**Fayetteville Policies and Procedures 310.2**

**Foreign Gifts and Contracts Reporting**

**Appendix A**

**Internal Reporting Procedures**

**I. Guidelines**

Pursuant to federal and state law, and to implement the Foreign Gifts and Contracts Policy, all units and their departments, divisions, and offices of the University must report all foreign gifts received from or contracts entered into with a foreign source in accordance with the guidance and procedures outlined hereto. This procedure specifies how the Foreign Gifts and Contracts Policy is implemented.

All gifts and contracts as described above, must be reported to the Office of Financial Affairs by July 10th for the period of January 1st through June 30th and January 10th for the period of July 1st through December 31st. These internal reporting deadlines ensure timely reporting and compliance with the Higher Education Act Section 117 and Ark. Code § 6-60-1204.

**II. Reporting Process**

1. The Office of Financial Affairs will initiate the internal reporting process each year by sending a notice to each Vice Chancellor and Dean responsible for each unit.
2. Each Vice Chancellor and Dean shall be responsible for maintaining the required information to produce accurate foreign gifts and contracts disclosures. The Vice Chancellor and Dean may designate these functions within each division but is expected to ensure that this process is followed. Each division and academic unit is responsible for meeting both the July 10th and January 10th deadlines.
3. The Office of Financial Affairs will reconcile foreign gifts and contracts data reported by the units and their departments, divisions, and offices of the University to data residing in Workday and make adjustments, as necessary, to align with the requirements of Higher Education Act Section 117 and Ark. Code § 6-60-1204.
4. The Office of Financial Affairs will submit the required reports of all applicable foreign source gifts and contracts to the U.S. Department of Education and Arkansas Department of Finance & Administration by the required deadlines.

**III. Content of Report**

1. Each foreign gift and contract meeting the threshold requirement must be disclosed as required by Policy 310.2.
2. The Unit’s submission of Foreign Gifts and Contracts Report shall be certification that the report was conducted with reasonable due diligence.
3. Each reportable gift or contract must disclose the following information:
   1. Foreign source name;
   2. Foreign source type;
   3. Foreign source address;
   4. Country of citizenship and/or origin of the foreign source;
   5. Terms of a gift or contract;
      1. Amount;
      2. Date of gift’s receipt;
      3. Contract start date; and/or
      4. Contract end date
   6. All recipients, including intermediaries or domestic parties;
   7. For restricted or conditional gifts or contracts:
      1. Detailed description of all conditions or restrictions; and
      2. The specific restricted or conditional gift or contract provision(s), including whether the restriction(s) or condition(s) concerns or relates to:
         1. Employment, assignment, or termination of faculty;
         2. Establishment of departments, centers, research or lecture programs, or new faculty positions;
         3. Selection or admission of students; and/or
         4. Award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

**IV. Determining Gifts and Contracts Subject to Disclosure**

This section describes when a gift from or a foreign source or contract with a foreign source is subject to disclosure under federal and state law.

***A. Definitions***

**Foreign Source**

Under Section 117[[1]](#footnote-1), a **foreign source** means:

1. A foreign government, including an agency of a foreign government;
2. A legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;
3. An individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and
4. An agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source.
   1. A multinational company or U.S. entity with a foreign parent company is a reportable foreign source if it is acting as an agent of a foreign source.

Each department or division has a duty to exercise reasonable due diligence in determining whether a source constitutes a foreign source under federal and state law. Questions regarding this policy should be directed to the Office of Financial Affairs, which shall consult with the University’s Office of Research Compliance and the Office of the General Counsel as necessary.

**Contract**

Under Ark Code Ann. §6-60-1202(2) a contract means an agreement for the acquisition by purchase, lease, or barter of property or services between a foreign source and an institution for the direct benefit of or the use by either of the parties.

**Gift**

Under Ark Code Ann. §6-60-1202(4), a gift means a gift of money or property.

***B. Country of Origin***

A foreign source must be identified by its country of origin. For purposes of Section 117 reporting, the country of origin is determined accordingly:

1. For a natural person: the country of citizenship, or if unknown, the principal place of residence;
2. For a legal entity: the country of incorporation, or if unknown, the principal place of business.

***C. Threshold Requirement***

**All** foreign gifts received from or entered with a foreign source must be disclosed in each unit’s internal report. Contracts are valued when entered into. Each department or division shall use a reasonable valuation methodology to determine the value of a contract when entered into. Gifts are valued upon receipt, and the reportable amount of a gift is the value received.

The Office of Financial Affairs will be responsible for determining whether each unit’s disclosed foreign gifts or contracts meet the reporting threshold requirement. Gifts or contracts equal to or exceeding $250,000, including in-kind exchanges that are part of a gift or contract, must be disclosed in the Office of Financial Affairs’ final report; gifts or contracts valued at $250,000 or more in the aggregate shall be disclosed. Accordingly, the threshold requirement is determined for each foreign source per calendar year.

***D. Restricted or Conditional Gifts and Contracts***

For restricted or conditional gifts and contracts, Section 117 mandates disclosure of: (1) a detailed description of the restrictions or conditions; and (2) the specific restricted or conditional provisions.

Under Section 117, a restricted or conditional gift or contract occurs only if the restriction(s) or condition(s) concern or relate to the following provisions:

1. Employment, assignment, or termination of faculty;
2. Establishment of departments, centers, research or lecture programs, or new faculty positions;
3. Selection or admission of students; and/or
4. Award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

To satisfy the reporting requirements under federal and state law, each unit’s internal report must include a detailed description of the specific restriction(s) or condition(s) that makes such a gift or contract a restricted or conditional transaction per Section 117.

1. See also the parallel definition provided at Ark Code Ann. § 6-60-1202(3). [↑](#footnote-ref-1)