



# Conflicts of Interest

## **COI SUBCOMMITTEE MEETING**

*Foreign Influence & COI*

*January 9, 2020*

*Co-Chairs: Diane Dean/NIH & Mary Lee/Stanford*



# AGENDA

- 1. Business Matters*
- 2. Re-Cap Existing Requirements to report COI-related Foreign Influence*
- 3. Are we seeing new Foreign Influence-COI requirements? (Sampling of Grants.gov “foreign” requirements)*
- 4. Discussion of connecting COI data to Sponsored Research data at your institutions*
- 5. Wishlist for Foreign Influence Working Group?*



## COI Subcommittee Business Matters

1. Meeting notes?
2. Listserv sign up
3. Attendees today?
4. Conflict of Commitment Working Group:  
Monthly discussion?



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# Conflicts of Interest

## **Definition of Foreign Government Talent Recruitment Program:**

In general, such programs include any foreign-state-sponsored attempt to acquire U.S. scientific-funded research or 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. These recruitment programs are often part of broader whole-of-government strategies to reduce costs associated with basic research while focusing investment on military development or dominance in emerging technology sectors. *DOE O 486.1 (7g)*.



## Features of a Foreign Talent Recruitment Program, per DOE

- (1) Compensation provided by the foreign state to the targeted individual in exchange for the individual **transferring their knowledge and expertise to the foreign country**. The compensation can take several forms, such as **cash, research funding, honorific titles, career advancement opportunities, promised future compensation, or other** types of remuneration or consideration.
- (2) Recruitment in this context refers to the foreign-state-sponsor's active engagement in **attracting the targeted individual to join the foreign-sponsored program and transfer their knowledge and expertise to the foreign state**. The targeted individual may be employed and located in the U.S., or in the foreign state. Recruitment would not necessarily include any invitation for engagement extended by the foreign state, for example, an invitation to attend or present work at an international conference.
- (3) Many, but not all, programs aim to incentivize the targeted individual to physically relocate to the foreign state. Of particular concern are those programs that **allow for continued employment at U.S. research facilities or receipt of DOE research funds while concurrently receiving compensation from the foreign state**.



# Overview of Foreign Influence-COI today

NIH	NSF	DOD	DOE	NASA
<p><b>Status Quo:</b>  <b>42 CFR Subpart 50, Part F</b>            Disclose significant financial interests (including travel) related to PHS-funded research.</p> <p>As per <a href="#">NOT-OD-18-160 (3/2019)</a>, disclosure requirement includes financial interests received from a foreign entity.</p> <p>*If your institution's COI policy is stricter than Subpart F, then NIH will require your institution to provide reports per your policies.</p>	<p><b>Status Quo:</b> PAPPG VII.A.2.e:            Conflicts of Interest that cannot be satisfactorily managed, reduced or eliminated and research that proceeds without the imposition of conditions or restrictions when a conflict of interest exists.</p> <p>7/11/2019 NSF Director letter: silent as to COI disclosures, so no change to status quo.</p> <p>Per new policy to be issued, NSF personnel and IPAs may not participate in foreign government talent recruitment programs.</p>	<p><b>Status Quo:</b> No DOD-specific COI regulation or policy statement. Institutions must carefully read the <a href="#">DOD Memo (3/20/2019)</a>, Call Documents, and Grant or Contract terms. 2 CFR 200 COI requirements are often included.</p>	<p><b>New:</b> DOE Order 486.1 applies to DOE employees, contractor employees of GOCO national labs, subcontractors who work on-site. Affected personnel may not participate in a foreign government talent recruitment program.</p> <p><b>New:</b> DOE is flowing down similar language in grants / contracts to academic research institutions.</p>	<p><b>Status Quo:</b> No NASA-specific COI regulation or policy statement. Institutions must carefully read the Call Documents, and Grant or Contract terms. 2 CFR 200 COI requirements are often included.</p>



# Federal Research Sponsors' Foreign Influence Capture Criteria

SPONSOR	Review Criteria	SU Office
<b>NIH/NSF</b>	1. Conflicts of Interest reporting	COI Office  Sponsored Research Office
	2. Other Support (NIH) / Current & Pending Support (NSF)	
	3. Foreign Component	
<b>DOD</b>	For DOD research projects, all Key Personnel (even if not DOD-funded) must list all current/future projects, percent effort, funders' names, period of performance, and more. <a href="#">DOD Memo (3/20/2019)</a>	
<b>DOE</b>	DOE Order 486.1 applies to DOE employees, Lab M&O contractors, subcontractors who work on lab site. DOE is now flowing down similar requirements through limited grants/contracts.	



# NIH Financial Interests & Travel Disclosure Requirements

Disclosure Requirement	What is covered & Where to disclose?
<b>Financial Interests</b>	Disclose service on Board of Directors, Scientific Advisory Board, consulting fees, honorarium for speaking at a conference, stock or stock options, etc., <b><i>even if valued at \$0.</i></b>
<b>Travel</b>	This is a requirement for PHS/NIH-funded researchers. Disclose travel sponsored or reimbursed by a third party. Include hotel, airfare, taxi, rental cars, shared ride services, meals, per diem, etc. <ul style="list-style-type: none"><li>• Exception: Do not disclose travel sponsored or reimbursed by Stanford, a U.S. government body, or a U.S. institution of higher education.</li><li>• 2018 Clarification: Must disclose travel reimbursed or sponsored <b><i>by any foreign entity</i></b>, including foreign governments and foreign institutions of higher education.</li></ul>



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## Sampling of Grants.gov for “Foreign” Reqs

In Fall 2019, Stanford COI analyst mined Grants.gov calls for proposals for any COI requirements that included a “foreign” requirement. The exercise was to check whether other requirements existed outside of the known, higher-level requirements (regulations, policy, grants statements).

This is what it looked like!



## Sample – Air Force

Foreign participation: Per Defense Production Act of 1950, execution of the project requires a U.S. based company as lead. Foreign Participation is not allowed at a Prime Recipient level for this effort.

Foreign Nationals (FNs) can be employed by the U.S. Prime Recipient or Sub-awardee; however, FNs will be limited to Public Domain information unless the recipient has obtained the proper License of Technical Assistance Agreement that authorizes disclosure of CMI and/or CUI to foreign entities pursuant to the Department of State's International Traffic in Arms Regulations (ITAR) or Department of Commerce's EAR.



## Sample – Air Force

Failure to submit this information may cause the proposal to be returned without further review.

This information will be used to support protection of intellectual property, controlled information, senior/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.



## Sample of Permissive

- The CA will be awarded to a U.S. institution of higher education to lead an Alliance of organizations that may include U.S. and foreign institutions of higher education, DOD-Degree Granting Colleges and Universities, DOD Service Laboratories, Federally-funded research and development centers (FFRDCs) to include Department of Energy (DOE) National Laboratories, U.S. industrial partners, and/or U.S. and foreign non-profit organizations to include University Affiliated Research Centers (UARCs) Applicants should take great care to substantiate involvement of foreign-based organizations. Unfunded collaboration with foreign non-profit organizations and foreign governmental research organizations, such as the Atomic Weapons HDTRA1-19-S-0003 Page 9 Establishment (AWE) and the Defense Science and Technology Laboratory (DSTL), will be considered. ; U.S. and foreign institutions of higher education, DOD-Degree Granting Colleges and Universities, DOD Service Laboratories, FFRDCs to include DOE National Laboratories, U.S. industrial partners, and/or U.S. and foreign non-profit organizations to include UARCs may be considered as non-permanent subawardees. Unfunded collaborations with foreign non-profits or governmental research organizations will be considered.



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# Challenges

1. How to reconcile outside professional activities with a foreign institution/company and meet the requirements of reporting Other Support?
  - Review processes: paper vs. electronic
  - Reviewers/access: who is within the authority to review?
  - Sponsor-specific Other Support reporting may not be uniform. Better practices to share?
2. Are your faculty disclosing appointments at foreign institutions as COI or COC disclosures?
3. For PHS-funded, what guidance has your institution published on financial interest from foreign travel (sponsored or reimbursed)?



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## FDP Foreign Influence Working Group

### Cross-committee Foreign Influence Working Group

Co-Chairs: Pamela Webb & Jim Luther

Faculty: Michelle Masucci & Robert Nobles

Reps from the programmatic committee, as well as reps from Export Controls and COI; plus At-Large reps.



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## ***Subcommittee Wrap-Up***

Please sign up for (1) Subcommittee Listserv and (2) email Mary your Foreign Influence Working Group wishlist!

Contact: Mary Lee – [marylee@stanford.edu](mailto:marylee@stanford.edu)