



June 12, 2023

Ms. Suzanne Plimpton  
Reports Clearance Officer  
National Science Foundation  
2415 Eisenhower Avenue, Suite E7400  
Alexandria, VA 22314  
*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Subject: National Science Foundation Proposal/Award Information—NSF Proposal and Award Policies and Procedures Guide, 88 FR 22488

Dear Ms. Plimpton:

The University of Wisconsin-Madison (UW-Madison) is a member of the Council on Governmental Relations (COGR). We wish to endorse the COGR letter submitted on the NSF Proposal and Award Policies and Procedures Guide. In addition to the endorsement, we are providing the following comments.

### **Introduction**

#### D.1. Definitions

*i. Malign Foreign Talent Recruitment Program (pages 17-18/196):* Having a definition of malign foreign talent recruitment program is helpful, as is knowing what activities are not included in the definition. It may be useful for NSF to clarify that parts (A) and (B) are indicators of a malign foreign talent recruitment program. If this clarification were not made, then legitimate academic collaborations may be mischaracterized as malign foreign talent recruitment programs. We presume that NSF does not intend for this type of mischaracterization to occur, given that the CHIPS and Science Act Section 10638 includes the word “and” between parts (A) and (B) in the definition of malign foreign talent recruitment program.

Part (B) of the definition incorporates these references: “(ii) 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 (10 U.S.C. 2358 note; Public Law 115–232); or (iii) a foreign talent recruitment program on the list developed under section 1286(c)(9) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (10 U.S.C. 2358 note; Public Law 115–232).” We are unable to locate the information in these references. We ask that NSF provide these lists so that they are readily available to the research community.

## **Chapter II: Proposal Preparation Instructions**

### **D. Proposal Contents**

#### **1.e. Proposal Certifications for Senior Personnel**

(ii) *Malign Foreign Talent Recruitment Programs* (pages 42-43/196): Senior personnel must certify that they are not party to a malign foreign talent recruitment program. In the proposal, senior personnel will make this certification as part of the Biographical Sketch and the Current and Pending/Other Support documents. After an award is made, how will the certification occur annually? PIs and co-PIs are only required to submit a revised current and pending support document with the project report if there has been a change in active other support. If that condition is not met, how will the certification occur?

#### **2.h. Senior Personnel Documents**

(i) *Biographical Sketches* (page 58/196): Thank you for removing the three-page limitation for the Biographical Sketch. The absence of a page limitation is welcome.

## **Chapter IV: Non-Award Decisions and Transactions**

B. *Proposal Not Accepted or Returned Without Review* (page 115/196): NSF has added a reason for not accepting a proposal or returning it without review because it “has the potential to negatively impact research security.” It would be helpful for NSF to engage with the Authorized Organizational Representative if this is the reason that a proposal is not accepted or returned. Doing so would be consistent with the [NSPM-33 Implementation Guidance](#), because the Guidance indicates that there should be “Notice and due process in agency consideration and application of regulatory administrative action.” Also, the comment for this new reason mentions an NSF Risk Rubric. UW-Madison, as part of the research community, would appreciate an opportunity to review and comment on the NSF Risk Rubric. We would like to understand how the NSF Risk Rubric will impact our proposals and awards.

## **Chapter VII: Award Administration**

### **D. Reporting Requirements**

1.b(iv) *Certification Requirements for Annual and Final Annual Reports* (page 134/196): This certification appears to be the first and only mention in the PAPPG of an “individual development plan” required for graduate students and postdoctoral scholars. This is a substantial new requirement and should be described in greater detail. UW-Madison suggests that NSF elaborate on this requirement in Chapter IX: Recipient Standards. Please clarify if this requirement only applies to postdocs supported on awards issued to the organization, which would mean that the requirement does not apply to postdocs paid directly by NSF.

#### **3. Foreign Gifts and Contracts Disclosures** (pages 135-136/196 and linked [PDF](#))

Please confirm whether organizations need to report single transactions with a value of \$50,000 or more, or if organizations are expected to report transactions from a foreign source/country of concern with an aggregate value of \$50,000 or more.

The report due date is July 31<sup>st</sup>, but a reporting period is not listed. UW-Madison recommends that the reporting period should be the calendar year to align with Department of Education (ED) reporting. The burden to complete the Section 117 reporting is significant and requires that UW-Madison collect and analyze information from multiple offices and organizations internal and external to the University. Because the NSF Foreign Gifts and Contracts Disclosure is not identical to the information requested by ED, we need sufficient time to compile information for each report.

Thank you for providing information about [proposed data elements to be collected](#).

The definition of “foreign country of concern” raises questions. First, the Department of State maintains a list of [Countries of Particular Concern](#). Is this the list to which organizations should refer? If so, NSF may want to provide a hyperlink in its guidance to this specific list. Second, if an organization were to receive funds from Hong Kong or Macau (or another Special Administrative Region of China), are those to be counted as gifts or contracts from China?

For consistency with ED, NSF may wish to consider making only 2.d.i a required data element. For HEA Section 117 reporting to ED, only the country name is required.

Regarding 2.f.i and iii, please clarify the difference between “a foundation of the institution, and related entities such as any educational, cultural, or language entity” and “an intermediary.” For the purposes of ED reporting, we consider the two phrases to have essentially the same meaning. As i. and iii. are currently written, UW-Madison is unclear how to differentiate the two categories for reporting purposes.

For consistency with ED, NSF may wish to consider making only 3.d.i a required data element. For HEA Section 117 reporting to ED, only the country name is required.

Regarding 5.f.iii, NSF indicates on page 1 of the proposed data elements document that the agency is adopting the same definition as ED for “restricted or conditional gift or contract.” However, part iii inescapably expands the definition beyond 20 U.S.C. § 1011f(h)(5) and goes outside of Section 10339B of the CHIPS and Science Act. This expanded definition constitutes an entirely new data element and a new burden. For consistency with ED and to reduce burden on organizations, UW-Madison recommends deletion of this data element.

#### **Chapter XI: Other Post Award Requirements and Considerations**

A.1. *General and 8. Environmental Justice under E.O. 12898 (pages 164 & 169/196)*: These sections add that NSF recipients must comply with E.O. 12898 but include little detail about how recipients are to comply. Please provide additional guidance about how recipients are expected to comply with this Executive Order. Also, the last sentence in paragraph 8.a. does not seem to belong, as it refers to LEP rather than E.O. 12898.

Thank you for the opportunity to comment on the NSF Proposal and Award Policies and Procedures Guide. Should you have any questions, please contact me at [kmoreland@rsp.wisc.edu](mailto:kmoreland@rsp.wisc.edu) or (608) 262-3822.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim Moreland".

Kim Moreland  
Associate Vice Chancellor for Research Administration, and  
Director, Research and Sponsored Programs