

FOREIGN INFLUENCE AND RESEARCH SECURITY GUIDANCE

The following Guidance is intended to provide practical information on how to address [“Foreign Influence”](#) concerns (defined below) with respect to institutional research, academic and commercialization activities, as well as individual faculty-conducted “outside” activities.

Background

During the past three years, the U.S. Government’s Executive and Legislative branches have focused considerable attention on the threat posed by Foreign Influence within Higher Education. This has resulted in (among other measures) mandatory institutional reporting of foreign source funding agreements, including contracts, grants and gifts; expanded grant disclosure requirements; expanded restrictions, institutional and individual due diligence when potentially engaging with [“Restricted Entities”](#) and [“Watch-listed”](#) institutions (defined below), and restrictions against participation by researchers funded by (or otherwise engaged with) foreign [“Talent/Scholarship”](#) programs (also defined below).

Federal enforcement consequences for non-compliance with laws pertaining to Foreign Influence can be severe and are enforceable at the institutional *and individual* levels. Depending on the circumstance, these consequences can include substantial monetary penalties; debarment from participating in federally funded grant or contract-based research; federal criminal prosecution; and institutional as well as individual reputational damage.

In addition, the State of Florida now requires employment suspension without pay for up to 60 days and possible termination of employment for failure to properly disclose financial conflicts of interest and outside activities.¹ This legislation came into effect in July 2020, and FIU revised its Outside Activities reporting system and associated policies. Additional new legislation (effective July 1, 2021) will align the State’s efforts with Federal Government objectives toward countering foreign influence in research in higher education, requirements for which FIU has already begun preparing and will be announced shortly.

FIU is committed to full compliance with Federal and State regulations concerning the University’s global engagement. Therefore, we strongly recommend that all FIU faculty members and FIU employees engaged in research read this Guidance and, to the extent there are any questions, contact ORED for further guidance and assistance. Additional information is also available by logging into <https://develop.fiu.edu/> and searching for “Conflict of Interest” as well as <https://research.fiu.edu/guidance-regarding-foreign-influence-and-research/>

Key Definitions

[“Foreign Influence”](#)

The term “Foreign Influence” is generally used to characterize a situation wherein an international entity (e.g. a sponsoring or collaborating institution, industry partner, donor, or other international entity with a direct or indirect relationship to the U.S. university) positions itself to gain access to the university’s Intellectual Property (IP) and/or export controlled information; or to covertly influence or steer the course of federally funded

¹ Bill No. CS for SB 72: Section 19. Section 1012.977, Florida Statutes

research in a manner that benefits said foreign entity. This may involve facilitating research efforts (in the U.S. or abroad) in a manner which provides the foreign entity with direct visibility into research activities in an incidental or even “supportive” manner, though nonetheless outside the scope of intended collaboration. Other examples of foreign influence activity include:

- Penetrating Information Technology (IT) safeguards to gain unauthorized access to research files;
- Misstating professional credentials and/or omitting home country affiliations for purposes of obtaining a visa to conduct research at the U.S. university;
- Otherwise diverting research results outside the scope of the university’s permission, including fundamental research concerning new or emerging technologies.

“Restricted Entities/Parties”

Entities (or persons) located anywhere in the world (including the U.S) identified by the U.S. Federal Government as threats to national security, U.S. trade policy, global nuclear and biologic safety, etc. These entities include certain foreign universities and non-academic research institutions. The U.S. Government publishes and updates the names of such entities and persons in the Federal Register on an ongoing basis. U.S. universities and research institutions are often solicited by Restricted Entities/Parties who wish to benefit from a research, education, or business relationship. In general, U.S. persons and institutions are prohibited from engaging in any export controlled transactions with a Restricted Entity/Party and, depending on the scope of restriction, engaging in financial and service-related transactions as well.

“Watch-listed Institutions: ASPI Unitracker”

The Australian Strategic Policy Institute’s (ASPI) University Tracker (Unitracker) is a database of Chinese institutions engaged in military or security-related science and technology research. It includes entries on nearly 100 civilian universities, 50 People’s Liberation Army institutions, China’s nuclear weapons program, three Ministry of State Security institutions, four Ministry of Public Security universities, and 12 state-owned defense industry conglomerates. Funded in part by the U.S. State Department, the ASPI Unitracker is considered an important and reliable intelligence tool by U.S. enforcement agencies in evaluating risks associated with engaging with ASPI watch-listed Chinese institutions. As such, many U.S. universities now utilize the Unitracker’s risk indices to evaluate existing and potential relationships with ASPI-listed entities, including for example fundamental research collaborations, academic exchanges and outside activity engagements by individual faculty members.

“Foreign Talent/Scholarship Programs”

Foreign talent programs are defined as programs in which you have been recruited by a foreign university, entity or government. The U.S. Department of Energy further defines foreign talent programs as “any foreign-state-sponsored attempt to acquire US scientific-funded research or technology through foreign government-run or funded recruitment programs that target scientists, engineers, academics, researchers, and entrepreneurs of all nationalities working or educated in the United States” (see Department of Energy (DOE) Order 486.1).

Impact on FIU faculty and personnel

First, it is important to recognize that Foreign Influence and research security concerns reflect a *global* risk. While federal enforcement efforts tend to focus on U.S. academic and research relationships with certain restricted or watch-listed Chinese institutions, the risk is more geographically diverse. This has been recognized by the pending State of Florida legislation citing numerous other countries of concern including Russia, Venezuela and the U. S. State Department’s List of State Sponsors of Terrorism.

Second, FIU's compliance program facilitates proactive screening of our institutional engagement partners against the published lists of restricted and watch-listed entities in order to avoid compliance concerns. Screening is accomplished through our Visual Compliance (VC) software, which is designed to detect potential and actual matches against the various watch lists in a matter of minutes. In the event that an entity becomes restricted or watch-listed subsequent to our initial screening, VC is set up to alert us to that entity's change in status. Nonetheless, we rely on our faculty and staff members to fully disclose international relationships when called upon to do so by our reporting processes and procedures so that screening can occur in a timely manner. Hence, compliance and due diligence toward addressing Foreign Influence and Research security concerns requires a proactive partnership among ORED, University Compliance and our faculty and staff community.

In the chart below, we indicate how FIU addresses scenarios of potential engagement with Restricted versus Watch-listed entities and parties. For purposes of this chart, the term "Prohibited" refers to FIU's *institutional* position with respect to these types of engagement from a Foreign Influence prevention and research security perspective. When an actual export of an item is also concerned, the term "Prohibited" also refers to the Federal Government's explicit export prohibition pursuant to applicable Federal laws and regulations. Please proactively consult this chart in the event that any of the scenarios apply to you now or in the future.

Please refer questions to:

William T. Anderson, PhD
Associate Vice President for Research
andersow@fiu.edu

Roberto M. Gutierrez
Assistant Vice President for Research
gutierrr@fiu.edu

International Engagements with Restricted/High Risk Parties

<i>Type of International Engagement</i>	<i>Restricted Party...</i>	<i>Watch-listed (ASPI) Party...</i>
Entering into a Memorandum of Understanding/Agreement with...	Prohibited	Case-by-case basis: with concurrence of Dean/Director of related unit and approval of the Provost and/or VP of Research.
Entering into a Material Transfer Agreement (MTA) or Non-Disclosure Agreement (NDA)	Prohibited	Prohibited
IP Agreements:		
• Spin-off entity will include a...	Prohibited	Prohibited
• Commercialization of IP with...	Prohibited	Prohibited
• Sharing proprietary business information with...	Prohibited	Prohibited
Sponsored Research or Service (re-charge) Agreements:		
• Sponsor is a...	Prohibited	Prohibited
• Subaward to...	Prohibited	Prohibited

<i>Type of International Engagement</i>	<i>Restricted Party...</i>	<i>Watch-listed (ASPI) Party...</i>
Individual Research collaboration (not requiring an FIU Agreement) where collaboration includes a fundamental research exchange of information: name of collaborating/affiliated international institution should proactively be referred to ORED or our Export Control Officer for screening to determine whether or not it is restricted or watch-listed.	Prohibited	Case-by-case basis: subject to review and approval by the VP for Research and the Export Control Officer.
Exporting any commodity, software, material, non-published information to...	Prohibited	Requires export control review and approval
Student exchange with...	Prohibited	Reviewed on a case by case basis
Teaching at a...	Prohibited	Reviewed on a case by case basis
Providing distance education to students at a...	Prohibited	Reviewed on a case by case basis
Exploratory travel/visit on official university business to a...	Prohibited	Reviewed on a case by case basis
Sabbatical (wholly or in part) at a...	Prohibited	Prohibited
Outside Individual (non-FIU) activity at a...	Regulatory guidance and institutional obligations communicated to FIU personnel, including potential grant disclosure consequences; personnel must execute a Foreign Activity Acknowledgement (FAA)* <i>prior to</i> commencing activity	
Donations/Gifts Agreements from a...	Prohibited	Prohibited
Active recruitment of students currently attending a...	Prohibited	Prohibited
Recruitment of personnel from a...	Prohibited	Prohibited
Visitors/Personnel on Campus (Assumes that the Individual is <u>not</u> a Restricted Party: under no circumstance would FIU petition for or support a visa on behalf of a person individually identified on any U.S. Government list.		
<ul style="list-style-type: none"> Employees [includes all individuals who are classified as “employees” regardless of visa type (e.g. H-1, O-1, J-1 postdoc, OPT, etc.) role, or paid/unpaid status] affiliated with... 	Requires a) Foreign Influence review prior to employment offer; b) case-by-case concurrence from Dean/Director of related unit, approval by Provost and VP of Research (when employment may involve/expose research); and c) employee execution of an FAA*	
<ul style="list-style-type: none"> Visiting Scholars [includes non-employees e.g. J-1 visa type] affiliated with... 	Prohibited	Reviewed on a case by case basis
<ul style="list-style-type: none"> Visiting Delegations [B Visa] affiliated with... 	Prohibited	Reviewed on a case by case basis

*When required, the FAA must be executed by all individuals engaging in the activity, regardless of nationality, citizenship, or institutional status.