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June 2, 2023

Kun Mullan, PRA Coordinator
Strategic Collections and Clearance, Governance and Strategy Division
Office of Planning, Evaluation and Policy Development
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Re: Request for Comments; Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Gifts and Contracts Disclosures, Docket ID number ED-2022-SCC-0159

To Whom It May Concern:

We write on behalf of the University of California, Los Angeles (UCLA), with regard to the updated proposed Information Collection Request (ICR) “Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Gifts and Contracts Disclosures” published in the *Federal Register* by the Department of Education on May 4, 2023. As stated in our February 2023 March 2020, and December 2020 comment letters, UCLA supports the disclosure of foreign gifts and contracts over \$250,000 and we are vigilant about our compliance with Section 117. Additionally, we maintain our agreement with our colleagues in the higher education community that the Department should hold a formal rulemaking process to ultimately provide a regulatory framework for Section 117 which would help ensure that institutions of higher education understand and can comply with their statutory obligations.

In this –most recent ICR, the Department has updated its burden estimate from 10 hours to 20 hours. We appreciate the Department’s recognition that the “average burden estimates may not reflect the variance in time and resources needed for some institutions via-à-vis others” though we reiterate our comments from our February 2023 letter that the Department’s estimate of burden hours substantially undervalues the administrative effort necessary to gather and collect information to submit, especially from large R1 universities engaged in various international research collaborations and other educational initiatives. In your *Summary of Public Comments with Response* you state “institutions that receive numerous substantial gifts from foreign sources likely tend to be larger institutions that should already have effective processes, procedures, and internal controls to track large donations”. As stated in our February 2023 letter, while we have mechanisms in place to collect the currently required information for gifts and contracts, the activities that meet the definition of gifts and contracts are expansive and require significant administrative effort from multiple responsible units on a campus. In recent years, UCLA has averaged 100 reportable transactions annually and we conservatively estimate it has taken approximately 170 hours annually to collect and enter UCLA’s foreign gifts and contracts to the Department’s website. It would take much more time and effort if the reporting requirements were expanded to include a lower threshold of gifts and contracts.

The updated ICR states “some potential changes to the Reporting Portal are not possible due to system limitations”. While we understand the limitations of the PEBC system, we maintain our recommendations

we shared in our February 2023, November 2020, and March 2020 letters that the Department of Education allow for a single batch upload of reportable foreign gifts and contracts. The current submission process only allows for one gift, one contract, and one restricted contract to be submitted together. Given that collaborative research and scholarly exchange are an essential part of the academic community in the U.S. and abroad, UCLA, along with other U.S. research institutions regularly and productively engage and collaborate internationally. Such engagement and collaboration can lead to various international agreements, thus requiring multiple standalone submissions under the current process. We also recommend the Department reduce the number of entries for entering the home institution. Each authorized user should only have access to submit on behalf of their home institution after logging in to the portal; however, each submission currently requires a reentry of the named home institution a minimum of three additional times per transaction. Without a significant upgrade to the portal, compliance with Section 117 will remain burdensome in time, effort, and resources.

UCLA remains concerned with language in the updated ICR with respect to the disclosure of names and addresses of foreign sources. While we appreciate the updated clarification that the “Department will not make this information part of the public disclosure except as required by law”, we reiterate our concern that this provision will have a chilling effect on some foreign gifts and contracts. As stated in our February 2023 letter, Section 117 allows for the reporting of “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.” As stated in numerous previous letters, UCLA annually receives several anonymous gifts, including those given anonymously to avert political pressure and persecution of the donor by their home country. If we are required to report the names and addresses of anonymous gifts, we would find ourselves in the problematic position of either violating promises to donors that we will maintain their anonymity or declining meaningful financial support.

We reiterate our concerns from our February 2023 letter that the punitive nature of the notification of interpretation (NOI) from November 2020 is well beyond the Department’s existing statutory authority. We continue to strongly oppose the NOI’s incorporation of failure to report Section 117 foreign gifts and contracts as a violation of the Department’s Title IV program participation agreement (PPA). This would be contrary to the Department’s mission “to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access” to penalize an institution of higher education’s neediest students if an unintended problem occurs in meeting reporting expectations. We also believe this is not the legislative intent of Section 117 and respectfully request that the November 2020 NOI tying Section 117 requirements to an institution’s PPA be withdrawn.

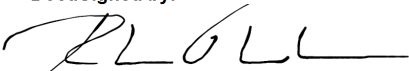
UCLA appreciates the opportunity to provide additional comments on the ICR for the Section 117 foreign gift and contracts reporting requirement and urges the Department of Education to continue to work with the higher education community to clarify reasonable reporting obligations under the current version of Section 117 and to engage in the negotiated rulemaking process.

Sincerely,



Roger Wakimoto, Vice Chancellor of Research and Creative Activities

DocuSigned by:



Rhea Pateraub, Vice Chancellor of External Affairs