personnel.

If an SBC is assessed as being low risk for all the risk factors in Table 1, the DoD Component will complete the source selection, negotiation, and award process for SBIR and STTR awards for the SBC without further security review.

#### **D. Referral Process for CI Review**

A DoD Component will refer the identities of SBCs assessed by the due diligence review to potentially be under FOCI to the appropriate CI organization for a CI review. The CI organization may provide information from the results of its activities to the risk mitigation review board for the DoD Component(s) considering award to the SBC in accordance with applicable intelligence oversight and security policies.

#### **E. Risk Mitigation Review Board**

Each DoD Component will establish a risk mitigation review board, as well as a list of potential mitigation strategies, and will determine what level(s) of risk, with or without mitigation, are acceptable for its SBIR and STTR awards. The risk mitigation review board will review the written assessment for SBCs that have factors assessed as prohibited, very high risk, high risk, or medium risk in Table 1 of Enclosure 2 and develop a written recommendation for the source selection official as to whether there are viable options to mitigate the risk(s) and provide a recommendation as to whether the SBC's proposal(s) should move forward for negotiation and possible award. The intent of the risk mitigation review board is to identify strategies to mitigate risks to the maximum extent practicable.

The DoD Component's risk mitigation review board will, at a minimum, include a representative from the DoD Component's SBIR/STTR program office, one or more appropriate SBIR or STTR topic technical points of contact, the contracting officer, an acquisition security review professional, and, if a CI review has been completed for the SBC, an appropriate CI representative.

If a DoD Component's risk mitigation review board concludes that an SBC should not be eligible for the specific SBIR or STTR award due to a security risk that cannot be adequately mitigated, the recommendation must be provided, in writing, to the source selection official responsible for the relevant SBIR or STTR award. Additionally, the risk mitigation review board will create and provide an unclassified rationale for the recommendation of ineligibility to the DoD Component's contracting office. This rationale must be appropriate for release to the SBC and must provide enough context about the reason(s) for ineligibility for award such that the SBC can work to mitigate any identified security risks.

### **DoD Component Reporting**

DoD Components will provide to the Defense SBIR/STTR Program Office, on a quarterly basis, summaries of all risk mitigation review board findings, the number of due diligence reviews to assess security risk conducted; the number of SBIR and/or STTR proposals found to be ineligible for award based on risk identified by the due diligence review to assess security risks; and description(s) of the risk(s) that led to the ineligibility determination(s). The Defense SBIR/STTR Program Office may request ad hoc reports and may revise Table 1 in Enclosure 2 as existing factors evolve or new factors are identified.

### **OUSD(R&E) Actions**

The Defense SBIR/STTR Program Office will establish a capability, by FY 2025, to optimize metrics collection across the DoD. In addition, the Defense SBIR/STTR Program Office is in the process of establishing a central repository (Impact Level 6) for sharing classified information for use by authorized DoD personnel at each DoD Component.

The Director, Defense SBIR/STTR Program Office, in collaboration with the Director, Maintaining Technology Advantage, will update Enclosure 2 as necessary to incorporate changes in law and policy; lessons learned; and to ensure consistency with the SBA and other Federal agencies.

# **ATTACHMENT**

**2**



## Attachment 2: Defense SBIR and STTR Due Diligence Program Common Risk Matrix

The purpose of this enclosure is to provide the factors for assessing a small business concern's (SBC) and a covered individual's foreign control, influence, obligations, and affiliations in the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) due diligence review to assess security risks and to provide key definitions for Department of Defense (DoD) Components making SBIR or STTR award decisions. The assessed risk of an SBC or covered individual corresponds to the highest row with the presence of at least one factor in Table 1, below.

Pursuant to 15 United States Code (U.S.C.) section 638(g)(15)(B), the DoD is prohibited from making an award to a SBIR or STTR proposal if:

1. The proposing SBC, or its parent company or its subsidiary:
  - (a) is located in foreign country of concern (FCOC);
  - (b) has an owner or covered individual that has a foreign affiliation with a research institution located in an FCOC; or
  - (c) has an owner or covered individual that is party to a malign foreign talent recruitment program (MFTRP); AND
2. The relationships and commitments described in clauses 1(a) through 1(c):
  - (a) interfere with the Department's capacity to carry out activities the Department supports;
  - (b) create duplication with DoD-supported activities;
  - (c) present concerns about conflicts of interest;
  - (d) were not appropriately disclosed to the DoD;
  - (e) violate federal law or DoD terms and conditions; or
  - (f) pose a risk to national security.

**Table 1. Due Diligence Review Decision Matrix to Inform SBIR/STTR Award Eligibility Decisions**

**Factors for Assessing an SBC's and a Covered Individual's Foreign Control, Influence, Obligations, and Affiliations**

	<b>Factor 1: Foreign Talent Recruitment Program</b>	<b>Factor 2: Foreign Ownership/Control</b>	<b>Factor 3: Foreign Patents, Intellectual Property, and Technology Transfers</b>	<b>Factor 4: Financial Obligations</b>	<b>Factor 5: Foreign Affiliations</b>
<p><b>Prohibited Factors</b></p> <p>Factors prohibited by DoD policy, mitigation measures required, rejection of proposal required if no mitigation possible</p>	<p><b>For the Period after 9 Aug 2024</b></p> <p>Indicators of active participation in an MFTRP meeting any of the criteria in Sec. 10638(4)(A)(i)-(ix) of the Creating Helpful Incentives to Produce Semiconductors (CHIPS) and Science Act of 2022 (Public Law 117-167).</p>	<p>The DoD is prohibited from making an award to an SBC with the factors set forth in 15 U.S.C. 638(g)(15)(B).</p>	<p>None</p>	<p>None</p>	<p>The DoD is prohibited from making an award to an SBC with the factors set forth in 15 U.S.C. 638(g)(15)(B).</p>
<p><b>Very High Risk</b></p> <p>Factors discouraged by DoD policy, mitigation measures required, rejection of proposal required if no mitigation possible</p>	<p><b>For the period after 9 Aug 2022:<sup>1</sup></b></p> <p>Indicator(s)<sup>2</sup> of participation<sup>3</sup> in a foreign talent recruitment program (FTRP) meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p>	<p>None</p>	<p>Indicators that the SBC had previously filed patent application(s) or patent(s) that result from research funded by the United States Government (USG) in an FCOC prior to filing in the U.S.</p>	<p>Undisclosed indicators of significant financial ties and/or debt/surety obligations of the SBC and/or its employees to an entity or person in an FCOC.</p>	<p>Indicator(s) <u>disclosed</u> in the SBC's proposal or foreign disclosure form that an individual with significant influence over the SBC's operations has affiliation with an entity or research institution in an FCOC.</p>



<p><b>High Risk</b></p> <p>Mitigation measures recommended</p>	<p><b>For the period between 10 Oct 2019<sup>4</sup> and 9 Aug 2022:</b></p> <p>Indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p> <p><b>OR:</b></p> <p><b>For the period after 10 Oct 2019:</b></p> <p>Covered individual's scientific or engineering publication co-author(s)<sup>5</sup> are participants in an MFTRP or an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p>	<p>Undisclosed indicators that a business entity, parent company, subsidiary, joint venture, or a controlling general partner maintains an affiliation with an individual, an institution, or a controlling equity held in an FCOC, which interferes with the capacity for activities supported by the DoD to be carried out, present concerns about conflict of interest (CoI), or pose a risk to national security.</p>	<p>Patent application(s) or patent(s) not disclosed in the SBC's proposal, that result from research funded by the USG, that was/were filed in a non-FCOC prior to filing in the U.S. or on behalf of an entity in a non-FCOC.</p> <p><b>OR:</b></p> <p>Undisclosed indicators that that, in the five-year period prior to the submission of the proposal, the SBC engaged in technology licensing or intellectual property sales or transfers to an FCOC.</p>	<p>Disclosed indicators of significant financial ties or debt/surety obligations of the SBC or its employees to an entity or person in an FCOC.</p>	<p>None</p>
<p><b>Medium Risk</b></p> <p>Mitigation measures suggested</p>	<p><b>For the period before 10 Oct 2019:</b></p> <p>Indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p> <p><b>OR:</b></p> <p>Covered individual's scientific or engineering publication co-author(s) are participants in an MFTRP or an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p>	<p>Disclosed indicators that a business entity, parent company, subsidiary, joint venture, or a controlling general partner maintains an affiliation with an individual, an institution, or a controlling equity held in an FCOC, which present concerns about CoI or creates duplication with activities supported by the DoD.</p>	<p>Co-patent applicant with a person on the Bureau of Industry and Security (BIS) Denied Persons List<sup>6</sup> after the date of their listing.</p> <p><b>OR:</b></p> <p>Patent application(s) or patent(s) disclosed in the SBC's proposal, that result from research funded by the USG, that was/were filed in a non-FCOC prior to filing in the U.S. or on behalf of an entity in a non-FCOC.</p> <p><b>OR:</b></p> <p>Disclosed indicators that that, in the five-year period prior to the submission of the proposal, the SBC engaged in technology licensing or intellectual property sales or transfers to an FCOC.</p> <p><b>OR:</b></p>	<p>Indicator(s) that the SBC relies on goods, services, or labor supplied from an entity based in an FCOC or an entity owned by the government of an FCOC and domiciled in the U.S. that is critical to a DoD-funded activity that presents concerns about CoI or creates duplication with activities supported by the DoD.</p>	<p><b>For the period after 10 Oct 2019:</b></p> <p>Covered individual's co-author(s) on publications in science and engineering (S&amp;E) journals is/are affiliated with an entity on: the U.S. BIS Entity List, the Annex of EO 14032 or superseding Eos, Sec. 1260H of the NDAA for FY 2021, or Sec. 1286 of the NDAA for FY 2019, as amended.<sup>7</sup></p> <p><b>OR:</b></p> <p>Covered individual is a co-author on a publication in an S&amp;E journal with a person on the U.S. BIS Denied Persons List.<sup>7</sup></p>



			<p><b>For the period after 10 Oct 2019:</b></p> <p>Covered individual's co-inventor(s) on patent(s) filed in the U.S. is/are affiliated with an entity on: the U.S. BIS Entity List, the Annex of Executive Order (EO) 14032 or superseding EOs, Sec. 1260H of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021, or Sec. 1286 of the NDAA for FY 2019, as amended, that occurred after the date the entity was listed.</p>		
<p><b>Low Risk</b></p> <p>No mitigation needed</p>	<p>No indicator(s) of participation in an MFTRP; and</p> <p>No indicator(s) of participation in an FTRP meeting any of the criteria in Sec. 10638(4)(A)(i) - (ix) of the CHIPS and Science Act of 2022 (Public Law 117-167).</p>	<p>No indicator(s) that a business entity, parent company, subsidiary, or joint venture is or was owned by, based in, located in, or had a general partner with an affiliation with an FCOC.</p>	<p>All patent application(s) or patent(s) resulting from research funded by the USG have been filed in the U.S. prior to filing in any other country.</p>	<p>No indicators that the SBC, an owner, or any covered individual has foreign financial obligations with an FCOC, foreign entities in an FCOC, or a person in an FCOC.</p>	<p>No indicator(s) that an owner or covered individual has an active affiliation with a foreign entity or research institution in an FCOC.</p>

**Note 1:** The risk factor is elevated if any of the disclosed or identified indicators occurred after the signing of the CHIPS and Science Act of 2022 (Public Law 117-167).

**Note 2:** An indicator may reveal or acknowledge undue foreign influence. Examples include foreign funding or foreign affiliations revealed in proposal disclosures, publications, curriculum vitae (CV), institution website announcements, or social media posts.

**Note 3:** Participation may be identified by a contract between the individual and an FTRP reported by the individual in the proposal or on a CV or resume or identified in an acknowledgement in a publication listing the covered individual and an FTRP.

**Note 4:** The risk factor is elevated if any of the disclosed or identified indicators occurred after publication of the Under Secretary of Defense for Research and Engineering Griffin Letter to Academia, dated 10 October 2019.

**Note 5:** Co-authorship is identified as a moderate risk prior to 10 October 2019, when collaborating with entities or persons associated with risk factors that may be mitigated.

**Note 6:** Individuals on the BIS Denied Persons List are active between the effective date and the expiration date provided on the list.

**Note 7:** Co-authorship should not be the sole justification for rejection of an SBC's proposal.



## Definitions

**Affiliation:** Academic (not including undergraduate or graduate students), professional, or institutional appointments or positions with a foreign government or a foreign government-connected entity, whether full-time, part-time, or voluntary (including adjunct, visiting, post-doctoral appointment, or honorary), where monetary reward, non-monetary reward, or other quid-pro-quo obligation is involved.

**Association:** Academic (not including undergraduate or graduate students), professional, or institutional appointments or positions (including adjunct, visiting, voluntary, post-doctoral appointment, or honorary) with a foreign government or a foreign government-connected entity where no monetary reward, non-monetary reward, or other quid-pro-quo is involved.

**Business Review:** An analysis utilizing publicly available information and commercially available information from publicly available and commercial data sources and analytical tools to identify potential activity or behavior by a researcher, employee, or organization that may reveal or acknowledge undue foreign influence.

**Commercially Available Information (CAI):** Any information (data) that is of a type customarily made available or obtainable and sold, leased, or licensed to the general public or to non-governmental entities for purposes other than governmental purposes. CAI also includes information (data) for exclusive government use, knowingly and voluntarily provided by, procured from, or made accessible by corporate entities at the request of a government entity or on their own initiative.

**Company:** A legal entity representing an association of people, whether natural, legal, or a mixture of both, with a specific objective. It is also referred to as a business, association, corporation, concern, or firm.

**Conflict of Commitment (CoC):** A situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities. CoCs include conflicting commitments of time and effort (e.g., obligations to dedicate time in excess of institutional or funding agency policies or commitments). Other types of conflicting obligations, including obligations to improperly share information with, or to withhold information from, an employer or funding agency, can also threaten security and integrity, and are an element of a broader concept of CoCs.

**Conflict of Interest (CoI):** 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, funding, or distribution of research.

**Controlling Equity:** Ownership of more than 50 percent of the outstanding equity interest of a corporation, partnership, limited liability company, or trust.

**Covered Individual:** An individual who provides substantial contributions to an effort being performed in support of a DoD SBIR or STTR award, and who is considered essential to the successful performance of the project. Covered individuals include those listed as key personnel in SBIR or STTR proposals, such as the principal investigator or co-principal investigators.

**DoD Component:** A Military Department, Defense Agency, DoD Field Activity, or organization within the Office of the Secretary of Defense.

**Entity:** An organization, including government organizations, non-governmental organizations, and private corporations, whether foreign or domestic.



**Entity in a Non-Foreign Country of Concern:** An organization, including government organizations, non-government organizations, and private corporations, incorporated in a non-foreign country of concern or physically located in a non-foreign country of concern.

**Foreign Country of Concern (FCOC):** The People's Republic of China, the Democratic People's Republic of Korea, the Russian Federation, and the Islamic Republic of Iran.

**Foreign Entity of Concern:** As defined in section 10638(3) of the CHIPS and Science Act of 2022 (Public Law 117-167), a foreign entity that is:

- Designated as a foreign terrorist organization by the Secretary of State under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a));
- Included on the list of specially designated nationals and blocked persons maintained by the Office of Foreign Assets Control of the Department of the Treasury (commonly known as the Specially Designated Nationals and Blocked Persons List (SDN) List);
- Owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation (as such term is defined in 10 U.S.C. 4872);
- Alleged by the Attorney General to have been involved in activities for which a conviction was obtained under:
  - chapter 37 of title 18, U.S.C. (commonly known as the Espionage Act);
  - section 951 or 1030 of title 18, U.S.C.;
  - chapter 90 of title 18, U.S.C. (commonly known as the Economic Espionage Act of 1996);
  - The Arms Export Control Act (22 U.S.C. 2751, et seq.);
  - Section 224, 225, 226, 227, or 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2274, 2275, 2276, 2277, and 2284);
  - The Export Control Reform Act of 2018 (50 U.S.C. 4801, et seq.);
  - The International Emergency Economic Powers Act (50 U.S.C. 1701, et seq.); or
- Determined by the Secretary of Commerce, in consultation with the Secretary of Defense and the Director of National Intelligence, to be engaged in unauthorized conduct that is detrimental to the national security or foreign policy of the United States.

**Foreign Government-Connected Entity:** An organization, including government organizations, non-governmental organizations, and private corporations, owned or operated directly or indirectly by a foreign government.

**Foreign Ownership, Control, or Influence (FOCI):** A U.S. entity is under FOCI when:

- A foreign interest has the power to direct or decide issues affecting the entity's management or operations in a manner that could either:
  - Result in unauthorized access to classified information, or
  - Adversely affect performance of a classified contract or agreement.
- The foreign government is currently exercising, or could prospectively exercise, that power, whether directly or indirectly, such as:
  - Through ownership of the U.S. entity's securities, by contractual arrangements, or other means; or
  - By the ability to control or influence the election or appointment of one or more members of the entity's governing board.

**Foreign Talent Recruitment Program (FTRP):** An 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 providing the recruited individual a full-time or part-time position).



**Joint Venture:** An association of people or business concerns who, either by express or implied contract, are working together to execute a single business venture for joint profit. These people or concerns may combine their efforts, skills, property, money, or knowledge, but only on a temporary basis.

**Malign Foreign Talent Recruitment Program (MFTRP):** As defined in section 10638(4) of the CHIPS and Science Act of 2022 (Public Law 117-167), the term “malign foreign talent recruitment program” means:

- 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:
  - 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;
  - 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;
  - Being unable to terminate the foreign talent recruitment program contract or agreement except in extraordinary circumstances;
  - 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;
  - 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;
  - 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;
  - 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
  - Having a conflict of interest or conflict of commitment contrary to the standard terms and conditions of the Federal research and development award; and
- A program that is sponsored by:
  - An FCOC or an entity based in an FCOC, whether or not directly sponsored by the FCOC;
  - 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 (codified at 10 U.S.C. 4001); or
  - An FTRP on the list developed under section 1286(c)(9) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (codified at 10 U.S.C. 4001).

**Parent Company:** A company, sometimes called a holding company, that has controlling interests in one or more smaller companies. The parent company only needs to own a majority to have control.



**Participation in a Malign Foreign Talent Recruitment Program:** Affiliation with or membership in an MFTRP, including a contractual or other binding agreement between an individual and an MFTRP; an individual reporting participation in an MFTRP in a research proposal, curriculum vitae, or resume; or an individual's identification in a publication listing the individual and an MFTRP.

**Publicly Available Information (PAI):** Information that has been published or broadcast for public consumption, is available on request to the public, is accessible online or otherwise to the public, is available to the public by subscription or purchase, could be seen or heard by a casual observer, is made available at a meeting open to the public, or is obtained by visiting a place or attending an event that is open to the public as defined in DoD Directive 3115.18.

**Research Institution:** Any organization that is:

- A nonprofit university.
- A nonprofit institution as defined in Section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980.
- A contractor-operated Federally funded research and development center (FFRDC), as identified by the National Science Foundation in accordance with the government-wide Federal Acquisition Regulation issued in accordance with Section 35(c)(1) of the Office of Federal Procurement Policy Act. A list of eligible FFRDCs is available at: <https://www.nsf.gov/statistics/ffrdclist/>.

**Security Risk Indicators:** Identified activities or behaviors by a researcher, employee, or organization that may reveal or acknowledge undue foreign influence.

**Security Risks:** Risks to DoD funded SBIR or STTR research that are related to cybersecurity practices, foreign patents, employee affiliations or associations and those risks posed by foreign ownership, financial ties, and obligations of the small business concern and/or its employees to a foreign country, foreign person, or foreign entity.

**Small Business Concern (SBC):** A company, limited liability company, firm, joint venture, partnership, or other business arrangement that meets the requirements set forth in 13 C.F.R. § 121.702 (available [here](#)). An SBC must satisfy the following conditions on the date of award:

- Is organized for profit, with a place of business located in the United States, which operates primarily within the U.S. or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor.
- Is in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that if the concern is a joint venture, each entity to the venture must meet the following requirements:
  - is more than 50% directly owned and controlled by one or more individuals (who are citizens or permanent resident aliens of the United States), other SBCs (each of which is more than 50% directly owned and controlled by individuals who are citizens or permanent resident aliens of the United States), or any combination of these; and
  - has, including its affiliates, not more than 500 employees. (For explanation of affiliate in this context, see [www.sba.gov/size](http://www.sba.gov/size)).

**Subsidiary:** An entity that is more than 50 percent owned or controlled directly by a parent corporation or through another subsidiary of a parent corporation.