Guidelines for Classification of Sponsored Projects and Gifts at East Carolina University*

The Division of Research and Graduate Studies (RGS) is responsible for administering awards funded with public or private monies for research, teaching and development activities of University faculty, staff, and students for which services and/or products are required and where there is a commitment of University personnel, students, equipment, or other facilities. RGS is also responsible for administering income derived from patents and copyrights.

The Office of Sponsored Programs (OSP) is responsible for coordinating the submission of all proposals for research, development, training and other sponsored projects to governmental agencies and private organizations. [http://www.ecu.edu/osp/](http://www.ecu.edu/osp/)

The Office of Grants and Contracts (OGC) is responsible for administering contracts, grants and other types of agreements for sponsored activities that are funded with public (federal, state and local government) or private funds. This includes awards directly from governmental entities as well as awards from private entities using governmental funds to finance the award or private entities using private funds to finance the award. OGC maintains the accounting functions for all sponsored projects regardless of funding source. [http://www.ecu.edu/grants/](http://www.ecu.edu/grants/)

The Division of University Advancement (UA) is responsible for soliciting and administering gifts and bequests from private sources for all approved University programs for which no services and/or products are required. [http://www.ecu.edu/adv/](http://www.ecu.edu/adv/)

The Institutional Trust Funds Office (ITF also known as Special Funds) maintains the accounting functions for all gifts/donations (includes activities for the East Carolina University Foundation and the Medical and Health Sciences Foundation). [http://www.ecu.edu/cs-admin/financial_serv/specialf/index.cfm](http://www.ecu.edu/cs-admin/financial_serv/specialf/index.cfm)

These guidelines are intended to describe standards to be used to classify external support and identify appropriate administrative procedures for accepting and processing such support. For purposes of these guidelines, “external support” is anything of economic value provided by a third party (either the “sponsor” in the case of sponsored projects or the “donor” in the case of gifts) for use in a project conducted by or at the University.
Correct classification of external support and use of appropriate procedures is intended to assure the University’s ability to:

(i) Comply with requirements specified by the sponsor or donor;
(ii) Satisfy UNC GA reporting requirements;
(iii) Properly classify revenues and expenses to meet audit requirements;
(iv) Properly recover its costs, both direct and indirect;
(v) Monitor the nature and extent of research and other sponsored projects activity
(vi) Properly classify revenues and expenses for tax reporting purposes; and
(vii) Assure compliance with applicable laws, regulations and University policies.

The following guidelines are to be used in determining the classification of external support by all ECU colleges, schools, departments, and other administrative units:

I. General Guideline

All sponsored projects shall be processed through OSP/OGC within RGS, and all gifts shall be processed through the appropriate office/foundation within University Advancement.

II. Sponsored Projects

A sponsored project is defined as any externally funded research, scholarly or service activity that has a defined scope of work or set of objectives, which provides a basis for sponsor expectations. This more specifically involves research, demonstration, professional development, instruction, training, curriculum development, community and public service, or other scholarly activity involving funds, materials, other forms of compensation, or exchanges of in-kind efforts under awards or agreements. The presence of any one of the following conditions normally identifies the activity as a sponsored project:

The proposal was submitted as a response to a specific solicitation, RFA/RFP or sponsor program announcement soliciting applications/proposals.

The proposal commits the University to a specific line of scholarly or scientific inquiry typically documented in a Statement of Work (SOW) to be performed.

The proposal includes a set of objectives that provides a basis for sponsor expectations.

The proposal commits University resources, such as the level of personnel effort or use of equipment, facilities, or other resources.

The proposal includes a detailed budget.

The proposed project involves the use of human subjects, laboratory animals, radioactive or hazardous materials, recombinant DNA, carcinogens, pathogens, or proprietary materials.

There is a specified period of performance, typically defined by “start” and “end” dates.

The sponsor requires deliverables as stated in an agreement or cover letter or in the initial solicitation documents, such as reports, financial accounting or intellectual property
ownership.

The award restricts or monitors publications or use of results or requires protection of confidential information.

The award provides for the disposition of tangible or intangible property that may result from the project such as equipment, records, formal activity reports, thesis and dissertations, rights in data, software, copyrights, inventions or research-related materials.

The award specifies fiduciary responsibilities such as adherence to a line item budget, or specific financial expenditure limitation, financial reporting, invoicing, project audit, payment contingencies or the return of any unexpended funds at the end of the project period.

The sponsor is involved in making decisions regarding project performance or stands to derive benefit from the work performed.

Sponsored awards are made to the University on behalf of the Principal Investigator (PI), who is primarily responsible for carrying out the requirements of the award. The PI may also be referred to as the Project Director. A few awards, primarily fellowship programs, may be made to named individuals.

In developing a proposal and administering an award, the PI represents the University and is responsible for upholding the high standards expected of University projects.

Sponsored projects are normally subject to facilities and administrative costs (F&A) at the University’s rate applicable to the type of project being conducted. If the sponsor has a published policy, uniformly applied, prohibiting or restricting the payment of F&A costs, the University will accept the reduced F&A rate in accordance with the sponsor’s policy. For-profit sponsors are normally expected to provide full F&A recovery appropriate for the type of sponsored project activity.

Any project receiving external support (including research, scholarly work, training, workshops, and services) that has defined performance requirements is a sponsored project.

The following criteria shall be used for classifying sponsored projects:

1. **Governmental External Support.** 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 proposal is submitted or support is committed or paid.

2. **Non-Governmental External Support.** 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 proposal is submitted or support is committed or paid:

   A. The *specific* project involves any of the following: human subjects, vertebrate animals, radioactive materials, recombinant DNA, human body substances, infectious agents, or third-party proprietary materials.
B. The external support is subject to any of the following conditions:

- Delivery of specific goods, services, or other deliverables by the University;
- Performance milestones or reporting requirements;
- Transfer of intellectual property, ownership, or related rights;
- Insurance, indemnification, or warranty;
- Restrictions on publication of results; or
- Financial restrictions, reporting or audit requirements.

C. 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.

D. External support is provided for research-related patient care services or the routine cost of care delivered as part of research studies.

E. A sponsor provides external support for the testing or assessment of the sponsor’s products or services.

III. Gifts

North Carolina state statute 138A-3(15) defines a gift as anything of monetary value given or received without valuable consideration.

For purposes of these guidelines, a gift is the voluntary provision of external support or anything of monetary value given by a donor to the University, without any valuable consideration or requirement for receipt of any economic or other tangible benefit in return.

Gifts shall normally meet the following criteria:

A. The external support does not meet the criteria for a sponsored project as described in Section II of these Guidelines.

B. The external support is irrevocable, providing the gift is used in accordance with any valid limited restrictions accepted by the University.

C. No goods, services or deliverables are offered or exchanged in consideration of receipt of the external support.

D. The donor provides the support to the University without expectation of direct economic benefit or other tangible benefit or valuable consideration. 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.

E. 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.

F. Contributions to endowments and nongovernmental contributions for capital projects would normally be classified as gifts.

The standards described in these guidelines are applicable to all external support provided to the University.

Final determination of any questions arising under these guidelines relating to the classification and processing of external support shall be made by mutual agreement between the Director of the Office of Grants and Contracts and the Financial Director of Foundations, Corporate/Private, Auxiliary and Institutional Trust Funds.

IV. Frequently Asked Questions (FAQ)

Are all sponsored projects charged facilities and administration (F&A) costs (i.e., indirect costs)?

No. The application of University facilities and administration costs is governed by the F&A policy. When working with foundations and other governmental and non-profit sponsors, ECU accepts the published policy of the sponsor regarding payment of administrative and overhead/indirect costs.

Is it true that a Foundation award is not a sponsored project?

No. Foundations issue grants that may have reporting, deliverable or financial requirements. These are considered sponsored projects. However, the University maintains special relationships with foundations and trusts and both UA and RGS may be involved in the contact, proposal and reporting processes. UA/OSP/OGC work cooperatively on many foundation projects. Even if the proposal is developed and processed with the assistance of UA, if the award has any of the requirements previously outlined, the award will be processed through OSP and the accounting maintenance will be with OGC.

Is it true that if the sponsor says the award is a donation then it is processed as a gift?

No. Many sponsors use the term donation or gift or similar terms when making an award. The determination as to whether or not the award is a gift or a sponsored project is the overall status of the previously described restrictions, intents, activities, reporting requirements, etc.-not the use of a specific term in an award letter.

Is it true that there is heightened regulatory scrutiny of pharmaceutical company-provided external support?

Yes. The regulatory scrutiny has focused on possible violations of key fraud and abuse prevention statutes, including the federal anti-kickback statute. In May 2003 the Department of Health and Human Services Office of Inspector General (OIG) issued compliance program guidance (Guidance) to the pharmaceutical manufacturing industry and announced its views on industry practices that it viewed as problematic or high risk. Two of the identified risk areas are of particular importance to Universities: (1) External Support received as educational grants and (2) External Support for conducting research for the company. With respect to the
first risk area, the OIG recommends that educational grants fund only bona fide educational activities and that the pharmaceutical company have no control over the content of the educational presentation. With respect to the second risk area, you can minimize your risk by ensuring that the University negotiates a written agreement to conduct the research. OSP can assist you to structure that relationship to fit within what is called a "safe harbor" to the federal Anti-Kickback Statute.

Is there a dollar threshold?

No. If external support is a Sponsored Project, it must go through OGC - regardless of its dollar value.

Is it a sponsored project when a pharmaceutical company provides financial or non-financial support for the testing of a drug it manufacturers (i.e. free drug, support for data collection, support for faculty or staff salary etc.)?

Yes. These are sponsored projects, even if the support is limited to providing the testing item for free.

If unrestricted educational funds are given to support a specific lecture or program, is it a gift?

Educational funds for lectures or programs are gifts if: 1) no other terms or conditions are attached (e.g., reporting, accounting) and 2) this lecture or program is not for the direct benefit of the donor. For example, if the course is funded specifically for the benefit of the donor’s employees or the donor employees receive some sort of priority placement, then it would be identified as a sponsored project.

If external support is a gift at the time the support is committed or paid, but the gift is later used for an activity as a Sponsored Project, does the gift status of the funds change to a sponsored project?

No. Classification is determined at the time the funds are provided. Should the funds later be used as a sponsored project, then it is the responsibility of the faculty member to comply with any resulting compliance issues. However, the PI should contact OGC for determination if subsequent documents/modifications of information and terms from the sponsor indicate there might be a change in status to a sponsored project. Changes in status usually do not occur during the initial gift activity but may occur when the donor provides supplemental or additional support.

Are there any restrictions on the use of gift funds?

The guidance is that the intent of the donor must be the determinant. Gifts may have some limited restrictions. For example: If the donor provides funding for cancer research, the funds cannot be use to support a conference on childcare.

If a gift is made to support an ECU faculty member, or made directly to an ECU faculty member and then placed in an ECU account, would this be considered a gift or sponsored project (i.e. does ECU consider designating an individual to be a specific good, service, or deliverable)?
If the donor stipulates only that general designation for support for that person’s activity, then it would probably be a gift and it is the responsibility of the faculty member to comply with any resulting compliance issues. However, some grant programs (e.g., fellowships) are awarded to individuals. The determination as to whether or not the award is a gift or a sponsored project is the overall status of the previously described restrictions, intents, activities, reporting requirements, funding source, etc.- not just that the donor/sponsor stipulates a limited restriction to the individual.

Are funds donated “as an unrestricted gift to support the research and teaching activities of Dr. XX” considered a gift or a sponsored project?

If donor stipulates only that general designation, support for that person’s general activity, then it would probably be a gift and it is the responsibility of the faculty member to comply with any resulting compliance issues.

Are funds donated "as an unrestricted gift to support the research and teaching activities of Dept XX" considered a gift or a sponsored project?

As above, it could be a gift if there are no other requirements and it is for general support of department activities. It is the responsibility of the Department Chair to comply with any resulting compliance issues.

When there are difficulties in classification, who should conduct the appropriate institutional review?

The department Chair will conduct the initial review. If there is ambiguity, the Director of Grants and Contracts and the Financial Director of Institutional Trust Funds will consult and make a joint final determination.

Hypothetical situation: A gift is donated in divided portions, with subsequent donations contingent on performance. For example, a scholarship fund for minority students whose annual renewal is contingent upon successful recruiting of minority students, i.e. donor retains authority to withhold support pending satisfactory completion of the objective of minority recruitment. Is this a sponsored project or gift?

General scholarship funding, without any restrictions, is generally a gift. However, when the funder retains a right to terminate support based on selection criteria or requires reimbursement because recipient is unable to recruit or utilize the funds it may be considered a sponsored project. Scholarship funds must be coordinated with Financial Aid; whether a gift or a sponsored project.

Who handles Material Transfer Agreements (MTA’s)? Are they gifts or Sponsored Projects?

MTA’s are generally not gifts. An MTA is a gift only if it satisfies the definition of a gift. The Office of Technology Transfer (OTT) normally reviews and executes MTA’s. However, if the MTA involves funding and/or relates to an ongoing sponsored program, OSP should be consulted and the award would be processed through OSP/OGC.
In some cases, external funds may meet all of the criteria for classification as a gift except that the donor requires the return of unspent funds. In these instances, is it still possible for these funds to be classified and accepted as a gift?

The potential revocability of unspent funds, in and of itself, is not a sufficient reason to classify external support as a sponsored project. However, gift funds are generally irrevocable, so to accept such funds as a gift the following conditions must exist: 1) Upon receipt of the funds, there must be adequate assurance that all of the funds will be spent as designated by the funder, and 2) The possibility of returning funds must be so remote as to be negligible. If both of these are true, then the funds might be classified as a gift. In these cases, the substantiating documentation must reflect that these questions have been carefully considered and evaluated.

How should funds be classified if the funder designates that they are to be used for general research support (e.g. prostate cancer research) or for general research support by a specific investigator (e.g. to support the research of Dr. X)?

As above, if the external support is intended to support broad or general areas of research, and not a specific project, then funds may be classified as gifts. For example: If funds are given to support “Dr. X’s research in macular degeneration” with no time limit or further restriction, then they may be processed as a gift and spent by Dr. X as long as they are spent accordingly.

If, however, Dr. X decides to spend these funds to augment a sponsored project or on research that involves human subjects or other regulated research, it is the responsibility of the faculty member to ensure that all relevant guidelines, policies and procedures are followed and all compliance issues are appropriately addressed and certified. In most cases the award should be processed as a sponsored project through OGC to ensure compliance with regulatory requirements.

These Guidelines and FAQs were partially excerpted from other sources and are based on general definitions/interpretations accepted within the higher education community (some specific information excerpted from: University of North Carolina – General Administration Guidelines, University of Washington’s Office of Sponsored Programs; Florida State University Division of Sponsored Research; and Drexel University Office of Research Compliance and Administration) and modified to fit within ECU’s business processes and procedures. These procedures meet generally accepted governmental accounting guidelines.

The following urls provide information from other institutions related to their determination of gift vs. grant/sponsored project.

http://www.northcarolina.edu/research/sp/Defining_Sponsored_Programs.pdf

http://www.research.drexel.edu/administration/Overview/Sponsored_Projects.aspx

http://www.reesarch.fsu.edu/contractsgrants/placement.html

http://www.washington.edu/research/osp/gim/gim34.html