General Criteria for Determining if a Contribution is a Gift

The following is a list of factors that will assist in determining if a contribution related to research is a gift (also called a donation, whether cash or in-kind). Please contact the Office of Gift Acceptance if you have further questions. The standard gift agreement template should be used for all gift agreements. Please contact the Office of Donor Relations for assistance with gift agreements. Any language that varies from the standard template language should be sent to the Dean’s Office, the Office of Donor Relations, and the Associate Vice President for Research Administration for early review.

A contribution is a gift if each item below applies:

- The donor receives no financial benefits, i.e., no goods or services expected, implied or provided, in exchange for the gift beyond the donor’s philanthropic interest.
- The donor letter that documents the provision of the gift may specify use in an area of research or education, general or specific. The donor may not prescribe specific methods, strategies, approaches, or workplans.
- No deliverables are required as a gift condition, though the donor’s general intent for how UMD should use the gift may be specified.
- The donor cannot impose restrictions on the University’s ability to publish scholarly works nor acquire any rights in the University’s publications. The donor may request acknowledgment in publications that result from the gift.
- The donor has no right to acquire an interest in the University’s intellectual property, or restrict the University’s right to use its intellectual property, including intellectual property developed as a result of the effort funded by the gift. Any conditions for the disposition of intellectual property (including open-source software or public dedication or a requirement to put materials in the public domain) must be approved by UM Ventures (formerly OTC) prior to gift acceptance. Please use this form to make the request.
- The donor cannot control how the University expends or otherwise uses the gift. The University, University of Maryland College Park Foundation, Department, Institute, or any named individual employed by the aforementioned organizations exercise control over how the gift is spent. Please note: Faculty/Staff who are signers on accounts cannot donate to the gift account.
- Donor preapprovals are only required when University requests to redirect funds to a purpose or intent other than stated in the current donor agreement.
- The University does not submit technical progress reports to the donor.
- There is no requirement for a line-item budget or expenditures. Financial reporting to the donor is limited to stewardship purposes only.
- No donor terms or conditions apply to the gift.
- The donor may not recoup the gift. (Only under certain circumstances)
- Any named gift fund requires a written gift agreement. All endowed funds require a written gift agreement.
agreement. For assistance with gift agreements, please call the Office of Donor Relations.

- The gift does not require the University to engage in preferential or discriminatory practices.

- The gift does not create a Conflict of Interest for the donor, or for the institution and/or its administrators or faculty. NOTE: A gift to an individual may constitute an individual Conflict of Interest, and the campus recipient of the gift must disclose such gift arrangement to the Conflict of Interest Office and receive approval to proceed prior to gift acceptance.

- The gift is not contingent on a specified financial commitment by the University. Any commitment of personnel or funds toward the objective of the gift is determined solely by the University. No post-acceptance donor notification, e.g., change of personnel, is required by the terms of the gift.

- The gift does not prohibit the University from disclosing the existence of the gift or the name of the donor to University leadership with stewardship responsibilities for gift/donation management (or as required by law). A donor may request to remain anonymous and the University will honor such a request as permitted by applicable law.

- The Donor is a US entity, or, if the donor is a non-US entity, the Export Compliance Office has screened the entity and provided written approval. To request a screening, contact export@umd.edu and provide the name of the entity for screening.

- If the gift may be used to support any research effort or provide equipment or space that may be used in support of other sponsored research, department research administrator or ORA contracts administrator has advised on whether the gift must be reported to the funding agency in proposals or post-award.

- Any relationship between the donor and the University personnel involved in activities supported by the gift has been reviewed by the COI committee chair. This may include research collaborations, co-authorship, employment, or equity stake in the donor or donor’s company.

Signatures required:

Individual:
Unit Head:
Dean’s Office:

Contact Information:
Gift Agreements:  Fulvio Cativo  301-405-5712
Gift Acceptance:  Emi Ayala  301-955-1275
Account Agreements:  Charlene Hudson  301-955-1270
Endowments:  Caroline Cohen  301-955-1269