

Distinguishing Sponsored Projects and Gifts: Guidance for Corporate and Foundation Support

This guidance reflects coordination between the Office of Sponsored Projects Administration (OSPA) and the Office of Philanthropy and Alumni Engagement (PAE) regarding the proper classification and management of external funding.

Introduction

Funding from external sources is essential to the University's financial health and its ability to undertake and sustain vital research, scholarship, education, outreach, and healthcare. Much of the University's research enterprise is funded by governmental sources. Private sector entities, such as agencies, professional associations, private foundations, corporate foundations, and corporations, may be sponsors (i.e., providing funds for a sponsored project) or donors (i.e., providing funds for a philanthropic gift) depending on the nature, intent, and expectations for use of the funds.

Purpose

Financial assistance provided to the University from external nonprofit or industry sponsors or donors comes with important stewardship and compliance requirements. This document provides guidance regarding the Office of Sponsored Projects Administration (OSPA) and the Office of Philanthropy and Alumni Engagement (PAE) partnership to effectively manage external support provided by the private sector. OSPA, in accordance with AR7:3 oversees all external support provided by governmental sources. Proper classification and processing of external funds (i.e., gifts, sponsorships, sponsored project grants/contracts/other awards) ensures the University's ability to comply with any terms specified by the sponsor or donor, meet reporting requirements, properly recover its costs (both direct and indirect), and facilitate acceptable levels of accountability and stewardship for the funds. In most cases, determining whether the funding received is a gift or constitutes a sponsored project award is straightforward, while in other cases, the determinations may be more complex. The correct classification of these funds is of paramount importance to the University. The classification of funding as a sponsored project or a gift will affect, among other things, the way UK accounts for the funds, calculates, and applies indirect (Facilities & Administration or F&A) costs, and reports on the use of the funds to the sponsor or donor.

Collaborative Partnership

OSPA and PAE strive to maximize the University's ability to effectively attract, process, manage and steward external financial support. OSPA and PAE have complementary roles in submitting proposals and administering external funds from corporate and

foundation sources. Collaboration and communication between these offices is crucial to correctly categorize and manage these funds and guide University faculty and staff through the proposal process and ensure the funds are properly recorded, spent, and reported. Streamlining the navigation of these collective resources and developing an integrated approach to services provided to UK faculty pursuing external funding is the foundation of the collaboration between OSPA and PAE.

OSPA and PAE share responsibility for decisions on which office administers the funding process. Determinations on this routing can occur at any time in the proposal submission or award review process, and OSPA and PAE make prompt decisions to ensure proper handling and accounting of the f In the event that the Executive Director of OSPA and the Director of Foundation and Corporate Philanthropy do not agree on how such funding should be routed and administered at the University, the discussion will elevate to the Vice President for Research and the Vice President of Philanthropy and Alumni Engagement.

Regardless of how the external support is administered, OSPA and PAE are committed to building and preserving the relationship with the sponsor or donor.

Roles and Responsibilities

Sponsored Projects

Sponsored projects for externally funded research and other scholarly activities are solicited, received, and accepted through OSPA in accordance with AR 7:3 Policies and Procedures for Soliciting, Receiving, Recording and Administering Grants and Contracts for Sponsored Projects. All sponsored project proposals and awards are reviewed, approved, submitted or negotiated, and administered by OSPA to ensure compliance with University, Federal, State of Kentucky, and sponsor's policies and regulations. Grant Specialists in Collaborative Grant Services(CGS) clarify sponsor guidelines and assist faculty and principal investigators (PI) in the preparation of proposals, including budget development, for external funding of their research and scholarly activities and provide guidance during project management. OSPA's Research Administrators (RA) provide the final institutional review of proposals and submit them to the sponsor and review and negotiate awards and contract terms and conditions to ensure they comply with UK policies as well as state and federal regulations. The OSPA RA serves as the institutional liaison with the sponsor during the award's life. An Internal Approval Form (IAF), required for each sponsored project proposal and including approval of the department chair and dean or unit director of the departments and colleges of the key personnel, provides institutional authorization for proposal submission. The Executive Director of OSPA, who is designated by the Vice President for Research (VPR) as UK's authorized representative for sponsored project proposals and awards including grants, contracts and other awards/agreements, provides institutional signature on sponsored project proposals and awards. All sponsored projects must be submitted and/or

reviewed by OSPA before submission to an external funder, including those where the sponsor does not require an institutional signature. OSPA establishes a sponsored project account for each award, and Research Financial Services, a unit within University Financial Services (UFS), is responsible for post-award financial management of sponsored projects including invoicing and reporting to sponsors.

In the case of sponsored projects that are also charitable, PAE provides assistance to faculty members as they prepare their letters of intent or proposals that complement the responsibilities of the Grant Specialists and RAs. These are typically proposals to foundations. Foundation and Corporate Philanthropy (FCP), part of PAE, may contact funders to pitch project ideas prior to deciding to apply to the funder or clarify guidelines in the request for proposal. FCP will help strategize project ideas with faculty members to help determine the best fit for the specific funder and review and edit drafts of application materials to provide feedback to faculty members on their letters of intent and proposals to create a compelling application package.

Philanthropic Gifts

PAE coordinates gift-related activities and collaborates with OSPA on charitable contributions administered as sponsored projects. Gifts to the University are solicited and received by PAE and are governed according to AR 8:4 Endowment and Naming Policies for Faculty Support, Undergraduate and Graduate Support, and Program Unit, and Research Support, AR 9:5 Policies and Advisory Committee on Naming University Property, and Business Procedures Manual E-22-1 Soliciting, Receiving and Acknowledging Gifts. PAE collaborates with individuals, corporations, trusts, and foundations who wish to make charitable contributions to the University. PAE coordinates all solicitations of gifts on behalf of the University, cultivates and stewards University relationships with donors, and fosters those continued partnerships. PAE negotiates gift agreements; the Office of Legal Counsel (OLC) and UFS review gift agreements; and the VP of PAE, OLC, the treasurer, and the Dean of the College sign gift agreements. UFS coordinates gift and endowment accounting as requested by PAE and provides financial reporting following University policies.

Definitions

Both sponsored project and gift-funded activities are externally supported, with funds typically provided in response to a request or proposal, be it formal or informal.

Sponsored Project

The definition of a sponsored project is included in AR 7:3. A sponsored project is research or other scholarly activity defined in scope and goal undertaken by UK faculty, often involving students and staff, utilizing University facilities and/or equipment and conducted with financial support from an external sponsoring entity. Sponsored projects may include basic and applied research, training,

instruction, public service, testing and service projects, and other creative endeavors. Grants, contracts, and awards for sponsored projects represent a contractual obligation between the sponsor, and the University for the performance of a specific activity through which the sponsor is entitled to receive consideration or benefits of value such as, but not limited to data, results, intellectual property rights and/or technical reporting. The contractual obligation is typically documented by a proposal and award combination, contract, grant, or a written memorandum of agreement.

Philanthropic Gift

A philanthropic gift is any item of value given to the University by an external donor, with donative intent to support the charitable mission of the University, and with the transfer of sufficient control over the disposition of the property according to applicable Internal Revenue Service (IRS) regulations. A gift may be in the form of a grant, or award from an individual, corporation, public charity, private foundation, charitable trust, donor-advised fund, or other form of entity. Gifts may be made in cash or non-cash assets such as securities; life insurance contracts; real estate; tangible personal property such as art, coin collections, gems/jewelry, books, vehicles, and equipment; and intangible personal property such as computer software, business interests, patents, and copyrights. Restricted and unrestricted gifts are accepted for financing current operations, programs, student and faculty support, endowments, or capital expenditures. These gifts may or may not be limited by donors or other external parties to specific expenditure purposes, programs, or organizational units and the donor receives no direct benefits in exchange for the contribution, or the donor expects nothing significant of value in return. PAE undertakes significant stewardship activities to donors, such as annual endowment reports, impact reports, events, and communications.

Determination of Sponsored Projects or Gifts

Guidance for Properly Distinguishing Sponsored Projects and Gifts

The existence of one characteristic alone (except for those mentioned in the preceding paragraph) may not be sufficient to decide how to classify the funding (i.e., sponsored project or a gift) and determine if OSPA or PAE will administer the funds. In some cases, the characteristics of both sponsored projects and gifts may apply to the same award. For that reason, and shown in the decision matrix below, multiple factors should be considered when determining the classification of an award as a sponsored project or a gift. A judgment based on the preponderance of applicable characteristics and donor intent is essential to determine whether the funds are handled by OSPA or PAE.

Funders that Require Giving to 501(c)(3)

Some funders will only give to a 501(c)(3) entity. Such funds may be deemed a sponsored project or a gift, as assessed under the criteria outlined above. The University of Kentucky is a government agency for purposes of 170(b)(1)(A)(v) of the Internal Revenue Code. The University, as an agency of the Commonwealth of Kentucky, is a tax-exempt organization by virtue of its status as part of the Commonwealth itself and therefore does not receive a classification from the IRS. However, charitable contributions to the University in furtherance of its mission are eligible for an income tax deduction by donors. Moreover, though not classified by the IRS as a 501(c)(3), the University meets the substantive criteria of IRC Section 501(c)(3) organization. The University of Kentucky Research Foundation (UKRF), a not-for-profit Kentucky corporation, was established in 1945 to receive, invest, and expend funds to promote and implement scientific, education, and developmental activities at the University of Kentucky. UKRF serves as the University's agent in the receipt of all external grants and contracts, intellectual property income and other designated income; oversees the protection, development, and commercialization of intellectual properties; and manages special cooperative agreements. When donors require a recipient to be a 501(c)(3), the gift must be accepted by UKRF and then moved into a gift account.

Distinction Based on Source of Funds

Any external funding provided by U.S. Government agencies, at the federal, state, or local level, in support of UK research or scholarly activities is classified as a sponsored project. The pass-through of government funds from another funding source, such as a corporation or private foundation, is also classified as a sponsored project. Government funds are not gifts. Funding from corporations and foundations may be treated as a sponsored project or a gift. Use of the terms "grant agreement" or "grant contract" by a sponsor or donor is not determinative of how the award is administered.

Distinction Based on Intent of Donor/Sponsor

In cases where funding is provided by corporations, foundations or others not specified above, the distinction between sponsored projects and gifts is made based on the proposal, statement of work, and terms of the agreement or award, taking into consideration the intent and the expectations of the donor/sponsor.

Decision-Making in Unclear Situations

The classification of external support as a sponsored project or a gift is based on a holistic review of the proposal, terms and conditions of the award, and/or associated sponsor or donor requirements or restrictions. In some situations, it may be necessary to adjust the terms of an award, in consultation with the sponsor or donor, to clearly document the sponsor or donor's intent to classify the award as a gift or sponsored project and to comply with the University's policies and procedures for accepting, managing, and reporting the funds.

The determination to classify an award as a sponsored project is made by the Executive Director of OSPA, unless the VPR issues a different delegation, upon the advice of the OLC and UFS, and based on the Executive Director of OSPA's interactions with other parts of the University, including without limitation, PAE when the external support has elements that may describe the funds as a gift or sponsored project.

PAE, upon the advice of the OLC and UFS, will determine if funds received are gifts rather than payments for goods or services and ensure that gifts are credited to the correct fund accounts. In resolving issues related to the classification of an award, an appropriate balance between the interests and preferences of the sponsor or donor and the University's administrative policies and objectives must be maintained. In resolving these issues, contacting the sponsor or donor may be necessary to clarify their intent and requirements or to discuss the planned use of the funds.

Faculty, departments, or units needing assistance in determining whether external funds or awards should be managed as a sponsored project or gift should contact OSPA or PAE. Faculty and staff must not sign agreements/contracts to accept sponsored projects and gifts unless specifically authorized to do so by the VPR (for sponsored projects) or the Vice President of PAE (for gifts) or submit external funding requests without routing through OSPA or PAE.

Decision Matrix

The following are key characteristics to consider when determining whether support should be processed through OSPA or PAE. The matrix is not all inclusive but lists common characteristics upon which to base an initial determination of the classification of the funds.

Award Characteristic	Sponsored Project	Gift
SOURCE OF FUNDS		
Funding provided by an individual		X
Funding provided by governmental agency	X	
Funding provided by a private (for-profit or non-profit entity) when prime source of funds is a governmental agency (i.e., pass-through)	X	

Funding provided by private (for-profit or non-profit) entity	X	X
TERMS OF USE OF FUNDS		
Funds are unrestricted		X
Funds have a loosely restricted purpose	X	X
Uniform Guidance (2 CFR 200) or other federal regulations applicable	X	
Federal Acquisition Regulations (FARs) applicable	X	
Confidentiality of sponsor-provided information	X	
Use of funds requires compliance office review (e.g., Institutional Review Board, Institutional Animal Care and Use Committee)	X	
Funder-defined scope of work	X	
Funds for student support (scholarships, fellowships, undergraduate research)	X	X
No specific period of performance		X
Prior approval from funder required for budget, scope, or period of performance changes	X	
Indirect (F&A) costs or administrative costs allowed by funder	X	X

Payment based on reimbursement of actual costs (i.e., cost reimbursable)	X	
Payment is based on a fixed price budget	X	
Payment is based on completion of milestones or deliverables (i.e., milestone-based reimbursement)	X	
Unilateral termination by funder allowed by terms of the award	X	
Funds support a capital construction project	X	X
Funds support student scholarships or other direct student support	X	X
Funds are to be endowed		X
OUTCOMES GENERATED FROM USE OF FUNDS		
Funder receives direct benefits such as data, results, technical reports, IP ownership, or publication restrictions	X	
Detailed financial and progress reporting required that is tied to the budget, scope of work, deliverables, etc.	X	
Minimal high-level financial and progress reporting provided to funder (stewardship report and general report of expenditures) intended to show the impact of the contribution		X
UK is required to return unexpended funds to sponsor or donor*	X	X

*Funders of sponsored projects typically require the return of unspent funds and do not permit unspent funds to be redirected to related purposes. Contributions from donors are irrevocable, except private foundations, who are allowed to include a claw back provision in the agreement under IRS regulations. Donors of gifts may also agree to redirect funds after discussion between the donor and PAE.

Institutional Costs

Indirect (F&A) Cost Applied to Sponsored Projects and Advancement Fee Applied to Gifts

The inclusion or exemption of indirect (F&A) costs or an advancement fee does not solely establish classification as a sponsored project or a gift.

AR 7:3 requires sponsors to be charged for the full cost of an externally funded sponsored project (i.e., grant, contract, or other agreement), including the direct costs associated with completing the scope of work and the University's full applicable indirect (F&A) cost rate. Indirect (F&A) cost exceptions and waivers may be approved for projects when the nonprofit sponsor limits the rate, a for-profit sponsor funds a student project, and when an indirect (F&A) cost waiver is approved. Specific stipulations for exceptions and waivers are included in AR 7:3 and available on OSPA's website <https://www.research.uky.edu/office-sponsored-projects-administration/facilities-and-administrative-fa-costs>

Funding received for gifts is subject to an advancement fee <https://kentuckykan.uky.edu/ways-to-give/advancement-fee>. The University assesses a one-time fee on non-endowed gifts to support its advancement initiatives and those of the college(s) or program(s) to which the contribution is directed. The maximum fee assessed will not exceed \$250,000.

Communication with Donors and Sponsors

OSPA and PAE are the primary points of contact for sponsors of sponsored projects and donors for gifts, respectively. Faculty and staff should consult with OSPA or PAE before contacting or communicating with sponsors or donors directly.

Points of Contact in OSPA and PAE

For funding from foundations or corporations, contact the director of FCP and for funding from an individual donor, contact the college/unit philanthropy officer. The Executive Director of OSPA or CGO should be contacted regarding funding for sponsored projects.