

Summary of NSTC Guidance for Implementing National Security Presidential
Memorandum 33 Disclosure Requirements

[Version 2.0 (January 11, 2022) – Revised to add fn. 1 & update links and chart

On Jan. 4, 2021, the Office of Science and Technology Policy acting through the National Science and Technology Council (NSTC) Joint Committee on the Research Environment (JCORE) Subcommittee on Research Security issued its long awaited [“Guidance for Implementing National Security Presidential Memorandum 33 \(NSPM\) on National Security Strategy for United States Government-Supported Research and Development”](#) (hereafter the NSPM-33 Guidance). NSPM-33 tasked the heads of U.S. research funding agencies with establishing policies on disclosure requirements for researchers regarding positions, other support, affiliations, and activities with foreign government-sponsored talent recruitment programs (FGSTP) by January 14, 2022. NSPM-33 also charged the Office of Science and Technology Policy (OSTP) cooperation the Office of Management and Budget (OMB) and other agencies to coordinate the standardization of disclosure policies and forms across research funding agencies. The NSPM-33 Guidance is a first step in this standardization effort. The document provides general guidance for federal funding agencies in implementing the [Jan 14, 2021 Presidential Memorandum on United States Government Research and Development National Security Policy” \(NSPM\)](#) as well as more detailed instruction and advice in the following areas:

- Disclosure Requirements and Standardization
- Digital Persistent Identifier (DPIs)
- Consequences for Violation of Disclosure Requirements
- Information Sharing
- Research Security Programs

This summary will highlight key points of the NSPM-33 Guidance’s disclosure

Support,” although the NSPM-33 itself only defines “Other Support.” The NSPM-33 Guidance states that these terms have the same meaning, but there are some noteworthy wording distinctions. For example, the NSPM-33 Guidance definition of “Current and Pending Research Support” qualifies in-kind contributions as those “requiring a commitment of time and directly supporting an individual’s research and development efforts,” while the document’s definition of “Other Support” contains no such modifier. Similarly, the NSPM-33 Guidance definition of “Current and Pending Research Support” refers to resources in support of an individual’s “research and development efforts,” while its definition of “Other Support” refers to “professional R&D efforts.” The types and sources of support covered by the NSPM-33 Guidance definitions for “Current and Pending Research Support” and “Other Support” are similar in scope to those encompassed by corresponding NIH and NSF terms, but there are also wording distinctions that could bear on term meaning. For instance, neither the NIH definition for “Other Support,” nor the NSF definition for “Current and Pending Support” compass both research and development efforts. [See, NSF [Proposal and Award Policies and Procedures Guide \(PAPPG\)](#), Section II.C.2.h. and [NIH Grants Policy Statement](#) Section 1.2]

- Definitions of Conflict of Interest and Conflict of Commitment: The NSPM-33 Guidance retains separate definitions for “Conflict of Commitment” and “Conflict of Interest” in line with NSPM-33.
- Additional Definitions: The NSPM-33 Guidance includes the following defined terms related to disclosure requirements that are not included in Section 223 of the FY 2021 NDAA or NSPM-33:

Controlled Unclassified Information (CU): The Guidance’s definition for CUI bears similarity to definitions used for that term by the National Institute of Standards and Technology (NIST). [See, NIST [Computer Security Resource Center, Glossary](#)]

Gift: The definition of “gift” is similar to that used by the Office of Government Ethics at [5 CFR Sec 2635.203\(b\)](#) but includes examples of “gifts” that may be more common in the research arena (e.g., research data, samples).

Honorarium Notably, the NSPM-33 Guidance definition of this term is somewhat different from the definition for “Honoraria” that NIH included in its [December 2021 revised Grants Policy Statement](#) (Section 1.2). The NSPM-33 Guidance definition refers to a payment of anything of value for an appearance, speech, article or “other form of compensation or award,” but the NIH definition draws a distinction between payments in support of professional services and those related to research. With respect to the latter, the NIH definition states that if the payment is related to “research

1” compares requirements of Table 2.a. with information in current [NIH](#) and [NSF](#) Disclosure Tables¹

- Exclusions from Disclosure Requirements in Research and Development Award Application Process The NSPM33 Guidance states that funding agencies should not require disclosure of the following items, except in the circumstances listed above under “Disclosure Variations”:

Completed support

Honoraria

Consulting “that is permitted by an individual’s appointment and consistent with the proposing organization’s policies and procedures”

Gifts (defined as “resources provided with no expectation of anything in return”). [NOTE: Gifts must still be disclosed as required by Sec. 117 of the HEA]

Mentoring as part of appointment

Teaching commitments at awardee institution

Academic or calendar year salary earned at awardee institution

- Key Differences There are key differences in how the NSPM, NIH, and NSF treat certain items These are discussed below and are summarized in the table in “Appendix 2”:

Honoraria: NSF and the NSPM-33 Guidance do not require disclosure of honoraria. See, [NSF Disclosure Table \(Jan. 10, 2022\)](#), but NIH does.

solely a mentor/mentee arrangement, with no research activities (e.g., associated time commitment), then it is not a resource, and does not need to be reported.”

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Visiting Scholars funded by outside entity																	NIH limits to visiting scholars "in labs" NSF limits to cases with assoc. time commitment.
Students/post-doc researchers funded by external entity																	NSF limits to cases with assoc. time commitment.
Travel supported/pd. By external entity to perform research activity w/assoc. time commitment																	
Consulting* *See definitions of "consulting" that must be reported here and under Notes column. NSF – report "consulting that falls outside individual's appt."																	NIH – report "consulting that falls outside individual's appt; separate from institution's agreemt." May also require consulting to "involve research." NSTC – Same description as NIH with addition of "paid" before "consulting."
Start-up/non-org. lic'd IP																	

Supportingef5953 rg36.24 114.24 80.52 36.6 ref* MC /P 6BDC 41.4 138.6 70f35.76 151.32 0.481 24.4ref1(nge2 0824 175.8c.Tj-0 Tm())TjBD7

Consulting	<ul style="list-style-type: none">• Disclose “paid consulting that falls outside individual’s appointment; separate from institution’s agreement.”• Do not disclose consulting that is “permitted by an individual’s appointment and consistent with proposing organization’s ‘Outside Activities’ policies and procedures.”• No requirement that consulting involve research.		

Providing Foreign Contract Copies	<ul style="list-style-type: none"> • Defers to agency. • Agency may seek copies on request or institute a standard disclosure requirement. 	Requires copies of foreign contracts as part of standard Other Support disclosure process.	Requires copies of foreign contract per agency request.

Individual Certification