

# **Research (In)security: Preparation for the Elusive Final Rule(s) and the (Im)balance of Disparate Agency Implementations**

July 23, 2024

# Agenda

1. Recent legislative, regulatory, and policy updates
2. Recent Enforcement Updates
3. Export Control Landscape
4. Institutional Approaches

# Meet the Presenters



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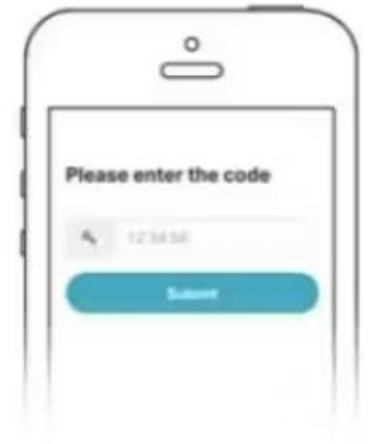
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1

[www.menti.com](https://www.menti.com)

2



3

# Are you ready?

0



Yes

0



No

# Which best represents the type of institution you work for?



# What is your role and where are you situated?

0

Research Security Focused  
(Research Integrity, conflicts of  
Interest, export control, other, etc.)

0

Research Administration (Central)

0

Research Compliance (Central)

0

Research Administration (Divisional)

0

Research Compliance (Divisional)

0

Other

# REGULATORY UPDATE

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# RSP Standard Requirement Finalization

- On July 9, 2024, the Office of Science and Technology Policy (OSTP) issued a memorandum directing federal agencies to uniformly implement standardized requirements for certain research institutions to certify that they have established and operate research security programs.
- OSTP's initial draft research security program requirements were issued for public comment in February 2023.

| Initial (February '23) Draft   | Final Guidelines  |
|--|---|
| <ul style="list-style-type: none"><li>• Instructs Federal agencies to uphold provisions in NSPM-33 and CHIPS &amp; Science which require institutions receiving Federal S&amp;T support to establish RSPs.</li><li>• No reference to any particular country.</li><li>• Put forth draft for public comment.</li><li>• Referenced and defined 'insider threat programs' (final version omits this concept)</li></ul> | <ul style="list-style-type: none"><li>• Continued mandate for Federal agencies to require S&amp;T funding recipients to establish and operate research security programs.</li><li>• NSTC incorporated feedback on initial draft into a new set of requirements.</li><li>• Specifically <b>calls out the People's Republic of China (PRC) for exploiting international research collaborations</b> by undermining values like transparency, accountability and reciprocity to modernize its military and strategic objectives (and <b>acknowledges that geopolitics have impacted R&amp;D collaboration norms</b>)</li></ul> |

# RSP Standard Requirement Finalization

## Initial (February '23) Draft

### “Covered Research Organizations”

- **Criteria:** >\$50M in annual Federal S&T support for **previous two fiscal years**; for organizations part of an ‘interconnected network of research organizations (e.g., a public university system) the requirement only applies to individual orgs within that network
- **Timing:** covered orgs had 1 year from the date of memorandum finalization to establish research security programs that complied with the standards (and must provide an update on the status of such programs within 120 days of memorandum issuance on a public website)
- **Responsibility:** Must designate a single POC
- **Mechanism:** SAM.gov self-certification annually

## Final Guidelines

### “Covered Institutions”

- **Criteria:** if **and only if a)** IHEs, FFRDCs, or non-profit research institution and b) >\$50M in annual Federal S&T support for **previous three fiscal years** reported in either 1) most recent version of Survey of Federal Science and Engineering Support to Universities, Colleges, and Research Institutions (most recently available is FY2022) or 2) Survey of Federal Funds for R&D for FFRDCs
- Puts requirement on federal agencies to ensure covered institutions to certify
- Notes that agencies are encouraged to have **similar requirements in this memorandum but that as a standard requirement they should have the same elements**
- Looks like 150-200 institutions will qualify as ‘CIs’

# RSP Standard Requirement Finalization

| Initial (February '23) Draft   | Final Guidelines   |
|--|--|
| <p><b>Cybersecurity</b></p> <ul style="list-style-type: none"><li>Described a baseline set of safeguards and protocols for information systems to store, transmit, and conduct federally funded R&amp;D, including:<ul style="list-style-type: none"><li>Referenced OMB M-21-31 RE: access provisioning and incident reporting</li><li>Monitoring, controlling, and protecting organizational communications at external boundaries and internal boundaries / physical or logical separations from internal networks</li></ul></li><li>Described requirements for CUI / classified / commercially sensitive information or “information if inadvertently released may harm US Gov’t rights</li></ul> | <p><b>Cybersecurity</b></p> <ul style="list-style-type: none"><li>Requires agencies to require IHEs to certify that they will implement a cybersecurity program consistent with the cybersecurity resource for research institutions described in the CHIPS &amp; Science Act within one year after NIST and Department of Commerce publishes that resource (as required by Section 10229 of the CHIPS and Science Act)</li><li><a href="#">Cybersecurity for R&amp;D   NIST</a></li></ul> |

# RSP Standard Requirement Finalization

| Initial (February '23) Draft   | Final Guidelines   |
|--|--|
| <p><b>Foreign Travel Security</b></p> <ul style="list-style-type: none"><li>Required that covered entities establish or maintain policies and procedures for international travel which must include:<ul style="list-style-type: none"><li>Maintenance of an organizational record of covered international travel by covered individuals engaged in Federally funded R&amp;D</li><li>A disclosure and authorization requirement in advance of international travel</li><li>Mandatory applicable briefings and advice regarding electronic device security prior to travel</li></ul></li></ul> | <p><b>Foreign Travel Security</b></p> <ul style="list-style-type: none"><li>Requires covered institutions to:<ul style="list-style-type: none"><li>Certify that the institution (1) will implement 'periodic' training on foreign travel security to covered individuals engaged in international travel <b>(within one year)</b> and require that it is repeated at least <b>once every six years</b></li><li>Implement a reporting program (inclusive of an organizational record of all international travel regardless of business purpose) for those participating in R&amp;D awards <b>in cases where agencies determine security risks warrant travel reporting</b></li></ul></li></ul> |

# RSP Standard Requirement Finalization

| Initial (February '23) Draft   | Final Guidelines  |
|--|---|
| <p><b>Research Security Training</b></p> <ul style="list-style-type: none"><li>• Required that covered entities must have research security training as a part of their programs and maintain the ability to certify that personnel have completed such training for the purposes of Federal award applications</li><li>• Included specific topics to be included in the training</li><li>• Stated that in the event of a research security breach finding (?) that covered orgs must conduct tailored training related to the finding as a component of the organizational response and keep a record of such trainings</li></ul> | <p><b>Research Security Training</b></p> <ul style="list-style-type: none"><li>• Requires covered institutions to:<ul style="list-style-type: none"><li>• Implement a research security training program and ensure covered individuals complete the training <b>(no prescribed timeframe or cadence – could vary by agency)</b></li><li>• Provides the option to a) leverage NSF developed trainings or b) complete training developed elsewhere but which covers 1) examples of illegal transfer of U.S. gov't supported R&amp;D, 2) communicate the importance of researcher participation in global discovery and importance of attracting foreign talent to U.S. as a core principle of international leadership and national security</li></ul></li></ul> |

# RSP Standard Requirement Finalization

| Initial (February '23) Draft   | Final Guidelines  |
|--|---|
| <p><b>Export Control Training</b></p> <ul style="list-style-type: none"><li>• Required that covered orgs conducting R&amp;D subject to export control restriction provide targeted training on requirements for reviewing foreign collaborations and for ensuring compliance with Federal export rules and restricted entity lists</li><li>• Cites the EAR and ITAR</li><li>• Requires training on fundamental research exception's 'explicit limitations' (e.g., applied research, dual-use technology, etc.)</li></ul> | <p><b>Export Control Training</b></p> <ul style="list-style-type: none"><li>• Similarly instructs orgs to provide targeted training (i.e., to covered individuals engaged in R&amp;D of export-controlled technology)</li><li>• Mandates that agencies allow institution to meet the requirement by a) requiring them to complete BIS/Dept. of Commerce and/or DDTTC/Dept. of State trainings or b) certify that the institution requires targeted training for individuals on complying with U.S. export controls and requirements for reviewing foreign collaborations</li><li>• <b>Removes reference to explicit limitations of FRE?</b></li></ul> |

# RSP Standard Requirement Finalization

## General Principles for Implementation and Agency Decisions

- **General Principles:** Non-discrimination, flexibility, reduced administrative burden when possible (particularly for non-covered institutions), both individuals and institutions have responsibility for their respective certifications
- **Agency Discretion (with limits):**
  - Room for **'additional' requirements at the discretion of agencies when risk is deemed to be higher** (but agencies must go thru the formal OMB process for implementing such additional requirements and do so in coordination with OSTP)
  - Timing: **Agencies have six months to implement** the memorandum (no later) and must ensure covered institutions have **enough time but not more than 18 months** from the effective date of agency policies to implement the requirements
- **Agency Discretion**
  - Mechanism for Certification: Certification can be **written or electronic**

# RSP Requirement Finalization

## Questions Remain

1. **Covered Institutions:** Which tables and columns are used to calculate whether an entity crosses the \$50M threshold? Is it just NCSES survey tables 17, 33 and 44? Total R&D, R&D only, (fn 14 says R&D + R&D plant for non-academic nonprofit organizations)? Are there plans to publish a consolidated list?
2. **Foreign Travel:** Do researchers need to report/document personal international travel? Do you only have to document/report on international travel if the funding agency tells you it is a term/condition of the award or risk mitigation plan (and is it then only a prospective requirement)?
3. **Does the flexibility given to agencies mean that:**
  - a. The certification language will be different across agencies?
  - b. That we have to certify using different systems/mechanisms/cadences? Prior guidance suggested we may be able to certify once using SAM for the organization.
4. **Timing:** Do we understand correctly that each agency may have its own timeline of when covered institutions and covered individuals need to be ready to certify? If agencies have “up to six months” to submit updated policies to OSTP/OMB, which then take effect “no later than six months” after finalization and then entities get ‘adequate time’ (but not more than 18 months) to implement the requirements, institutions may have difficulty setting an implementation schedule that is sufficient.
5. **Covered Individual can still be interpreted pretty broadly** – As a practical matter is this for PIs and senior/key personnel as noted in a NOGA?



If you could get clarification on one aspect of the new RSP standard requirements, what would it be?

focus leader  
creative  
fast bold  
inspiration transpiration

# Department of Defense Update

June 8, 2023: Under Secretary of Defense Memorandum on Policy for Risk-Based Security Reviews of Fundamental Research

- Instructs DoD agencies to **develop a risk-based security review processes** to mitigate risk
- Recommends **risk mitigation strategies** (e.g., rejection of high-risk fundamental proposals, requiring increased frequency of reporting by covered individuals, require resignation from problematic positions, etc.)

DOD Component Decision Matrix to Inform Fundamental Research Proposal Mitigation Decisions

- Provides **factors** (foreign talent recruitment programs, funding sources (and patterns), patent history, and restricted entitlements) **to inform risk mitigation** in DoD fundamental research assistance award decisions
- Suggests risk mitigation measures and outlines **factors which may lead to rejection of proposals** or risks which are unable to be mitigated (e.g., indicators that covered individuals are currently receiving funding from foreign countries of concern)
- Includes **detailed definitions**

FY22 Lists Published in Response to Section 1286 of the John S. McCain National Defense Authorization Act for FY2019 (Public Law 115-232)

- Lists **foreign institutions which have been confirmed as engaging in problematic activity**

# Disparate DoD Component Implementation of June 2023 Memorandum

DoD Memorandum

Prohibits active participation in a **Malign Foreign Talent Recruitment Program**.

Delineates **factors for which mitigation measures are required, recommended, or suggested** (across four key areas: Foreign Talent Recruitment Program Participation, Funding Sources, Patents, and Entity Lists).

Stipulates that “Co-authorship...is suggested when a covered individual is collaborating with entities or persons associated with factors listed in the matrix and **should not be a basis for rejection of a fundamental research project proposal.**”

Provides a **formal mechanism for proposing institutions to “challenge” a DoD component’s rejection of a fundamental research proposal** and states that if DoD determines the components review to be conducted in a manner inconsistent with or based on a misinterpretation of the policies in the memo that **DoD can change the determination and return the proposal to the DoD component for a funding decision.**

No mention of **Malign Foreign Talent Recruitment Programs** (only references “strategic competitor Foreign Talent Programs”).

Provides risk ratings (high/moderate/low) across four action areas: Foreign Talent Programs, Denied Entities, Funding, and Foreign Institutions.

Under **Foreign Institutions** the Army has suggested that indicators of active (ongoing) affiliation, association or collaboration with a foreign institution, person, or entity from a strategic competitor is **high risk** and that indicators of a history of such activities are **moderate risk**.

The army has defined **collaborations to include ‘co-authorship in research endeavors and association to include ‘lectures/visits where no direct monetary or non-monetary reward is involved.’**

**Army’s policy pre-dates DoD’s broader policy (as did DARPA’s). While DARPA has since adopted the DoD framework, Army continues to use its own.**

Army Policy



# Disparate DoD Component Implementation of June 2023 Memorandum

## The Devil is in the Details

- In negotiations with the Army on one recent Research Security Risk Mitigation Plan, they directed us back to the solicitation (broad agency announcement for fundamental research W911NF-23-S-0001-0002)
- Note Army's definition of 'foreign component' and requirement of grant recipients to 'reasonably exercise due diligence to discover or ensure that neither it nor any of its senior/key research personnel involved in the subject award...have a foreign component with a strategic competitor'

- **Foreign Component.** Performance of any significant scientific element or segment of a program or project outside of the U.S., either by the University or by a researcher employed by a foreign organization, whether or not U.S. government funds are expended. Activities that would meet this definition include, but are not limited to: involvement of human subjects or animals; extensive foreign travel by University research program or project staff for the purpose of data collection, surveying, sampling, and similar activities; collaborations with investigators at a foreign site anticipated to result in co-authorship; use of facilities or instrumentation at a foreign site; receipt of financial support or resources from a foreign entity; or any activity of the University that may have an impact on U.S. foreign policy through involvement in the affairs or environment of a foreign country.
- **Strategic Competitor.** A nation, or nation-state, that engages in diplomatic, economic or technological rivalry with the United States where the fundamental strategic interests of the U.S are under threat.

### (3) During the award period of performance:

- If, at any time, during performance of this award, the Recipient learns that its Senior/Key Research Personnel (including any subawardee personnel who receive this designation) are or are believed to be participants in a Foreign Government Talent Program or have Foreign Components with a strategic competitor or country with a history of targeting U.S. technology for unauthorized transfer, the recipient will notify the Government or Grants Officer within 5 business days of awareness.
- This disclosure must include specific information as to the personnel involved and the nature of the situation and relationship. The Government will review this information and conduct any necessary fact-finding or discussion with the Recipient. The Government's determination on disclosure may include acceptance, mitigation, or termination of the award.
- Failure of the Recipient to reasonably exercise due diligence to discover or ensure that neither it nor any of its Senior/Key Research Personnel involved in the subject award are participating in a Foreign Government Talent Program or have a Foreign Component with a strategic

38

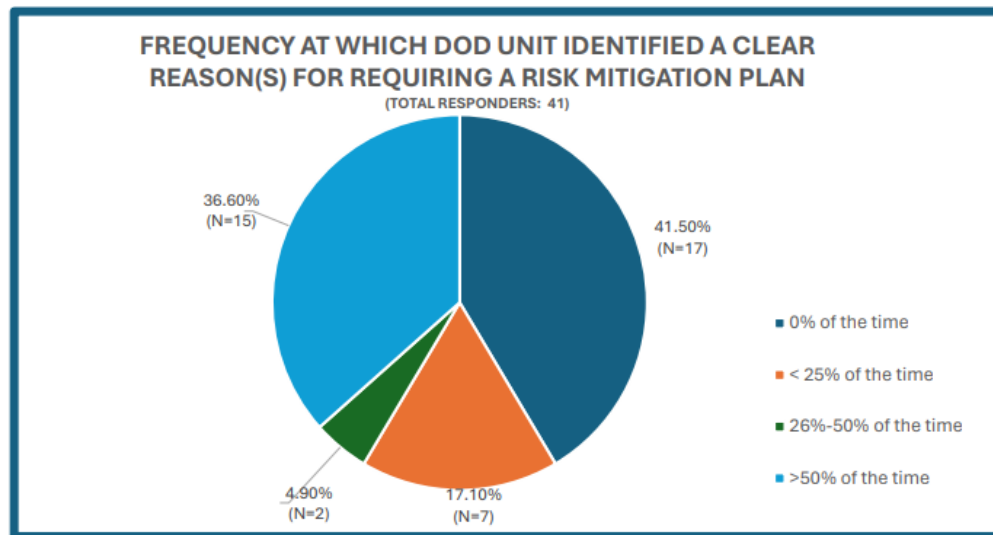
competitor or country with a history of targeting U.S. technology for unauthorized transfer may result in the Government exercising remedies in accordance with federal law and regulation.

- The provisions concerning this disclosure will be included in each award.
- The Recipient will be required to flow down this provision to all subawardees who have personnel designated as Senior/Key Research Personnel as a result of their involvement in the performance of the research.

# COGR Department of Defense Study

## Survey Highlights

- Out of 51 responses received by COGR, **35 (68%)** indicated their requests for Research Security Risk Mitigation Plans came from the Army while 11 responses (21%) indicated requests were received from DARPA
- DOD frequently did not identify a clear reason for requiring a risk mitigation plan – **17 respondents (41%)** indicated that the requesting component provided clear reason(s) for requesting the plan 0% of the time.



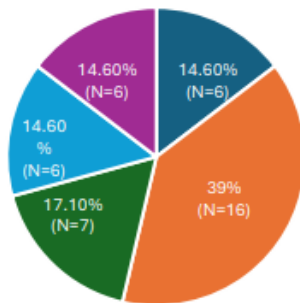
# COGR Department of Defense Study

## Survey Highlights

- 90% of institutions from which plans were requested reported that they were not provided with a template or clear instructions (developed a plan leveraging the letter requesting risk mitigation as a framework); 7% of responders noted that they used a DoD furnished template
- ~50% of responders indicated that drafting the development plan took >16 hours and negotiating the terms of the plan took between 1-5 hours**
- Most institutions noted that time between plan submission and final approval or rejection was 4-6 weeks**

### Average Time to Draft Plan

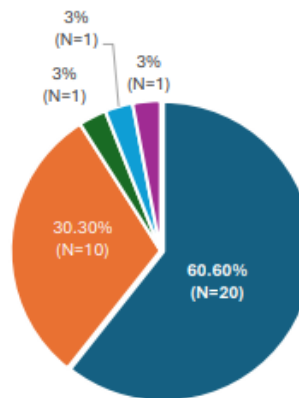
(Total Responders: 41)



■ 1-5 hours ■ 6-10 hours  
■ 11-15 hours ■ 16-20 hours  
■ >21 hours

### Average Time to Negotiate Plan

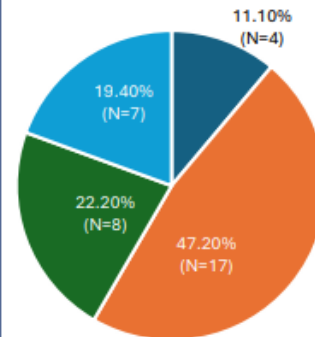
(Total Responders: 33)



■ 1-5 hours ■ 6-10 hours  
■ 11-15 hours ■ 16-20 hours  
■ 21+ hours

### Aver. Time Between Initial Plan Submission & DOD Approval or Rejection

(Total Responders: 36)



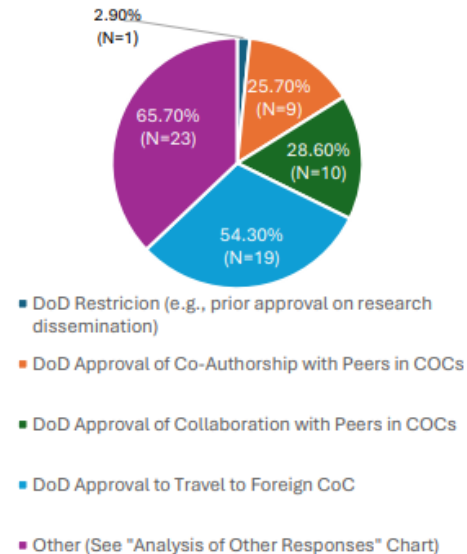
■ 1-3 weeks ■ 4-6 weeks  
■ 7-9 weeks ■ >10 weeks

# COGR Department of Defense Study

## Survey Highlights

- Common elements institutions reported as being required in risk mitigation plans include
  - Reporting of international travel by grant personnel**
  - Reporting of inquiries received by foreign operatives into research associated with the award**
  - “Addressing” current or future collaborations or affiliations with countries of concern**
- Prior approval by DoD for co-authorship with peers in Countries of Concern, prior approval by DoD of collaborations with peers in Countries of Concern, Prior DoD approval of travel to Countries of Concern, Restrictions on research dissemination

Measures Required in Risk Mitigation Plans  
(Total Responses: 62)



Analysis of Other Responses & Free Text Excerpts  
(Total Responses: 40)





# OSTP Memo and Guidance: February 2024

## OSTP News

- **OSTP Issues Updated Guidance to Support a Secure and Fair Research Ecosystem**
- Provided an update via blog post to offer guidance on both the implementation of uniform disclosure forms as well as foreign talent recruitment programs.



FEBRUARY 14, 2024

## OSTP Issues Updated Guidance to Support a Secure and Fair Research Ecosystem

 [OSTP](#) [NEWS & UPDATES](#) [PRESS RELEASES](#)

Today, the White House Office of Science and Technology Policy (OSTP) released two memoranda aimed at supporting a secure and fair research ecosystem in the United States. These documents offer guidance to federal agencies on conflict disclosure forms as well as foreign talent recruitment programs.

## Guidelines for Federal Agencies Regarding Foreign Talent Recruitment Programs

- **OSTP Issues Updated Guidance to Support a Secure and Fair Research Ecosystem**
- Defines FTRPs as any program, position, or activity that:
  - **includes compensation** in the form of cash, in-kind compensation, including research funding, promised future compensation, complimentary foreign travel, things of non de minimis value, honorific titles, career advancement opportunities, or other types of remuneration or consideration
  - **directly provided by a foreign country at any level** (national, provincial, or local) or their designee, or an entity based in, funded by, or affiliated with a foreign country, whether or not directly sponsored by the foreign country,
  - **to an individual**, whether directly or indirectly stated in the arrangement, contract, or other documentation at issue
  - **Excludes certain international collaboration activities (so long as not funded, organized or managed by a FTRP or academic institution on NDAA lists - see 10 U.S.C. 4001). Excluded activities include (agencies can not prohibit):**
    - **Scholarly presentations or publishing written materials** regarding uncontrolled scientific information; **Participating in international conferences**, exchanges, research projects or programs with open and reciprocal exchange of scientific information aimed at advancing global scientific understanding (and not otherwise controlled research); **Advising foreign students** enrolled at an institution of higher ed or writing a recommendation for the student at their request (**and list goes on!**)



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## Memo on Policy Regarding Use of Common Disclosure Forms

- **OSTP Issues Updated Guidance to Support a Secure and Fair Research Ecosystem**
- Memo on Policy Regarding Use of Common Disclosure Forms
  - All agencies are expected to use the common forms, unless there is: “a need to collect additional information or to apply more stringent protections to protect R&D that is classified, export-controlled, or otherwise legally protected”. Deviations require OMB/OIRA review and clearance.
  - Agencies with more than \$100 million in annual extramural research funding now have 90 days (until June 19, 2024) to submit an implementation plan to OSTP indicating when they will start using the Common Forms, any planned deviations from the form and information about how they will implement the form electronically.
  - Agencies will need to make sure that applicants using the forms include a persistent digital identifier that meets NSPM-33 requirements

# NASA Response to OSTP: June 2024

## NASA Biosketch and C&P Disclosure Policy – June 2024 Request for Comments

- **Request for Comments posted in the Federal Register by NASA in June 2024**
  - Supplementary information states new policy in response to NSPM-33, CHIPS and Science Act of 2022, and NSTC's development of common disclosure forms and corresponding February 14, 2024 memos by OSTP.
  - NASA specific interpretation/implementation:
    - Anyone proposing to spend >10% of time in any given year on a NASA funded award is a senior/key person
    - Contribution to be 'substantive, meaningful...to the scientific development or execution of a research and development project'
    - Requirement of proposal and annual PI attestations (signed) for non-participation in MFTRPs (stored and maintained in recipient grant files and available to NASA on request)
    - Unclear RE: use of ScienCV

### Request for Comments: Biosketch and Current and Pending Support Disclosure Policy

A Notice by the National Aeronautics and Space Administration on 06/28/2024

This document has a comment period that ends in 21 days. (07/30/2024)

[SUBMIT A FORMAL COMMENT](#)

| PUBLISHED DOCUMENT  |  |
|---|--|
| <br><br><br><br>  | <b>AGENCY:</b><br>National Aeronautics and Space Administration.   |
|   | <b>ACTION:</b><br>Notice of information collection.  |
|   | <b>SUMMARY:</b><br>National Aeronautics and Space Administration's (NASA) Grants Policy and Compliance (GPC) in the Office of Procurement is soliciting public comment on the Agency's forthcoming policy on disclosures made in grant applications and annual certifications. |
|   | <b>DOCUMENT DETAILS</b>  |
| <b>Printed version:</b><br><a href="#">PDF</a>                  |  |
| <b>Publication Date:</b><br>06/28/2024                          |  |
| <b>Agency:</b><br>National Aeronautics and Space Administration |  |
| <b>Dates:</b><br>Comments must be received by July 30, 2024.    |  |
| <b>Comments Close:</b><br>07/30/2024                            |  |
| <b>Document Type:</b>   |  |

# NSF Update

## Institutional Certification

- Certification Regarding Malign Foreign Talent Recruitment Programs: In accordance with Section 10632 of the CHIPS and Science Act of 2022 (42 U.S.C. § 19232), the AOR must certify that all individuals identified as senior/key personnel have been made aware of and have complied with their responsibility under that section to certify that the individual is not a party to a malign foreign talent recruitment program.

## Institutional foreign financial support reporting

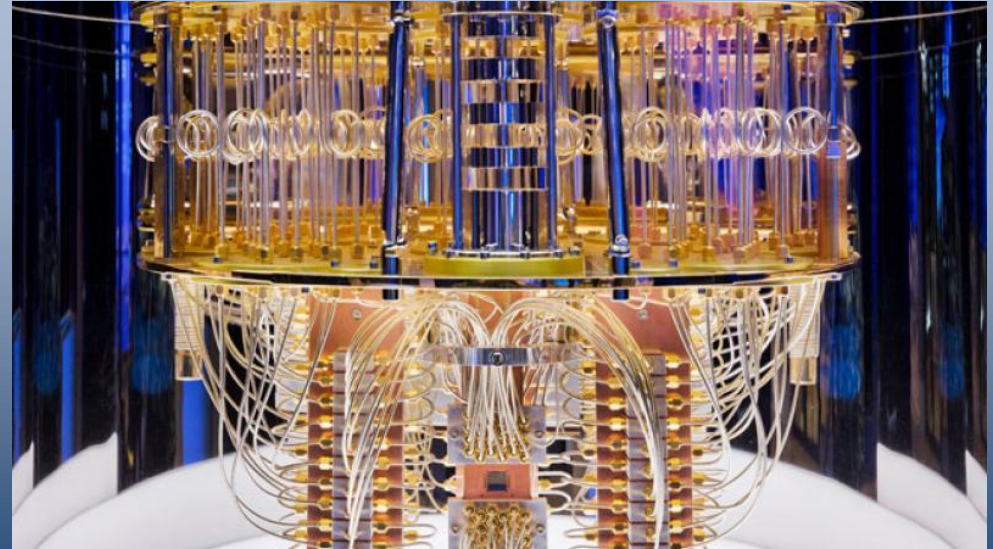
- In accordance with Section 10339B, (CHIPS and Science Act of 2022) each institution of higher education that receives NSF funding must disclose annually, all “current financial support, the value of which is \$50,000 or more, including gifts and contracts, received directly or indirectly from a foreign source” which is associated with a foreign country of concern (China, Russia, North Korea, Iran...so far).
- NSF may request copies of contracts.

## Senior/key personnel certification

- Malign Foreign Talent Recruitment Programs: Pursuant to Section 10632 (42 U.S.C. § 19232), each identified as senior/key person must certify prior to proposal submission that they are not a party to a malign foreign talent recruitment program and annually thereafter for the duration of the award.

# NSF TRUST (Trusted Research Using Safeguards and Transparency)

- NSF will be the next Federal agency to embark on research security risk assessment and management (for emerging technology areas)
- In FY 2025, NSF will pilot the TRUST framework for quantum-related proposals selected for merit review (and use the pilot to build and evaluate NSF capacity to review national security application of technology)
- If NSF's Research Security Review team determines there is sufficient risk, they will work with institutions to mitigate the risks
- Main criteria are (1) active appointments, MFTRP, and research support and (2) nondisclosure of appointment, activity, and sources of research support



# DOE Terms & Conditions

*If the Recipient (including any of its subrecipients and contractors) anticipates involving foreign nationals in the performance of the Award, the Recipient must, upon DOE's request, provide DOE with specific information about each foreign national to ensure compliance with the requirements for participation and access approval...DOE may elect to deny a foreign national's participation in the Award. Likewise, DOE may elect to deny a foreign national's access to a DOE sites, information, technologies, equipment, programs, or personnel. DOE's determination to deny participation or access is not appealable.*

*Persons participating in a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk are prohibited from participating in this Award. The Recipient must exercise ongoing due diligence to reasonably ensure that no individuals participating on the DOE-funded project are participating in a Foreign Government-Sponsored Talent Recruitment Program of a Foreign Country of Risk.*

## CURRENT

### DOE O 142.3B Chg 1 (LtdChg), Unclassified Foreign National Access Program

[RELATED](#) [HISTORY](#) [EXEMPTIONS](#) [STANDARDS](#)

Related to:

[Frequently Asked Questions for DOE O 142.3B Change 1, Unclassified Foreign National Access Program](#)

[DOE O 142.3B Chg 1 \(LtdChg\), Unclassified Foreign National Access Program - Change Chart](#)

The Department of Energy (DOE) unclassified mission focuses on the critical challenges of our time, for both the country and the world. Much of this work is performed in collaboration with the international community. At the same time, the federal government has a responsibility to protect its assets and ensure that unauthorized access to sites, information, or technologies is denied. Supersedes DOE O 142.3B, dated 1-15-2021.

## CURRENT

### DOE O 486.1A, Foreign Government Sponsored or Affiliated Activities

[RELATED](#) [HISTORY](#) [EXEMPTIONS](#) [STANDARDS](#)

Related to:

[Frequently Asked Questions \(FAQs\) for DOE O 486.1A](#)

Functional areas: Recruitment, Foreign Government

To ensure the continued flow of scientific and technical information consistent with the Department of Energy's (DOE) broad scientific mission, while also ensuring protection of U.S. competitive and national security interests and DOE program

# ENFORCEMENT UPDATE

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# Enforcement Trajectory

While the China Initiative is “over,” the government’s interest in research security remains.

## Remember:

- The People's Republic of China is only one of a number of countries of interest / concern.
- While DOJ has stepped back absent unusual circumstances, NIH, NSF, and DOD inquiries persist.

The current focus has expanded to include several countries of concern, and has centered around these key principles:

1. Avoiding wrongful IP transfers and preserving U.S. rights to inventions.
2. Distinguishing intent to deceive from mere failure to disclose/report.

3. Identification of malign actors.
4. Eliminating conflicts of commitment impacting researchers' ability to satisfy funding obligations.

5. Obtaining a thorough accounting of conflicts of interest and retrospective reviews in cases of interest.

# Enforcement Update

## Stanford - Oct 2023

- Stanford agreed to pay \$1.9 million to resolve allegations under the **False Claims Act** that investigators failed to disclose foreign research support in proposal submissions.
- Settlement relates to awards issued between 2015 - 2020 from the Dept of Army, Navy, Airforce, NASA, and NSF.
- Failure to disclose foreign support on current and pending.

## Georgia Tech - Nov 2023

- Georgia Tech and their research corporation agreed to pay \$90,000 to settle allegations under the **False Claims Act**.
- Allegations related to failing to provide proper oversight to prevent submissions with false claims to NSF. NSF alleges Georgia Tech failed to report the correct number of industry members participating in a cooperative research center.
- **Self disclosure / voluntary repayment may not alleviate other penalties...**

## 2024: Congressional Activity

- A *Newsweek* investigation found federal agencies awarded \$30 million in research funding to Mr. Song-Chun Zhu, who is now *"at the forefront of China's race to develop the most advanced artificial intelligence."* While funded in the US he set up a parallel institute near Wuhan and joined CCP.
- The Select Committee on the CCP sent letters to UCLA, DOD, and NSF requesting documents related to awards.



# Enforcement Update

Congress of the United States  
Washington, DC 20515

## Select CCP Committee Letter to UCLA, NSF, DOD – January 2024

- Committee on Energy and Commerce and Select Committee on the Strategic Competition Between the US and CCP
  - January 2024 – seeking documents from UCLA, NSF and DOD about funding provided to Song-Chun Zhu, now in China
  - Seeking grant documentation related to the researcher, university guidance and regulations regarding foreign COI, grant oversight
  - Seeking list of all university researchers who have received federal awards and are currently living in China

To better understand this matter, the Committees respectfully request the following by no later than January 31, 2024:

1. Complete documentation relating to all federally funded grants given to Mr. Song-Chun Zhu, including the applications, approvals, outcomes.
2. Copies of all internal UCLA communications relating to the work of Mr. Zhu.
3. Copies of all external communications relating to Mr. Zhu to which UCLA was a party, including:
  - a. Between UCLA and other educational institutions.
  - b. Between UCLA and federal grant-awarding agencies.
  - c. Between UCLA and law-enforcement agencies.
  - d. Between UCLA and any other outside parties.
4. Copies of all official UCLA guidance and regulations about determining foreign conflicts of interest as they relate to grant funding. Draft guidance currently being prepared should be sent as well.
5. Copies of all official UCLA guidance and regulations about grant oversight. Draft guidance currently being prepared should be sent as well.
6. A detailed breakdown of the research Mr. Zhu did with federal grants funded through UCLA.
7. A list of all current UCLA researchers who have received federally funded grants and are currently living in China, as well as complete documentation relating to their grants (application, approval, oversight, and outcome).

Additionally, we respectfully request that you respond to the following questions by no later than January 31, 2024:

1. Were any internal concerns ever raised about Mr. Zhu's connections to the CCP before 2022? If so, by whom? When? What were the results?
  - a. When and how did UCLA become fully aware of Mr. Zhu's connections to the CPP and the Thousand Talents Plan?
  - b. When and how did UCLA act on the information?
    - i. Were law enforcement agencies contacted?
2. Describe, in detail, how UCLA currently vets researchers for potential foreign conflicts of interest *before* a grant is awarded.
  - a. Does membership in the Chinese Communist Party or participation in a CCP backed talent program affect grant applications?
  - b. HSGAC's report states that many CCP-backed talent programs are going underground in order to avoid detection. How does UCLA adjust for this?
3. Describe, in detail, how UCLA currently vets researchers for potential foreign conflicts of interest *after* the grant is awarded.
  - a. Have there been other instances of UCLA researchers who received federal grants moving to or otherwise assisting an adversarial nation? Describe these instances.
4. Does UCLA have any rules or regulations for providing research grants to scientists in foreign countries?
  - a. For the last five years, what percentage of federal grant money that has gone through UCLA went to researcher teams with lead members/principal investigators operating outside the United States? Please break this number down for each year and provide the dollar amount.
5. Do any current federally funded grants through UCLA, or grants under serious consideration, involve researchers with membership in the CCP or Chinese talent recruitment plans? How does UCLA verify this?

# Enforcement Update

Congress of the United States  
Washington, DC 20515

## Select CCP Committee Letter to Georgia Tech – May 2024

- Select Committee on the Strategic Competition Between the US and CCP
  - Letter raised concerns related to GT's relationship with Tianjin University, a restricted entity due to its links to the PRC's PLA and efforts to steal dual-use U.S. Trade Secrets.
  - At issue a 2024 announcement that GT and Tianjin collaboration to develop world's first functional graphene semiconductor (technology with significant military application).
  - Also Shenzhen gov't allocation of \$250M for construction of GTSI campus (and lack of reporting).

### Congress gave GT 12 days to provide a response to 19 requests, including:

Listing of all entities GT has been involved with at Tianjin and a nature of the involvement

A list of all GT faculty involved (and how those faculty were vetted, and listings of Federal funding co-mingled)

Listing and copies of all contracts with Tianjin.

List of all conferences for which GT affiliated entities at Tianjin were hosts or co-host(s) and attendees.

List of all PRC companies in attendance at recruiting events at GT-affiliated sites in Tianjin.

List of all GTSI students and alumni.

Listing of all collaborations between GT faculty and other entities currently on the Department of Commerce's Entity List.

GT's current research security policies.

Copies of meeting minutes which refer to Tianjin, including from Board of Regents of the University System of Georgia.

January 17, 2024

Dr. Gene Block  
Chancellor  
University of California, Los Angeles  
405 Hilgard Ave  
Los Angeles, CA 90095

Dear Chancellor Block:

# Enforcement Update

## Stanford University (October 2023)

- University agreed to pay \$1.9 million to resolve allegations it violated the FCA by submitting 16 proposals for awards that did not include foreign support received by 12 faculty members (roughly 1.5x multiplier)
- Time period covered 2015 – 2020
- Involved NSF, NASA, and Departments of the Army, Navy and Air Force
- Alleged failure to fully report current and pending support
- Alleged knowing failure to disclose foreign research funds to one faculty member who was employed at Fudan University and received foreign government research funding
- Settlement included a unique agreement to work with NSF's Office of the Chief of Research Security Strategy and Policy on best practices in key areas (gifts funding research and CPS disclosures)



Office of Public Affairs  
U.S. Department of Justice

### PRESS RELEASE

## Stanford University Agrees to Pay \$1.9 Million to Resolve Allegations That it Failed to Disclose Foreign Research Support in Federal Grant Proposals

Monday, October 2, 2023

Share >

For Immediate Release

Office of Public Affairs

Stanford University, located in Palo Alto, California, has agreed to pay \$1.9 million to resolve allegations that it violated the False Claims Act by submitting proposals for federal research grants that failed to disclose current and pending support that 12 Stanford faculty members were receiving from foreign sources.

January 17, 2024

Dr. Gene Block  
Chancellor  
University of California, Los Angeles  
405 Hilgard Ave  
Los Angeles, CA 90095

Dear Chancellor Block:

# Enforcement Update

## Cleveland Clinic Foundation (May 2024)

- CCF agreed to pay \$7.6M to resolve allegations that it violated the FCA by submitting grant applications and progress reports to NIH which failed to disclose that a key employee had pending and/or active financial research support from other sources.
- Followed a 2020 arrest of CCF investigator following an FBI investigation into relationship with Chinese authorities. Case was dismissed (although CCF terminated employment on same day).
- Resolved allegations that CCF violated NIH password policies by permitting CCF employees to share passwords (some false submissions wherein CCF failed to disclose PI support were made by employees who were inappropriately provisioned access to eRA Commons).
- NIH imposed additional award conditions on CCF grants for a minimum of 1 year requiring a high-level CCF employee to personally attest to truth, completeness, and accuracy of all other grant support.



PRESS RELEASE

### Cleveland Clinic to Pay Over \$7 Million to Settle Allegations of Undisclosed Foreign Sources of Funding on NIH Grant Applications and Reports

Friday, May 17, 2024

Share >

For Immediate Release

U.S. Attorney's Office, Northern District of Ohio

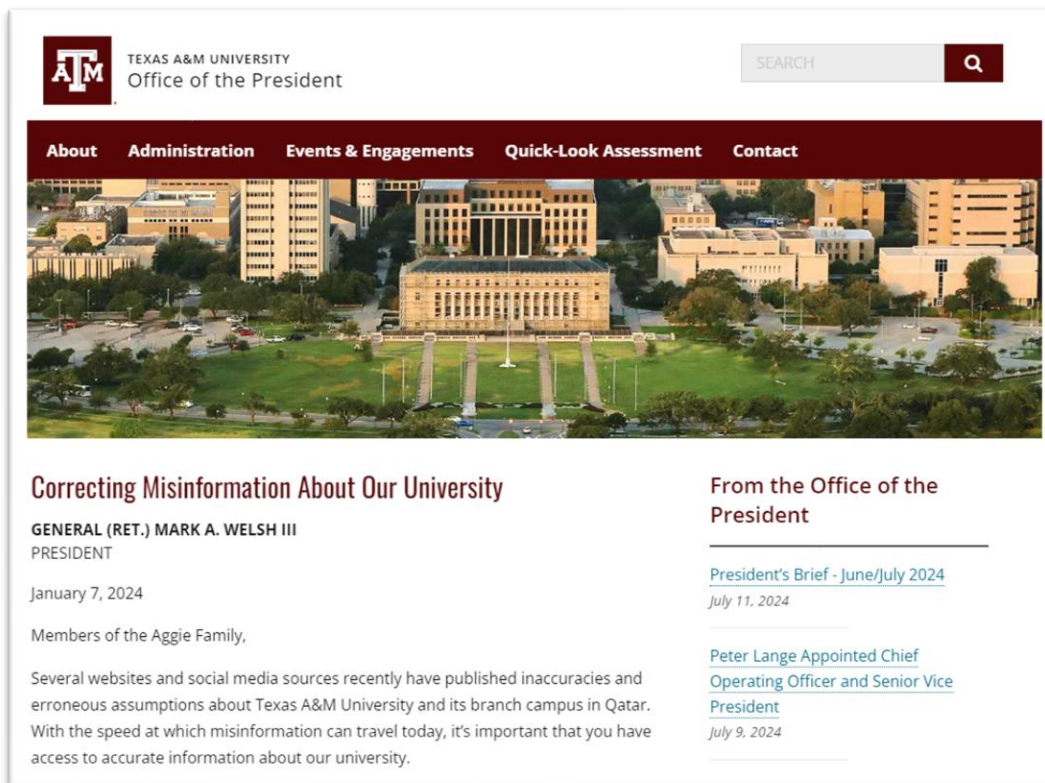
The Cleveland Clinic Foundation (CCF) has agreed to pay \$7,600,000 to resolve allegations that it violated the False Claims Act (FCA) by submitting to the National Institutes of Health (NIH) federal grant applications and progress reports in which CCF failed to disclose that a key employee involved in administering the grants had pending and/or active financial research support from other sources.

The settlement resolves allegations that CCF made false statements to NIH, a component of the Department of Health and Human Services (HHS), in connection with three federal grant awards. Despite NIH requirements to do so, CCF repeatedly failed to disclose that the employee who it designated as the Principal Investigator on each grant had pending and/or active grants from foreign institutions that provided financial assistance to support the employee's research and already obligated that employee's research time. CCF falsely certified that the grants submissions were true and accurate.

# Enforcement Update

## How it started

- **January 2024:** Institute for the study of Global Antisemitism & Policy released a report called “Hijacking Higher Education: Qatar, The Muslim Brotherhood, and Texas A&M.”
- Issued a letter to US regulators demanding an investigation.
- Cited problematic IP causes in Texas A&M and QNRF research agreements.
- Qatar reported to have provided over \$1 billion into Texas A&M since 2003 for over 500 research projects.





# Enforcement Update

## How it's going

- **February 2024:** Board of Regents of Texas A&M decided to shut down flagship campus in Doha, Qatar.
- ““The Board has decided that the core mission of Texas A&M should be advanced primarily within Texas and the United States,” Board Chairman Bill Mahomes said. “By the middle of the 21st century, the university will not necessarily need a campus infrastructure 8,000 miles away to support education and research collaborations.”

## Texas A&M University to close Qatar campus

The Texas A&M Board cited heightened instability in the Middle East as the reason to end its contract with the Qatar Foundation to run the branch campus. The foundation accuses the board of falling prey to a “disinformation campaign.”

BY KATE MCGEE FEB. 8, 2024 UPDATED: FEB. 9, 2024

SHARE REPUBLISH ↗



Students sit on the lawn of Texas A&M University's campus in Doha, Qatar. © Emre Rende for The Texas Tribune



## STATEMENT FROM QATAR FOUNDATION

The decision of Texas A&M University's Board of Regents to end its partnership with Qatar Foundation (QF) has been influenced by a disinformation campaign aimed at harming the interests of QF. It is disturbing that this disinformation has become the determining factor in the decision and that it has been allowed to override the core principles of education and knowledge, with no consideration to the significant positive impact that this partnership has brought for both Qatar and the US.

It is deeply disappointing that a globally respected academic institution like Texas A&M University has fallen victim to such a campaign and allowed politics to infiltrate its decision-making processes. At no point did the Board attempt to seek out the truth from Qatar Foundation before making this misguided decision.

QF has a long-term vision for creating a world-class ecosystem of education, research, and social development. This has seen us form partnerships with international higher education institutions to establish campuses in Education City in Doha and deliver undergraduate and graduate level programs, alongside our homegrown Hamad Bin Khalifa University (HBKU).

Decisions based on any consideration other than the best interests of students and their pursuit of education and knowledge will not impact on our vision for higher education at QF, and our strategy for realizing this vision. We have always firmly believed that education should be above vested interests and harmful influences, and we always will.

12:34 AM · Feb 9, 2024 · 245.9K Views

# Enforcement Update

## University of Florida & Indiana University (May and June 2024)



Office of Public Affairs  
U.S. Department of Justice

### University of Florida, MilliporeSigma

- Two Florida men pled guilty to counts of conspiracy to commit wire fraud for roles in fraudulently procuring discounted products from SigmaAldrich (dba Millipore Sigma) and falsifying documents for shipment to China.
- Scheme included false representations of affiliation with UF and ensnared UF students/stockroom employees.
- Biomedical substances were seized in April 2023 by US Customs and Border Protection (shipment from Tampa to China by UF student).

[News & Updates](#) > [Press Releases](#) > [BIS Settles Alleged Export Control Violations with Indiana University](#)



**Bureau of Industry & Security**

Office of Congressional and Public Affairs

### Indiana University

- Settlements resolve allegations in PCL regarding 42 violations related to the export of fruitflies genetically modified to produce a subunit of controlled toxin (ricin A) to research locations in 16 countries without the required license between 2017 and 2021.
- IU submitted a voluntary self-disclosure to BIS.
- Settlement required training and education for research community at IU and one-year suspended denial order for export of similar items.



In 1 – 2 words, what keeps you up at night (as it relates to research security)?

leader creative fast focus  
bold transpiration inspiration



# EXPORT CONTROL LANDSCAPE

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# Export Control Landscape

Export Controls consist of three sets of regulations that restrict unlicensed exports of technology or information, including sharing information with foreign nationals.

|                         | Export Administration Regulations (EAR)   | International Traffic in Arms Regulations (ITAR)   | Office of Foreign Assets Control (OFAC)   |
|-------------------------|---|--|---|
| Governing agency        | Department of Commerce  | Department of State  | Department of Treasury  |
| Established through     | Commerce Control List (CCL)   | U.S. Munitions List  | Economic and trade sanctions list   |
| Covers                  | <ul style="list-style-type: none"><li>• Dual use items</li><li>• Deemed exports (releasing technology to a foreign national)</li></ul>                                    | <ul style="list-style-type: none"><li>• Military items</li><li>• Defense articles</li></ul>  | <ul style="list-style-type: none"><li>• Sanctioned countries and their nationals</li><li>• Specified entities and individuals</li></ul>                   |
| Representative Examples | <ul style="list-style-type: none"><li>• Materials and chemicals</li><li>• Electronics design</li><li>• Computers</li><li>• Telecom</li><li>• Sensors and lasers</li></ul> | <ul style="list-style-type: none"><li>• Toxic agents</li><li>• Spacecraft systems</li><li>• Explosives and energetic materials</li><li>• Classified articles</li></ul> | <ul style="list-style-type: none"><li>• Balkans</li><li>• Ukraine / Russia</li><li>• Venezuela</li><li>• Foreign interference in U.S. elections</li></ul> |

# Export Control Landscape

## Fundamental Research Exception

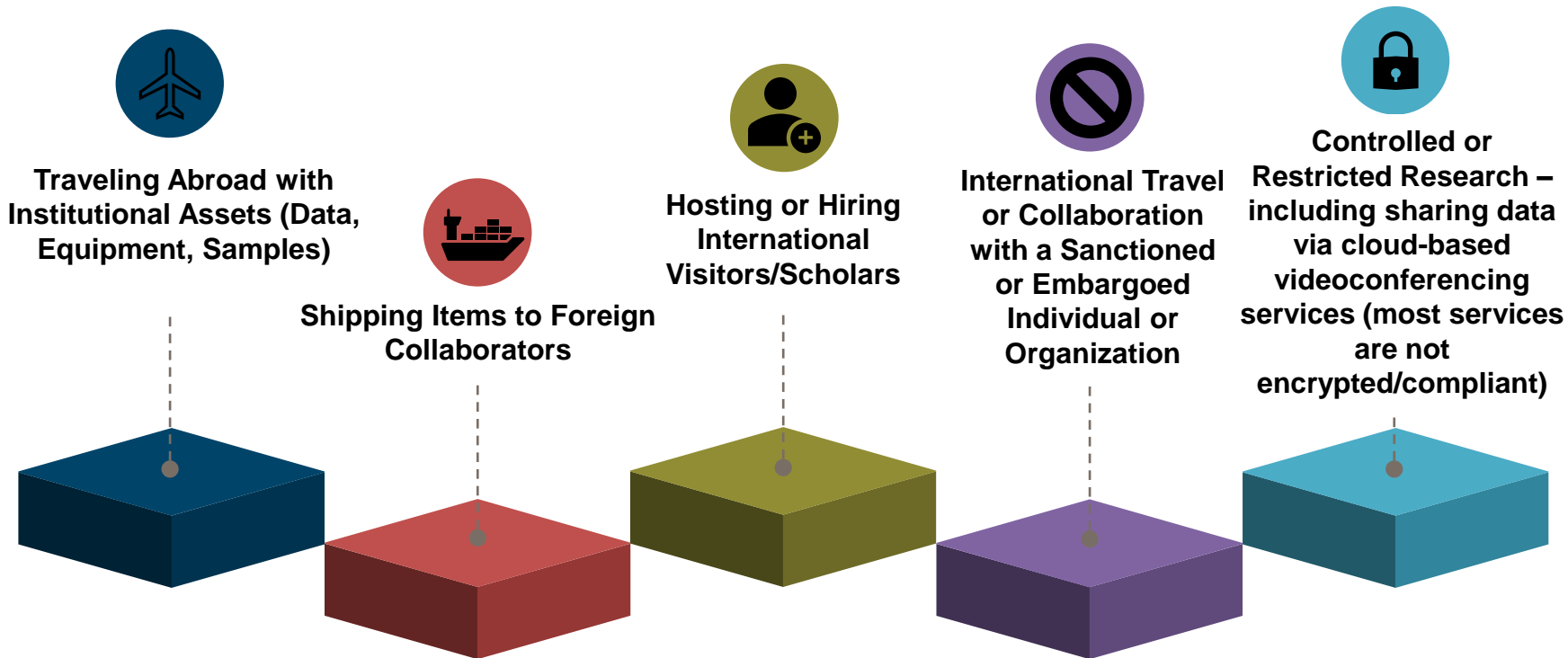
- Fundamental research is “basic and applied research in science and engineering, ***the results of which ordinarily are published and shared broadly within the scientific community***”
- “No restrictions may be placed upon the conduct or reporting of federally-funded fundamental research that has not received national security classification, except as provided in applicable U.S. Statutes...”

## FRE Does Not Apply When...

- Research methods or outcomes are restricted from publication
- Research occurs outside the U.S.
- Research involves transferring material or data outside the U.S. (except for publications)
- Certain types of materials are involved in, created by, or modified during the research

# Export Control Landscape

Times to Be Reminding Researchers About Export Controls Considerations



# INSTITUTIONAL APPROACHES

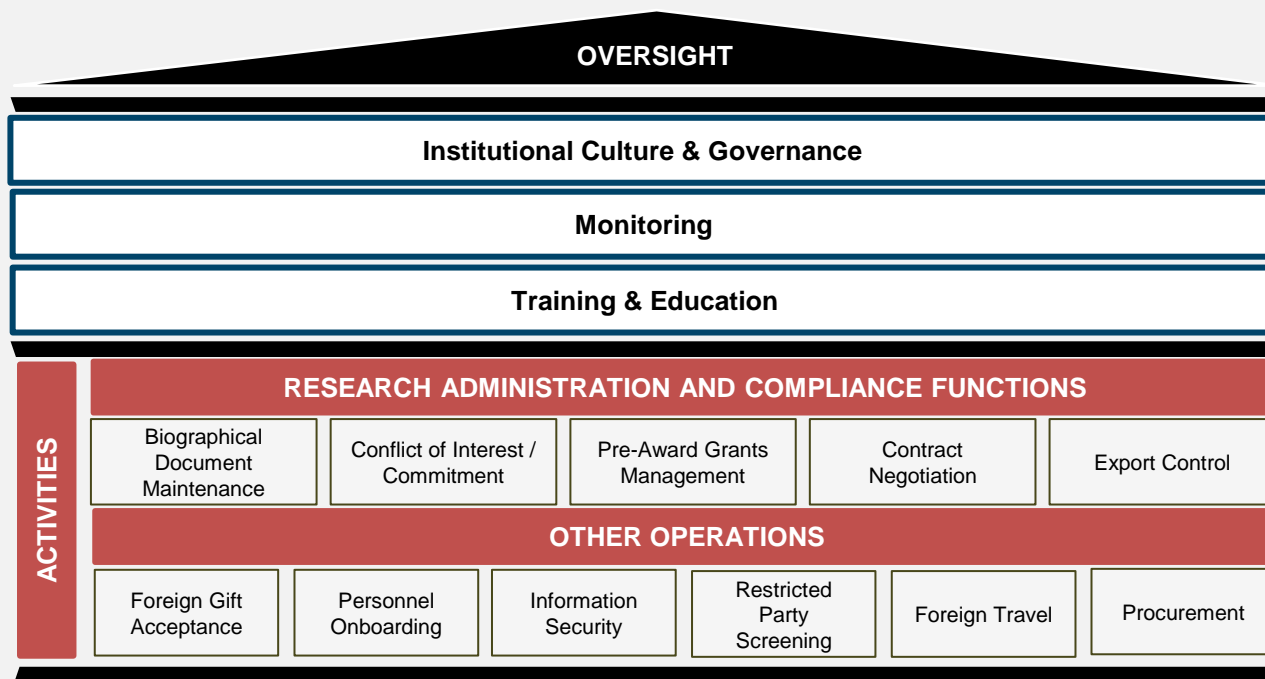
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# Institutional Approaches

## An Integrated Approach

**Oversight:**  
Institutional leaders' ability to effectively manage foreign influence risk.

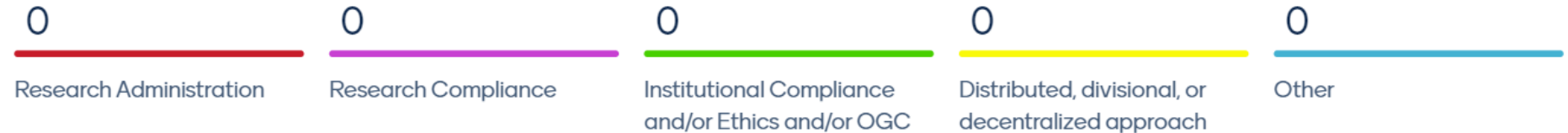
**Activities:**  
Research and Operational functional areas.



# What is your institution's research security program implementation status?



# Where within your organization does research security principally live?





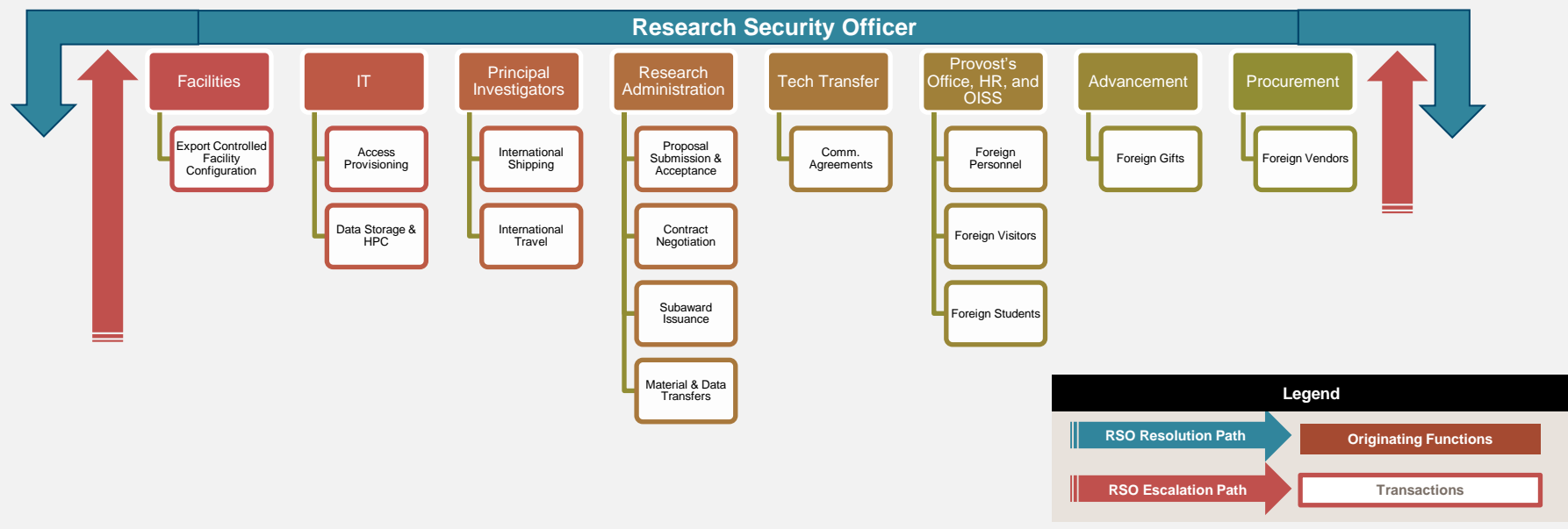
# Has your institution formally established a governance model around research security?



# Institutional Approaches

## Research Security Officer/Office(s)

The RSO role is emerging at many institutions...



# What has been the most challenging piece of your research security program to implement?

bold focus  
creative  
fast  
leader  
transpiration  
inspiration