



Section 117 of the
Higher Education Act of 1965
Reporting Procedure



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(Reporting Procedure)

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UNLV

Section 117 of the Higher Education Act of 1965 (Reporting Procedure)

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| Procedure #: | CWP-003Sec117 |
| Version #: | 1.0 |
| Responsible Officials: | Quality Assurance and Financial Compliance |
| Effective Date: | February 1, 2021 |
| Revision Date: | N/A |

Scope

Section 117 of the Higher Education Act of 1965, as amended (“HEA”) (20 U.S.C. § 1011f) (hereinafter, “Section 117”) requires University of Nevada, Las Vegas (“UNLV” or “University”) to report certain gifts and contracts with “foreign sources” to the U.S. Department of Education (“ED”). This Procedure covers UNLV’s reporting obligations under [Section 117](#). It applies to all UNLV individuals, units, subunits, and related entities.

Compliance Statement

UNLV is committed to complying with [Section 117](#). 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 semiannually to Quality Assurance and Financial Compliance or its designee and comply with this Procedure.

Overview

UNLV has an obligation to report to ED certain information regarding gifts and contracts with “foreign sources.” The reports are due twice per year (on January 31, and July 31). This Procedure outlines baseline legal requirements and documents UNLV’s approach to compliance.

General Legal Requirements

Under Section 117, the University must file a “disclosure report” regarding a “gift” or a “contract” with a “foreign source” if the value of the gift or contract is \$250,000 or more (considered alone or in combination with all other gifts from and contracts with the same “foreign source” in a calendar year). Section 117 covers gifts or contracts the University receives through affiliates, agents, or other entities that operate substantially under the control or for the benefit of the University (for example, gifts to the UNLV Foundation). Section 117 also covers gifts or contracts where a “foreign source” makes the gift through an agent or intermediary of the foreign source. Section 117 requires UNLV to identify all gifts from or contracts with any “foreign source” as defined by the statute in any amount, to determine which



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are reportable under the \$250,000 threshold on a University-wide basis, and to report certain information about such gifts and contracts to ED.

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 through 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 through December 31). Because the \$250,000 reporting threshold applies on a calendar year basis, it is necessary for the January 31 report to aggregate by foreign source on the basis of all gifts and contracts received throughout the entire calendar year.

Definitions

The definitions of “contract,” “foreign source,” and “gift” articulated in this procedure apply only for the purposes of this procedure and [Section 117](#); they do not define how these terms are generally used or understood at UNLV.

Key Section 117 definitions and UNLV interpretations include:

- **“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 counts).
- **“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” under Section 117 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’s payments to foreign sources in exchange for goods and services or investments in foreign entities are not relevant (that is, simple procurement contracts or investments). However, if a money-out contract also involves payment back to UNLV or some other additional consideration from a foreign source, such agreements may be covered.
- **“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.



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Valuation of a gift or contract – Section 117 requires reports when it “receives” gifts and “enters into” contracts.

- **Valuation of gifts.** UNLV interprets Section 117 to require it to report only the value of gifts 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 to require it to measure the contract at the full value of the contract over its entire term (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). “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).

Finally, UNLV collects information regarding all 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.).

ED has asserted that a violation of Section 117 constitutes a violation of an institution’s obligations under Title IV of the HEA.

Section 117 Process

To address the University’s Section 117 obligations, it must first identify all of its gifts and contracts with all foreign sources for each calendar year regardless of amount. The University must then aggregate gifts and contracts by “foreign source” on a University-wide basis and report gifts and contracts to ED when the \$250,000 reporting threshold is met. The University must also review gifts and contracts to assess whether the gifts or contracts are “restricted or conditional” and capture the information needed to describe the nature of the restrictions or conditions.

The key University unit with ownership of the process is Quality Assurance and Financial Compliance.

A. Identifying relevant offices and units



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UNLV has determined that the following offices, units, and related persons or entities may have non-duplicative information regarding gifts and contracts with “foreign sources” as defined by Section 117 (“Reporting Unit”).

- The Office of Sponsored Programs
- Office of Research
- UNLV Foundations
- UNLV Financial Aid
- The Office of International Programs
- The International Gaming Institute
- Office of International Students and Scholars
- Office of Economic Development
- Business Affairs Financial Services - Purchasing
- President/ Provost / Deans – across entire campus
- Athletics
- Service/Research Centers
- Business Affairs Real Estate
- UNLV School of Medicine and Medical Practice Plan
- UNLV Dental School

In addition, prior to each biannual report, UNLV sends a survey to additional University units/subunits regarding whether they have any gift or contract transactions with any foreign source. Any unit that responds yes will become a Reporting Unit for the calendar year (at a minimum).

B. Information gathering

The UNLV Business Affairs Quality Assurance and Financial Compliance or its designee (“Section 117 Lead”) requests Reporting Unit leads or their designee to complete a standard form reporting template (see, for example, Template B in the Appendix) with instructions before each biannual report. The Reporting Template and instructions will request certain information regarding gifts and contracts with all foreign sources regardless of amount. In addition, the Section 117 Lead will request “true copies” of all gifts and contracts that are independently valued at \$250,000 or greater. The Section 117 Lead will include a clear deadline for each Reporting Unit to complete and return the Reporting Template and true copies of certain qualifying gifts and contracts. The Section 117 Lead will designate a point-of-contact to interface with reporting units and answer questions. The Section 117 Lead will review the instructions and revises them as appropriate in response to pertinent legal or guidance changes.

UNLV relies on each Reporting Unit to develop valid and reliable processes to retrieve and to conduct quality assurance checks for all information requested by the Reporting Template (for example, identification of “foreign sources” (including agents of foreign sources) and



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transactions with such sources, valuation, etc.). The Section 117 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 Section 117 Lead.

C. Information analysis

The Section 117 Lead will receive and review all completed Reporting Templates from Reporting Units and compile them into one central database for purposes of conducting the university-wide aggregation analysis. The Section 117 Lead will conduct quality checks and seek to standardize names of counterparties where appropriate. The Section 117 Lead will then conduct the analysis necessary to apply the \$250,000 reporting threshold on a University-wide basis.

Once the Section 117 Lead identifies gifts and contracts that meet the threshold, it will contact relevant units and request copies of all outstanding reportable gifts and contracts. The Section 117 Lead will then review reportable gifts and contracts for quality assurance purposes and to assess whether they are reportable as “restricted or conditional” and identify the nature of the restriction. The Section 117 Lead will also determine whether each 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.

D. Preparation of pro forma Section 117 report

The Section 117 Lead will prepare a pro-forma Section 117 report that matches the data fields UNLV must enter into the Section 117 reporting portal. With respect to “restricted or conditional” gifts or contracts, the Section 117 Lead will identify such gifts or contracts based on a review of the legal instruments evidencing the reportable gifts and contracts. 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.

E. Review of pro forma Section 117 report

The Section 117 Lead will circulate the pro forma Section 117 report to the Senior Vice President of Business Affairs/CFO and the Office of the Controller for review. The Controller will review the report to assess whether the report is complete and accurate or that gifts and contracts with foreign sources may be missing. Once the Controller completes the review and any necessary changes are made to the pro forma report, the report can be put into final status. Once final, the Section 117 Lead designated quality assurance member will enter the pertinent information into the ED portal.

F. Pro forma timeline

- About 3 months before biannual report – Review the Section 117 procedure and any guidance from ED.



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- About 8 weeks before the reporting deadline – Prepare a memorandum to the reporting units.
- About 6 weeks before reporting deadline – Transmit the memorandum to the reporting units. A reminder e-mail message may proceed and/or follow.
- About 3 business days after transmitting the reporting memorandum – Meet with the reporting units.
- About 3 weeks before the reporting deadline to ED – Obtain the completed reporting templates and certain true copies of gifts and contracts from the units.
- About 2 weeks before the reporting deadline to ED – Obtain outstanding true copies of gifts and contracts from the reporting units.
- About 1 week before the reporting deadline to ED - The Section 117 Lead will complete the aggregation analysis and document review to identify restricted or conditional gifts and contracts and prepare the pro forma report.
- About 2 days before the reporting deadline to ED – The Section 117 and Controller will complete a quality assurance review of pro forma reporting and submit for final internal approval.

U.S. Department of Education Portal

As of June 22, 2020, institutions must report Section 117 information using the new reporting system, available at <https://partners.ed.gov/ForeignGifts>. UNLV has designated a representative of the Section 117 Lead to request a credential from USDOE to access its Section 117 online reporting portal. Access requests are sent via email to ForeignGiftsAccess@ed.gov.

The designated representative will review the finalized report prior to the day of submission. On the day of submission, the designated representative will log into the portal and input each entry from the final report prepared by the Section 117 Lead.

Note: The portal allows institutions to enter only one agreement of each type into each report (i.e. gift, contract, restricted gift, and restricted contract).

After each report has been submitted, the designated representative will save a PDF copy of each entry and retain supporting records for the entries in accordance with the Nevada System of Higher Education Records Retention Disposition Schedule.

Modifications

Modifications to this procedure require prior approval by Quality Assurance and Financial Compliance or its designee in consultation with the Senior Vice President of Business Affairs/CFO.



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Attachments

The following sample templates, as provided in the *Appendix*, support the Section 117 reporting process:

1. Attachment A: Pro Forma Memorandum to Units
2. Attachment B: Pro Forma Information Collection Template (Excel File)
3. Attachment C: Pro Forma Section 117 Report (Excel File)

Attachment A: Pro Forma Memorandum to Units

General Instructions

Your unit has been identified as a UNLV office or related entity that may have information regarding gifts and contract with “foreign sources” that may be subject to Section 117 (“Reporting Unit”). Your Reporting Unit’s role in the University’s Section 117 compliance process consists of two main parts.

First, your Reporting Unit has an obligation to timely complete the attached *Excel* file form reporting template (“Template B”). Your Reporting Unit has an obligation to develop a process to retrieve the information necessary to complete Template B in a timely, complete, and accurate manner in accordance with the instructions included with this memorandum. You must develop this process based on knowledge of your Reporting Unit’s gift and contract process, personnel, and systems of record. The Section 117 Lead is available to assist you.

Second, your Reporting Unit has an obligation to provide to the Section 117 Lead copies of all gifts and contracts that individually exceed \$250,000 or upon request from the Section 117 Lead.

Instructions for Completion of the Reporting Template

Please include all gifts and contracts where the donor or counterparty is a foreign source as defined by Section 117, **regardless of amount**. Note that a foreign source includes U.S. persons or entities acting as an agent for a foreign source. Include on this spreadsheet all agreements, even where the agreement does not contemplate the exchange of goods or services or money (e.g., an MOU or research collaboration). If your Reporting Unit receives gifts and enters into contracts with foreign sources that you have actual knowledge are administered by the Office of Sponsored Programs or the UNLV Foundation, you do not need to include information you know to be captured by such units.

When seeking to identify gifts and contracts with foreign sources, include in your Reporting Unit’s process a review of all transactions with U.S. entities to determine whether the U.S. entity is acting as an agent for a foreign source. Include a U.S. entity whenever there is a reasonable basis to conclude that the U.S. entity is acting as agent or on behalf of a foreign source.

Reporting period: Please supply information regarding all gifts and contracts with “foreign sources” for the reporting period identified in the twice-yearly memorandum notice sent to your unit from the Section 117 Lead.

Refer to the “Definition” section for an explanation of gifts, contracts, etc.

Remember, UNLV collects information regarding all gifts and contracts regardless of whether they have a monetary value (for example, MOUs, non-disclosure agreements, data sharing agreements, material transfer agreements, faculty or student exchange agreements etc.). The unit where the gift and/or contract originates remains the official record holder.

Completing “Template B” columns:

1. **Column A** – “Reporting Unit”: Please include your unit’s name.
2. **Column B** – “Internal Tracking Number/Identifier”: Please include, if applicable, any internal tracking number or identifier for the transaction and/or the gift or contract. If there is no internal tracking number, enter “N/A”; do not leave the Column blank.
3. **Column C** – “Gift/Contract”: Please include whether the payment from a foreign source relates to a gift or a contract. A gift is defined as “any gift of money or property.” A contract is defined as “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.” Grants that fund research projects and tuition payments should be listed as contracts.
4. **Column D** – “Name of Gifor or Counterparty”: Provide the name of the donor or counterparty exactly as it appears in the system of record. If the gift or contract is with a party or agent acting on behalf of a foreign source, include the name of the foreign source in Column D and identify the party or agent in Column K – Notes. For anonymous gifts, if the University knows the name of the donor, include the donor’s real name in Column D and note that the donor has requested anonymity in Column K—Notes.
5. **Column E** – “Amount”: Please include the amount in accordance with the following instructions:
 - a. Gifts: enter the amount actually received by UNLV, or, for an “in-kind” gift, enter “IN-KIND”.
 - b. Convert all amounts to USD based on the conversion rate for the day the gift was received or the contract was executed. You should use a historical conversion rate calculator (e.g. <https://fxtop.com/en/historical-currency-converter.php>).
 - c. Contract:
 - i. In general, the amount is the total amount a counterparty is obligated to pay under a contract (accordingly, for a multi-year contract, the amount is the total amount UNLV is set to receive under the life of the agreement).
 - ii. If a contract is a contingent contract (e.g. a contract where the total dollar amount due to the UNLV is not stated in the contract, such as a volume-based contract), enter the estimated total amount UNLV will receive over the life of the contract. In addition, please state in the Notes that the contract is “Contingent,” and include a description of the payment terms.
 - iii. If a contract has pass-through costs, include any guaranteed payments in the aggregate amount (e.g. an executive education program where a foreign source will pay UNLV \$500,000 to operate a program and will provide \$70,000 to arrange for lodging and meals should be reported as a \$570,000 contract).
 - iv. For in-kind contracts, insert “IN-KIND.”



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1. For contracts with no monetary value (e.g., non-disclosure agreements, data sharing agreements, material transfer agreements), input \$0.
6. **Column F** – “Date Received” (Gifts Only): For a gift, the date received is the date UNLV actually received the money or property. Please use the format MM/DD/YYYY.
7. **Column G** – “Start Date” (Contracts Only): For a contract, the start date is the first date of the period of performance, which may be recorded as the effective date. For tuition contracts, the start date is the start date of classes for the applicable semester. Please use the format MM/DD/YYYY.
8. **Column H** – “End Date” (Contracts Only): For a contract, the end date is the last date of the period of performance. For tuition contracts, the end date the last date of classes for the applicable semester.
9. **Column I** – “Country”: “Country” refers to the country of the foreign source. If the foreign source is an entity, the country is the country of incorporation (if known) or the country of the entity’s principal place of business/address. If the foreign source is an individual, the country is the individual’s country of citizenship (if known) or the country of the individual’s principal residence/address. If the counterparty is a U.S. entity acting as an agent on behalf of a foreign source, please input the country of the foreign source.
10. **Column J** – “Address”: “Address” refers to the address of the principal residence or the principal place of business for the foreign source.
11. **Column K** – “Notes”: Include any notes that capture any additional information that might be important. Examples of useful notes include:
 - a. Note if a contract was subsequently amended and the terms of that amendment.
 - b. If the payment structure for the gift or contract has unique terms, please so indicate (e.g. royalties, per unit fees, pass through costs, etc.).
 - c. Note if a gift is from an anonymous donor.

Instructions for Submission of Copies of Gifts and Contracts

You must provide a true copy of (a) all gifts and contracts that alone meet or exceed \$250,000, and (b) copies of all gifts and contracts that the Section 117 Lead requests.

Where there is a formal written contract or pledge or gift agreement, your Reporting Unit fulfills its obligations when they deliver a complete copy of such contract to the Section 117 Lead. Where there is no formal written contract or pledge, your Reporting Unit can satisfy the obligation by providing other evidence that documents the terms of the arrangement with the foreign source in consultation with the Section 117 Lead.

Given the condensed time for the Section 117 Lead to finalize and submit UNLV’s Section 117 reports, the Section 117 Lead requests that you provide gifts and contracts that alone exceed \$250,000 when you return the reporting template. The Section 117 Lead will set a deadline for receipt of other requested gifts and contracts. It will also provide instructions regarding submission logistics.



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ATTACHMENTS B-C

Template B: Form Information Collection Template

Template C: Pro Forma Section 117 Report (Excel File)