Virginia Tech Foreign Financial Support—Gifts and Contracts

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1.0 Purpose

The purpose of this policy is to provide a consistent interpretation and guidance of federal foreign gifts and contracts (foreign financial support) reporting for the university and its affiliates. Virginia Tech is committed to complying with federal foreign financial support reporting requirements, including but not limited to those created by §117 of the Higher Education Act of 1965 (as amended) and §10339B of the Chips and Science Act.

1.1 Background

As a part of Virginia Tech's eligibility for certain federal programs, including the Title IV federal student aid and federal research programs, the university is required to track and report on foreign financial support. Foreign financial support is reportable to the federal government when the annual amount received from a foreign source exceeds statutory thresholds.

The complexity of the university's reporting and operating environment means that:

- Reporting thresholds may be met under one, but not all, reporting frameworks due to varying reporting criteria, thresholds, and calendars; and,
- Gifts received and contracts administered by many recipients across the Virginia Tech organization and affiliated organizations and subsidiaries may exceed these thresholds, once aggregated.

The U.S. Department of Education requires Institutions of Higher Education to conduct reasonable due diligence when they receive the benefit of financial support from any entity to determine whether the support is from or with a foreign source.

2.0 Policy

Pursuant to federal reporting requirements, all university units, subsidiaries, and covered intermediaries ("University") must identify and submit reporting information on all gifts and contracts received from or with foreign sources that benefit the university to the Office of the University Controller. The University Controller compiles and submits the required reports consistent with legal requirements on behalf of the University.

3.0 Procedures

The Office of the University Controller will publish and maintain reporting procedures for the University. These procedures will accommodate the specific reporting thresholds, calendars, and requirements for each applicable federal statute. University reporting procedures are based on the following positions:

- The domestic party to the contract is the University or covered intermediary that receives the gift or signs the contract with the foreign source;

- The primary reportable foreign source is the foreign government, entity, or person, including agents of foreign sources, conveying financial support to the University;
- Principal-agent relationships are determined by evidence of control, including, but not based solely on legal structure;
- The name and country of the principal foreign source must be disclosed;
- When foreign support is from an agent acting on behalf of a principal foreign source, the country of attribution is that of the principal foreign source;
- When foreign support is from an agent acting on behalf of a principal foreign source, association with a foreign country of concern can be satisfied by either the principal or agent; and
- Foreign country of concern status will be determined by the Office of Export and Secure Research Compliance.

3.1 Classification of Transactions and Reporting Responsibility

University reporting of sources associated with foreign countries relies on the close partnership and collaboration with university offices and affiliated entities. Administrators who initiate, review, approve, process, or record foreign gifts or contracts; solicit gifts, sponsored awards, or revenue generating activities; or are responsible for university affiliate or subsidiary entities are responsible for identifying and documenting the source of all gifts or contracts prior to acceptance.

The following table provides examples of the types of foreign gifts or contracts and identifies the office responsible for documenting the activities:

Type of Agreement	Description	Responsible Unit
Sponsored program agreement	Activities sponsored by a foreign source, such as: • Grants or contracts related to research • Grants or contracts for other sponsored activity (public service, testing, training, etc.) • Membership agreements, where members have certain benefits	Office of Sponsored Programs, Covered Intermediaries
Gifts	Financial support from a foreign source in the form of: • Cash • Financial securities • Non-cash in-kind donations, including real estate, equipment, art, antiques, rare books, livestock, copyrights, software, and other tangible and intangible property	Advancement, Covered Intermediaries
Scholarship/student sponsorship	Agreements with a foreign source restricted for tuition payments or registration fees	Bursar, Continuing Professional Education

Type of Agreement	Description	Responsible Unit
Licensing Agreements for Intellectual Property	Agreements with a foreign source for the university's intellectual property	Virginia Tech Intellectual Properties (VTIP)
Licensing Agreements for non-Intellectual Property	Agreements with a foreign source for the university's brand including the name, nicknames, logos, and other identifying marks	Office of Licensing and Trademark
Corporate membership agreement, such as Industrial Affiliates	Agreements with a foreign source for corporate membership	Responsible Department
Other memorandum of agreements, service agreements, and statements of work	All other agreements with a foreign source except university procurement activities	Responsible Department

3.2 Trade Secrets and Commercial or Financial Information

The name or address of a reportable foreign source may be considered a trade secret or commercial or financial information under Freedom of Information Act (FOIA) Exemption 4; qualification under this exemption does not exclude related foreign financial support from reporting. The responsible unit should indicate the non-public nature of the transactions to the Controller's Office for denotation on the University's report to the federal government.

3.3 Training and Communication

The Office of the University Controller will provide training as needed and regularly communicate reporting requirements as part of the foreign support reporting cycle.

4.0 Definition

Agent is an entity or individual under the control of a foreign source that conveys gifts or contracts to the University.

Contract is 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. Excludes "money-out" contracts, including fair-market purchases made by the University from foreign sources.

Country of Attribution is the foreign country associated with the control of the gift or contract.

Covered Intermediary is an entity or individual that receives gifts or contracts for the purpose of passing that benefit to the university.

Domestic Party is the direct recipient of the gift or contract from the foreign source. This is either the university or an entity or individual that receives gifts or contracts for the purpose of passing that benefit to the university.

Foreign Country of Concern is the People's Republic of China, the Democratic People's Republic of Korea, the Russian Federation, the Islamic Republic of Iran, or any other country determined to be a country of concern by the U.S. Secretary of State.

Foreign Source is the reportable entity that provides the gift or contract that benefits the University. Foreign source reporting is aggregated at the foreign-source level. There are four types of foreign sources:

- 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.

Gift is any gift of money or property received. Excludes pledged amounts.

Principal Foreign Source the foreign source that has control over a foreign gift or contract involving an agent.

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

- The employment, assignment, or termination of faculty;
- The establishment or funding of departments, centers, research or lecture programs, or new faculty positions;
- The selection or admission of students; and,
- The award of grants, loans, scholarships, fellowships, or other types of financial aid restricted to students of a specified country, religion, sex, ethnic origination, or political opinion.

5.0 References

CHIPS Act of 2022, Sec. 10339B. Foreign financial support., page 191
https://www.congress.gov/117/bills/hr4346/BILLS-117hr4346enr.pdf

CHIPS Act of 2022, Sec. 10339B. Foreign country of concern., page 305
https://www.congress.gov/117/bills/hr4346/BILLS-117hr4346enr.pdf

Section 117 of the Higher Education Act of 1965 {20 U.S.C. §1011 Disclosures of foreign gifts}
https://fsapartners.ed.gov/knowledge-center/topics/section-117-foreign-gift-and-contract-reporting

Freedom of Information Act Exemption State Department Countries of Particular Concern Special Watch List
https://www.state.gov/countries-of-particular-concern-special-watch-list-countries-entities-of-particular-concern/

6.0 Approval and Revisions

Approved March 17, 2025, by Executive Vice President and Chief Operating Officer, Amy S. Sebring, and Executive Vice President and Provost, Dr. Cyril R. Clarke.