

Congress of the United States
House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

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November 13, 2023

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

According to a recent press release from the Department of Justice (DOJ), Stanford University agreed to a \$1.9 million settlement to resolve allegations that they 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.”¹ However, the settlement amount is alarmingly low, far below the actual size of the grants and the triple damages that the False Claims Act would require if the case had come to completion.² It’s unclear why DOJ would agree to such a generous settlement that appears to be nothing more than a slap on the wrist for violating federal law and potentially exposing U.S. taxpayer-funded research to foreign actors including the Chinese Communist Party (CCP). To ensure that taxpayer-funded research and grants continue to be spent appropriately and to ensure research security is being taken seriously across the whole of government, I ask that you provide a briefing on the details of the Stanford University settlements discussed below and the applicable investigation(s), as well as answers to the questions below no later than November 27, 2023.

DOJ alleges Stanford University failed to disclose foreign funding on 16 research grants it received from the National Science Foundation (NSF), the Department of the Army, the Department of the Navy, the Department of the Air Force, and the National Aeronautics and Space

¹ Press release, U.S. Dep’t of Justice, Stanford University Agrees to Pay \$1.9 million to Resolve Allegations That it Failed to Disclose Foreign Research Support in Federal Grant Proposals (Oct. 2, 2023), <https://www.justice.gov/opa/pr/stanford-university-agrees-pay-19-million-resolve-allegations-it-failed-disclose-foreign>.

² 31 U.S.C §3729 (a)(1)(G); see also Julie M. Carpenter, *Going From \$0 to \$232 Million With No Evidence of Harm: DOJ’s New Damages Theory in FCA Fraudulent Inducement Cases, and How to Fight Back*, October/November Federal Bar Assoc. (2012), <https://www.fedbar.org/wp-content/uploads/2012/10/feature2-octnov2012-pdf-1.pdf> (explaining that the “DOJ claims that in fraudulent inducement False Claims Act cases, every payment made under the fraudulently induced agreement constitutes actual damages, even when the government has not lost any money as a result of the fraud.”).

Administration (NASA) between 2015 and 2020.³ All these agencies require that grant applicants disclose any foreign financial support received by the institution and the principal investigators (PIs) and co-PIs.⁴ DOJ alleges that Stanford knowingly “failed to disclose current and pending foreign funding that 11 PIs and co-PIs had received or expected to receive in direct support of their research.”⁵ DOJ further alleges that Stanford University knowingly failed to disclose that a professor received research funding in connection with their employment at Fudan University in China.⁶

In recent years, several incidents have led to concerns that other countries are taking advantage of the openness of the academic research environment in the United States.⁷ Threats to research security primarily arise from the failure of researchers applying for federal funding to disclose foreign affiliations, commitments, and sources of funding that may present a conflict of interest. Foreign talent recruitment programs have been found to incentivize or coerce participants to acquire “through illicit as well as licit means, proprietary technology or software, unpublished data and methods, and intellectual property to further the military modernization goals and/or economic goals of a foreign government.”⁸ The academic research community has called for a coordinated and harmonized approach that balances the need to address security risks with the importance of scientific openness, international collaboration, and competing for global STEM talent.

The CCP has proven to be a particularly bad actor as it pertains to research theft; utilizing several specifically designed programs to undermine what has historically been an open academic culture of sharing research information. For instance, through talent recruitment programs (previously known as the Thousand Talents Program/TTP and recently rebranded to *Qiming*)⁹ the CCP recruits science and technology professors, researchers, students, etc.—regardless of citizenship or national origin—to apply for its talent programs. Participants enter into a contract with a Chinese university or company that usually requires them to subject themselves to Chinese laws; share new technology developments or scientific breakthroughs with the PRC; and recruit other experts into the program(s). The CCP allows participants to remain in the United States and keep their US-based jobs so they can maintain their access to intellectual property, trade secrets, pre-publication data and methods, and U.S. funding for their research.¹⁰

³ See Press Release, U.S. Dep’t of Justice, *supra* note 1.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ JASON, The MITRE Corporation. *Fundamental Research Security*. December 2019. McLean, VA.

https://www.nsf.gov/news/special_reports/jasonsecurity/JSR-19-21FundamentalResearchSecurity_12062019FINAL.pdf.

⁸ National Science & Technology Council. Recommended Practices for Strengthening the Security and Integrity of America’s Science and Technology Research Enterprise. January 2021 <https://trumpwhitehouse.archives.gov/wp-content/uploads/2021/01/NSTC-Research-Security-Best-Practices-Jan2021.pdf>.

⁹ Julie Zhu *et al.*, *Insight: China Quietly Recruits Overseas Chip Talent as US Tightens Curbs*, REUTERS (Aug. 24, 2023), <https://www.reuters.com/technology/china-quietly-recruits-overseas-chip-talent-us-tightens-curbs-2023-08-24/>.

¹⁰ FED. BUREAU OF INVESTIGATION, THE CHINA THREAT: CHINESE TALENT PLANS ENCOURAGE TRADE SECRET THEFT, ECONOMIC ESPIONAGE, <https://www.fbi.gov/investigate/counterintelligence/the-china-threat/chinese-talent-plans>.

According to publicly obtainable information, millions of dollars' worth of taxpayer-funded grants were a part of this settlement. The NSF grant alone totaled close to \$10 million and that does not take into account the grants awarded to Stanford from the U.S. Army, Navy, Air Force, or NASA.¹¹ Stanford University received grants for which it may not have been eligible if it had properly disclosed the foreign funding received by its PIs and co-PIs. These grants could have gone to other universities that complied with the law and safeguarded American taxpayer-funded research dollars. Instead of recovering all funds lost to fraud, DOJ settled with Stanford for far less than the value of the grants themselves.

Stanford University is one of the largest recipients of federal research funds¹² and, as such, the allegations levied against them are particularly concerning as they should be aware of these research security concerns and have processes and procedures in place to safeguard taxpayer-funded research. The low settlement amount sends a clear message, intentional or not, that DOJ is uninterested in holding universities accountable for research security. Without consistent DOJ involvement on this matter important research and intellectual property, will drain from our universities. To better understand why DOJ offered such a generous settlement to Stanford University, please provide the Committee with a briefing and respond to the following questions by no later than November 27, 2023.

1. Why did DOJ settle with Stanford University for far less than the value of the grants that the University defrauded the federal government on?
 - a. What calculations, methods and other public policy metrics did DOJ utilize in coming to this dollar amount?
 - b. Why did DOJ elect not to bring charges against Stanford before approaching them with a settlement agreement?
2. How many civil referrals for prosecution involving research security including universities failing to disclose foreign influence has DOJ received in the past 5 years?
 - a. How many of those has DOJ declined to prosecute?
 - b. How many settlements did DOJ settle for less than total sum of the grant(s) DOJ alleged the institution failed to disclose foreign financial support?
3. Does DOJ believe low settlement amounts will encourage other universities to lie on the grant proposals? If not, why not?

¹¹ See Press Release, U.S. Dep't of Justice, *supra* note 1.

¹² Rankings by Total R&D Expenditures, NAT'L SCI. FOUND., <https://ncesdata.nsf.gov/profiles/site?method=rankingBySource&ds=herd> (last visited November 2, 2023).

4. How is DOJ working with research universities to strengthen research security efforts?
5. Please provide a list of the countries or foreign entities that provided funds to Stanford or the PIs/Co-PIs, associated with this settlement.
 - a. How much funding did each country or foreign entity provide to Stanford or each of the PIs/Co-PIs associated with this settlement?

Should you have any questions please contact Daniel Boatright of the Science, Space, and Technology Committee staff at (202) 225-6371. Thank you for your time and consideration regarding this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Frank Lucas". The signature is stylized and cursive.

Frank Lucas
Chairman
House Committee on
Science, Space, and Technology

cc: The Honorable Zoe Lofgren
Ranking Member
House Committee on
Science, Space, and Technology