

OBFS Policies Open Comment Period and FAQs: Payments to Human Subjects

The Office of Business and Financial Services (OBFS) has reopened commenting on proposed updates to policies and procedures relating to payments to human subjects, located in Section 8 and Section 18.10. A communication, “[OBFS Policies Open Comment Period: Payments to Human Subjects](#)” was sent out with an overview of the proposed changes and a link to the open comment blog for submission of comments.

In order to address many of the commonly asked questions related to payments to human subject who are nonresident aliens for US tax reporting purposes, we are providing additional information in the form of this frequently asked questions (FAQs).

We recognize and support the diversity and depth of feedback that many in the University of Illinois System community have provided. OBFS has revisited the policy as initially proposed and made changes and updates to clarify tax reporting requirements to nonresident aliens. To make certain that we obtain comments from everyone who wishes to provide input, OBFS is reopening the policy for an additional open comment period through **September 7, 2017**. During this time, we will continue to research and review the complex federal tax reporting requirements that dictate much of the policy.

You can find the proposed policy and procedural updates listed in the [open comment blog](#).

FAQs

Q1: Why is OBFS making changes to this policy?

A1: Payments to human subjects have resulted in multiple audit findings due to the IRS tax reporting requirements associated with these types of payments. The updated policy attempted to clarify when tax identification information needs to be obtained and how payment requests must be made. The policy also revisited issues created by the original policy tied to allowing only a single program advance (the proposed policy will allow one program advance per approved IRB protocol) and raises the previous reporting threshold for payments to human subjects who are not non-resident aliens from \$100 to \$200.

Q2: Why did OBFS make it a requirement for the collection of tax identification numbers for nonresident aliens in order to make a human subject payment?

A2: The requirement to obtain a tax identification number for payments to nonresident aliens is not a new addition to OBFS policy. [Section 18.10 Human Subject Payments](#) currently has the following requirement:

Nonresident Aliens

Payments made to Human Subjects who are nonresident aliens, regardless of whether or not treated as employees, are reported on *Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding*, regardless of the amount, and are subject to 30% federal income tax withholding. However, nonresident aliens might be able to claim exemption from federal income tax withholding under a United States tax treaty; thus, payments may be exempt from withholding if a tax treaty exists with the country of citizenship of the nonresident alien. To take advantage of a tax treaty, such paperwork must be processed before payment is made.

Due to special withholding and reporting requirements, cash payments cannot be made to nonresident aliens. All payments to nonresident aliens must be processed through OBFS, University Payroll and Benefits (UPB).

The requirement to obtain tax identification numbers for these types of payments is not an OBFS requirement. OBFS is requesting the tax identification numbers for payments to nonresident aliens to meet the required Internal Revenue Service (IRS) reporting requirements (Internal Revenue Code 1441). For more information on IRS reporting requirements please see, [IRS Taxation of Nonresident Aliens](#).

Q3: Is there a specific dollar amount where the System is required to report payments made to nonresident aliens?

A3: The IRS does not have an established threshold over which the System is required to report payments to nonresident aliens. Any payment to a nonresident alien must be reported.

Q4: Why doesn't OBFS just require tax identification numbers for human subject payments of \$600 or more to address 1099-MISC IRS reporting requirements?

A4: As indicated in the prior response, the IRS does not have a minimum dollar threshold requirement for reporting payments to nonresident aliens. For payments to other individuals, who are not nonresident aliens, the System previously required tax identification numbers for payments of \$100 or more. The 1099-MISC \$600 reporting requirement is for all payments during a calendar year. In order to determine that a human subject is not participating in multiple studies which would exceed the \$600 threshold, the System requires capturing tax identification numbers at the current \$100 threshold. In the policy update, this dollar amount is proposed to be increased to \$200 or more.

Q5: Why was the term "nonresident alien" used in this policy?

A5: The term nonresident alien is used and defined by the IRS. The IRS defines nonresident alien as, “an alien is any individual who is not a U.S. citizen or U.S. national. A nonresident alien is an alien who has not passed the green card test or the substantial presence test.” For more information please see, [IRS Taxation of Nonresident Aliens](#).

Q6: Were representatives from Chicago and Urbana-Champaign consulted prior to creation of these proposed changes?

A6: The creation of the proposed policy began over one year ago with customer focus groups conducted at both universities. A smaller group of representatives from multiple departments used the feedback from the focus groups to draft the proposed policy. The drafted policy was shared with representatives from both universities prior to publishing the open comment period.

Q7: Has OBFS reviewed how this policy will affect research projects which primarily use nonresident aliens as their human subjects?

A7: During the customer focus group meetings, there were a number of concerns related to research projects that primarily use nonresident aliens as their human subjects. It was identified during these discussions that mandatory reporting is an IRS requirement and that this requirement is already in policy [Section 18.10 Human Subject Payments](#) and [Section 18.2 Foreign Nationals](#). Unfortunately, the IRS requirements and the potential risk to the System for non-compliance with federal requirements create the need for this policy.

Q8: My research grant requires I treat all human subjects equally regardless of residency status, does this policy comply with my research grant requirements?

A8: This policy allows researchers to treat all human subjects equally regardless of their residency status; all human subjects will receive the same gross payment for their participation. The University of Illinois System is required to abide by the IRS rules which are not superseded by requirements set forth by a granting agency. The IRS requires the University of Illinois System to collect withholding taxes and report human subject payments in specific scenarios which may affect the net amount paid to human subjects. It is important to note that **human subject payments may be considered taxable income reportable to the IRS regardless of amount or residency status**. The IRS requires the University of Illinois System to withhold taxes at differing thresholds and rates for citizens, resident aliens and non-resident aliens. IRS rules dictate the human subject’s final net payment based on the individual’s tax and residency status, not the University of Illinois System.

Q9: What if I am not paying human subjects, am I still required to obtain the tax identification number if the subject is a nonresident alien?

A9: If there is no payment to human subjects for their participation in a study, then you are not required to obtain their tax identification number. Note that payments include cash, check and cash equivalents.

Q10: Did OBFS review policies in place at other institutions of higher education before drafting this policy?

A10: Yes, OBFS and the customer focus groups reviewed a number of human subject payment policies prior to drafting this policy. This review demonstrated that there is no consistency amongst universities to address the IRS reporting requirements. Policies for payments to nonresident alien human subjects ranged from (i) the extreme of not allowing payments to human subjects who are nonresident aliens if they have not obtained authorization from their sponsoring agency to receive compensation to (ii) requiring tax identification numbers be obtained only if it is known a human subject is a nonresident alien. The System's policy proposed now utilizes the "if known" standard to ensure compliance with mandatory IRS reporting requirements for payments to nonresident aliens.

Q11: What happens once the open comment period closes?

A11: The comments will be reviewed by the policy development team. The team will make edits to the policy as needed and will provide responses to individual comments as applicable. At this point, OBFS will work directly with university representatives to review proposed edits. Final policy edits will be published in the OBFS Policy and Procedure Manual and communicated out using the [OBFS News Service](#)

To review the proposed updates and submit a comment, visit the Open Comment website: <https://uofi.uillinois.edu/blog/view/6894/542200>. You may also submit a comment without posting to the blog by contacting obfspolicies@uillinois.edu. The Open Comment period allows you to provide input and ask questions about specific policies that affect University business and the work you do.

Contact:

If you have questions about the Open Comment website, or need assistance using it, contact OBFS Policies at 312-355-5107 or obfspolicies@uillinois.edu.