

Research Integrity & Undue Foreign Influence

In the midst of a global pandemic, international scientific collaboration has perhaps never been more important. However, the U.S. government's efforts to prevent and investigate undue foreign influence in federally-funded research remain active.

Why Foreign Influence Matters

As tensions between the U.S. and various foreign governments increase, accusations of academic espionage by foreign-supported researchers at U.S.-based research institutions are on the rise. The NIH, NSF, DOE, and other agencies are increasingly warning institutions of researchers who have not disclosed foreign associations in compliance with grant funding regulations and other laws. The government continues to initiate enforcement actions and we expect this to increase in frequency and scope during the coming months.

As a result, research and academic institutions in the U.S. need to be ever more vigilant to mitigate brand risk, the loss of federal funds, the risk of undermining intellectual property assets and exposure to enforcement actions.

Review Process for Hiring Ex-U.S. Research Fellows, Post-Docs, and Staff

In an increasingly global society, international projects and collaborations remain essential to advancing scientific research. Such collaborations often involve employing ex-U.S. research fellows, post-docs, and staff. Institutions should take care to vet all potential candidates – whether or not they are U.S. citizens or permanent residents. That said, the current enforcement environment means taking extra steps when hiring personnel from abroad. Steps for institutions to consider for review or enhancement include:

▶ Designating Teams Responsible for Vetting Research Personnel

Assign appropriately-resourced personnel or departments responsible for coordinating and conducting research employee screening, and establish a process for escalating identified concerns to the institution's research integrity team.

▶ Conducting Traditional Background Checks

- Perform background checks for new hires working on government-funded research, including visiting students/faculty, postdoctoral candidates, graduate students, staff, interns, etc.
- Refresh background checks periodically if the individual performs work at facilities that require additional screening per federal statutes, regulations, or grant policies
- Refresh background checks when a current employee/student/visitor transfer or change in job responsibilities results in heightened access to confidential or classified information or secure facilities

▶ Checking Restricted Party Screening Databases and Software

- Check the names of new hires and their home institutions against government-maintained restricted party databases, including:
 - GSA's System for Award Management ("SAM") Exclusion List (available for free at www.sam.gov)
 - The Consolidated Screening List (includes information maintained by the Department of Commerce (Denied Persons List, Unverified List, and Entity List), Department of State (Nonproliferation Sanctions, AECA Debarred List), Department of Treasury (Specially Designated Nationals List and more); available for free at www.trade.gov)
 - Consider whether to conduct additional screening for persons from countries/territories embargoed by the Office of Foreign Assets Control ("OFAC")
 - Consider whether to utilize third-party software that can simplify such screening (e.g., private software that searches the above lists and others)

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▶ **Reviewing Sources of Support, Conflicts and Sponsorship/Collaboration Agreements**

In its December 13, 2018 “Report on Foreign Influences on Research Integrity,” NIH recommended that research institutions vet “potential employees prior to hiring through unclassified searches, review of any agreements they have with businesses, organizations, and institutions; check their FCOI and conflicts of commitment.” In accordance with this guidance, institutions should consider doing the following:

- Run open-source searches on all potential employees (e.g., simple Google searches)
- Identify whether candidates will be supported by a foreign government, institution, or talent recruitment program
- Review past *affiliations* listed on individuals’ CVs – while labor intensive, this may assist with identifying potentially problematic relationships
- Identify labs that may have a disproportionate number of researchers supported by foreign programs
- Thoroughly train Principal Investigators on their disclosure obligations with respect to ex-U.S. scholars – for example, if a researcher’s primary affiliation is with a foreign organization, this may need to be disclosed as Other Support, or perhaps even a foreign component in some circumstances

▶ **Streamlining the Collection and Storage of Relevant Information**

Consider creating a standardized form to collect information on prospective researchers or visitors, including country of citizenship, visa type, home institution, funding source, current or prior foreign support, consulting agreements, scope of work, and potential access to controlled technology or technical data. This may assist with conducting necessary follow-up and ensure accuracy of disclosures. Consider having individuals certify to the accuracy of their responses.

▶ **Engaging with Law Enforcement/Security Agencies When Warranted**

Consider whether the nature of the research your institution is conducting merits working with security and law enforcement entities to identify potential threats and best practices for risk management in recruiting and hiring practices.