

# anSRS4u

ANSWERS FOR YOU

## FCOI and Foreign Influence

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Lesa Feldhousen,  
Executive Director, Conflict of Interest  
and Responsible Conduct of Research

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Presented by **Sponsored Research Services**



TEXAS A&M UNIVERSITY  
Division of Research

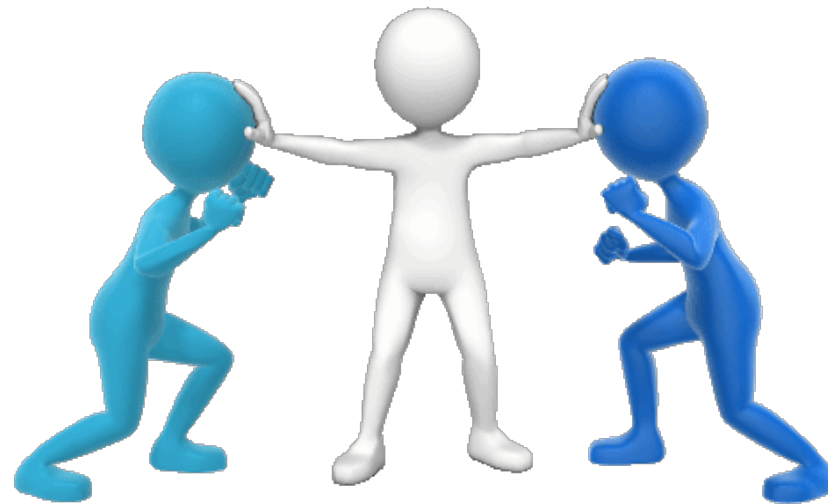


***Office of Export  
Controls, Conflict of  
Interest and  
Responsible Conduct  
of Research***

Lesa Locklear Feldhousen, JD  
Executive Director



# Conflicts of Interest



# Financial Conflict of Interest

A financial conflict of interest exists when there is a risk that personal financial interests will unduly influence one's actions or choices.



# Is a COI a bad thing?

## Absolutely not!

It's the failure to disclose that is a bad thing.

***If in doubt, disclose.***



# What does it apply to?

System Regulation 15.01.03 *Financial Conflict of Interest in Sponsored Research* and University Rule 15.01.03.M1 *Financial Conflict of Interest in Sponsored Research* applies broadly to ***all sponsored research or research activities*** regardless of the funding source.



# Who does this apply to?

Anyone who meets the definition of Investigator.

Investigator = the project director or principal investigator AND any other person, regardless of title or position, who is responsible for the design, conduct or reporting of research or research activities.



# What are the Investigator's Responsibilities?

1. Disclose SFIs
2. Identify and Manage FCOIs
3. Training



**“The trouble with this company is nobody wants to accept responsibility for anything. But don't tell anyone I said that!”**



# What is an SFI?

Basically, a Significant Financial Interest (SFI) includes any financial interest received by an Investigator (or covered family member) within the past 12 months that exceeds \$5,000 in value and reasonably appears to be related to the Investigator's Institutional Responsibilities.



# SFI – Definition in Detail

- (a) With regard to any publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure and the value of any equity interest in the entity as of the date of disclosure, when aggregated, exceeds \$5,000. For purposes of this definition, remuneration includes salary and any payment for services not otherwise identified as salary (e.g., consulting fees, honoraria, paid authorship); equity interest includes any stock, stock option or other ownership interest, as determined through reference to public prices or other reasonable measures of fair market value.
- (b) With regard to any non-publicly traded entity, a significant financial interest exists if the value of any remuneration received from the entity in the 12 months preceding the disclosure, when aggregated, exceeds \$5,000, or when the investigator (or the investigator's covered family member) holds any equity interest (e.g., stock, stock option or other ownership interest).
- (c) Intellectual property and royalty interests (e.g., patents, copyrights), upon receipt of income related to such rights and interests.
- (d) The occurrence of any reimbursed or sponsored travel (i.e., that which is paid on behalf of the investigator and not reimbursed to the investigator so that the exact monetary value may not be readily available), related to their institutional responsibilities; provided, however, that this does not include travel that is reimbursed or sponsored by a federal, state or local government agency, an institution of higher education as defined at 20 U.S.C. §1001(a), an academic teaching hospital, a medical center or a research institute that is affiliated with an institution of higher education.
- (e) Gifts, when the value of a single gift received by the investigator or a covered family member in the preceding 12 months exceeds \$250, or when the aggregated value of multiple gifts received from a single entity within the preceding 12 months exceeds \$250, excluding gifts received from a covered family member.
- (f) Any fiduciary position held by an investigator or a covered family member in a for-profit or nonprofit entity in the preceding 12 months, including a position as a member of the board of directors, an officer or other executive or management position for which the investigator or covered family member received any form of remuneration or reimbursement for expenses.



# What is a Covered Family Member?

A covered family member includes an Investigator's spouse, dependent child, stepchild or other dependent, for purposes of determining federal income tax liability during the period covered by the Financial Disclosure Statement, and a related or non-related, unmarried adult who resides in the same household as the Investigator and with whom the Investigator is financially interdependent as evidenced, for example, by the maintenance of a joint bank account, mortgage or investments.



# Examples of SFIs

Examples of SFIs that might be related to an Investigator's Institutional Responsibilities include:

- A Petroleum Engineering professor who is paid to serve on the board of an oil and gas company.
- A Finance professor who receives consulting fees from the banking industry.
- An Agriculture professor who serves as a paid expert witness for a fertilizer company.
- A researcher who holds a supervisory or educational responsibility for graduate students, postdoctoral trainees, or support/academic staff, and is working on a research project that could materially affect a company or other entity in which he/she holds a significant financial interest.



# Examples (cont.)

- A researcher who submits a proposal (or initiates work without a proposal) to conduct research, testing, or a clinical trial funded by a company or other entity in which he/she holds a significant financial interest.
- A researcher who conducts or has supervisory responsibility for research or other activities at TAMU that could materially affect a company or other entity in which he/she holds a significant financial interest.
- A researcher who subcontracts to their own company.
- A researcher who hires her husband to work on a research project.



# SFI Exclusions

## SFIs do NOT include:

- Salary paid by a system member.
- Income from mutual funds and retirement accounts, as long as the Investigator does not directly control the investment decisions made in these accounts.
- Travel reimbursed or sponsored by NSF.



# How do Investigators Submit their Disclosure?

Investigators must submit Financial Disclosure Statements for themselves and any covered family members. This is currently done via Maestro.



# Disclosures

Disclosures must be submitted/updated:

- Within 30 days of initial employment.
- Annually.
- Within 30 days of acquiring a new SFI.
- For Investigators participating in PHS-funded or certain other funded research, not later than the application date or within 30 days of initial employment.





# Disclosure Review

Significant Changes on our end:

- We conduct an export control review of foreign entities listed on the disclosure.
- If the investigator has Federal funds, we ensure required disclosures have been made to the sponsor.
- If external employment approval is required, we remind investigators to submit for approval.



# Training

Federal law and System regulations require Investigators to take mandatory FCOI training.



# Conflict of Commitment

- University SAP 15.99.99.M0.02



# What is a Conflict of Commitment?

- A Conflict of Commitment (COC) exists when a faculty or staff member's external relationships or activities have the possibility (either in actuality or in appearance) of interfering or competing with the University's educational, research, or service missions, or with that individual's ability or willingness to perform the full range of duties and responsibilities associated with his or her position. It includes the performance of duties for an external entity substantially similar to or in competition with any portion of the individual's employment responsibilities as described in the individual's position description, letters of appointment, and workload assignments.



# Who does this apply to?

- Employees involved in external relationships or activities, including external activities that include the performance of duties substantially similar to any portion of the individual's employment responsibilities.



# What needs to be disclosed?

- Basically, any external employment or other compensated activities related to the employee's University responsibilities or professional expertise.
- Includes:
  - Voluntary or paid expert witness services.
  - Private lessons in art, music, or any field of study.
  - Private counseling for financial aid, career development, and academic considerations.
  - All service on external boards (exceptions).
  - Any uncompensated activity that reasonably appears to create a conflict of commitment.



# What do I do?

- Complete the Conflict of Commitment Form and submit to your unit head.



# Huron

- Centralized conflict of interest management system
- Will combine FCOI, COC, and External Employment requests into a single disclosure form
- Volunteers?



# Foreign Influence

- Federal agencies have expressed concern that foreign entities may be using the academic research enterprise in an attempt to compromise the United States' economic competitiveness and national security.
- Federal funding agencies have sought to clarify longstanding policies and issued new guidance.

# Foreign Influence

Dr. Charles Lieber



# Foreign Influence

## NSPM-33

- National Security Presidential Memorandum 33
  - Tasked the heads of U.S. research funding agencies with establishing policies on disclosure requirements for researchers regarding positions, other support, affiliations, and activities with foreign government-sponsored talent recruitment programs by January 14, 2022
  - Tasked the Office of Science and Technology (OSTP) to coordinate the standardization of disclosure policies and forms across research funding agencies



# Foreign Influence OSTP

- Office of Science and Technology (OSTP) Guidance
  - Issued on January 4, 2022
  - First step in the standardization/harmonization of disclosure and other requirements
  - Provides instructions and advice on the following areas:
    - Disclosure Requirements and Standardization
    - Digital Persistent Identifiers (DPIs)
    - Consequences for Violation of Disclosure Requirements
    - Information Sharing
    - Research Security Programs



# Foreign Influence

What are we seeing from Federal Sponsors?



U.S. DEPARTMENT OF  
**ENERGY**



National Institutes  
of Health



# National Science Foundation

- Effective October 5, 2020, if an organization discovers that a PI or Co-PI on an active NSF award failed to disclose current support or in-kind contribution information as part of the proposal submission process, the institution must submit the information within 30 calendar days.



# National Institutes of Health

- NIH sent out a reminder on July 10, 2019 regarding the need to report foreign activities through documentation of Other Support, Foreign Components, and Financial Conflict of Interest to prevent scientific, budgetary, or commitment overlap.



# National Institutes of Health

- How do I disclose to NIH?
  - Other Support
    - All Other Support and affiliations must be reported at Just-in-Time (JIT) stage via the Other Support document.
    - Applicants are responsible for promptly notifying NIH of any substantive changes to previously submitted Just-In-Time information up to the time of award, including “Other Support” changes that must be assessed for budgetary or scientific overlap.
    - Other Support obtained after the initial NIH award must be disclosed in the annual research performance progress report (RPPR).
  - Foreign Component
    - Foreign Components must be disclosed at the time of proposal submission.
    - The addition of a foreign component to an awarded project requires prior approval from NIH.





# National Aeronautics and Space Administration

- NASA is prohibited from entering into or funding any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether funded or performed under a no-exchange of funds arrangement.
- The restriction applies to bilateral activities with China or any Chinese-owned company.
  - Does not apply to multilateral activities
  - Does not restrict the participation of Chinese students or visiting scholars on NASA projects



# DOE and DOD

- Department of Energy
  - Unclassified Foreign National Access Program (DOE O 142.3B)
  - Interim Conflict of Interest Policy Requirements for Financial Assistance – December 20, 2021
- Department of Defense
  - Reminder letter - October 19, 2019



# Summary

Disclose!



# Contacts

Office of Export Controls, Conflict of Interest, and Responsible  
Conduct of Research

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TEXAS A&M  
UNIVERSITY.

# Questions



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ANSWERS FOR YOU

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THANK YOU

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