



# FEDERAL DEMONSTRATION PARTNERSHIP

Redefining the Government & University Research Partnership

## Implementation and Harmonization of Foreign Influence Requirements

### Speakers:

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**Moderators:** Jim Luther (Duke) & Pamela Webb (Minnesota)

(May 20, 2019: 2:20 p.m. – 3:35 p.m., Empire Ballroom)



# Session Description

- This session will provide information on the latest guidance from key federal agencies related to national security and foreign influence in research. In addition to providing individual agencies' guidance, discussion will include the status of and opportunities for potential harmonization across agencies. Key items for discussion will include such topics as other support, foreign components, proposal and progress report requirements, inappropriate sharing of data and IP, and funding/scientific/commitment overlap. Assessing the benefit of potential requirements along with the administrative burden on grantees will also be discussed.



# Context and The Issue

## The Issue

➔ Foreign “relationships” regardless of \$’s, need to be considered for management & appropriate disclosure in grant documents

## Critical Contextual Points

### Primary Focus

- ➔
- “Intellectual Property”, Peer Review Process, Overlap (Scientific, Financial, & Commitment) Disclosure
- ➔
- **Complex and Differing Perspectives**

*“Intellectual property” also includes pre-publication data and sensitive information*



# Foreign Influence – Issues & Concerns

- Congress and the FBI are concerned that US knowledge and “intellectual property” are being shared illicitly and illegitimately to benefit foreign powers.
  - Foreign entities are stealing “intellectual property” via facilitating impermissible sharing of (unfunded) grant proposals, plagiarism, sharing of information in US patent applications, and foreign citizens illicitly taking data from US labs
- Investigators are not properly & completely reporting their research support from foreign entities to their US funding agencies, resulting in undisclosed foreign financial conflicts/conflicts of commitment
- Foreign governments are using certain foreign students and scientists as “non-traditional collectors” of “intellectual property”
- Foreign governments are requiring/incentivizing their students and investigators to bring knowledge/data back from US to continue work in the foreign country

***“Intellectual property” also includes pre-publication data and sensitive information***



# Specifics starting to pop up ...

- **National Defense Authorization Act for CY2019 (NDAA): SEC. 1286. “Initiative to support Protection of National Security Academic Researchers from Undue Influence and other security threats”**
  - (1) to support protection of intellectual property, controlled information, ...relevant to national security
  - (2) to limit undue influence, including through foreign talent programs...
  - (3) to support efforts toward development of domestic talent...
- **DOD** is running a *Research Protection Initiative Pilot Program* that involves 6 universities to collect data about individuals working on DOD projects (including students) and specifies what DOD will and won't do with the data collected.
- **DOE** was instructed to add new requirements that prohibit our researchers from being involved now or in the future with foreign talent recruitment programs. Implementing this first at DOE labs and then we'll see a new requirement (probably for screening/reporting) in our grants.
- **NIH** is sending out specific faculty/institution specific letters and expected to update its “Other Support” requirements (via NIH Guide Notice); OIG audits underway
- **NSF** responded to Senator Grassley's April letter on what actions they are taking and what screening they are doing to prevent or investigate theft of IP and data;
  - OIG audits underway
- **AAU/APLU** 4/22/19 letter to University Presidents re: responses to foreign threats
- **MD Anderson** fires 3 scientists for alleged violations - 4/24/19



# NIH → Foreign Influence

## What is a foreign component?

The performance of any **significant** scientific element or segment of a project **outside** of the United States... whether or not grant funds are expended. Activities that would meet this definition include, but are not limited to:

- The involvement of human subjects or animals,
- Extensive foreign travel... data collection, surveying, sampling, & similar activities, or
- Any activity of the recipient that may have an impact on U.S. foreign policy.

**Examples** of other grant-related activities that may be significant are:

- Collaborations with investigators at a foreign site anticipated to result in co-authorship;
- Use of facilities or instrumentation at a foreign site; or
- Receipt of financial support or resources from a foreign entity.

Harmonization?