

NSF Responses to Questions Raised during COGR Presentation
August 19, 2024

FFDR

- (1) **Slide #18 of your presentation mentions, “Organizations other than IHEs are not required to submit annual FFDR reports,” and you stated that the FFDR requirements exclude nonprofits and only apply to universities. Can you clarify if nonprofits (e.g., independent research institutions or affiliated medical centers) would be required to submit an FFDR report? Particularly if they meet the definition of an IHE per the Higher Education Act.**

A: Based on *Proposal & Award Policies & Procedures Guide* (PAPPG) [Chapter VII.D.3](#), the FFDR requirements apply to a “recipient institution of higher education” that is a direct recipient of NSF funding on or after May 20, 2024. NSF defines the recipient “institution of higher education (IHE)” based on Section 101(a) of the Higher Education Act of 1965 ([20 U.S.C. 1001\(a\)](#)). Entities that do not fit the definition of an IHE, such as independent research centers or affiliated medical centers that do not award degrees, are not required to submit an FFDR disclosure.

- (2) **Can you clarify when to report on multi-year gifts? Is it when it’s pledged or received? The Dept. of Ed. indicates that gifts should be reported when received, not pledged. For example, if an institution received a pledge of \$200,000 per year for five years, it would be reported to ED only when a payment is received (in this example, if the commitment is fulfilled, it would be in year two). However, for NSF, it would be reported as \$1M in the first year. The concern is that pledges/promises of gifts are not filled until the gift funds are received. Additionally, could you clarify the reporting requirements for clinical trials and licensing agreements related to intellectual property?**

A: If a multiyear gift or a contract spanning more than one year from a foreign source in a foreign country of concern is initiated during the reporting period (July 1, 2023, to June 30, 2024), and \$50,000 or more is received during the reporting period (July 1, 2023, to June 30, 2024), only the amount received during this reporting period must be reported in the “Gift Amount” or “Contract Amount” field in the FFDR portal.

If a multiyear gift or a contract spanning more than one year from a foreign source in a foreign country of concern was initiated prior to the reporting period (July 1, 2023, to June 30, 2024) but \$50,000 or more is received during the reporting period (July 1, 2023, to June 30, 2024), the amount received during the reporting period must still be reported in the “Gift Amount” or “Contract Amount” field in the FFDR portal.

Amounts received in future years must be reported in future years, not in this reporting period. If an IHE receives funding from a foreign source associated with a foreign country of concern to conduct a clinical trial and the value of the funding is equal to or exceeds \$50,000, this is considered a contract and is reportable in the FFDR disclosure.

NSF considers technology license agreements as contracts. Therefore, if the technology license agreement is entered into a foreign source associated with a foreign country of concern and the value of the technology license agreement is equal to or exceeds \$50,000, the agreement is reportable in the FFDR disclosure.

- (3) Please confirm that the FFDR reporting requirements pertain to gifts or contracts received or managed by institutions and do not apply to payments made directly to an individual (meaning it is not managed by or funded to the institution)?**

A: Yes, the FFDR reporting requirement pertains to gifts or contracts received or managed by an IHE. However, the IHE must also disclosure gifts or contracts made directly to an individual if the IHE has knowledge of the gifts or contracts and if the gifts or contracts meet the FFDR reporting thresholds (originates from a foreign source in a foreign country of concern and has a value that equals or exceeds \$50,000).

- (4) How should IDIQ contracts be counted?**

A: The reporting of IDIQ contracts spanning more than one year is based on the guidance given in the response to question (2). For IDIQ contracts that have an unknown contract end date, NSF will make the “Contract End Date” field optional in the next FFDR portal update, scheduled for August 26, 2024. If an IHE is finalizing their FFDR disclosure before August 26, 2024, users can list the end date of the reporting period - June 30, 2024 - as the “Contract End Date,” which will indicate to NSF that the contract end date was likely unknown at the time the IHE submitted the FFDR disclosure. For IDIQ contracts where the total value of the contract is unknown, only the amount received during this reporting period must be reported in the “Contract Amount” field (if \$50,000 or more of contract payments are received during the reporting period). Note, IHEs will have until September 3, 2024, to make final edits to their FFDR disclosures.

- (5) How would you advise faculty who are asked to review grants for organizations in countries of concern (e.g., Hong Kong Grants Council)? Since this also gives U.S.-based researchers insight into what those scientists are working on, there seems to be a benefit, but it also involves direct financial support from a foreign country of concern.**

A: First, NSF wishes to note that for the purposes of the FFDR disclosure, the special administrative region of Hong Kong is not considered part of a foreign country of concern and therefore is not subject to FFDR disclosure requirements.

If faculty review grants for organizations based in countries of concern, but do not receive any financial support for completing the review, they do not need to disclose their reviews in an NSF Current and Pending (Other) Support or FFDR disclosure. On the other hand, faculty that receive financial support (monetary or in-kind) to review grants for organizations based in countries of concern must disclose the financial support in their Current and Pending (Other) Support document. If the IHE has knowledge of the financial support made to the faculty, and the financial support is from a foreign country of concern and has a value of \$50,000 or greater, the financial support is also reportable in the FFDR disclosure.

(6) Who do you suggest should prepare the report at an institution that is part of a University System?

A: For an institution that is part of a University System, the FFDR requirement applies to the entity that is a direct recipient of NSF funding. If the institution is a direct recipient of NSF funding and has its own Unique Entity Identifier (UEI), the institution must prepare the FFDR disclosure. If the NSF funding goes to the University System and the University System then distributes the funding to the institution, then the University System must prepare the FFDR disclosure.

(7) In the context of tuition payments, when you said grants and scholarships with specific stipulations would require reporting, did you mean stipulations in the university or the student recipient?

A: Tuition payments for a specific student(s) are excluded from the reporting requirement (e.g., parent payment for child/children or other relatives). However, if tuition payment is received from a foreign source in the form of a grant, scholarship, or other form of financial aid, the payment is reportable when the cumulative threshold of \$50,000 from a foreign source is met in a reporting period.

(8) When will the FFDR Preparer role be available?

A: Effective May 20, 2024, NSF assigned the FFDR Preparer role to all users with the Authorized Organizational Representative (AOR) role. Organizational Administrators can add and remove an assigned FFDR Preparer role for users within their organization on the View My Users Administrator Dashboard. Refer to the [View My Users – Administrator Dashboard job aid](#) in the Account Management User Guide for step-by-step instructions with associated screenshots.

Additional: How should relationships with vendors located in a foreign country of concern be reported?

A: If the U.S. IHE is purchasing goods and services from a vendor located in a foreign country of concern, this is not considered financial support, and the purchase is not reportable in the FFDR disclosure. However, if a foreign source in a foreign country of concern enters a sales contract with a U.S. IHE and purchases goods or services from a U.S. IHE with a value equal to or exceeding \$50,000, the payment for the purchases is reportable in the FFDR disclosure.

TRUST

- (1) **Thank you for the background and transparency about the TRUST processes. For the three areas that will be reviewed (appointments, non-disclosures, and potential applications), can you please speak to the cases where there may not be a potential application of the science or an MFTRP appointment, but other issues related to non-disclosure or research support?**

A: In cases where there is not a potential national security application of the project or any active appointments, positions, or research support from U.S. proscribed parties or MFTRPs, but there may be nondisclosures, the TRUST process would flag these during the data analytics review. It is likely that OCRSSP would reach out to the awardee institution for more information about the nondisclosure to determine what actions need to be taken.

- (2) **Could NSF's open-source review of undisclosed appointments and affiliations be referred to the OIG or the intelligence community instead of being referred back to the institution for resolution?**

A: It is unlikely that the NSF would refer undisclosed appointments and positions to the OIG before attempting to resolve the case with the institution. However, NSF may consult with the intelligence community in certain cases.

- (3) **Could an NSF mitigation requirement include delaying the dissemination or publication of research?**

A: NSF is not considering delaying dissemination or publication of research as a mitigation strategy.

- (4) **Will SECURE (NSF 23-613) be an interface with the academic community to help with risk assessments?**

A: Yes, the SECURE Center will be an interface with the academic community to help with risk assessments. As legislated in Section 10338 of the *CHIPS and Science Act of 2022*, one of SECURE's principal duties will be to develop a set of standard risk assessment frameworks and best practices.

- (5) **DOD has indicated they are reviewing co-authorship as a risk factor. This was not mentioned as a factor for TRUST. Can you confirm that NSF is not considering co-authorship as a risk factor?**

A: NSF is not considering co-authorship as a risk factor at this time.

- (6) **Given that researchers apply to multiple agencies for funding and some agencies have a much lower risk tolerance for collaborations with researchers in countries of concern, is there concern that working to the least common denominator of risk tolerance will**

effectively stop nearly all collaboration with countries of concern?

A: We continue to work across the agencies to understand best practices and to harmonize where possible. However, each agency has its own risk tolerance level based on their mission. The TRUST framework is designed to avoid curtailing beneficial research activities and principled international collaboration due to institutions or individuals in the community being overly cautious.