

December 20, 2019

\$5.5 Million False Claims Act Settlement for NIH Awardee

Reflecting the increasing compliance risks for universities, academic medical centers and others facing scrutiny for “foreign influence” in research, the Department of Justice (“DOJ”) announced yesterday a \$5.5 million dollar False Claims Act (“FCA”) settlement with a National Institutes of Health (“NIH”) awardee for alleged failures involving grant reporting. This case is unprecedented for the amount of the settlement and the allegations at issue.

Between January 1, 2012, and August 31, 2019, the government alleged, two researchers at the Van Andel Research Institute (“VARI”) received funding from sources in the People’s Republic of China, including from participation in China’s “Thousand Talents” program, without properly disclosing these affiliations and support. Further, the government claimed that VARI failed to take adequate steps to investigate the researchers’ activities.

In response to an inquiry the NIH initiated last fall, which was part of NIH’s ongoing program to address concerns about undisclosed foreign support and affiliations, VARI reportedly mischaracterized NIH standards for reporting, which likely undermined its defense. While the FCA settlement includes no admission of liability, and no Integrity Agreement was announced, this action represents a significant shift in how the government is applying the issues of undisclosed foreign ties of researchers. It is the first action of its kind involving NIH funding and Thousand Talents concerns. In announcing the settlement, U.S. Attorney Andrew Birge admonished research institutions to recall DOJ policy that institutions making “proactive, timely, and voluntary self-disclosures to the Department about misconduct will receive credit during the resolution of a False Claims Act case.” Taken together with other efforts the government has made to educate the national academic and medical center community about “foreign influence” in research, this settlement signals that self-examination and self-disclosure are important components of institutional risk reduction in these emerging compliance issues.

For more information see: [Department of Justice Press Release](#).