UCOP Gift/Grant Policy Study
Preliminary Draft for review and comment.

November 13, 2006

Subject: Updating the 1980 Saxon Gifts policy – Brief review if topics, issues, and listing of pertinent documents.

Table of Contents

- What prompted UC to develop the 1980 Saxon policy?
- Conceptual foundations for the policy
- Evolution of terms and conditions in gifts from private donors and foundations.
- UCOP Development office experience
- Discussion of the continuum with case examples
- Views of campus and OP contracts and grants officers
- Sponsoring a project from one fund source vs supporting a multiyear UC program with pooled multiple fund sources
- Faculty views
- Funding to support Development Offices
- Cost to the University to administer gifts and grants
- Development vs extramural financial and administrative infrastructure
- OP financial management obligations: compliance with external financial management standards, credibility of UC financial accounts and reports.
- Views of UC’s A-133 auditors
- UC Internal audit coverage
- External reporting to NACUBO
- Compliance with UC Research Policy
- Reporting gifts, private grants, contracts to OP
- Fiduciary obligations to donors, compliance with terms of transactions and post award administration obligations
- Campus policies
- Policies of other Universities
- UC liability to donors for tax classification of the donation
- Oversimplification of the notions of grants, gifts, donors
- Ask the donors
- Architecture for a new policy
The purpose of this inventory is to look at specific kinds of sponsor requirements which fall between the poles of no restrictions and lots of restrictions and attempt to draw some lines.

Inconsistencies in classifying a transaction as either a gift or extramural grant or contract have risen to the point where a policy review appears appropriate.

There are many aspects to consider. The purpose of this inventory is to initiate a list of topics to research.

For each topic listed, it is suggested that the research include a compilation of all applicable documents from the Internal Revenue Code (IRC), NACUBO publications, and University policies both at OP and campuses, financial management standards and reporting requirements to inform the discussion.

The policy review should involve all University stake holders, not just Development and Research Administration Offices.

- **What prompted UC to develop the 1980 policy?**

The State Auditor General report to the Joint Legislative Audit Committee, August 1, 1978, titled “University of California: Review of Privately Supported Research,” concluded monies awarded to the University should have been classified as grants or contracts when they were classified as gifts.

The underlying issues were use of gifts to avoid applying overhead, not achieving full cost recovery when the University conducted research for private sponsors, and possibly giving an inappropriate gift of public funds to a private sponsor by not recovering full cost.

Tab 1. Documentation:

- State Auditor General report 715.9, August 1978, Review of Privately Supported Research
- State Auditor General report 906.2, March 1980, The California Agricultural Experiment Station: An Analysis of Research Program Activities

- **Conceptual Foundations for the Policy**

The University responded by issuing the July 8, 1980 Gifts/Grants policy (Saxon Policy).

The Saxon policy was guided by the Internal Revenue Code that defined a gift, for tax deduction purposes, as not providing any benefit that would inure to the donor, i.e. no quid pro quo, and the gift would have to be irrevocable. This was the conceptual basis for defining a gift as: 1) donor does not impose contractual requirements, and 2) funds are awarded irrevocably.
The Saxon policy was guided by terms and conditions that were typical of extramural grants and contracts at that time: 1) provision for audits by the grantor; 2) grantor receives consideration, e.g. detailed technical report, or report of expenditures; 3) testing or evaluating proprietary products; 4) research is directed to specific grantor requirements e.g. a specific scope of work rather than a general area of research; 5) return of unexpended funds to the grantor; and 6) grantor requires patent or other intellectual property rights.

The policy responded to the State Auditor report by stating overhead would apply to grants, and not to gifts.

Tab 2. Documentation:

- Copy of the 1980 Saxon Gifts/Grants Policy from OP Development, and Contracts and Grants Manuals
- Miscellaneous letters with definitions, and discussions regarding classification of gifts and grants.

• Evolution of terms and conditions in gifts from private donors and foundations.

In the “old days,” donors were more inclined to “give” the University money for general purposes, giving the University broad discretion as to the use of the funds for more general University educational or research purposes.

Foundations and some other donors have been pressured to be more accountable for the use of the donated funds to assure their funds were being used to fulfill the purposes of the Foundation. This has resulted in more reports about how the funds were used, more financial accountability going beyond a summary report of funds expended and remaining to financial reports by budget line items, return of unused funds, and the right to audit. Some Foundations have been asserting rights to intellectual property, and/or sharing in royalties from UC licensed patents. The evolution of terms and controls appears to be approaching the point where consideration, quid pro quo, amount to an exchange transaction.

The desire of Development offices to increase their reported revenue tends to view research grants and similar transactions with restrictive terms as gifts. Donors are increasing the number, kind and extent of controls and restrictions which make their intended gifts look like extramural grants or contracts when they are not intended to be.

We view the playing field as a continuum between contracts with numerous and detailed controls on one hand, and gifts with few if any conditions on the other. As IRS case law evolves requiring corporations to demonstrate stewardship of their funds, these early defining criteria in the Saxon policy do not appear to be sufficient for our current classification purposes. We believe it is time to recognize there may be some newer
requirements on gifts and private grants that, would be classified as an extramural award according to the Saxon policy, but have the intent of a contribution that perhaps should be classified as a gift. On the other hand, there are some gifts, and some private grants with conditions that create compliance duties on the University that should be managed by the extramural infrastructure.

At the recent Contracts and Grants Conference we heard there were “gifts” from public entities such as local governments. Are such transactions within the meaning of gift, or within the scope of Development?

We also heard about “gifts” for research that involved the placement of a subcontract. Is such a transaction properly classified as a gift?

We heard development offices are accepting IP and terrorism terms in gifts without review of the transaction by knowledgeable people.

Tab 3. Documentation:

- Annenberg Foundation “gift” for COSMOS, and RAO analysis.
- “Gift” from Althea Foundation for Death Notification and RAO analysis.

Some larger donors and foundations have experienced or fear being a party to a law suit as a result of their donation. Some have required that UC Indemnify them against suit as a quid pro quo for their donation. The UC Regents have delegated authority to the President to grant indemnification in special cases, upon advice from the Office of General Counsel. Traditionally, if a transaction required or involved indemnification at all, it was classified as an extramural grant. We wonder if the indemnification provided by the University would be considered as a “benefit inuring to” the donor?

Tab 4. Documentation:

- Regents Delegation of Authority to the President to Accept Third Party Liability for Gifts May 15, 2006
- The Barbara Osher Foundation award with indemnification requirement, and discussion

There are private foundations funded by for-profit corporations that fund research that is clearly of benefit to the parent for-profit corporation, e.g KPMG Foundation funding tax research as a gift, without overhead, at UCLA with the expectation of deliverables.

- **UCOP Development Office Experience**

As the terms and conditions of gifts from foundations and donors have evolved, tension increased in the classification of transactions. As the gift terms included specific elements in the definition of grant in the Saxon policy, such transactions were classified as
extramural grants or contracts by the Research Administration Office. Classification of transactions as gifts, that specifically included criteria in the Saxon policy that define a grant, appeared to have conceptually voided the Saxon policy.

We observe a continuum of terms in the gifts and extramural grants and contract world. At least some of the “performance” requirements are a matter of degree. The bright lines in the continuum are not simple, but also are not impossible to draw and cannot be ignored.

For example, there is a continuum in financial reporting. It may range from none, to once a year or several times a year. The content may require reporting of total funds expended and remaining, and detailed reporting of cumulative expenditures by budget line item. The degree of financial reporting and the capability of the Development accounting infrastructure should be taken into account in the classification of a transaction. If the extent of the reporting exceeds the capability of the Development accounting infrastructure, then perhaps the transaction should be classified as an extramural award and the extramural funds infrastructure be used. I believe the capability of each accounting infrastructure can be documented, and the capabilities and limits described.

We believe the same kind of review of technical reporting is appropriate. On one hand a one page report describing the general use of the funds suggests a gift. A detailed report of work done, actions taken, findings, observations, delivery of data, suggest a grant or contract transaction. Admittedly, this is a matter of degree. But at some point in the continuum, I believe a line can and should be drawn. At what point does “consideration”, “exchange”, “benefit to the donor” occur?

- **Discussion of the continuum with case examples:**

The purpose of this discussion is to look at specific kinds of sponsor requirements which fall between the poles of no restrictions and lots of restrictions and attempt to draw some lines.

**Indemnification provisions**

A sponsor or donor requirement to be indemnified in the past automatically classified the transaction as an exchange/contract and not a gift. In the past few years, some sponsors have become sensitive to liability exposure even for donating money without any performance on their part. Some have mandated that the university indemnify the donor/foundation in this narrow case. The Regents delegated authority to the President to offer such limited indemnification on a case by case basis with the approval of Office of General Counsel. This new authority is limited to donations, and is not available to exchange, extramural transactions (grants, contracts, cooperative agreements.) This is an example of how a step toward an exchange transaction was approved with retaining the transaction as a gift/contribution.
Financial reporting for accountability purposes.

The 1980 Saxon policy does not contemplate much if any financial reporting. If such reporting is required, the transaction should be classified as a grant. However, foundations, charities and other donors have been pressed to show and assure that the funds they have donated have been used for the purpose designated, and that the donation resulted in something worthwhile consistent with the donor's intent. Some believe that if the donor wants reports, the funding becomes a grant of financial assistance and should be handled through the Sponsored Projects Office. Thus there are increasing requirements for financial reporting.

We need to draw a line between accountability reporting, and reporting by budget line item. The capability of the gift and extramural accounting systems to fulfill these reporting requirements must be considered. If a detailed reporting of expenditures by budget line item is required, then this should classify the transaction as an extramural grant. We see no reason why such transactions cannot be classified and accounted for as an extramural award in the general ledger and for external accounting purposes, and included in Gift office internal and external reports as revenue for that function.

Progress and technical reporting

A brief summary report, e.g. one page describing the general results or outcomes from use of the donation, upon complete expenditure of the funds seems reasonable in answering the general question about what did UC do with the money. This kind of reporting requirement for an individual gift is difficult to meet when money from several sources is pooled. Meeting this requirement requires assignment of a discrete fund number for each gift. This is more burdensome for departments, researchers and accounting offices. On the other hand, a detailed report of financial and technical results, or delivery of data should classify the transaction as an extramural grant.

Intellectual property rights.

Gifts, donations, charitable funding by definition do not offer or provide any intellectual property rights to the funder. If the funder requires such rights, it is de facto a benefit inuring to the funder which requires the transaction to be classified as a grant.

Right to direct, control, impose prior approvals.

A transaction to be classified as a gift must provide discretion to UC as to the detailed use of the funds. A donor may designate use of the funds to a principal investigator for a general research purpose, or to buy a piece of equipment, or to support students for various purposes, by may not impose prior approval requirements (need to define fiduciary obligations to use the funds within the donors specification, and detailed prior approvals typical of exchange transactions.)
Right to Audit

The right to audit is a defacto requirement which classifies a transaction as a grant or contract.

Right to terminate or demand refund for any reason

The right to terminate or to demand refund is intrinsic in an exchange transaction and de facto classifies the transaction as a grant, if the IRC requirement of irrevocability is given weight.

Payment contingent upon performance or receipt of deliverables.

Gifts according to the IRC are not to inure benefit to the donor. When payment is contingent upon performance or receipt of a deliverable, this fact alone voids the classification as a gift.

Tab 5. Documentation: Develop a matrix describing a continuum of financial and technical reporting. Propose a bright line somewhere in the continuum for each.


Tab 7. Documentation: Take a sample of technical, progress reporting requirements in a sample of gifts, and extramural grants. From both private donors, and foundations.

Notwithstanding the expansion of terms, the Development Office continued, reasonably, to view the “relationship” with the foundations and donors, as a “donor” relationship. Consideration should also be given to the treatment and classification of charitable trusts. Transactions classified as extramural grants are handled on an arms-length basis, are business impersonal, and typically are between contracts staff at the foundation and UC. The correspondence is matter of fact without much relationship juice. There are transactions where this is appropriate, but not in “donor” relationships.

We believe there is merit to the notion of “donor” relationships. The development of good will with individual donors, as well as individuals who are key to the management of foundations is essential to the University. The relationship is shaped by individual and personal contact and relationship with the UC Development Officers. The donor’s individual’s experience and feelings about UC are very important to UC’s Development interest. I believe it is in the University’s best interest to develop policies and practices that support and foster productive donor relationships.

On the other hand, is the management of a donor relationship the exclusive province of development officers in all aspects, i.e. dealing directly with the donors themselves, vs business interactions with the administrative staff in the donor’s foundation or other
organization? I think not. I believe there is an appropriate role for both. It is not practical or effective to exclude business contacts by business offices with donors or foundations.

There may be cases like the Moore Foundation “gift” to UC and Caltech to fund design and development of the California Extra Large Telescope amounting to at least $34 million, that override a UC gifts/grants policy whether it be the 1980 Saxon policy or a possible successor. The terms of the Moore “gift” were nearly identical to a standard procurement contract with deliverables, a directed scope of work, and payments contingent upon actual performance and success of outcomes. Conceptually, this transaction could not be classified according to the Saxon policy as either a gift or a grant. It clearly was a standard performance contract. But it was decided for “donor” reasons to accept the funds as a gift. I raise this case as an example where perhaps a successor policy provides for an override of some kind when the criteria of the policy become secondary. The gifts and development business is not neat or tidy. It is creative, and often personal. Somehow our policies should address this reality.

Tab 8. Documentation:

- Copy of the Moore Foundation “gift” for CELT gift, and RAO comments.

An additional element that effects classification of gifts and private grants is the scope of reporting to and by the Development Office. Traditionally it is an element of recognition for Development Offices to show increases in funds obtained. Although private grants and contracts are classified as extramural awards and accepted by the Sponsored Projects office, these grants are reported to the Development Offices so the dollars can be included in the summary for which their office can take credit. This element appears to sometimes influence the classification of gifts and grants. There are occasions where a Development Office classifies a transaction as an extramural grant, when it is more appropriately classified as a gift.

Tab 9. Documentation:

- Intel award to UCR, with analysis from RAO, and Geoffrey O’Neil OP Development Office.

- Davidson Foundation award for the COSMOS program

There are also occasions where the OP Development Office classifies a transaction as a gift, when it is more appropriately classified as an extramural grant.

Tab 10. Documentation:

- Intel Grant # 20854, # 29139 with analyses from Copy of RAO.
• Views from Campus and OP Contracts and Grants Officers

1. ALL CAMPUSES said there are no issues on their campuses with the current University guidelines on determining if an award is a gift or a grant. They noted that campus Development Offices get to “count” private grants in their numbers which is what they want. Campuses did not voice any concerns with the existing guidelines. One campus noted that there appears to be some misinformation in campus Development Offices about the scope of The Regents’ approved indemnification for donors.

2. CAMPUSES with TRAINING: At least three campuses, Riverside, Los Angeles, and Irvine, reported that the current policy is incorporated in their campuses’ training of departmental staff who administer awards.

3. CAMPUSES with additional WRITTEN GUIDELINES: At least three campuses, Los Angeles, Berkeley, and Riverside, said that their campuses have developed additional written guidelines for implementing the current policy.

4. RESEARCH ADMINISTRATION REVIEW OF AWARD DOCUMENTS: Three campuses, Los Angeles, Davis, and San Diego indicated that all award documents are reviewed by the Research Administration Office to determine whether they are gifts or grants. The Riverside campus said they have a committee which includes Research Administration, Development Office, the Controller and Academic Planning and Budget to review awards for which there are any question as to whether they are gifts or grants.

• Sponsoring a project from one fund source vs supporting a multiyear UC program with multiple fund sources

An extramural award, i.e. a grant, typically involves a proposal, budget, statement of work, terms and conditions, overhead, intellectual property provisions, termination clause, payment and invoicing, and a defined period of performance. Costs are project specific, and grant specific, and cannot be reimbursed if incurred before or after the period of performance.

A gift may be intended to support a UC program, e.g. COSMOS. COSMOS is an ongoing program, with multiple fund sources contributing to the overall implementation and management of the program. Such a gift may not include a specific period of performance, is not project or statement of work specific, and may be spent as needed to support the program. Discretion regarding the use of the funds may reside with the UC Program Director. As such a gift is supporting an ongoing UC program, the gift may be viewed as supplementing an existing UC program, and applying overhead to such a transaction where the benefit is to UC, not a deliverable to or work performed for the donor, would not be appropriate. If such a transaction were classified as an extramural award, the application of overhead, the stricture of a period of performance would not fit the program support type of transaction.

Documentation See Tab 10.
• Faculty views

Faculty often take initiatives to raise funding from private donors and sometimes foundations. Faculty have an aversion to paying overhead on “their” money. Because an extramural grant is subject to UC overhead in the low 50s %, they are motivated to ask the donor to say they are providing a “gift”, and prompt the donor to say or write that their policy is not to pay overhead. There is the reciprocal situation when the Development office charges a “gift tax” of perhaps 6%. Faculty will then try to have the transaction classified as an extramural award and try to obtain a waiver of indirect cost to zero. There have been cases where faculty will arrange for a “donor” to provide “recurring” gifts in small amounts to avoid being seen as overhead bearing grants. There is no regular review of gifts to individual faculty members to uncover this kind of avoidance practice. The faculty efforts to have funds come in as a gift when it should be a grant was the focus of the Auditor General report to the Legislature. There are not infrequent oral promises made to “donors” to provide reports and other consideration that do not get included in the written “gift” transaction. One campus experienced a demand from a “donor” for a final report of results under a “gift.” To the extent intellectual property is transferred via this informal means, it conflicts with faculty obligations to the Regents under their patent assignment agreement.

• Funding to support Development Offices

The funding for some campus development offices comes from a “gift tax”, i.e. something like 6% of the gift is taken to pay for the costs of the development office. OP does not charge a gift tax. There is some incentive to the development office to classify grants as gifts to provide funding for its office.

Tab 11. Documentation

- Yale University policy re. charging indirect cost on gifts.
- Funding Sources for Central Development Offices Systemwide Average for FY ending 2002

• Cost to the University to Administer Gifts and Grants

A theoretical gift with no conditions or terms should require the minimum of administration and cost. On the other hand, a gift with financial and progress reporting requirements, indemnification provisions, intellectual property requirements, performance requirements that are prerequisite to payments, requires more extensive effort and cost to negotiate and administer. Some universities, e.g. UCB, Yale are of the view that such transactions should be subject to some level of Overhead. Further, some believe that “gifts” for research should be subject to the same overhead as grants for research. To the extent the University does not charge overhead on gifts for research, especially when the “donor” expects a report of results, the result is underrecovery of real cost.
• Development vs Extramural Administrative & Financial Infrastructure

When a UC official accepts a gift on behalf of the UC Regents, or a UC official accepts a contract or grant on behalf of the UC Regents, these actions create legal obligations to comply with the terms of the gift or extramural award.

This reality leads to two areas to consider. One is the subject expertise of staff in the Development Office, and the Contracts and Grants (Sponsored Projects Offices) in relation to the subjects, terms and conditions in the transactions handled by the respective offices. Second is the design, and adequacy of the financial and administrative infrastructure available between Development and Extramural awards to comply with the terms of the transaction.

The research administration view is a transaction that involves topics such as indemnification, intellectual property, ownership and use of data generated, audits, performance requirements involving a statement of work, payments contingent upon satisfactory performance, mandates involving anti-terrorism, political policies such as restrictions that would compromise academic freedom, tests involving the donor’s product(s), and the like are best handled by contracts and grants offices that have people trained to know UC policies in these areas, and know how to negotiate these terms.

Tab 12. Documentation: Document the qualifications of staff in development offices for the purpose of defining subjects within their competence, and when transactions with subjects should be handled by contracts and grants offices.

• OP Financial management obligations: compliance with external sources of financial standards; credibility of the UC financial accounts and reports:

  o GASB standards i.e. Operating (exchange transactions – contracts, grants, gifts), Nonoperating/Private gifts (contributions)

  Issue – accuracy of reporting and oversight of expenditures. Official legal institutional financial representation subject to external audit.

Tab 13. Documentation: Copy of GASB definitions and guidance.

  o FASB 116 Accounting for Contributions Received and Contributions Made

Tab 14. Documentation

  o OMB Circular No. A-21 definition of OH pools: research (exchange transaction)
  Departmental research (contribution)
Issue – accurate allocation of costs to defined pools. Must certify compliance with A-21 when indirect cost proposal submitted to Federal Audit Agency.


- IRS Code definition of gift for tax deduction purposes.

Tab 16. Documentation: Copy of pertinent IRS Code, and any applicable IRS publications or guidance letters.

- 26 USC Sec. 170 Charitable, etc., contributions and gifts
- 26CFR25.2511-2 Gift Tax

Tab 17. Documentation: Copies of pertinent policies from the Corporate Accounting Manual.

- OP Accounting Manual, G-327-66 Recording of Pledges
- Op Accounting Manual, E-525 Endowment and Similar Funds

- Views of UC’s A-133 Auditors

Price Waterhouse Cooper has reported concern about the classification of extramural grants as gifts with respect to accuracy and credibility of UC financial statements. They note transactions that in their opinion should be classified as extramural grants, have been classified as gifts. This distorts the accuracy of the financial records.

Tab 18. Talk by Robert Forrester, Partner PWC October 19, 1999 “Is it a gift or a grant? Should I care?”

- UC Internal Audit Coverage

Tab 19. Documentation.

- Email to University Auditor and reply 11/5/2004
- Draft request to University Auditor for internal audit attention – not sent
- Gifts review UCSF Audit report 01-029 October 2001

- External reporting to NACUBO

The OP Development Office uses NACUBO reporting criteria for the classification of transactions, and provides reports to NACUBO accordingly. This data is derived from
gift/development data systems, not UC general ledgers. The data not subject to external audit. There is an external legal duty to certify accuracy as there is with data in the general ledgers. It is unclear whether the NACUBO classification criteria are adequate for the classification of transactions for all UC purposes, or whether they are sufficient primarily for reporting to NACUBO. This needs to be reviewed.

Tab 20. Documentation:

- NACUBO reporting standards.
- CASE criteria for classifying gift transactions.

• Compliance with UC Research policy.

Extramural proposals for research are subject to the UC Contracts and Grants manual and local campus policies. Such proposals are subject to approvals regarding availability of space, availability of other resources including a PI's time and use of other graduate students and Department staff. The contracts and grants offices and departmental business offices review proposed budgets for correct pricing as well as the terms and conditions in solicitations.

If and when a faculty member submits a proposal to a foundation or an individual donor for research funding, the local processes for review of research proposals is sometimes circumvented, as well as the application of University indirect cost to the budget.

There are UC research policies that are activated when there is an extramural transaction, that are not activated when there is a gift transaction. This should be avoided.

Tab 21. Documentation:

- See http://www.ucop.edu/research/policies/ucpols.html and hardcopy under this tab.

Does the policy in the OP Contract and Grant Manual 1-500 regarding eligibility of principle investigators to conduct a research project apply to faculty who receive research funding via a gift?

Tab 22. Documentation:

- Contract and Grant Manual Section 1-500

• Reporting of gifts, private grants, contracts to OP

Extramural awards (grants, cooperative agreements, interagency agreements, and contracts) are reported to UCOP RAO by campuses. The UC-wide data is incorporated
into the Corporate Contracts and Grants Information System, i.e. CGX. Private grants are included in the CGX as extramural awards, and are also reported to the Development office for their inclusion in their development data.

Tab 23. Documentation

- Contract and Grant Memo No. 01-04 Corporate Contract and Grant Information Requirements
- OP Development Manual, Requirements for Reporting Gifts
- UCSF Policies 450-12 Reporting of Gifts and Private Grants

- Fiduciary obligation to donors, compliance with terms of transactions and post award administration obligations:

Institutional gifts and extramural accounting, financial management, and administrative systems are designed to comply with the terms of their respective types of transactions. Extramural systems are designed to comply with contract (exchange transactions) and all of the attendant requirements. Gifts systems are designed to handle requirements appropriate to gifts, which often involves a pooling of donations in one fund. The issue of private grants, and research grants seems to fall in the gray area in between the two. The Regents are legally obligated to comply with the performance requirements in the transactions we accept on their behalf. When considering the classification of a transaction, we must take into account which infrastructure is more capable of fulfilling the post award performance obligations.

- Campus Policies

Every campus has local policies addressing the classification of gifts and grants. There may be examples of transactions that may be instructive to review to identify issues, or clear distinctions.

Documentation: Obtain copies of gifts/grants policies from all campuses, as well as invite campuses to submit examples of transactions that may be informative.

Tab 30. UCD

- Policy & Procedure Manual Section 260-15
- Request for OP guidance 10/11/2005
- SRA Presentation by Assoc. Vice Chancellor for Research, Gifts and Grants And Grey Areas

Tab 31. UCB

- Guidance on Defining and Distinguishing Between Research Gifts and Sponsored Projects May 5, 2006
- Campus Administrative Memos November 14, 2001, Compliance Policy for Research Gifts
- Research Gifts: Financial Disclosure, Conflict of Interest, and Compliance
- Gift Fees March 14, 2005
- Research Support Advisory Committee Meeting Summary – Industry Affiliate Agreements
- Conditions of Gift Award form letter

Tab 32. UCSF

- Development Manual, 450-10, Authority to Solicit Gifts and Private Grants
- Development Manual 450-11, Acceptance and Acknowledgement of Gifts and Private Grants

Tab 33. UCSC

- Reference UC Development Policy Manual

Tab 34. UCSB

- Research Circular No. D. 5, Policy on acceptance of private funds for research
- Research Circular B.1. Policy on principal Investigator roles and responsibilities and eligibility to serve as principal investigator

Tab 35. UCLA

- UCLA Policy 921: Accepting Support for Research from Nongovernmental Organizations
- Differentiating between Gifts and Grants, August 2005

Tab 36. UCI

- Chart differentiating Gift, Grant, Contract
- RAMP Training Module – Gifts, Grants or Whatever, with case studies, April 27, 2006

Tab 37. UCR

- Campus Policy No: 200-45 Extramural Fund Classification 12/1/03
- Gift Policy and Procedure Manual UCR

Tab 38. UCSD

- UCSD Policy & Prodecure Manual Section 150-35 Classification, Acceptance, and Administration of Awards from Private Sources
- Deferred Gifts
- Reporting of Gifts
- Gifts in Kind Policy for General Collections
- Administrative Fee on Gifts to UCSD and UCSD Foundation
- Acceptance and Administration of Awards from Private Sources PPM 150-35
  1/12/ 1983

**Tab. 39 UCM**

- **Policies of other Universities**

**Tab 40. Yale**

**Tab 41. Stanford**

**Tab 42. Harvard**

**Tab 43. SUNY**

**Tab 44. University of Wisconsin – Extramural Support Administration**

**Tab 45 University of Michigan – Processing Contracts and Contributions from Non-Governmental Sources**

- **UC liability to donors for tax classification of the donation**

Foundations are obligated by their tax exempt status under the IRC to use their funds for specified purposes. Individuals and commercial corporations are subject to IRC rules for claiming a tax deduction for charitable donations, or deductions for specified research tax credits.

The concern here is if a transaction is accepted by UC as a “gift” when it is actually an exchange transaction (extramural award), can UC’s act be viewed as fraud if the provider of the funds claims a tax exemption? Is UC liable at all for how a funder classifies its transaction on its tax return? This is one of the root concerns in the 1980 Saxon policy.

- **Oversimplification of the notions of grants, gifts, donors.**

One constraint in the gifts/grants discussions is the oversimplification of what people have in mind when they use the terms. There are many types of gifts, purposes, and purposes as there are types of extramural transactions. I believe it would be useful to benefit from past efforts to map out this diversity. I believe this is essential to the redesign of our UC infrastructure to appropriately manage this diversity. I believe this is a situation where one size does not fit all cases.
• Ask the Donors

It may be illuminating and informative to have some direct discussions with a sample of foundations, donors and other entities to learn how they view what they are doing and what the expect of UC. It could be another informative element in a new, more productive design.

• Architecture for a new policy?

A successor policy should contain an expanded list of criteria for the classification of gifts from extramural grants.

The criteria should include elements from:

1. IRC - Internal Revenue Code
2. Financial Management Standards
3. UC Infrastructure capabilities
4. Subjects/terms in the transaction
5. Donor or extramural relationship
6. Benefit – to UC or to donor, and the like.

There should be some guidance about donor and extramural relationships.

There should be some guidance in the form of matrixes about continuum topics like financial and technical reporting.

There should be guidance regarding indemnification and intellectual property.

There should be provision for an override of the criteria by upper management when the interests of the University in a donor relationship override the criteria.