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Office of the Vice Provost for Research
and
Office of University Advancement

A Note Concerning Grants and Gifts¹

The University of Massachusetts Boston receives funds from sources external to and separate from the general operating budgets of the university to support the research, creative, training, and public service activities of UMass Boston faculty members, staff members, and students. The funds received are typically the consequence of a proposal extended to and accepted by the external entity. The university must ensure that (a) the proposed activities are appropriate to the mission of UMass Boston, (b) there are facilities and sufficient resources to conduct the activities, (c) the researcher's freedom to investigate and report results is preserved, and (d) the activities comply with university policies and with all applicable state and federal laws, rules, and regulations.

In recent years there has been a significant increase in funds from individuals, corporations, foundations, and other private-sector sources that provide general support for broadly defined activities or a specific program area or purpose. These entities can be perceived as either sponsors of specific activities or donors to general university support, depending on the circumstances under which the funds were provided and the specifics of the award that controls the use of the funds. The university must maximize the benefits that can accrue both to the university and to the entity providing the funds while ensuring the proper level of accountability in the custodianship of these extramural funds.

This *Note*, a joint publication of the vice provost for research and the vice chancellor for university advancement, provides clear definitions of terms and clarifies the roles and responsibilities of two offices at UMass Boston—the Office of Research and Sponsored Programs (ORSP) and the Office of University Advancement (UA)—in the processes of identification, coordination, solicitation, acceptance, and administration of funds from extramural sources.

What types of awards support the research, creative, training, and public service activities of UMass Boston faculty members, staff members, and students?

The correct administration of funds from an extramural source is based upon the terms and conditions that are specified in the award document. Four different types of awards can be distinguished that relate to extramural funds².

Note. This *Note* was revised to clarify the gift indicators on page 3 and to incorporate the change of name of Institutional Advancement to University Advancement.

¹ A number of sources were consulted in the preparation of this *Note*. Although not specifically quoted and cited, this *Note* may contain selected words and phrases from the published materials of these sources.

- **Gift (or donation)**—a gift is a voluntary transfer of money, property (e.g., equipment), or other assets (e.g., personnel time and skill) made with donative intent and without any expectation of or receipt of direct economic benefit or any other tangible compensation (i.e., goods and services) from the university. There is no quid pro quo that is commensurate with the worth of the gift, and the donor does not participate in determining how the gift is used. The gift may, however, be restricted to broadly defined activities or a specific program area or purpose (e.g., fund a scholarship, endow a professorship, establish a research center, construct a building). The recipient of the gift is responsible for using the funds received through the gift for the general purposes specified by the donor.
- **Grant**—a grant is a written agreement that creates a voluntary relationship between a sponsor and a recipient in which: (a) the principal purpose of the relationship is the transfer of money, property, services, or anything of value from the sponsor to the recipient; (b) a public purpose is specified with a defined scope of work enumerating certain performance objectives to be achieved during a specific period of performance; and (c) no substantial involvement is anticipated between the sponsor and the recipient during the accomplishment of the public purpose. The award agreement includes provisions for the assignment of proprietary rights to and provisions of work products derived from the performance of the scope of work, as well as requirements for formal financial or technical reporting by the recipient as to the actual use of the money or assets provided by the sponsor. In competitive situations, the sponsor states its willingness to provide support for work of a general type in a request for applications (RFA) and solicits proposals from potential recipients. Respondents compete for the grant award, with the sponsor using evaluation criteria to review submitted applications. The final award may involve negotiations between the sponsor and the recipient. Multi-year grant awards are possible, disbursed on an annual basis by the sponsor with the requirement for the recipient to submit a continuation application as each subsequent grant period approaches. Although the recipient makes no guarantees other than the work will be done as described and that generally accepted management practices will be followed, the award agreement is enforceable by law with the transfer of support revocable for cause.
- **Contract**—a contract is a legal instrument that creates a relationship between a sponsor and a recipient in which the principal purpose of the relationship is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the sponsor. In competitive situations, the sponsor states the work to be undertaken or the problem to be solved in a request for proposals (RFP) or an invitation for bids (IFB). Respondents compete for the contract award that is open to all respondents or bidders. Proposals or bids are evaluated using specific technical and business evaluation criteria. The final contract typically involves negotiations between the sponsor and the recipient.

² Neither the process by which funds are acquired, nor the source of the funds, nor the use by the sponsor or donor of the term *grant* or *gift* determines how the funds will be administered at UMass Boston. In cases where a donor or a sponsor uses the term grant and gift interchangeably, the definitions in this document will apply.

- **Cooperative agreement** – a cooperative agreement creates a relationship between a sponsor and a recipient in which: (a) the principal purpose of the relationship is the transfer of money, property, services, or anything of value from the sponsor to the recipient to accomplish a public purpose; and (b) substantial involvement is anticipated between an individual or agency, acting for the sponsor, and the recipient during the accomplishment of the public purpose. A cooperative agreement is correctly viewed as a hybrid of a grant and a contract.

What indicators will be used to determine if an award to UMass Boston is a grant or a gift?

If one or more of the following indicators exists, then the award to UMass Boston will be considered a grant (or contract or cooperative agreement) and *not* a gift. ORSP has the responsibility for negotiation and setup of the award (pre-award functions), provides proper accounting for expenditures, maintains auditable records, and affords accountability to the sponsor (post-award functions).

1. The award is from a federal, state, municipal, or foreign governmental agency, from a quasi-government entity (i.e., federally-sponsored national laboratory), or from an entity that provides a subcontract containing the so-called “flow down” of federal, state, municipal, or foreign governmental agency award provisions.
2. The sponsor allows the university to recover facilities and administrative costs related to the work to be supported by the award.
3. The sponsor specifies a desire to gain direct economic benefit or other tangible benefits as a result of the university’s activities to be conducted under the award.
4. The award is from a corporation’s R&D budget and is considered by the corporation as a cost of doing business rather than as a charitable gift.
5. The award document stipulates the method of payment as cost reimbursable, fixed fee, or a letter of credit.
6. The award document stipulates a cost sharing commitment of the university’s resources (i.e. personnel, facilities, equipment).
7. The award document specifies adherence to a line item budget with specific limitations, cost accounting and effort reporting standards, financial controls, specific billing requirements, payment contingent upon satisfactory programmatic progress, and prior sponsor approval for such things as pre-award costs incurred by the university or the transfer of funds from one budget category to another and from one budget period to another.
8. The award document stipulates the ownership or disposition of tangible or intangible property resulting as a consequence of the university’s activities, including records, data rights, licensing arrangements for patents or copyrights, research-related materials, inventions, and other intellectual property.
9. The award document places restrictions on the publication of data from activities supported by the agreement, including outright restriction of publication or the requirement for prior review or approval by the sponsor.

10. The award document stipulates that the university will focus activities or conduct studies on proprietary substances, products, or processes or on intellectual property owned by the sponsor.
11. The award document requires an authorized institutional signature stipulating research compliance certification (e.g., human subjects, drug-free workplace, laboratory safety).

If one or more of the following indicators exists, then the award to UMass Boston will be considered a gift and *not* a grant (or contract or cooperative agreement). UA has the responsibility for solicitation, negotiation, receipt, and administration of the award, ensures proper accounting for the use of the funds, and provides proper stewardship with the donor.

1. The donor is a corporation, foundation, or other private sector entity that voluntarily transfers funds or other assets to the university with the intent to treat the transfer as a charitable contribution for income tax purposes as reflected by the absence of deliverables (i.e., a quid pro quo).
2. The donor is an individual who transfers funds or other assets to the university to support a defined set of activities (e.g., fund the scholarship or creative activities of a particular faculty member), a specific program area (e.g., endow a professorship), or purpose (e.g., construct a building).
3. The donor makes the award without expectations of direct economic benefit or other tangible benefits, although business or personal good will and miscellaneous benefits may be derived from the donor's close association with the university.
4. The donor does not participate in determining how the award is used.
5. Any conditions or stipulations placed on the intended use of the award by the donor are reasonable and serve to direct the award to a broadly defined activity or a specific program area or purpose of interest to the donor (e.g., scholarships, professorships, research center infrastructure, capital campaign, building construction, instructional program support, special projects).
6. The donor makes no claim on patents, copyrights, or other intellectual property rights that may result from the activities supported by the award, and the award does not restrict or stipulate delays or advance notice or prior donor approval of the publication or dissemination of information derived from activities supported by the award.

How will differences of interpretation on the type of award be resolved?

If the intent of the sponsor or donor does not correspond with the indicators for classification as a grant or a gift presented in the preceding section, then an attempt will be made to amend the terms of the award in order to avoid unintended misclassification. Situations may arise where, despite attempts to modify the terms of the award, the indicators cannot readily determine the proper classification as a grant or a gift. These situations will be referred to and resolved mutually by and between the vice provost for research and the vice chancellor for university advancement. If a question persists, then the provost and senior vice chancellor for academic affairs will provide a final resolution.

What are the responsibilities of ORSP and UA?

ORSP in the Division of Academic Affairs promotes university participation in seeking extramural grant, contract, and cooperative agreement awards to support the research, creative, training, and public service activities of UMass Boston faculty members, staff members, and students. The vice provost for research exercises Board of Trustees signatory authority for the university, signing in behalf of the university all sponsored program applications and proposals submitted to external sponsors, and accepting in behalf of the university all awards by external sponsors to the university for sponsored programs. The preaward services of ORSP include identifying potential extramural sponsors, reviewing proposals and budgets for institutional compliance with research policies and procedures, negotiating award agreements, and maintaining information and preparing reports on sponsored programs activity. The postaward services of ORSP include account establishment, billing, cost accounting, effort reporting, budget modifications, and project financial closeout and audit. The professional staff of ORSP is charged with the responsibility to safeguard the interests of the university during proposal development, award negotiation, project implementation, and project closeout, and to ensure compliance with all financial, legal, and ethical conditions related to extramural support for sponsored programs.

All awards that, after application of the indicators presented in this *Note*, are classified as a grant, contract, or cooperative agreement must be routed through ORSP to obtain the approvals of the appropriate university officials. All projects supported by grants, contracts, and cooperative agreements are subject to the recovery of facilities and administrative costs (F&A) at the university's approved and published rate applicable to the type of project being conducted³. In some cases the sponsor has a written policy, uniformly applied, prohibiting or restricting the payment of F&A to a lower rate. An exception to the university's F&A cost recovery policy may be warranted if it is clearly in the best interest of the university to accept the award with less than full F&A cost recovery. This exception does not apply to for-profit sponsors who are expected to provide full F&A when funding sponsored programs. The vice provost for research is responsible for determining the appropriate F&A cost recovery rate in all cases.

UA is the division of the university responsible for soliciting, processing, acknowledging, accounting for, and reporting philanthropic support in the form of gifts to the university from individuals, corporations, foundations, and other private sector sources. UA invests and protects these gifts until the university needs them, maintains the university's central records for private donors and their contributions, and provides services for identifying and researching current and prospective donors. In accordance with IRS regulations and good donor relations, UA acknowledges all gifts in writing. The professional staff of UA coordinates all gift solicitations.

Faculty and staff members and students who are seeking corporate and foundation gifts and charitable donations must, in advance of making contact with the corporation or foundation, confer with the professional staff of UA. The document *An Overview of University Advancement at the University of Massachusetts Boston* is available to provide faculty and staff members of the university with information about giving and the services of University Advancement.

³ Please refer to the June 15, 2005 *Note Concerning the Recovery of Facilities and Administrative Costs of Sponsored Programs* available from the Office of Research and Sponsored Programs.

The professional staffs of ORSP and UA work closely whenever an individual, corporation, foundation, and other private-sector entity has been identified as a potential sponsor of a university activity. This identification may arise from an unsolicited communication to the university, through the investigations of a faculty or staff member or student, through informal communications with the officers of the private-sector entity during routine business transactions, or from receipt of an RFP, RFA, or IFB. If, after applying the indicators listed above, the award is classified as a gift, then the information will be brought to the attention of the professional staff of UA to ensure maintenance of good donor relations. On the other hand, if the award is classified as a grant, contract, or cooperative agreement, then the information will be brought to the attention of the professional staff of ORSP to ensure the maintenance of good sponsor relations. The goal is to avoid the complications that arise from duplicate and inappropriate solicitation of potential sponsors and donors.

How will extramural financial support be reported at UMass Boston?

Annual reporting of extramural financial support has an impact on the university's financial position and the university's reputation and prestige as viewed by people in academe, government agencies, business and industry, the philanthropic community, and the general public. It is important that ORSP and UA regularly and accurately report to stakeholders the totals of extramural financial support from grants and gifts that have been received by the university.

ORSP may count toward the sponsored program totals for external reporting purposes all gifts to UMass Boston managed through UA that support the research, creative, training, and public service activities of faculty members, staff members, and students. ORSP will follow the reporting standards established by the National Council of University Research Administrators, the Financial Accounting Standards Board, and the National Association of College and University Business Officers.

UA may count toward the private sector development totals for external reporting purposes all grants, contracts, and cooperative agreements awarded to UMass Boston from individuals, corporations, foundations, and other private-sector sources that have been routed through and managed by ORSP. UA will follow the reporting standards established by the Council for Advancement and Support of Education, National Association of College and University Business Officers, Council for Aid to Education, and the Financial Accounting Standards Board.

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