



# COUNTERINTELLIGENCE AWARENESS BULLETIN

## *Professor and Researcher Indicted on False Statements Conflicts of Interest (COI) Policies*

**COUNTERINTELLIGENCE MISSION:** Our mission at the Argonne Regional Field office (ARFO) of Department of Energy's (DOE) Office of Intelligence and Counterintelligence (CI) is to provide CI support to Argonne, Fermilab and Ames DOE facilities; to protect DOE and the National Nuclear Security Administration (NNSA) from foreign intelligence and terrorist activity; to provide leadership to the intelligence community and to investigate national security crimes and related incidents that impact DOE equities, its personnel, information, material, facilities, and activities.

### **SCHEME TO DEFRAUD NIH**

#### **FALSE STATEMENTS**

On December 15, 2020, a former University of Florida professor and researcher, Lin Yang, was indicted. Yang was charged with six counts of wire fraud and four counts of making false statements to an agency of the United States. According to the Department of Justice, Office of Public Affairs, Yang fraudulently obtained \$1.75 million in federal grant money from the National Institutes of Health (NIH) by concealing funding he received from the Chinese government as well as a company that he founded in China to profit from that research.

**Justice Department's National Security Division, Assistant Attorney General John C. Demers stated, "Transparency about foreign funding sources allows federal agencies to allocate finite resource fairly. Transparency about foreign government affiliations, like business affiliations, allows the research community and the American people to assess any impact on the integrity of the research."**

According to the indictment, Yang, 43, who resided in Tampa, Florida, intentionally deceived the University of Florida and the federal government to obtain over one million dollars in research funding. Yang received NIH grant money to develop and disseminate an imaging informatics tool for muscles. As the principal investigator for the NIH grant at the University of Florida, he was mandated to disclose any foreign research support and financial conflicts of interest, including his ownership of, or interest in, a foreign company. Yang, owner of a Chinese business whose products he claimed were the result of years of research funded by the US government, applied for and was accepted into the People's Republic of China's Thousand Talents Program (TTP).

The indictment states Yang intentionally withheld his conflicts of interest and other support in connection with his foreign business and his affiliation with the TTP in order to maintain

#### **POTENTIAL CI INDICATORS**

##### **UNUSUAL BEHAVIOR SUCH AS:**

- Unexplained affluence; buys things that they cannot afford on their household income.
- Engages in suspicious personal contacts, such as with competitors, business partners or other unauthorized individuals.
- Unreported foreign contacts (particularly with foreign government officials or intelligence officials) or unreported overseas travel.
- Short trips to foreign countries for unexplained or strange reasons.
- Without need or authorization, takes proprietary or other material home via documents, thumb drives, computer disks, or e-mail.
- Remotely accesses the computer network while on vacation, sick leave, or at other odd times.

his employment with the University of Florida and continue receiving the grant money.

**The indictment alleges Yang submitted disclosures on multiple occasions to the NIH which contained false statements and material omissions concerning his affiliations and research endeavors with a foreign government and company.**

In August of 2019, Yang traveled to China and has not yet returned to the United States. Additional information regarding this case, can be found at:

<https://www.justice.gov/opa/pr/former-university-florida-researcher-indicted-scheme-defraud-national-institutes-health-and>



## CONFLICTS OF INTEREST (COI) POLICIES

When we think of Counterintelligence (CI) concerns, conflicts of interest (COI) are not something that typically comes to mind. However, in the past few years we have seen a rise in the amount of COIs that have come into question. Recent high-profile cases, such as Harvard University's former Chemistry and Chemical Biology Department Chair, Dr. Charles Lieber, is one example of this recent focus by authorities on whether researchers are disclosing COI. Why have COI become a focus?

Research funding organizations, such as federal agencies, want to ensure that the research being conducted is, among other things, free of bias such as foreign influence. One such mechanism often used to address potential foreign influence is a COI policy. This policy can require a researcher to disclose, for example, foreign affiliations. Although a COI can be an effective tool, as a researcher, it can be confusing as there is no uniformity among federal agencies and none officially address what constitutes a non-financial conflict of interest.

In October 2021, the Director of Science, Technology Assessment, and Analytics testified before the Subcommittees on Investigations and Oversight and Research and Technology, Committee on Science, Space, and Technology, House of Representatives, on challenges the research community faces in combatting undue foreign influences while maintaining an open research environment that encourages collaboration and free exchange of ideas. The testimony was based on a 2020 report issued by the General Accounting Office (GAO) which had conducted federal research that found the National Science Foundation (NSF), the National Institutes of Health (NIH) and the National Aeronautics and Space Administration (NASA) all have COI policies, but that they differ from agency to agency. In addition, although NSF and NIH officials expect researchers to disclose all financial interests, domestic and foreign, it is not explicitly stated in their policy. Further, the Department of Defense (DOD) and the Department of Energy (DOE) have no agency-wide COI Policy. However, all the aforementioned agencies have procedures in place to monitor and enforce COI policies and requirements.

As a researcher then, where does that leave you? Well, here's the good news. On January 14, 2021, the National Security Presidential Memorandum 33 (NSPM-33) was issued which "directed agency actions to strengthen protections of U.S. government supported research and development against foreign government interference and exploitation." This document, coupled with the JCORE Subcommittee on Research Security's, *Recommended Practices for Research Organizations Regarding Research Security and Integrity* document, provide strong guidance, and similar definitions on,

conflicts of interest. Further, the Office of Science and Technology Policy (OSTP) is developing implementation guidance for NSPM-33. Together, these documents should provide better direction to the above five agencies affording them the ability to give researchers the guidance they need to abide by their regulations and expectations when applying for federal funding. In turn, this may drive some updating of institutional COI policies as well.

### WHAT'S THE DIFFERENCE?

**FINANCIAL CONFLICT OF INTEREST** - a situation in which an individual, or individual's spouse or dependent children, has a financial interest or financial relationship that could directly and significantly affect the design, conduct, reporting, or funding of research. For example:

- Foreign research activity (Thousand Talents Program)

**NON-FINANCIAL CONFLICT OF INTEREST** - A situation in which an individual accepts or incurs conflicting obligations between or among multiple employers or other entities. Many institutional policies define conflicts of commitment as conflicting commitments of time and effort, including obligations to dedicate time in excess of institutional or funding agency policies and commitments. For example:

- Performing the same research for both the US and a foreign government

**OTHER TYPES OF CONFLICTING OBLIGATIONS** - including obligations to improperly share information with, or to withhold information from, an employer or funding agency, can also threaten research security and integrity, and are an element of a broader concept of conflicts of commitment.

Until then, we encourage you to be familiar with your institution's COI policy requirements. If you have questions about COI or foreign affiliations, contact your Legal Department. At Ames, questions can be directed to Kyle Dagestad, email [kdag@ameslab.gov](mailto:kdag@ameslab.gov).

### HAVE A CI RELATED QUESTION OR CONCERN?

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