Appendix 1: Restricted Research Charge

University Senate
CHARGE

Date:	August 5, 2016
To:	Thomas Murphy Chair, Research Council
From:	Mary Ann Rankin Senior Vice President & Provost Jordan Goodman Chair, University Senate
Subject:	Restricted Research
Senate Document #:	16-17-06
Deadline:	January 17, 2017

Provost Rankin and the Senate Executive Committee (SEC) request that the Research Council conduct a review of the implications for conducting restricted research at the University of Maryland.

For the Research Council's benefit, a "Restricted Research Discussion Document" is attached that contains an excerpt of the relevant policy, provides working definitions of pertinent terms, and will serve to seed conversation on the topic.

Specifically, the Research Council is being asked to address the following:

1) Review the University System of Maryland Policy on Classified and Proprietary Work (IV-2.20).

2) Consider the scope of restrictions on publications and nationality that would ensue were this policy to be changed.

3) Identify potential costs, benefits, and risks (e.g., legal, reputational) to the university community associated with pursuing a more flexible policy to conduct research with publication and citizenship restrictions.

4) Identify potential risks and benefits to the various members of the university community (students, post-docs, junior and senior faculty) associated with conducting research with publication and citizenship restrictions (academic and career implications, legal risks, etc.).

5) Identify the costs and benefits of conducting restricted research on campus versus in University facilities off campus.

6) Review involvement in restricted research at peer and other Big Ten Academic Alliance institutions. If restricted research is conducted, investigate if limitations are imposed and in what context(s).

7) Actively seek input and recommendations from the broader University of Maryland community about whether, under what conditions, and through what processes the University should permit faculty to engage in restricted research.

8) Consult with the University's Office of General Counsel on any proposed recommendations.

9) If the recommendation is to proceed, produce a draft policy that is concise and clear (2-3 pages) and briefly recommend next steps toward the development of implementation procedures.

We ask that you submit your report and recommendations to the Senate Office no later than January 17, 2017.

If you have questions or need assistance, please contact Reka Montfort in the Senate Office at reka@umd.edu or 5-5804.

Appendix 2: Big 10 Academic Alliance Review

The Big Ten Academic Alliance comprises 14 institutions: Illinois (UIUC), Indiana, Iowa, Maryland (College Park), Michigan, Michigan State, Minnesota, Nebraska, Northwestern, Ohio State, Penn State, Purdue, Rutgers, and Wisconsin.

Illinois: **Restricted research is allowed**. https://research.illinois.edu/regulatory-compliance-safety/export-control

> **Where can it be conducted?** A: Wherever possible, we try to use only dedicated spaces for conducting controlled research and storing controlled items. In some cases we may also allow shared labs to close off for certain hours dedicated to controlled work, while remaining open at other times. Some controlled spaces are located off campus.

> **How many requests are made to allow a project with restrictions, and how many are approved?** A: Requests proprietary type is ~10 per month, routinely approved. National security type ~24 Active projects over 2-3 years. ½ per month. All are approved.

> **What are the effects of publication restriction - how often are changes requested, and how severe? Is publication ever denied?** A: Works with project managers runs smoothly, DFARS 252.204-7000 clause causes some issues/complications/challenge – treated as a national security control. They have a waiver process for the sponsor to request a waiver from the 10-day publication review. We shared information from Ohio State on how to work with that waiver process.

> **What is the training provided to faculty, and to students?** A: Working to formulate that. One export-control officer (ECO), meets with the PI and research team. Discusses project, rules, law, and consequences. Annual training for departmental admins. Periodic training for the big departments.

> **What restrictions, if any, are placed on students being involved in restricted research? In untenured faculty? Other categories?** A: No additional restrictions, except which faculty titles can be PI. Normal US persons restriction on national security control projects.

> **Do requests for classified projects (TS, SCI) follow the same path? If not, what path is used, if such projects can be approved?** A: Classified handled by similar path but different office. Director of sponsored programs. Dedicated facility built around June 2016. Company in research park 10 years ago had SCIF that was move-in ready.

> **Who approves or denies projects?** A: Vice Chancellor for Research

> **What have been the stumbling blocks in your process?** A: National Energy Technology Lab (NETL DOE) querying about foreign nationals denying projects even when fundamental research. Occasional verbal additional terms from DOE program officer (no specific nationalities). Purchasing not on board in

checking export control. I understand from Adam we have the same issues here at UMD from NETL.

Does your campus provide physical and/or IT infrastructure that can restrict access to US citizens? (And if so, how?) A: ECO works with campus wide IT team to have a campus policy on high risk category and what types of resources and firewalls are needed. Later they will think about how to implement that. For now project by project handles that. Want more uniform process.

Indiana: Restricted research is allowed. http://researchcompliance.iu.edu/cs-exportcont.html

We don't typically accept restrictions. An investigator would have to go through a review committee to determine if the university is willing to accept those restrictions and at that time it would be determined what measures would need to be taken. To date **none** of our investigators have gone through the review process to request publication restrictions.

Foreign National participation: This process is similar to the publication restriction process and to date no one has put something in front of the review committee for foreign national restrictions.

Iowa: Restricted research is allowed. http://dsp.research.uiowa.edu/export-controls-home

The basic process: A process is in place which requires higher level review and approval for accepting publication restrictions. When accepted, there is review for export control issues, if the project is subject to export controls, a Technology Control Plan (TCP) must be in place before any contracts are signed with publication restrictions. In the case of a Grant (which I do not think has ever happened) we would at the least not award the money until a TCP was in place.

Foreign National participation: We accept these restrictions if we accept an export controlled project.

Michigan: Restricted research is allowed. http://research-compliance.umich.edu/export-controls

The basic process: Analyzed on a case by case basis, but publication restrictions (such as approval clauses) have to be signed off by the investigator's **Department Chair** and **Dean** before they are accepted. Export control implications are then analyzed and a TCP may be put in place to manage the project if needed.

Foreign National participation: These are analyzed on a case by case basis, but a TCP would be put in place. Across the board, we do not physically segregate restricted research into different spaces on campus.

How many requests are made to allow a project with restrictions, and how many are approved? Proposal Approval Form-Restricted (PAF-R, which is a supplementary Proposal Approval form for review of restrictions on

publication or dissemination of research requests in the last 5 years: <u>24</u>. All PAF-R requests were approved. In several cases, the PI was asked to change participants or develop other research avenues for graduate students. Generally, graduate students did not participate in the restricted research unless there were clear 'carve-outs' for fundamental and/or publishable research, or the project was very short term. In all cases, there had to be clear benefits to the student in participating. Technology Control Plans (TCP): 96 (many are for equipment, software, and other items with export controls, not for export controlled research projects per se.) TCPs are tracked and stored in U-M eResearch as Unfunded Agreements (UFA). The Associate Dean for Research currently reviews and approves TCPs; many of these TCPs were grandfathered in when the U-M Office of Research and Sponsored Projects (ORSP) did not require college and department approvals. Active projects with export controls: 39 projects in 9 departments.

What are the effects of publication restriction - how often are changes requested, and how severe? Is publication ever denied? Good question, we have not tracked this. I will send out a quick survey to our PIs. Anecdotally, we have heard concerns about contracting officers who are considerably more restrictive than the terms of the contract, or a sponsor who states mid-project that a project is not fundamental research and is more restrictive in publication reviews that the terms of the contract. I have not been contacted by a PI about a sponsor who refused to allow publication. Best practice: For Department of Defense contracts, the PI/ORSP should receive a Distribution Statement A from the sponsor for full release.

http://www.dtic.mil/dtic/pdf/distribution_statements_and_reasons.pdf

What is the training provided to faculty, and to students? Faculty and students involved in export controlled research must complete the UMOR-required CITI training. We are currently working on training to increase faculty and student awareness about restricted research (including industry proprietary data/publication reviews).

What restrictions, if any, are placed on students being involved in restricted research? In untenured faculty? Other categories? Graduate students must have an option for other research opportunities if they do not wish to participate in restricted research. In general, graduate students may participate if they are protected from the publication restrictions: e.g., the project is short term and provides a valuable learning experience or training, or if there is a clear path for them to complete their dissertation without publication restrictions. We do not have a restriction on faculty. We have had one assistant professor, one assistant research scientist, and one staff scientist as PI on restricted research projects in the last 5 years. There have also been research scientists and postdoctoral research fellows on projects led by tenured faculty.

Do requests for classified projects (TS, SCI) follow the same path? If not, what path is used, if such projects can be approved? We do not accept classified research. U-M is not currently licensed to participate in

classified research, but has applied to be able to do so. Curt Smitka is in training to be the U-M Facilities Security Officer; I recommend that you contact him or Sharyn Sivyer for more information.

What benchmarking does your campus use in evaluating your process for approving restricted research? We have informal benchmarking, through discussions with peer institutions. We also participate in the Association of University Export Control Officers listserv and conferences. The U-M Export Controls office has set up processes and policy, and CoE participates in the Export Controls Review Committee to help develop, assess and evaluate these processes. Other resources are conferences by federal agencies (such as BIS), and other university consortiums (COGR, Educause).

Who approves or denies projects? The Associate Dean for Research.

What have been the stumbling blocks in your process? 1. General lack of awareness/need for outreach and training about federal requirements for restricted research (e.g., the campus switch to Google mail was made despite strenuously voiced concerns about security) Who handles what, and when? Partnering with UMOR, ORSP, and IIA as we develop awareness and processes has been fruitful overall but there have been missteps and confusion as we all negotiate how to tackle restricted research. 3. An increasingly restrictive Federal regulatory environment. 4. Reducing faculty administrative burden: while we are now coming to the faculty member's office door with one-on-one support to help her/him meet federal/sponsor requirements, there are still multiple assessments and processes (via ORSP/UMOR) before we get there. 5. Lack of resources/personnel

Does your campus provide physical and/or IT infrastructure that can restrict access to US citizens? (And if so, how?) To some degree...this is done on a project basis. There are several U-M CoE labs that are secure enclaves such as the Space Physics Research Laboratory. For new export controlled research, research with DFARS or FARS security clauses, and other sensitive data, I typically set up a meeting with key players (at the time of award) to understand the scope of the requirements and scale of work needed to meet them, and then work with the local units and IIA to develop the needed security. The team can include the PI, our CoE ITS executive team, the department IT lead, and Information and Infrastructure Assurance (IIA) in U-M ITS. We also work with the department administrator and facilities to review the physical infrastructure. If a project is export controlled, the U-M Export Control office will help the PI to develop a technology control plan. Planning and setting up infrastructures is costly both in time and funds, and we generally prefer to let the PI know about the requirements at the proposal stage, and then wait to the time of award to develop the security systems. IIA is developing secure enclaves at the University level, but we will still need to work with IIA and the PIs to develop secure means for faculty to interact across campuses/departments, and with external collaborators. I would be happy to meet with you to talk about general concerns and requirements. For an idea of the scope and current federal controls, here is the latest definitions:

The following is a Q & A to two graduate students (A1 and A2) who have participated / are currently participating in restricted research at the University of Michigan:

1. Did you know what you were getting involved in when you decided to start the restricted research project? i.e. was there some sort of waiver you had to sign?

> A1: I had previously done a 9 month internship program with GE aviation while I was an undergraduate so when I was talking to my advisor on my visit weekend about potentially coming onto this project I knew a little bit about what I was getting into. For our group we made a blanket NDA for the University of Michigan and the PI has to apply it to new people who join the project and then GE has to approve it. We also have to get approval before we do any new testing on the material (but this has never been a problem for me)

> A2: I was informed of the restrictions at the beginning. At the time, I did understand the impact that it might have on my publishing capability. It was something that was relatively new, and the entire team (3 faculty and 4 grad students) were told by the corporation that we would be encouraged to publish.

2. What types of training did you have to do before starting the research, if any?

> A1: I didn't really have to do any training other than just being briefed about the policy.

> A2: The only training that I received was training on some of the equipment. I received no training on how to work on a restricted project. This became an issue later when we found out we were not securing our data correctly and that we were using emails inappropriately.

3. What are the effects of publication restriction that you encountered?

> A1: I'm currently the 5th Ph.D. student to be working on this project and I think I can say that as the years (or in this case the students) have gone by, GE has become more understanding when it comes to publishing. I just started in January so I haven't published yet but I'm currently working on a paper and so far I haven't had too many restrictions. They will definitely review the paper and get it approved before being published but I think any company would do that. I do know that it was a problem for the first couple of students who were on this project. Also I think a big thing that changed when it came to publishing is that these CMCs had never been used on engines before and GE just put out a new fleet of engines (in January of this year) that had CMCs on it and so I think their mentality is

that yes we still want to keep our research a secret but now that the material is out there for the world to see/use it will eventually get into competitors hands and so they are less worried about it

A2: I, fortunately, did not run into any publication issues. The only boundary that I found was that the company required at minimum of 8 weeks to review the document before I was allowed to release to anyone outside of my committee. There were other students on my team that had much a much harder time as their projects had to do with failure mechanisms in the material.

4. What have been the stumbling blocks in your process?

A1: The stumbling blocks haven't been that bad in my process. There are some little things that I had to deal with in the beginning. Such as the university automatically gives every student here a gmail account but because gmail doesn't promise that all of their servers are in the U.S. I had to get a special outlook account set up. I also have to put all of my data on an encrypted hard drive with a passcode. I also have to be aware of where I'm doing work because foreign nationals are not supposed to be working with CMCs and I also have to keep all of my physical samples kept in a locked cabinet. (although honestly none of this is too difficult to deal with)

A2: My process was very painless. My advisor was very good at not letting the issues get to me and taking care of things.

5. What aspects did you find advantageous?

A1: The main advantage I find on this project is that I love working with CMCs and GE is definitely leading in the innovation of this technology.

A2: During my time working with this company, I was able to not only learn about the company sponsoring me, but also about the its competitors. I am actually working with a competitor now. It was great for networking to an industrial job, and it was very nice to see how research is done outside of a university.

6. Do you feel like there is some sort of segregation in your lab due to the fact that you involved in ITAR restricted research?

A1: My group is small and everyone is approved to be working on these materials so there really isn't any segregation. If there were a wider variety of us I still don't think it would be too segregated in the lab environment unless there were foreign nationals or non-US citizens in the group.

A2: I got lucky on this one. I was the last student for my advisor. I know that other students had to be more secure about things in their labs. We all had a locking cabinet in our labs where we kept restricted materials and data. It was not a big deal keep things separated.

7. Do you have a specific location away from other students in your group where you perform the research?

A1: I usually just work at my desk (which is in a room full of a variety of other graduate students). If I'm looking at something on the material (aka high resolution images, or specific data about the material) on my computer then I'll just make sure to lock my computer before I get up from my desk.

A2: I was able to use any equipment that I wanted even with ITAR, Export controlled, and proprietary restrictions. I had to perform the tests myself and make sure that the material was in my possession at all times, but as a grad student, I didn't find it cumbersome.

8. Really any overall feelings or things you'd like to add, things I might have missed. I am just getting started learning about the topic so any insight / suggestions from you would be great!

A1: Actually, you cover almost everything I would mention when it comes to restricted research haha. One thing I will definitely say is that if a professor is doing restricted research of any kind I do think it is important to stress the restrictions to an incoming student as they probably won't know too much about it. Like I said since I had previously worked for GE I knew what I was getting into but some of the earlier students who had problems publishing didn't know that was going to happen when they originally joined the group.

A2: The largest issue that we had was actually with the funding cycles. Corporates don't work on the same cycles as universities. We had a year or two where the funding became an issue. Other than that, I found it to be a great experience. The networking was better than any of my colleagues experienced, the real world experience was incredible, and being able to work with a diverse team across multiple disciplines was the best. I strongly support industry and academia working together even with restrictions in place.

Michigan State: Restricted research is allowed, but rarely
https://exportcontrols.msu.edu/

The basic process: PI's and Graduate students are advised and must agree to the restrictions. Those projects with export control concerns are administered thru MSU (not by an off-campus organization) but are conducted at an off-campus MSU controlled facility. In the case of one-of-a-kind, immobile research equipment, we sometimes control on-campus space access during utilization for these purposes.

Foreign National Participation: Same answer as (a) except these extra precautions are triggered by current citizenship, not national origin.

Minnesota: Does not allow restricted research except in extremely rare cases. http://www.ospa.umn.edu/export_controls.html

When a rare case arises, we take case-specific steps to ensure that controlled data are safeguarded while research can still happen. At a minimum, we implement a TCP that includes data storage, handling, and marking requirements, as well as semi-annual reviews from my office. We have an Openness in Research Policy that establishes a default of not accepting support for research if there are substantive publication restrictions (unrelated to sponsor IP) or personnel access/participation restrictions.

There is an exception process, but it is not for the faint of heart. We've only gone through it once since I started here in January 2013, and it took about six weeks. The players included my office, Legal, the AVP for Sponsored Research Administration, the Faculty Senate Research subcommittee, and our VP for Research.

Nebraska: Restricted research is allowed.

http://research.unl.edu/researchresponsibility/export-control/

The basic process: We segregate by utilizing controlled spaces via largely key card access. Any access to pass through doors (connected labs etc) are thoroughly reviewed for limiting access and appropriate Export Control training completed with employees. We also have a building with major renovations being completed with the intent to house the majority of our ITAR controlled research. Some restricted research is conducted off campus through our University Affiliated Research Center (UARC).

Foreign National participation: Same answer as (a), we segregate via the use of controlled spaces and limit who has access/screen each person appropriately through Visual Compliance/training.

Northwestern: **Restricted research is NOT allowed.**

Ohio State: Restricted research is allowed. http://orc.osu.edu/regulations-policies/exportcontrol/

The basic process: Onus is placed on researcher to prevent unauthorized access. For some areas, this may require controlled access to the space. For others, this is temporary controls (such as computer screens, etc.).

Penn State: **Restricted research is allowed.**

http://www.universityethics.psu.edu/UniversityEthics/Units/ExportControl/index.cfm

The basic process: All such projects result in a written TCP specifying access, security and data protection measures applicable to the project. All such project participants are required to complete online export compliance training and signoff on the project specific TCP. Some such research is performed in our classified facilities. All restricted research requires signoff from Director of OSP and, if graduate students are involved, approval of the Dean of the Graduate School. The ECO serves as final signatory of all TCPs and project awards cannot be accepted nor work commence until I execute the final TCP (previously signed

by all project staff, Department Representatives (Dean/IT Admin) and Associate Dean for Research for the impacted College).

Purdue: Restricted Research is allowed.
https://www.purdue.edu/research/research-compliance/export-control/overview.php

Among the big-10 peer Universities considered, Purdue University is notable because it is nearly identical in age, enrollment, tuition, and national ranking to UMD. Like UMD, Purdue is a state university that does not have a major off-campus affiliated research laboratory or institute that undertakes restricted or classified research.

The committee interviewed faculty members at Purdue who are engaged in restricted research, and also spoke with campus-level representatives in their office of export control who oversee compliance and manage training for students and faculty who are engaged in restricted research.

Restricted research is permitted at Purdue University, although it remains a small portion of their overall funded research program. Purdue can (and has) accepted and negotiated funded research projects that include restrictions on citizenship and publication, and has at times even permitted classified research on campus.

The basic process: The negotiation and management of restrictions is handled exclusively by the office of research compliance. When applying for funding that carries restrictions on citizenship, publication, or disclosure, PIs must apply for approval by completing a form explaining the nature of the restrictions, specifying the location of the proposed research and explaining how the work will be segregated:

http://www.purdue.edu/business/sps/pdf/restrictedprojectapproval_option2.pdf

http://www.purdue.edu/business/sps/pdf/restrictedprojectapproval_option3.pdf

The export control compliance officer consults with and advises the faculty on a case-by-case basis, negotiates the terms of the restrictions with the sponsor where necessary, and assists with composing and implementing a technology control plan. All students and faculty working on restricted projects must undergo online and in-person training. Care is taken to ensure that the work is not benefiting from tax-exempt financing.

Foreign National participants: Any projects with restrictions subject to export control are routed to our Export Control office and a plan is developed to manage each activity.

Rutgers: Restricted Research is allowed. http://ored.rutgers.edu/export

The basic process: Training, TCP, detailed security controls, without too much detail the TCP will define access which in most cases will include a controlled space. We currently run very few of these restricted contracts/grants programs at this time.

Wisconsin: **Restricted Research is allowed under very, very limited circumstances.**   https://research.wisc.edu/respolcomp/exportcontrol/

> **The basic process:** The Vice Chancellor for Research Policy may waive our open research policy and allow a publication restriction. These are very infrequent. When this occurs, the Export Control Office will get together with the PI, develop a TCP and make sure appropriate controls are in place for the research. I should emphasize, this answer is much more of a "no" than a "yes", but it is not 100% "no".

> **Foreign National Participants:** Again, our institutional policy is to not restrict foreign persons from working on research. However, if we are presented with a restriction on use of foreign persons in a research project, our first step will be to contact the PI and ask if he/she will be using any foreign persons (as stipulated in the award) on the research. If they state they will only use US Persons, the research will likely be accepted. If they have foreign persons in their lab that they wish to have work on the project or could have access to the project and we cannot have the foreign person restriction removed from the award, then the award will be rejected. Of course, if we are working with ITAR or EAR controlled equipment, we may need to get a license to allow foreign persons to work with these items.

Appendix 3: Input and Recommendations from UMD Community

Once the subcommittee was charged, it made a presentation during the University Senate meeting held on September 7, 2016. In this presentation, the makeup of the subcommittee was shared with the meeting and attendees were encouraged to contact their college's representative – or, indeed, any representative – at their convenience. There were three comments made after the presentation:

1. There is a difference between restrictions on publication placed because of national security and those placed because the results might be embarrassing to the sponsors. The speaker raised the example of "Big Tobacco" funding research.

    The conditions under which we should consider doing restricted research should exclude accepting such kinds of restrictions. The conditions on publication restriction will be included in the waiver request, which will be reviewed by the department, college, and VPR.

2. In noting that we are starting with USM policy, we were asked if we were charged, or did we intend, to propose changes that should be adopted by all USM universities. We are looking at USM policy - are we proposing changes that should be adopted by all USM universities?

    We were not charged, nor did we take on the task, of proposing changes that should be adopted by all USM universities.

3. We should look at the policies of universities we aspire to be rather than just the universities in the Big 10 Academic Alliance. UC Berkeley was given as a potential exemplar.

    While UC Berkeley, as the flagship of the UC System, is indeed a great public university, we did not include any UC system campus (or UCOP policy) in our discussions.

On November 2, the subcommittee held a town hall meeting. This meeting, which immediately followed a University Senate meeting, was well attended. After a brief update on the charge and progress that the subcommittee had made, the floor was opened for questions and comments. For the most part, the (few) comments were supportive of the goals of the subcommittee and encouraged progress. Two commenters questioned the values behind the campus allowing restricted research to be done. One observed that one of our goals is making what we learn publicly available, and the other questioner asked whether we were a public institution seeking the truth or a consulting firm doing work for clients.

The following questions were asked:

1. Will projects that are restricted impose any difficulties on lab safety? For example, if a restricted project uses some equipment that has access restricted to it, how will its continued safety be ascertained.

    We noted that any such issues would need to be addressed in the technology control plan.

2. Will allowing restricted research have a negative impact on graduate students who have poor English skills and on International students who, because of ITAR/EAR/security issues, cannot be involved in the research?

    We noted that this has not been a problem at our peer institutions because (1) restricted projects make up a very small percentage of the research efforts, and so having such projects has not reduced or otherwise limited the opportunities for all students, and (2) post-award structuring of the research can, in many cases, limit the impact on citizenship restrictions.

3. Because there are publication restrictions, will allowing restricted research have a negative impact on promotion and tenure cases?

    Despite the overwhelming experiences of our peer institutions (and our own experiences) that imposed publication restrictions are rare and even more rarely substantial, this is an issue that should be considered (as would having students unable to publish research central to their dissertation or thesis). In all cases, these are issues that should be considered when deciding whether to accept a restricted project. Under our proposed framework, this would need to be considered by the department chair, dean, and VPR.

4. What if faculty member feel that their results must be published, even if told otherwise by the research sponsor, due to ethical reasons?

    There could be serious legal ramifications. PIs would be informed of these consequences through the mandatory export control training.

5. Has the committee also considered the issues Dual Usage Research of Concern and Gain of Function research, and the Federal regulations arising concerning them?

    We had not, and have subsequently met with the Department of Environmental Sustainability, Safety and Risk (ESSR). These are areas of increasing concern and already having an impact on how some research is being done (or even if it is done) at the University of Maryland. We identified no immediate action for our committee to take up, but ESSR should work, with the Division of Research, in ensuring any policy and framework put in place will accommodate existing and possible new regulations.

6.   If we accept such funding, how can we ensure that there is not undue influence? For example, a very wealthy corporation or individual might wish to advance a political agenda, and wishes to use the university as a lobbying mouthpiece.

This would create substantial institutional risk. In all cases, the VPR would need to take such risks into account when deciding whether or not to accept a specific award.

7.   Will there be any evaluation process?

Yes, as described in the Suggested Guidelines in Section 3.

8.   What issues is the subcommittee considering with respect to IP?

We were not charged to consider issues related to Intellectual Property – this is the charge of another subcommittee.

A senator sent the following comment via Slack:

I will be unable to attend the town hall meeting and welcome the chance to express my concerns about this topic in advance of the meeting. I see a difference between restricted publication of research in the aid national security and in the aid of a corporation, even though the national security matters at hand would need clarifying as to the parameters of how they were restricted. I also see a difference in embargoing the results of research for a corporation and being unable to publish it at all. In both of these cases, I support the former when necessary but not the latter. I believe our role as an academic institution should be paramount in the research we perform and that it should not bend to external pressures or have the appearance of doing so. I understand the financial pressures that could make a person consider doing restricted research but still think we need to carefully consider the prime function of a university.

We received four comments after the meeting. Three argued for developing a path forward for conducting restricted research. The fourth, from International Student and Scholar Services, raised the following questions:

1.   How will foreign nationals be screened on restricted research?

They will be screened during the development of the Technology Control Plan. Please see the suggested guidelines (Section 2), part (2): Adequate Security Protocols.

2.   Currently all prospective foreign nationals who will be hired on the H-1B employment visa are required to go through ORAA screening. Prospective foreign nationals who will participate in the University of Maryland J-1 exchange visitor

program and who will conduct research in a STEM field are also required to go through ORAA screening. Does the ORAA screening process include review of the project/grant to flag the research is restricted?

Yes, at the time of proposal submission.

3.   If foreign nationals will not be able to work on a restricted research, who will be responsible for making sure foreign nationals have been screened properly at the department level? Our office works with visa point people who hold Coordinator title. Some of the Coordinators do not have access to PHR and have no access to details of a grant.

The PI will be responsible for knowing the visa status of the researchers. Access control will be developed as part of the technology control plan.

4.   Will there be any circumstances that foreign nationals will be allowed to work on restricted research and how will that work?

If a project does not trigger export control restrictions, then a foreign national can work on a project with restricted publication restrictions. Understanding whether this is the case or not will be clarified in the development of the technology control plan and its review by the campus Export Control Board.

5.   If a foreign national is currently employed by a department and if the PI is awarded a restricted research grant, how will this impact the foreign national?

This will depend on the details of the restrictions and how the research project is structured. We have been told that negotiations after the grant is awarded can result in minimal impact. In any case, any impact and mitigation of its effects will be part of the review done by the department, dean, and VPR.