

*Guidelines on Gifts and Grants Designation*

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| Responsible Office/Person | Academic Affairs: Provost/COO; Vice Chancellor |
| Related Policies          |  |
| Additional History        |  |
| Additional References     |  |

**University of Massachusetts Dartmouth  
Division of Academic Affairs  
Guidelines on Gifts and Grants Designation**

**Purpose**

This document is intended to help individuals across the University understand the distinction between gifts and a grant.

**Guidelines<sup>1</sup>**

Suppose a faculty member hands you a check for \$10,000, telling you that it came from the *ABD* Company or the *XYZ* Foundation to support research in your department. Along with the check is an agreement that someone needs to sign, indicating how the money will be used and imposing some other restrictions. Is this a gift *or* a grant? Who needs to sign the agreement?

The following key questions will help determine the correct classification:

*Q.: Are the funds charitable under the federal tax law?*

*A.: Tax law always determines. (See the definitions and criteria in the sections below.)*

*Q.: How and by what department/division should the funds be administered most efficiently?*

*A.: Institutional Guidelines determine. (See below for more information.)*

*Q.: Is the source of funds a Government agency?*

*A.: If "Yes", then the dollars may NOT be treated as a gift. Government funding always implies a legally binding agreement.<sup>2</sup>*

It is important to note that almost all private foundations and corporations refer to their funding as "grants", so the mere use of the word cannot be determinative. Just because the corporation or foundation calls it a grant does not mean that it should be directed to Sponsored Programs Administration. It may, in fact, be a "gift" that can be held and stewarded by University Advancement. This differentiation will determine how UMass Dartmouth must account for the money and will have significant administrative implications.

## Guidelines on Gifts and Grants Designation

### Definitions

*Charitable Funds* are voluntary donations to a tax-exempt organization exclusively for religious, charitable, scientific, literary, or educational purposes (IRC §170(c)(2)(B) and (D); IRS Pub. 526 (2010)).

*Gift* is a charitable donation, as defined by the IRS, from either an individual or an organization.

*Grant* is an award of funding from government, corporation, private foundation, charitable trust, donor-advised fund, etc. that may specify terms and conditions for the use of the funds. A grant is not charitable if made in exchange for any ownership of any products or results intended to yield commercial gain, unless the gain is used for charitable purposes only.

*Grant agreement* means a legal instrument of financial assistance between an awarding agency or pass through entity and the University, including University Foundation.

*Deliverable* – Quantifiable goods or services that must be provided upon project completion or at specified interim milestones. (Deliverables having no commercial value or those with commercial value that are used for charitable purposes do not disqualify grants from being charitable).

### Grants

The following conditions characterize a grant agreement and help distinguish such agreements from gifts. Any analysis of these conditions must also take the intent of the donor/sponsor into consideration.

#### 1. Specific statement of work

Grants are typically awarded to UMass Dartmouth in response to a proposal to accomplish a specific statement of work and commitment to a specified project plan. While gifts may be restricted to a general purpose, e.g., cancer research, construction of a building, or library support, a grant will usually entail a more detailed project methodology, e.g., a series of experiments to test a particular hypothesis or support to perform a particular activity. This statement of work is typically supported by both a project schedule and a line-item budget, both of which are essential to financial accountability, described below.

#### 2. Detailed financial accountability

The written agreement typically includes detailed and complex financial accountability, including such conditions as:

- a) a line-item budget related to the project plan, including F&A (indirect) costs
- b) a specified period of time in which project funds may be expended, usually defined with "start" and "end" dates
- c) a requirement to return any unexpended funds at the end of that period
- d) regular financial reporting and audit.

These kinds of conditions generally define the level of financial accountability associated with a grant. They are collectively indicative of the increased level of financial accountability associated with such projects.

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### 3. Disposition of properties ("deliverables")

Sponsored project agreements also usually include terms and conditions for the disposition of tangible or intangible properties, including, for example, hardware, data, or intellectual property. The presence of such terms and conditions in the agreement indicate that the activity is a grant.

## Gifts

In general, the following characteristics describe a gift:

1. No contractual requirements are imposed. However, the gift may be for a stated purpose, with the use of the funds restricted to that purpose.
2. A gift may be intended to be used during a specified period of time, but will not have a requirement to return unexpended funds. If funds remain after the period noted in the original gift, a request for changes to the period must be approved by the donor.
3. The award is irrevocable, with no specified "period of performance."
4. There is no formal fiscal accountability, but the donor may require periodic progress reports and reports of expenditures. These reports may be thought of as a requirement of good stewardship, rather than as a contractual obligation.
5. There is no retention by the donor of any intellectual property rights to discoveries or other quid pro quo deliverables being made to the donor other than recognition of the donor's generosity.

The analysis to determine whether an agreement should be primarily managed by the Sponsored Projects Administration, or by University Advancement will be done collaboratively by the Sponsored Projects Administration and University Advancement, as well as other University offices, if necessary, might be involved to make the final determinations.

## Roles & Responsibilities:

| <b>University Advancement</b>  | <b>Sponsored Projects Administration</b>  |
|--|---|
| Developing and maintaining relationship with the donor:                                  | Oversight of project for compliance purposes:   |
| <ul style="list-style-type: none"><li>• Coordinating submission of proposals</li></ul>   | <ul style="list-style-type: none"><li>• Administering funds properly</li></ul>                                  |
| <ul style="list-style-type: none"><li>• Ensuring regular solicitation of donor</li></ul> | <ul style="list-style-type: none"><li>• Financial reporting</li></ul>   |
| Assuring all charitable funds included in reports of institutional income                | <ul style="list-style-type: none"><li>• Compliance with laws, regulations, and institutional policies</li></ul> |

## Gift or Grant Indicators <sup>3-7</sup>

If after reviewing definitions and considering the intent of the source of funding and nature of the agreement is in question, there remains a question about the proper classification of an award, the following list of indicators may be helpful. Placement toward one side or the other, taken together with the analysis of the source of funds and the terms of the agreement, should help to classify questionable awards.

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| Funding does not originate from a governing agency.   | Funding often originates from governmental agencies, but also from non-governmental sponsors.  |
| For a general or specific purpose, e.g., endowment, capital projects, faculty support or student financial aid and/or it may be for any activity at the university, e.g., department, library, arts, scholarship, facilities, research/instruction activities, etc. | For a specific statement of work, e.g., specified protocol, experiments, testing of hypotheses, particular line of inquiry or for a specified research project, specific, instruction or other sponsored activities. |
| Few, if any, deliverables (other than reports as noted in the guidelines, and use of funds as requested and awarded).   | Deliverables defined by agreement, e.g., reports, research results, IP rights, equipment, etc., and funds may be withheld pending delivery.  |
| Usually no restrictions on publication rights. Publication attribution may be encouraged or agreement may be silent on attribution. Sponsoring organization may require something similar to "Work made possible by an award from..." language.                     | Agreement requires attribution to the sponsor and may ask for, or require minor publication delays.  |
| Proposal may be informal, e.g., a letter proposal from an individual, a department, office or school, or the grant making organization may require a formal proposal with specific guidelines and required information.   | Sponsor requires formal and detailed proposal and/or contractual agreement. Can be submitted through Sponsored Projects Administration as allowed.   |
| Often require only general stewardship and communication as a courtesy to donor, e.g., progress reports, reports of expected funds and balance.   | May require detailed financial and other reports, e.g., scientific reports, invention reports, financial reports on sponsor-specified format, may include the right of sponsor to audit.                             |
| Usually no requirement for return of unexpected funds.  | Budgets and project period may lead to unexpected funds that must be returned if there is no approval to carry forward or extend projects.   |
| No required pre-approvals for expenditures unless a change of circumstances arises that may cause the University to revisit the purpose of the gift with the donor.   | Certain expenditures may require prior written approval by sponsor.  |
| Some gifts may be combined into one fund (if for the same purpose).   | Must be separately budgeted and accounted for.   |
| Qualifies for tax treatment as charitable contribution by donor.  | May qualify for basic research tax credit for sponsor.   |
| No obligation or agreement to share data with donor; donor willing to relinquish intellectual   | Donor expects access to data, primary records, or has ability to audit data collection.  |

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| property and data rights to University. Donor may request progress reports as noted above. |        |

### Guideline Changes

The Division of Academic Affairs and the Division of University Advancement will review this policy every five years or sooner.

### References

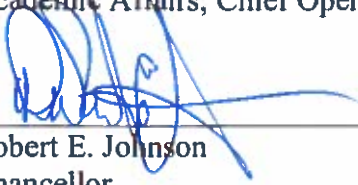
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### Approvals:



Mohammad A. Karim  
Provost; Executive Vice Chancellor for  
Academic Affairs; Chief Operating Officer



Robert E. Johnson  
Chancellor

Date

