



July 12, 2021

Dr. Kathleen Hogan
Acting Under Secretary for Science and Energy
U.S. Department of Energy
1000 Independence Avenue SW
Washington, D.C. 20585

RE: Application of DOE Order 142.3B and removal of limited screening exemption for U.S. universities

Dear Acting Under Secretary Hogan:

On behalf of the Association of American Universities (AAU), the Association of Public and Land-grant Universities (APLU), and the Council on Governmental Relations (COGR), associations representing more than 200 of our nation's public and private research universities, we write to raise concerns with implementation of DOE [Order 142.3B](#), approved on January 15, 2021, relating to access by foreign nationals to DOE information and technology. This order updated and superseded the prior DOE [Order 142.3A](#).

We understand and share the Department of Energy's concern with protecting DOE-funded research from foreign threats. Over the past few years our member institutions have taken significant steps to increase protection of our research enterprise. At the same time, it is critical to assure the continued progress of research. We are concerned that the DOE Order does not strike the right balance. In the process, we believe it has harmed the Department's ability to take advantage of the skills and expertise of many talented researchers on our campuses to advance DOE fundamental research priorities simply because of their country of origin.

Over the last year our member universities have been increasingly told by DOE program officers for certain applied energy programs that principal investigators (PIs), supporting research staff, and in some instances, students, from particular foreign countries cannot continue their work on specific DOE research projects until they undergo newly established DOE foreign national screening requirements. These notifications have caused significant concerns and uncertainty. In most instances, these projects have involved research cooperative agreements and contracts awarded by the National Energy Technology Laboratory (NETL) and the Office of Energy Efficiency & Renewable Energy (EERE). In many of these cases, universities have been informed that a researcher's participation in these DOE projects must be halted midstream after they were far along in a project with no one at the Department ever having previously expressed concerns about these individuals' participation. Moreover, and perhaps most troubling, the universities were informed that there was no possibility for the researchers to be screened in time to allow them to continue with the project.

As you might imagine, these actions by the Department have totally upended some of these individuals' entire research careers. The new DOE requirements have often forced universities to suspend prematurely the work of very talented individuals on these projects. Many universities have then had difficulties finding other individuals on their campuses qualified to continue work on the project, putting the entire project in jeopardy. We believe that DOE is losing critical talent under this order, and, as a result, the agency is unable to take advantage of the unique and very specialized expertise some international researchers bring to these specific projects. At the same time, these requirements have caused major disruptions to research and for

the researchers and students working on these projects, with some being forced to find entirely new research projects to work on and/or a new faculty advisor.

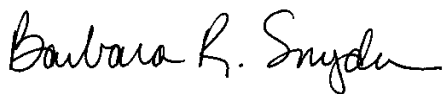
These prohibitions have occurred with little community input or appropriate notice, often impacting vetted, valid visa holders and legal permanent residents. In most cases, the PI and research staff were conducting their research on campus and neither the PI nor the research staff had access to, nor needed or intended to visit a DOE laboratory as part of the research they were conducting. While the affected projects were applied in character, at their core they were fundamental research – the results of which were fully intended to be published, shared, and widely disseminated in accordance with predetermined DOE agreement.

Our nation's premier educational system and research enterprise draws the top minds from all over the world. At a time when other nations are increasing their own research investments and employing strategies to siphon off leading scientists and technologists, we must recommit to winning the global race for talent and remaining a welcoming destination for international students and scholars. We worry that DOE's actions in these specific instances not only go against our universities' values and principles, but discourage the best and brightest talent from coming to the United States. Perhaps more importantly, it will rob the Department and the nation of the unique research knowledge and skills these individuals possess.

Given the significant level of concerns expressed to us from our members about Order 142.3B, our associations request an opportunity for campus representatives to meet with you to discuss the deleterious consequences of the current DOE policy and its implementation. We would also welcome the opportunity to share information regarding the steps our institutions are taking to ensure the security of the research we conduct on behalf of DOE and other federal research agencies.

Thank you for your attention to our concerns and we look forward to hearing back from you if the meeting we are requesting would be possible. Should you have any questions, please contact Tobin Smith (toby_smith@aau.edu), Deborah Altenburg (daltenburg@apl.u.org) or Robert Hardy (RHardy@COGR.edu).

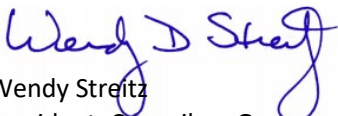
Sincerely



Barbara R. Snyder
President, Association of American Universities



Peter McPherson
President, Association of Public and Land-grant
Universities



Wendy Streitz
President, Council on Governmental Relation

cc: Dr. Geraldine Richmond, Nominee, Under Secretary for Science and Energy
Dr. Eric Lander, Director, White House Office of Science & Technology Policy