Victoria Rivera
Director, Office of Research Compliance

Protecting UH Research
U.S. Federal Focus on Research Security
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 secretly 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.”

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:

- Disclosure Requirements and Standardization
- Digital Persistent Identifiers
- Consequences for Violation of Disclosure Requirements
- Information Sharing
- 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

- Common disclosure forms have been developed for:
  - Biographical Sketch, and
  - Current and Pending (Other) Support
  - The Common Disclosure forms were published on 11/1/23.
- The forms include individual certifications for disclosure accuracy and completeness.
- Also includes updated Definitions (Nov 2023)
- NSF will implement these forms with the PAPPG 24-1
“Consistent with NSPM-33, individuals are required to disclose contracts associated with participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs. Further, if individuals receive 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, that support must be disclosed. Individuals must also report other foreign government sponsored or affiliated activities. In accordance with 42 USC § 19232, individuals are prohibited from being a party in a malign foreign talent recruitment program.”
NSPM-33: Standardization of Disclosure Requirements

A table entitled, NSPM-33 Implementation Guidance Pre- and Post-award Disclosures Relating to the Biographical Sketch and Current and Pending (Other) Support1 has been created to provide helpful reference information regarding pre-award and post-award disclosures. The table includes the types of activities to be reported, where such activities must be reported in the application, as well as when updates are required in the application and award lifecycle. A final column identifies activities that are not required to be reported.
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
Certification from the university that a research security program has been implemented with five elements:

- Cybersecurity
- Foreign travel security
- Research security training
- Export control training, as appropriate
- Appoint a Research Security point of contact (POC)
Extramural Disclosure Training (EDT)

- Effective October 1, 2023
- EDT is required for PIs, investigators and other senior/key personnel on UH extramural requests for funding (grant applications) submitted through myGRANT
- Take the course in Laulima
- More information and link to course at: https://research.hawaii.edu/ors/training/
# Internal and External Disclosures

<table>
<thead>
<tr>
<th>DISCLOSURES TO THE UNIVERSITY (INTERNAL)</th>
<th>DISCLOSURES TO SPONSORS (EXTERNAL)</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Conflict of Interest (COI) disclosure</td>
<td></td>
</tr>
<tr>
<td>• Conflict of Commitment (COC) disclosure</td>
<td></td>
</tr>
<tr>
<td>• Intellectual property and inventions disclosure</td>
<td></td>
</tr>
<tr>
<td>• myGRANT Proposal Development Questionnaire</td>
<td></td>
</tr>
<tr>
<td>• Biographical sketch – affiliation or appointment disclosure</td>
<td></td>
</tr>
<tr>
<td>• Current and Pending Support – external support disclosure</td>
<td></td>
</tr>
</tbody>
</table>
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)

Who needs to submit a COI disclosure?

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
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!
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
NSF Update - PAPPG 24-1

NSF will release the latest Proposal & Award Policies & Procedures Guide (PAPPG 24-1) for proposals submitted or due on or after May 20, 2024.

Relevant changes:

- Malign Foreign Talent Recruitment Programs
- Common Forms for the Biographical Sketch and Current and Pending (Other Support)
Malign Foreign Talent Recruitment Program (MFTRP)

Any program, position, or activity that includes compensation* by a foreign country at any level that involves one or more of the following:

- Unauthorized transfer of IP, materials, data products, or other nonpublic information;
- Recruitment of trainees or researchers to enroll in the program;
- Establishing a lab or company, or accepting a faculty position or other appointment, in the foreign country;
- Being unable to terminate the foreign talent recruitment program;
- Being limited in the capacity to carry out a research and development award, or requires engagement in work that overlaps or duplicates a federal award;
- Being required to apply for funding from the sponsoring foreign government;
- Being required to omit acknowledgement of the recipient institution (UH) or the federal agency sponsoring the research;
- Being required not to disclose participation in the program to the federal research agency or employing institution (UH); or
- Having a conflict of interest or commitment contrary to a federal award.

AND Sponsored by one of the following:

- A foreign country of concern as defined by the Secretary of State, and currently includes China, North Korea, Russia, and Iran;
- An entity based in a foreign country of concern; or
- An academic institution or foreign talent recruitment program on the lists developed under paragraphs (8) and (9) of Section 1286(c) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019
Compensation broadly includes cash, in-kind compensation, research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement, or other types of remuneration or consideration.
Foreign Countries of Concern

China
North Korea
Russia Federation
Iran
Any individual who is a current party to a MFTRP is ineligible to serve as a senior/key person on an NSF proposal/award.

Each senior/key person must certify prior to the proposal submission that they are NOT a party to a MFTRP (through Biographical Sketch and Current and Pending Support).

Certification annually thereafter.

Organizations must certify upon proposal submission that all senior/key personnel have been made aware of and complied with the requirement that they are not a party to a MFTRP.
NSF Common Forms - Biographical Sketch

- Required for all senior/key personnel
- Individuals are required to disclose contracts associated with participation in programs sponsored by foreign governments, instrumentalities, or entities, including foreign government-sponsored talent recruitment programs
- Must certify that they are not a party to a Malign Foreign Talent Recruitment Program (MFTRP)
- Must be created in SciENcv
- Page limitation has been removed
Required for all senior/key personnel

Used to assess the capacity or any conflicts of commitment that may impact the ability of the individual to carry out the research effort as proposed

Information helps assess any potential scientific and budgetary overlap/duplication with the project being proposed

Must certify that they are not a party to a Malign Foreign Talent Recruitment Program (MFTRP)

Must be created in SciENcv
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!
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.
NSF PAPPG May 2024 Update on YouTube: https://www.youtube.com/watch?v=5qPiOzeJoM
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/