

KANSAS STATE UNIVERSITY

SPONSORED PROJECT? FEE FOR SERVICE?
PHILANTHROPIC GIFT?
WHICH ONE IS IT? WHERE DO THE FUNDS BELONG?

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GUIDELINES FOR DIFFERENTIATING SPONSORED PROJECTS FROM FEE FOR SERVICE ACTIVITIES AND PHILANTHROPIC GIFTS

This document provides information to assist in determining when external funds to be received by Kansas State University should be administered as a sponsored project, a fee for service activity, or a philanthropic gift. In certain circumstances, it may be difficult to determine without a review of the pertinent University and Board of Regents policies and procedures. In these cases, the intended use of the funds, the source of the project specifications, the nature of the proposed work, and the need/requirement for a legal binding agreement are all critical components in determining whether they should be managed as sponsored projects, fees for service, or gifts. The information provided is intended to help define KSU's legal obligations and liabilities, and it is relevant for all personnel who manage such funds. Unresolved issues and any questions should be referred to: *Paul Lowe, Associate Vice President for Research, Office of Sponsored Programs (785)532-6804* or *Megan Webb, Assistant Director, Sponsored Projects Accounting, Office of Sponsored Programs (785) 532-6804* or *Whitney Riley, Associate Vice President of Corporate and Foundation Development (785)-775-2203*.

SPONSORED PROJECT (Requires FIS project number beginning with G- or N-)

Generally, whenever KSU agrees (orally or in writing) to provide any goods or services using university facilities or the official time and services of KSU faculty and/or staff, the funds received are to be treated as sponsored project awards to KSU. Sponsored projects occur when KSU or an employee of KSU submits a bid, offer, proposal, or the like or responds (orally or in writing) to a request, announcement, call for proposals, or the like, that results in the issuance of an award involving KSU and another party. These awards could be in the form of grants, contracts, cooperative agreements, or a variety of other agreement formats. All proposals for external sponsored project support regardless of funding source must be processed through the Office of Sponsored Programs (formerly known as PreAward Services). Likewise, all awards for external sponsored project support must be processed by the Office of Sponsored Programs, PreAward Services Unit and then forwarded to Sponsored Projects Accounting for deposit with the KSU Division of Financial Services.

The presence of any one of the following factors generally distinguishes the resulting funds from a fee for service activity or gift, thus classifying the award as a sponsored project:

- 1. The proposed activity requires the execution of a legal instrument which binds the parties to terms stated therein such as a contract, agreement, Memorandum of Agreement or Understanding, grant, term sheet, or other document requiring a contractual review to insure that KSU's ability and responsibility to comply with all state and federal laws, as well as policies and regulations of KSU and the Kansas Board of Regents (KBOR), have not been compromised or superseded.*
- 2. The funds originate from a governmental source.*
- 3. The proposed work binds the University to a specific line of research or scholarly activity which requires a statement of work or an orderly testing of specific hypotheses, methodology, or validation of particular approaches, i.e., specific expectations or deliverables are attached to the project.*
- 4. A specific commitment is made regarding the level of personnel effort, items of output (e.g., publication of papers or reports), or achievement of specific performance targets as a condition of funding.*
- 5. A budget for expenditures by activity, function, or project period is required as a condition of funding and a fiscal report, activity report, or external audit is required during the course of the work or at the end of the project period.*
- 6. The proposed agreement with the sponsor provides for the disposition of tangible property (e.g., equipment, records, technical reports, theses or dissertations) or intangible property (e.g., rights in data, copyrights, and inventions) that may result from the activity.*
- 7. Construction projects or acquisition of equipment or facilities where a state or federal government agency provides the funds.*

With any of the above factors, the Office of Sponsored Programs must be contacted to review and facilitate the activity.

FEE FOR SERVICE (Requires departmental restricted fees FIS account number)

All fees for service activities at KSU are subject to the KBOR policy on Sales of Products and Services and KSU policies and procedures regarding the establishment of a Schedule of Charges. These policy statements may be referenced in the KSU Policy and Procedures Manual within Chapters 6080 and 6085 respectively. Generally, any sale of products or services by a Regents institution, its auxiliary enterprises, or an affiliated corporation of a Regents

institution is deemed appropriate only if such sale is an integral part of, or reasonably related to, an activity which is essential to the fulfillment of the institution's instructional, research or public service mission. The provision of such services fits with the missions of the University when: 1) the University is uniquely qualified to offer such special services; 2) those services provide additional research experience and training for the University's faculty, staff, and students; or 3) access to those services or specialized equipment is not readily available through local commercial means. These services include the utilization of specialized expertise that faculty members possess or specialized instrumentation that may be offered to the University's various constituencies through the University's tripartite mission.

Prior to the sale of any product or service, the responsible unit must establish and receive approval of a Schedule of Charges through the KSU Division of Financial Services. The subsequent service center established within a department or other administrative unit is referred to as a Recharge and Service Center which has been established for the purposes of providing support for the research and public service activities of University departments, the University community, as well as the provision of services on an incidental basis to external users. The approved pricing, called the Schedule of Charges, shall include applicable facilities and administrative costs (when products or services are offered to external users), and shall follow the breakeven concept, which is accomplished by (1) balancing the accounts at the end of each fiscal year and (2) analyzing the rates on a fiscal year basis and adjusting them to account for any operating surplus or deficit. All fees collected are to be deposited to the appropriate restricted fees fund and shall be used solely for the specific purpose or purposes for which collected. The presence of the following factors generally distinguishes the resulting activity from a sponsored project and classifies the activity as a fee for service.

- 1. The activity does not require the execution of a grant, contract, agreement, Memorandum of Agreement or Understanding, term sheet, or other such legal instrument which binds the parties to terms stated therein.*
- 2. The approved activity involves the standard routine analysis, evaluation, classification, diagnostic, or interpretation of a client's data, samples, mechanisms, procedures, or products, as detailed and approved in the Schedule of Charges and no applied or basic research by the University will be involved in the preparation of or in the conduct of the proposed activity.*

Fee for service activities, including the establishment of a Schedule of Charges, should be coordinated with: Danica Phan within the KSU Division of Financial Services, xuanduy@k-state.edu or by calling (785) 532-6202.

PHILANTHROPIC GIFT

All philanthropic gifts to Kansas State University are administered by the KSU Foundation. The presence of any one of the following factors generally distinguishes the resulting funds from a sponsored project or fee for service activity and classifies the award as a gift.

- 1. The funds are from a non-governmental source and are for facility enhancement ("bricks and mortar") or for the University's endowment.*
- 2. The funds are from a private individual, corporation, or foundation, with no specific deliverables like those in a sponsored project specified or expected, and no legal instrument which binds the parties to terms stated therein is required.*
- 3. Similarly, the donor specifically intends the contribution to be a charitable gift with no sponsored project deliverables specified or expected.*
- 4. General conditions or stipulations placed on the intended use of the money serve merely to direct the funds to some area such as scholarships, facility enhancement, or general research support. The donor may request a summary of how the funds were utilized.*
- 5. The donor intends the gift to be irrevocable and, therefore, relinquishes the right to reclaim the gift or any unused portion thereof.*
- 6. The donor makes the gift to the University without expectation of economic benefit or other tangible benefit commensurate with the worth of the gift*

Gift solicitations should be coordinated with the appropriate KSU Foundation representative in each college or other relevant unit. The KSU Foundation should be contacted for procedures applicable to gift solicitations.

NOTE: *Regardless of whether funds are classified as sponsored projects, fees for service, or philanthropic gifts, approval(s) must be obtained from the proper compliance committee(s) if any of the funds are to be used to support activities involving human subjects, animal care and use, radiological hazards, or biohazards. The approval(s) must be obtained prior to the commencement of activities and the expenditure of any funds in support of such activities, per federal regulations.*