

**CLASSIFICATION, ACCEPTANCE, AND ADMINISTRATION OF
AWARDS FROM PRIVATE SOURCES**

I. REFERENCES AND RELATED POLICIES

- A.** University Regulation No. 4 (Revised)
- B.** Letter from President D. Saxon to Chancellors, dated July 8, 1980.
- C.** Report of the Office of the Auditor General to the Joint Legislative Audit Committee, 715-9, University of California: Review of Privately Supported Research, dated August, 1978.
- D.** UCSD Policy and Procedure Manual (PPM)
 - 150-14 Recovery of Indirect Costs on Organized Research, Instruction and Other Sponsored Activities, Federal and Non-Federal
 - 200-13 Conflict of Interest
 - 410-1 Solicitation, Acceptance and Administration of Gifts to the University
 - 410-2 Solicitation, Acceptance and Administration of Gifts to the UC San Diego Foundation
 - 410-3 Assessment of Supplemental Funding For UCSD Development Office and UC San Diego Foundation
 - 500-4 Approval and Execution of Incoming Purchase Orders for University Goods and Services

II. PURPOSE

To establish procedures for the review, classification and administration of all awards from private sources; to ensure that the purpose for which an award is made is in accord with University policy; to establish criteria by which gifts can be differentiated from grants, contracts, and service agreements; and to establish administrative responsibility for the acceptance and administration of such awards. When the terms "grants and contracts" are used in this policy, they refer to the research, instruction and public service functions of the University.

III. POLICY

Prior to acceptance, awards from private sources must be reviewed for compliance with University policies, including Regulation Number 4, which states in part:

“University participation in tests and investigations shall be limited to activities which lead to the extension of knowledge or to increased effectiveness in teaching. Routine tasks of a commonplace type will not be undertaken.”

“University laboratories, bureaus, and facilities are not to be used for tests, studies, or investigations of a purely commercial character, such as mineral assays, determination of properties of materials, the performance efficiencies of machines, analyses of soils, water, insecticides, fertilizers, feeds, fuels, and other materials, statistical calculations, etc., except when it is shown conclusively that satisfactory facilities for such services do not exist elsewhere. . .”

“For all tests and investigations made for agencies outside the University, a charge shall be made sufficient to cover all expenses, both direct and indirect.”

IV. DEFINITIONS (See Section V for Specific Characteristics)

The definitions included in this section are provided for the purpose of classifying gifts, fellowships, contracts, grants and service agreements.

A. Gift

1. Legal—A gift is a conveyance or transfer of an asset (including cash or negotiable instruments) made with charitable intent and without consideration.
2. General Characteristics—A gift may not include an implicit or explicit statement of *quid pro quo* or purchase of services, goods, or other exclusive information not shared by others. Gifts may not be made in lieu of payments for services performed by physicians employed by the University.

By contrast, contracts, grants and service agreements require consideration, i.e., a promise to perform an activity (e.g., the conducting of research, provision of a service, etc.). In addition, gifts may be requested by a written proposal; however, they are typically less technically and financially detailed than contract, grant or service agreement proposals.

B. Fellowship

1. Legal—A fellowship is a formal commitment to provide monetary assistance to an individual and is commonly used to support advanced study and training.
2. General Characteristics—The award may be sponsored from any one of a number of sources, e.g., private, federal or foundation. The primary focus of the fellowship is on the career development and enhancement of the individual,

and it is commonly used to support advanced study and training. The application may require a description of a specifically planned project. However, for expenditure purposes, the awarded funds are generally not tied to individual categories such as equipment, personnel, etc. A fellowship may have a term of several weeks to several years and support only a small fraction of the entire cost involved. Reporting requirements are generally minimal.

C. Contract

1. Legal—A contract is a written agreement between two or more parties, which sets forth terms, costs, and conditions for delivery of specified services, materials, or equipment by one of the parties to the other party for some return performance (consideration).
2. General Characteristics—A procurement type award to perform work of direct benefit to the agency as compared to a grant which is a support type award. The contract requirements are normally defined by the sponsor, i.e., content of work statement, schedule, format of periodic progress reports, terms and conditions, etc. Contracts offer more universal competitive opportunities to all types of scientific sources and are used by the awarding agency as a means of fulfilling its program objectives.

D. Grant

1. Legal—A grant is a simpler form than a contract of a bilateral written agreement between two or more parties which obligates the recipient to provide something or to perform a service of more than incidental significance to the grantor. A grant usually provides for reimbursement for specified costs of basic research.
2. General Characteristics—The award is of a direct assistance nature, usually competitive and for the purpose of obtaining support to accomplish a public purpose authorized by governmental statute or by-laws/policy of a private granting agency. The specifics of a project are usually defined by the applicant and approved by the grantor with a resultant award containing more flexible terms and conditions with respect to the expenditure of funds.

NOTE: A grant may be distinguished from a fellowship by the defining of the area of focus or objectives. Whereas a grant normally emphasizes the purpose and result of a project, the primary focus of the fellowship is on the career development and enhancement of the individual. This distinction may be determined by a review of the stated purposes and goals of a sponsor for a particular type of award.

E. Service Agreement

1. Legal—A service agreement is a written agreement between the University and an external source containing the special and essential terms and conditions under which items of goods or services are to be furnished by the University.
2. General Characteristics—A service agreement normally involves the provision

of goods or services by the University to external organizations. These awards may generally be differentiated from a contract or grant for effort related to research, instruction or public service if the scope of work from the procuring agency relates to a clearly defined known quantity versus a project which involves definition and development of a scientific protocol within the scholarly expertise of the University. The scope of work under a contract or grant serves to enhance the state of knowledge, whereas tasks under a service agreement may be exclusively of a data gathering nature.

Agreements which contain elements of both contracts or grants and service agreements shall be classified according to the preponderance of effort in the project.

NOTE: The following information on purchase orders for goods and services and affiliation agreements is provided for general information:

- a) A purchase order for goods or services may be generally differentiated from a service agreement by the limited duration of the purchase order and by the distinction that service agreements normally require execution by all parties, whereas purchase orders for goods and services are accepted on a unilateral basis by the receiving party. For further information concerning purchase orders for goods and/or services by the University to external organizations, refer to PPM 500-4.
- b) An affiliation agreement establishes a relationship between the University and other organizations (such as a hospital or institution of higher education), which involves informational or personnel exchange. Affiliation agreements generally provide for: utilization of facilities for academic programs or for clinical experience of students, or for medical residency programs which involve a mutual exchange of residents between institutions. Generally, no money is involved and the agreements continue until terminated by either party. For further information concerning affiliation agreements, please contact the Business Office.

V. CLASSIFICATION OF AWARDS

A. Background

Judgment must be exercised in order to classify the award in accordance with the intent of University policy since in many situations all of the above characteristics will not be present. The decision as to award classification cannot be made based upon the presence or absence of a single characteristic or criterion. The award must be reviewed in toto in order to determine its proper classification.

The classification of each award from a private source is determined on an individual, case-by-case basis, utilizing the definitions in Section IV. and the general characteristics provided below, which are representative but are not meant to be all inclusive. Additional information may be requested from the principal investigator during the process if incomplete data is provided to the Gift Administration Office, Office of Contract and Grant Administration (OCGA), or the Business Office.

All gifts and grants from private sources are reported to Systemwide Administration by the Gift Administration Office. Acknowledgement letters will be prepared by the Gift Administration Office for signature by the Chancellor or other University Official, as appropriate.

B. Classification Procedures

All awards received directly by a campus department will be preliminarily classified by that department as a gift, fellowship, contract, grant or service agreement.

All awards initially classified as gifts or fellowships shall be forwarded to the Gift Administration Office. However, all awards which are not considered clearly definable gifts or fellowships by the Gift Administration Office will be immediately forwarded to the OCGA for additional review and classification. It is the policy of the Gift Administration Office to routinely send all proposed gifts for research from private, for-profit sponsors to OCGA for review. OCGA has the authority for final determination of an award classification. However, prior to such determination, the OCGA will request additional documentation, as appropriate. All awards initially classified as contracts or grants shall be forwarded to the OCGA, and all awards initially classified as service agreements shall be forwarded to the Business Office, with the exception of SIO departments and laboratories where the OCGA/SIO performs the initial review. The above offices will perform a formal review and verify classification in compliance with University Policies, including, where applicable, University Regulation Number 4, patents and copyrights, use of human/animal subjects, biohazardous materials, space requirements, indirect costs, etc. The documents provided should be sufficient for these offices to proceed with formal acceptance in a timely manner.

Regardless of the designation of an award for research as a gift or grant, it will be subject to the research review process as well as to the administrative rules and procedures which apply to all University funds.

NOTE: Do Not Hold Checks from Sponsors in the Department or School. Immediately upon receipt, checks for awards preliminarily classified as gifts or fellowships (as well as supporting documents) shall be sent to the Gift Administration Office. Checks for awards classified as contracts, grants, service agreements (or purchase orders) shall be sent to Extramural Funds Accounting with the IFOAPAL designation and a breakdown of the allocation. In accordance with University policy, any check over \$100 must be deposited on a daily basis.

C. Classification Criteria

1. Gifts

Awards which have the following characteristics ordinarily will be classified as gifts:

- a. Donor imposes no contractual requirements, written or oral (other than general restrictions of purpose, e.g. educational and general purposes, type of research, type of student aid, library book fund, loan fund, use by a selected department, etc.).

- b. Funds are awarded irrevocably.
- c. Gifts may be restricted for a specified capital project or specified facilities within new or existing buildings. Gifts may also be specified for general research purposes and for various endowment purposes, as well as for current expenditures to benefit specific campus groups such as for scholarships, fellowships, library or equipment purchases.
- d. There is no consideration (promise to perform) exchanged by the University or its employees for the gift, other than to use the funds for the purpose intended by the donor.
- e. Awards from For-Profit Entities

When awards are from For-Profit Entities, the presence of the following general criteria, in addition to the above, may result in the classification of such funds as a grant or contract in lieu of a gift, when such funds are designated for the research of a specific investigator:

- (1) The research relates to the testing of a product or drug or provides a direct benefit to the proprietary interests of the entity;
- (2) Human or Animal subjects are involved, or Recombinant DNA;
- (3) Payments received are based upon specific expenses incurred;
- (4) The investigator receiving the funds is consulting with the funding entity and intends to use the gift funds for support of research for the same or similar purposes;
- (5) The investigator receiving the funds has a proprietary interest in the entity;
- (6) the investigator intends to or has entered into a confidentiality agreement with the funding entity;
- (7) The investigator has or will be receiving concurrent gifts and grants/contracts from the funding entity.

2. Fellowships

Awards which have the following specific characteristics will generally be classified as fellowships:

- a. Sponsor's stated purpose or intent is primarily to support the career development or enhancement of the individual rather than specific goals or objectives of a research project.

- b. Simplified application form and procedure which may include completion of a sponsor-provided application form and submittal of endorsement letters from persons familiar with the fellow and sometimes from a Dean or other institutional official. A detailed budget is not usually necessary.
- c. Award is normally for a fixed amount determined by the sponsor and rarely exceeds the recipient's equivalent* UC academic salary. In some instances, monies may be provided for a limited amount of supplies, travel, etc. Indirect costs are not usually provided, however, a fixed amount or percentage may be included as a discretionary institutional allowance.

*"Equivalent" is defined as "the salary that the fellow would be expected to receive if a salaried appointment were to be offered."

- d. Detailed technical reports are not normally required.
- e. Restrictive patent or other proprietary rights are not appropriate or acceptable for fellowship awards.
- f. While the agency designation of the award, i.e., grant, grant-in-aid, fellowship, should be considered as supporting agency intent of the purpose of the award, it is not a determining factor and must be reviewed as only one criterion in conjunction with the above criteria.

3. Contracts, Grants or Service Agreements

Awards which have some or all of the following characteristics will generally be classified as contracts, grants or service agreements.

- a. Provision for audits by or on behalf of the grantor;
- b. Grantor is to receive or be entitled to receive some consideration, such as a detailed technical report of research results, or a formal report of expenditures;
- c. Testing or evaluation of proprietary products, i.e., the product tested is supplied by the agency and/or results of the test or evaluation could provide potential commercial benefit to the agency;
- d. Researcher has existing consulting agreement with grantor which is related to researcher's area of interest;
- e. The research, training or service is directed toward satisfying specific grantor requirements (e.g. terms and conditions stating a precise scope of work to be done rather than a general area of research);
- f. A specified period of performance is prescribed;

- g. Termination is at the discretion of the grantor;
- h. Funds unexpended at the end of a specified period shall be returned to the grantor (not applicable to service awards);
- i. Patent rights are requested by the grantor;
- j. Publication restrictions are requested by the grantor.

D. Classification Determination

Final authority for determining award classification rests with the Chancellor, subject to the recommendations of the cognizant academic Vice Chancellor in consultation with the Vice Chancellor-Business Affairs or Vice Chancellor-Administration, as appropriate.

VI. ACCEPTANCE AND ADMINISTRATION OF AWARDS

A. Gifts or Fellowships (Gift Administration Office)

Awards formally classified as gifts or fellowships shall be administered by the Gift Administration Office in accordance with PPM 410-1, 410-2, 410-3 of the campus Policy and Procedure Manual.

If an award is identified as a gift or fellowship to the University or the UC San Diego Foundation, the Gift Administration Office requires the following documentation:

1. Copy of the solicitation/proposal documentation or fellowship application submitted to the donor when the donation was requested.
2. Original and one copy of all documentation received from the donor, including donor's check, if applicable;
3. Completed *Gift Acceptance Report* form (UDEV 100), setting forth the desired allocation of funds (see PPM 410-1) (not required for gifts to the UC San Diego Foundation);
4. Completed *Deed of Gift* form, signed by donor, if gift-in-kind.
5. Original and one copy of acknowledgement letter, as applicable;
6. A copy of the certification of approval issued by the appropriate Human/Animal Subjects Committee(s) when human/animal subjects are involved;

7. Verification of the Institutional Biosafety Committee (IBC) approval when recombinant DNA is involved;
8. Original signed Form 730-U, *Principal Investigator's Statement of Economic Interests* (for fellowships and restricted gifts only). A restricted gift is one that is earmarked by the donor for a specific researcher or for a specific research project for which the researcher has responsibility.

Informal solicitation by principal investigators will not be accepted by the University without the required documentation described in Section VI.A. above. It may also be necessary for the Gift Administration Office to contact the donor directly to confirm the terms of the gift or fellowship if adequate documentation is not provided.

NOTE: If answers to questions in section C. and D. of the 730-U are "no", the 730-U is treated as a "negative statement" and no other action is required. If answers to questions in C. and D. are "yes", the 730-U is treated as a "positive statement" and the researcher's relationship with the sponsor must be formally reviewed by the Conflict of Interest Independent Review Committee and approved by the Chancellor.

B. Contracts or Grants (Office of Contract & Grant Administration)

Awards classified as contracts or grants shall be administered by the OCGA and Extramural Funds Accounting, in accordance with agency and University policy (reference PPM Sections 150 and 300). All of these awards are subject to:

1. Indirect cost recovery in accordance with University policy;
2. The review process utilized for government contracts and grants.

If an award is identified as a private contract or grant (inclusive of awards from other organizations based upon Federal flow-through funds), the OCGA requires the following documentation:

1. A fully executed original *Request for Extramural Support* (RES) form, FO 2075;
2. A fully executed proposal face page and copy of proposal/project summary;
3. A project budget (including application of appropriate indirect cost rate);
4. Agency original award letter;
5. A copy of the certification of approval issued by the appropriate Human/Animal Subjects Committee(s) when human/animal subjects are involved;
6. Verification of the Institutional Biosafety Committee (IBC) approval when recombinant DNA is involved;

7. Original signed Form 730-U, *Principal Investigator's Statement of Economic Interests*.

Informal solicitations by principal investigators will not be accepted by the University without the required documentation described in Section VI.B. above. It may also be necessary for the OCGA to contact the agency directly to confirm the terms and conditions of the contract or grant award.

C. Service Agreements (Business Office)

Awards classified as service agreements shall be administered by the Business Office and Extramural Funds Accounting in accordance with Sections 300 and 500-4 of the campus Policy and Procedure Manual. All of these awards are subject to:

1. Indirect cost recovery in accordance with University policy;
2. The review process utilized for government contracts and grants, if appropriate.

If an award is identified as a service agreement, the Business Office requires the following documentation:

1. All documentation concerning the agreement, i.e., pertinent correspondence and proposed agreement;*
2. A project budget (including application of appropriate indirect cost rate);
3. A copy of the certification of approval issued by the Human/Animal Subjects Committee(s) when human/animal subjects are involved;
4. A copy of the Institutional Biosafety Committee (IBC) approval when recombinant DNA is involved;
5. UCSD checklist — *Approval of External Purchase Order for Business Office Execution*.

*NOTE: The proposed agreement will require Business Office and legal review. The agreement may require revisions before being executed. Contacting the Business Office, extension 43782, prior to finalizing any service agreement will expedite the approval process.

VII. RESPONSIBILITY

A. Principal Investigator and Department

Perform preliminary award classification review and forward award and required documentation to appropriate campus offices for final review, acceptance and administration.

B. Gift Administration Office

1. Verify initial award classification.
2. Forward all awards which are not clearly definable as gifts or fellowships, to the respective campus office for review.
3. Review, accept and administer gifts and fellowships in accordance with University policy.

C. Business Office

1. Verify initial award classification.
2. Forward all gifts, contracts and grants received in error to the respective campus office for review.
3. Review, accept and administer service agreements in accordance with University policy. Verify that indirect costs are recovered as appropriate.

D. Office of Contract and Grant Administration

1. Verify initial award classification.
2. Forward all gifts and service agreements received in error to the respective campus office for review.
3. At the request of the Conflict of Interest Independent Review Committee, perform additional classification review of designated awards.
4. Review, accept and administer contracts and grants in accordance with University policy. Verify that indirect costs are recovered as appropriate.

E. Cognizant Academic Vice Chancellor

Where exercise of Chancellorial authority in award classification decisions is indicated, the cognizant academic Vice Chancellor reviews award documentation materials and the results of the classification process and, in consultation with the Vice Chancellor-Business Affairs or Vice Chancellor-Administration, recommends classification to the Chancellor in accordance with the definitions specified in Section V.

F. Chancellor

When appropriate, act as final authority for determination of award classification.