



Cornell University
Office of Sponsored Programs

Disclosing Foreign Relationships and Activities

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Cornell University's Commitment to Global Engagement

- “An institution where any person can find instruction in any study.”
 - Diverse community of students, researchers, and faculty representing over 90 countries.
 - Strong commitment to global engagement, an appreciation of intercultural differences, and a spirit of collaboration for mutual benefit.
- May 2019, Memo from the Vice Provost for Research and Vice Provost for International Affairs
<https://researchservices.cornell.edu/policies/guidelines-on-undue-foreign-influence>
 - Reaffirmed Cornell's commitment to international partnerships and activities
 - Summarized best practices and resources available to support Cornell researchers





Federal Agency Developments - NIH

- August 2018, Letter from NIH Director Dr. Francis Collins
<https://www.nih.gov/about-nih/who-we-are/nih-director/statements/statement-protecting-integrity-us-biomedical-research>
 - Some researchers failing to disclose contributions to their research
 - Diversion of IP to other entities, including pre-publication data
 - Some peer reviewers failing to keep information from the process confidential
- Early 2019 - Present, NIH Office of Extramural Research Letters (“Lauer Letters”)
 - Focused on undisclosed participation in foreign talent programs, affiliations with foreign institutions, substantial and related foreign grants, “shadow labs”, and foreign patents and startups



Federal Agency Developments - NIH (cont.)

- July 2019, NIH Policy Notice NOT-OD-19-114 & FAQs

<https://grants.nih.gov/grants/guide/notice-files/NOT-OD-19-114.html>

<https://grants.nih.gov/grants/faq-other-support-foreign-components.htm>

- Other Support – All financial resources, whether Federal, non-Federal, commercial or institutional, available in direct support of all of an individual's research endeavors.
- Foreign Component – The performance of any significant scientific element or segment of a project outside of the United States, either by the recipient or by a researcher employed by a foreign organization, *whether or not grant funds are expended*.
- FCOI – Investigators must comply with their institutions' FCOI policy and disclose significant financial interests, including financial interests received from a foreign entity.



Federal Agency Developments - DOE

- June 2019, DOE Order 486.1

https://www.directives.doe.gov/directives-documents/400-series/0486-1-border/@_images/file

- Mandated that “federal and contractor personnel fully disclose and, as necessary, terminate affiliations with foreign government-supported talent recruitment programs” on new DOE *contracts and subcontracts where subcontractors will have access to DOE facilities*.
- Foreign Government Talent Recruitment Program: “...any foreign-state-sponsored attempt to acquire U.S. scientific-funded researcher technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States.”
- Note: DOE is expected to issue a separate policy directive to implement the requirement for DOE grants and cooperative agreements



Federal Agency Developments - DOD



- August 2018, FY19 National Defense Authorization Act
 - Protecting IP and critical technologies
 - Critical technologies list for export controls
 - Limiting foreign access to technologies
 - Prohibit use of Huawei and ZTE equipment on federal projects ([FAR 52.204-25](#))
 - Prohibit funding for Confucius Institutes
- March 2019, Memo from DOD Acquisitions Undersecretary
<https://www.aau.edu/sites/default/files/Blind-Links/OUSDResearchProtectionMemo.pdf>
 - All new DoD Notices of Funding Opportunities (NFOs) pertaining to research and research-related educational activities will require current and pending for all senior personnel.



Federal Agency Developments - NSF



- May 2019, Draft Proposal and Award Policies and Procedures Guide
https://www.nsf.gov/bfa/dias/policy/papp/pappg20_1/FedReg/draftpappg_may2019.pdf
 - Revised Current & Pending Support guidelines
 - Proposed standardization of Biosketch format (SciENcv or “other NSF approved format”)
- July 2019, Letter from NSF Director Dr. France Cordova
https://www.nsf.gov/pubs/2019/nsf19200/research_protection.pdf
 - Proposers must disclose all sources of support, both foreign and domestic, in Current and Pending and all appointments on Biosketches
 - NSF personnel and Intergovernmental Personnel Act (IPA) assignees detailed to NSF cannot participate in foreign government talent recruitment programs



Federal Agency Developments - Dept. of Edu.



- July 2019, Dept. of Edu. Investigations
 - Compliance with reporting of disclosure of foreign gifts and contracts as required by Section 117 of the Higher Education Act of 1965
- September 2019, Proposed Revisions to Section 117 of the Higher Education Act of 1965
 - <https://www.govinfo.gov/content/pkg/FR-2019-09-06/pdf/2019-19296.pdf>
 - Proposed rule would require universities to report significantly more foreign gifts and agreements



Why do these developments matter?

- Federal Government Sponsors are increasingly concerned with ensuring that the fruits of taxpayer funded research benefit the American people – and conversely, are not used by foreign countries to improve their economic or national security relative to the US.
- Dismissals and federal indictments have occurred;

MD Anderson

Three researchers
dismissed in
April 2019

Emory University

Two researchers and
four postdoctoral
fellows dismissed in
May 2019

Los Alamos

One researcher
indicted on three
counts of making false
statements in
May 2019

University of Kansas

One researcher
indicted on one count
of wire fraud and four
counts of federal
program fraud in
August 2019



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Q: What actions should researchers and research administrators take in response to foreign influence concerns?



A: Disclose in all support Other Support/Current & Pending

- NIH Other Support

- **What?** 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 they are based at the institution the researcher identifies for the current grant.
 - Includes in-kind (e.g. office/laboratory space, equipment, supplies, employees).
 - Includes all positions and scientific appointments both domestic and foreign held by senior/key personnel that are relevant to an application including affiliations with foreign entities or governments (i.e. titled academic, professional, or institutional appointments whether or not remuneration is received, and whether full-time, part-time, or voluntary).
- **Who?** All Senior and Key Personnel. Not required for Other Significant Contributors (OSAs).
- **When?** At Just-in-Time (JIT), updates through award stage, and in annual RPPRs as disclosures change.



A: Disclose in all support Other Support/Current & Pending

- NSF Current & Pending
 - **What?** Disclose all current and pending support for ongoing projects and proposals regardless of the source.
 - **Who?** All senior personnel.
 - **When?** At proposal stage.
- Other Federal Sponsors – Follow their written guidance. Where appropriate, interpret “all” as all sources of funding, not just those at Cornell. When in doubt, disclose.



A: Disclose all appointments in Biosketch/CV

- NIH Biosketch
 - **What?** All positions and scientific appointments, both domestic and foreign, that are relevant to an application including affiliations with foreign entities or governments.
 - **Who?** Required for all Senior and Key Personnel *and Other Significant Contributors (OSCs)*.
 - **When?** With the proposal, if any updates are made prior to award, and as requested by NIH.
- NSF Biosketch
 - **What?** List all the individual's academic/professional appointments beginning with the current appointment.
 - **Who?** Each individual identified as senior personnel.
 - **When?** Within the proposal.
- Other Federal Sponsors – Follow their written guidance. Where appropriate, interpret “all” as all appointments, not just those at Cornell. When in doubt, disclose.



A: Disclose all Foreign Activities

- NIH Foreign Component
 - **What?** Any significant scientific element or segment of a project outside of the United States
 - Performance of work by a researcher or recipient in a foreign location, whether or not NIH grant funds are expended and/or
 - Performance of work by a researcher in a foreign location employed or paid for by a foreign organization, whether or not NIH grant funds are expended
 - Foreign vendors do not constitute foreign component
 - **When?** In the proposal (requires a Foreign Justification to be attached to the R&R Other Project Information Form). *Adding a foreign component requires NIH prior approval.*



A: Disclose all Foreign Activities

- NSF International Activities
 - **What?** Research, training, and/or education carried out in cooperation with international counterparts either overseas or in the U.S. using virtual technologies.
 - **When?** Proposal cover page.
- NSF Funding of an International Branch Campus of a U.S. IHE
 - **What?** Funding will be provided to an international branch (i.e. Weill Qatar)
 - **When?** Proposal cover page.
- NSF Funding of a Foreign Organization
 - **What?** Funding will be provided to a foreign organization, including via a subaward or consultant arrangement.
 - **When?** Proposal cover page.
- Other Federal Sponsors – Follow their written guidance. When in doubt, disclose.



A: Disclose Foreign Activities on the Form 10

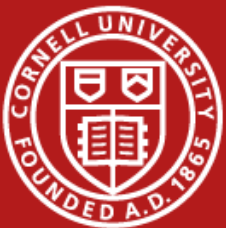
- Beginning in December, a new check box will be added to the Form 10 so that Cornell researchers can indicate whether their project includes foreign activities.
- **When do I need to check this box?** When your project involves foreign activities that may pose operational, tax, legal and/or export control risks to your project and/or Cornell:
 - Hiring a foreign national or U.S. citizen to work in another country
 - Office or research space in another country
 - Work in (or with) China or India (not including subawards)
 - Setting up a new center or institute in another country
 - Ongoing operations in or habitual travel of Cornell faculty or staff to a non-US country (Note: Does not apply to ad hoc travel to conferences or meetings)
 - Transactions with (including travel) to a sanctioned or embargoed countries (Cuba, Iran, North Korea, Sudan, Syria, Venezuela)
 - Shipments to another country
- **What happens when this box is checked?** This PI will be asked to complete a Form 10 addendum with questions about the specific nature of the foreign activities. Depending on the nature of the activities contemplated, your GCO will send the Form 10 to Cornell Global Operations or the Export Control Office for additional review. This review will not hold up the proposal submission, however awards may be delayed until outstanding issues are resolved.

Compliance	This project will involve (check all that apply): <input type="checkbox"/> None	
	<input type="checkbox"/> Human participants: use of data, biomaterials from humans (IRB)	<input type="checkbox"/> Biological pathogens or biotoxins; regulated or restricted plant pathogens or pests (IBC)
	<input type="checkbox"/> Live vertebrate animals (IACUC)	<input type="checkbox"/> Human & mammalian cell lines, human tissue & blood (IBC)
	<input type="checkbox"/> Recombinant or synthetic nucleic acid molecules (r/sNA); genetically or synthetically modified organisms (GMOs) (IBC)	<input type="checkbox"/> Hazardous chemicals / Controlled substances (IBC)
	<input type="checkbox"/> Ionizing radiation, radioactive isotopes (Radiation Safety Committee)	<input checked="" type="checkbox"/> Foreign activities <input type="button" value="Click to Add Foreign Activities Questionnaire"/>
The Principal Investigator is responsible for ensuring that approval for all necessary research protocols are in place before funds are released, and that any financial interests related to the design, conduct, reporting or sponsor of this research have been disclosed.		



A: Disclose Relationships in Annual COI Report

- As part of the annual FCOI disclosure cycle in 2020, respondents will be asked to provide information regarding their relationships with outside entities, whether paid or unpaid.
- **What relationships must be disclosed?** Any non-Cornell entity, foreign or domestic, on behalf of which a respondent is working or has traveled for including any of the following;
 - Visiting or other academic positions at domestic and foreign institutions
 - Work or travel on behalf of any of the following, whether domestic or foreign;
 - academic institutions (other than Cornell)
 - U.S. and foreign governments
 - non-profits/foundations
 - industry or trade groups
 - private or public companies (including as an investor or any other role)
 - Domestic and foreign consulting relationships
- **What information will need to be provided for each relationship?** Legal name and country of the outside entity, role, paid/unpaid, and number of days.



A: Disclose Relationships in Cornell's Annual COI Report

ACTIVITIES WITH NON-CORNELL ENTITIES

Previous questions asked about your financial interests and activities. This question asks you to record your efforts and activities for non-Cornell entities, whether or not you were paid.

6. List the number of days spent since May 1, 2019 working for, consulting with, or traveling for non-Cornell entities.

Disclosure is required regardless of whether such activity is paid or unpaid, is conducted in your Cornell or non-Cornell capacity, or is performed domestically or internationally.

It is not necessary to disclose travel solely for the purpose of personal vacation or to present at a conference.

Since May 1, 2019, have you spent any time working for, consulting with, or traveling for non-Cornell entities?

Yes No

Entity Legal Name	Country	Role	Paid/Unpaid	Days	Actions
General Electric	France	Consultant	Unpaid	13	Edit Delete
University of Houston	US	Academic Appointment	Paid	28	Edit Delete

Add

[?] How should I respond to this question?

Add a line for each non-Cornell entity (foreign or domestic) on behalf of which you've worked or travelled including any of the following:

- Academic institutions (other than Cornell)
- Academic teaching hospital, medical center, or research institute
- U.S. federal, state, or local government agencies or foreign governments
- Foundations/non-profit organizations
- Industry or trade groups
- Private or public companies (including as an investor or any other role)

If you engaged with the same entity in multiple countries, enter the activity in each country separately.

This information is required for Conflict of Commitment (COC) reporting and identifying possible foreign influences on research integrity.

For more information about COC, consult page 77 of the [Faculty Handbook](#) and [University Policy 4.14](#).

[Guidance about foreign influence](#) is on the Research Services website.



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Export Control Compliance

Sarah Schlagter

Senior Grant & Contract Officer/Export Controls Officer



Overview

- Export Control Laws
 - Restrict the release of commodities, software, technology, and information that may have a military, security, or strategic use.
 - Applies to transfers out of country;
 - Applies to in-country transfers;
 - Applies to U.S. citizens wherever they are located;
 - Applies to everyone in the United States.
- The Fundamental Research Exclusion (FRE)
 - Research results that qualify as fundamental research are not subject to the controls.
 - FRE is destroyed by any clause that:
 - Labels the research as proprietary/confidential;
 - Gives the sponsor the right to approve publications;
 - Restricts participation in the research based on nationality/citizenship.



Proprietary Information

- Third Party Information
 - Not protected by the FRE;
 - Proprietary technical information (technology for the development, production, or use of a controlled item) should always be treated as controlled – meaning access by certain foreign nationals in the U.S. is prohibited.
- Actions
 - Work with Export Control Officer and your Grant and Contract Officer to determine if you are receiving controlled information, what the level of control is, and what the appropriate security measures are.
 - A technology control plan will be required for any controlled information stored at Cornell.
 - Minimize the receipt of proprietary information



Visitors – Best Practices

- PIs should know who is in their lab at all times.
- Records should be kept of visitor's name, affiliation, date, and purpose of visit.
- All visitors and their current affiliation should be screened using the Visual Compliance software tool.
 - Screening can be done by department HR representative or the Export Control Officer.
- Visitors cannot have access to any proprietary, confidential, or controlled information.
 - Ensure that any of the above is secured and out of sight.
- Ensure proper on-boarding and off-boarding procedures are followed.
- Remember, your college may have a policy regarding visitors.



International Travel

- The Office of Foreign Assets Control (OFAC) administers and enforces economic and trade sanctions, and embargoes based on U.S. foreign policy and national security concerns.
 - OFAC makes travel to certain destinations *illegal* without a specific or general authorization.
- Travel to Iran, Cuba, North Korea, Syria, Sudan, Crimea Region of the Ukraine, and Venezuela must be reviewed and approved by the Export Control Officer.
- Cornell's International Travel Registry (<https://travelregistry.cornell.edu/>)
 - Mandatory for students, staff, and faculty with students;
 - Best practice.
- Cuba-specific process (<https://global.cornell.edu/travel-cuba>)
- Loaner electronics
- Case example



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Resources

Disclosing Foreign Partnerships to Cornell and External Sponsors webpage

<https://researchservices.cornell.edu/policies/disclosing-international-partnerships-cornell-and-external-sponsors>

Form 10 and Form 10 Guidance

<https://researchservices.cornell.edu/resources/form-10-proposal-routing-and-approval-form-instructions>

Navigate

<https://navigate.cornell.edu/>

Cornell Export Control Website

<https://researchservices.cornell.edu/process/export-controls>



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Questions

Contact your Grant & Contract Officer

<https://researchservices.cornell.edu/gco>

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Export Controls Mailbox

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Questions?