



Office of Sponsored Projects & Industry Partnerships

LBL Gift Policy and Procedures

Office of Sponsored Projects & Industry Partnerships
One Cyclotron Road, MS971-SP Berkeley, CA 94720-8047 USA

July 26, 2011

Table of Contents

Overview	2
Summary of Gift Policies and Procedures.....	2
Is it a Gift or Sponsored Project?.....	3
Acknowledgment of Gifts.....	3
Functional Roles and Responsibilities	4
Instructions for PI and Division	6
Gift Acceptance Package (checklist):	6
Instructions for OSPIP	7
Gift Acceptance.....	7
GIFTS of \$100,000 or less.....	7
GIFTS over \$100,000 (UCOP approval required)	8
Gift Authorization	8
Instructions for Director	8
Gifts of \$100,000 or less.....	8
Gifts over \$100,000 (UCOP approval required)	8
Gift Accounting & Funds Control- Instructions for General Accounting & Budget Office ..	8

Overview

With the execution of [Contract DE-AC02--05CH11231](#), LBNL has identified gifts funds as a source of the institutional research and development funds under [Clause H.27, Contractor-Funded Institutional Supporting Research and Development Program](#).

The LBNL Gift Policy and Procedures implements LBNL [RPM §1.18 Solicitation and Acceptance of Gifts](#).

Summary of Gift Policies and Procedures

- All work shall be done on a non-interference basis with DOE directed work
- Funds expended shall be under the same terms and conditions as federally expended funds
- Property will vest in The Regents of the University of California, Lawrence Berkeley National Laboratory
- LBNL will not knowingly compete with the private sector
- LBNL will not use any funds to augment any federally funded research
- LBNL's Office of Sponsored Projects & Industry Partnerships will be responsible for ensuring the gift is not sponsored research
- DOE will review proposed gifts as indicated in the Implementation Plan under Contracts 31 Clause H.27.

Only the LBNL Director has been delegated the authority to solicit and accept gifts, including gifts of equipment, having an individual value not exceeding \$100,000, on behalf of The Regents of the University of California (The Regents). Solicitation or acceptance of individual gifts exceeding \$100,000 requires authorization from the University of California, Office of the President (UCOP). In addition, The Regents' authorization is required for solicitation or acceptance of any gift that exceeds \$1 million or involves exceptions to UCOP/LBNL programs and policies, long-term commitments, construction of facilities, or an interest in real property.

The Office of Sponsored Projects & Industry Partnerships (OSPIP) is designated as LBNL's Gift Office for gift policy, procedures, and gift acceptance. For policy and procedure questions or questions regarding the appropriateness of a gift proposal or a donor's terms, contact the Gift Coordinator at OSPIP at Gifts@lbl.gov or (510) 486-5845.

For further information regarding the University of California Gift Policies, refer to the University of California [Development Policy Manual](#).

The Regents of the University of California is the legal recipient of gifts for LBNL. All gifts to LBNL shall be accepted in the name and become the property of The Regents. Supplies and Equipment bought by gift funds are property of The Regents.

Is it a Gift or Sponsored Project?

LBNL OSPIP is responsible for classifying gifts and sponsored research according to these criteria. A gift is anything of assignable value that is voluntarily and legally transferred to the University's ownership and possession. A gift is a contribution to the University that is donative in intent, bestowed voluntarily and without expectation of tangible compensation, for which, in general, contractual or other requirements are not imposed. Gifts are awarded irrevocably. Gifts are not sponsored research.

A gift is given with charitable intent and without consideration (legal definition). As such, certain terms and conditions are inappropriate and will cause the transaction to be denied as a gift. Such unacceptable terms include a proposed commitment: 1) to provide employment for a named individual; 2) to produce deliverables; or 3) to perform testing of a donor's property. Other proposed gift restrictions must be reviewed by OSPIP and approved by the Director, utilizing the guidance provided in the University policy on distinguishing between a gift and a grant, issued by Memorandum from the President, dated July 8, 1980, subject: [Review of Gifts/Private Grants for Research](#).

Acknowledgment of Gifts

An acknowledgment of a gift is required (please see Gift Process below). A formal acknowledgment from the Director will be sent the donor upon official University acceptance of the gift and will include a description of the gift (cash amount, the mean selling price on the date of receipt for publicly traded securities, description of the property/equipment). The University does not provide a value for property gifts, rather, the value provided by a qualified appraiser or by the donor is used in the acknowledgment letter. For gifts of used equipment, the value should be the fair market value of the equipment on the date of gift, not on the date of manufacture. The IRS requires that the acknowledgment state that the donor has not received goods or services from the University in consideration of the gift.

Functional Roles and Responsibilities

- Director
 - Solicitation of Gifts (cannot be delegated)
 - Acceptance of Gifts (up to \$100K, over \$100K recommends to UCOP to accept gift)

- Division Director or Designee
 - Reviews and approves [Gift Acceptance Package](#) assuring the gift:
 1. is appropriate for the Laboratory,
 2. complies with the [RPM §1.18 Solicitation and Acceptance of Gifts](#), and
 3. is not sponsored research subject to DOE and LBNL WFO regulations.
 - Ensures that an EHS review has been completed for Equipment Gifts.

- Principal Investigator
 - Interfaces with Donor as appropriate and works with Division Administrative Staff and OSPIP to receive and accept gifts.
 - Reviews and approves [Gift Acceptance Package](#) assuring the gift:
 1. is appropriate for the Laboratory,
 2. complies with the [RPM §1.18 Solicitation and Acceptance of Gifts](#), and
 3. is not sponsored research subject to DOE and LBNL WFO regulations.

- Field Operations (Division Administrative Staff)
 - Works with PIs, Division Management and OSPIP in the Gift Acceptance Process.
 - Works with Division Management and LBNL COI Coordinator to resolve COI issues, if any.
 - Reminds PIs that the Division must obtain EHS review of Equipment Gifts.
 - Manages funds and costs to comply with funds control as outlined in the LBNL Gift Financial Policy.
 - Works with General Accounting and Budget Office to assure no costs are expended in excess of gift funds on hand.

- Office of Sponsored Projects & Industry Partnerships
 - Ensures that all gifts to LBNL are in compliance with IRS regulations, LBNL, DOE Contract 31, [RPM §1.18 Solicitation and Acceptance of Gifts](#), and UC Office of the President Policies and Procedures.
 - Works with DOE to maintain approval under Contract 31 Clause H.27, including obtaining prior approvals, transactional reviews and consent of certain gifts, as required.
 - Provides required reporting to DOE.
 - Provides Functional Guidance on LBNL Gift Acceptance Process and Authorization Process (includes updates to the [LBNL Gift Acceptance Policies and RPM §1.18 Solicitation and Acceptance of Gifts](#)).
 - Work with Divisions to compile the [Gift Acceptance Package](#).
 - Receives and Reviews [Gift Acceptance Package](#) from Division.
 - Completes [LBNL Gift Information for the Laboratory Director Acceptance](#) and forwards the Director's Gift Acceptance Package to Director's Office (gifts over \$100K then forwarded to UCOP).
 - Authorizes Gift Funding when Acceptance Process is completed.
 - Provides RAPID System Guidance on system data information to support process.

- Controller's Gift Financial Administration
 - Accounts Receivable sets Donor information (following the Customer Setup Process).
 - General Accounting performs accounting activity in support of gift spending:
 - Deposits check
 - Administers Reserve Account
 - Distributes interest
 - Assures adequate cash on hand for expenses
 - Reconciles to the STIP Account

- Budget Office
 - Designs and Implements the Gift Management Report and work with Field Operations to assure strict adherence to funds control and the Gift Financial Policies.
 - Opens up Gift Projects to accept costs.
 - Determines the associated burdens in the same manner as other components of the program (i.e. UCDRD).

- Financial Training and Policy
 - Writes and implements LBNL Gift Financial Policy.

Instructions for PI and Division

Typically, the Principal Investigator is contacted by a potential donor. We suggest providing potential donors with a copy of the “[Donor Instructions](#)” as a guide through the LBNL Gift Process. OSPIP is available to assist you in this process. Please contact OSPIP’s Gift Coordinator at Gifts@lbl.gov or (510) 486-5845 for assistance.

When a gift is made to LBNL a gift letter or deed of gift from the donor is required. Gifts should be made in the name of The Regents of the University of California, rather than LBNL, and in the donor’s letter identify LBNL as the entity for which the gift is intended. Under California law, gifts of community property require the consent of both spouses. A non-consenting spouse can revoke his or her community interest in such a gift. It is therefore in the best interests of The Regents to secure the signatures of both spouses for all significant gifts.

OSPIP will forward copies of donor letters received and provide information on gift checks received to the PI, Division Administrative Contact, and General Accounting. Please note, funds are not available for expenditure until the Gift Acceptance process is completed and OSPIP has authorized it. If a donor’s letter and/or check are sent directly to the PI or Division, please contact OSPIP (preferably on the same day the check is received) for instructions.

For Equipment and other Non-Monetary Gifts, the actual item cannot arrive at LBNL until after the Gift is accepted by the Director (or the University if the value is over \$100,000). An EHS review must be completed before arrival at LBNL. Please contact your EHS Division Liaison for assistance. Items must be delivered directly to the Shipping and Receiving Department and proceed through the same receipt and property procedures as other equipment received by LBNL.

Once the PI and Division have a copy of the donor letter and check information, complete the following and submit to OSPIP:

[Gift Acceptance Package](#) (checklist):

- [Sponsored Projects Proposal Form - Gifts](#) (SPPF generated from RAPID): Signed by PI and Division Director (or Designee). Please follow “[RAPID: Creating and Managing LBNL Gifts](#)” instructions.
- Donor Letter (copy) and any other correspondence about the Gift.
- [LBNL Gift Acceptance Report \(UDEV 100\)](#): The (UDEV 100) is the official internal record of acceptance of gifts from private sources to The Regents and is required by LBNL for every gift. The LBNL Gift Acceptance Form must be signed by the Division Director or Designee as a demonstration that the Gift has been reviewed and the Division Director recommends to the Lab Director that the Gift should be accepted.
- [Conflict of Interest of Form \(700U\)](#) and [Addendum](#) (if applicable): The Conflict the Interest (700U) is required if the donor is not on the [UCOP Exempt Sponsors for COI Disclosure](#). The [Addendum](#) is required for positive disclosure. *NOTE*: send only a copy of the 700U form to OSPIP. Do **NOT** send a copy of the Addendum to OSPIP. Originals of both the 700U and Addendum should be sent to RIIO
- LBNL NEPA/CEQA Form (generated from RAPID): This form is required to assure that purpose of the gift is covered by LBNL’s environmental documentation. Copy to OSPIP original to EHS.
- EQUIPMENT GIFTS. For Equipment Gifts, the Division must complete an EHS review to ensure the Equipment is safe and contains no hazardous material. Evidence of EHS review must be provided to OSPIP.

After all forms are assembled and data entered, the Gift Acceptance Package should be reviewed and approved by the PI and Division Director and forwarded to OSPIP Gift Coordinator Mail Stop 971-SP.

Instructions for OSPIP

Gift Acceptance

All gifts received at LBNL will be forwarded to OSPIP for review and classification as a gift or sponsored research. OSPIP will review donor letters for appropriateness. OSPIP, consistent with the donor's letter, will determine, to the extent possible, if it is a new gift or whether the gift is part of a current fund. If the donor's letter has terms and conditions that warrant a review to see if it is sponsored research, OSPIP will work with the PI and Division contact in the course of making the determination.

OSPIP will work with DOE to obtain prior approvals, transactional reviews and consent of certain gifts, as required.

OSPIP will send a copy of the donor's letter and information pertaining to the check or wire to the PI and Division Administrative Contact. OSPIP will record-in any checks it receives, and send the check to General Accounting for deposit with memo instructions. To protect personal information, OSPIP will not send out electronic (scanned) copies of checks. General Accounting will identify the donor's wire transfer or check (not received initially by OSPIP) and send notification to OSPIP.

Once the Division's Gift Acceptance Package has been received by OSPIP, it will be reviewed for completeness along with the RAPID data entry. OSPIP will ensure the Division has provided evidence of EHS review of Equipment Gift and ensure the COI official has approved acceptance of gift when a positive COI disclosure is submitted by the PI. If approvals and documents are in order, OSPIP will assemble and submit the Director's Gift Acceptance Package:

- [OSPIP Transmittal Memo to Director's Office](#)
- [LBNL Gift Information for the Laboratory Director Acceptance](#)
- Donor Letter (Copy) and any other correspondence about the Gift
- [LBNL Gift Acceptance Form \(UDEV 100\)](#), signed by the Division Director or Designee

GIFTS of \$100,000 or less

If accepted by the Director, OSPIP will then forward the original Acknowledgement Letter to the donor, begin the Gift Authorization process, and send the OSPIP Transmittal [email](#) to UCOP's Development Office with scanned copies of the following to UCOP's Development Office for their information:

- Donor Letter (Copy)
- [LBNL Gift Acceptance Form \(UDEV 100\)](#), signed by the Lab Director and Division Director or Designee (include on copy: "Account# GIFTXXXXXXXXX")
- LBNL Director's Acknowledgement Letter

GIFTS over \$100,000 (UCOP approval required)

If accepted by the Director, OSPIP will send an [email](#) to UCOP with the same package indicated above for Gifts of \$100K or less to UCOP's Development Office for gift acceptance. UCOP will accept the gift by signing the UDEV 100 and return it to OSPIP. OSPIP will then forward the original Acknowledgement Letter to the donor and begin the Gift Authorization process.

OSPIP is the office of record for the original Donor Letter and the [LBNL Gift Acceptance Form \(UDEV 100\)](#).

Gift Authorization

Monetary gift: OSPIP will follow the RAPID guidance for generating an award to "generate" a gift for authorization. The LBNL Gift Number will consist of: GIFT and the proposal number (i.e. GIFTXXXXXX). A SPAA will be printed from RAPID for the authorization and forwarded to the PI, Division Administrative Contact, Accounts Receivable, General Accounting, and the Budget Office. The SPAA package includes:

- SPAA (Sponsored Projects Award Authorization)
- [LBNL Gift Acceptance Form \(UDEV 100\)](#), with all required signatures
- LBNL Director's Acknowledgement Letter
- Donor Letter

Equipment or non-monetary gift: OSPIP sends an [Equipment Gift Memo](#) to Property Management with copies to the PI and Division Administrative Contact informing them that the gift has been accepted and the equipment can now be received and placed into LBNL's property system.

Instructions for Director

Gifts of \$100,000 or less

OSPIP will forward the [Director's Gift Acceptance Package](#) to the Director's Office. The Director will accept the gift by signing the [LBNL Gift Acceptance Form \(UDEV 100\)](#) and preparing the Acknowledgement Letter. The package (with original signatures and original Acknowledgement Letter) will be returned to OSPIP for completion of gift processing.

Gifts over \$100,000 (UCOP approval required)

OSPIP will forward the [Director's Gift Acceptance Package](#) to the Director's Office. The Director will recommend acceptance of the gift by signing the [LBNL Gift Acceptance Form \(UDEV 100\)](#) and preparing the Acknowledgement Letter. The package (with original signatures and original Acknowledgement Letter) will be returned to OSPIP. OSPIP will forward the Gift Acceptance Package to UCOP (as described above in "Instructions for OSPIP").

Gift Accounting & Funds Control- Instructions for General Accounting & Budget Office

No gift is available to spend until after the Gift has been authorized by OSPIP. Costs can never exceed the funds on hand. Please consult the [LBNL Gift Financial Policy](#) for the complete policy, process and procedures for instructions.