Foreign Sources Reporting

Responsible Office: Quality Assurance & Financial Compliance (QAFC)
Contact: qafc@unlv.edu
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Statement of Purpose

UNLV is committed to complying with foreign sources reporting requirements as stated by the Department of Education's (ED) Section 117 of the Higher Education Act of 1965 and the National Science Foundation's (NSF) Foreign Financial Disclosure Report (FFDR). In support of this commitment, all University units and related entities receiving gifts from or entering into contracts with foreign sources must report such gifts and contracts biannually to Quality Assurance and Financial Compliance in the Division of Business Affairs.

Entities Affected by this Policy

The following units or entities may have information to report to QAFC regarding gifts and contracts with foreign sources:

- All UNLV Colleges
- Athletics and Thomas & Mack Center
- Boyd School of Law
- Cashiering & Student Accounts
- Global Education Initiatives
- International Gaming Institute
- Kirk Kerkorian School of Medicine
- Office of Economic Development
- Office of Sponsored Programs
- Philanthropy & Alumni Engagement and UNLV Foundation
- School of Dental Medicine
- Student Affairs/Student Life/Student Union and Event Services

Campus units have been identified as potential entry points for incoming gifts from and contracts with foreign entities using the Contracting Signature Authority Delegations document, maintained by the UNLV Office of General Counsel.

Who Should Read this Policy

Senior leadership (AVPs, Deans, Executive Directors), business and finance functions, and any positions associated with the facilitation or processing of contracts and/or gifts for the affected units listed above should read this policy.

Policy

Scope

Section 117 of the Higher Education Act of 1965 and the Foreign Financial Disclosure Report of the National Science Foundation require Universities to disclose certain information regarding gifts and contracts with “foreign sources” to the ED (on Jan 31 and July 1 each year) and NSF (on July 31 each year). In an effort to streamline the reporting process across campus, reporting for Section 117 and the FFDR was consolidated under foreign sources reporting. UNLV payments to foreign sources in exchange for goods and services and investments in foreign entities are not relevant to this policy.

General Requirements

Section 117 of the Higher Education Act of 1965

Section 117 of the Higher Education Act requires institutions of higher education that offer a bachelor’s degree or higher, or that offer a transfer program of not less than two years that is acceptable for credit towards a bachelor’s degree, and receive federal financial assistance to disclose semiannually to the ED any gifts received from and contracts with a foreign source that, alone or combined, are valued at $250,000 or more in a calendar year (see “valuation of contracts” in the Definitions section for determining the $250,000 threshold for contracts). The statute also requires institutions to report information when owned or controlled by a foreign source. Congress enacted these disclosure requirements to promote public transparency about the role of foreign funding in U.S. higher education.

Section 117 reports are due twice per year (July 31 and January 31). The Section 117 report due on July 31 covers the first six months of the year (gifts received or contracts entered from January 1- June 30). The Section 117 report due on January 31 covers the second half of the year (gifts received or contracts entered into from July 1-December 31). The $250,000 reporting threshold applies on a calendar year basis, and it is necessary for the January 31 report to be aggregated by foreign source on the basis of all gifts and contracts received throughout the entire calendar year (January 1 - December 31).

Foreign Financial Disclosure Report (FFDR)

In accordance with Section 10339B, Foreign Financial Support, of the CHIPS and Science Act of 2022 (42 U.S.C. § 19040), each institution of higher education that receives NSF funding must disclose annually, all "current financial support, the value of which is $50,000 or more, including gifts and contracts, received directly or indirectly from a foreign source" which is associated with a foreign country of concern. “Countries of concern” identified by NSF should be confirmed each year by the Foreign Sources Reporting Lead prior to the annual official disclosure(s).

FFDRs must be prepared and submitted in Research.gov by individuals with the FFDR Preparer role. NSF assigned the FFDR Preparer role to all individuals with the Authorized Organizational Representative (AOR) role as of May 20, 2024. At UNLV, the Executive Director for Sponsored Programs serves as the AOR and submits the official FFDR report. Reports are due annually on July 31 and reflect information for the prior fiscal year (July 1 - June 30).

Foreign Sources Reporting Process

Twice a year, UNLV collects information from campus units regarding gifts and contracts regardless of whether they have a monetary value (for example, memoranda of understanding, non-disclosure agreements, data sharing agreements, incoming material transfer agreements, faculty, or student exchange agreements etc.).

Each unit must appoint a Reporting Designee for their area. The Foreign Sources Reporting Lead will maintain a current list of all Reporting Designees. In the event that a Reporting Designee changes, it is the responsibility of the campus unit to promptly notify the Foreign Sources Reporting Lead. Below are attributes the Reporting Designee for each unit should possess:

- Detailed knowledge of contracts, agreements, MOUs, and gifts that the unit/college enters into with foreign sources.
- Capable of accurately reporting both actual and estimated financials in a template provided.
- Able to serve as a liaison for collecting data across the unit/college.
- Act as a primary representative for submitting the Qualtrics survey to Business Affairs, and can address or coordinate responses to any follow-up questions prior to official report submissions.

UNLV relies on each unit to develop valid and reliable processes to accurately complete the foreign sources reporting template (for example, identification of "foreign sources" (including agents of foreign sources) and transactions with such sources, valuation, etc.). The Foreign Sources Reporting Lead is available to provide advice to units. Reporting units shall comply with applicable deadlines and respond promptly to requests for clarifying information from the Foreign Sources Reporting Lead.

A. Information Gathering

The Foreign Sources Reporting Lead requests that Reporting Designees complete a standard reporting template with instructions before each biannual report. The Foreign Sources Reporting Lead will review the instructions and revise them as appropriate in response to pertinent legal or guidance changes. The Reporting Template and instructions will request certain information regarding gifts and contracts with all foreign sources regardless of amount. The Foreign Sources Reporting Lead will include a clear deadline for each Reporting Unit to complete and return the reporting template.

B. Information Analysis

The Foreign Sources Reporting Lead will receive and review all completed reporting templates from campus units and compile them for purposes of conducting the university-wide aggregation analysis. The Foreign Sources Reporting Lead will review all responses and seek to standardize names of counterparties where appropriate.

If the Foreign Sources Reporting Lead identifies foreign sources that meet the reporting threshold for Section 117 or FFDR, they will contact relevant Reporting Designees and request copies of the reportable gifts and contracts. The Foreign Sources Reporting Lead will then review the copies/documentation for quality assurance purposes (signatures, contract terms, explicit valuation information, etc.) and to assess whether they are reportable as "restricted or conditional". Common descriptions of restricted or conditional gifts and contracts include, for example, "Designates a principal investigator," "Designates a faculty program chair," "Establishes a new research center," "Establishes a new endowed professorship," "Designates a scholarship with preference given to international students," etc.

The Foreign Sources Reporting Lead will also determine whether each reportable foreign source is (1) a foreign government; (2) a foreign legal entity; (3) a foreign individual; or (4) an agent acting on behalf of a foreign source. If clarification is needed on contract terms, valuation, or any other information, the Foreign Sources Lead might work with the Reporting Designee, unit leadership, UNLV Office of General Counsel, or other areas as appropriate.

C. Disclosure Reports

If contracts or gifts meet the reporting threshold, the Foreign Sources Reporting Lead will:

- *for Section 117:* submit the official disclosure(s) in the Section 117 reporting portal.
- *for FFDR:* provide the information to the Authorized Organizational Representative (AOR), which is the Executive Director of Sponsored Programs at UNLV. The AOR will submit the official disclosure(s) in the FFDR reporting portal.

Related Documents and Resources

Contracts Reporting Template

Gifts Reporting Template

About Section 117 of the Higher Education Act

About Foreign Financial Disclosure Report

Note: There is an instructions tab on each reporting template with field definitions to guide and assist UNLV reporting designees.

Definitions

The definitions articulated in this procedure apply only for the purposes of foreign sources reporting; they do not define how these terms are generally used or understood at UNLV.

- **"Contract"** means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties. UNLV interprets the definition of "contract" as covering only those contracts that involve payments to the University in exchange for goods and services (that is, money-in contracts). Tuition payments to the University from foreign sources are covered. UNLV collects information regarding all contracts regardless of whether they have a monetary value (for example, memoranda of understanding, non-disclosure agreements, data sharing agreements, incoming material transfer agreements, faculty, or student exchange agreements, etc.).
- **"Foreign source"** means any one of (A) a foreign government, including an agency of a foreign government; (B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states; (C) an individual who is not a citizen or a national of the United States or a

trust territory or protectorate thereof; and (D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source (which UNLV interprets as including any situation in which a person or entity is making a gift to the University or entering into a contract with UNLV under the direction and control of a foreign source).

- **"Gift"** means any gift of money or property. UNLV has interpreted "gifts" to exclude pledges or gift agreements. Only the actual receipt of money or property should be reported.
- **"Restricted or Conditional Gift or Contract"** means any gift or contract which "includes provisions regarding" either (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) 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.
- **Valuation of gifts.** UNLV interprets valuation of gifts to require only the value actually received. UNLV disregards pledges or promises to give in gift agreements. In-kind gifts are valued based on pertinent information in UNLV's possession regarding the fair market value of the in-kind contribution.
- **Valuation of contracts.** UNLV interprets Section 117 only to require it to measure the contract at the full value of the contract over its entire term (e.g. a contract with a four-year term that contemplates payment to UNLV of $100,000 per year should be reported once, in the year entered into, at a value of $400,000). This value is collected in the "Total Value of Contact" field in the reporting template. Pass-through costs or expenses covered by the foreign source (for example, travel or equipment), should be included in the total valuation. For contracts that are contingent—that is, that do not specify a sum certain (for example, volume-based contracts such as licensing)—UNLV undertakes a good faith effort to estimate the total value of the contract over its entire life and to report the contract once during the year it is entered into, based on such valuation. UNLV treats amendments to contracts that increase the value of the contract as a new contract (for a previously reportable contract, UNLV values the contract at the amount of the incremental increase; for a previously unreportable contract, UNLV values the contract at the revised total).