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Foreign Influence Requirements Roundup:

Agency by Agency Current Expectations Plus a Sneak Peek at What We Think is Coming

Wednesday, September 30, 2020

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>> The National Council of University Research Administrators is pleased to welcome you to today's presentation, "Foreign Influence Requirements Roundup: Agency by Agency Current Expectations Plus a Sneak Peek at What We Think is Coming. My name is Sandy and it is my pleasure to be the facilitator for today's event. I would like to formally welcome the participants who are joining us today. Please note that today's call is being recorded. If you are listening over the phone all participant lines will be muted during this broadcast. If you experience technical difficulties with the web portion of today's program, please send a message in the Chat box at the bottom left corner of your screen or email ncura@commpartners.com. This presentation will last up to 90 minutes. We will be monitoring the Chat box throughout the presentation so you may submit a question for the presenters at any time. We will also have question and answer opportunities during the webinar and at the end of the presentation. To submit a question or comment, just type into the Chat box at the bottom left corner of your screen and then be sure to click on the SEND button. If you would like a copy of the presentation slides for today or any of the other resources, you can download them from the Links Box on the left side of your screen or from the NCURA online learning center using the same link you used to log in today. Closed Captioning now available on the live presentation at no additional fee. You can access this feature by clicking on the link in the Links Box or on the handout tab in the NCURA online learning center where you logged in today. A separate resizable window will open on your screen with the text. If you are attending in a group today, everyone watching the presentation can request a CEU certificate by writing down the verification code announced at the end of the webinar. Instructions for accessing the group CEU certificate are posted on the website page where the main registrant in your group logged in today. Please make note of the verification code as it will not be available after the webinar is over. And now, it is my pleasure to introduce our presenters for today Jim Luther, Associate Vice President, Finance & Compliance Officer at Duke University and Pamela Webb, Associate Vice President for Research at the University of Minnesota. At this point I will turn it over to Pamela to get us started.

>> Thank you, Sandy. Good afternoon everybody or morning. We are pleased to have you for our session. We couldn't decide if this is an effort to hear all the requirements in one location or try to manage the different foreign influence needs that keep popping up. I'm joined by Jim Luther from Duke University. We are available on those e-mails if you have questions later. Give us a few days to respond as we are email overloaded as I imagine you all are as well. Sorry I'm getting my slides to move. There we go. We have a lot to cover. We are going to get right to it. As a reminder for those of you already deeply embedded in foreign influence issues in your campus it is possible you may not learn anything new today. That should be a good thing. You should be on top of all of your foreign influence game. This is a rapidly evolving topic. It is hard to keep it straight in our heads and in our practices. We wanted to take a deep breath and do a moment in time snapshot. You will see some slides in here FYI in the top right-hand corner we

will not spend much time on those. We want to encourage you if you want to reuse some of these slides for your own sessions. Please just remember any -- don't forget this is a moment in time. So how are we going about this? Jim is going to start with an overview of the national picture. We will dive into select agencies and talk about what their requirements are. We put links to source documents and more information all the way throughout the presentation. You will find an electronic copy is going to work better for you than go ahead and printing it if anyone of us are in the position to print. We will follow all that up with how the FBI is playing a role in this, how Congress is involved and what we think are a few things you should expect to see in the coming weeks and months. Here we go. Jim, take it away.

>> Thanks, Pamela. Great. So everybody is likely familiar with this. Much of this started in August of 2018 when Dr. Collins sent a letter to thousands and thousands of researchers addressing the three items on the left. Ensuring there was a full transparency around support. Protecting intellectual property. There has significant improvement NIH and other agencies have taken significant steps. The other two are continuing to be concerns and issues at NIH and all the agencies are continuing to work on. As you can see in this slide some of you have seen a version of this before. It is a quick timeline. It started in August of 2018 as we mentioned, and here we are today two years later and a lot has transpired. As Pamela and I were working on this we created that gray space to talk about what institutions have gone through. We went through an awareness phase to understand what was happening. In the fall there was a lot of communication from members of Congress that made this more transparent. And more and more agencies had more clarification and implementation and so forth. A lot of this has happened quickly. Again, this is an FYI slide. I do want to spend some time a little bit on the red box. Very much so early on there was discussion about foreign influence. And now there is kind of a common understanding that what all the agencies are talking about are national security, economic security, integrity of research. Now the discussion on how we address those things and protect those things and most importantly in some ways OSTP has taken very significant steps in trying to harmonize all the agencies in this discussion. As we know much of this has started in the Thousand Talents Plan. First of all until several years ago it continues to be -- in fact Pamela and I presented in the past and the journal nature used to have advertisements in the back related to Thousand Talents Plan where they were creating collaborations with U.S. scientists. They were very prestigious awards. Most of the agencies continued to allow relationship with talent programs as long as they are adequately disclosed and transparent in the relationship. As you will see in a moment there is many flavors of talent programs. Some are purely collaborative in nature and some of them have different attributes that really change the relationship of the nature of this. They are really contractual employment relationships that have characteristics that many federal agencies and sponsors have great concerns about, and we will talk about that. I should say there is lots of discussion that collaboration internationally and in foreign countries is absolutely critical to the U.S. research mission. It doesn't work. Whether it is collaborators in another country or individuals from other countries working with us at our domestic institutions. Every conversation that we hear from -- as well as the agencies that is re-enforced again and again. Pam and I want to make note of it as well. What are some of the issues related to talent programs? Some of these are pretty straight forward and some of them require our faculty sign an agreement that everything is confidential. There has been a lot of discussion in the news particularly about shadow labs. Individuals who submitted proposals here in the U.S., funded

research and those proposals in essence are the exact same work that is being done in another country based on the science in the proposal and the award that is here in the U.S. They are funded with people, with lab equipment, with lab space and so forth. Over on the right-hand side, you can see there is an expectation. I will clarify this. There are many talent programs that are appropriate collaboration and just needed to be reported in appropriate sponsor documentation. There are others that require that the individual keep the relationship confidential. That any I.T. is turned over to the Chinese government. The individual can't terminate the agreement from the Chinese government. Part of the agreement I were the P.I. that I'm agreeable that I will appoint individuals in U.S. lab with Chinese collaborators. Again, I may do that. I may have wonderful collaborators and visitors. Making a stipulation of the contract is what makes this much more difficult to manage and creates the risk that we have been talking about. So we have seen lots of examples in the news. The starting August of 2018. It was that fall and winter where probably a dozen or so prominent cases became much more public. Dr. Collins' letter of 2018 -- it hadn't begun years before. They were dealing behind the scenes with these issues. It got to the point it needed to be conveyed in a much more transparent documented way. These are just two of the examples. What we are now seeing is that in some cases the individuals are kind of removed from the ability to have grants funded by NIH or DOD. In other cases, there is actual jail time related to theft of property. And in more and more cases IRS tax violations. I think that is becoming more common. If I sign an agreement. I am compensated and put that money in international bank account there are still IRS ramification. It can be punished for that. I think there was a recent example of that that just hit the newspaper about two months ago and we will see likely more and more of that. So in this slide, we kind of begin with a bit of an update of where we are. I think Pamela at the end will finish with this a bit. But a couple of points on the acronyms. OSTP is offense and science and technology policy. Work for the President of the United States and guides the policy and research. And Kelvin Droegemeier is director of FDP. And the JASON report which is a report that NSF commission. There is lots of kind of beginning to kind of how the response and the risk is being addressed here. Most notably in this slide OSTP has delivered three primary deliverables. The first was June 23rd speech that Dr. Kelvin Droegemeier did. Everything you see in blue, dark blue underlined is a link. There is probably three or four dozen links throughout this. You can see his speech in that first block. What we are still waiting on is OSTP guidance harmonizing -- we do think the director is a political appointee that there is a likelihood there will come up in the next weeks or months. We hope to see that pretty soon. That should be very defining and coordinating because the agencies are waiting for this as they continue to interpret and continue to interpret their policies. Pamela and I did with DOD and NIH. It is kind of a polling software that allows people to identify their priorities in an unbiased way. Again, at the bottom right there is a link to the recording if you would like to see the presentation. In response to this question what we saw is what you see in your screen here. By and large without exception this word cloud identifies the common items that were most frequently mentioned in the input that individuals provided in response to that question. As you can see on the top right. The word size is the frequency. Harmonization and harmonizing are mentioned. The word color identifies related words. Harmonization was very much closely aligned with consistency and federal agencies and compliance and so forth. This was, again, a moderated panel that Pamela and I led. In that we had discussions about these specific issues. As you can see in the next slide these were specifically the things that we talked about. So again the individuals that parted in this thought exchange submitted 120 or so different ideas and this is

kind of a summary of the themes that we need standardized guidance. And then as far as the regulation, the two broadest areas of general desire from more communication, interpretation from the federal government is outside appointments and what outside appointments need to be reported. That get into the nuances is it research? Is it another activity? And as we talk a little bit about today, this is very institution specific. At Duke we have a consulting policy that makes it the responsibility of the individual faculty member to manage that along with the Chair. It is not essentially overseeing. That is common in many institutions. There is many of you out there that probably have a much more detailed and more transparent process where consulting is actually approved. It is managed in quite a different manner. As we strive to connect the dots about outside appoints and where they need to be reported. This is a very critical aspect of it. The second bullet there this by and large is a critical piece because this moderate panel was in the tail of NIH release of its grid on how to report these things. We have several detailed slides where we will talk to about it more detailed. Now I turn it back to Pamela.

>> Thanks, Jim. We want to get right into all of those agency requirements. Obviously, we want -- as we talk about that harmonization and common approach. We talk about we are already pretty common. So we are going to start with, I guess we call it the grandfather of all these foreign influence restrictions. That goes back to NASA in their China restrictions they put back in 2012. Part of what is in the handbook and this is something you have to figure out by the time you submit your proposal. It is pretty easy, I think for probably everyone or anywhere everyone on this webinar to say you are not from China or you are not from a Chinese-owned company. But the requirement goes on and talks about not participating, collaborating, or coordinating bilaterally. That becomes tricky. So NASA offered some guidance on this. They have said this does not apply to acquiring commercial items, but it does apply when you are dealing with subcontracts you are doing under NASA sub funding. When they talk about China or Chinese-owned company. Any company owned by the people's republic of China or any company incorporated under the laws of China. So that part about any company owned by China can be really hard. Now NASA also provided some helpful guidance over the time about how to deal with people on these projects. So if there is a Chinese national, a non-U.S. citizen who might be a student, a fellow, a researcher, a visiting researcher any of those who will be working on the project then on a case by case basis NASA will review the matter if that participation is permissible under the restriction or not. The good news here is that we can ask if we have individuals that we want to have working on the project and we should ask to see if it is appropriate under the circumstances and get NASA to help us with that. Since that time, since 2012 particularly since August 2018 as Jim pointed out there has been a lot more emphasis on these requirements and gaining clarity around the requirements. We want to talk with some of these major agencies where we are. The first one is -- we think a lot of people are likely to have NSF funding. We will talk about certain aspects of this. Relatively to current and pending. This has been for months now even before it went to effect back in June. I want to point out a couple of things. The requirement is all resources in support of and related to all of that individual's research efforts. This all relates to the person who is doing the reporting. So it doesn't include resources that are not related to the person's research efforts. It does include other kind of resource including in-kind resources. When we were figuring out what to put in current and ending support. It has made it very clear that is an expectation. It is also is not just support that comes through our own proposing organization. Whether they get it from any other organization,

they get it through their own or provided directly to him or her. Let's unpack that a little bit more. So, NSF has done a great job with presentations and some really high-quality FAQs. You can see a link there to those FAQs about what this exactly means. NSF clarified true consulting doesn't need to be included. Being provided in support of somebody else's effort. It is not our on-faculty members project base. If an investigator does happen to be doing research, you have to report those specific consulting agreements. You just don't have to report all of them. It is all to clarify that research endeavors -- that is helpful both in the consulting. It is about reporting the key person you are reporting on. For a postdoc is doing work and doing his or her research and just happens to be working in our investigator's labs we don't have to report that. It is also really helpful that we offer our faculty don't need to be reported. It is clear that our P.I. is getting support somewhere else. Research support, access to equipment, access to personal those we do have to report. Trying to avoid the issue what they offer to our investigators. If our investigator has a shadow lab in a foreign location or is getting research support, perhaps in exchange turning over an intellectual property those are the kinds of things NSF is concerned about. And we have to report this and NSF can take that into consideration. The big new thing on this slide is that format. We all known this was coming. We know starting next Monday we have to use either PDF they provided as an alternate. Now FSF has warned us if we try to emulate the format locally. If we have something that produces NSF current spending form locally the system is not going to accept that. The system is smart enough to know whether it is NSF form or science CV PDF. That is the only ones it will accept. Starting next week, a little challenging if we are not using those actual documents. Okay, so just very recently, this just came out two weeks ago. It is breaking news. We gotten clarification. Had several new things -- updates to the RPPR. So, one of them is going to be about active other support. Is there any change. We will have to file an updated and current and pending form. That form has to be in any one of those formats. NSF has prepared videos that will help with that. You can go to the NSF site and get those. That will help in terms of getting this right. There is new questions they put on this. And I wanted to call in particular those last two ones. They now need to know what percentage of our budget was spent in a foreign country. If we change where most of the work is happening, we are going to have to tell them where that is. And so, these obviously are also effective starting next Monday so we will all need and want to pay attention to that. So what is this kind of mean in practice? We just wanted to articulate some of those. We know as we talked about already. If our investigator has lab space in a foreign country, we got to report that. What we don't have to report if a third party has given -- if we have postdoc that are fully supported somewhere else and just happen to be working in our lab, we don't need to report that. If a third party donated access and they are being used, we do have to report that. So, getting to the bottom of a lot of these is really thinking through actually who is getting funding? Where is that funding coming from? Is that actually being used? Once we know that, we will have a much better insight of what we have to report. There is, I think quite a bit of questions about who is responsible for the content of support documents? All the information that is in our university systems it would be reasonable for us to understand that we have an obligation to make sure that everything that is in our system has been reported. Clearly some of it relates to information that only the investigator has. We also need to make sure we work closely to the investigators so they understand what it is they have to furnish on their form. We will talk more about that near the end. And finally, for NSF I wanted to talk a little bit about the new requirements they added. And the article number there is going to be different if you have a cool off agreement. This will be effective from starting next Monday

October 5th. You have to report any previously undisclosed current support and any contributions that you discover because you were finding business processes at your institution. Your investigator tells you about that wasn't on the proposal that went on to NSF. We got 30 days from the time we found about it to report it to NSF. Now it does not mean that once you report that NSF is going to terminate your awards. They are going to consult. They committed to. They will consult with LAR and they will determine the impact of the new information that we have turned in and decide if they need to take action and if so what kind of action they need to take. Obviously because this requirement hadn't gone into effect yet we don't have information yet of what the impact is going to be. We will be watching for that closely and we will update that in future presentations.

>> Pamela I was just going to -- you and I talked about this. This is actually a good thing, right? Now we know what to do. And NIH we hope may adopt something like that. Many of us don't know the contact PO. This is the beginning of trying to create a process that we can operationalized in our institutions. I know you mentioned that in the past.

>> Absolutely. You are supposed to use the other request part of the notification or request module. But I agree entirely. I think a lot of us have felt, I know this now. I didn't know it when I submitted the proposal. You didn't know what to do about that. And so Jim is absolutely right. This gives us very useful guidance of what it is we are supposed to do. I think do hope it will extend to other agencies as well. It will re-enforce the completely but also gives us a -- I think that is ideal. Do you want to talk about NIH?

>> Great. Thank you. This is Pamela's last slide. I'm going to talk a little bit about NIH because you know for all of these situations, again, we talked about the awareness that happened in the fall of 2018 and, you know as we look at this slide here with NIH there clearly is a combination of oversight as well of combination of actual intent. For the first six months or a year we were trying to understand the issue, we were trying to convey it to our faculty. By and large, well first 399 is a fairly sizable number. That is why NIH is upset. It is a large number that didn't disclose what they should of. By and large, most of these are -- were mostly unintentional oversights. As we talked two years ago some of the communication was the communication that this was no change to existing guidance that was just a clarification. I know some of it felt like it was kind of new. And so communicating the faculty, trying to change the culture all with the backdrop with these types of numbers are pretty significant. What this shows is that as Pamela and go through here you will hear us use connecting the dots. NIH connected the dots. They looked at the researchers, they look at the publications, they looked at patents and they identified 400 individual who appeared to not have appropriately disclosed. As you can see 189 of them have been sanctioned in some form and 77 of the 400 have been blocked from applying for new NIH grant. I think one of our last slides Pamela will talk about how we as a community can stay up to speed on these things. I would suggest these articles here Jeffery is an author for science. He probably has a dozen, maybe two dozen of articles on foreign influence. And all of this came from this article here. When you go into these articles by Jeffrey Mervis, they often have links. Continuing on with NIH. This NIH protecting U.S. intellectual innovation. This has a couple of pages. This table one is something that NIH wrote out and it is a helpful chart. If you haven't seen it, there are still some questions that we are trying to understand with regard to the activities

on the left-hand side. As we show here, this is just an excerpt of that did. It helps you understand as Pamela said on the NSF side where do we report in-kind? What this does is identify specifically is it in a bio sketch and so forth. One thing we are trying to understand as you can see to the last column we just want to make sure as we -- at Duke at least we understand what are the implications from STOI. It is not meant to FCOI implementation. It is to try to bring all of these different pieces together. It is a really good tool to look at. As you can see, there is other sections in here including applicant and institution responsibilities. I think there is nine or ten of them. There is NIH responsibility section FAQs and related guide notices. I put these bullets here one thing that Pamela and I wrestle with in our moderate sessions with the agencies, we wrestle with it internally. To make sure that we adequately report everything. What is the responsible of the individual? You can see here, I mean the language is fairly clear that we are to ensure reports and communications are complete and accurate. Sometimes the -- I'm involved in the that sometimes gives us comfort. I say that because as Pamela mentioned and I mentioned, some of these things are culturally very much in the world of a faculty member. In the summer you have zero institutional activities and you do other things. And what is the responsibility of the institution what you are doing outside of the appoint period. Those are things we will wrestle with and continue to wrestle with. In this next slide here. I'm sorry. Back to foreign component. I won't go into details on this. But in the notice, in the FAQs there continues to be a reminder of importance of informing this and then there are -- the general message behind this is does it happen in foreign location? Is it a significant portion of the research? Those are the two qualifications. In the FAQs they have some examples. That is more of a reminder as opposed something we are going into detail. I mentioned before I think in the Thousand Talents Plan discussion that I wanted to bring it up here again. Again, I mentioned the articles, if you don't regularly review open mic. The link is down at the bottom for this particular one. If you don't read that blog every week or every couple of weeks, it is something you might want to ask to your list. It is written to the broader admin community. Some of it is technical but most of it is not. In one of his blog postings he talks specifically that NIH doesn't have a problem collaboration. But they must be principled whether they international or domestic. They need to be principled collaboration. He talked about in this posting. If you see these types of things in the ten bullets or so by definition they are not principled. Again, if the secret bank accounts, if there is employment that is confidential, if there is peer review or information that is being used in a shadow lab. That by definition is not principled. We need to work with our faculty and make sure those types of issues are reported appropriately. Pamela, back to you. Pamela, you there?

>> Yes. Thank you.

>> Wonderful.

>> We want to talk about Department of Energy that's an area where there has been a lot of change and a lot of intensity in recent months. I'm going to tell you in recent days. So there is two main steps of regulations that we have been grappling in the foreign influence area with DOE. As of this month there is now an addition of one of those. That 486.1 is the restriction that says if you are working on a DOE subcontracts, they can't participate in a foreign talent program. You will see the last there of which countries those are. That normally mean if they are working on a DOE owned or leased facility. If our investigators are working in a DOE national lab. You

have to submit reports quarterly of whether or not anything has changed. That order has been adapted or adopted to have a new wrinkle to it. Now it is 486.1A. Their definition of what needs to be for support. But I want to call your attention to that last bullet. Now it is looking as there is going to be obligation to reporting things that we would not normally consider typical to be in any kind of document. Including reporting funding or expectation of compensation for travel. So I think you will see a lot more information about this. I want to thank the opportunity to thank Reynolds who brought this to the attention to many of this week. We will get more information about what it is we need to report to DOE. It is an expansion. The strong desire to have harmonization of expectations. So we can just get make it the same for all of our faculty in terms what they need to report. The last part the DOE142.3A is a change that happened in December. Many of us started seeing a change in contract clause or award clause. Just in the last few months. Any time we were doing DOE grants on our own campuses we did not have to get any specialized approval by DOE. That has changed with the exception that we had in place before no longer applies. Now we do have to get DOE approval to involve foreign nationals even when we are doing fundamental research at our own facility. It does have the one other positive thing DOE does have a definition of what a foreign talent recruitment program actually is. I know that is small font hand you condition see it. But when you download it you will be able to tell what it is they need. It is unclear where there is going to be a national definition or going to be adapted further. When your investigator says what is -- you can use to help them understand what it is. It has the meaning in it that Jim talked about what kind of foreign talent recruitment programs are we worried about as opposed programs that are recruiting in an up and up basis. Take a look at that definition and provide that to your faculty when you need it.

>> Pamela I was going to say --

>> Go ahead.

>> I was going to say that is one of the ways we are doing it at Duke we are providing that conference. We are listing the characteristics. If it is confidential, it is cash, payments, hidden bank accounts.

>> We had an investigator when asked I'm not involved in the Thousand Talents Plan. He -- it looked exactly like the other. It is the substance of what this is far more importantly than the name of it or the how is it classified. It doesn't look like it. And going back to that -- if you do have to get approval under the other DOE requirement. There is a form you need to use. I want to call your attention to the fact a foreign national in this context is defined anybody who is not a U.S. email by birth or naturalization. Your green card holders will have to go through this process. It is now occurring. My own institution had at a know cost time extension. There is a bunch of paper work you have to submit to DOE before the person can work on the project except -- within 30 days after the term has been added to the award. You can keep those people on the project while DOE is considering whether or not that is okay. We wanted to ask you a polling question. If you would go ahead and complete this poll and we will see if others are having this cause pop up as well. We will give you about a minute to do this. It's okay if you don't know what your institution is doing. Looks like we are getting pretty close to stability here. We will give it another 30 seconds or so. Okay. It looks like roughly half of us know yes or no.

Of that 20% of the total individuals reporting -- 21% now say they have seen this requirement in one of their DOE awards. 30% are saying they have not seen that. About half the group aren't aware or don't have DOE funding at their institution. So, given that this may be something that if we pull this three months from now or six months from now there will be a lot more yeses associated with that. Given we have a relatively low number of individuals that are involved in this we won't go to the second polling questions. We can just go ahead. I'm going to skip this one because we don't have that many people. Let's talk a little bit about department of Defense and what they have been doing this this area? The big thing with DOD is they have actually now requested support consistently. And this changed in March where it used to be DOD award. Sometimes we would get request for other support and senior key personnel forms. DOD changed that about a year ago and made it inconsistent. They made it consistent with the standard requirements that we would expect to see. So I actually think it is a positive. It is helping us move towards consistency and towards harmonization. One thing that I thought was interesting, we do need to provide the address of the agency. Trying to figure out whether something is a foreign entity or not. Given that we don't always know. It just happens to be the U.S. component of it or genuinely foreign. This is a brand new thing we want to make everybody aware of just very briefly. There is a new thing called cybersecurity maturity model certification. To be required for all DOD contracts and subcontractors. It is assessing the quality of your electronic internal infrastructure. To be able to handle DOD data information in area that is require basically they are concerned that they are not be a breach of cybersecurity. It will start appearing in some RFPs. We are expecting you will need a certificate to propose to these programs. There is a bunch of levels. Lev one is probably most of our institution -- it is about having good business practice. Some of the upper levels are going to be very intense and we expect that this is going to be difficult perhaps costly. Maybe not all universities or organizations are going to want to do that. You will have to get assessed by the third party. So, you will have to pay for that yourself to be able to get to get the certificate. It may at some point be an obligation to start -- to even been able to submit a proposal. You will see a lot of information coming out about this in the near future. Then there is also a new -- I guess it is not brand new NDAA889 clause about how communication equipment. This goes back to the concerns that the government had about certain Chinese companies in having equipment in our critical electronic systems where there might be a vulnerability or concern that some of our systems may be high jacket or impacted negatively. And so the second half of that went into effect this summer. There is this requirement that you can see there about that these company's equipment is not a part of a substantial opponent. That brings all kinds of questions of what it really means. Chances are they are on this and whether or not this is a concern or not to your organization. In fact, they are probably done with this because this has -- we have been aware that this requirement was coming for some time. Jim, do you want to talk about regular tear confusion?

>> Great, I will talk about it briefly. We are in the FYI sections in the next seven slides. There are a lot of questions. Really good questions from you-all. I'm going to hit these quickly. This is some confusion around the NDAA 889. The previous slide gives details on what is required. The uniform guidance has new information in 200.216 that is the slight twist on it. And then there is interim role that was submitted by NASA and DOD. And so again, we won't go into the details here. It is important that you are in tune to that from an awareness standpoint. Let me -- the next slide here is another FYI. Very early on when Pamela was preparing this presentation, we

wanted to make it comprehensive for each of the funding agencies. But it is clear there are other parties that are very active in driving this. One being the FBI. I won't go into the details on this. They issue intelligence bulletin; they have public announcement that provide information. There are other things they have in their Web site. When I was preparing for this the most significant, most wanted individual -- I'm not sure is the most significant, most wanted. It is an individual that you see the want and most wanted person about an individual that falsified her relationship and has a position at the university. So all I say there the FBI is clearly driving an external perception of this. Number one. And number two I would imagine many universities have a call with the FBI. We did it in the past. Many of us do now. It is pretty productive. There was some confusion. But now it has been much more helpful at least in our case. As you can see here Congress is also driving this. Early on it was a senator and a number of others that had -- we were sending letters to Doctor Collins telling us how you manage this risk. Has very specific language about enforcement for nonreporting and repercussions if faculty doesn't fully report. There is a letter a couple of months ago that went to the secretary that talked about how universities are not reporting foreign direct investment. That is flowing back down to institutions be there are more questions about these things. There has been lots of discussion. This and I just came across a week ago on the 24th. There is a notice of proposed rule making and is going to change the potential admission period and how it is structured for -- your national offices are familiar with this. All of this stuff is tangled together as we look at these types of things and make it more complex. And downstream, what we are seeing there was an article in nature a month and a half ago that expressed some concerns that international students couldn't get to the U.S. because of COVID and their embassy being closed. The requirements that made it more and more difficult that the best and the brightest might not come to university. They can go to European Universities. There are other places they can go the to. The long-term implications to that are truly unknown. So as we transition to the institutional challenges, what Pamela wanted to do is just speak a little bit about some of the things that we talked about. We are not going into details here. Everything we have talked about in the previous 40 slides is all about how do we know what our institutions are involved in? If you look at the chat questions that is the nature of your question. How connected are our systems? At Duke we are connecting the dots from a very decentralized and delegated model to the department on the things that we are talking about so we can pull together and do a risk assessment is have challenging. These are the types of things that Pamela and I are kind of throwing. That you are all aware of that we are throwing back on the table for all of us to contemplate. We wanted to take a moment for you all. We have a handful of slides. Then we will move to Q&A. As you think about what your greatest risk. Which is it? Is leadership support? Especially with COVID leadership is very distracted. Making sure you are getting the resources, the messaging is difficult. That D is about connecting the dots. Which is a lot what you talk about in the questions. The last is this general concern is it the institutions responsibility? Or is it the PI responsibility? I will give it about ten more seconds. But so far it appears that faculty awareness is a significant one. Which make sense. As we talk about these types of things -- this is a culture thing. This is at the heart of the relationship and our knack faculty communication and having an expectation that we can say we want to know everything about your outside activities. From a cultural perspective as individuals within universities it is quite a bit different. It looked like it settled out. 50% of you that is your primary concern followed by E which is a quarter. This idea that the institution may be held accountable for something only the faculty is aware of. I think it is clear to us that by and large there are some

bad people doing bad things. It is generally speaking good people that may not be aware or may not be nearly attentive about what needs to be reported. That's why we are on the phone here today. As we continue to connect the dots. Every institution is trying to figure out how do we manage these lists. That listed five companies but went in on to say anything under control or connected to the people's Republic of China. That's potentially a big list and a very difficult to understand from an 899 perspective. In a recent discussion with Kroger they had an FBI agent go out and that link there will take you to this Web site that enables to type in an entity and helps you identify what is the relationship. As we pointed out DOD is different. So again, a challenge as we go through this. Very briefly before I turn it back to Pamela. Section 117 which probably some of us are at least involved in is a new and evolving area. Lots of discussion the department of education about the value and the magnitude and ease of this reporting. There will be a lot more to come. In the interest of time, Pamela, I turn it back over to you.

>> Thanks, Jim. So we had this slide for you at the beginning. Jim told you a lot about it. What I want to call your attention to now as we talk about coming attraction is those last two bullets on the right-hand side. So this is exactly what we are expecting to see. As Jim pointed out earlier. We think we will see this earlier rather than later. It may depend on the outcome of the election. We think this is going to come out very soon. That's important because OSTP is extremely aware of this need for harmonization. And they have been working with the federal agencies to try to work through some of the issues that it takes to get common definitions, to get these harmonized expectations. We are going to be looking at that very carefully and commenting on those and then looking to see how the agencies actually implement them. But really that is happening already. We can tell with NIH they have been working extremely closely and reaching out to other agencies to try to get common definitions what we have to report. For things like other support. For what appointments have to be reported. When all of this can happen. Can we do this with a common form? Can we do this with a common format to agencies so we can be in a much better position to educate what it is that the federal government needs from them in this area and that we can have our own systems, support that kind of activity. It wouldn't matter so much if that proposal going to DOE or going into NSF for example. We have been able to get and use that information in a very sensible kind of way. We actually have great hopes for this. It has been very clear from conversations that work on this is actively underway. We are looking forward to the outcome of that soon. They want to put out best practices for universities. So that we think can be helpful. So, this can be a checklist to feel good and feel confident that we have the right business practices in place. So again, I think these may come together or at least very close to one another. That will enable us to saying what training look like? Could we come together and develop some commonalities here that we can all use or get us started with local customization to help advance our infrastructure across the country. This offers great hopes of having a clear understanding of what it is expected of us. Look for that I would say any time now. We know that NIH is doing this. They are working on it already. To bio sketch to clarifications of definitions. They are moving closer and closer to having common viewpoints on this. If NIH and NSF are able to do this whether it is part of the -- or whether they are just doing this because they recommend how badly all of us need that and they want it as well this is very encouraging. I would say in terms of getting to that more harmonized viewpoint and mindset. We wanted to call to your attention that NIH is having a virtual seminar. We think that will be at the end of October and will be additional information in that. We are thinking that piece could be good tools. I think

I won't do that polling question. But I did want to let you know that there was one section in section 117 reporting about awards and licenses and other documents from foreign entities that didn't get implemented with the changes last year. We believe there will be a notice of proposed - that asks us to comment on what would it take if we had to upload of true copies in addition to the demographic information we are providing about this project. You may want to have that conversation at your institution if you haven't already. The Department of Ed have been clear they expect to do this at some point we don't know the timing when it will come out. We think it may have implications for things like your donors. So, this aspect of it will be something that you will want to look at and that you are going to want to consider what the impact is for your organization. As I said we will skip the polling question because we want to make sure we get to your questions as well. So we put together -- Jim and I put together just a top list. Here and also on this next slide of those few things if you don't have time to read everything, these are the ones we would tell you to get and pursue and read. We think they are good evening to extremely valuable in terms of getting that full, solid, good picture of what is going on right now and what is likely to go on. So this is our -- I don't know if it is our top five list or what. These would be our recommendations of reading you would like to take on. With that I think we will turn it over to questions and answers. Jim you have any other remarks?

>> Nope. Ready to go. I've been reading them Pamela while you compose yourself, I'll pick one.

>> Sure.

>> One of the questions was about internal scholarships provided directly to a postdoc who is conducting research -- does it need to be reported on? This gets to the in-kind and so forth. The spirit of what support is all about. That is about managing capacity and managing overlap. So, if any of the activities that are happening in the lab impact capacity and the PI doesn't have that time to do that research you may better tell everybody else. Or if there is overlap. There is an individual that is receiving a scholarship. That individual is conducting research the support of the faculty member's research. My understanding that would be reportable because the sponsor doesn't want to pay for a technician to do an activity if there is resources that are being supported. Do you agree with that Pamela?

>> I do. I do. So that is a very good question that I think the idea, again, you know, the spirit behind it the impact capacity or overlap. That is the critical aspect of it.

>> Yes. I'll pick a question. Also about disclosures. You made a good point about intent. Many of the lapses and disclosure are due to lack of education. It seems that for the faculty education is needed not just on property disclosure but focusing on what faculty should look for prior to acceptance. Where do you think this is headed in terms of education and best practices? Will there be required training? I think that is a fantastic question. It covers a variety of items. Let me start with that question how can we tell if a disclosure lapse is due to being purposeful or simply lack of knowledge or education. From the federal government perspective, I think their message here to us it is your job to get it right. Institutions to get it right. I don't think they are necessary saying we are responsible for investigator -- if we asked the question properly, correctly. We still get an answer that is wrong, then I think we will probably have a better sense we did everything

we should have done what happened? What was it about this situation that the faculty did not provide the right answer? It may be more likely that we were getting purposefully also information. I will tell you on a lot of these NIH case that is Jim was talking about earlier. They found that faculty lied to their institution. They set it that way not unnecessary that they made a mistake, but they actually were being purposely deceptive. That be doesn't mean that the vast majority of things we run across follow within that. I think that many of us would say there are expectations here and the number one thing we need to start with is a better job of educating our faculty. Having said that one of these challenges this is why that OSTP part is important. We need clear requirements against which we can create solid training and really be able to help our faculty do an excellent job understanding what it is they need to report. I think given that information -- we will be in a great position to advance this agenda in our campuses. Go out and do this kind of training with faculty to help them understand why this is so important and how important it is to actually get it right. Jim do you want to add to that?

>> Yeah, just a little bit. Two quick things. We do have mandatory training at duke for our faculty. It is online, it takes about 30 minutes and the faculty is required to do it. This year we added about five slides at the end. About this specific issue. It should be noted we have been talking about this in webinars and seminars both in person and online from the VPR office and elsewhere since August of 2018. I know it varies among institutions. I think the idea of training and communication and in our case some of it is mandatory training. We want to make sure they get the message. The only thing I mentioned is OSTP is partnering with NSF and doing some road shows. They were -- called enhancing and security of America's research enterprise. He is in your region now, is that correct?

>> Yes. He will be doing a regional webinar hosted by the University of Minnesota next Wednesday.

>> What we did is to the question, we sent this out to postdoc grad students and said who OSTP is. They gave us the language for the invitation. It was extremely well received. One more follow-up question and then Pamela you can jump in with another question. There was a question about NSF article 38. That's the term and condition that goes into effect next Monday that is the process whereby we identify if we got to disclose something current and pending or elsewhere. The question was is that the process that we use if we forgot to put it in the initial current and pending? The answer to that is yes. The follow-up question what if it is new? I have some other appointment and relationship. And Pamela I just went and look at the communication quickly, and I don't see it directly stating that. My recollection is exactly that as well. Do you agree?

>> I believe so, yes.

>> I think it is -- I submitted my proposal six months ago and just realized I didn't put some information there. I have something brand new that I didn't know about at proposal, but I want to report it now. We will confirm that.

>> We will confirm. We have a question about if we can discuss got approval for foreign

national this is with department of energy. Can that later be rescinded. I think I have no experience with that to know whether or not that is likely. My guess is once a foreign national has been approved that some unusual change and circumstance. If that person started being funded say from the people's Republic of China that might change. It was before they were paying their own way in school. Getting a scholarship. That could be a change of circumstances there would be a relook at that individual. I believe the intent to look at their CV. Look at their visa. Look at their background. And how they are supported and make that determination for the balance of that project whether or not that individual is approved. That's a good question.

>> There was a question Pamela that kind of came up last week. That is how would foreign influence compliance manage sub-award recipients especially for foreign institutions? Pamela help me out on this. I think the recommendation if Duke we are not going to add language, we are not going to do anything to try to protect Duke in a sub-award process. We are going to assume Minnesota has appropriate controls and will convey to us any necessary information. You agree?

>> Correct. Correct. That's the plan. Yes. It is like any other requirement. We have compliant systems in place. To meet federal requirements. To think that is not the case it would be appropriate for all of basic research that we are doing with each other to rely on that certification of their authorized organizational rep.

>> -- go ahead. I think we are -- sorry.

>> You go ahead. You go ahead.

>> Well I was going to say let me let you finish. I think we are out of time. I want to let people know that there is a lot of other questions in here and so Jim and I will take the list of questions and we will consolidate that and provide answers separately outside of the webinar so that you can get your questions answered. Go ahead Jim finish up.

>> No, it is a knit on this issue. I tell you what, these questions are remarkably perceptive. There is one about connecting information together from COI and conflict of commitment and how staff see that. That is the crux of every we are talking about. Really good questions.

>> Sandy we will turn it back over to you.

>> Excellent. We will conclude today's webinar. On behalf of the NCURA a special thank you to our speakers. If you would like a copy of the presentation slides for today you can download them using the same link that you used to log in today. They are available on the handouts tab. A recording will be available on the online learning center within seven business days. We would like to get some feedback from you on today's presentation. You can access this survey in the links box on the left side of your screen or on the same page that you used to log in today. Once you complete the survey you will be able to access your continuing education certificate. If you are watching today's presentation as a group, you can get credit by using the verification code 8629. Instructions for accessing the group certificate are posted in the Web site page where the

main registrant. You will need this verification code it is 8629 to access your certificate. Again, this verification code is only to be used if you are part of a group watching today's presentation and not logged in yourself. And a number of webinars this year. Topics, dates, and registration will be posted on the online learning center. Thank you have a great afternoon and you may now disconnect. [Captions provided by VZP Digital]

End of Webinar