Export Control and International Compliance
The changing landscape of US research funding and foreign influence concerns

Speakers

• Dr. Laurie Locascio, Vice President for Research
• Dr. Dan Lathrop, Professor (CMNS/ENG) and Chair of the ECIC
• Dr. Phil DeShong, Professor (CMNS) and Chair of the COI
• Adam Grant, Director of the Export Compliance Office (Research)
• Wendy Montgomery, Director of the Office of Research Administration (Research)
• Dr. Beth Brittan-Powell, Director of Joint Research Collaborations (Research)
• Rebecca Hunsaker, Director of Research Admin (BSOS)
Session Outline

- Introductions – Dr. Laurie Locascio
- Summary of issues/enforcement activities
- Researcher Transparency and Risk Reduction
- Proposal process and certifications
- Agency-specific disclosure requirements
  - NSF, NIH, DOE, DoD, NASA
- Panel discussions and Q and A
Institutional Risk

“NSF has for the first time…reassigned, suspended or terminated grants, forced institutions to return funds or barred researchers from applying for future funding…”

Focus of Enforcement Activities

- Undisclosed:
  - foreign collaborators
  - gifts/contracts from foreign sources
  - affiliations where grant recipient spent months outside US
  - foreign talent program participation
  - foreign patents, ties to foreign company
- Conflicts of commitment
- Shadow labs (duplicating US-funded labs) in other countries
- Peer review violations, such as disclosure of confidential proposal information
- Travelers leaving the US with sensitive data
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Conflicts of Interest

Financial Misconduct
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Foreign Talent Program

The U.S. Government is especially concerned about the active recruitment of foreign scholars into “foreign talent (recruitment) programs” by foreign governments.

- Attempts to influence foreign nationals to misappropriate federally funded research results and intellectual property from U.S. institutions of higher education.

**FBI warning:** These recruitment programs may require U.S. researchers:
- To sign contracts that limit who they can hire in their U.S. laboratory
- To hire and mentor students from a specified country
- To spend time at the foreign institution
- To name the foreign institution as a primary contributor
## Talent Programs – Agency Response

- Foreign talent programs are not banned.
- Disclose, disclose, disclose!

### FEARLESS IDEAS

- NSF and NIH have suspended and terminated grants where the PI did not disclose talent program participation.
- Funding agencies may require a copy of the talent program contracts prior to making an award or releasing a funding increment.
- Specific talent program contractual requirements, as identified above, may deem the PI ineligible to receive U.S. Government funding.
- DOD has suggested that policy changes may be forthcoming, which will prevent foreign talent program participants from obtaining or otherwise working under DOD funding.

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## The Good News?

To date, the known enforcement activities appear to be cases of gross misconduct and not minor oversights or accidental omissions.

**You can reduce your risk!**
How can you reduce your risk?

- **Disclose** (to the University and on Proposals as required)!
- **Understanding** what types of engagements or activities have **elevated risk**
- **Seek guidance** from knowledgeable University personnel before committing to activities with elevated risks
- Carefully **vet your research collaborators, lab appointees, and peer reviewers**
- Travel with a **clean laptop** – no sensitive files on hard drives (including email)
- Disclose

### Generally **Low-Risk** Activities:

- Presenting research at open academic conferences
  - *(EXCEPT FOR* conferences in, or hosted by, sanctioned countries *(Iran, Syria, N Korea, Cuba, Sudan)*
- Research collaborations with foreign universities and international researchers in basic research topics
- Domestic consulting activities when properly disclosed and your IP is protected
- Teaching at foreign universities *(when disclosed!)*
Outside activities with the potential for elevated risks…

- Contracts that affect your university obligations
- Developing technologies that closely relate to your University research
- Having equity in a company that could benefit from decisions you make at the University
- Relationships that could influence (or be perceived by others to influence) your research findings
- Would require you to license or assign intellectual property to the company that may include or relate to your University research
- Includes co-authoring with foreign military personnel
- Providing technical assistance to any foreign entity
- Includes travel from the US with unpublished technical data stored on your electronic devices

NOTE: These activities may not be prohibited but we recommend that you seek guidance!

Where to seek help

Considering outside professional activities
- Your supervisor, department chair, or unit head
- COI Committee chairs (Phil DeShong, Joe Smith)
- UM Ventures (intellectual property concerns)

Considering foreign engagements
- Your supervisor, department chair, or unit head
- Export Compliance Office (Adam Grant)

Questions about disclosing on federal proposals
- Department proposal admin
- Your ORA contract admin
Internal reporting on outside professional activities

- Responsibility for managing potential conflicts of interest (COI) or commitment (COC) begins with YOU.

- UMD’s Policy on Conflict of Interest and Conflict of Commitment requires faculty and exempt staff to report outside professional activities to their unit head as soon as possible. [https://policies.umd.edu/policy/13d68522-d512-427c-a50c-662f5f8b1fea/](https://policies.umd.edu/policy/13d68522-d512-427c-a50c-662f5f8b1fea/)

- Outside Professional Activities Report (OPA) Annual reporting requirement [https://ares.umd.edu/home](https://ares.umd.edu/home)

Talk to the COI Committee!
coi@umd.edu

External Reporting

At last he had found the Regulatory Guidelines.

Kuali Research Certifications

I have disclosed in the proposal, as may be required, all professional activity performed within or outside of the University of Maryland (paid and unpaid), including foreign affiliations, and/or support from other companies, universities and government entities (e.g. Talent programs; consulting activities.) If you are unsure whether all disclosure requirements have been met please contact your ORA/SPA Contract Administrator.

Why do the Certifications matter?

- Official PI and Co-I confirmation of proposal content
- The compliance questionnaire helps ORA identify activities that may need additional support from compliance offices (Export, COI, IRB, Research Safety, IACUC, etc.)
- Acknowledgement and acceptance of the sponsor’s representations and certifications
- Electronic signature is provided as proof in audits, inquiries and investigations
NSF Research and Academic Support

<table>
<thead>
<tr>
<th>Type of Activity</th>
<th>Report in Biosketch</th>
<th>Report in Current/Pending Support</th>
<th>Report in Facilities, Equipment &amp; Other Resources sections</th>
<th>NEWP Post-award Reporting Requirements</th>
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<tbody>
<tr>
<td>Academic, professional, institutional appointment (regardless of paid status)</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>Gifts</td>
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<tr>
<td>In-kind contributions with no associated time commitment - intended for use on this project</td>
<td></td>
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<td></td>
<td>NOT required to report</td>
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<tr>
<td>In-kind contributions with no associated time commitment - NOT intended for use on this project</td>
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<td>NOT required to report</td>
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<tr>
<td>In-kind contributions with associated time commitment - intended for use on this project</td>
<td></td>
<td>✔</td>
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</tr>
<tr>
<td>In-kind contributions with associated time commitment - NOT intended for use on this project</td>
<td></td>
<td>✔</td>
<td></td>
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<tr>
<td>“Start-up” packages or academic year salary from proposing organization</td>
<td></td>
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<td></td>
<td>NOT required to report</td>
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<tr>
<td>“Start-up” packages NOT from proposing organization</td>
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<tr>
<td>Mentoring as part of their regular appointment at the proposing organization</td>
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<td>NOT required to report</td>
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<tr>
<td>Mentoring: in-kind support either directly or through their organization from an external source to support mentoring of undergraduate or graduate students</td>
<td></td>
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<tr>
<td>Planned, pending, and current support provided to individual</td>
<td></td>
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<tr>
<td>Research conducted as part of consulting agreement</td>
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**NSF clarifications**

Need to report:
- Lab space in a foreign country
- Research funding received personally or through another professional appointment
- Material/data provided by 3rd party for use in our investigator’s research
- Access to postdocs/students/technicians donated by a third party for use in our investigator’s research
- Received from an external source to mentor a research postdoc conducting our investigator’s research
- Activities that happen outside the appointment (e.g. summer months for 9-month faculty)

*This is not an exhaustive list!*

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### Examples: What to Disclose to NIH about Senior/Key Personnel on Applications and Awards - [https://grants.nih.gov/policy/protection-innovation.htm](https://grants.nih.gov/policy/protection-innovation.htm)

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<thead>
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<tbody>
<tr>
<td>All positions and affiliations, including volunteer positions, relevant to the application</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If personal payments to the individual</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If personal payments to the individual</td>
</tr>
<tr>
<td>Relevant appointments at foreign institutions – even if labeled as “guest,” “adjunct,” “honorary,” with or without salary support</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If personal payments to the individual</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If personal payments to the individual</td>
</tr>
<tr>
<td>The number of person-months devoted to projects, even if there is no salary support or direct personal payments to the scientist</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If now</td>
</tr>
<tr>
<td>Income, salary, consulting fees, and honoraria in support of an individual’s research endeavors</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔</td>
<td>✔ — If now</td>
<td></td>
</tr>
<tr>
<td>Participation in a foreign talent or similar-type programs</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td></td>
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<tr>
<td>Ongoing and completed research projects from the past three years that the applicant wishes to highlight</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
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<tr>
<td>All resources and other support, both domestic and foreign, for ongoing research projects, including those conducted at a different institution</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
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<tr>
<td>In-kind contributions from domestic and foreign institutions or governments that support research activities</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
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</tr>
<tr>
<td>Performance of any significant part of an NIH project outside of the US, whether or not funds are expended</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>Post-doc, student, or visiting scholar supported by a foreign government or institution</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>Travel paid by a foreign institution or government over $5,000 per year</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td></td>
</tr>
<tr>
<td>Financial interests received from a foreign Institution of higher education or a foreign government</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
<td>✔ — If now</td>
<td>✔</td>
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</tr>
</tbody>
</table>
NIH clarifications

Other Support
- ALL financial resources in direct support of research
- Must include SOURCE of support
- Includes: commercial and institutional resources
- Excludes: training awards, prizes, gifts

Foreign Component
- Performance of significant scientific element outside of the US, whether or not funds are expended
- Examples include:
  - extensive foreign travel for data collection, surveying, etc.
  - Collaborations with foreign site investigators
  - Use of facilities at foreign site
  - Receipt of financial support/resources from foreign entity

Confidentiality and Security
- Peer Review program
- No sharing applications, proposals, or meeting materials to anyone who has not been designated a participant
- Must work within secure NIH platform
- Do not send any application information via unsecured email

Know Your Agency
- DOD
  - New disclosure requirements for talent programs
- DOE
  - Foreign national approval requirements
- NASA
  - Funding prohibitions on collaborations w/ Chinese entities
- USDA

New SciENcv page under Proposal Development on ORA's website

Using SciENcv @ UMD

SciENcv

SciENcv (Science Experts Network Curriculum Vitae) is a free tool made available through the National Library of Medicine's National Center for Biotechnology Information (myNCBI) platform. Researcher's profiles are associated with the individual, and not their institution.

Getting Started with SciENcv

Use SciENcv to create compliantly formatted NIH, NSF, & IES Biographical Sketch and Current & Pending Support documents.

NIH ORA Commons, NSF, and ORCID account holders who have linked their accounts to NCBI can populate their SciENcv profiles with the information stored in their ORA, NSF, or ORCID accounts. The information transferred to SciENcv can be changed, hidden, augmented or deleted. SciENcv users control the content displayed in their SciENcv profiles.

SciENcv Resources

- NSF FAQs SciENcv
- NSF Brochure video
- NSF Current and Pending video
- SciENcv full help text
- Integrating with ORCID video
- Link Google Scholar to ORCID
  - Export Google Scholar to BbTeX
  - Import BbTeX file into ORCID
- Assign Delegates in MyNCBI & SciENcv

College Resource Pages

The links and templates below are to provide helpful guides for proposal development and award management. They are not mandatory for proposal submission but are recommended for use.

For Investigators:

- How to Certify a KR proposal
- What do the certification questions mean?

Helpful links and templates:

- KR Questionnaire for Funded Proposals
- KR Questionnaire for Non-Funded Proposals
- Data Use Agreement Questionnaire
- KR Approver Delegation Letter template
- Kuali Research Training

More information regarding proposal development can be found on the BSOS Proposal Development Resources page. https://bsos.umd.edu/academics-research/kuali-research-resources

This material is accurate and correct as of 11/19/2020.
College Resource Pages

AgPAS (Pre-Award Services)
https://agnr.umd.edu/about/information/faculty-staff/agpas-pre-award-services

AgPAS is AGNR’s Pre-Award Services unit for all proposals going forward from the college. If you intend to submit a proposal, please complete the Notice of Intent to Submit worksheet. Once received, your Contract Administrator will contact you to coordinate the process.

Access AgPAS Services

- Notice of Intent/Questionnaires
- News
- Forms & Tools
- Mission/Procedures/Staff

ECICquestions@umd.edu