



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, [Academic Integrity and Undue Foreign Influence: Guidelines](#)
 - Reaffirmed Cornell's commitment to international partnerships and activities
 - Summarized best practices and resources available to support Cornell researchers
- November 2019, [OSP Roundtable](#), [Disclosing Foreign Relationships and Activities](#)





What are the Federal Government concerns?

Failure to disclose:

- Financial conflicts of interest
- Conflicts of commitment
- External employment arrangements
- Financial support that overlaps with U.S. funding
- Shadow laboratories or other parallel research activities
- Diversion of intellectual property
- Peer review violations

The FBI has more 1000 investigations into China's actual and attempted theft of American technology



What are the Higher Ed concerns?

- Chilling effect on international collaboration
- How to discern the good collaborations from the more concerning ones
- Climate of fear and suspicion
- Negative impacts on foreign students and researchers
- Administrative burden
- Lack of clarity in regulations and lack of harmonization across agencies
- Continually evolving guidance

Perspective: The NIH incidents we have seen so far involve **87 institutions** with confirmed violations of NIH rules by over **150 scientists**. NIH funds scientists across the country and even across the globe. Each year, NIH awards more than **60,000 research and training grants**. These support: approximately **300,000 researchers**.



Federal Agency Developments - NIH

- August 2018, [Letter from NIH Director Dr. Francis Collins](#)
 - 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
- July 2020 – [Open Mike: Addressing Foreign Interference and Associated Risks to the Integrity of Biomedical Research, and How You Can Help](#)



Federal Agency Developments - NIH (cont.)

- July 2019, [NIH Policy Notice NOT-OD-19-114](#) & [FAQs](#)
 - 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*.
 - **Note:** Foreign subawards are defined as foreign components per NIH
 - 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](#)
 - 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.”
- Currently...
 - Beginning to see language in FOAs: Prohibition related to Foreign Government Sponsored Talent Recruitment Programs
 - Requirement for Current & Pending support in new FOAs



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
 - Section 889: Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment (certification required in SAM) – effective date August 13, 2020
- March 2019, [Memo from DOD Acquisitions Undersecretary](#)
 - 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



- June 2020, [Proposal and Award Policies and Procedures Guide \(NSF 20-1\)](#)
 - Proposers must disclose all sources of support, both foreign and domestic, in Current and Pending, and all appointments on Biosketches
 - Standardization of required formats for Biosketch and Current and Pending (SciENCv or “other NSF approved format”) enforced as of October 5, 2020
- July 2020, [Frequently Asked Questions on Current and Pending Support](#)
- July 2020, [Revision to NSF Standard Terms & Conditions effective 10/5/20](#)
 - Article 38: Post-award Disclosure of Current Support and In-Kind Contribution Information



Federal Agency Developments - NASA

- Restriction on Bilateral Activity with China (Public Law 112-55)
 - In accordance with restrictions in Appropriation Acts, NASA is prohibited from funding any work that involves the bilateral participation, collaboration, or coordination with China or any Chinese-owned company or entity, whether funded or performed under a no exchange of funds arrangement.
- [PRC FAQ for ROSES](#)
 - Does not restrict Chinese nationals from working on a NASA project
 - Individual affiliated with an institution of the Chinese state (includes universities in China) will be subject to the statutory restriction

Coming Soon! Additional guidance to NASA-funded researchers from OSP.



Federal Agency Developments - Dept. of Edu.

- June 2019 – present , 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

Notices of Investigation and Records Requests

- Georgetown University (June 13, 2019) [PDF, 323KB]
 - Texas A&M University (June 13, 2019) [PDF, 323KB]
 - Cornell University (July 3, 2019) [PDF, 322KB]
 - The State University of New Jersey ("Rutgers University") (July 3, 2019) [PDF, 322KB]
 - Massachusetts Institute of Technology (September 26, 2019) [PDF, 12MB]
 - University of Maryland (September 26, 2019) [PDF, 3MB]
 - Harvard University (February 11, 2020) [PDF, 5MB]
 - Yale University (February 11, 2020) [PDF, 6MB]
 - University of Texas (April 24, 2020) [PDF, 2.3MB]
 - Case Western Reserve University (May 27, 2020) [PDF, 3.1MB]
 - Fordham University (August 10, 2020) [PDF, 190KB]
 - Stanford University (August 10, 2020) [PDF, 225KB]
- September 2019, [Proposed Revisions to Section 117 of the Higher Education Act of 1965](#)
 - 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

U. Kansas

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

Harvard

Department Chair
arrested and indicted
on two counts of
making false
statements in June
2020

Texas A&M

Professor arrested and
charged with
conspiracy, making
false statements and
wire fraud in August
2020



What is a Foreign Government Sponsored Talent Recruitment Program?

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).

- Many countries sponsor talent recruitment programs for legitimate purposes of attracting researchers in targeted fields and use legitimate means of attracting talent, including offering research fellowships and grants to incentivize researchers to physically relocate
- Some programs encourage or direct unethical and criminal behaviors
- Contracts for participation in some programs, including some sponsored by the Chinese government, include language that creates conflicts of commitment and/or conflicts of interest for researchers
 - Requirements to attribute awards, patents, and projects to the foreign institution, even if conducted under U.S. funding
 - Requirements to recruit or train other talent recruitment plan members, circumventing merit-based processes
 - Requirements to replicate or transfer U.S.-funded work in another country



What is a Foreign Government Sponsored Talent Recruitment Program?

From: [REDACTED]

Sent: Wednesday, August 19, 2020 2:49 AM

To: [REDACTED]

Subject: Invitation of a cooperation for you from [REDACTED]

Dear Prof. [REDACTED]

I am a senior headhunter [REDACTED] which is helping the Chinese government to recruit talents in various fields. This talent plan provides rich financial support and other preferential treatment.

This plan has lasted for more than ten years. With the intensification of high-tech competition, the government is improving the support for the development of local universities, research institutions and high-tech enterprises.

You are qualified for the "national talent", which is the highest honorary talent title in China. You have made outstanding achievements in your professional field, so we invite you sincerely to apply for this program.

If you get an agreement with a Chinese University, Research Institute or enterprise, the agreement will be negotiated with the Platform, and succeed to apply for the talent program, the government will provide you with a tax-free bonus for national talents, about RMB 2 million, which will be paid in a lump sum after you pass the assessment of talent plan. At the same time, the government will provide you with a sum of about RMB 2 million (also tax-free) for scientific research, you have a high degree of control of this. In addition to the direct monetary benefits, you can also get preferential policies, such as free accommodation, free medical care, travel subsidies, living subsidies, visa privileges, and so on.

If you are interested in this project, please send me your CV first. We will contact universities, research institutes or enterprises interested in you and your research, and invite local government representatives for a video conference.

Best wishes,

[REDACTED]



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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.



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

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	✓					
All resources and other support, both domestic and foreign, for ongoing research projects, including those conducted at a different institution				✓	✓ If new	✓
In-kind contributions from domestic and foreign institutions or governments that support research activities				✓	✓ If new	✓
Performance of any significant part of an NIH project outside of the US, whether or not funds are expended		✓	✓ If new			
Post-doc, student, or visiting scholar supported by a foreign government or institution				✓	✓ If new	
Travel paid by a foreign institution or government over \$5,000 per year						✓
Financial interests received from a foreign Institution of higher education or a foreign government						✓



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 and award stage.

	Intended for use on the project being proposed to NSF	<u>Not</u> intended for use on the project being proposed to NSF
In-kind item or service received <u>with</u> an associated time commitment	Facilities, Equipment and Other Resources	Current & Pending
In-kind item or service received <u>without</u> an associated time commitment		Not required to be reported to NSF



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

- NSF Current & Pending
 - Effective October 5, 2020, all NSF standard terms and conditions have been updated to include a new post-award reporting current and in-kind support.
 - If Cornell discovers that a PI or Co-PI on an active NSF award failed to disclose current support or in-kind contributions within their proposal, OSP must submit a notice to NSF informing them of the undisclosed support or contribution within 30 days of identification of the oversight by Cornell.
 - NSF will review the disclosure and, after possible consultation with OSP, determine the impact of the new information on the award and, where necessary, take appropriate action.
- 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 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.
- Visitors and their current affiliation may 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 everyone traveling internationally**
- Cuba-specific process (<https://global.cornell.edu/travel-cuba>)
- New filing requirements for China, Venezuela and Russia
- Loaner electronics
- Case example



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Resources

[Cornell: Foreign Collaborations and Support](#)

[Cornell: Disclosing Foreign Partnerships to Cornell and External Sponsors webpage](#)

[Cornell: Navigate](#)

[Cornell: Export Control Website](#)

[COGR: Commentary on Disclosing Other Support and Other Resources in Research Funded by the National Institutes of Health](#)



Questions

Contact your Grant & Contract Officer

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

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jas2233@cornell.edu; 607-255-3843

Sarah Schlagter, Sr. Grant & Contract Officer and Export Control Officer

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Export Controls Mailbox

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Global Operations

globaloperations@cornell.edu



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Questions?