

Research Policy Guideline

Foreign National Restrictions on Research Projects

MIT POLICY

It is MIT policy that foreign faculty, students, staff, and scholars will not be singled out for restrictions in their access to MIT's educational and research activities.

OSP Identifies Potential Restrictions

In some instances, restrictions are imposed upon the use of foreign nationals in research projects. OSP Staff identifies these restrictions typically at the following two stages:

a) Proposal Stage - Often at this stage there is some indication, usually from language in a BAA, RFP, etc., that a sponsor might want to restrict the use of foreign nationals on a research program if the proposal is accepted for award. A number of BAAs MIT responds to clearly state sponsors retain/reserve the right to potentially restrict the use of foreign nationals to work on the research effort.

Quite often this language appears in announcements from DOD and the intelligence community. In order to detect early warning signs of potential restrictions, careful scrutiny by OSP of BAA'S etc., is undertaken. Industry is also made aware, at the proposal stage, of our policies when collaborations are anticipated under a government funded program.

b) Award Stage - Oftentimes awards are received with language that specifically states that a sponsor wants the right to approve any foreign nationals that are working on research programs.

Notification to Principal Investigator of Potential Restriction

If OSP feels there is a potential restriction from either language in the BAA/RFP or from our past experience with the potential sponsor, the principal investigator is advised at the time of proposal submission there might be restrictive language that could delay award execution if that proposal is selected.

Negotiation with Sponsor

Despite the fact that sponsors are made aware of MIT policies as they relate to the participation of foreign nationals, awards still come in with the requirement to obtain sponsor approval for any foreign national working on the program. OSP then discusses the issue with the sponsor with the expectation the restrictive language can be removed and notifies the principal investigator(s) that there is a potential problem with respect to any ensuing award. In addition, OSP often seeks the participation of the principal investigator in developing responses to the sponsor. Often, the PI is asked to explain the Institute's position to the sponsor's technical or program officer. PIs are usually very supportive and engaging them in the discussions generally results in a far more productive situation in most cases.

In some cases MIT may provide the names of the individuals working on a research program, but MIT will refuse to allow a sponsor to remove any individual from a project. However that is done with a clear understanding that it is an “information only” situation and the sponsor cannot come back and request that certain person(s) not work on a program. In the limited number of cases we have provided the information, no sponsor has come back to us and asked that a person be removed.

There have been only a very few cases over the years that OSP has reached a stalemate with a sponsor and an award has been rejected. The Vice President for Research is kept apprised of such situations. OSP also maintains a running inventory of proposals/awards where there are potential/actual problems with foreign national and publication restrictions. This inventory is updated at least on a bi-monthly basis and sent to the Vice President for Research.

After the Negotiation

The award document which is signed by both parties is the legal agreement between MIT and the sponsor and contains all of the requirements and understandings for the operation of the agreement. Additional understandings (“side deals”) are inappropriate and can have serious negative consequences, including criminal penalties for the investigator and the Institute

Special Circumstances

There are a few federally sponsored programs that are designed specifically for training/education programs of US citizens/permanent residents (such as NIH and NSF training grants). The announcements clearly state that this funding is intended to enhance US capability/manpower in a particular area of science or engineering. One example is the DOD/MURI program where a small segment of funding goes for this purpose. Recently, the intelligence community issued a BAA for training in specific research areas to be performed by US post doctoral students and MIT, along with seventeen other universities, received awards.. Sometimes access to other locations, such as national laboratories, requires that the other organization approve foreign nationals before they are assigned to work at the particular laboratory, and MIT will agree to such provisions as long as the students working on the project can complete the research needed for a quality thesis/dissertation.

Office of the Vice President for Research
Office of Sponsored Programs

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