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Administrative Policies and Procedures Manual - Policy xxxx: Foreign Gifts and Contracts

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Authorized by [RPM XXX](#)

Process Owner: University President

1. General

1.1. Background

Section 117 of the Higher Education Act of 1965 requires higher education institutions that receive federal financial assistance to disclose to the United States Department of Education (DoEd) gifts received from, or contracts entered into with, a foreign source that, alone or combined with all other gifts or contracts from or with the same foreign source, meet or exceed \$250,000 in a calendar year. As a recipient of federal financial assistance, the University of New Mexico is required to comply with Section 117.

According to the DoEd, Congress enacted these disclosure requirements to make the role of foreign funding in higher education transparent to the public. Many providers of public and private grant funding require higher education institutions to certify that 1) they have a policy regarding foreign gift and contract reporting, and 2) they are compliant with Section 117.

In addition, the CHIPS and Science Act of 2022 requires higher education institutions to annually report the current financial support of \$50,000 or more, to include gifts and contracts that the institution received directly or indirectly from a foreign source which is associated with a foreign country of concern, as specified by the U.S. Secretary of State to the National Science Foundation (NSF).

1.2. Compliance Requirement

UNM is required to disclose, on a semi-annual basis, all gifts from and contracts with a Foreign Source that, alone or combined, are valued at \$250,000 or more in a calendar year. The reporting criteria is established by the DoEd.

UNM is also required to disclose annually to the NSF, all gifts from and contracts with a Foreign country that is valued at \$50,000 or more in a fiscal year. The reporting criteria is established by the NSF.

UNM requires the cooperation of all UNM employees, reporting departments identified in Section 4.1.2, and UNM Affiliated Entities, in order to satisfy its required reporting obligations and to maintain UNM's compliance with its foreign reporting obligations.

Additional reporting of foreign gifts and contracts may be required by granting institutions.

2. Applicability

This policy applies to all UNM employees (full-time, part-time, and temporary) and UNM Affiliated Entities that 1) are beneficiaries or recipients of gifts from a Foreign Source made to or for the benefit of UNM, its employees or students; or 2) enter into contracts with a Foreign Source.

3. Definitions

For the purposes of this policy, the following definitions apply:

Foreign Source – includes individuals with a country of citizenship other than the United States, legal entities formed, or whose principal place of business is, in a country other than the United States, including agents acting on behalf of a foreign source, or foreign governments.

Gift – any donation from a Foreign Source made to or for the benefit of UNM, its employees, or enrolled students. Gifts include those of de minimis value such as food, conference giveaway items, and holiday gifts.

Contract – any agreement between UNM and a Foreign Source, including but not limited to grants, sponsored research agreements, clinical trial contracts, cooperative agreements, or tuition-related agreements, that involve the transfer of funds *from* a Foreign Source to UNM, its employees or Affiliated Entities. All contracts entered into with a Foreign Source shall be reviewed by the recipient department prior to execution, and when necessary, in consultation with the Office of University Counsel to ensure UNM's compliance with the country's labor and employment laws, and consideration of other matters such as tax, intellectual property or data privacy concerns.

Responsible Reporter – the UNM department designated to collect, compile, evaluate, and report foreign gifts and contracts to the federal government, as required under Section 117 and the NSF. The UNM Contract and Grant Accounting Department is the Responsible Reporter for UNM.

UNM Affiliated Entity – nonprofit organizations affiliated with UNM that exist solely for the benefit and support of UNM as identified in RPM 7.17.

4. Scope of Reporting

In order to capture all gifts and contracts that are reportable under federal laws and regulations, all UNM employees, reporting departments identified in Section 5, and Affiliated Entities are responsible for identifying 1) the source of any gift received by or for the benefit of UNM; and 2) the source of any funds agreed to be provided to UNM as a result of an executed contract.

For purposes of this policy, the source is determined as follows:

- If the source of the gift, or party to a contract is an *individual*, the country to which the gift or contract is attributable is the country of citizenship of the individual if known, or their principal residence.
- If the source of a gift, or a party to a contract is a *legal entity*, the country attributable to the gift or contract is the country of incorporation if known, or the principal place of business.

4.1 Internal Reporting Requirement

To comply with foreign entity reporting obligations, UNM must collect and properly evaluate information concerning all gifts received from, or contracts entered into with, any Foreign Source.

While all departments within UNM should establish and maintain a process for gathering and reporting information regarding foreign gifts and contracts, all UNM employees, reporting departments identified in Section 5, and Affiliated Entities are ultimately responsible for reporting gifts and contracts under this policy, whether or not their department or organization has an internal process. The reporting obligation for contracts entered into with a Foreign Source lies with the UNM employee that was responsible for negotiating the contract or is ultimately responsible for carrying out the terms of the contract, regardless of who signed the contract.

For assistance in evaluating whether a gift received by, or contract entered into is reportable under this policy, contact the Responsible Reporter.

Because of the required reporting timelines, the date a contract was entered into, and the date a gift was received, is critical information.

4.1.1 Contracts

For DoEd reporting, the contract execution date is used for reporting purposes, even if the amount of the contract is not determinable upon execution. Contracts *executed* between January 1st and June 30th must be reported to the Responsible Reporter no later than **July 7th** of the same calendar year. Contracts *executed* between July 1st and December 30th must be reported to the Responsible Reporter no later than **January 10th** of the following year.

For NSF reporting, if a contract is modified to provide for additional funding from a foreign source, the execution date of the contract modification is used for reporting purposes.

4.1.2 Gifts

The date the gift was received by UNM is used for reporting purposes. Gifts *received* between January 1 and June 30th must be reported to the Responsible Reporter no later than **July 7th** of the same calendar year. Gifts *received* between July 1st and December 30th must be reported to the Responsible Reporter no later than **January 10th** of the following year. All gifts received from a Foreign Source must be reported, regardless of value.

4.1.3. Foreign Travel and Expenses

Foreign Travel and Expenses that were sponsored by a Foreign Source must be reported to the Responsible Reporter. Reimbursements for expenses incurred and related to foreign travel provided by a Foreign Source must also be reported to the Responsible Reporter. Gifts or contracts related to foreign travel must be disclosed according to the deadlines set forth herein for gifts or contracts.

If January 10th or July 7th falls on a holiday or weekend, the deadline for reporting is the following business day.

5. How to Report

The following departments are required to report information regarding gifts and contracts involving a Foreign Source to the Responsible Reporter within the semiannual timeframes specified above. Additional departments may be identified to participate in required internal reporting, as deemed appropriate.

- Bursar
- Enrollment Management
- Financial Aid Office
- Contract & Grant Accounting – Main
- Sponsored Projects Office – HSC
- Conflict of Interest Committee for Research – Main
- Office of Research - HSC
- Global Education Office
- Purchasing
- Office of the Controller

- UNM Foundation
- Office of the Chancellor for each branch campus

The Responsible Reporter will provide instructions to the departments and Affiliated Entities identified above regarding the proper reporting of gifts and contracts and the information needed for reporting.

6. Training

All departments and organizations identified above are required to participate in training regarding reporting standards and requirements.

7. References

Section 117 of Title IV of the Higher Education Act of 1965, 20 U.S.C. § 1011f

Section 10339B of the CHIPS and Science Act of 2022, 42 U.S.C. § 19040

RPM 7.4: Purchasing

RPM 7.13: Receipt and Investment of Gifts to the University

RPM 7.17: University-Affiliated 501(c) Organizations

UAP 1030: Gifts to the University

UAP 2170: Honorarium Payments

UAP 2470: Sub-Award Administration

UAP 2710: Education Abroad Health and Safety

UAP 4030: Travel