

# Foreign Gifts and Contracts Reporting

## Frequently Asked Questions

### **Q1: What is a foreign source for purposes of the Foreign Gifts and Contracts Reporting?**

**A1:** 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;<sup>1</sup>

### **Q2: Are U.S. subsidiaries and affiliates of foreign entities considered to be a foreign source?**

**A2:** The term “foreign source” includes subsidiaries and affiliates of a foreign legal entity acting on behalf of a foreign source. While there might be circumstances in which a subsidiary or affiliate of a foreign entity is not acting on behalf of that foreign entity, for ease of reporting and consistency, UF will treat all affiliates and subsidiaries of foreign legal entities as foreign sources for purposes of this reporting requirement.

### **Q3: Is an individual who has dual citizenship considered a foreign source?**

**A3:** The Department of Education does not consider an individual who has dual citizenship that includes United States citizenship to be a foreign source.<sup>2</sup>

### **Q4: Do we report gifts from U.S. citizens?**

**A4:** Only if you have knowledge that they are acting on behalf of a foreign entity.

### **Q5: Do we report gifts from U.S. corporations?**

**A5:** Only if you have knowledge that they are a subsidiary or an affiliate, an agent, or an intermediary of a foreign entity.

### **Q6: How do we know if a source is itself a foreign source or a subsidiary or affiliate of a foreign source?**

**A6:** The Department of Education (Department) requires institutions to perform due diligence and make a good faith effort to make the determination. Below are UF Compliance and Ethics’ suggested approaches for making the foreign source determination:

- (1) If the address is foreign, or if it is a foreign embassy with a US address, that is sufficient to treat it as a foreign source.

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<sup>1</sup> 20 USC § 1011f(h)(2) and Fla. Stat. § 286.101(1)(d)

<sup>2</sup> “Response to Public Comments (60-day notice)”, page 5 (<https://www2.ed.gov/policy/highered/leg/foreign-gifts.html>)

(2) If you do not have that information, we recommend you ask the sponsor/donor/contracting entity/individual to certify whether they are a foreign source and, if the case, to disclose the associated country. We propose you use the regulatory definition of a foreign source (see below), but you may need to further define the questions to fit your business needs. This can be done via e-mail or be included in the contract.

A. Please let us know if you are any of the following:

- A foreign government or 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 territory or protectorate of the United States, or
- An agent, including a subsidiary or an affiliate of a foreign legal entity, acting on behalf of a foreign source.

B. If Yes to any of the above, what is the country of the foreign source?

(3) If you do not have (1) and do not do (2), you can make your own determination with information supplied by the sponsor/donor/contracting entity/individual or with information otherwise at your disposal (e.g., internet search of corporate entity). Save a record of what information you relied upon to make the determination.

**Q7: Do we report to UF Compliance and Ethics only transactions that meet the monetary threshold?**

**A7:** No. Because transactions with the same foreign source occur in many different units across the university and must be aggregated together for the purpose of determining if they meet the threshold, please report all transactions regardless of amount. UF Compliance and Ethics will aggregate transactions from the same foreign source and identify which transactions are reportable.

**Q8: Are there any sources of funds that do not need to be reported?**

**A8:** The following sources of funds are not reportable under either the state or federal law:

1. Foreign income on investments
2. Patient care payments
3. Dividends from foreign sources
4. Rebates from foreign vendors

**Q9: Do we report tuition paid by an individual student from a foreign county?**

**A9:** Yes. The Department of Education generally considers instances where a foreign source (individual or entity) pays tuition for a student or students to meet the definition of a “contract.” That said, an institution would only need to report an individual payment if it meets the \$50,000 (State) or \$250,000 (Federal) threshold in a fiscal year. The threshold would likely be met in situations where a foreign entity pays tuition for multiple students. For the purpose of UF reporting, please report to UF Compliance and Ethics tuition, fees, and health insurance (if applicable) from foreign sources if those transactions were not already reported by a UF Core Reporting Office.

**Q10: Do we report the registration fees paid by a person from a foreign country to take a course offered by one of our departments?**

**A10:** Yes.

**Q11: How will the BOG treat the agreements under the public records laws?**

**A11:** If someone makes a request for the agreements, the BOG would provide them pursuant to Florida's public records laws. However, UF may redact agreements where allowable by law prior to submitting them to the BOG. See questions 12 and 13 for more information.

**Q12: Should student sponsorship/tuition letters be redacted because of FERPA?**

**A12:** Yes, any of the reporting units who think their documents contain FERPA data should redact all student names and identifiers prior to sending it to UF Compliance and Ethics.

**Q13: What are laws that support redaction?**

**A13:** They are as follow:

- DSP Records – Fla. Stat. § 1004.22(2)
- Student Records – Fla. Stat. § 1006.52
- Licensing Agreements – Fla. Stat. §§ 1004.22, 688.002, and 812.081
- Certain DSO Records – Fla. Stat. § 1004.28

**Q14: What is the date received for the aggregate total of students' tuition paid by a foreign entity?**

**A14:** In case of student sponsorships for tuition (which are aggregated into one total), the date received should be the last day of the reporting period (i.e., for the July 1 to Dec 31, the date will be 12/31/xx).<sup>3</sup>

**Q15: Do we report tuition, fees, or other payments for non-degree programs?**

**A15:** Yes.

**Q16: When do we send an agreement to UF Compliance and Ethics, and can we redact them?**

**A16:** For all transactions with a value of \$50,000 and above, please provide a copy of the gift or contract agreement, invoice, or student sponsorship summary form as supporting documentation.

- **If there are two or more agreements** for the same transaction, please combine all agreements into one PDF file.
- **If information in the agreement is deemed confidential or exempt by state or federal law**, the agreement can be redacted. The applicable statute (s) must be provided (e.g., FERPA). Redacted documentation must be accompanied by an abstract providing a general description of the redacted information. Please combine the abstract and redacted agreement into one PDF file. Per BOG instructions, the abstract should come first.
- **If a foreign gift is received without any type of "agreement,"** create a memo explaining that there is no formal agreement associated with the gift.

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<sup>3</sup> [BOG Foreign Influence Compliance and Submission Guidance](#)

- **In the case of student sponsorships**, complete a sponsorship summary form (available from UF Compliance and Ethics) and include a sample sponsorship letter for each sponsoring entity. Please redact all student identifying information and combine the summary and sample letter into one PDF file.
  - **In the case of an international student** paying for their own tuition, provide copies of the tuition invoice(s) combined in one PDF file.
- **In the case of UF purchases to a country of concern**, provide a copy of the invoice combined in one PDF file if more than one.