

अखिल भारतीय आयुर्विज्ञान संस्थान, नई दिल्ली

निदेशक कार्यालय

फा.सं. 40-30/2024-स्था.।

31.08.2024

कार्यालय ज्ञापन

विषय: एम्स, नई दिल्ली में विदेशी अंशदान स्वीकार करने की प्रक्रिया को सुव्यवस्थित करने संबंधी।

एम्स, नई दिल्ली के विकास एवं सामाजिक कार्यों हेतु वित्तीय योगदान देने के लिए एम्स के विदेश में रहने वाले पूर्व छात्रों एवं अन्य अंतर्राष्ट्रीय संगठनों द्वारा अधोहस्ताक्षरी से संपर्क किया गया है। चूंकि 'विदेशी अंशदान' की स्वीकृति विदेशी अंशदान विनियमन अधिनियम (एफसीआरए) द्वारा नियंत्रित होती है, इसलिए ऐसे किसी भी अनुरोध को स्वीकार करते समय उचित विवेक का प्रयोग करने के लिए एक प्रक्रिया को विकसित करना आवश्यक है।

तदनुसार, विदेशी अंशदान की स्वीकृति को सुव्यवस्थित करने तथा रोगी उपचार एवं अनुसंधान में एम्स के पूर्व छात्रों तथा अन्य संगठनों की अधिक भागीदारी को प्रोत्साहित करने के लिए, एम्स, नई दिल्ली में एक 'विदेशी अंशदान प्रकोष्ठ' (एफसीसी) का गठन करने का निर्णय लिया गया है।

एफसीसी का संचालन एक समिति द्वारा किया जाएगा, जिसमें निम्नलिखित सदस्य शामिल होंगे:

- डॉ. निखिल टंडन, आचार्य एवं अध्यक्ष, अंतःस्नायिकी विभाग - अध्यक्ष
- डॉ. नीना मल्होत्रा, आचार्य एवं अध्यक्ष, प्रसूति एवं स्त्री रोग विज्ञान विभाग - सह-अध्यक्ष
- डॉ. राजीव कुमार, आचार्य, मूत्ररोग विज्ञान - सदस्य
- डॉ. नंद कुमार, आचार्य, मनोचिकित्सा - सदस्य
- डॉ. टोनी जॉर्ज जैकब, अपर आचार्य, शरीर रचना - सदस्य
- डॉ. अनु सचदेवा, अपर आचार्य, बाल चिकित्सा - सदस्य
- डॉ. कनिका जैन, सहायक आचार्य, अस्पताल प्रशासन - सदस्य-सचिव

एफसीसी के पास निम्नलिखित अधिदेश होंगे:

- एफसीआरए के अंतर्गत निहित दिशा-निर्देशों के अनुरूप, एम्स, नई दिल्ली में 'विदेशी अंशदान' स्वीकार करने की प्रक्रिया की समीक्षा करना तथा उसे सुव्यवस्थित करना।
- एम्स, नई दिल्ली में ऐसे किसी भी अंशदान को स्वीकार करने हेतु 'विदेशी अंशदानदाताओं' के साथ संपर्क एवं समन्वय स्थापित करना।
- ऐसे कारणों एवं विषयों की पहचान करना जिनके लिए एम्स, नई दिल्ली में विदेशी अंशदान को प्रोत्साहित किया जा सकता है।

- संभावित एम्स के विदेशी पूर्व छात्रों तथा अन्य प्रतिष्ठित अंतर्राष्ट्रीय संगठनों हेतु ऐसे कारणों एवं विषयों को प्रोत्साहन देना जो एम्स, नई दिल्ली की सहायता करने के इच्छुक हो सकते हैं।
- एम्स, नई दिल्ली द्वारा प्राप्त किए जा रहे सभी विदेशी अंशदान का एक डाटाबेस तैयार करना तथा एफसीआरए की सभी आवश्यकताओं का अनुपालन सुनिश्चित करना।

प्रो. एम. श्रीनिवास

निदेशक

वितरण: (इसे अपने नियंत्रणाधीन सभी अधिकारियों में परिचालित करने के अनुरोध सहित)

1. संकायाध्यक्षगण (शैक्षिक, अनुसंधान, परीक्षा)
2. अपर निदेशक (प्रशासन)
3. चिकित्सा अधीक्षक (एम्स)
4. सभी केंद्र प्रमुखगण/अध्यक्ष, एन.सी.आई. झज्जर
5. सभी विभागाध्यक्षगण
6. वरिष्ठ वित्त सलाहकार
7. प्रभारी-आचार्य, कंप्यूटर सुविधा

ALL INDIA INSTITUTE OF MEDICAL SCIENCES, NEW DELHI

OFFICE OF DIRECTOR

F. No. 40-30/2024-Estt.I

31.08.2024

OFFICE MEMORANDUM

Sub: Streamlining the mechanism for accepting Foreign Contributions to AIIMS New Delhi

The undersigned has been approached by offshores AIIMS Alumni & other International organizations, to contribute financially towards the growth & social causes of AIIMS New Delhi. As acceptance of 'Foreign Contributions' is governed by the Foreign Contribution Regulation Act (FCRA), it is essential to develop a mechanism to do due prudence while accepting any such requests.


Accordingly, to streamline the acceptance of foreign contributions and to encourage greater participation of AIIMS Alumni and other organizations in patient care & research, it has been decided to constitute a 'Foreign Contribution Cell' (FCC) at AIIMS New Delhi.

The FCC shall be governed by a committee comprising of:

- Dr. Nikhil Tandon, Prof. & Head, Dept of Endocrinology – Chairperson
- Dr. Neena Malhotra, Prof. & Head, Dept of Obs. & Gynaecology – Co-Chairperson
- Dr. Rajeev Kumar, Prof. of Urology – Member
- Dr. Nand Kumar, Prof. of Psychiatry - Member
- Dr. Tony George Jacob, Addl. Prof. of Anatomy – Member
- Dr. Anu Sachdeva, Addl. Prof. of Paediatrics – Member
- Dr. Kanika Jain, Asst. Prof. of Hospital Admn. – Member Secretary

The FCC shall have the following mandate:

- Review & streamline the mechanism of receiving 'Foreign Contributions' at AIIMS New Delhi, in line with the guidance enshrined under FCRA.
- Liaison & Coordinate with the 'Foreign Contributors' for accepting any such contributions to AIIMS New Delhi.
- Identify the causes and themes for which Foreign Contributions can be encouraged at AIIMS New Delhi.
- Promote such causes & themes to potential off-shores AIIMS Alumni & other reputed International Organizations who may be willing to support AIIMS New Delhi.
- Maintain a database of all Foreign Contributions being received by AIIMS New Delhi and ensure compliance with all requirements of FCRA.

 31/8/2024

Prof. M Srinivas

Director

Distribution (with a request to also circulate it to all officials under their control)

1. Dean/s (Academic, Research, Examination)
2. Addl. Director (Admin)
3. Medical Superintendent (AIIMS)
4. Chiefs' of all Centres / Head, NCI Jhajjar
5. Heads' of all Departments
6. Sr. Financial Advisor
7. Prof. I/c Computer Facility

FAQ

I. Introduction to the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010)

Q.1 What is the purpose of FCRA, 2010?

Ans. FCRA, 2010 has been enacted by the Parliament to consolidate the law to regulate the acceptance and utilization of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilization of foreign contribution or foreign hospitality for any activities detrimental to national interest and for matters connected therewith or incidental thereto.

Q.2 What are the various acts/rules/guidelines which regulate the flow of foreign contribution to India?

Ans. The flow of foreign contribution to India is regulated under the Foreign Contribution (Regulation) Act, 2010 and the Foreign Contribution (Regulation) Rules, 2011 (FCRR 2011) read with other notifications/orders etc., as issued there under from time to time. These are available at the website <https://fcraonline.nic.in>.

Q.3 What is the status of the FCRA, 1976 after coming into force of FCRA, 2010?

Ans. It has been repealed.

Q.4 To whom is FCRA, 2010 applicable?

Ans. As per Section 1(2) of FCRA, 2010, the provisions of the act shall apply to:

- i. Whole of India
- ii. Citizens of India outside India; and
- iii. Associate Branches or subsidiaries, outside India, of companies or bodies corporate, registered or incorporated in India

II. Key Definitions and Concepts under FCRA, 2010

A. Foreign Contribution

Q.1 What is foreign contribution?

Ans. As defined in Section 2(1)(h) of FCRA, 2010, "foreign contribution" means the donation, delivery or transfer made by any foreign source –

- (i) of any article, not being an article given to a person* as a gift for his personal use, if the market value, in India, of such article, on the date of such gift is not more than such sum as may be specified from time to time by the Central Government by the rules made by it in this behalf.
- (ii) of any currency, whether Indian or foreign;
- (iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act, 1999.

FAQ

Explanation1–A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation 2 – The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of Section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.

Explanation3–Any amount received, by any person from any foreign source in India, by way of fee (including fees charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent or a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause.

* In terms of FCRA, 2010 "person" includes –

- (i) an individual;
- (ii) a Hindu undivided family;
- (iii) an association;
- (iv) a company registered under section 25 of the Companies Act,1956 (now Section 8 of Companies Act, 2013).

Q.2 Who can receive foreign contribution?

Ans. Any "Person" can receive foreign contribution subject to the following conditions:-

- a) It must have a definite cultural, economic, educational, religious or social programme.
- b) It must obtain the FCRA registration/prior permission from the Central Government
- c) It must not be prohibited under Section 3 of FCRA, 2010.

Q.3 Who cannot receive foreign contribution?

Ans. As defined in Section 3(1) of FCRA, 2010, the following are prohibited to receive foreign contribution:

- (a) candidate for election;
- (b) Correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
- (c) Public Servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;
- (d) Member of any legislature;
- (e) Political party or office bearer thereof;
- (f) organization of a political nature as may be specified under sub-section (1) of Section 5 by the Central Government.
- (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of Section 2 of the Information Technology Act, 2000 or any other mode of mass communication;
- (h) Correspondent or columnist, cartoonist, editor, owner of the association or company referred to in point (g).
- (i) Individuals or associations who have been prohibited from receiving foreign contribution.

FAQ

Q.4 Can foreign contribution be received in rupees?

Ans. Yes. Any donation, delivery or transfer received from a 'foreign source' whether in rupees or in foreign currency is construed as 'foreign contribution' under FCRA, 2010. Such transactions including interest on foreign contribution or income derived from foreign contribution even in rupees term are considered as foreign contribution.

Q.5 Will interest or any other income earned from foreign contribution (FC) be considered foreign contribution?

Ans. Yes. It will become part of F.C. Please see Explanation 2 under Question 1.

Q.6 Whether interest or any other income earned out of foreign contribution be shown as fresh foreign contribution receipt during that year or not?

Ans. No. The interest or any other income earned out of foreign contribution should be shown against Column 2(i)(b) in the annual return (Form FC-4) during the year in which it is earned. Such interest or income would be considered as F.C.

Q.7 Whether earnings from foreign client(s) by a person in lieu of goods sold or a service rendered by it is treated as foreign contribution?

Ans. No. As clarified at Explanation 3 under section 2(1)(h), foreign contribution excludes earnings from foreign client(s) by a person in lieu of goods sold or services rendered by it as this is a transaction of commercial nature/quid pro quo in the normal course of business trade etc within or outside India.

Q.8 whether donation given by Non-Resident Indians (NRIs) is treated as 'foreign contribution'?

Ans. Contributions made by a citizen of India living in another country (i.e., Non-Resident Indian), from his personal savings, through the normal banking channels, is not treated as foreign contribution. However, while accepting any donations from such NRI, it is advisable to obtain his/her passport details to ascertain that he/she is actually an Indian citizen.

Q.9 Whether donation given by an individual of Indian origin and having foreign nationality is treated as 'foreign contribution'?

Ans. Yes. Donation from an Indian origin person who has acquired foreign citizenship is treated as foreign contribution. This will also apply to PIO / OCI cardholders. They are foreigners. However, this will not apply to 'Non-resident Indians', who still hold Indian citizenship as they are not foreigners.

Q.10 Whether foreign remittances received from a relative are to be treated as foreign contribution as per FCRA, 2010?

Ans. No. As per section 4(e) of FCRA, 2010 and Rule 6 of FCRR, 2011, even the persons prohibited under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to accept foreign contribution from their relatives. However, in terms of Rule 6 of FCRR, 2011, any person receiving foreign contribution in excess of ten lakh rupees or equivalent thereto in a financial year from any of his relatives shall inform the Central Government in electronic Form FC-1 within three months from the date of receipt of such contribution. This form may be filled online on the website: <https://fcraonline.nic.in>

Q.11 Whether individuals not covered under Section 3 or a HUF can accept foreign contribution freely for the purposes listed in section 4 of FCRA, 2010?

FAQ

Ans. Yes. Since, subject to the provisions of Section 10, even the persons specified under section 3, i.e., persons not permitted to accept foreign contribution, are allowed to receive foreign contribution for the purposes listed in section 4, it is obvious that Individuals in general and a HUF are permitted to accept foreign contribution without permission for the purposes listed in section 4. However, it should be borne in mind that the monetary limit for acceptance of foreign contribution in the form of any article given as gift to a person for his personal use has been specified as Rs. one lakh vide FCR Amendment Rules, 2019.

Q.12 Can the fee paid by the foreign delegates/participants attending/participating in a conference/seminar etc. be termed as foreign contribution and thus require permission from FCRA?

Ans. No. "Delegate/participation Fees" paid by foreign delegates/participants for participation in a conference/seminar and which is utilized for the purpose of meeting the expenditure of hosting the conference/seminar is not treated as foreign contribution and as such no permission under FCRA is required by the recipient.

Q.13 Section 2(c)(i) of repealed FCRA, 1976 inter alia defined foreign contribution as the donation, delivery or transfer made by any foreign source of any article, not given to a person as a gift for personal use, if the market value, in India, of such article exceeds one thousand rupees. What limit has been prescribed in FCRA,2010 in respect of such articles?

Ans. The limit has been specified as Rs. One lakh through insertion of the following Rule 6A in FCRR, 2011 vide the Foreign Contribution (Regulation) (Second Amendment) Rules, 2019 [G.S.R. 659 (E) dated 16th September, 2019]: "6A. When articles gifted for personal use do not amount to foreign contribution. - Any article gifted to a person for his personal use whose market value in India on the date of such gift does not exceed rupees one lakh shall not be a foreign contribution within the meaning of sub-clause (i) of clause (h) of sub-section (1) of section (2).

B. Foreign Source

Q.14 What is a foreign source?

Ans. Foreign source, as defined in Section 2(1) (j) of FCRA, 2010 includes:-

- (i) the Government of any foreign country or territory and any agency of such Government;
- (ii) any international agency, not being the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;
- (iii) a foreign company;
- (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
- (v) a multi-national corporation referred to in sub-clause (iv) of clause (g) of section 2 of FCRA,2010;
- (vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:- a. the Government of a foreign country or territory; b.the citizens of a foreign country or territory; c. corporations incorporated in a foreign country or territory; d. trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory; e. foreign company;

provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made thereunder, then, notwithstanding the nominal value of share capital of a company being more than

FCRA

Ministry of Home Affairs

FAQ

one-half of such value at the time of making the contribution, such company shall not be a foreign source.

- (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- (ix) a society, club or other association or individuals formed or registered outside India;
- (x) a citizen of a foreign country;”

NOTE – A few bodies/ organizations of the United Nations, World Bank and some other International agencies/multi lateral organisations are exempted from this definition, and are not treated as foreign source. Hence, the funds received from them are not considered as foreign contribution. List of such bodies / organizations, which are not treated as ‘foreign source’, are available on the website <https://fcraonline.nic.in>.

Q.15 Whether an Individual of Indian Origin who has acquired foreign nationality is treated as foreign source?

Ans. Yes. The contribution received from all the non- Indian Passport Holders is treated as “Foreign Source.”

Q.16 What is a foreign company?

Ans. Please see section 2(1)(g) of FCRA, 2010. Foreign company means any company or association or body of individuals incorporated outside India and includes-

- a) a foreign company within the meaning of Section 379 of the Companies Act, 2013
- b) a company which is a subsidiary of a foreign company
- c) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause(ii);
- d) a multi-national corporation

Q.17 What is a Multinational Corporation?

Ans. As per explanation given under clause (g) of sub-section 1 of Section 2 of FCRA, 2010 a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,-

- (a) has a subsidiary or a branch or a place of business in two or more countries or territories; or
- (b) carries on business, or otherwise operates, in two or more countries or territories;

Q.18 Whether a Company incorporated in India under the Companies Act, 2013 having its operations in 2 or more countries is to be treated as a MNC under FCRA, 2010?

Ans. No

C. Other Key Definitions and Concepts

Q.19 What is a candidate for election?

Ans. A candidate for election means a person who has been duly nominated as a candidate for election to any legislature with effect from the date of his such nomination.

FAQ

Q.20 What is a registered newspaper?

Ans. "registered newspaper" means a newspaper registered under the Press and Registration of Books Act, 1867.

Q.21 what is a political party?

Ans. Please see section 2(1)(4) of FCRA, 2010. "Political party" means –

- (i) an association or body of individual citizens of India –
- A) to be registered with the Election Commission of India as a political party under section 29A of the Representation of the People Act, 1951; or
- B) which has setup candidates for election to any Legislature, but is not so registered or deemed to be registered under the Election Symbols (Reservation and Allotment) Order, 1968;
- (ii) a political party mentioned in column 2 of Table 1 and Table 2 to the notification of the Election Commission of India No. 56/J&K/02, dated the 8th August, 2002, as in force for the time being;

III. Registration and Prior Permission

Q.1 How does a person obtain permission to accept Foreign Contribution?

Ans. There are two modes of obtaining permission to accept foreign contribution according to FCRA, 2010:

- i. Registration
- ii. Prior Permission

A. Eligibility

Q.2 what are the eligibility criteria for grant of registration?

Ans. For grant of registration under FCRA, 2010, the association should:

- (i) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 (Now Section 8 of Companies Act, 2013) etc;
- (ii) be in existence for at least three years and has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised. The applicant NGO/association will be free to choose its items of expenditure (excluding the administrative expenditure as defined in Rule 5 of FCRR, 2011) to become eligible for the minimum threshold of Rs. 15.00 lakh spent during the last three years. If the association wants inclusion of its capital investment in assets like land, building, other permanent structures, vehicles, equipments etc, then the Chief Functionary shall have to give an undertaking that these assets shall be utilized only for the FCRA activities and they will not be diverted for any other purpose till FCRA registration of the NGO holds.

Q.3 What are the eligibility criteria for grant of prior permission?

Ans. An organization in formative stage is not eligible for certificate of registration. Such organization may apply for grant of prior permission under FCRA, 2010. Prior permission is granted for receipt of a specific amount from specific donor/donors for carrying out specific activities/projects. For this purpose, the association should meet following criteria:

- (i) be registered under an existing statute like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 etc;
- (ii) submit a specific commitment letter from the donor indicating the amount of foreign contribution and the purpose for which it is proposed to be given; and