

Lehigh University Guidance on Reporting Foreign Gifts and Contracts

Higher Education Act (HEA), Section 117

Responsible Office: Controller's Office

Last Updated: January 4, 2021

OVERVIEW

Section 117 of the Higher Education Act (HEA) of 1965¹ requires higher education institutions that receive Title IV federal student aid to submit to the Secretary of Education reports about Gifts received from any Foreign Source, Contracts with a Foreign Source, and any ownership interest in, or control over the institution by a Foreign Source. Institutions must report Contracts with or Gifts from the same Foreign Source that have a value of \$250,000 or more, "considered alone or in combination with all other Gifts from or Contracts with that Foreign Source within a calendar year," and must also report any ownership interests in or control over the institution by a Foreign Source. The Section 117 report is but one area of the Consumer Information and School Reporting required by the U.S. Department of Education (ED) for four-year colleges and universities participating in federal student financial assistance programs. The risk of non-compliance can be severe and several institutions are under investigation and have been subjected to government and public scrutiny for allegedly under-reporting. Additionally, an institution's eligibility for federal aid could be jeopardized.

STATEMENT

Lehigh University is committed to complying with Section 117 of the Higher Education Act of 1965, including its reporting requirements for foreign gifts and contracts,. All university departments, centers, and units are required to report to the Controller's Office foreign gifts and/or contracts received by Lehigh University or its subsidiaries in accordance with this guidance.

This document provides guidance to university departments, centers, and units including a description of the reporting requirements and university compliance policies and guidance.

WHO SHOULD READ AND UNDERSTAND THIS GUIDANCE

- Anyone who initiates, reviews, approves, processes or records gifts or contracts;
- Anyone who assists with gifts or contracts;
- College, unit, department and center administrators;
- Faculty and staff soliciting gifts, sponsored awards or revenue-generating activities; and
- Individuals responsible for financial reporting at university subsidiaries

DEFINITIONS

¹ [Higher Education Act \(HEA\), Title 1 Part B Sec. 117, codified at 20 U.S.C. § 1011f\(a\).](#)

Foreign Source:

- A foreign government, including an agency of a foreign government;
- A legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;
- An individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and
- An agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source.

Additional clarification:

1. A U.S. subsidiary of a foreign corporation is a Foreign Source. A foreign subsidiary of a U.S. corporation is not a Foreign Source.
2. The entity or individual in question is that from which Lehigh received the funds, not from where the funds originated. For example, a subaward to Lehigh from another university, e.g., Yale University, involving funds that originated with a Foreign Source is not a Contract with a Foreign Source with respect to Lehigh. A subaward to Lehigh from a Foreign Source involving funds that originated with the National Science Foundation is a Contract with a Foreign Source with respect to Lehigh.
3. If you are unsure of whether an entity or individual is a Foreign Source, contact the Controller who can coordinate with the Office of the General Counsel if necessary. The Controller will maintain a list of entities and individuals already determined to be Foreign Sources and will be made available to all reporting offices upon request.
4. Lehigh is responsible for reporting funds from Foreign Sources paid to Lehigh or its subsidiaries, not payments by Lehigh to Foreign Sources.
5. All reports should be made in U.S dollars, with the exchange rate calculated at the date of contract execution, or funds receipt if the contract amount is unknown. Use the currency converter at [Currency Converter | Foreign Exchange Rates | OANDA](#).
6. Please also see the guidance available at the Department of Education's website, available [here](#), especially the FAQ available at Appendix B.

Gift:

Any gift of money or property. Financial support can be provided to the university in a variety of forms, including but not limited to cash; property; marketable securities; and in-kind, such as tangible fixed assets and consumable commodities. Restricted or Conditional Gifts are included.

Contract:

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. Restricted or Conditional Contracts are included.

Restricted or Conditional Gift or Contract is defined by HEA as:

Any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding:

- (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.

Most Contracts and Gifts to the University would likely not meet the conditions above for a “Restricted or Conditional Gift or Contract.” An example of a contract that does meet the Restricted/Conditional definition is one that requires the establishment of an institute as a condition of funding, as opposed to generalized support for a variety of research projects or students.

Reporting Thresholds:

The *Federal Reporting Threshold* is \$250,000 (two hundred and fifty thousand US dollars).

The *University Reporting Threshold* is \$100,000 (one hundred thousand US dollars).

The University Reporting Threshold is lower than the Federal Reporting Threshold because University departmental reports will be aggregated by the Controller’s office to determine if the Federal Reporting Threshold is met across Lehigh.

PROCEDURE

To comply with federal laws and reporting requirements, the university must collect and properly evaluate all Gifts and Contracts it receives from Foreign Sources to determine whether the Federal Reporting Threshold has been met. Accordingly, each reporting unit of the university community must submit semiannually to a designated university office (see below) accurate and timely reporting of Gifts or Contracts equal to or exceeding \$100,000 (USD one hundred thousand) from any single Foreign Source (resulting from one or more transactions) at the time the Contract or Gift is finalized (i.e., contract is executed). If the amount of the transaction cannot be determined at the time of execution, the transaction must be reported either when the amount is known or when the payment is received, whichever is earlier.

The Department of Alumni Relations, Office of Research and Sponsored Programs, the Bursar’s Office, the Office of International Affairs and any other applicable campus units will prepare data for the federal foreign gift and contract reporting. This data will be reviewed and summarized by the Controller’s office and submitted to the Department of Education by Financial Aid.

All reporting departments are responsible for identifying transactions that meet or exceed the University Reporting Threshold and reporting to the Controller’s office by the scheduled date. Currently, all reports are submitted using a Qualtrics survey.

The Controller’s office will aggregate all the data and perform a thorough review, including consultation with the Office of the General Counsel (OGC) as necessary. If a Foreign Source has given a Gift to, or entered into a Contract with, the University that meets or exceeds the University Reporting Threshold, then the Controller will search Banner to see if additional Gifts

or Contracts exist with respect to that Foreign Source that would meet or exceed the Federal Reporting Threshold. If so, the Controller's Office will take the necessary steps to ensure proper disclosure. The Controller may request additional information or clarification from the submitting offices. Submitting offices must respond promptly to such requests.

Omissions or errors should be reported to the Controller upon discovery. When submitting discovered omissions or errors to the Controller's office, reporting offices should include an explanation of how the data was missed or reported erroneously and what has been done to ensure thorough and accurate reporting going forward.

TIMING OF SUBMISSION

Lehigh University must deliver HEA Section 117 reports to the Department of Education twice per calendar year. Reporting offices must report information by January 15 or July 15 (or the first business day thereafter, if that date falls on weekend) after the date of receipt of the Gifts, execution date of the grant or Contract, or date of ownership or control.

RESPONSIBILITIES

Colleges: Provide data for financial activities originating from Foreign Sources which meet or exceed the University Reporting Threshold, which is not processed through a reporting office defined herein.

Controller: Provide university-wide guidance to ensure appropriate compliance. Receive foreign Gift and Contract data from departments and other reporting units. Search Banner to determine if unreported Gifts or Contracts have been received from reported Foreign Sources. Review and consolidate Gift and Contract data in accordance with federal reporting requirements. Provide reporting to Financial Aid for final review and submission.

Departments, Centers, Units: Provide data for financial activities originating from Foreign Sources which meet or exceed the University Reporting Threshold.

Department of Alumni Relations: Identify foreign Gifts and provide financial data for Gifts from Foreign Sources which exceed the University Reporting Threshold.

Bursar / Financial Aid: Provide financial data for fees from Foreign Sources which meet or exceed the University Reporting Threshold. Receive reports from the Controller and submit on time to the federal Department of Education.

International Office: Provide consultation and guidance regarding international entities and Lehigh's relationships with them. May be asked to provide a high-level review and quality assurance of report prior to submission. Provide central office reporting according to the University Reporting Threshold.

Office of Research and Sponsored Programs: Identify foreign grants and Contracts from Foreign Sources and provide financial data according to the University Reporting Threshold.

Western Regional Office: Provide data for any international financial activities not processed through other central offices according to the University Reporting Threshold.