

# Foreign Influence Update

Office of Research and  
Economic Development

# Agenda

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- Restricted Parties and ASPI Watch-listed Institutions
- International Engagement Matrix
- New Florida Statutes
- Federal Updates
- Export Controls Training & Website
- Questions

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# Restricted Entities/Parties

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- 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.
- The U.S. Government publishes and updates the names of such entities and persons in the Federal Register on an ongoing basis. FIU utilizes the Visual Compliance software tool to identify whether a party is a Restricted Entity/Party.
- FIU will not enter into any agreement or conduct business with any individual or entity on the restricted party list.

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# Watch-listed Institutions – ASPI Uni-tracker

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- The Australian Strategic Policy Institute's (ASPI) University Tracker (Uni-tracker) is a database of Chinese institutions engaged in military or security-related science and technology research.
- Funded in part by the U.S. State Department, and recommended by U.S. federal law enforcement agencies.
- Most agreements/collaborations with entities listed on the ASPI Uni-tracker list are prohibited. See resource section and review the International Engagement Matrix if you plan to engage with a foreign entity.

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# International Engagement Matrix: FIU Guidance for Allowable Collaborations

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# International Engagement Matrix

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- In Matrix we indicate how FIU addresses scenarios of potential engagement with U.S. Government-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 law and regulations.
- In some situations, engagement will require institutional review on a case-by-case basis.

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# International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party..	Watch-Listed (ASPI) Party...
Entering into a <b>Memorandum of Agreement/ Understanding</b> 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 <b>Material Transfer Agreement (MTA)</b> or <b>Non-Disclosure Agreement (NDA)</b>	Prohibited	Prohibited
<b>IP Agreements:</b>		
<ul style="list-style-type: none"> <li>• Spin-off entity will include a...</li> </ul>	Prohibited	Prohibited
<ul style="list-style-type: none"> <li>• Commercialization of IP with...</li> </ul>	Prohibited	Prohibited
<ul style="list-style-type: none"> <li>• Sharing proprietary business information with...</li> </ul>	Prohibited	Prohibited
<b>Sponsored Research or Service (re-charge) Agreements:</b>		
<ul style="list-style-type: none"> <li>• Sponsor is a...</li> </ul>	Prohibited	Prohibited
<ul style="list-style-type: none"> <li>• Subaward to a...</li> </ul>	Prohibited	Prohibited
<b>Individual Research Collaboration</b> (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 Export Control Officer for screening to determine whether or not participating entity is restricted or watch listed.	Prohibited	Case-by-case basis: with concurrence of Dean/Director of related unit and approval of the Provost and/or VP of Research.



# International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party...	Watch-Listed (ASPI) Party...
<b>Exporting</b> any commodity, software, material, non-published information to...	Prohibited	Requires export control review and approval
<b>Student exchange</b> with...	Prohibited	Reviewed on a case-by-case basis
<b>Teaching</b> at a...	Prohibited	Reviewed on a case-by-case basis
<b>Providing distance education</b> to students at a...	Prohibited	Reviewed on a case-by-case basis
<b>Exploratory travel/visit</b> on official university business to a...	Prohibited	Reviewed on a case-by-case basis
<b>Sabbatical</b> (wholly or in part) at a...	Prohibited	Prohibited
<b>Outside Individual</b> (non-FIU) activity at a....	Regulatory guidance an institutional obligations communicated to FIU personnel, including potential grant disclosure consequences; personnel must execute a Foreign Activity Acknowledgement (FAA)* <i>prior</i> to commencing activity	
<b>Donations/Gift Agreements</b> from a...	Prohibited	Prohibited
<b>Active recruitment of students</b> currently attending a...	Prohibited	Prohibited
<b>Recruitment of personnel</b> from a...	Prohibited	Prohibited





# International Engagement with Restricted/High Risk Parties

Type of International Engagement	Restricted Party...	Watch-Listed (ASPI) Party...
<p><b>Visitors/Personnel on Campus</b>                      (Assumes that the individual is not 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.)</p>		
<ul style="list-style-type: none"> <li><b>Employees</b> (includes all individuals who are classified as “employees” regardless of visa type (e.g. H-1, O-1, J-1 post doc, OPT, etc.) role, or paid/unpaid status) affiliated with...</li> </ul>	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); c) employee execution of FAA*	
<ul style="list-style-type: none"> <li><b>Visiting Scholars</b> (includes non-employees e.g. J-1 visa type) affiliated with...</li> </ul>	Prohibited	Reviewed on a case-by-case basis
<ul style="list-style-type: none"> <li><b>Visiting Delegations</b> (B-visa) affiliated with...</li> </ul>	Prohibited	Reviewed on a case-by-case basis
<p>* The <b>Foreign Activity Acknowledgement (FAA)</b> outlines federal and state regulations regarding export controls, trade compliance, and inappropriate foreign influence for institutional personnel. The FAA also outlines institutional policies regarding export controls, use of institutional property and devices, Conflicts of Interest, Conflicts of Commitment, sponsored research reporting, and other related requirements. When required, the FAA must be executed by all individuals engaging in the activity, regardless of nationality, citizenship, or institutional status.</p>		



# New Requirements from the State of Florida

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# New Florida Statutes

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1. F.S. 1012.977 – Reporting of Outside Activities and Financial Interests by FIU Employees engaged in sponsored research
2. F.S. 1010.36 – Foreign Travel; Research Institutions
3. F.S. 288.860 – International Cultural Agreements
4. F.S. 1010.35 – Screening Foreign Researchers

These statutes' requirements include significant changes to Outside Activity and Conflicts of Interest reporting, Foreign Source reporting, institutional review, approval, and disclosure of foreign travel/activities, prohibitions on contracting with certain foreign entities, and enhanced screening of certain potential employees with foreign citizenship and/or foreign employment/training.

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# F.S. 1012.977 – Requirements for Reporting Conflicts & Outside Activities

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## Requirements:

As of July 2020, the **State of Florida** *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.

## FIU's Response:

1. We revised the Outside Activity/Conflicts of Interest reporting system and associated policies and have provided Guidance related to reporting of outside activities and conflicts.
  - Per the H.R. Memorandum of February 12, 2021, **all faculty and staff are required to complete and submit an Outside Activity/Conflict of Interest (OA/COI) disclosure on an annual basis whether there is an activity to report or not or whenever there is a material change to a previous disclosure or new activity.**
  - Beginning with the 2020-2021 fiscal year reporting, the OA/COI disclosure process transitioned to PantherSoft.

The logo for Florida International University (FIU), consisting of the letters 'FIU' in a bold, black, sans-serif font.

## F.S. 1012.977 – FIU’s Response (continued)

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2. **Anyone Engaged in Externally Funded Research Activities:** the legislation requires that **any** FIU employee engaged in the design, conduct, or reporting of externally funded sponsored research for the University must disclose his/her outside activities and financial interests and receive a determination that those outside activities or financial interests do not affect the integrity of the University. That determination must occur before the activity begins.
3. **Anyone with Outside Affiliations with Foreign Universities, Entities, Governments and People:** Changes were made to the OA/COI Disclosure to include a question specifically about foreign affiliations/activities.

**Questions:** For additional information regarding outside activity/financial interest reporting for research including access to online training, please see the [Office of Research and Economic Development Conflict of Interest webpage](#)

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# Trainings Related to Changes in the OA/COI System

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- **Faculty Session:** This session is for all faculty and postdocs. It is strongly recommended that any employee who engages in sponsored research view this session. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-faculty>
- **Approvers' Session:** This session is for all department heads, business unit heads, and final approvers. This session covers approvers for both faculty and admin/staff with an emphasis on faculty submissions. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-approvers>
- **Admin/Staff Session:** This session is for all admin/staff. <https://develop.fiu.edu/browse/hr/courses/conflict-of-interest-webinar-for-admin-staff>

More trainings will be announced soon for additional enhancements to the OA/COI report questions

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# F.S. 288.860 -International Agreements

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## Requirement:

1. As of July 1, 2021, the university may not participate in any agreement with and/or accept a grant from a “foreign country of concern” (FCC)\* or from an entity controlled by a FCC which constrains the freedom of contract of the university, allows the curriculum or values of a program of the state to be directed or controlled by a FCC, or promotes an agenda detrimental to the safety or security of the US or its residents.
2. Prior to executing any international agreement with a FCC, the agreement must be shared with certain federal national security agencies.

## **FIU’s Response:**

Office of Global Affairs is in the process of ensuring that existing contracts and stated commitments are consistent with legislative objectives. In addition, ORED has implemented a required award Appendix form for all awards where the sponsor (prime or flow through) is NOT a U.S. federal, state, or local government entity, or where the award includes an entity in a FCC. This form will be initiated by the ORED representative and completed by the sponsor and/or entity.

- \* **Foreign Country of Concern (FCC):** currently includes China, Russia, Iran, North Korea, Cuba, Venezuela, and Syria (and any agency or other entity under significant control of such FCC).



# F.S. 1010.36-Requirements for International Travel & Monitoring

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## Requirement:

- By January 1, 2022, the university must implement a system that requires screening and pre-approval for all international travel and foreign activities for ALL faculty, researchers, and research department staff.
- The legislation also requires individual and institutional disclosure of certain travel-related activities and expenses.

## FIU's Response:

- The University maintains a robust travel authorization and approval system (via the TA in **PantherSoft**), which was previously expanded to include an Export Control review.
- In response to the new legislation, the TA will include, for all foreign travel, expanded questions prior to travel approval, expense disclosure requirements prior to receiving reimbursements, and new traveler acknowledgement requirements.
- Use of this system is now **MANDATORY** for all faculty, researchers, and research department staff **PRIOR** to commencement of travel.

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# F.S. 1010.35-Requirements for Screening in the Hiring Process and Visitors

## Requirements:

1. Extensive additional documentation\* and screening of certain applicants for research, research-related support positions or visiting researchers before hiring. These applicants include:
  - Individuals who are citizens of any foreign country and who are not permanent U.S. residents
  - U.S. citizens/permanent residents who have any affiliation with an institution or program in China, Russia, Iran, North Korea, Cuba, Venezuela, and/or Syria
  - U.S. Citizens/permanent residents who have been employed or received training for at least a year in China, Russia, Iran, North Korea, Cuba, Venezuela, and/or Syria
  - U.S. citizens/permanent residents employed by the U.S. government in one of the previously listed countries are exempt

### \* Additional Documentation Includes

- Every institution of higher education attended, whether or not listed on applicant's CV or resume
- All previous employment since applicant's 18th birthday
- A list of all published material
- A list of all current and pending research funding from any source, including details about the research, their role, funding source, and amount
- List and description of any non-university professional activities
- Any affiliation with an institution or program in a foreign country
- A complete copy of the applicant's passport
- Applicant's most recently submitted DS-160 (Online Nonimmigrant Visa Application)



# F.S. 1010.35 -FIU's Response

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## FIU's Response:

1. New document collection and screening protocols, as well as an expanded background check through a third-party provider conducted prior to clearance for hire or, if a non-paid visiting scholar, prior to the sponsorship of a visa.
2. Expanded checks are also being conducted for any individuals hired since 7/1/21 who may require additional background information and review.
3. Graduate Assistant (GA/RA/TA) is considered a research or research support position even though the individual may only be serving as a TA during a specific term.
4. Screening process for non-paid visiting researchers is being finalized.
5. New processes and training will be provided to the FIU community.

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# Federal Updates

- On Jan. 4, 2022, the Office of Science and Technology Policy (OSTP) issued “Guidance for Implementing National Security Presidential Memorandum 33 (NSPM-33) on National Security Strategy for United States Government-Supported Research and Development” (the “NSPM-33 Guidance”).
- The NSPM-33 guidance covers the following areas:
  - • Disclosure Requirements and Standardization
    - The NSPM-33 Guidance is the first step by OSTP to assist federal funding agencies in harmonization/standardization of disclosure and other requirements across all agencies.
    - The NSF has a table that provides information regarding pre and post award disclosure requirements in the biographical sketch and current and pending support proposal sections. The table also identifies where these disclosures must be provided in proposals as well as in project reports. The table is available at [https://www.nsf.gov/bfa/dias/policy/disclosures\\_table.jsp](https://www.nsf.gov/bfa/dias/policy/disclosures_table.jsp)
    - The NIH has a table that provides information regarding pre and post award disclosure requirements in the biosketch, other support, and annual project reports. The table is available at <https://grants.nih.gov/grants/forms/NIH-Disclosures-Table.pdf>
  - • Digital Persistent Identifiers (DPIs)
    - The NSPM-33 Guidance advises research funding agencies that they should permit the submission of required disclosures via a DPI service (e.g., ORCID) and outlines a potential process that researchers could follow if such a service is used.

# Federal Updates

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- • Consequences for Violation of Disclosure Requirements
  - NSPM-33 requires research funding agencies to ensure that they have appropriate and effective consequences for disclosure requirement violations and “engagement in other activities that threaten research security and integrity.” Consequences may include civil, criminal, or administrative sanctions/actions, and the NSPM-33 Guidance reminds agencies that potential criminal violations should be thoroughly investigated by inspector generals (IGs) or referred to appropriate units of the Department of Justice.
- • Information Sharing
  - NSPM-33 directed heads of agencies to share information with each other and with law enforcement agencies about individuals who violate disclosure requirements, participate in foreign government-sponsored talent programs (FGSTP) in violation of law/policy, or take part in activities that “clearly demonstrate an intent to threaten research security and integrity,” provided that such sharing is consistent with applicable law.
- • Research Security
  - NSPM-33 indicates that funding agencies should require research institutions that receive more than \$50 million per year in “Federal science and engineering support” to certify that the institution operates a research security program.
- Once federal agencies have finalized their responses to NSPM-33 then ORED will hold training on these updated requirements.



# Export Controls Training & Website

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- FIU will be launching 30-minute export control training modules
- The modules are as follows:
  - Export Controls Overview for Individuals Engaged in Research
  - Export Controls Overview for Individuals Engaged in Health/Life Science Research
  - Export Controls Overview for Institutional Administrators and Staff
- All members of the University community are encouraged to partake in the training module that is applicable to them, however the training will be mandatory for all personnel engaged in externally funded research projects.
- Additional details on the training modules and access will be communicated soon.
- There will be a new single Export Control website through the Office of Compliance

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# Additional Resources

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➤ Please refer questions to:

- William T. Anderson, PhD, Associate Vice President for Research: [andersow@fiu.edu](mailto:andersow@fiu.edu)
- Roberto M. Gutierrez, Assistant Vice President for Research: [gutierrr@fiu.edu](mailto:gutierrr@fiu.edu)

➤ The following web links provide helpful guidance related to foreign influence:

- **Export Control- Foreign Influence:** <https://exportcontrol.fiu.edu/export/topics/foreign-influence>
- **ORED Guidance Related to Foreign Influence:** <https://research.fiu.edu/guidance-regarding-foreign-influence-and-research/>
- **Conflicts of Interest website:** <https://research.fiu.edu/coi>
- **Export Control:** <https://exportcontrol.fiu.edu/>
- **ORED:** <https://research.fiu.edu/ored/>
- **UCI:** <https://compliance.fiu.edu/>
- **Global:** <https://global.fiu.edu/>
- **NSPM-33:** <https://www.cogr.edu/cogr-releases-summaries-nspm-33-disclosure-requirements-other-provisions>



# Questions



Thank you

