



# Grant Information Circular

## CLASS DEVIATION IMPLEMENTING NASA RESTRICTIONS ON FUNDING ACTIVITIES WITH THE PEOPLE'S REPUBLIC OF CHINA (PRC)

**PURPOSE:** To provide a class deviation implementing NASA Restrictions on Funding Activities with the People's Republic of China (PRC) that became effective April 25, 2011. **Revision A provides clarification to the guidance.**

**BACKGROUND:** NASA is restricted by specific applications of Section 1340(a) of The Department of Defense and Full-Year Appropriations Act, Public Law 112-10 (NASA's 2011 continuing resolution), and Section 539 of the Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55 (NASA's FY 2012 appropriation) from using funding appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

**GUIDANCE:** NASA is restricted by specified application of the Acts from using funding appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement. Funds containing the restriction are those FY 2011 funds appropriated on or after April 25, 2011, FY 2012 funds, and all future appropriations. Accordingly, grant officers shall not use any restricted funds to award or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally in any way with China or any Chinese-owned companies.

If grant officers encounter questions or issues related to a specific announcement, grant, or cooperative agreement, and need additional guidance in determining what constitutes a restricted use of funds, grant officers should consult with the cognizant representative in the NASA Headquarters, Office of Procurement, Program Operations Division. If grant officers encounter questions or issues of a broad policy nature that require guidance beyond that contained herein, grant officers should contact the cognizant representative in the NASA Headquarters Office of Procurement, Contract Management Division.

The restrictions of the Acts and this policy neither limit nor prohibit the purchase of commercial items of supply from China needed to perform a grant or cooperative agreement, because the purchase of commercial items of supply does not involve bilateral participation, collaboration, or coordination.

Grant officers and/or NASA funding sponsors (e.g., Mission Directorates) shall ensure that all Broad Agency Announcements (i.e., Announcement of Opportunities, NASA Research Announcements, and Cooperative Agreement Notices) include the requirement for the submission of the Assurance of Compliance introduced below. Moreover, grant officers shall ensure that all grants and cooperative agreements awarded or funded with the restricted appropriations include the applicable provision introduced below that prohibit the recipient from spending such funds on restricted activities with China or a Chinese-owned company. Grants and cooperative agreements which used funding that was appropriated on or after April 25, 2011 either as a new award or added to an existing award through amendment are subject to this restriction.

"China or Chinese-owned Company" means the People's Republic of China, any company owned by the People's Republic of China, or any company incorporated under the laws of the People's Republic of China. **Chinese universities and other similar institutions are considered to be incorporated under the laws of the PRC and, therefore, the funding restrictions apply to grants and cooperative agreements that include bilateral participation, collaboration, or coordination with Chinese universities.**

### **ACTION REQUIRED BY GRANT OFFICERS:**

1. When issuing new Broad Agency Announcements (e.g., Announcements of Opportunity, NASA Research Announcements, and Cooperative Agreement Notices), grant officers shall add the following paragraph (iv) to the current proposal requirements set forth at 14 CFR § 1260.10 (c)(1) so that proposers, by submission of their proposal, represent that they are not China or a Chinese-owned company, and that they will not participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

#### **Assurance of Compliance – China Funding Restriction (DEVIATION FEB 2012)**

(iv) An Assurance of Compliance with The Department of Defense and Full-Year Appropriation Act, Public Law 112-10 Section 1340(a); The Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55, Section 539; and future-year appropriations herein after referred to as "the Acts", whereas:

(1) NASA is restricted from using funds appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level and at all subrecipient levels, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

(2) Definition: "China or Chinese-owned Company" means the People's Republic of China, any company owned by the People's Republic of China, or any company incorporated under the laws of the People's Republic of China.

(3) The restrictions in the Acts do not apply to commercial items of supply needed to perform a grant or cooperative agreement.

(4) By submission of its proposal, the proposer represents that the proposer is not China or a Chinese-owned company, and that the

proposer will not participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

2. When awarding new grants and cooperative agreements that are subject to 14 CFR § 1260, grant officers shall add the following provision which restricts the recipient from participating, collaborating, or coordinating bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

**Restrictions on Funding Activities with China for Awards Subject to 14 CFR § 1260  
(DEVIATION FEB 2012)**

(a) Pursuant to The Department of Defense and Full-Year Appropriation Act, Public Law 112-10, Section 1340(a); The Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55, Section 539; and future-year appropriations (hereinafter, “the Acts”), NASA is restricted from using funds appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

(b) Definition: “China or Chinese-owned Company” means the People’s Republic of China, any company owned by the People’s Republic of China, or any company incorporated under the laws of the People’s Republic of China.

(c) The restrictions in the Acts do not apply to commercial items of supply needed to perform a grant or cooperative agreement.

(d) Subaward – The recipient shall include the substance of this provision in all subawards made hereunder.”

**[End of Provision]**

3. When issuing new grants or cooperative agreements that are subject to 14 CFR § 1273, grant officers shall add the following provision which restricts the recipient from participating, collaborating, or coordinating bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

**Restrictions on Funding Activities with China for Awards Subject to 14 CFR § 1273  
(DEVIATION FEB 2012)**

(a) Pursuant to The Department of Defense and Full-Year Appropriation Act, Public Law 112-10, Section 1340(a); The Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55, Section 539; and future-year appropriations (hereinafter, “the Acts”), NASA is restricted from using funds appropriated in the Acts to enter into or fund any grant or cooperative agreement of any kind to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

(b) Definition: “China or Chinese-owned Company” means the People’s Republic of China, any company owned by the People’s Republic of China, or any company incorporated under the laws of the People’s Republic of China.

(c) The restrictions in the Acts do not apply to commercial items of supply needed to perform a grant or cooperative agreement.

(d) Subawards - State and local governments shall ensure that the substance of the Acts is flowed down to all subawards made.

**[End of Provision]**

4. When issuing new grants or cooperative agreements subject to 14 CFR § 1274, grant officers shall add the following provision which restricts the recipient from participating, collaborating, or coordinating bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

**Restrictions on Funding Activities with China for Awards Subject to 14 CFR § 1274  
(DEVIATION FEB 2012)**

(a) Pursuant to The Department of Defense and Full-Year Appropriation Act, Public Law 112-10, Section 1340(a); The Consolidated and Further Continuing Appropriation Act of 2012, Public Law 112-55, Section 539; and future-year appropriations (hereinafter, “the Acts”), NASA is restricted from using funds appropriated in the Acts to enter into or fund any grant or cooperative agreement to participate, collaborate, or coordinate bilaterally with China or any Chinese-owned company, at the prime recipient level or at any subrecipient level, whether the bilateral involvement is funded or performed under a no-exchange of funds arrangement.

(b) “China or Chinese-owned Company” means the People’s Republic of China, any company owned by the People’s Republic of China, or any company incorporated under the laws of the People’s Republic of China.

(c) The restrictions in the Acts do not apply to commercial items of supply necessary to perform a grant or cooperative agreement.

(d) Subawards – The recipient shall include the substance of this provision in all subawards made hereunder.

**[End of Provision]**

5. With respect to existing grants and cooperative agreements, grant officers shall attempt to negotiate bilaterally with the recipient to include the applicable provision at no costs in all existing awards that have used or will use appropriations received by NASA after April 25, 2011. **If additional funds are added to an existing grant or cooperative agreement after the effective date of this deviation, grant officers must obtain the Assurance of Compliance and must include the appropriate provision in the grant or cooperative agreement concurrent with the funding action.**

**EFFECTIVE DATE:** This GIC is effective as dated and shall remain in effect until rescinded or added to the NASA Grant and Cooperative Agreement Handbook.

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/s/

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