

Resources

The False Claims Act Goes Abroad: Michigan Research Institute Falls Under DOJ False Claims Act Scrutiny

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The U.S. Department of Justice (“DOJ”) has resolved false claims against a sector not typically prone to FCA attacks—research institutions. In December 2019, the DOJ reached a \$5.5 million settlement agreement with a Michigan non-profit research institute, the Van Andel Research Institute (“VARI”). The DOJ alleged that VARI failed to disclose foreign funding upon the application for, and over the term of, a federal grant.

VARI, a biomedical research institute based in Grand Rapids, Michigan, received federal grant money from the National Institutes of Health (“NIH”), a highly competitive source of federal funding for medical research institutions. As part of the NIH grant application process, research institutions must disclose any additional sources of funding they are receiving. NIH grants also require disclosures of additional funding sources over the term of the grant.

According to the DOJ, two VARI researchers received funding from Chinese government grants known as the Thousand Talents Program. The NIH contacted VARI about the potential undisclosed funding, but VARI responded it was not required to disclose the Chinese funding. From VARI’s perspective, the NIH grant and foreign funding did not create an overlap of any budgetary resources. The DOJ disagreed and ultimately reached the \$5.5 million settlement.

Defense contractors and health care providers are often the prime targets for FCA violations. As this settlement agreement highlights, research institutions receiving federal grant money should ensure they are compliant with all federal grant requirements, or else risk an FCA violation. Even if a research institution believes outside funding does not overlap with government grant money, full disclosure may be required.

This settlement agreement comes amid the DOJ’s heightened concern for foreign influence in domestic business, especially from the Chinese government. A Harvard University Professor, Dr. Charles Lieber, was arrested January 28, 2020, for allegedly making false statements about his involvement in the Chinese Thousand Talents Program. Dr. Lieber, the Principal Investigator at the Lieber Research Group at Harvard University, allegedly received hundreds of thousands of dollars in a contract with the Thousand Talents Program that he never disclosed.

In its press release, the DOJ stated “False Claims Act penalties are harsh by design,” and that they “sincerely hope the word gets out on the importance of full disclosure with the government.”

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