Section 117 Foreign Gifts and Contracts Frequently Asked Questions

This appendix includes common questions related to Section 117 Foreign Gift and Contract Reporting, compiled to support the University in understanding and complying with federal requirements. All answers below are based on the U.S. Department of Education's official Section 117 Foreign Gift and Contract Reporting FAQ website, with each question referencing its corresponding FAQ number.

What is considered to be a "intermediary"? (INS-Q2)

- Intermediaries are outside entities that receive foreign gifts or contracts and pass the benefit to a school.
- Intermediaries must be reported if the school benefits from it.
- In the context of HEA Section 117 reporting, if these federal funds are passed through a foreign source to your institution and meet the disclosure threshold, they *should* be reported as foreign gifts or contracts.

What constitutes a foreign source? (FS-Q1)

- Section 117 defines a foreign source as including:
    - A foreign government or its agency
    - A legal entity created under the laws of a foreign country
    - An individual who is not a U.S. citizen or national
    - An agent, such as a subsidiary or affiliate of a foreign entity, acting on behalf of a foreign source

When must an institution report a contract or a gift from a multinational company of a U.S. Entity with a foreign parent or affiliated company? (FS-Q3)

- Multinational companies operating in the United States and abroad, as well as U.S. entities with a foreign parent company may constitute foreign sources by virtue of their satisfying the definition of an agent acting on behalf of a foreign source.
- Institutions must evaluate the degree of control the foreign parent or affiliates have over the subsidiary.
- This involves looking at both the formal relationship and practical interactions between the parent and subsidiary
    - Public records, such as government filings and annual reports, or contract terms can help determine control
    - If the foreign parent or affiliate exercises control, the transaction should be reported as involving a foreign source
- The best practice in industry is treating all affiliates and subsidiaries of foreign companies as Foreign sources for HEA Section 117 reporting, unless there is specific information showing otherwise.

Are institutions required to disclose payments of tuition and fees for students paid by foreign individuals, entities, or governments? (CR-Q6)

- Tuition payments are considered "contracts" between the foreign student and the University and must be reported under Section 117.
- Institutions must report these payments if they meet or exceed the threshold of $250,000. (Note: The University has set a reporting threshold of $100,000).
    - While individual student tuition payments rarely reach this threshold, the threshold could be met if a foreign source pays tuition for multiple students and the aggregate amount exceeds the $250,000 threshold ($100,000 using the University's reporting threshold.).