

Town Hall Meeting Update 2023

Foreign Influence Prevention & Research Security

Agenda

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2. Federal and State Regulations related to Foreign Influence Prevention
3. Researcher Security & Non-Discrimination
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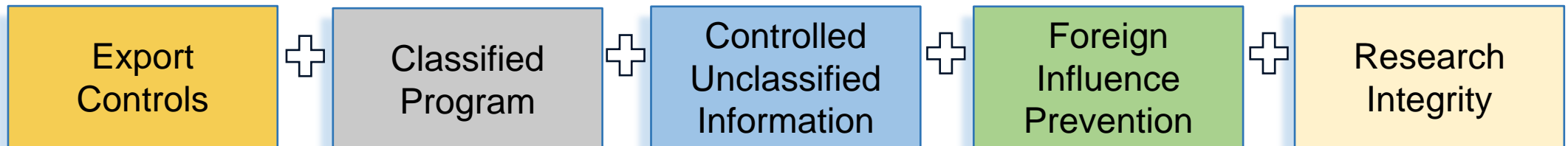
1. What is Foreign Influence Prevention?

- The term “foreign influence” concerns actions taken by international institutions to divert abroad U.S. taxpayer-funded research and resulting IP - - including for example: financial and logistical incentives to conduct U.S.-funded research abroad; IP penetration; visa fraud; undisclosed COI/COC relationships, and unauthorized access to computational resources.
- Foreign influence concerns have resulted in a number of high-profile investigations (including some leading to criminal prosecutions) across numerous U.S. research institutions.
- Many of these prosecutions involve fundamental, federally funded (U.S. taxpayer- funded) grant research, not necessarily export controlled/defense-sensitive research or even IP.

1. What is Foreign Influence Prevention?

- Both federal sponsors and the State of Florida have implemented multiple requirements related to the identification, review, and reporting of interactions that may result in inappropriate foreign influence.
- NSPM-33 (National Security Presidential Memorandum 33) and the extensive implementing Guidance issued this past year by the Congressional Subcommittee on Research Security will introduce a new level of complex disclosure requirements impacting FIU's research portfolio with respect to standardization of disclosure requirements, cybersecurity, international collaborations, information sharing, and consequences for violations.
- As outlined in NSPM-33, foreign influence prevention is one component of a broader research security program

KEY RESEARCH SECURITY COMPONENTS



2. Federal & State “Foreign Influence” Regulations

- NSPM-33 (January 2021)
- Federal sponsor requirements
- Florida Statutes:
 - F.S. 1010.35 – Screening Foreign Researchers
 - F.S. 1010.36 – Foreign Travel; Research Institutions
 - F.S. 1012.977 – Reporting of Outside Activities and Financial Interests by FIU Employees engaged in sponsored research
 - F.S. 288.860 – International Cultural Agreements
 - (Pending amendment) Senate Bill 846/ House Bill 679- would prohibit research agreements (including inter-institutional and individual collaborations) with foreign countries of concern, unless approved by the Florida State Board of Governors; potentially goes into effect 7/1/23- updates to follow.

3. Researcher Security & Nondiscrimination

- Foreign influence prevention strategies should not be targeted at foreign-national or foreign-born faculty.
- Institutional policies and procedures should apply to all institutional personnel regardless of citizenship and/or nationality.
- Foreign Interference poses as much of a threat to individual researchers as it does to institutional research.
- Examples:
 - Loss of intellectual property as an institutional asset may also represent the loss of an individual's life's work.
 - Foreign travel reporting requirements associated with research security also serve the dual purpose of protecting travelers in the case of a medical emergency, natural disaster, political unrest, terrorist attack, etc.

FIU affirms its commitment to ensuring that each member of the university community shall be permitted to work or study in an environment free from any form of illegal discrimination, including race, color, sex, pregnancy, religion, age, disability, **national origin**, marital status and veteran status. The university recognizes its obligation to work toward a community in which diversity is valued and opportunity is equalized.

4. FIU's Foreign Influence & Global Risk Task Force

Pursuant to the **Task Force Charter** set forth by President Rosenberg (December 2020), *“the Task Force [is] responsible for considering implementation of and monitoring best practices in countering foreign influence and protecting sensitive research.”*

Equally critical is the Task Force mandate to *“address these important issues in a proactive way that protects the academic freedom of our institution, the open nature of the research being performed on our campuses, our rich engagement with the world and our reputation as a welcoming place for the world’s most talented students and scholars.”*

- FIU's Foreign Influence & Global Risk Task Force is responsible for shepherding the University's overall strategy to address vulnerability to foreign influence threats across research, academic, and business operations.
- The Task Force is facilitated by University Compliance and is comprised of key institutional stakeholders,
- Task Force membership is comprised of leadership-level representatives from a wide variety of university functions. Members are tasked with not only developing university policy/procedures to address foreign influence, but also ensuring that recommendations are implemented accordingly.

5. Foreign Influence Prevention @ FIU

- Restricted & Watch-listed Entities/Parties
- International Collaborations
- Sponsored Research
- Conflicts of Interest & Commitment
- Hiring Procedures
- International Travel Review
- Gifts from International Entities/Persons
- Intellectual Property Protection
- Information Technology Protection
- Visitors to FIU

5a. Restricted & Watch-listed Entities/ Parties

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.
- 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.

Watch-listed Institutions/ ASPI Uni-tracker:

- 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**.

5b. International Collaborations/ Agreements

1. Under F.S. 288.860 (July 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.
 - (Pending amendment) Senate Bill 846/ House Bill 679- would prohibit research agreements (including inter-institutional and individual collaborations) with foreign countries of concern, unless approved by the Florida State Board of Governors; potentially goes into effect 7/1/23- updates to follow.
2. The Office of Global Affairs, ORED, and Office of General Counsel have implemented a process to evaluate international agreements to ensure compliance with Florida State requirements.

* **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).

5c. Sponsored Research

- Foreign entities may try to influence the course and outcome of research or gain IP in advance of publication. This form of direct influence may lead to **loss of IP** and **inappropriate influence** over forthcoming technology, as well as export control violations.
- Increasingly many federal sponsors require notification of **anticipated foreign national/entity involvement** in research (and/or post award involvement that had not been previously disclosed).
- FIU's Response:
 - ORED conducts **restricted party screening** on international program sponsors as well as industry partners to ensure that we do not inadvertently engage with entities that raise foreign influence concerns.
 - FIU has developed an **International Engagements with Restricted and High-Risk Parties Matrix** to inform potential engagements with international persons and entities in a variety of circumstances.
 - ORED has compiled information from **each federal sponsor** regarding Foreign Influence; this information may be found on the [ORED Foreign Influence webpage](#).
 - ORED is in the process of preparing for NSPM-33 requirements.

5d. Conflicts of Interest & Commitment

- U.S. researchers may be inadvertently vulnerable to influence by foreign entities when their outside activities with those entities confer personal benefit and/or conflict with their institutional duties.
- Many research sponsors and federal agencies mandate reporting on a variety of international extra-professional activities and international affiliations.
- 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 has revised the **Outside Activity/Conflicts of Interest** reporting system and associated policies and have provided Guidance related to reporting of outside activities and conflicts, including those pertaining to international activities. Individuals who must complete the OA/CI form include:
 - All FIU Faculty & Staff
 - Anyone Engaged in Externally Funded Research Activities
 - Anyone with Outside Affiliations w/ Foreign Universities, Entities, Governments and People

5e. Hiring Procedures

- F.S. 1010.45 requires extensive additional documentation and screening of certain applicants for research (including graduate assistants), 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
- FIU has established a foreign influence staff position in ORED to comply with the statutory requirements and help support expeditious review of applicants.
- FIU has implemented HR 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.

5f. International Travel Review

- Pursuant to F.S. 1010.36 and the pending NSPM-33, the university must have a system that requires screening and pre-approval for all international travel and foreign activities for ALL faculty, researchers, and research department staff.
- FIU maintains a robust travel authorization and approval system (via the TAR in **PantherSoft**), which includes the following for all foreign travel:
 - expanded questions prior to travel approval
 - expense disclosure requirements prior to receiving reimbursements
 - traveler acknowledgement requirements
 - an Export Control review.
- Use of this system is **MANDATORY** for all faculty, researchers, and research department staff **PRIOR** to commencement of travel.
- **All** FIU faculty, staff, students, and other personnel traveling abroad on FIU-sponsored trips, or for any international travel on behalf of FIU, are **required** to read and acknowledge their understanding of the **FIU Guidance for International Travel**.

5g. Gifts from International Entities/Persons

- Gifts or other forms of in-kind support could potentially become a vehicle for foreign influence, to the extent that there are “soft deliverables” involved - i.e., informal, informational exchange opportunities with the donor concerning research results associated with the gift.
- In addition to sponsor Conflicts reporting requirements, Higher Education Act (HEA) Section 117 reporting requirements also apply to gifts received from a foreign source. FIU complies with all HEA 117 disclosure requirements concerning foreign source gifts and funding.
 - For purposes of proposal submissions, ORED has enhanced its data gathering and verification processes to capture international forms of support which a PI receives (whether directly related or unrelated to the proposal submission.)
 - Conflict of Interest and Conflict of Commitment disclosures processes have been enhanced to capture potentially relevant data points.

5h. Intellectual Property Protection

- The U.S. Government is concerned about transfers of U.S. government-funded or internally funded export sensitive intellectual property that may be transferred directly to international parties or indirectly through commercialization programs.
- Commercial licensing of university-patented IP triggers requires restricted party screening requirements to ensure that the transaction does not result in the transfer of technology to a party listed on the on one of the U.S. Government's restricted party lists.
- The Technology Management and Commercialization department within ORED coordinates Invention Disclosure and NDA reviews with our Export Control department as needed and routinely conducts restricted party screening on new commercial licensees.
- FIU Global and The Office of General Counsel review all international agreements that concern incoming investment or contribution that could potentially result in an outbound technology transfer or sharing.

5i. Information Technology Protection

- Illegal penetration of IT networks and systems to obtain proprietary and, in some cases, sensitive IP continues to be a highly significant concern for both U.S. Government agencies and industry partners. Scenarios of concern include:
 - Unqualified or unreviewed permission to gain remote international access to university servers;
 - Receipt of software programs from international sources that enable data penetration;
 - Laptops used in international travel (containing proprietary data);
 - Data security requirements associated with federal defense and DOE contracts.
- FIU deploys a number of “best-in-class” safeguards to protect the university’s information technology systems at the central IT level as well as at the College and administrative unit levels.
- FIU Export Control coordinates closely with the Information Security Office within the Division of Information Technology to implement federal-mandated security controls pertaining to export- controlled data and data which is subject to NIST 800-171 requirements (Controlled Unclassified Information – CUI).

5j. Visitors to FIU

- In certain cases, international visitors may, by virtue of their home-country affiliations, present undue foreign influence and research security concerns.
 - This may occur, for example, when the affiliated home country institution is a U.S. Government restricted or watch-listed entity or organization.
- FIU hosts many different visa categories of international visitors for academic and research objectives; the university fully supports opportunities for international visitors to participate in our degree programs, while remaining mindful of instances where foreign influence could be at issue.
- In the event that a particular situation involving an international visitor indicates a potential foreign influence issue, FIU's evaluating team comprised of representatives from ORED, University Compliance, FIU Global and the Provost's office (among other functions) will review and determine whether the activity or transaction can proceed.
- Hosts of proposed international visiting delegations or other business visitors should refer to the International Guests and Delegation Visit Compliance Office Review, accessed on the FIU Global webpage.

6. Upcoming Challenge: NSPM-33

- **WHAT IS IT?** NSPM-33 is a directive from the President requiring all federal research funding agencies to strengthen and standardize disclosure requirements for federally funded awards. In addition, it also mandates the establishment of research security programs at major institutions receiving federal funds.
- NSPM-33 directs a series of actions for Federal research agencies, with an emphasis on developing standardized policies and practices for disclosing information to assess conflicts of interest and conflicts of commitment among researchers and research organizations applying for Federal R&D awards.

6. Upcoming Challenge: NSPM-33

*NSPM-33 requires a certification from research organizations awarded in excess of \$50 million per year in total Federal research funding that they have implemented a research security program that includes the **four elements** highlighted in NSPM-33:*



CYBERSECURITY



RESEARCH SECURITY TRAINING



FOREIGN TRAVEL SECURITY



EXPORT CONTROL TRAINING

7. CHIPS+SCIENCE RESEARCH SECURITY PROVISIONS

Law enacted to, among other things, ensure the US “maintains and advances its scientific and technological edge”

SEVERAL RESEARCH SECURITY PROVISIONS INCLUDING:

- Prohibition of awards to individuals in a “malign foreign talent recruitment program”
- Requirement to establish a Research Security and Integrity Information Sharing and Analysis Organization
- Research security training requirement for all covered personnel; OSTP to issue guidelines for universities to develop research security training programs
- Inclusion of research security training as part of Responsible and Ethical Conduct of Research training
- Reporting on foreign financial transactions and gifts of \$50k or more
- Prohibition of Confucius Institutes

7. CHIPS+SCIENCE RESEARCH SECURITY PROVISIONS

- For qualifying research organizations such as FIU, institutions will have one year from date of issuance of formal security program requirements to comply.
- Draft Research Security Program requirements were issued in February 2023, and full implementation is expected to take place in mid- to late 2023.
- NSF is working on standardized training modules that will be required to be taken by all key personnel.

8. Where Do I Go for Help?

➤ **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
- Jennifer Perez, Foreign Influence Manager, Research Integrity (ORED): jeperez@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>

➤ **Coming Soon:** the FIU Foreign Influence Prevention website will be live and will have information on relevant foreign influence topics, forms, procedures, and FAQs.



Thank You!