

Ethical Conundrums of Current US Funding Agency Security Efforts

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Disclaimer

The opinions expressed in this presentation are my own and do not represent the official position of UTSW.



Research security became a focal point for **US federal agencies** funding academic research in **2018 when NIH started sending notifications to dozens of academic institutions about concerns involving foreign influence in research**. The effort to determine the scope and extent of the foreign influence, which started years before 2018, continues today and has culminated in the recent release of draft **Research Security Program (RSP) requirements**.

Lost in this effort are the **ethical conundrums** presented by the federal government's shifting requirements, inconsistent responses by academic institutions, and the potential chilling effect that all of this has on international research collaborations.

Learning Objectives & Topics

Background &
Rationale

The Changing
Landscape & Its
Impacts

Ethical
Conundrums for
Researchers &
Institutions

Background & Rationale

From 2018 to the Present

“Dear Colleague” Letter from NIH & ACD
Working Group (08/2018 to 06/2019)



Dear Colleague Letter - 2018

- Information about the required disclosure of foreign financial interests was disseminated early in the year
- Notified specific institutions and individuals about concerns regarding inappropriate foreign influence in research in August and October
- Dr. Collins also provided testimony to the Senate about widespread concerns regarding inappropriate foreign influence in research

From 2018 to the Present

“Dear Colleague” Letter from NIH & ACE
Working Group (08/2018 to 06/2019)

OSTP Report (06/2020)



Enhancing the Security and Integrity of America's Research Enterprise

The White House Office of Science and Technology Policy

www.whitehouse.gov/ostp

www.ostp.gov

@WHOSTP



Examples of behaviors that increase risk and can harm the research enterprise

Irresponsible Conduct that Violates Funding Agency and Institutional Policies:

- Failures to disclose:
 - Financial conflicts of interest
 - Conflicts of **commitment**
 - External employment arrangements
 - Financial support that overlaps with U.S. funding
 - Shadow laboratories or other parallel research activities
- Diversion of intellectual property
- Peer review violations

Examples of Behaviors that May Violate Laws:

- Theft or diversion of materials and intellectual capital
- Grant Fraud

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Potential Impacts:

- **Distorted decisions** about appropriate use of taxpayer funds
- **Hidden transfers** of information, know-how, data, and time
- **Diversion of proprietary information** and pre-publication data to foreign entities
- **Loss of Federal research funding**, or need to replace key personnel
- **Damage to the reputation** of research institutions and researchers
- **Reputational, career, and financial detriment** to individuals
- **Loss of taxpayer and public trust** in the research enterprise

From 2018 to the Present

“Dear Colleague” Letter from NIH & ACE
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OSTP Report (06/2020)

GAO Report (12/2020)





United States Government Accountability Office

Report to the Chairman, Committee on
Finance, U.S. Senate

December 2020

FEDERAL RESEARCH

Agencies Need to
Enhance Policies to
Address Foreign
Influence

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“Dear Colleague” Letter from NIH & ACE
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OSTP Report (06/2020)

GAO Report (12/2020)

JCORE & NSPM-33
(01/2021)

“The heads of US research funding agencies shall require the disclosure of information related to potential conflicts of interest and commitment from participants in the federally funded R&D enterprise.”



RECOMMENDED PRACTICES FOR STRENGTHENING THE SECURITY AND INTEGRITY OF AMERICA'S SCIENCE AND TECHNOLOGY RESEARCH ENTERPRISE

Product of the
SUBCOMMITTEE ON RESEARCH SECURITY
JOINT COMMITTEE ON THE RESEARCH ENVIRONMENT
of the
NATIONAL SCIENCE & TECHNOLOGY COUNCIL

January 2021

MEMORANDUM

PRESIDENTIAL MEMORANDA

Presidential Memorandum on United States Government- Supported Research and Development National Security Policy

NATIONAL SECURITY & DEFENSE | Issued on: January 14, 2021

GRADE:   

NATIONAL SECURITY PRESIDENTIAL MEMORANDUM - 33

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“Dear Colleague” Letter from NIH & ACE
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OSTP Report (06/2020)

GAO Report (12/2020)

JCORE & NSPM-33
(01/2021)

COGR Guidance v2 (09/2021)

OSTP Implementation Guidance (01/2022)

Draft Research Security Program Standard (03/2023)

COGR Guidelines

First set of comprehensive guidelines focused on COC

In-depth discussion of challenges and policy considerations that are a part of this topic

Many examples of COC, and discussion points, at the end of the document

COGR

Council On Governmental Relations

An Association of Research Institutions

**Principles for Evaluating Conflict of
Commitment Concerns in Academic
Research**

Version 2.0

September 2021

This Framework is provided as a tool to the COGR Membership with the understanding that COGR is not providing legal, regulatory, or policy advice.

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(01/2021)

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Draft Research Security Program Standard (03/2023)

**Subcommittee on Research Security
National Science and Technology Council
Office of Science and Technology Policy**

DRAFT Research Security Programs Standard Requirement

Prepared by the Interagency Working Group on Research Security Programs, Subcommittee on Research Security, National Science and Technology Council

February 2023

DRAFT Research Security Programs Standard Requirement

Foreign Travel Security

International travel policies and procedures must include:

1. Maintenance of an organizational record of covered international travel by covered individuals engaged in federally funded R&D – **Exists!**
2. A disclosure and authorization requirement in advance of international travel – **Exists!**
3. Mandatory applicable security briefings, and advice regarding electronic device security (e.g., smartphones, laptops) prior to covered international travel, or to travel including electronic devices utilized for federally funded R&D or bought with Federal funding.
 - a. No requirement for LLP
 - i. Do we want a LLP? Perhaps a Tip Sheet explaining that a LLP exists
 - b. Partner with InfoSec and ITOC
 - c. Create policy (e.g. Items taken, etc.)
 - d. PeopleSoft for Travel Auth. – gather information on technology being taken and federal awards

Research Security Training

Training should be tailored to appropriate personnel, such as faculty, staff, and students (all in research?)

1. Facilitate in Taleo?
 - a. Mechanism to document training
 - b. Frequency – Annual?
 - i. At Orientation, COI training, or Compliance training
 - c. eResearch integration to check-off training

Cybersecurity

Implement baseline safeguarding protocols and procedures for information systems used to store, transmit, and conduct federally funded R&D

1. Nathan Routen and Tony Lakin

Export Control Training

Training to relevant personnel on requirements and processes for reviewing foreign sponsors, collaborators and partnerships, and for ensuring compliance with Federal export control requirements and restricted entities lists

1. Emphasize that the “fundamental research” exception has explicit limitations (this is not in the EC regulations)

NATIONAL SCIENCE AND TECHNOLOGY COUNCIL



**GUIDANCE FOR IMPLEMENTING NATIONAL
SECURITY PRESIDENTIAL MEMORANDUM 33
(NSPM-33) ON NATIONAL SECURITY
STRATEGY FOR UNITED STATES
GOVERNMENT-SUPPORTED RESEARCH AND
DEVELOPMENT**

*A Report by the
Subcommittee on Research Security
Joint Committee on the Research Environment*

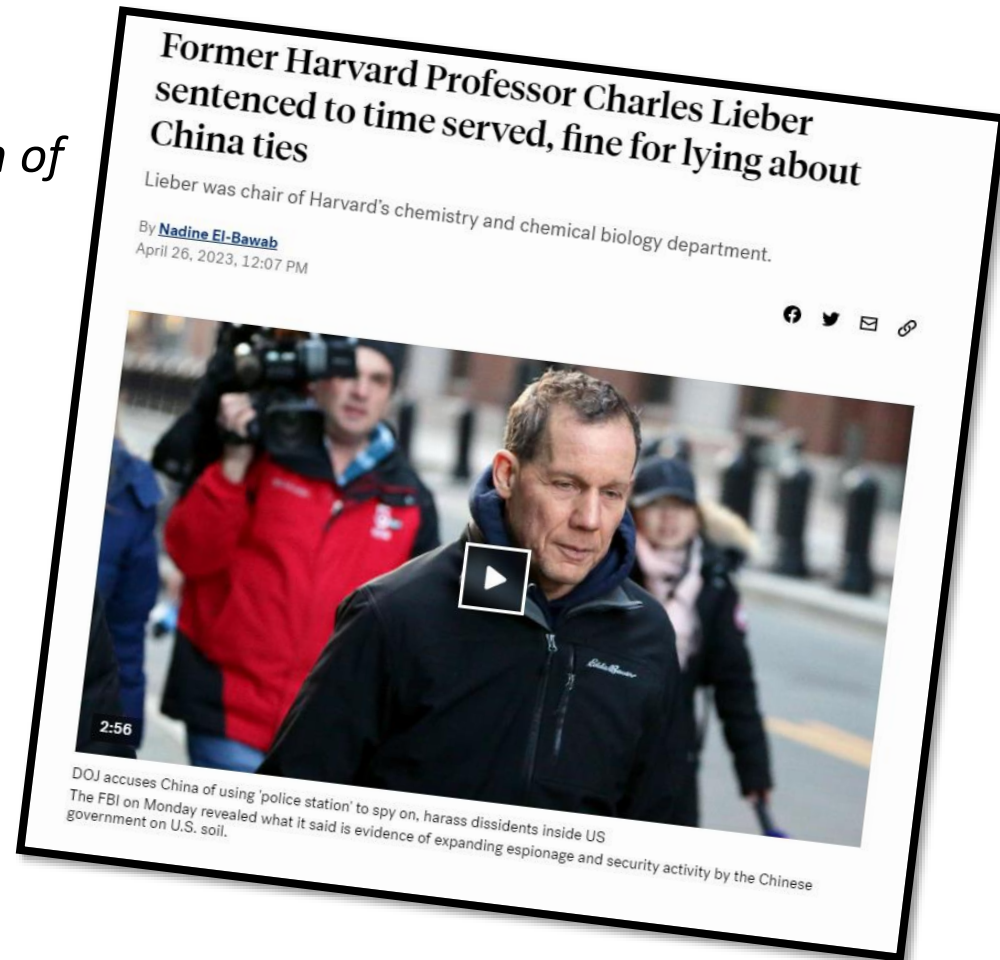
January 2022

The Changing Landscape & Its Impacts

What are we talking about, exactly?

Definition: *Safeguarding the research enterprise against the misappropriation of R&D to the detriment of national or economic security, related violations of research integrity, and foreign government interference.**

- Overlap in research funding
- So called “shadow labs”
- Loss of IP to other countries
- Undisclosed research activities



* = NSF, SRA International, October, 2023

Where did this start?



IP & Peer
Review



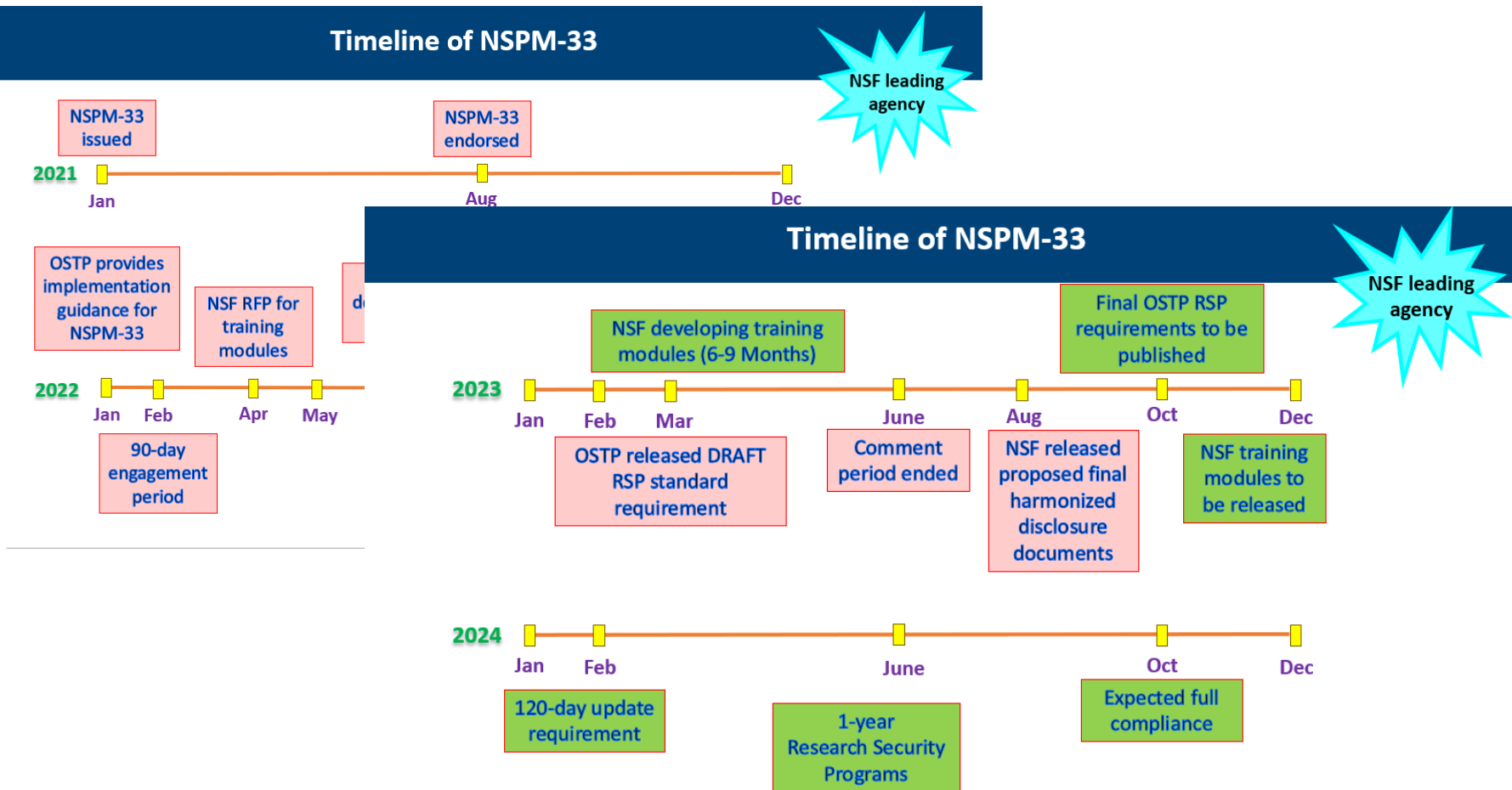
COI/COC



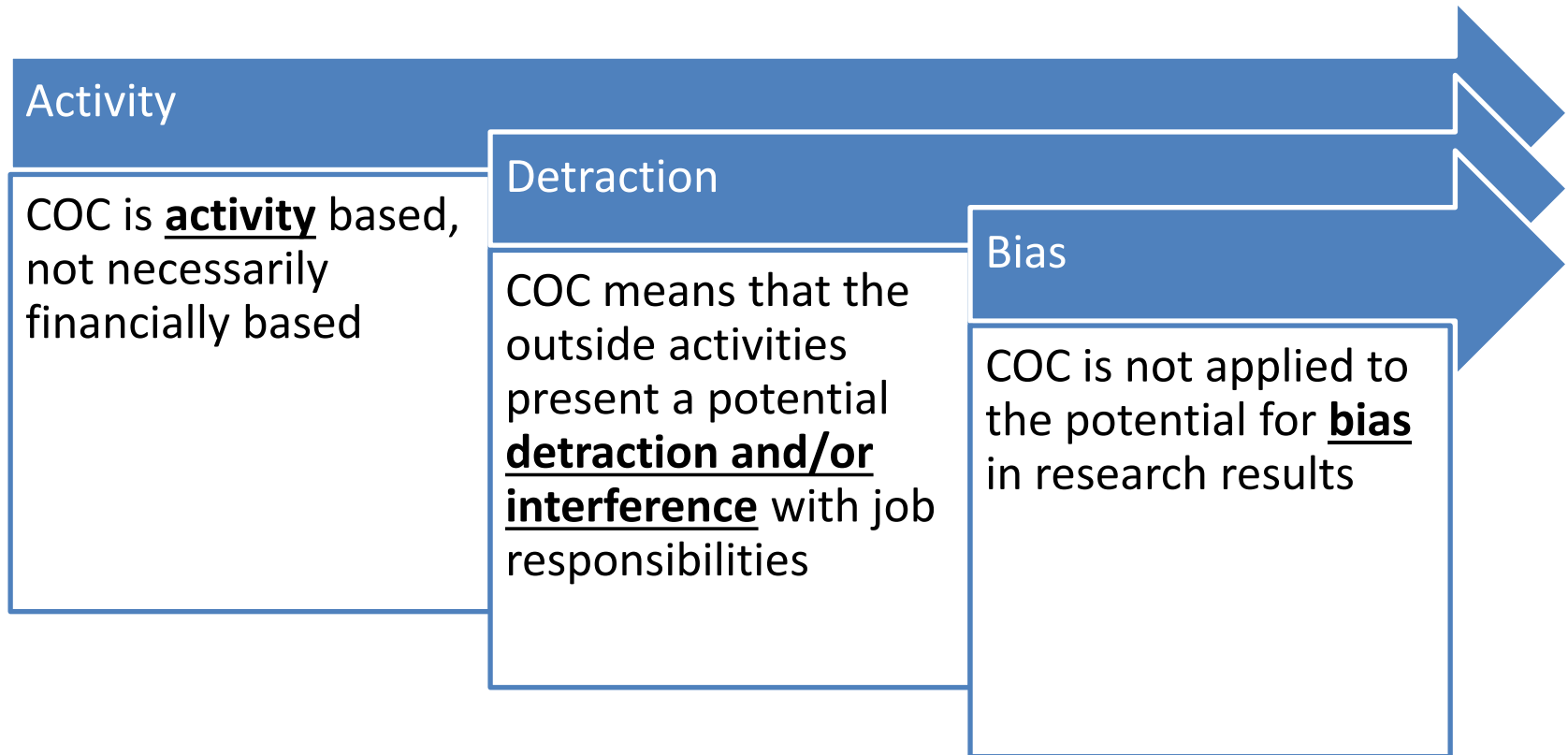
Export
Control &
Cybersecurity



Same Timeline from an Administrator's View Point



Conflict of Commitment – A New Paradigm



Ethical Conundrums for Researchers & Institutions (Administrators)

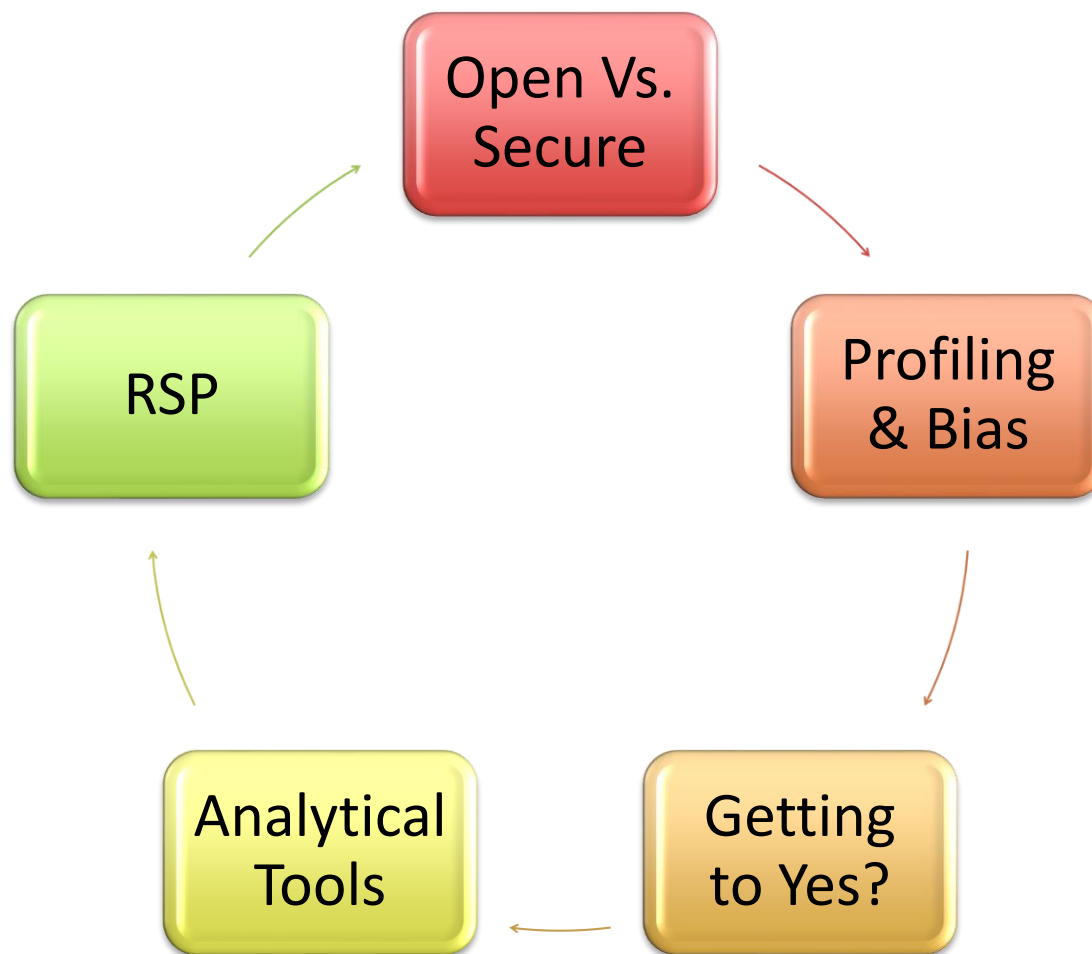




Values are the Heart of Research Security



Unanswered Questions



Let's Not Forget a Few Good Things

COI/COC

Acknowledgement
of foreign
activities and
funding

Export Control

Awareness of EC
regulations and
improved
compliance

Courtesy Authorship

Seen as a risky or
inappropriate
activity

Conclusions

- Research Security, as defined by the US federal funding agencies, has been very disruptive to academic research, and continues to evolve
- Many of the impacts and ethical issues raised remain ongoing and subject to change
- Research Security has many elements of an unfunded mandate
- A few positive outcomes have resulted from Research Security discussions
- Stay tuned!

For further references see....



Principles for Evaluating Conflict of Commitment Concerns in Academic Research

Acknowledgement: Dr. Melissa Torres-Altora created figures on slides 17 & 21 to support the UTSW RSSC.

UTSouthwestern
 Medical Center

thank
you