

# Research Integrity & Undue Foreign Influence

## Research Institution Agrees to Second Million-Dollar False Claims Act Settlement with DOJ to Resolve Allegations of Undisclosed Foreign Components and Other Support

### *The Settlement Demonstrates the Need for Research Institutions to Continue Implementing Effective Training and Compliance Programs*

The DOJ's criminal enforcement efforts related to undue foreign influence and federal grant compliance have had some uneven results, including the recent Anming Hu acquittal and decisions to drop visa fraud charges against several defendants after lengthy investigations. Nonetheless, institutions and researchers should not assume that continuing non-compliance can be overlooked.

On September 1, 2021, the U.S. Attorney's Office for the Western District of Michigan announced a \$1.1 million settlement with the Van Andel Research Institute (VARI), resolving allegations that VARI violated the False Claims Act by failing to disclose to the National Institutes of Health (NIH) both a Foreign Component and Other Support for two VARI principal investigators.

This is VARI's second NIH grant-related settlement in two years. Roughly a month following VARI's \$5.5 million settlement with the government in 2019, U.S. Customs and Border Protection stopped a former VARI researcher (now a professor in China) at a U.S. airport with undeclared biological research samples in his luggage. An ensuing investigation led to new allegations that VARI failed to disclose (1) a foreign research collaboration amounting to a Foreign Component, and (2) Other Support consisting of foreign-sourced biological samples and a researcher's participation in a foreign talent program.

The settlement is particularly noteworthy because NIH now has imposed Specific Award Conditions on all of VARI's grants, including:

- requiring an executive-level manager to personally certify the accuracy of all VARI's NIH submissions through September 30, 2022;
- withdrawing certain of VARI's expanded grant authorities; and,
- removing all of VARI's NIH grants from the Streamlined Non-Competing Award Process (SNAP).

This settlement demonstrates that research institutions – as a whole – may be held accountable for the inadequate disclosures of a few. It also serves as a stark reminder that the onus is on research institutions to implement training and compliance programs to ensure adequate identification, disclosure and, where necessary, prior approvals for certain foreign research activities.

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**For more information about these developments, please contact a member of our Foreign Influence and Compliance team:**

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