
Foreign Engagement: Disclosures to UC ANR and Research Sponsors

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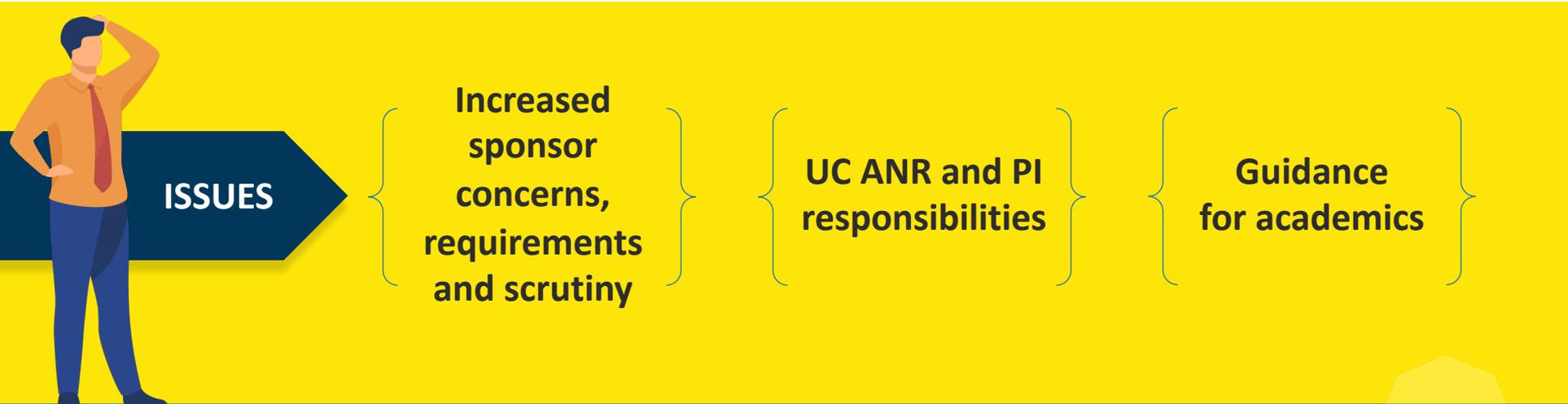
October 27, 2021

The background of the slide features a faint, light blue map of the United States. Several semi-transparent location pin icons are scattered across the map, with some having small ripples around their bases, suggesting a global or regional focus.

Special Thanks to UCLA for use of portions of their slide presentation

Purpose and Goals of Briefing

- To provide information to academics on how to comply with UC, UC ANR, and federal grant policies in areas related to foreign engagement.



UC ANR Research and Foreign Engagement

- Affiliations with foreign institutions, collaborative research, and scholarly exchanges are an essential part of the academic community.
- UC ANR is committed to continuing and strengthening these relationships.
- We must recognize and address the U.S. government's increased focus on foreign involvement in university research.



Key Concerns

- U.S. research institutions are sometimes unaware of individual academic member's and other researcher's foreign engagements.
- In submitting proposals for research support, investigators sometimes fail to disclose:
 - Foreign resources to be used in the project.
 - Foreign employment arrangements and affiliations.
 - Foreign research funding: overlap, duplication, over-commitment.
 - Foreign financial interests.



Response to Concerns by Federal Research Sponsors

- Since 2018, U.S. government agencies have publicly expressed concerns that foreign entities may be using their financial support and interactions with the academic community to compromise U.S. economic competitiveness and national security.
- To address these concerns, new policies and regulations have been issued by federal research sponsors. Existing policies and regulations are being clarified and enforced more actively.
- **Disclosure of foreign involvement by individual investigators in applications for research support is an area of special focus.**

Sponsor Requirements

- Certain collaborations and/or affiliations with foreign entities or individuals must be disclosed in proposals and reports. Such collaborations may include exchanges of staff, materials, data, funding, or other significant activity which could be considered a “foreign component” or could result in joint authorship.
- **Failure to fully disclose foreign/domestic collaborations, affiliations and resources in funding applications and other documents can have serious consequences for the individuals and the university.**

National Institutes of Health (NIH)

- On August 20, 2018, Dr. Francis Collins, NIH Director, issued a letter reminding the research community of the requirement to disclose "all forms of other support and financial interests, including support coming from foreign governments or other foreign entities" in funding applications and progress reports.
- NIH confirmed violations of agency policies by >150 investigators at 87 institutions (July 8, 2020 blog posting by Michael Lauer, M.D.)
- In April 2021, Michael Lauer, M.D. reported that NIH had "reached out" to institutions to inquire about 200 investigators with more to come.

National Science Foundation (NSF)

- On July 11, 2019, NSF Director, Dr. France Cordova issued a Dear Colleagues Letter commenting on an increase in "the scope and sophistication of the activities threatening our research community" and outlining NSF's plans to address this situation, including a renewed effort "to ensure that existing requirements to disclose current and pending support information are known, understood, and followed."
- NSF has taken action in 16–20 cases in which foreign ties were not properly reported (*Nature*, July 2020).
- One NSF-supported scientist was convicted of grant fraud after he secured NSF funding for research already supported by the Chinese government.



Department Of Defense (DoD)

- On March 20, 2019, DOD issued a memo that outlined disclosure requirements for Key Personnel on research and research-related educational activities supported by DOD grants and contracts.
- As of April 20, 2019, all key personnel must submit current and pending support documentation that includes a list of all current projects the individual is working on, in addition to any future support the individual has applied to receive, regardless of the source.



Department of Energy (DOE)

- DOE issued DOE Order 486.1 (June 7, 2019) requiring DOE contractors to exercise due diligence to ensure that none of its employees or subcontractors "participate in a foreign government talent recruitment program of a foreign country of risk while performing work within the scope of the DOE contract."
- It is expected that this requirement will be extended to DOE grants and cooperative agreements in the future.



Foreign Talent Programs: What are they?

- An effort directly or indirectly organized, managed, or funded by a foreign government to recruit science and technology professionals or students (regardless of citizenship or national origin, full-time and part-time).
- Often secret – not principled collaborations.
- Engage investigators under contract and provide:
 - Significant salary
 - Appointment at a foreign university
 - Funded “shadow” lab in foreign country
 - Access to high tech equipment



Foreign Talent Programs: What are the concerns?

- Commitment to keep the terms of the agreement confidential.
- Promise not to disclose the results of work conducted under foreign patronage.
- Investigator cannot terminate the agreement without permission of the sponsoring government.
- Promise to turn over intellectual property that they develop (in U.S. or in a foreign country).
- Promise to provide appointments in the U.S. lab to foreign collaborators or visitors.



National Aeronautics and Space Administration (NASA)

- C3. By submission of its proposal, the proposer represents that the proposer is not China or a company owned by the People's Republic of China, and that the proposer will not participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any sub-recipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.



- NOTE: Use of NASA funds to support Chinese national students or visiting scholars is not expressly forbidden, but the restriction is focused on the existence of the individual's affiliation with the government of China or a Chinese-owned company.

Federal Bureau of Investigation (FBI)

- The FBI and U.S. Department of Justice released a white paper in April 2011 on “Higher Education and National Security: The Targeting of Sensitive, Proprietary, and Classified Information on Campuses of Higher Education “to alert universities “about how foreign intelligence services and non-state actors use US colleges and universities to further their intelligence and operational needs.”
- In the fall of 2017, Director Christopher Wray established the Foreign Influence Task Force (FITF) to identify and counteract malign foreign influence.
- In March 2018, the FBI issued a document titled “China: the Risk to Academia.” This document outlines ways for universities to protect themselves from counterintelligence threats.
- On August 30, 2018, the FBI launched a webpage to combat foreign influence.



nature

NEWS · 03 FEBRUARY 2020

Harvard chemistry chief's arrest over China links shocks researchers

Nanoscientist Charles Lieber allegedly lied about his involvement in China's Thousand Talents Plan.

“None of the Moffitt faculty who were Talents program participants properly or timely disclosed their Talents program involvement to Moffitt, and none disclosed the full extent of their Talents program activities prior to Moffitt’s internal investigation, Moffitt officials wrote on 17 January to state Representative Chris Sprowls (R), who leads a special legislative committee created this month.”

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The Moffitt Cancer Center is Florida's only federally designated Comprehensive Cancer Center. MOFFITT CANCER CENTER

Moffitt Cancer Center details links of fired scientists to Chinese talent programs



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Southern Illinois Professor Charged With Concealing China Ties

Submitted by Elizabeth Redden on April 23, 2021 - 3:00am

 Department of Justice

MIT Professor Arrested and Charged with Grant Fraud

Defendant allegedly failed to disclose his work for the People's Republic of China to U.S. Department of Energy. BOSTON – A professor and ...

Jan 14, 2021



Foreign Component

Performance of a significant scientific element of the NIH-supported project outside of the United States, whether or not grant funds are expended, **requires NIH prior approval.**

- Collaborations with investigators at a foreign site anticipated to result in co-authorship;
- Use of facilities or instrumentation at a foreign site; or
- Receipt of financial support or resources from a foreign entity.

[NIH FAQs on Foreign Components](#)

Other Agency Policies on Foreign Components



DOD may fund collaborations with foreign institutions under certain conditions. Prior approval is required.



DOE EERE and ARPA-E do not allow any part of funded research to be performed outside the U.S. without a waiver.



NASA does not normally fund research proposals from, or subawards to, foreign organizations, nor research efforts by individuals at foreign organizations as part of U.S. research proposals. Requires prior approval.



NSF rarely provides direct funding support to foreign organizations. See NSF Policy and Procedure, [Chapter 1, Paragraph E.6.](#) Requires justification and prior approval.

Changes to NIH and NSF Biosketches

- New requirements, formats, and templates.
- List all positions and affiliations including volunteer positions.
- Include all appointments at foreign institutions – even if labeled as “guest,” “adjunct,” “honorary” – with or without salary support.
- Include participation in a foreign talent or similar-type program.



[NIH Biosketch FAQs](#)
[NSF Biosketch Formats](#)



Changes to Other Support Report

NOT-OD-21-073

Other Support includes **“all resources made available to a researcher in support of and/or related to all of their research endeavors**, regardless of whether or not they have monetary value and regardless of whether or not they are based at the institution the researcher identifies for the current grant.”

Other Support includes all Active, Pending and Completed (last 3 years) projects, for example:

- Resource and/or financial support from all foreign and domestic entities (funding for laboratory personnel, high-value materials that are not freely available (e.g., biologics, chemical, model systems, technology, etc.).
- Consulting agreements, when the disclosing researcher will be conducting research as part of the consulting activities. Non-research consulting activities are not Other Support.
- Exchange student or post-doc working on research, who is paid by a home university in a foreign country.
- In-kind contributions (office/lab space, equipment, supplies, students, materials, etc.) supported by an outside source. Must provide value of in-kind contributions, or reasonable estimates.

NIH > Other Support

Other Support **does not include:**

- Training awards, prizes, or gifts, but note:
 - **Gifts are resources provided where there is no expectation of anything (e.g. time, services, specific research activities, money, etc.) in return.** An item or service given with the expectation of an associated time commitment is not a gift and must be reported as Other Support.
- Institutional resources, such as core facilities or shared equipment that are made broadly available, should not be included in Other Support, but rather listed under Facilities and Other Resources.
- Start-up funds from U.S. institutions.

[NIH Other Support FAQs](#)

Other Support

New requirements:

- Supporting documentation, such as copies of contracts, grants or any other agreements specific to foreign appointments and/or employment with a foreign institution for all foreign activities and resources that are reported in Other Support. If the contracts, grants or other agreements are not in English, recipients must provide translated copies.
- PI and senior/key personnel must sign certification on other support pages verifying that all other support has been disclosed.
- Institution must immediately notify NIH of undisclosed Other Support. When a recipient organization discovers that a PI or other Senior/Key personnel on an active NIH grant failed to disclose Other Support information, the recipient must submit updated Other Support to the Grants Management Specialist as soon as it becomes known.
- Additional data elements (annual total costs, annual effort commitment).



Matrix – What to Disclose and Where

Examples of What to Disclose to NIH about Senior/Key Personnel on Applications and Awards:*

Table 1: Recipients Must Report**

Type of Activity	Report in Biosketch / Application	Report as Foreign Component in Application	Obtain Prior Approval and Report as Foreign Component in RPPR	Report as Other Support (JIT)	Report as Other Support (RPPR)	Review for potential FCOI
All positions and affiliations, including volunteer positions, relevant to the application	✓					✓ If personal payments to the individual
Relevant appointments at foreign institutions – even if labeled as “guest,” “adjunct,” “honorary,” with or without salary support	✓					✓ If personal payments to the individual
The number of person-months devoted to projects, even if there is no salary support or direct personal payments to the scientist				✓	✓ If new	
Income, salary, consulting fees, and honoraria in support of an individual’s research endeavors				✓	✓ If new	✓
Participation in a foreign talent or similar-type programs				✓	✓ If new	✓
Ongoing and completed research projects from the past three years that the applicant wishes to highlight	✓					



Current and Pending Support

All resources made available to an individual in support of, or related to, all of his/her research efforts, regardless of whether or not they have monetary value, and **regardless of whether or not support is provided through the proposing organization, another organization, or directly to the individual:**

- Includes support for the proposed project, ongoing projects, and pending proposals.
- Includes in-kind contributions (such as office/laboratory space, equipment, supplies, employees, students) that are intended for use on the proposed project and that also have an associated time commitment.
- Includes federal, state, local, foreign, public or private foundations, non-profit organizations, industrial or other commercial organizations or internal funds allocated toward specific projects.



Post-Award Disclosure of Current Support

NSF Research Terms and Conditions (Effective 10/4/2021)

Article 38. Post-award Disclosure of Current Support and In-Kind Contributions

If an organization discovers that a PI or co-PI on an active NSF grant failed to disclose current support or in-kind contribution information in the proposal, the Authorized Organizational Representative (AOR) must submit the information within 30 calendar days of the identification of the undisclosed current support or in-kind contribution through the use of the “Other Request” category in the Notification and Request Module in Research.gov.

NSF Updates to Research Performance Progress Report (RPPR) (Effective 10/4/2021)

- Has there been a change in the active other support of the PI/PD(s) since the last reporting period?
- What percentage of the award’s budget was spent in a foreign country?
- Has there been a change in primary performance site location from that originally proposed?



Pre-Award and Post-Award Disclosures Relating to the Biographical Sketch and Current and Pending Support

This table provides helpful reference information regarding pre-award and post-award disclosure information in the biographical sketch and current and pending support proposal sections. The table identifies where these disclosures must be provided in proposals as well as in project reports.

Link to table (also on next three slides):

https://www.nsf.gov/bfa/dias/policy/disclosures_table/sept2021.pdf

Table Key

* = for new support only

◆ = If undisclosed at the time of proposal submission

Type of Activity	Biographical Sketch	Current & Pending Support	Facilities, Equipment & Other Resources	Project Reports	Post-Award Information Term & Condition	Disclosure Not Required
Undergraduate, graduate, and postdoctoral training, including location, major/area and degree and year	✓					
Academic, professional ⁴ or institutional appointments, whether or not remuneration is received, and, whether full-time, part-time, or voluntary	✓					
All projects (including this project) currently under consideration from whatever source, and all ongoing projects, irrespective of whether support is provided through the proposing organization, another organization or <i>directly</i> to the individual		✓		✓*	✓◆	
In-kind contributions that support the research activity for use on the project/proposal being proposed			✓			

**Relating to the Biographical Sketch and Current and Pending Support
August 24, 2021**

Type of Activity	Biographical Sketch	Current & Pending Support	Facilities, Equipment & Other Resources	Project Reports	Post-Award Information Term & Condition	Disclosure Not Required
In-kind contributions not intended for use on the project/proposal being proposed to NSF and have an associated time commitment		✓		✓*	✓◆	
Consulting that is permitted by an individual's appointment and consistent with the proposing organization's "Outside Activities" policies and procedures						✓
Consulting that falls outside of an individual's appointment		✓		✓*	✓◆	
Travel supported/paid by an external entity to attend a conference or workshop						✓
Travel supported/paid by an external entity to perform research activities with an associated time commitment		✓		✓*	✓◆	
Honoraria						✓
Teaching commitments						✓
Startup company based on organization-licensed Intellectual Property (IP)						✓
Startup company based on non-organization-licensed IP		✓		✓*	✓◆	
Unrestricted Gifts ⁵						✓

August 24, 2021

Type of Activity	Biographical Sketch	Current & Pending Support	Facilities, Equipment & Other Resources	Project Reports	Post-Award Information Term & Condition	Disclosure Not Required
Postdoctoral scholars, students or visiting scholars supported by an external entity, and there is an associated time commitment		✓		✓*	✓◆	
Mentoring as part of appointment						✓
Academic Year Salary						✓

DOD Current and Pending Support

DOD Memorandum – “Actions for the Protection of Intellectual Property, Controlled Information, Key Personnel and Critical Technologies” (March 2019)

Requires disclosure of current and pending support in all applications for grants, cooperative agreements, technology investment agreements, and other non-procurement transactions that support research and research-related educational activities.

“This information will be used to **support protection of intellectual property, controlled information, key personnel, and information about critical technologies relevant to national security.** Additionally, this information will be used to **limit undue influence, including foreign talent programs,** by countries that desire to exploit United States' technology within the DOD research, science and technology, and innovation enterprise.”



DOE Current and Pending Support

DOE Order 142.3A, Unclassified Foreign Visits and Assignments Program

- Order modified in December 2019 to remove the “fundamental research exception” for universities.
- Current **grant terms include controls on unclassified foreign national access to “DOE sites, information, technologies, and equipment.”**
- ‘Foreign national’ is defined as any person who is not a U.S. citizen by birth or naturalization.
- Foreign national participation may require DOE prior approval.

Current and Pending Support

- List all current and pending support for the PD/PIs and senior/key persons, including sub-awardees.
- List all sponsored activities or awards requiring a measurable commitment of effort, whether paid or unpaid.



NASA Current and Pending Support

NASA PIs and Co-PIs must list all ongoing and pending projects and proposals in which they are performing or will perform any part of the work.

Disclosure must include the name of the sponsoring organization, including a point of contact with telephone number and email address.



DOD, DOE and NASA have all been directed by the GAO to document procedures, roles, and responsibilities for addressing and enforcing failures to disclose required information, both foreign and domestic.

Changes in Status of PI Require Prior Approval

- Sponsors require advance notification and prior approval of a change in status of the PI. Change in PI status may be:
 - Significant reduction in the PI's effort commitment.
 - Sabbatical, leave of absence, or administrative leave.
 - Other circumstances that result in absence from the project for 90 days or more.
- Request for sponsor prior approval must include a plan for the ongoing management of the project during the absence, such as temporary appointment of an alternate PI.
- Sponsor prior approval is required for a PI or other project team member to work from a remote location outside of the U.S. ('foreign component').



Federal Expectations and Our Challenges

- Federal research sponsors hold institutions responsible for the accuracy and completeness of all proposals, progress reports, and other documentation submitted.
- How can UC ANR know the full range of academic outside activities including membership in foreign talent programs, appointments elsewhere, access to facilities and resources elsewhere, and any other sources of research support?
- How can UC ANR ensure that proposals, Just-In-Time documents, and progress reports sent to OCG for submission to sponsors are accurate and complete?



What Has UC ANR Already Done and What Has Been Planned?

- Webinars on December 4, 2019 and February 24, 2021 on Foreign Influence: What is Foreign Influence and How Can I Comply
- Administrative Review Council – Present at the Next Meeting
- County/REC Directors – Present at their joint Meeting
- Vice President’s Council – Present at the Next Meeting
- Develop additional guidance materials.



Management of Sponsored Projects

RESPONSIBILITY FOR COMPLIANCE

- Primary responsibility for ensuring that information is complete and accurate rests with the principal investigator.
- County Directors, REC Directors, and Statewide Program Directors provide primary oversight and are responsible for management of sponsored projects in their respective Statewide Programs/Counties/RECs.
- The OCG Authorized Official's signature on a proposal, current and pending support page, progress report, or correspondence is a certification and assurance that the documents are complete and accurate, and they depend on the PI providing complete and accurate information to them.

Sources of Information About Possible Foreign Engagement

- Requests for prior approval under Academic Personnel policies on outside activities (UC APM 025 and [ANR Policy-Sect. 345](#)) are initiated by the academic, reviewed by OCG for possible conflicts of interest with current sponsored projects and foreign engagement, and approved by Academic HR and the AVP.
- Sabbatical requests are initiated by the academic and reviewed by their immediate supervisor, Vice Provost, and Academic HR with final approval by the AVP.
- County/Statewide Program/REC support for proposal development and management of awards is overseen by County/Statewide Program/REC Directors.
- We need your help.



Questions?



Thank You

