

**UNIVERSITY OF CINCINNATI
THE UNIVERSITY OF CINCINNATI FOUNDATION**

Determining Whether a Transaction is a Gift or a Grant

Administration

This document describes indicators for distinguishing between gifts and grants for accounting purposes and the roles of the responsible parties. The University of Cincinnati, Office of the Controller is responsible for determining the appropriate accounting classification of funds recorded in the University's accounting system. Complete documentation of the gift/grant transaction is required so that a thorough review can be performed and an accurate classification is achieved. The University of Cincinnati, Office of Sponsored Research Services is authorized by the Vice President of Research to seek, accept, and administer grants, cooperative agreements, and contracts (sponsored programs). By contract with UC, The University of Cincinnati Foundation seeks, accepts and administers gifts (charitable contributions) in support of UC's colleges, units, and programs.

Definitions

- A gift is a voluntary and irrevocable transfer of personal or real property, or services (e.g., cash, securities, real estate, equipment, personnel time and skill, etc.) from a donor without any expectation of or receipt of direct economic benefit or provision of goods or services from the recipient commensurate with the value of the gift. A gift or endowment agreement may specify the use and purpose of the gift, including the time frame for use of the gift and the requirement that an annual or end-of-term report be provided to the donor for accountability purposes (e.g., a financial report detailing the use and market value of an endowed fund or a simple financial or narrative report summarizing the outcomes of a foundation grant.)
- A grant or contract is an agreement formalizing the transfer of money or property from a sponsor in exchange for specified services (e.g., research and development), sometimes including proprietary rights to and products derived from the services, and including complicated financial and/or technical reporting by the recipient as to the actual use of the money or results. The agreement is enforceable by law, and performance is usually to be accomplished within a specified time frame, with payment being subject to revocation for cause.

Terminology is not conclusive and all factors must be evaluated; the underlying transaction determines whether the transfer is a gift to be accepted and administered by The UC Foundation or a grant, cooperative agreement, or contract to be administered by Sponsored Research Services. In cases where the determination is not immediately

apparent, the UC Controller's Office, Sponsored Research Services and The UC Foundation will discuss the subtleties and review the totality of the circumstances to make the determination whether a transaction is a gift or a grant.

Funding Source

If the funding source is a private sector entity (e.g., an individual, private agency, professional association, private foundation, corporate foundation, or corporation), the underlying transaction must be analyzed to determine whether the transfer is a gift or grant, contract, or cooperative agreement. The transfer document or award instrument will be reviewed to provide guidance.

If the funding source is a government entity then the transaction will be classified as a grant and administered by Sponsored Research Services. (A government entity is any federal, state, county or local municipality in the United States or abroad.)

Indicators

The following common indicators are designed to help direct specific transfers to the proper entity. The Controller's Office, Sponsored Research Services and The UC Foundation will make every effort to direct a transfer to the proper entity at the time of solicitation or proposal submission, rather than after receipt of funds.

- **Gift Transactions**

- The award is from an individual.
- The award is from a non-governmental source and is either for capital improvements or for the university's endowment.
- The donor intends the award to be a charitable gift as reflected by the absence of any quid pro quo of commensurate value.
- The restriction(s) placed on the use of the award are reasonable and serve to direct the funds to areas such as scholarships, infrastructure, general research, or programs of interest to the donor.
- The donor makes the gift to The UC Foundation for the benefit of UC or to UC directly without expectation of direct economic or other tangible benefit commensurate with the value of the gift. Indirect or de minimis benefits such as tax advantages, business or personal goodwill, naming rights, or small tokens of appreciation (e.g. a commemorative plaque or vase) derived from close association with the university, and miscellaneous benefits derived from donor club status are not sufficient to negate gift intent.

- **Grant Transactions**

- Award is from a governmental or quasi-governmental entity, e.g., Argonne National Laboratory, or is from a private-sector funder that provides a subcontract or subgrant containing federal "flow down" provisions.
- Award is from a private sector entity (including individuals) for the work of a specific faculty member(s), and the agreement binds the university to a specific line of inquiry. Work is characterized by programmatic objectives that are to be accomplished within a specific time and budget framework.
- The funder places restrictions on publication of data from studies supported by the agreement. This would include a requirement that the funder review manuscripts, talks, etc., before submission for publication or presentation, but not the requirement that the funder review and approve any public announcement of the gift
- The funder requests proprietary rights in data or inventions resulting from activities conducted under the agreement. This would include any proprietary rights and/or references to licensing arrangements for patents or copyrights developed as a consequence of the activity.
- Studies are to be conducted on substances/products/processes, etc., owned by the funder.
- The transfer comes from a corporation's R&D budget and the company indicates it considers the award a "cost of doing business" (deductible as a business expense) rather than a gift (deductible as a charitable contribution). The grant or contract agreement should reflect this intent.
- The funder hopes to gain economic benefits as a result of the activity to be conducted.
- The funder retains so much control over the use of the award that the IRS is likely to disqualify a charitable deduction Such as the right to revoke the award or conduct an audit. Examples of restrictions include requirement for prior sponsor approval for deviation from originally approved budget items and disallowance of certain costs.
- The funder participated in determining the work to be performed or services to be provided on the project.
- The funder requires that any unused funds be returned.
- The activity involves the use of human subjects, laboratory animals, radioactive materials, biological hazards, restricted chemicals, recombinant DNA.
- The activity requires the university to comply with federal export control regulations.

In order for the Controller's Office to make a final determination of the transfer's nature, all documents must be submitted and reviewed by Controller personnel before the transfer is recorded in the University's accounting system.

Resources:

Statement No. 33 of the Governmental Accounting Standards Board: Accounting and Financial Reporting for Nonexchange Transactions

Statement of Financial Accounting Standards No. 116: Accounting for Contributions Received and Contributions Made