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I.13 How to Tell Contracts from Contributions

Philosophy

Regents' Policy 05.14.02 makes it clear that the Foundation's role is to accept gifts while the University's role is to handle grants and contracts. Contracts are always handled by the University. Gifts are always handled by the Foundation. Grants often fall into a "gray area." In some circumstances grants are actually gifts and may be accepted by the Foundation without debate. In other circumstances the transactions are truly contracts and may only be accepted by the Foundation under very specific situations. Thus, the first task is to determine whether the funds are being provided as a contract, as a gift, or as a grant.

Contracts Versus Contributions

To determine if the transaction is a contract, use the [NACUBO guidelines *Guide to Distinguishing Between Contracts and Contributions*](#), as published in the 2004 CASE Management Reporting Standards, Appendix B. If the application of these guidelines reveals that the transaction is an "exchange transaction" or contract then the funds must be held and expended by the University. If, however, the application of the guidelines reveals that the transaction is not a contract (a "contribution") the funds may actually either be a grant or a gift.

To make this second determination see our [Guide to Distinguishing between Contracts and Contributions](#). If the application of these guidelines reveals that the transaction (even if it called a "grant") falls into the definition of "gift," the funds may be sent to the Foundation without further justification. If the determination reveals that the transaction is a grant as opposed to a gift, then it is assumed it will be managed by the University. Such grants may be accepted by the Foundation only in one of the following situations:

Disclaimer: *Each transaction which causes debate about whether it is a grant or gift must be judged on a case by case basis. However, the following are guidelines to help make the gift versus grant decision. No single guideline is sufficient to make the determination – rather it is the weight of the total analysis. When in doubt, please contact the User Relations Manager at the UA Foundation who will help you determine whether the contribution is a gift, a grant or a contract.*



Situations in which the Foundation may accept a Grant

- a. The granting agency requires that the recipient be a 501(C)(3) non-profit corporation such as the Foundation.
- b. The granting agency prohibits the payment of indirect charges (overhead) and the University has denied a request for waiver of overhead.
- c. The University Controller asks the Foundation to administer the grant.

Not Accepted by the Foundation

- a. The University grantee wishes to place the grant in the Foundation in order to avoid University overhead charges.
- b. The grant is from a federal agency. The Foundation will, in some rare circumstances, accept a federal grant if a situation as listed above exists and the University grantee agrees to allow any expenses required by the Foundation in order to meet federal audit requirements incurred as a result of the grant, to be paid for from the grant or another source under control of the University grantee.
- c. The University grantee submits the grant request to the granting agency without having the grant proposal and guidelines reviewed and signed by the Foundation beforehand.

Sources of Gifts

CASE Definition:

Sources of gifts are those entities (individuals and organizations) that transmit a gift or grant to the institution. For CASE and CAE reporting purposes there is no need to distinguish between a gift and a grant. An institution may determine that what a donor calls a grant is, for internal recordkeeping, a gift.

Gift

CASE Definition:

A contribution received by an institution for either unrestricted or restricted use in furtherance of the institution.

- Can come from the following:
 - individual
 - corporation
 - personal or family foundation or other foundations and trusts that are private tax-exempt entities operated exclusively for charitable purposes



- fund raising consortia
- Cannot come from the following:
 - Government
 - Other University
- Would not be returned to the donor if the purpose cannot be met – is irrevocable;
- Does not have a schedule for use of the gift nor for activities carried out by the gift other than committing to use the gift as the donor specifies;
- Does not contain implicit or explicit statement of exchange, purchase of services, or provision of exclusive information;
- Does not require commitment of university resources or services, *exceptions*: requirement for matching funds and grants (see below);
- If the donor receives benefits in return for the contribution, the amount of the gift recorded and reported is reduced by the fair market value of all benefits given according to IRS regulations;
- Typically does not contain an obligation to report to the donor how the gift is used or invested, however such reports may be provided as part of donor stewardship;

Other Considerations not specified by CASE:

- Usually is not a result of a formal application process, matching gifts excepted;
- May be called a grant by the donor (see grants below);
- Typically there is no formal acceptance signature required

Grant

CASE Definition:

A contribution received by an institution for either unrestricted or restricted use in furtherance of the institution that typically comes from a corporation, foundation, or other organization other than an individual. An institution may determine that what a donor calls a grant is, for internal recordkeeping, a gift.



Grants normally fall into two categories, both of which are considered philanthropic in nature and thus countable in annual giving or comprehensive campaign reports.

Nonspecific grant

- Did not result from a specific grant proposal;
- Institution does not commit specific resources or services;
- Institution is not required to report to the donor on the use of funds.

It is this type of grant that many institutions may opt to designate as a gift for internal accounting purposes.

Specific grant

- Results from a grant proposal submitted by the institution;
- Institution commits specific resources or services as a condition of the grant;
- Grantor often requests an accounting of the use of funds and of results of the programs or projects undertaken.

Note: The grantor's requirements of regular status reports or other reports does not negate the philanthropic (and countable) nature of a specific grant.

For CASE and CAE reporting purposes gifts and grants (except those grants received from governments or other Universities) are counted and included in fundraising totals.