EXPORT COMPLIANCE

NASA Restrictions on Funding Activities with China

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Background

- On February 9, 2012, an information circular (GIC 12-01) was issued by NASA regarding recently enacted funding restrictions with respect to China.

  - NASA is restricted by specific applications of Section 1340(a) of The Department of Defense and Full-Year Appropriations Act, Public Law 112-10 (NASA's 2011 continuing resolution), and Section 539 of the Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55 (NASA's FY 2012 appropriation) from using funding appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime recipient level or at any sub recipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.
The funding statute states that none of the funds appropriated may be used by NASA 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 law.]
How this affects UConn

- The statute applies to any NASA grant, cooperative agreement, or contract and applies to all sub recipients at any level.

- The restriction prohibits UConn from collaborating with or issuing a sub award to the Chinese government, a government-owned company, or a company incorporated under Chinese law.

- This includes using NASA funds for the U.S. side of a collaboration with these entities that is performed on a “no-exchange-of-funds” basis. The restrictions do not apply to commercial items of supply needed to perform a grant or cooperative agreement.
Who it affects?

- NASA’s procurement guidance states that the terms mean the People’s Republic of China, any company owned by the People’s Republic of China, or any company incorporated under the laws of the People’s Republic of China.

- This does not restrict the use of NASA funds to support Chinese national students or visiting researchers.
  - A NASA grants guidance document states participation by Chinese nationals will be reviewed by NASA grant and technical officers prior to awarding grants or cooperative agreements (including amendments), and the University will continue to monitor these developments to ensure no citizenship restrictions are accepted in violation of University policy.
Q3: What about my graduate student, post-doctoral fellow, or other investigator on my team who is not at a Chinese institution but is a Chinese citizen?

A3: The statute does not restrict individual involvement based on citizenship or nationality. Rather, individuals are subject to the restriction if they are affiliated with institutions of the People’s Republic of China or Chinese-owned companies incorporated under the laws of China. Thus, a team member who is a Chinese citizen may work on a NASA project, but an individual affiliated with an institution of the Chinese state will be subject to the statutory restriction.
References:

- NASA Grant Information Circular (GIC) 12-01
- NASA Procurement Information Circular (PIC) 12-01A
- Department of Defense and Full-Year Continuing Appropriations Act, 2011, Public Law 112-10
- Consolidated and Further Continuing Appropriations Act of 2012, Public Law 112-55