



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

## Operating Policy and Procedure

### HSC OP: 50.40, Foreign Source Disclosures

**PURPOSE:** The purpose of this Health Sciences Center Operating Policy and Procedure (HSC OP) is to establish policy in compliance with Section 117 of the Higher Education Act (HEA) of 1965 Foreign Gift and Contract Reporting.

**REVIEW:** This HSC OP will be reviewed on April 1 of every fourth year (E4Y) by the Managing Director of Accounting Services, with recommendation for revisions forwarded to the Executive Vice President for Finance by April 15.

### POLICY/PROCEDURE:

#### 1. Background

Section 117 of the Higher Education Act (HEA) of 1965 requires institutions of higher education that receive Title IV federal student aid to disclose financial support, gifts, contracts, grants, collaborations, and other relationships with foreign sources.

This Operating Policy and Procedure supplements [Texas Tech University System Regulation 01.03](#) which should be referred to for additional information.

#### 2. Definitions

- a. Contracts - 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.

This includes sponsored projects/programs, contracts and grants, service contracts, revenue-generating contracts, and other agreements **involving the inflow of funds** to TTUHSC from a foreign source.

- b. Foreign Source

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

- c. Gifts - any gift of money or property.

- d. Restricted or Conditional Gift or Contract – any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding:

- i. employment, assignment, or termination of faculty;
- ii. establishment of departments, centers, research/lecture programs, or new faculty positions;
- iii. selection or admission of students; or

- iv. financial support to students restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.

### **3. Departmental Responsibilities.**

- a. Departments have a responsibility to report any gift, agreement, contract, or other benefit when received from a foreign source to [ForeignSource@ttuhsc.edu](mailto:ForeignSource@ttuhsc.edu). This includes any benefit received through an intermediary such as Texas Tech Foundation, Inc. or Texas Tech Physicians Associates.
- b. There is not a minimum transaction amount to report. Accounting Services will aggregate all transactions by foreign source to determine TTUHSC reporting requirements per Section 117.
- c. Departments should assess and, if necessary, strengthen their processes for complying with Section 117 reporting requirements. Areas that process gifts and contracts centrally, such as TTUS Institutional Advancement, Sponsored Programs, and Contracting should have written procedures available for review if requested by Audit Services, Institutional Compliance, or the Department of Education. See #5 below for possible penalties to TTUHSC for non-compliance.
- d. Questions or comments should be sent to [ForeignSource@ttuhsc.edu](mailto:ForeignSource@ttuhsc.edu).

### **4. Accounting Services Responsibilities.**

Accounting Services will review all emails sent to [ForeignSource@ttuhsc.edu](mailto:ForeignSource@ttuhsc.edu) and request foreign source information semi-annually in July and January from TTUS Institutional Advancement, Sponsored Programs, Contracting, and Fund Managers, requesting information needed to compile the report.

### **5. Penalties.**

The Attorney General, at the Department of Education's request, is authorized to undertake a civil action in federal district court to compel compliance if a school fails to comply with the HEA Section 117 requirements. Schools knowingly or willfully failing to comply must reimburse the U.S. Treasury for the full cost of obtaining compliance. In addition, the information collection is subject to 18 U.S.C. § 1001, which provides for penalties, consisting of fines and/or imprisonment, for knowingly and willfully falsifying, concealing, or covering up a material fact. Several institutions are already under investigation by the Department for alleged under-reporting.

### **6. Resources.**

- a. [TTUS Regulation 01.03](#)
- b. [Cornell Law School Legal Information Institute](#)
- c. [Department of Education Section 117](#)
- d. Educ. Dept. June 22, 2020 Q&A [Appendix A](#) and [Appendix B](#)