



January 4, 2022

From: Office of the Controller

Subject: Foreign Gifts and Contract Reporting Process

Purpose:

Institutions participating in the Title IV student assistance programs must report disclosure information to the Secretary of the Department of Education about gifts received from any foreign source, contracts with a foreign entity, and any ownership interests in or control over the institution by a foreign entity valued at \$250,000 or more. The purpose of this memo is to document the procedures for complying with this federal reporting requirement.

Background:

Higher Education Act of 1965 as amended; 20 U.S.C. § 1011f stipulated that on or before January 31st or July 31st, whichever is sooner, institutions must file a disclosure report about ownership or control by, or contracts with or gifts from foreign sources. A disclosure report must be filed with the Department of Education for gifts and contracts of \$250,000 or more received within a calendar year. A gift or contract meets the \$250,000 threshold either alone or when considered in combination with all other gifts from or contracts with that foreign source within a calendar year.

Process and Procedures:

This section summarizes the reporting procedures.

Data Collection

The Office of the Controller initiates the data collection process covering the entirety of the prior calendar year (Jan 1 – Dec 31) for January 31 reporting and the first half of the current calendar year (Jan 1 – Jun 30) for July 31 reporting, for the following:

1. **Gifts** – All incoming foreign source¹ gifts (cash or some other, such as in-kind support) received by UMD, along with the name of the country of origin and the name of the donor.
 - a. *Reporting restricted/conditional gifts.* UMD will report gifts as restricted or conditional if the gift contains a provision regarding (1) the employment, assignment, or termination of faculty; (2) the establishment of new departments, centers, research programs, lecture programs, or faculty positions; (3) the selection or admission of students; and/or (4) the award of any form of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.
 - b. *Primary Campus Unit.* The Office of the Controller will contact the Office of the Vice President for University Relations (“VPUR”) to obtain the following information:
 - i. Name of foreign source.
 1. Is the gift from a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 - a. If yes, provide the name of the foreign government
 2. Is the gift from a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 3. Is the gift from an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 4. Is the gift from a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, a legal entity created solely under the laws of a foreign state or states, or an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 - a. If yes, provide the name of the foreign government, legal entity, individual, or person.
 - ii. Foreign source address including country of origin
 1. For gifts received from a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.
 - iii. Gift terms.
 1. Amount.
 2. Date received.

¹ UMD does not consider US companies that are merely affiliated with a foreign entity to be foreign sources under Sec. 117. UMD will report gifts from US companies that are expressly flowing down foreign funds or expressly operating on behalf of a foreign source.

3. Detailed description of all conditions or restrictions (if gift is restricted or conditional)
 - iv. Recipient, including any and all intermediaries.
 - v. If restricted, include:
 1. Do the restrictions or conditions concern or relate to the employment, assignment, or termination of faculty? (Y/N)
 2. Do the restrictions or conditions concern or relate to the establishment of departments, centers, research or lecture programs, or new faculty positions? (Y/N)
 3. Do the restrictions or conditions concern or relate to the selection or admission of students? (Y/N)
 4. Do the restrictions or conditions concern or relate to the 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? (Y/N)
2. **Contracts** – All incoming funds received from a foreign source¹ (or from a foreign source through another pass through entity) contracts to UMD entered into in each calendar year (based on the contract’s effective date²), along with the name of the country of origin and the name of the foreign source sponsor. Contracts include all non-gift sponsored agreements between UMD and a foreign source (or from a foreign source through another pass through entity) that are being administered by the Office of Research Administration (“ORA”).
- a. *Reporting restricted/conditional contracts.* UMD will report contracts as restricted or conditional if, beyond the mere naming of a Principal Investigator (“PI”), the contract contains a provision regarding (1) the employment, assignment, or termination of faculty; (2) the establishment of new departments, centers, research programs, lecture programs, or faculty positions; (3) the selection or admission of students; and/or (4) the award of any form of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.
 - b. *Primary Campus Unit.* The Office of the Controller will contact ORA to obtain the following information:
 - i. Name of the foreign source.
 1. Is the contract with a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 - a. If yes, provide the name of the foreign government.

² UMD considers a contract as “entered into” on the effective date the contract is entered into the KR System, and not necessarily the date that UMD first receives the contract. UMD frequently has to negotiate contract terms, or ensure compliance requirements, so the date UMD receives a contract may not be the date on which UMD and the sponsor sign the final version of the contract, or that UMD can incur costs in the case of compliance issues.

2. Is the contract with a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 3. Is the contract with an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 4. Is the contract with a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, legal entity created solely under the laws of a foreign state or states, or individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 - a. If yes, provide the name of the foreign government, legal entity, individual, or person.
- ii. Foreign source address including country of origin.
1. For contracts with a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.
- iii. Domestic party
- iv. Contract terms.
1. Amount.
 2. Contract start date.
 3. Contract end date.
 4. Narrative description of all conditions or restrictions (if contract terms are restricted or conditional)
- v. If restricted, specify restricted or conditional contract provisions as follow:
1. Do the restrictions or conditions concern or relate to the employment, assignment, or termination of faculty? (Y/N)
 2. Do the restrictions or conditions concern or relate to the establishment of departments, centers, research or lecture programs, or new faculty positions? (Y/N)
 3. Do the restrictions or conditions concern or relate to the selection or admission of students? (Y/N)
 4. Do the restrictions or conditions concern or relate to the 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? (Y/N)

3. **Additional Data Collection** – The Office of the Controller will determine whether other campus units have additional foreign gifts and/or contracts not captured by ORA or the VPUR process. The Controller’s Office will contact:
- a. Chief Financial Officer (CFO) (Designee) to obtain all foreign source third-party billing agreements used to pay authorized student account charges on behalf of a student/s.
 - b. Provost (Designee) Assistant Vice President, Office of the Provost to obtain
 - i. foreign gifts/receipts tracked by College Budget Officers (CBOs);
 - ii. facility use licenses, leases, or other agreements with foreign source parties or paid with foreign monetary sources running through IBBR or any another unit reporting to the Provost, where such agreements have not been captured by another process;
 - iii. information on any and all executive education agreements with foreign sources or paid with foreign monetary sources processed through the Office of Extended Studies (OES); and
 - iv. information on any agreements with foreign source parties or paid with foreign monetary sources, where such agreements have not been captured by the ORA or VPUR processes, or administered by the Office of the Provost, VPA, VPSA, or their units.
 - c. Vice President of Administration (VPA) (Designee) to obtain
 - i. any and all facility use licenses (including incubator licenses), leases, subleases, property acquisition contracts, disposition agreements, or similar agreements paid with foreign monetary sources, where such agreements originated with or are administered by the Office of Real Estate;
 - ii. any and all facility use licenses (including incubator licenses), leases, subleases, property acquisition contracts, disposition agreements, or similar agreements paid with foreign monetary sources, where such agreements did not originate with and are not administered by the Office of Real Estate.
 - d. Vice President of Student Affairs (VPSA) (Designee) to obtain
 - i. any and all leases, subleases, and facility licenses with foreign source parties or paid with foreign monetary sources, where such agreements originated with or are administered by the Division of Student Affairs.
 - ii. Conferences & Visitor Services to obtain information on any and all event facility use licenses or other agreements with foreign source parties or paid with foreign monetary sources, where such agreements have not been captured by the ORA or VPUR processes, or administered by the Office of the Provost, VPA, VPSA, or their units.

- e. The Director of UM Ventures to obtain information on any and all (1) intellectual property licenses, (2) equity agreements, and (3) quantum foundry or similar agreements, where such licenses or agreements are with foreign source parties or paid with foreign monetary sources.

The information above is due shortly after December 31 and June 30 each year. Reminders are sent prior to the reporting deadline.

Due to the short turnaround and with the additional reporting requirements issued by the Department of Education on June 22, 2020 (see Appendix A), VPUR and ORA should provide a complete listing, regardless of the amount, and provide answers to the questions for each gift or contract that clearly exceed the reportable threshold. Once Office of the Controller aggregates all the data (see step below), it may be possible that additional contracts or gifts are reportable. At that time, the Office of the Controller will notify VPUR, ORA and/or units outlined in Section 3 (Additional Data Collection) for additional information required.

Data Validation

The Office of the Controller will validate the list against all incoming international wires and ACH transactions to ensure completeness, to the extent possible. Aggregation will then be performed by foreign sources to determine if funds of \$250,000 or more were received individually or in total from the same source within the reporting period. This step is due as soon as practicable.

Data Submission

The Office of the Controller will prepare a list of the reportable funds and send it to the Director, Financial Aid for submission to Department of Education. The information is due to Department of Education by the end of January and July each year. Beginning July 1, 2020, this information is entered into the Department of Education's Online Portal for Higher Education Institutions to Report Foreign Gifts and Contracts at <https://partners.ed.gov/ForeignGifts>. Each contract/gift is entered separately into the portal.

- Information needed for each gift include: name of foreign source, address including country of origin, gift terms and recipient, including any and all intermediaries.
- The information needed for each contract include: name of foreign source, address including country of origin, restricted or conditional gift terms, specific or conditional contract provisions, and recipient including any and all intermediaries.

Submitting the report: Once the report is submitted online, screen print the acknowledgement of submission of the report (date and time) and file. In addition, a copy should be provided to the Office of the Controller and the Office of General Counsel.

Effective Date: January 4, 2021

If you have any further questions, please contact Office of the Controller at controller@umd.edu or 301 405-2584.

Appendix A – Department of Education Official Guidance for Sec 117 Reporting issued on June 22, 2020, ([Announcement](#))

1. Office of Postsecondary Education Identification (OPEID)
 - a. List all campuses.
 - b. Is the institution, or any part thereof, owned or substantially controlled by a foreign source? (Y/N)
 - i. If yes, then identify:
 1. The foreign source
 2. The date on which the foreign source assumed ownership or control
 3. Any changes in program or structure resulting from the change in ownership or control
2. Gifts from a foreign source.
 - a. Name of foreign source.
 - i. Is the gift from a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 1. If yes, provide the name of the foreign government
 - ii. Is the gift from a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 - iii. Is the gift from an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 - iv. Is the gift from a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, a legal entity created solely under the laws of a foreign state or states, or an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 1. If yes, provide the name of the foreign government, legal entity, individual, or person.
 - b. Foreign source address including country of origin
 - i. For gifts received from a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.
 - c. Gift terms.
 - i. Amount.
 - ii. Date received.
 - d. Recipient, including any and all intermediaries.
3. Contracts with a foreign source.
 - a. Name of the foreign source.

- i. Is the contract with a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 - 1. If yes, provide the name of the foreign government.
 - ii. Is the contract with a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 - iii. Is the contract with an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 - iv. Is the contract with a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, legal entity created solely under the laws of a foreign state or states, or individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 - 1. If yes, provide the name of the foreign government, legal entity, individual, or person.
 - b. Foreign source address including country of origin.
 - i. For contracts with a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.
 - c. Domestic party
 - d. Contract terms.
 - i. Amount.
 - ii. Contract start date.
 - iii. Contract end date.
- 4. Restricted or conditional gifts from a foreign source.
 - a. Name of the foreign source.
 - i. Is the gift from a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 - 1. If yes, provide the name of the foreign government.
 - ii. Is the gift from a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 - iii. Is the gift from an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 - iv. Is the gift from a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, a legal entity created solely under the laws of a foreign state or states, or an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 - 1. If yes, provide the name of the foreign government, legal entity, individual, or person.
 - b. Foreign source address including country of origin.
 - i. For gifts received from a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation,

or if unknown, the principal place of business for a foreign source which is a legal entity.

- c. Restricted or conditional gift terms.
 - i. Amount.
 - ii. Date received.
 - iii. Detailed description of all conditions or restrictions.
 - d. Specific restricted or conditional gift provisions.
 - i. Do the restrictions or conditions concern or relate to the employment, assignment, or termination of faculty? (Y/N)
 - ii. Do the restrictions or conditions concern or relate to the establishment of departments, centers, research or lecture programs, or new faculty positions? (Y/N)
 - iii. Do the restrictions or conditions concern or relate to the selection or admission of students? (Y/N)
 - iv. Do the restrictions or conditions concern or relate to the 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? (Y/N)
 - e. Recipient, including any and all intermediaries.
5. Restricted or conditional contract with a foreign source.
- a. Name of the foreign source.
 - i. Is the contract with a foreign government, including but not limited to any agency of a foreign government? (Y/N)
 - 1. If yes, provide the name of the foreign government.
 - ii. Is the contract with a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states? (Y/N)
 - iii. Is the contract with an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof? (Y/N)
 - iv. Is the contract with a person, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, a legal entity created solely under the laws of a foreign state or states, or an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof? (Y/N)
 - 1. If yes, provide the name of the foreign government, legal entity, individual, or person.
 - b. Foreign source address including country of origin.
 - i. For contracts with a foreign source other than a foreign government, the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.
 - c. Domestic party.
 - d. Restricted or conditional contract terms.
 - i. Amount.
 - ii. Contract start date.

- iii. Contract end date.
- iv. Narrative description of all conditions or restrictions
- e. Specific restricted or conditional contract provisions.
 - i. Do the restrictions or conditions concern or relate to the employment, assignment, or termination of faculty? (Y/N)
 - ii. Do the restrictions or conditions concern or relate to the establishment of departments, centers, research or lecture programs, or new faculty positions? (Y/N)
 - iii. Do the restrictions or conditions concern or relate to the selection or admission of students? (Y/N)
 - iv. Do the restrictions or conditions concern or relate to the 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? (Y/N)
- 6. Acknowledgement: This information collection is subject to 18 U.S.C. § 1001, which provides that whoever knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, may be subject to fines and imprisonment. (Y/N)