

**COLORADO SCHOOL OF MINES AND COLORADO SCHOOL OF MINES
FOUNDATION GUIDANCE ON DEFINING AND DISTINGUISHING BETWEEN
RESEARCH GIFTS & SPONSORED PROJECTS**

Purpose

To help faculty and staff distinguish between a research gift and a sponsored project before a proposal is submitted.

Definitions

Both sponsored projects and research gift funded activities are externally-supported, with funds typically provided in response to a request or proposal. The classification of funding as “research gifts” or “sponsored project” will affect, among other things, the way Colorado School of Mines (hereafter CSM) or the Colorado School of Mines Foundation (hereafter CSMF) accounts for the funds, calculates and applies Facilities & Administrative (F&A) indirect costs (in the case of a sponsored project) or CSMF administrative fees (in the case of a research gift), and reports on the use of the funds to the sponsor or donor and to the Board of Trustees and/or CSMF Board of Governors. The following summary outlines the campus procedure for defining and distinguishing between research gifts and sponsored projects. If you have any questions after reading the information below, please contact the Office of Research Administration (ORA) at 303-273-3538 or the Office of University Advancement (OUA) at 303-273-3148.

Definition of Sponsored Projects

Sponsored Projects are externally-funded activities in which a formal written agreement, i.e., a **grant, contract, or cooperative agreement**, is entered into by CSM and by the sponsor. Sponsored projects typically have a specified statement of work with identified deliverables, provide an exclusive benefit to the sponsor, allow for detailed financial accounting, and have a budget which includes direct and indirect costs of the research activity.

The following conditions characterize a sponsored project agreement, and help to distinguish such agreements from gifts:

1. Statement of Work

Sponsored projects are typically awarded to CSM in response to a detailed statement of work and commitment to a specified project plan. As described below, this statement of work is usually supported by both a project description and a line-item budget, both of which are essential to financial accountability. The statement of work and budget are usually described in a written proposal submitted by CSM to the sponsor for review and agreement.

2. Detailed Financial Accountability

The sponsored project agreement includes detailed financial accountability, typically including such conditions as:

- a line-item budget related to the project plan. The terms of the agreement may specify allowable or unallowable costs, requirements for prior approvals for allowable or unallowable costs, requirements for prior approvals for particular expenditures, etc.
- a specified period of performance, typically defined with “start” and “stop” dates
- a requirement to return any unexpended funds at the end of that period
- regular financial reporting and audit, including, for federal and state awards,

accountability under the terms of OMB A-21, Principles for Determining Costs Applicable to Grants, Contracts, and Other Agreements with Educational Institutions and OMB A-110, Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations. These conditions generally define the level of financial accountability associated with a sponsored project.

3. Required Deliverables

Sponsored project agreements also usually include contractual consideration such as

- terms and conditions for the disposition of tangible properties (e.g., equipment, records, specified technical reports),
- intangible properties (e.g., intellectual property [rights in data, copyrights, inventions], testing, or evaluation of proprietary property),
- other services or considerations specified by the sponsor.

While not all of the above conditions are necessary to define a sponsored project, they are collectively indicative of the increased level of financial accountability associated with such.

Special note about Research Consortia: Intellectual property rights and data rights are typically granted to a sponsoring member of a research consortium. As such, research consortiums will be considered sponsored projects.

Definition of Research Gifts

A research gift, on the other hand, is defined as any term of value given to the University or Colorado School of Mines Foundation by a donor who wishes to support the research of a faculty member or group of faculty members, and who expects nothing of significant value in return, other than recognition and disposition of the gift in accordance with the donor's wishes. The Colorado School of Mines Foundation is the gift receiving organization of the Colorado School of Mines and is a 501(c)(3) organization. Donors are encouraged to make their gift through the CSMF.

Therefore, a gift is designated as a Research Gift when it is provided as discretionary funds to support the research of one or more specified faculty members, graduate students or research programs.

In general, the following characteristics describe a research gift:

1. **Research gifts do not carry contractual requirements** and there are no deliverables to the donor. If such restrictions are imposed on the use of funds, such funds will be regarded as a sponsored project and treated accordingly. A research gift may, however, be accompanied by an agreement that specifies the use of the funds for a particular purpose.
2. **A research gift is irrevocable.**
3. **There is no formal fiscal accountability to the donor beyond periodic progress reports and summary reports of expenditures.** These reports may be thought of as requirements of good stewardship, and, as such, may be required by the terms of a gift. They are not characterized as contractual obligations or deliverables.

Recovery of Direct and Indirect Costs and Gift Fees

Once extramural funds have been classified as sponsored projects or as gifts, the following mechanisms are in place to recover costs incurred by the university:

<http://inside.mines.edu/UserFiles/File/finance/researchAdmin/proposalPreparation/gifts-versus-sponsored-projects.pdf>

For Sponsored Projects

In accordance with CSM's policy, sponsored projects must recover the full cost of research, both direct and indirect. For more information on indirect costs/overhead please go to <http://www.is.mines.edu/ora/default.shtm>. A sponsored project budget will include the School's full negotiated F&A (indirect) cost rate, unless a waiver of those costs has been approved.

For Research Gifts

An administrative fee is assessed to manage any research gift and to support relevant university infrastructure. Research gifts are subjected to the same administrative fees as other gifts to the Colorado School of Mines Foundation. For information about the current CSMF administrative fees, contact the OUA at 303-273-3148.

DISTINGUISHING BETWEEN RESEARCH GIFTS AND SPONSORED PROJECTS

Distinctions Based on Source of Funds

All funds provided by U.S. Government agencies, at the federal, state, or local level, in support of CSM activities are treated as sponsored project funding. Government funds are not treated as gifts.

Distinctions Based on Intent of Donor/Sponsor

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

Note that, in some situations, associated communications about the award or gift, including written proposal or award documents, or conversations, have already made it clear that the donor's/sponsor's intent was to classify an award to CSM or CSMF as either a research gift or a sponsored project. In these cases, the terms of the accompanying agreement may have to be adjusted in consultation with the donor-sponsor in order to clearly document the intent and avoid unintended classification, while insuring that appropriate campus and CSM and CSMF policies are followed.

THE DECISION-MAKING PROCESS IN UNCLEAR SITUATIONS

In some cases, the distinction between research gifts and sponsored projects can be difficult to draw. If PIs, departments or units need assistance in determining whether an interaction should be managed as a gift or a grant, please contact Director of the Office of Research Administration or the Assistant Vice President, Corporate and Foundation Relations.

In the event that a classification still cannot be made, the Senior Vice President for Finance and Administration, the Vice President for Research and Technology Transfer and the Vice President for University Advancement will collectively resolve the issue. If necessary, the final arbiter is the President.

Research Gift or Sponsored Project Indicators

If, after reviewing definitions and considering the intent of the source of funding and nature of the agreement in question, a question remains about the proper classification of an award, the following list of indicators may be helpful. Taken together with the analysis of the source of funds and the terms of the agreement, these criteria should help to classify ambiguous awards.

	Research Gift	Sponsored Project
Purpose	Designated by the donors to support the research of one or more specified faculty members, graduate students or research programs	For a specific statement of work, e.g., specified protocol, experiments, testing of hypotheses, particular line of inquiry. Usually for a specified research project but may be for projects associated with instruction or other sponsored activity
Required Deliverables	No deliverables. No obligation or agreement to share data/research results with donor; donor willing to sign gift agreement relinquishing intellectual property and data rights to University. Donor may request progress reports, as noted above, and ability to observe at open research reviews	Deliverables defined by formal, written agreement, including, reports, research results, IP rights, equipment, or other specified services or considerations. Funds may be withheld pending delivery. Sponsor expects access to research results and the ability to audit research results, but not to prevent publication.
Tax Implications	Qualifies for tax treatment as charitable contribution by donor	May qualify for basic research tax credit for sponsor
Publication Attribution	Publication attribution may be encouraged or agreement may be silent on attribution	Publication attribution is typical and acknowledges the sponsor
Form of Proposal	Proposal may be formal or informal, e.g., a letter or proposal from an individual, a department, office or the school. Proposals should be coordinated through OUA.	Proposal submission required through ORA
Stewardship	Often require only general stewardship and communication as a courtesy to donor, e.g., progress reports, reports of expended funds and balance, invitation to open reviews of research	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
	Research Gift	Sponsored Project

<http://inside.mines.edu/UserFiles/File/finance/researchAdmin/proposalPreparation/gifts-versus-sponsored-projects.pdf>

Financial/Budget	A research gift is irrevocable.	Budgets and project period may lead to unexpended funds that must be returned if no approval to carry forward or extend project. Certain expenditures may require prior written approval by sponsor. Must be separately budgeted and accounted for
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COLORADO SCHOOL OF MINES GUIDANCE FOR COMPANIES

Should you provide a gift to support research (CSM Foundation) or enter into a sponsored research agreement (contracts & grants) with the Colorado School of Mines?

Companies can support the Colorado School of Mines in many ways such as hiring students, sending employees to the University as students or guest lecturers, and publicly supporting the University’s goals. Two of the most common ways companies work with the University is by making gifts to support research at the University, or by sponsoring research at the University. Making a research gift and sponsoring research (through contracts or grants) at the University have very different outcomes, requirements, and procedures for both the University and the company. Depending on your company’s goals, each mode of supporting research may be appropriate in different situations. This document will assist you in identifying the distinctions between research gifts and sponsored research (contracts or grants). The Office of Research Administration or Foundation University Advancement should be contacted for further assistance.

Companies often use the terms “gifts” and “grants” interchangeably, but they have very distinct meanings for the University. Generally, “gifts” are charitable contributions for which the company does not receive any tangible benefits in return, while sponsored research “contracts or grants” are used when a company wants to identify a particular scope of work, and guarantee access to the research results. The chart below identifies common distinctions.

	Research Gifts	Sponsored Research/ Contracts & Grants	Notes
Purpose	Designated funds to support the research of one or more specified faculty members, graduate students or research programs	Funds to support a specific statement of work, e.g., specified protocol, experiments, testing of hypothesis, particular line of inquiry	We may ask about your “intent” for the funding in order to properly assign the funds as gift or contract/grant
Managing Document between Company and University	Gift Letter or gift agreement	Contract or Grant	
Managing Campus Office	Foundation University Advancement-Corporate and Foundation Relations	Office of Research Administration	

	Research Gifts	Sponsored Research/ Contracts & Grants	Notes
Deliverables Company may ask for	No deliverables. (Company may receive reports and may be invited to observe at open research reviews). University has no obligation or agreement to share data/research results with donor. University manages intellectual property and data rights to University according to standard policy. Donor may request progress reports.	Deliverables are defined by a formal, written contract and may include reports, research results, limited IP rights, equipment, or other specified services or considerations. Sponsor receives access to research results, internal rights to use intellectual property, and the first right to negotiate for intellectual property which results from the research.	Gifts are meant to benefit the university and the public while sponsored research agreements permit a sponsor to direct work more specifically toward company purposes, although the university does not engage in work-for-hire.
Tax Implications	Qualifies for tax treatment as charitable contribution by donor.	May qualify for basic research tax credit for sponsor.	Check tax law for your jurisdiction.
Publications	University has rights and responsibilities to publish scientifically novel work. University may attribute donor in work.	University has rights and responsibilities to publish scientifically novel work. University will attribute sponsor in publication. Company will have a limited review period of planned publications in order to remove sponsor's confidential information.	
Form of Proposal	University typically sends a request for support, e.g., a proposal from an individual, a department, office or school in coordination with Foundation University Advancement.	A specific scope of work with a budget is provided to the sponsor through the authorized office (Office of Research Administration).	

<http://inside.mines.edu/UserFiles/File/finance/researchAdmin/proposalPreparation/gifts-versus-sponsored-projects.pdf>

	Research Gifts	Sponsored Research/ Contracts & Grants	Notes
Finances	No requirement for return of unexpended funds.	Budgets and project period may lead to unexpended funds that must be returned if no approval to carry forward or extend project.	
Indirect Fees/Costs	8.5% or current rate	53.68% or current rate	

For more information please contact:
Gift or Grant Designation: Office of Research Administration: 303-273-3538
Gifts and Research Gifts: Corporate and Foundation Relations: 303-273-3148