



BROWN

NASA: Participation, Collaboration, and Coordination

A Focus on Special Restrictions

Office of the VP for Research and Office of General Counsel

Fall 2023

Topics

- The Wolf Amendment
- The Foundational Four Cs of Compliance
- Q & A

2011 Wolf Amendment

PUBLIC LAW 112-55—NOV. 18, 2011

125 STAT. 639

respective department or agency head, to the Committees on Appropriations of the House of Representatives and the Senate within 45 days after the date of enactment of this Act.

SEC. 539. (a) None of the funds made available by this Act may be used for the National Aeronautics and Space Administration (NASA) or the Office of Science and Technology Policy (OSTP) to develop, design, plan, promulgate, implement, or execute a bilateral policy, program, order, or contract of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company unless such activities are specifically authorized by a law enacted after the date of enactment of this Act.

(b) The limitation in subsection (a) shall also apply to any funds used to effectuate the hosting of official Chinese visitors at facilities belonging to or utilized by NASA.

(c) The limitations described in subsections (a) and (b) shall not apply to activities which NASA or OSTP have certified pose no risk of resulting in the transfer of technology, data, or other information with national security or economic security implications to China or a Chinese-owned company.

(d) Any certification made under subsection (c) shall be submitted to the Committees on Appropriations of the House of Representatives and the Senate no later than 14 days prior to the activity in question and shall include a description of the nature of the activity, its major participants, and its location.

SEC. 540. (a) The head of any department or agency or any commission funded by this Act shall submit to the Inspector General, or the senior official designated by the Inspector General, an inspector general report

China.

Applicability.

Certification.

Deadline.

No funding from NASA may be used to **“develop, design, plan, promulgate, implement, or execute a bilateral policy, program, order, or contract of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company,”** unless specifically authorized by law

Certifications

Annual Certification ¶ C1; NSPIRES Proposal Cover Sheet

By submitting the proposal identified in the Cover Sheet/Proposal Summary in response to this Research Announcement, the Authorizing Official of the proposing organization (or the individual proposer if there is no proposing organization) as identified below:

- certifies that the statements made in this proposal are true and complete to the best of his/her knowledge;
- agrees to accept the obligations to comply with NASA award terms and conditions if an award is made as a result of this proposal; and
- confirms compliance with all provisions, rules, and stipulations set forth in this solicitation.

Willful provision of false information in this proposal and/or its supporting documents, or in reports required under an ensuing award, is a criminal offense

NASA Proposer's Guide § 2.16, Current and Pending Support

PIs and Co-PIs also shall list any current and pending support with China, including Chinese universities and other similar institutions or a Chinese-owned company at the prime recipient level and at all subrecipient levels, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

NASA Annual Certification ¶ C2; Grant Cooperative Agreement Manual (GCAM) § 5.4, App'x A

By submission of its proposal, the proposer represents that the proposer is not China or a Chinese-owned company, and that the proposer will not participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange-of-funds basis.

Potential Consequences of Non-Compliance

Internal Penalties	<ul style="list-style-type: none">• University-level ramifications for non-compliance with Brown policy• Potential impact to application of Employee Defense and Indemnification Policy
Award Term & Ineligibility	<ul style="list-style-type: none">• Award or project termination• Debarment/suspension (individual or institution)
Statutory Liability	<ul style="list-style-type: none">• False Claims Act<ul style="list-style-type: none">○ Damages and fines○ Criminal liability• Individual liability
Reputational Risk	<ul style="list-style-type: none">• Bad press; national headlines• Negative impact on researcher's reputation

Recent Enforcement

The Washington Post

HIGHER EDUCATION

Stanford fined over nondisclosure of foreign funds

U.S. says researchers didn't tell of support some faculty members received from overseas

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of the Army (Army), the Department of the Navy (Navy), the Department of the Air Force (Air Force), the National Aeronautics and Space Administration (NASA), and the National Science Foundation (NSF) (collectively, the United States); and The Board of Trustees of the Leland Stanford Junior University (Stanford), through their authorized representatives.

l be referred to as "the Parties."

RECITALS

ate university in Palo Alto, California that receives research
avy, Air Force, NASA, and NSF.

s contends that it has certain civil claims against Stanford

from false claims submitted by Stanford to Army, Navy, Air Force, NASA, and NSF between
July 2015 and December 2020 based on the following alleged conduct:

- (1) Stanford, despite requirements to do so, failed to disclose to Army, Navy, N
and NSF current and pending support from foreign sources for eleven Stanford faculty mem
who were principal investigators (PI) or co-PIs on the federal research grant proposals liste
Exhibit A from which Stanford received funding (collectively, the Subject C
- (2) Stanford failed to disclose affiliations with and/
a public university in China, and the National Nat
connection with a Stanford professor



PRESS RELEASE

Stanford University Agrees to Pay \$1.9 Million to Resolve Allegations That it Failed to Disclose Foreign Research Support in Federal Grant Proposals

Monday, October 2, 2023

Share >

For Immediate Release

Office of Public Affairs

Stanford University, located in Palo Alto, California, has agreed to pay \$1.9 million to resolve allegations that it violated the False Claims Act by submitting proposals for federal research grants that failed to disclose current and pending support that 12 Stanford faculty members were receiving from foreign sources.

The settlement relates to research grants that Stanford received between 2015 and 2020 from five federal agencies: the Departments of the Army, Navy and Air Force, the National Aeronautics and Space Administration (NASA) and the National Science Foundation (NSF). All

Recent Enforcement

AO 91 (Rev. 11/11) Criminal Complaint

unsealed 8/23 per arrest
 Sealed
 Public and unofficial staff access
 to this instrument are
 prohibited by court order

UNITED STATES DISTRICT COURT
 for the
 Southern District of Texas

United States Courts
 Southern District of Texas
 FILED

August 20, 2020

David J. Bradley, Clerk of Court

United States of America
 v.
 Zhengdong Cheng

Case No. 4:20mj1511

Defendant(s)

TRUE COPY I CERTIFY
 ATTEST: August 20, 2020
 DAVID J. BRADLEY, Clerk of Court
 By: *David J. Bradley*
 Deputy Clerk

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of April 2013 until present in the county of Brazos in the
Southern District of Texas, the defendant(s) violated:

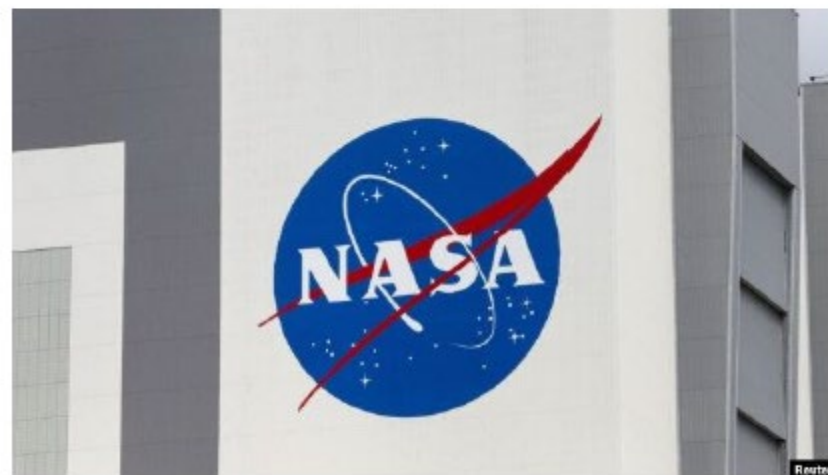
Code Section	Offense Description
18 U.S.C. 1343	Wire Fraud
18 U.S.C. 1001	False Statement
18 U.S.C. 371	Conspiracy



USA

Professor, NASA Researcher Pleads Guilty in China Ties Case

September 23, 2022 8:49 PM Associated Press



FILE - The NASA logo is seen at Kennedy Space Center ahead of the NASA/SpaceX launch of a commercial crew mission to the International Space Station in Cape Canaveral, Florida, April 16, 2021.

HOUSTON — A NASA researcher and Texas A&M University professor pleaded guilty to charges related to hiding his ties to a university created by the Chinese government while accepting federal grant money.

Zhengdong Cheng pleaded guilty to two counts — violation of NASA regulations and falsifying official documents — during a hearing in Houston federal court Thursday.

Indemnification Policy

Brown University . . . shall defend a **Qualified Employee** . . . for duties performed while serving in a **Covered Role**,
provided that their actions are within the scope of their Covered Role, are made in good faith, and are in the best interests of the University

Employee Defense and Indemnification Policy

POLICY NO.	ISSUE DATE	EFFECTIVE DATE
01.50.03	September 16, 2022	September 16, 2022

1.0 Policy Purpose

The purpose of this policy is to memorialize Brown University's established practice of defending and indemnifying a Qualified Employee acting in a Covered Role against lawsuits, claims and other proceedings brought against them individually or in their official capacities for acts or omissions in the course of serving in a Covered Role and the conditions for University approval.

2.0 To Whom the Policy Applies

This policy applies to Qualified Employees (current and former employees) as defined below.

3.0 Policy Statement

Brown University, to the extent legally permissible, shall defend a Qualified Employee against all liabilities and reasonable expenses incurred in connection with the defense or disposition of any civil or criminal action, suit, or proceeding in which they may be involved or with which they may be threatened for duties performed while serving in a Covered Role, provided that their actions are within the scope of their Covered Role, are made in good faith, and are in the best interests of the University, unless an exception applies as stated in this policy.

3.1 University Direction of Defense

The Foundational Four Cs of Compliance

Cover Page

- Special attention:
- Section V: Team Members
 - Section VIII: International Collaboration
 - Section IX: Program Specific Data (Q14, Q18)

Credentials: Biographical Sketch

- PIs (max 2 page)
 Co-I's (max 1 page)
 Collaborators-may be included, not required (max 1 page)



Current and Pending

Required for PI and funded team members who would devote >10% of their time in any given year to the proposed work

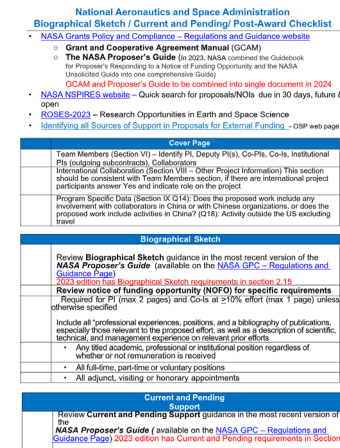
All ongoing and pending projects and proposals regardless of salary support

All PI's and CO-PIs, must list any current and pending support with China, including Chinese Universities or similar institution or a Chinese owned company at the prime and subrecipient levels whether the bilateral involvement is funded or performed under no-exchange of funds arrangement.

Conflict of Interest (COI)

New NASA Policy Dec 1, 2023
 Significant Financial Interest (SFI) disclosures at submission
 Updated with any new SFI

Full Checklist



National Aeronautics and Space Administration
 Biographical Sketch / Current and Pending/ Post-Award Checklist

- [NASA Grants Policy and Compliance - Regulations and Guidance website](#)
 - [Grant and Cooperative Agreement Manual \(GCAM\)](#)
 - [The NASA Proposer's Guide](#) (In 2023, NASA combined the Guidebook for Proposer's Responding to a Notice of Funding Opportunity and the NASA Unsolicited Guide into one comprehensive Guide)
 - [GCAM and Proposer's Guide to be combined into single document in 2024](#)
- [NASA NSPIRES website](#) - Quick search for proposals/NOIs due in 30 days, future & open
- [ROSES-2023](#) - Research Opportunities in Earth and Space Science
- [Identifying all Sources of Support in Proposals for External Funding](#) - OSP web page

Cover Page
Team Members (Section VII) - Identify PI, Deputy PI(s), Co-PIs, Co-Is, Institutional PI(s) (outgoing subcontract), Collaborator, International Collaborator (Section VII) - Other Project Information This section should be consistent with Team Members section, if there are international project participants answer "Yes" and indicate role on the project
Program Specific Data (Section IX D14): Does the proposed work include any involvement with collaborators in China or with Chinese organizations, or does the proposed work include activities in China? (C14): Activity outside the US including travel
Biographical Sketch
Review Biographical Sketch guidance in the most recent version of the NASA Proposer's Guide (available on the NASA GPC - Regulations and Guidance Page)
Click within the Biographical Sketch requirements in section 2.18.
Review notice of funding opportunity (NOFO) for specific requirements
Required for PI (max 2 pages) and Co-Is at 2:10% effort (max 1 page) unless otherwise specified
Include all "professional experiences, positions, and a bibliography of publications, especially those relevant to the proposed effort, as well as a description of scientific, technical, and management experience on relevant prior efforts." <ul style="list-style-type: none"> • Any filled academic, professional or institutional position regardless of whether or not remuneration is received • All full-time, part-time or voluntary positions • All adjunct, visiting or honorary appointments
Current and Pending Support
Review Current and Pending Support guidance in the most recent version of the NASA Proposer's Guide (available on the NASA GPC - Regulations and Guidance Page) 2023 edition has Current and Pending requirements in Section

PRC FAQ for ROSES |
Science Mission Directorate

New NASA COI Policy: Dec 1, 2023

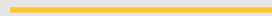
“A situation in which an investigator, or the investigator’s spouse or dependent children, has a significant financial interest that could directly and significantly affect the design, conduct, or reporting of the NASA funded research.”

Key Points:

- Includes principal investigator, project director, and any other person, regardless of title or position, including subawards.
- Financial Interests must be disclosed to Brown at the time of proposal submission.
- Updated annually or with any new SFI.
- Prior to the expenditure of any NASA funds, Brown will review and determine if a Conflict of Interest exists and how it will be managed, reduced or eliminated
 - Any conflicts that cannot be managed, reduced or eliminated must be reported to NASA.



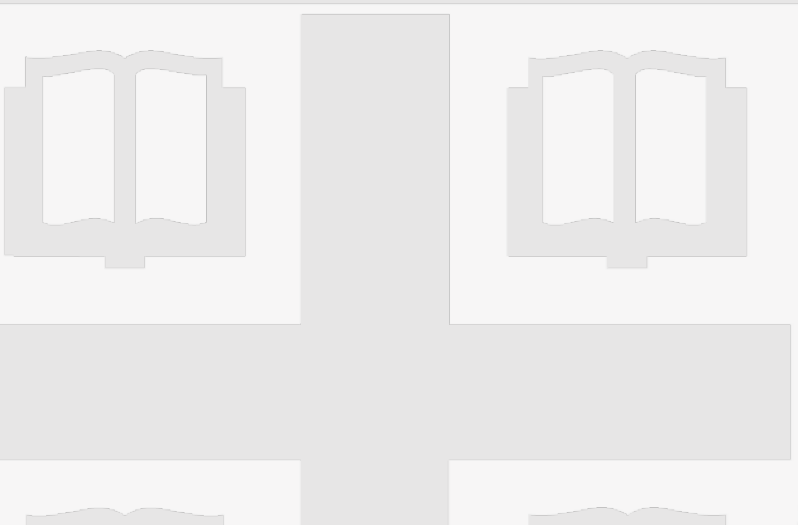
Questions



Contacts

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 - Associate VP | Office of the VP of Research | 401-863-9322
- Patrice A. Carroll Patrice_Carroll@brown.edu
 - Sr. Director | Office of Sponsored Projects | 401-863-3141
- Jules Blyth Juliane_Blyth@brown.edu
 - Sr. Director | Office of Research Integrity | 401-863-3295
- Anonymously via [EthicsPoint](#)





Appendix A

Proposer's Guide References

1. ELIGIBILITY

1.1 Eligibility Requirements and Restrictions

Proposer's Guide

National Aeronautics and Space Administration

Office of Procurement
Procurement Management and Policy Division
Grants Policy and Compliance

Version Release Date: February 14, 2023

Version Effective Date: February 28, 2023

There are special restrictions on NASA regarding the People's Republic of China. In accordance with [section 526 of Public Law 117-103 and all subsequent appropriations acts](#), NASA is prohibited from funding any work that involves the bilateral participation, collaboration, or coordination with China or any Chinese-owned company or entity, at the prime recipient level or at any subrecipient level, whether funded or performed under a no-exchange-of-funds basis. Accordingly, proposals shall not include bilateral participation, collaboration, or coordination with China or any Chinese-owned company or entity, whether funded or performed under a no-exchange-of-funds basis. Proposals involving bilateral participation, collaboration, or coordination in any way with China or any Chinese-owned company, whether funded or performed under a no-exchange-of-funds basis, will be ineligible for award.

2.2.1 Special Restrictions for Non-U.S. Organizations

- In general, per 2 CFR 1800.3, Applicability, research with foreign organizations will not be conducted through grants or cooperative agreements. Typically, NASA conducts research with non-U.S. organizations on a cooperative, no-exchange-of-funds basis. Although Co-Investigators (Co-Is) or Collaborators employed by non-U.S. organizations may identify themselves as part of a proposal submitted by a U.S. organization, NASA funding does not normally support research efforts by non-U.S. organizations and Collaborators at any level, including travel by investigators at non-U.S. organizations. This policy pertains to the nature of the proposing organization and not the nationality or citizenship of the individuals listed in the proposal. However, the direct purchase of supplies and/or services, which do not constitute research, from non-U.S. sources with NASA-awarded funds is permitted.
- In accordance with China restrictions set forth in section 526 of [PL 117-103](#), and all applicable subsequent appropriations acts, NASA is prohibited from funding any work that involves the bilateral participation, collaboration, or coordination with China or any Chinese-owned company or entity, at the prime recipient level or at any subrecipient level, whether funded or performed under a no-exchange-of-funds basis. Accordingly, proposals shall not include bilateral participation, collaboration, or coordination with China or any Chinese-owned company or entity, whether funded or performed under a no-exchange-of-funds basis. Proposals involving bilateral participation, collaboration, or coordination in any way with China or any Chinese-owned company, whether funded or performed under a no-exchange-of-funds basis, will be ineligible for award.

Proposer's Guide

National Aeronautics and Space Administration

Office of Procurement
Procurement Management and Policy Division
Grants Policy and Compliance

Version Release Date: February 14, 2023

Version Effective Date: February 28, 2023

2.16 Current and Pending Support

PIs and CoPIs shall provide all ongoing and pending projects and proposals (regardless of salary support) in which they are performing or will perform any part of the work. Co-Is proposing to spend 10 percent or more of their time in any given year to the proposed effort shall provide a list of ongoing and pending projects and proposals (regardless of salary support) that require more than 10 percent of their time in any given year. Proposals do not need to include the current proposal on the list of pending proposals unless it has been submitted in response to another federal funding opportunity (i.e., NASA or another sponsor).

PIs and Co-PIs also shall list any current and pending support with China, including Chinese universities and other similar institutions or a Chinese-owned company at the prime recipient level and at all subrecipient levels, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.³ (See paragraph 2.2.1 above)

³ "China or Chinese-owned Company" means the People's Republic of China (PRC), any company owned by the PRC, or any company incorporated under the laws of the PRC. Chinese universities and other similar institutions are considered to be incorporated under the laws of the PRC and, therefore, the funding restrictions apply to grants and cooperative agreements that include bilateral participation, collaboration, or coordination with Chinese universities.