

Distinguishing Between Gifts, Grants and Contracts

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1.0 INTRODUCTION

Correct classification and processing of external funds (gifts, grants, and contracts) is essential for the accomplishment of mandatory fiscal and fiduciary management by UNMHSC. To enhance coordination and to ensure consistent and proper treatment of funds, these policies and procedures have been developed and are intended to be used by all UNMHSC faculty and administrators seeking external support.

Gifts, grants, and contracts are the principal forms of awards made by both governmental and private sources. The correct classification and processing of awards is sometimes complex and will require the exercise of informed judgment, particularly in cases where the nature of an award is not immediately clear. Rather than focusing on any single characteristic, each award must be considered in its totality.

To clarify the process of determining classification and assure greater consistency the following guidelines should be used to determine both the type of award and the UNMHSC office responsible for administration.

2.0 GIFTS

A gift is defined as a voluntary transfer of money or property made as a charitable donation without expectation or receipt of an economic benefit. It may or may not be given for a specific purpose. The following are generally characteristics of gifts:

- A. Contractual requirements are not imposed. However, objectives may be stated and use of funds may be restricted to a particular purpose, such as professorship, scholarship or research in a defined area.
- B. Award is irrevocable.
- C. A period of performance is not generally specified.

D. Formal financial accounting and technical reporting are not required and there is no requirement to return unexpended funds. However, stewardship reports documenting the utilization and/or impact of the gift may be requested.

E. Federal, state, local or foreign governmental support is **not** typically considered a gift.

F. Support is not provided for research-related care services or to test a sponsor's product

Cash, checks, and stock certificates offered to the University without a legally binding agreement or service requirement would normally be processed as gifts, although on rare occasion a grant may be paid in stock.

Although a sponsor might consider it a gift, there might be conditions stated that would require the HSC Sponsored Projects Office to classify the external funding as a grant, contract, or clinical trial.

3.0 GRANTS

A grant is defined as a voluntary transfer of money or property for the primary intent to carry out a public purpose of support or stimulation without direct benefit to the sponsor. The following are generally characteristics of grants:

A. The award contains terms on the use of funds, such as budgetary restrictions; states programmatic objectives to be achieved; defines responsible individuals and a period of performance; and details ownership rights.

B. Usually the result of submitting an outcome-driven proposal.

C. Programmatic and/or fiscal reports during the life of the project and at the end of the project may be required.

D. May address intellectual property ownership and rights in data issues.

E. Contains language regarding the right to revoke an award or withhold funding.

F. Prior sponsor approval is required for significant programmatic and/or fiscal deviations.

G. Future commitment of resources to provide continued support of the project may be required by the University.

4.0 CONTRACTS

A contract is defined as the acquisition of property or services for the direct benefit of the sponsor on a quid pro quo basis. In general, the criteria for identifying a contract are the same as those for a grant except:

A. The award may be subject to more restrictive conditions outlined in a contractual instrument.

B. Financing may be on a cost reimbursement or fixed price basis.

C. The sponsor participates in determining the work to be performed or the services to be provided.

D. Intellectual property and rights in data are significant considerations.

Under the guidelines presented here, awards offered to the University for the performance of services such as testing or evaluating drugs for pharmaceutical companies would normally be classified as grants/contracts.

5.0 LICENSING AGREEMENTS

A licensing agreement is a contract where one or more of the following conditions apply:

A. Consideration is received in exchange for an option or a license to University owned intellectual property.

B. Option or license terms are established or suggested pre-existing University owned intellectual property.

6.0 ADMINISTRATIVE OFFICES

The criteria listed here are applicable to all awards made available to UNMHSC.

When the determination is unclear, the following offices should be contacted to determine the appropriate classification:

Gifts –

UNM Foundation

700 Lomas NE Suite 108

Betsy Till, 277-4503

Betsy.Till@unmfund.org

Grants and Contracts are administered through Financial Services HSC -

UNMHSC Financial Services

Sponsored Projects

HSC-PreAward@salud.unm.edu

Stacy Bigbie, Associate Director

Licensing Agreements are administered through STC.UNM -

UNM Science & Technology Park

Jovan Heusser, Sr Innovation Manager (HSC POC)

jheusser@stc.unm.edu

