

Foreign Gift and Contract Data Reported by Institutions

Oklahoma State University is required to report international gift and contract activity under Section 117 of the Higher Education Act and to Section 10339B of the CHIPS & Science Act of 2022 (P.L. 117-167) (the “CHIPS Act.” While these federal reports will be submitted centrally by GCFA, it is important that Colleges/Department assist in reporting any International MOU’s or agreements. As with any federal requirement, failure could result in limitations or loss of federal funds

Generally, student awards sponsored by foreign governments or ministries are reported to GCFA by International Scholars and traditional sponsored programs are routed for central approval. However, there are some agreements such as Material Transfer Agreements (MTA), service agreements, clinical trials, or MOU’s that may or may not have formal process for notification to central administration of these activities. It is imperative for Colleges and Departments establish processes to notify GCFA of these international agreements. Secondly, Colleges will need to maintain copies of all agreements with international organizations should any federal agency or audit request access to the agreements.

OSU Reporting Portal

OSU has developed an institutional reporting portal so Colleges can assist in the Foreign Gift/Contract reporting Attached are the instructions for the use of OSU’s Foreign Gift Reporting portal. Information placed into the portal will identify and report the Organization/Government, Country of Origin, Award Amount, Begin date/End date of the award) for entry into portal. GCFA will use this information to make the final reports to the Federal agencies.

FAQ’s are also attached that will assist in the internal reporting.

Higher Education Act (Section 117-Foreign Gift and Contract Reporting)

More than 30 years ago, Congress enacted disclosure requirements to promote public transparency about the role of foreign funding in U.S. higher education. [Section 117](#) of the *Higher Education Act of 1965*, as amended (*HEA*), requires institutions of higher education that receive federal financial assistance to disclose semiannually to the U.S. Department of Education (the Department) any gifts received from and/or contracts with a foreign source that, alone or combined, are valued at \$250,000 or more in a calendar year

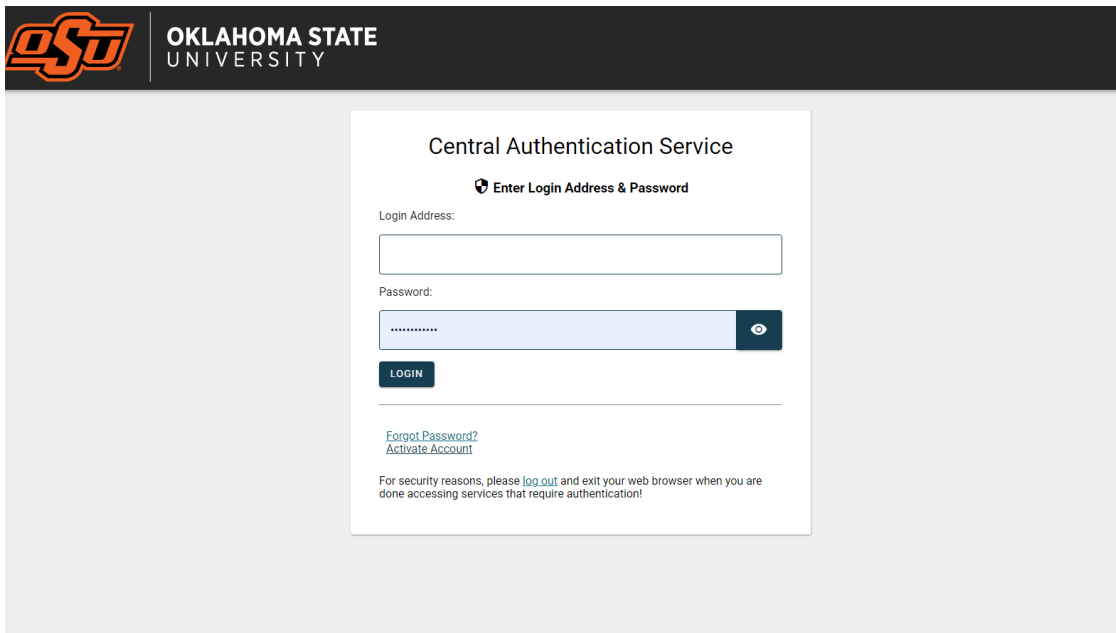
The *HEA* requires institutions to update their reporting twice per year and submit information no later than January 31 or July 31, whichever is sooner.

CHIPS Act (Foreign Financial Disclosure Report)

Colleges and universities that receive funding from the National Science Foundation (“NSF”) on or after May 20, 2024 have a new obligation, pursuant to Section 10339B of the CHIPS & Science Act of 2022 (P.L. 117-167) (the “CHIPS Act”),¹ to report gifts and contracts at or in excess of \$50,000 received from any source in specific “foreign countries of concern,” including the People’s Republic of China, Russia, North Korea, and Iran. The new reporting obligation is similar, but not identical, to the existing reporting obligation under Section 117 of the Higher Education Act of 1965. The reporting is required annually, with the first report due July 31, 2024

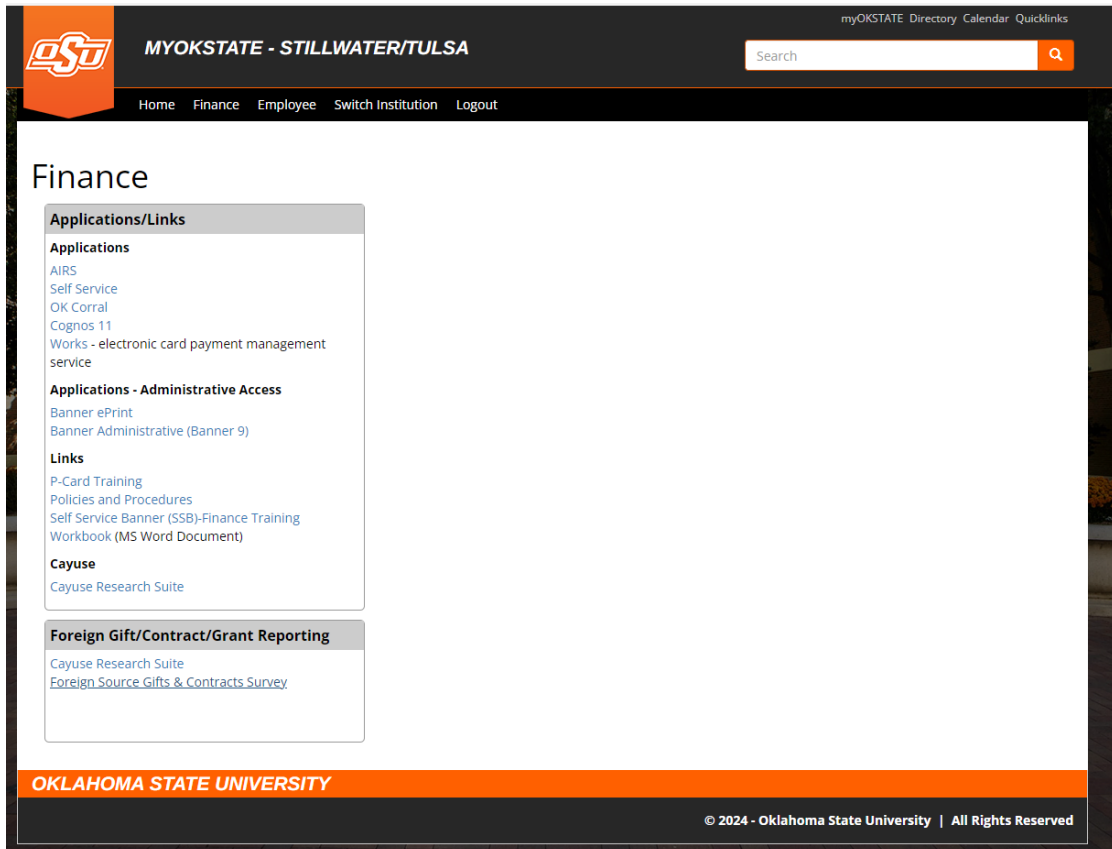
Guide to Completing the Foreign Gifts & Contracts Survey

1. Log into my.okstate.edu.




The screenshot shows the Oklahoma State University logo and name at the top left. The main content is a white box titled "Central Authentication Service" with a sub-header "Enter Login Address & Password". It contains a "Login Address:" text box, a "Password:" text box with a toggle eye icon, and a "LOGIN" button. Below the login fields are links for "Forgot Password?" and "Activate Account". A security notice at the bottom reads: "For security reasons, please [log out](#) and exit your web browser when you are done accessing services that require authentication!"

2. Go to the "Finance" tab and click on the "Foreign Gifts & Contracts Survey" link at the bottom of the page to begin the survey.



The screenshot shows the myOKSTATE website interface. The top navigation bar includes the OSU logo, "MYOKSTATE - STILLWATER/TULSA", a search bar, and links for "myOKSTATE", "Directory", "Calendar", and "Quicklinks". Below the navigation bar are links for "Home", "Finance", "Employee", "Switch Institution", and "Logout". The main content area is titled "Finance" and contains several sections: "Applications/Links" with sub-sections for "Applications" (AIRS, Self Service, OK Corral, Cognos 11, Works - electronic card payment management service), "Applications - Administrative Access" (Banner ePrint, Banner Administrative (Banner 9)), "Links" (P-Card Training, Policies and Procedures, Self Service Banner (SSB)-Finance Training, Workbook (MS Word Document)), and "Cayuse" (Cayuse Research Suite). A separate section titled "Foreign Gift/Contract/Grant Reporting" contains links for "Cayuse Research Suite" and "Foreign Source Gifts & Contracts Survey". The footer includes the Oklahoma State University logo and the text "© 2024 - Oklahoma State University | All Rights Reserved".

3. This is the first question, the answer to this question will typically be “No”.



Do you consider the name or address of the foreign source in this transaction to be a trade secret or commercial or financial information that is privileged or confidential and exempt from public disclosure pursuant to FOIA?

Yes

No

***Please note that when you click the “next” arrow you will not be able to go back to the previous question. Make sure all information is accurate before moving onto the next question.**

4. Enter the Legal Name of the organization in the first box. If the organization goes by any other name enter it into the second box.




Name of the Foreign Source

Legal Name of Organization:

DBA/Trade Name of Organization:



5. Types of Foreign Sources
- a. If the source is a foreign government, including a government agency, answer “Yes” to the first question, if not answer “No”.
 - b. If the source is a private company from a foreign country answer “Yes” to the second question, if not answer “No”.
 - c. If the source is an individual from a foreign country answer “Yes” to the third question, if not answer “No”.
 - d. Question 4 is a catch all question. Typically the answer to question 4 will be “No”.



Type of Foreign Source

Is the gift/contract from a foreign government, including but not limited to any agency of a foreign government?

Yes

No

Is the gift/contract from a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states?

Yes

No

Is the gift/contract from an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof?

Yes

No


Is the gift/contract from an individual or entity, including a subsidiary or affiliate of a foreign legal entity, who acts as an agent of a foreign government, a legal entity created solely under the laws of a foreign state or states, or an individual who is not a citizen or national of the United States or a trust territory or protectorate thereof?

Yes

No

→

6. Enter the name of the Country the Source is from.




Country of Attribution

ATTENTION:

1. For gifts received from a foreign government or agent acting on behalf of a foreign government, the country to which the gift is attributable is the country of the foreign government.
2. For gifts received from a foreign source other than a foreign government or agent acting on behalf of a foreign source other than a foreign government, the country to which the gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

Country Name:

7. Enter the address of the Source.



Foreign Source Address

Country:

Address Line 1:

Address Line 2:

Zip/Mail Code/Postal Code:

8. In the first box enter the amount of money received. In the second box enter either the date the award was received **or** the date that the money was received, whichever is **earlier**.




Gift/Contracts Terms

Amount:

Date Received (mm/dd/yyyy):

9. Recipient of Gift/Contract
- a. If the gift is coming directly to OSU answer “Yes” to the first question, if not answer “No”. The answer will typically be Yes.
 - b. If the gift is coming to OSU through an intermediary answer “Yes” to the second question, if not answer “No”. The answer will typically be No.
 - c. Check the final box to confirm that all of the previous information in the form is accurate to the best of your knowledge.



Recipient of Gift/Contract

Is the gift/contract directly to the reporting institution?

Yes

No

Is the gift/contract indirectly to the reporting institution, including through an intermediary?

Yes

No

I acknowledge that the information provided in this form is accurate to the best of my knowledge.

Yes

10. This is the final screen you will see when your answers have been properly submitted.



Frequently Asked Questions - Foreign Gifts & Contracts Reporting

1. What is a Foreign Source for purposes of HEA Section 117? Are U.S. subsidiaries and affiliates considered to be a Foreign Source?
 - a. Under HEA Section 117, Foreign Source means:
 - 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 trust territory or protectorate thereof; or
 - iv. An agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a Foreign Source;
 - b. The U.S. Department of Education (ED) does not consider an individual who has dual citizenship that includes United States citizenship to be a Foreign Source.
 - c. Types of Foreign Sources are not mutually exclusive. Examples of foreign sources that may fall under more than one type include:
 - i. A nongovernmental organization (NGO) created or funded by a foreign government;
 - ii. An institution of higher education that is operated under the direction or control of a foreign government;
 - iii. A charitable trust acting on behalf of an individual who is a foreign citizen or national;
 - iv. A private company incorporated in a foreign country acting on behalf of a parent or affiliated legal entity incorporated in a different foreign country; and
 - v. An individual donor who is acting on behalf of a foreign corporation or foreign government.
2. Are U.S. subsidiaries and affiliates of a foreign legal entity considered to be a Foreign Source?
 - a. The term Foreign Source includes U.S. subsidiaries and affiliates of a foreign legal entity acting on behalf of a Foreign Source.
3. Are foreign subsidiaries of U.S.-based corporations considered to be a Foreign Source?
 - a. Foreign subsidiaries of U.S.-based corporations may also constitute Foreign Sources if they are legal entities, governmental or otherwise, created solely under the laws of a foreign state or states.
4. How do I know if a source is a Foreign Source, including whether it is a subsidiary or affiliate of a Foreign Source?
 - a. ED requires institutions to perform reasonable due diligence and “make a good faith effort” to make the determination. Reasonable due diligence may vary:

more diligence may be appropriate for transactions with a new Foreign Source, less diligence may be necessary for transactions with a repeat Foreign Source or routine smaller transactions. Institutions may determine whether a source is a Foreign Source or subsidiary or affiliate of a Foreign Source by gathering information directly from a party or through independent research.

- b. Since affiliate relationships are not always obvious, you can use strategies such as the following:
 - i. consulting public records
 - ii. considering the terms of the contract or agreement
 - iii. asking the sponsor/donor for additional information
 - iv. requesting that the sponsor/donor certify whether they are or are not a Foreign Source, including a subsidiary or affiliate of a Foreign Source, as defined by HEA Section 117
5. Should we report contracts entered into with a foreign entity, even if the payments for that contract are made by a U.S. entity?
 - a. Yes, HEA Section 117 requires reporting contracts with a Foreign Source, regardless of how payments are made. In addition, in such cases, the intermediary provider of the funds is more likely to be acting as an agent of the Foreign Source.
6. For contracts, should we report both funds paid to a Foreign Source and funds received from a Foreign Source?
 - a. Only funds received from Foreign Sources need to be reported. This is consistent with recent statements from the Department of Education. Therefore, transactions where OSU is procuring goods or services at a market price from a Foreign Source do not need to be reported. However, if the purchase price was well below the market value, ED would consider the difference between the amount paid and estimated value to be a "Gift".
7. Are revenue generating contracts to be reported?
 - a. All contracts for which OSU is receiving financial consideration from a Foreign Source for the provision of goods or services by OSU should be included. This includes contracts in which OSU is providing a service.
8. Are Gifts and Contracts of indeterminate value reportable? If so, how do we determine a dollar amount to assign?
 - a. For items or services of indeterminate value (which may be the case for material/data transfer agreements or in-kind contributions), ED does not specify a methodology, but expects institutions to make a good-faith effort to determine fair market value using a reasonable valuation methodology based on information available at the time the Gift is received or the Contract is entered

into. Fair market value is the price that the items or services would sell for on the market. The following are examples of information that could be used to determine fair market value:

- i. Value provided by the source,
- ii. Sale price of comparable or similar items or services,
- iii. Replacement costs,
- iv. Opinions of experts,
- v. Prices previously paid for similar items or services.

9. Should we report royalties received from a Foreign Source?

- a. Yes, ED has indicated that licensing agreements fall under the definition of Contracts under HEA Section 117, and as such are reportable.

10. Are tuition payments made by foreign students to the University considered reportable?

- a. ED has stated that it generally considers instances where a Foreign Source pays a University to cover tuition for a student or students to meet the definition of a “contract” under HEA Section 117, but that such contracts are reportable under HEA Section 117 only if they meet the annual \$250,000 threshold, which would almost never be the case for an individual student’s tuition. ED notes that the threshold would likely be met in situations where a Foreign Source pays tuition for multiple students and the aggregate amount exceeds the annual \$250,000 threshold.^[9]

11. Should we report Gift pledges by the total amount pledged or by the actual amount received?

- a. ED has indicated that only the Gift amounts received are reportable. Note that pledge payment schedules should not be created with the intent of circumventing reporting. If a Location previously reported a pledge based on previous guidance, the Location should re-report the Gift when the Gift is received, if it meets the disclosure threshold.

12. Should we report contracts and grants by project period, or by budget period?

- a. ED has indicated that institutions should report the full amount of the contract in the ED reporting period in which it is signed.

If you have any other questions not answered in this FAQ please reach out to gca@okstate.edu for assistance.