

Office of the Vice President for Research and Innovation



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SYSTEM

Protecting UH Research

U.S. Federal Focus on Research Security

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Purpose

- ▶ Understand the current U.S. federal government focus on protecting intellectual property through research security requirements for academia

“Some foreign governments, including those of the People’s Republic of China, Russia, and Iran, are working vigorously...to acquire, through both licit and illicit means, U.S. research and technology. There have been efforts to induce American scientists to secretively conduct research programs on behalf of foreign governments or to inappropriately disclose non-public results from research funded by U.S. government sources. This is unacceptable.”

Source: <https://www.whitehouse.gov/wp-content/uploads/2022/01/010422-NSPM-33-Implementation-Guidance.pdf>

Examples

The types of problems identified by the federal government include:

- ▶ Undisclosed sources of foreign research support
- ▶ Undisclosed conflicts of interest
- ▶ Sharing grant proposals and research data with foreign entities
- ▶ Duplicative funding
- ▶ Overcommitment and “dishonesty after-the-fact”

White House focus on research security

Trump Administration

- ▶ 2019: OSTP-led initiative to coordinate federal research policies
- ▶ 2021: National Security Presidential Memorandum 33 (NSPM-33)

Biden Administration

- ▶ 2022: Guidance for implementing NSPM-33
 - ▷ Federal sponsoring agencies to develop model grant application forms, and
 - ▷ Clear and effective rules for ensuring research security and researcher responsibilities

NSPM-33

Issues guidance to federal sponsoring agencies:

1. Disclosure Requirements and Standardization
2. Digital Persistent Identifiers
3. Consequences for Violation of Disclosure Requirements
4. Information Sharing
5. Research Security Programs

NATIONAL SCIENCE AND TECHNOLOGY COUNCIL



GUIDANCE FOR IMPLEMENTING NATIONAL
SECURITY PRESIDENTIAL MEMORANDUM 33
(NSPM-33) ON NATIONAL SECURITY
STRATEGY FOR UNITED STATES
GOVERNMENT-SUPPORTED RESEARCH AND
DEVELOPMENT

A Report by the

Subcommittee on Research Security

Joint Committee on the Research Environment

January 2022

NSPM-33: Standardization of Disclosure Requirements

Table 2a: Disclosure information that will be required across ALL federal sponsoring agencies

Type of Activity to be Disclosed	Biographical Sketch	Current & Pending/ Other Support	Annual Project Reports	Post-Award Information Terms & Conditions
PERSONAL INFORMATION				
Professional preparation (e.g., educational degrees)	✓			
Organizational Affiliations [#]	✓			
Academic, professional or institutional appointments, whether or not remuneration is received, and whether full-time, part-time, or voluntary	✓			
Paid consulting that falls outside of an individual's appointment; separate from institution's agreement		✓	✓	✓
RESEARCH FUNDING INFORMATION				
Current and pending support: All R&D projects 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, and regardless of whether the support is direct monetary contribution or in-kind contribution (e.g., office/laboratory space, equipment, supplies, or employees)		✓	✓	✓
Current or pending participation in, or applications to, programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs ⁶	✓ (Appropriate placement may be contract-dependent)			
In-kind contributions not intended for use on the project/proposal being proposed		✓	✓	✓
Visiting scholars funded by an entity other than own institution		✓	✓	✓
Students and postdoctoral researchers funded by an entity other than own institution		✓	✓	✓
Travel supported/paid by an entity other than own institution to perform research activities with an associated time commitment		✓	✓	✓
Certification by the individual that the information disclosed is accurate, current, and complete		✓	✓	✓

NSPM-33: Standardization of Disclosure Requirements

Highlights from this requirement include:

- ▶ Potential broadening of disclosure requirement to include students
- ▶ Disclosure of contracts for participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government talent recruitment programs
 - ▷ Non-disclosure clauses associated with these contracts is not an acceptable exemption from this requirement
- ▶ Process for updating disclosures after award is made

In the 2023 PAPPG, NSF implemented a harmonized disclosure format and will revise it based on feedback.

NSPM-33: Standardization of Disclosure Requirements

Exclusions from disclosure requirements:

- ▶ Completed support
- ▶ Honoraria
- ▶ Gifts (must still be disclosed under Sec 117 of Higher Education Act; also required under Hawaii Revised Statutes - Chapter 84 Standards of Conduct)
- ▶ Institutional resources (such as core facilities or shared equipment made broadly available)
- ▶ Certain consulting activities (current guidance inconsistent)
- ▶ Salary and start-up support from the applicant university

NSPM-33: Consequences for Violation of Disclosure Requirements

Agencies shall ensure appropriate and effective consequences for violation of disclosure requirements:

- ▶ May consider a wide range of consequences
- ▶ Including civil and criminal penalties
 - ▷ Such as when individuals intentionally provide incomplete or incorrect information in the grant funding process, or
 - ▷ Misappropriate trade secrets, or
 - ▷ Export controlled information
- ▶ Agencies should consult with their Inspectors General and referrals to law enforcement agencies as appropriate

NSPM-33: Consequences for Violation of Disclosure Requirements

Serious potential consequences for the University:

- ▶ Rejection of an R&D application
- ▶ Preserving an award, but requiring removal of certain individuals
- ▶ Suspension or termination of an R&D award
- ▶ Suspension or denial of Title IV funds by the Department of Education (resulting in denial of federal student aid)
- ▶ Alert other federal agencies of the non-compliance

NSPM-33: Research Security Program

Certification from the university that a research security program has been implemented with four elements:

1. Cybersecurity
2. Foreign travel security
3. Research security training
4. Export control training, as appropriate

Extramural Disclosure Training (EDT)

- ▶ Beginning July 1, 2023
- ▶ EDT will be **required** for PIs, investigators and other senior/key personnel on UH extramural requests for funding (grant applications) submitted through myGRANT
- ▶ Can now take the course in Lulima
- ▶ More information and link to course at:
<https://research.hawaii.edu/ors/training/>

Internal and External Disclosures

▶ Disclosures to the University (Internal)

- ▷ Conflict of Interest (COI) disclosure
- ▷ Conflict of Commitment (COC) disclosure
- ▷ Intellectual property and inventions disclosure
- ▷ myGRANT Proposal Development Questionnaire

▶ Disclosures to Sponsors (External)

- ▷ Biographical Sketch - affiliation or appointment disclosure
- ▷ Current and Pending Support - external support disclosure

Disclosures to the University

- Conflict of Interest (COI) disclosure
- Conflict of Commitment (COC) disclosure
- Intellectual property and inventions disclosure

UH COI Policies

- ▶ **UH Executive Policy 12.214: Conflicts of Interest and Commitment** (<http://go.hawaii.edu/Pgx>)
- ▶ **UH Administrative Policy 12.304: Procedures for Disclosing and Addressing Conflicts of Interest Related with Extramurally-Funded Activities** (<http://go.hawaii.edu/2gP>)
- ▶ **UH Administrative Policy A5.504: Procedures for Disclosing and Addressing Conflicts of Interest and Commitment** (<http://go.hawaii.edu/Pgk>)

Conflicts of Interest (COI)

What is a conflict of interest?

- ▶ A conflict of interest refers to a situation in which an employee's financial, professional, or other personal interests may influence, or appear to influence, the employee's judgement in fulfilling their responsibilities to UH.

Conflicts of Interest (COI)

Employee's Responsibility for Disclosure

- ▶ “Employees” include both UH and RCUH employees.
- ▶ Individuals who accept employment at UH are responsible for disclosing any significant financial interest (SFI) and any other potential or actual conflict of interest (COI).
- ▶ Failure to disclose a conflict of interest, or failure to adequately resolve a conflict when so directed, may be grounds for disciplinary action up to and including termination of employment.

Conflicts of Interest (COI)

Who needs to submit a COI disclosure?

- ▶ Faculty
- ▶ Administrators
- ▶ Investigators and key personnel involved in extramural proposals and funded activities
- ▶ Individuals who act as agents of UH in the use or procurement of UH facilities and resources

This includes full-time and part-time employees, compensated or not, at UH and RCUH.

Conflicts of Interest (COI)

Which COI disclosure form do I complete?

UH currently utilizes two (2) COI forms for use by different employees:

- ▶ rCOI disclosure form
- ▶ Kualu Build (KB) disclosure form

Conflicts of Interest (COI)

rCOI Disclosure form

- ▶ Investigators and senior/key personnel named on extramural proposals and awards must submit their COI disclosure form through the rCOI system.

Note: myGRANT access is not required to complete the rCOI form

<https://mygrant.ors.hawaii.edu/rCOI>

The screenshot shows the rCOI COI Reporter web application interface. At the top, there is a yellow header with the rCOI logo and 'COI Reporter' text. On the right side of the header, there are links for 'COI Admin' and 'Logout', with the user name 'Valerie Iinuma' displayed below. Below the header is a dark blue navigation bar with links for 'Instructions', 'Questions', 'Entities', 'Relationships', 'REVIEW', and 'Cancel My Disclosure'. The main content area has a white background with a dark blue header that says 'Question Answers'. Below this, there are four numbered questions with radio button options for 'Yes' and 'No'. The first question is 'Do you or your Immediate Family have any Significant Financial Interests (SFIs) which could reasonably appear to be related to your Institutional Responsibilities?' with 'No' selected. The second question is 'Do you or your Immediate Family participate in, or have any other financial transactions with a domestic or foreign Non-UH Entity that could create a potential conflict of interest with your Institutional Responsibilities?' with 'Yes' selected. The third question is 'Do you or your Immediate Family hold any positions in or have any affiliations with a domestic or foreign Non-UH Entity that could relate to your Institutional Responsibilities?' with 'Yes' selected. The fourth question is 'Please look up your immediate supervisor's UH email address.' with a text input field containing 'riveravg@hawaii.edu'.

rCOI COI Reporter

COI Admin Logout
Valerie Iinuma

Instructions Questions Entities Relationships REVIEW Cancel My Disclosure

Please review your disclosure and submit.

Question Answers

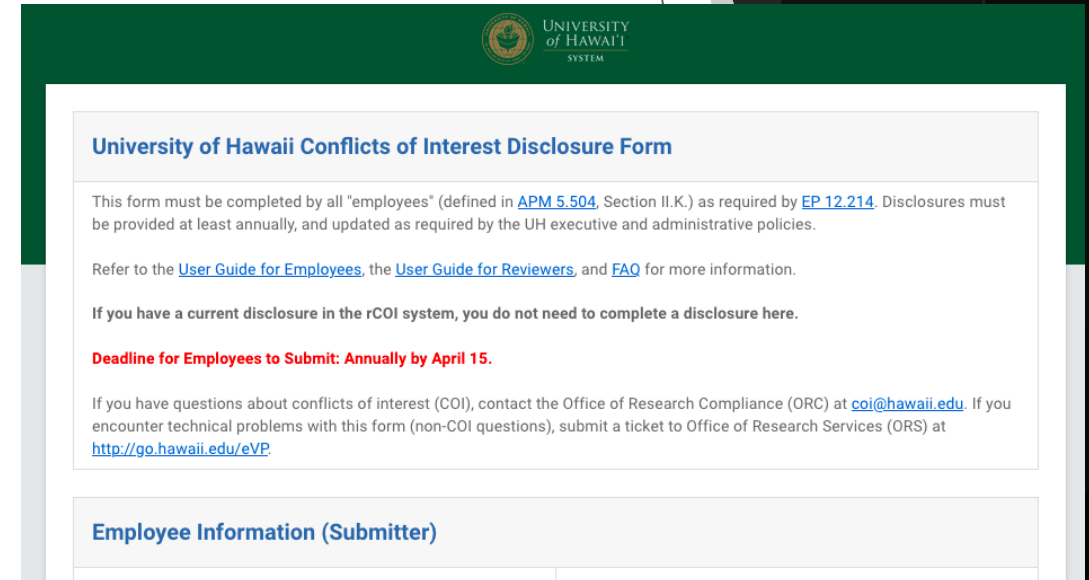
1. Do you or your Immediate Family have any Significant Financial Interests (SFIs) which could reasonably appear to be related to your Institutional Responsibilities?
 No
2. Do you or your Immediate Family participate in, or have any other financial transactions with a domestic or foreign Non-UH Entity that could create a potential conflict of interest with your Institutional Responsibilities?
 Yes
3. Do you or your Immediate Family hold any positions in or have any affiliations with a domestic or foreign Non-UH Entity that could relate to your Institutional Responsibilities?
 Yes
4. Please look up your immediate supervisor's UH email address.

Conflicts of Interest (COI)


KB COI Disclosure form

- ▶ Employees NOT involved in extramural projects should submit their COI disclosure form in Kualu Build.
- ▶ This replaces the “paper” form from UH AP A5.504.

<https://research.hawaii.edu/orc/kbcoi>



The screenshot shows the top portion of a web page for the University of Hawaii Conflicts of Interest Disclosure Form. At the top right is the University of Hawaii System logo. Below it is a header section titled "University of Hawaii Conflicts of Interest Disclosure Form". The main content area contains several paragraphs of text: a requirement for completion by all employees, a reference to user guides and FAQs, a note about current disclosures in the rCOI system, a red deadline for submission (April 15), and contact information for the Office of Research Compliance (ORC) and Office of Research Services (ORS). At the bottom of the visible section is a heading for "Employee Information (Submitter)".

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University of Hawaii Conflicts of Interest Disclosure Form

This form must be completed by all "employees" (defined in [APM 5.504](#), Section II.K.) as required by [EP 12.214](#). Disclosures must be provided at least annually, and updated as required by the UH executive and administrative policies.

Refer to the [User Guide for Employees](#), the [User Guide for Reviewers](#), and [FAQ](#) for more information.

If you have a current disclosure in the rCOI system, you do not need to complete a disclosure here.

Deadline for Employees to Submit: Annually by April 15.

If you have questions about conflicts of interest (COI), contact the Office of Research Compliance (ORC) at coi@hawaii.edu. If you encounter technical problems with this form (non-COI questions), submit a ticket to Office of Research Services (ORS) at <http://go.hawaii.edu/eVP>.

Employee Information (Submitter)

Conflicts of Interest (COI)

When are COI disclosures due?

rCOI Due:

- ▶ Upon hiring new employees
- ▶ Every 12 months
- ▶ Within 30 days of any changes

Active rCOI disclosures for all investigators and key personnel are checked for all proposal submissions and awards being processed!

KB Due:

- ▶ Upon hiring new employees
- ▶ Due annually on April 15th
- ▶ Within 30 days of any changes

Conflicts of Interest (COI)

What must be disclosed?

An employee must disclose any **Significant Financial Interest (SFI)** of the employee and their immediate family*

and

other conflicts of interest that are or may appear to be related to their institutional responsibilities.

** Immediate family includes spouse, domestic partner, and dependent children.*

Significant Financial Interests (SFIs)

Any of the following received in the past 12 months from **Non-UH entities**, including:

- ▶ 1. Remuneration (e.g., income, honoraria, payment for service) in excess of \$5,000, aggregated per entity;
- ▶ 2. Equity interests (e.g., stock):
 - ▷ A. For publicly traded entities: value in excess of \$5,000, aggregated per entity
 - ▷ B. For non-publicly traded entities: **ANY** value;
- ▶ 3. Royalties/income from intellectual property (e.g., patents, copyrights or trademarks) not partially licensed to and/or owned by UH;
- ▶ 4. Sponsored Travel - applicable **only** to PHS-funded investigators: Reimbursement or sponsorship for travel/lodging costs in excess of \$5,000 aggregated per entity.

Non-UH entities include both domestic and **FOREIGN** individuals, organizations and government agencies.

Internal COI Disclosure Examples

- ▶ Income, reimbursement or sponsorship of travel by a **foreign (non-U.S.)** government agency, foreign institution of higher education or foreign research entity.
- ▶ Compensation for **outside (non-U.S.)** consulting, service or other related work.
- ▶ Compensation or honoraria received from a foreign university for a guest lecture or seminar.
- ▶ Equity or ownership in entities that could reasonably appear as related to UH Institutional Responsibilities.
- ▶ Equity or ownership in entities that conduct business with UH.
- ▶ Executive positions, board members or advisory roles (paid or unpaid).
- ▶ Employment of UH staff or students in an entity for which an SFI exists.

What is excluded from disclosure?

- ▶ Income from seminars, lectures, teaching engagements, or service on an advisory committee or review panel for a **U.S.** federal, state or local government agency, or **U.S.** institution of higher education.
- ▶ Reimbursement or sponsorship of travel by a government agency or **U.S.** institution of higher education.
- ▶ Salary, royalties or intellectual property right payments from UH.
- ▶ Income from investment vehicles (e.g., mutual funds and retirement accounts) over which there is no direct control over investment decisions.

Important Note

When reporting your involvement with external (non-UH) entities, you **MUST** disclose your relationships with both domestic and **FOREIGN** organizations, governments and individuals.

When in doubt, report!



UH Conflict of Commitment Policies

- ▶ Board of Regents Policy (RP) 9.207: Outside Employment (<http://go.hawaii.edu/VH7>)
- ▶ Administrative Procedure (AP) A9.240: Record of Outside Employment (<http://go.hawaii.edu/gmP>)

Conflicts of Commitment (COC)

What is a COC?

A conflict of commitment arises when the non-university activities of an employee are substantial and overly demanding of the employee's time and attention, and interfere with the employee's obligations and responsibilities to UH.

Conflicts of Commitment (COC)

UH RP 9.207: Outside Employment - Section III.B.1

*Members of the university faculty and staff are encouraged to promote the cultural and economic development of the state by utilizing their special abilities and skills in research, teaching, scholarly or artistic production, and consulting over and above the full requirements of the position to which they are appointed. Such additional supplementary activity **must in no way interfere** with the creditable performance of the **primary obligation to the university**. Outside employment must be of a professional nature, and it should contribute to the professional competence of the faculty member.*

Conflicts of Commitment (COC)

UH AP A9.240: Record of Outside Employment

- ▶ Requires completion of Form 50
- ▶ Signed endorsement by chair and approval by dean/director

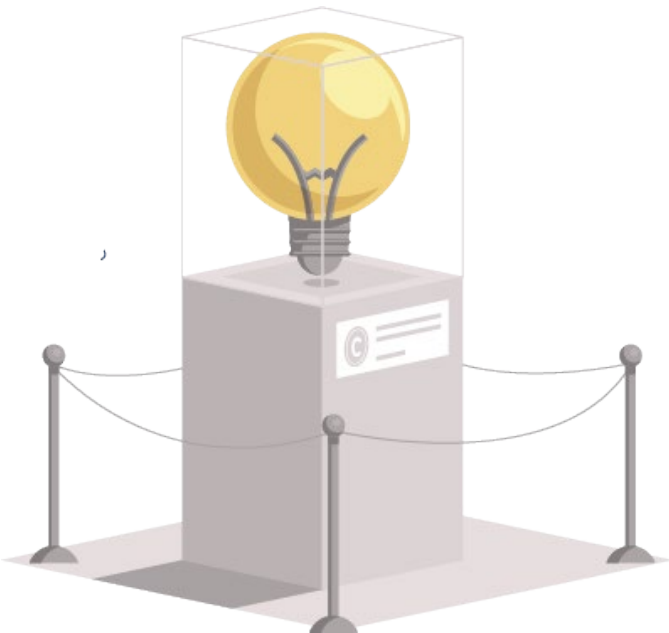
Deadline for completion of Form 50

The form must be filed at least **one week prior to the beginning of each semester** (or fiscal year, if appropriate) in which outside employment is contemplated, or, when there has been a change in plan previously proposed and approved. The form may be **filed promptly at other times to accommodate situations where outside employment opportunity materializes on short notice.**

Intellectual Property and Inventions

- ▶ Promptly report all inventions to the Office of Innovation and Commercialization (OIC)
- ▶ Submit disclosures through the *myInvention* portal at: <https://inteam.otted.hawaii.edu/inteamweb/inventorportal> (UH login required).

Once the disclosure is submitted, OIC will meet with you to discuss the invention and make a preliminary determination of licensing feasibility, novelty, potential applications and possible markets.





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Disclosures to Sponsors

Sponsor-Specific Disclosures

Always follow specific instructions for disclosures required by extramural sponsors.

▶ Biographical Sketch

- ▷ List all positions, affiliations, and appointments
 - Including both **foreign** and domestic

▶ Current and Pending Support

- ▷ Also known as “Other Support,” include **ALL** sources of support for your research, including
 - Including both **foreign** and domestic

Sponsor-Specific Disclosures

Next we will highlight the disclosure requirements of several key federal sponsors:

- ▶ National Institutes of Health (NIH)
- ▶ National Science Foundation (NSF)
- ▶ National Aeronautics and Space Administration (NASA)
- ▶ Department of Energy

National Institutes of Health (NIH)

- ▶ NIH is actively investigating multiple cases of possible inappropriate foreign interference.
- ▶ As of August 2022, NIH reported 241 cases.
- ▶ 80% of cases found at least one serious compliance violation, including:
 - ▷ Undisclosed grant support
 - ▷ Undisclosed talent award
 - ▷ Undisclosed equity
 - ▷ Other undisclosed financial conflict of interest

NIH Biographical Sketch

- ▶ List all academic, professional, scientific, or institutional appointments:
 - ▷ including both **foreign** and domestic
 - ▷ whether or not remuneration is received, and
 - ▷ whether full-time, part-time, adjunct, honorary, or voluntary.
- ▶ Participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs.
- ▶ “Consulting” is not specifically referenced in the instructions, but an example from NIH includes a consulting engagement.

NIH Other Support

- ▶ List all resources made available to the researcher in support of and/or related to all of their research endeavors:
 - ▷ including both **foreign** and domestic,
 - ▷ whether or not support is provided through UH, another organization or directly to the individual,
 - ▷ regardless of whether or not they have monetary value.
- ▶ Current or pending participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored **talent recruitment programs**.
- ▶ In-kind contributions not intended for use on the project/proposal being proposed.

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NIH Other Support

(continued from prior slide)

- ▶ Visiting scholars in labs funded by an external entity.
- ▶ Students and postdoctoral researchers funded by an external entity.
- ▶ Consulting that falls outside of an individual's appointment; separate from institution's agreement.
- ▶ Travel supported/paid by an external entity to perform research activities with an associated time commitment.
- ▶ Startup packages from organizations other than the proposing/home institution.

NIH Other Support

Signature: Each PD/PI or other senior key personnel must electronically sign their Other Support form prior to submission. This signature certifies that the statements are true, complete, and accurate.

Copies of Contracts: Effective January 2022, institutions must provide NIH with a copy of any foreign contract, grant, or other agreement specific to senior/key personnel foreign appointments, affiliations, and/or employment with a foreign institution.

Non-English contracts must be translated.

Timing of Disclosures: Requires reporting of Other Support at Just-In-Time (JIT). If Other Support is obtained after an award is made, it must be reported in a Research Performance Progress Report (RPPR), and recipients must address substantive changes by submitting a prior approval request to NIH.

NSF Disclosure Requirements

NSF released its latest Proposal & Award Policies & Procedures Guide (PAPPG 23-1) for proposals submitted or due on or after **January 30, 2023**.

Biographical Sketch

- ▶ All academic, professional, or institutional appointments (includes any titled academic, professional, or institutional position whether or not remuneration is received, and whether full-time, part-time, or voluntary (including adjunct, visiting, or honorary)).
- ▶ Should include all current and domestic and **foreign** professional appointments outside of the individual's academic, professional, or institutional appointments at the proposing organization.

NSF Disclosure Requirements

Current and Pending Support (Other Support)

- ▶ Overarching rule: All resources made available to an individual in support of and/or related to all of his/her individual research efforts regardless of whether or not they have monetary value. Includes ongoing projects and proposals currently under consideration.
- ▶ Senior personnel are required to disclose contracts associated with participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs.
- ▶ If an individual receives direct or indirect support that is funded by a **foreign government-sponsored talent recruitment program**, even where the support is provided through an intermediary and does not require membership in the foreign government-sponsored talent recruitment program.
- ▶ Note that non-disclosure clauses associated with these contracts are not acceptable exemptions from this disclosure requirement.

NASA Restriction

Since 2011, NASA has had restrictions on using NASA funds to enter into agreements “to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.”

UPDATE: NASA recently released a new COI and COC disclosure policy for public comment (feedback was due by March 1, 2023). Will implement through a new term and condition in awards.

Consequences for Non-Disclosure

Submission of proposals through UH myGRANT requires the PI and senior/key personnel to certify that the information within the proposal is true, complete, and accurate.

The PI must further certify in myGRANT that Conflict of Interest requirements have been addressed.

When applying for **federal** funding, misrepresentations and/or omissions may be subject to individual prosecution and liability pursuant to, but not limited to, False Claims Act under 18 U.S.C. §§ 287, 1001, 1031 and 31 U.S.C. §§ 3729-3733.

When in doubt, report!

Resources

- ▶ **UH COI Resources page:**
<https://research.hawaii.edu/orc/conflicts-of-interest/resources/>
- ▶ **Submit UH COI Disclosure Form:**
<https://research.hawaii.edu/orc/conflicts-of-interest/coi-disclosure/>
- ▶ **More information in foreign interference in university research:** <https://research.hawaii.edu/orc/export-controls/foreign-influence-in-university-research/>
- ▶ **NIH on foreign interference:**
<https://grants.nih.gov/policy/foreign-interference.htm#:~:text=NIH%20and%20the%20biomedical%20research,information%20of%20the%20participating%20countries.>

Contacts

Office of Research Compliance

Website: research.hawaii.edu/orc

Internal disclosure questions: COI@hawaii.edu

Office of Research Services

Website: research.hawaii.edu/ors

ORS directory: <https://research.hawaii.edu/ors/ors-directory/>

ORS Helpline: <http://go.hawaii.edu/eVP>