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DOJ: Stanford FCA Case Involved Failures to Disclose Foreign Support From Seven Countries

By Theresa Defino

It wasn't just China.

China is among the countries whose support for Stanford University investigators wasn't reported to five federal research funding agencies, leading to the university's recent \$1.9 million False Claims Act (FCA) settlement with the Department of Justice (DOJ). RRC has learned there was also undisclosed support and/or gifts associated with research time from governments or organizations based in six additional countries.

In its announcement last month, DOJ did not identify any country or foreign entity other than China—specifically Fudan University and the National Natural Science Foundation (NNSF), which it linked to a single investigator.^[1]

But in an extensive interview with RRC, Assistant U.S. Attorney Thomas Corcoran, chief of the Civil Division for the District of Maryland who co-lead the investigation for DOJ, said 12 principal and co-principal investigators (PIs) implicated in the settlement also had support from Germany, Japan, Israel, Korea, Australia and India.

Corcoran explained the genesis of DOJ's Stanford investigation—it is unconnected to the Trump administration's "China Initiative"—and why DOJ did not accept Stanford's request to close the investigation administratively rather than as an FCA case. He also stressed the importance of appropriate disclosures and the resolve of the government to ensure compliance.

"The federal funding community remains committed to making sure that all institutions, obviously including Stanford, meet the requirements to disclose all required information. Accurate disclosures really do matter. Disclosure failures cannot be minimized as paperwork errors or misses," Corcoran said.

For each institution that wins an award, "other universities or entities lose out on that opportunity. The Department of Justice is committed to ensuring that there's a level playing field when federal dollars are awarded," he added.

Under the settlement, announced Oct. 2, Stanford agreed to pay the government \$1,938,682, of which \$1,334,404.57 is restitution and \$604,278 is a penalty.^[2] It also pledged to work with NSF to strengthen disclosure policies, according to the settlement and a statement Stanford provided to RRC.^[3]

Restitution "is comprised of salary, fringe [benefits] and indirect costs associated with the professor who failed to disclose the foreign award to the federal [agency] awarded the grants" and does not reflect "the entire award," Corcoran said, noting that he was referring to all 12 professors in total.

Talent Program Provided Employment

The penalty amount was negotiated with Stanford, he added. Under the FCA, the government can impose

penalties of up to three times the amount it believes was defrauded.

DOJ described the individuals as PIs or co-PIs. It can be the case that a co-PI is at an institution different from the PI. However, all 12 were with Stanford, Corcoran said. The 12 investigators had been awarded a total of 23 awards, but DOJ took pains to separate them into two groups: 11 and one.

The 11 investigators had 16 awards among them: 10 from NSF, three from the Navy, two from NASA and one from the Army.

The 12th had seven: four from NSF, two from the Army and one from the Air Force. Unlike the others, he also was employed under a contract for a “High-Level Talent Initiative” at Fudan University and received a grant from the NNSF. He also had “undisclosed research support from additional foreign entities,” as the settlement states, and these made him “over-committed” for an unspecified period.

“The agencies were shocked by the one professor’s affiliation with Fudan,” and officials “were really concerned about that. They had no idea,” he said.

In identifying the seven countries, Corcoran did not indicate the type or amount of support entities provided to the investigators. He also said he could not disclose how much each investigator contributed to Stanford’s payment but said the investigator with the Fudan connection had the most undisclosed funding among the group of 12. His undisclosed support and employment helped tip the case, he said.

This professor’s agreement required him to work at Fudan University for “significant periods of time. Universities do say the failure to disclose an award from [a] foreign entity wouldn’t have mattered [in funding decisions], but it did” in this case, Corcoran said. “It matters to the federal agencies, and it matters to other universities who have professors that apply for that same award and don’t get it even though they followed all the rules of disclosing everything that they’re working on and all the other current and pending support.”

‘There Were a lot of Failures’

Federal investigators “look for proper disclosures of current and pending support; we look at over-commitment and we look at duplication,” Corcoran said. The PI with the Chinese support, as noted, was over-committed. Over-commitment is “really significant to the federal funding agencies in that they [expect] when they make these awards, the professor or PI actually has the time to do it,” Corcoran said.

He noted that the settlement ends a civil case and that “no one is going to jail. We were looking at institutional issues and not targeting individuals regarding their failures” to disclose foreign support.

“I call a ball, a ball, a strike, a strike, and this was a strike. But that’s not to say the university [officials] didn’t ask that this be resolved administratively or not under the FCA rubric. They did,” Corcoran said.

While similar cases have been settled without invoking the FCA, in this instance, “the failure to follow the current and pending disclosure requirements and the fact that those failures were material to the agency’s funding decisions made it a FCA case,” he said. “And as you can see, there were a lot of failures. There were so many different PIs and so many different federal awards where this happened—which was the point of the investigation. [It] was not to target individual PIs but to look [for] failures at the institution that led to these issues. So, the focus was on the institution.”

Identifying nearly two dozen awards where foreign support was not declared “signals there’s a problem within the institution [regarding] who’s minding the disclosures that go out,” Corcoran said.

Case Was Three Years in the Making

The case began in 2020 with the Department of Education’s inquiry into institutional compliance with Section 117 of the Higher Education Act, which requires disclosure of gifts and contracts from certain foreign sources valued at \$250,000 or more in a calendar year.

Corcoran’s staff worked with NSF, its Office of Inspector General (OIG), as well as the four agencies involved in the settlement. Following the receipt of information from Stanford based on subpoenas, the agencies “committed to rolling up their sleeves and looking at all their awards, and then cross-referencing [them] with the documents that the university turned over,” he said.

NSF OIG agents asked “questions regarding awards from foreign entities that were identified in the Department of Education Section 117 report,” and the awards in question were narrowed down to the 23 identified in the settlement, Corcoran said. The awards were made from July 2015 through December 2020.

He emphasized that DOJ “did not single out any professor based on their race, based on whether they were from —China or not. Almost all of them were not. We did not limit our investigation to just awards that the PIs and the university got that were from China. The investigation did not start based on awards from China. We looked at any award from any institution or corporation, no matter where it was in the world, as long as it was not from the United States.”

NSF OIG officials interviewed a professor at another institution who applied for and did not get the award that went to the Stanford investigator with the undisclosed Fudan appointment. Corcoran said he was not told about the nondisclosures but asked about the impact of not winning the award. The investigator was “very upset,” and his comments were “very compelling” to Corcoran, he said.

The investigator “described how difficult it was for him to continue to function over the summer and meet requirements at his institution because he didn’t get the award that went to Stanford,” Corcoran said.

Corcoran said he could not comment on why the settlement did not include any NIH awards.

DOJ: Stanford ‘Silos’ Inhibited Disclosures

RRC asked Corcoran to describe what might have led to the disclosure failures at Stanford, which did not admit to liability or wrongdoing as part of the settlement.

“There was no one really checking everything across the board to ensure that the professor fully disclosed his current and pending support,” Corcoran said. “They have implemented education for the professors...but there were some breakdowns in that the Office of Sponsored Research didn’t always look at every single award [proposal]. It’s hard. I get that, but there was just a lot of misses. It’s a constant issue [of] the PI is the one who submitted it, and the PI probably should have known [to] report this, but the university is the one that gets the money.”

While PIs and co-PIs are expected to accurately disclose their funding, “Stanford really didn’t have any reasonable means to ensure that the federal research proposals were accurate, as the information was siloed and not readily accessible by the Office of Sponsored Research,” he said. “That’s what Stanford’s working with NSF to fix, rectify.”

RRC asked Corcoran if Stanford officials said they didn’t know certain information had to be reported. “Did they make that argument? Yes. Particularly on the issue of gifts that had associated research components. Did I buy it? No,” he said.

These gifts were “associated with time for research” and are given “for a professor to do research that the professor will hopefully share with a foreign awarding entity. There was a lot of discussion in our investigation regarding the reporting requirements of gifts that had research components associated with them,” Corcoran said.

Stanford officials, according to Corcoran, “believed that there were no reporting obligations from unrestricted gifts or gifts in general, and the agencies took issue with that, particularly...about gifts with a research component attached to the gift.”

In response to a question from RRC, Corcoran said there was no reason to think Stanford is the only institution with these issues. But he said he couldn’t comment on whether there would be related settlement announcements in the future.

“This is [in] no way a national initiative, but I am aware of other colleagues working on similar things who have reached out to me after this” settlement announcement, Corcoran said.

Other FCA Actions Include OSU, Suspensions

Stanford is the second university in less than a year to enter into an FCA settlement over undisclosed foreign support.

The Ohio State University (OSU) paid the government \$875,689, stemming from an unidentified OSU investigator with funding from the Army, NASA and NSF from 2012 to 2020.

The government said in its November announcement that the investigator “failed to disclose funding that he was receiving from a foreign government in connection with: (1) employment at a foreign public university; (2) participation in a foreign talent plan, a program established by the foreign government to recruit individuals with knowledge or access to foreign technology intellectual property; and (3) a grant from the foreign government’s natural science foundation.”^[4]

NSF OIG has also indicated it has a number of ongoing cases. In its most recent semiannual report to Congress, which spanned activities during the six-month period ending March 31, OIG described suspending 14 awards made to one university based on an investigation of five years of the institution’s “foreign contracts, awards, and restricted gifts...to determine if the university disclosed foreign awards” to PIs and co-PIs “who were also recipients of NSF awards.”^[5]

OIG reported that NSF also had suspended four awards for three investigators at another institution, also for failure to disclose current and pending support. As is its policy, OIG did not identify the investigators or institutions.

1 U.S. Department of Justice Office of Public Affairs, “Stanford University Agrees to Pay \$1.9 Million to Resolve Allegations that it Failed to Disclose Foreign Research Support in Federal Grant Proposals,” news release, October 2, 2023, <https://bit.ly/3tG6N9N>.

2 Stanford University, Department of Justice settlement agreement, <https://www.justice.gov/media/1317581/dl?inline>.

3 Theresa Defino, “After FCA Settlement, Stanford to Adopt ‘Best Practices’ for Disclosures,” *Report on Research Compliance* 20, no. 11 (November 2023).

4 U.S. Department of Justice, Office of Public Affairs, “Ohio State University Pays Over \$875,000 to Resolve Allegations that It Failed to Disclose Professor’s Foreign Government Support,” news release, November 10,

2022, <https://bit.ly/442olK3>.

5 Theresa Defino, “NSF Suspends 18 Awards, Receives Repayments Related to Foreign Ties, Research Misconduct,” *Report on Research Compliance* 20, no. 7 (July 2023), <https://bit.ly/3K8OkYJ>.