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Grants/Contracts versus Gifts

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I. REASON FOR THIS POLICY

This policy describes the classification of sponsored projects (grants and contracts) versus gifts, and the associated administrative processes at the University of South Dakota.

II. STATEMENT OF POLICY

This policy describes standards for classification of external support (grants, contracts, gifts) and outlines administrative processes for different support mechanisms at The University of South Dakota (USD). Adherence to this policy is necessary to:

1. Meet requirements specified by the sponsor or donor
2. Properly recover costs
3. Monitor Activities
4. Comply with applicable laws, regulations and policies.

The classification standards described herein apply to all external support provided to the University. Clarification and resolution of disputes arising under this policy, related to the

classification and processing of external support, shall be made by the Vice President for Research in consultation with the President of the USD Foundation or his/her designee.

III. DEFINITIONS

CONTRACT: an agreement between the university and another entity to provide an economic benefit for compensation paid. The agreement is binding and creates a *quid pro quo* relationship between the University and the entity.

GIFT: all restricted and unrestricted transfers of money or property (i.e., equipment, land, ect.) made to the university foundation by individual, group, business or non-governmental agency when the use of funds is NOT intended to result in direct economic benefit or any other tangible compensation (i.e., goods or services) to the donor.

GRANT: funds awarded to the University to support instruction, research or public service. Grants may also provide support for general academic, instructional and student services; facilities management; and scholarships. The term of a particular grant determine how that grant is processed. The funds may be a grant if ANY of the following conditions exist:

1. Some or all of the following terms or their equivalents are used in the agreement, request for proposals/applications, program announcement, or other relevant official or discoverable documents: *contracts, cost sharing, line item budget restrictions, overhead negotiations, prior approval required on spending, return of unused funds to sponsor, intellectual property, or period of performance.*
2. Sponsor is entitled to receive some consideration, such as a detailed technical report, test results or merchandise.
3. Limitations exist on the use of project data, or details relating to patents or copyrights are involved.

IV. PROCEDURES

Responsible Administrative Offices

All grants and contracts for sponsored projects (as defined above and discussed below), regardless of source of funds, are administered through the Office of Research and Sponsored Programs (ORSP). The ORSP reports to the Vice President for Research at USD. All gifts (as defined above and discussed below) are administered through the USD Foundation, an independent, not-for-profit 501(c) 3 South Dakota corporation, organized solely for the benefit of USD in securing, investing and managing private gifts to the University.

Sponsored Projects (Grants and Contracts)

For the purpose of this policy, a sponsored project is any project receiving external support (whether for research, scholarly work, creative activity, training, workshops, and services) that has defined performance requirements as defined above for contracts and grants, or discussed below.

A project receiving either direct or indirect external support from any **federal, state, local, foreign, or other governmental entity** shall be considered a sponsored project at the time the support is committed or paid.

A project receiving external support from a **non-governmental entity** shall be considered a sponsored project if the project is subject to any of the following conditions at the time the support is committed or paid:

1. The specific project involves any of the following: human subjects, vertebrate animals, radioactive materials, recombinant DNA, human body substance, infectious agents, or third-party proprietary materials.
2. The external support is subject to any of the following conditions:
 - a. Delivery of specific goods, services, or other deliverables by the University.
 - b. Performance milestones
 - c. Transfer of intellectual property, ownership, or related rights
 - d. Insurance, indemnification, or warranty
 - e. Restrictions on publication of research results
 - f. Audit requirements
3. The provider of the external support may withhold or seek a refund of the support if the project fails to meet performance requirements or project objectives, including certain research outcomes.
4. External support is provided for research-related patient care services or the routine cost of care delivered as part of research studies.
5. External support is provided by a sponsor for the testing or assessment of the sponsor's products or services.

Gifts

For purposes of this policy, a gift is the voluntary provision of external support by a donor to the University, without any requirement for receipt of any economic or other tangible benefit in return.

Gifts shall normally meet the following criteria:

1. The external support does not meet the criteria for a sponsored project as described above.
2. The external support is irrevocable, providing the gift is used in accordance with any valid restrictions accepted by the University.

3. No goods, services or deliverables are offered or exchanged in consideration of receipt of the external support.
4. The donor provides support to the University without expectation of direct economic benefit or other tangible benefit. Indirect benefits such as tax advantages or business or personal goodwill derived from close association with the University and the miscellaneous benefits derived from donor status do not negate gift intent.
5. Financial reporting or accounting for use of external support is not required, although it shall be acceptable for the donor to request information from the University about utilization and/or impact of the external support, including expenditures and fund balances.

Contributions to endowments and nongovernmental contributions for capital projects are typically classified as gifts.

V. RELATED DOCUMENTS, FORMS AND TOOLS

BOARD OF REGENTS POLICIES:

Externally-Sponsored Programs 5:2

Accepting Gifts 5:8

Foundations 5:9

<http://www.washington.edu/research/osp/gim/gim34.html>, University of Washington, Office of Research, Office of Sponsored Programs, *Guidelines for Classification of Sponsored Projects and Gifts*, GRANTS INFORMATION MEMORANDUM 34 (GIM 34), January 2005

http://www.policy.umn.edu/groups/ppd/documents/Policy/Accept_Gifts.cfm#500, University of Minnesota, *Accepting and Managing Gifts*, Sept 1994, July 2008