



# TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

## Operating Policy and Procedure

**HSCEP OP:** 02.03, **Acceptance of Gifts and Grants from Private Philanthropic Sources**

**PURPOSE:** The purpose of this Texas Tech University Health Sciences Center El Paso (TTUHSC El Paso) Operating Policy and Procedure (HSCEP OP) is to set forth policies and procedures related to acceptance of all gifts, donations, and non- contractual grants from private philanthropic sources (i.e., individuals, foundations, and corporations).

**REVIEW:** This HSCEP OP will be reviewed on April 1 of each even-numbered year (ENY) by the vice president for Institutional Advancement (VPIA). Changes regarding financial procedures will be made with the concurrence of the chief financial officer (CFO) or designee (CFO).

### **POLICY/PROCEDURE:**

- I. **General** To promote and protect the interests of TTUHSC El Paso and Texas Tech Foundation, Inc. (TTFI), as well as the persons and other entities who support their programs, these policies are designed to assure that all gifts to or for the use of TTUHSC El Paso and TTFI provide maximum benefits to all parties. It is the goal of TTUHSC El Paso and TTFI to encourage funding of TTUHSC El Paso without encumbering the institution with gifts which may generate more costs than benefits, or which are restricted in a manner which is not in keeping with the mission of the institution.

To optimize funding from individuals and other entities, TTUHSC El Paso and TTFI should respond quickly, and in the affirmative when possible, to gifts offered by prospective donors. Except where stated otherwise, these policies are intended as guidelines. Flexibility will be maintained since some gift situations will be complex and decisions can be made only after careful consideration of all related factors. Thus, these policies sometimes will require that the merits of a particular gift be considered by the Board of Regents of Texas Tech University (TTU) System and/or the TTFI Board of Directors, along with legal counsel, if necessary.

- II. **Outright Gifts** To qualify as an outright gift, the donor must irrevocably transfer ownership and implicit control over the use of the gift.

#### A. **Cash**

- 1) Gifts in the form of cash and checks shall be accepted regardless of the amount unless, as in the case of all gifts, there is a question as to whether the donor has sufficient title to the assets or is mentally competent to legally transfer the funds as a gift to TTUHSC El Paso or TTFI.
- 2) All checks should be made payable to "Texas Tech Foundation, Inc." Checks should never be made payable to an employee, agent, or volunteer for the credit of TTUHSC El Paso or TTFI.

#### B. **Securities**

- 1) **Publicly Traded**
  - (a) Securities that are traded on the New York, NASDAQ, or American stock exchanges, or other readily marketable securities, shall be

accepted by TTFI. Such securities shall be sold immediately upon receipt by TTFI, unless a compelling reason, such as direction of the donor, exists for holding the securities. Staff shall communicate this policy prior to acceptance of such gifts.

- (b) If the donor wishes for the stock to be held rather than sold, the donor should make this request in writing directed to the Office of Institutional Advancement and it must be approved by the VPIA.

## 2) **Closely Held**

- (a) The stock subject to these considerations is stock in companies that are of a size such that they are not required to register with the Securities and Exchange Commission (fewer than 35 shareholders). These are generally small family companies.
- (b) The development officer must determine if there are restrictions on transfer contained in the bylaws and/or reflected on the stock certificate, and must inspect the certificate for transfer restrictions upon receipt of the certificate.
- (c) Prior to acceptance of the gift, the development officer must request a copy of the company's most recent audited financial statement or financial appraisal. The development officer should explain that this information will be used only to reasonably value the stock for purposes of recording the gift and its sale.
- (d) Since the primary market for this type of stock is often the company itself or the other stockholders, the development officer should determine the intent of these parties. It should be made clear to the donor and other interested parties that the primary intent of the foundation is to sell the stock, and every effort will be made to accomplish this objective. It should also be made clear to the donor that the foundation has the right to sell a gift of stock to any buyer at any time in order to protect the interests of the foundation.
- (e) Before acceptance, the development officer should provide the information obtained to the treasurer of the foundation and inform the prospective donor that it will be reviewed by staff and an answer provided on a timely basis. If there is any question about donor intent or financial solvency, the prospective gift and circumstances will be brought to the attention of the chief operating officer or CFO for further consideration.
- (f) If the value of the gift is more than \$500, an Internal Revenue Service Form 8283 should be filed by the donor. If the claimed amount is more than \$10,000, the donor is required to secure a formal appraisal. The appraiser and the foundation will be required to sign the form 8283. If the Foundation signs the form 8283 and sells the stock within two years of acceptance of the gift, the foundation is required to file form 8282 with the Internal Revenue Service, reporting the net proceeds from the sale.
- (g) The foundation will communicate with the company periodically, at least annually, requesting financial information and other pertinent data as appropriate, while advising the company that the stock is for sale and asking for assistance in locating interested buyers.

C. **Real Property**

1) **Conditions of Acceptance**

- (a) If the real property is to be sold, it should be given to TTFI. If the real property is not to be sold, it should be given to TTUHSC El Paso.
- (b) No working interests, nor any other property deemed inappropriate by TTUHSC El Paso or TTFI in their sole discretion, will be accepted. This exclusion includes both inter vivos and testamentary gifts.
- (c) The donor must provide an acceptable policy of title insurance or an acceptable title opinion drawn by an attorney.
- (d) If staff determines that circumstances surrounding the property warrant an environmental audit, the donor must provide an environmental audit for hazardous waste.
- (e) If staff determines that circumstances surrounding the property warrant a survey of the property, the donor must provide an updated survey of the real property.
- (f) The donor must provide a general warranty deed by which the real property is to be conveyed.
- (g) No liens or unpaid taxes may exist on the property.
- (h) Neither TTUHSC El Paso nor TTFI shall be made liable for any fees or assessments on the property.
- (i) The donor shall provide a fair market value appraisal by a qualified appraiser, or if such an appraisal is not provided, the property shall be valued based upon the taxing authority appraised valuation.
- (j) Real property appraised for less than \$50,000 shall not be accepted.

2) **Procedure for Acceptance** Official approval must be obtained before a gift receipt may be issued for the property. In order to obtain official approval, the following steps must be followed:

- (a) Initiate a *Gifts-in-Kind (GIK) Information Form* (Attachment A) through administrative channels to the Office of Institutional Advancement via the faculty member, staff member, administrative head or dean. A third-party independent appraisal of the gift secured and paid for by the donor must be attached to the information form. Employees of either TTU or TTUHSC El Paso cannot appraise the gift, nor can TTU or TTUHSC El Paso funds be used to pay for the appraisal.
- (b) The VPIA will review and approve the proposed gift. The VPIA will forward the GIK form to the CFO or designee for approval/disapproval. The CFO will forward the form to the president for approval/disapproval, and then the form will be sent back to the VPIA. The VPIA will seek Board of Regents approval of the gift. After receiving all approvals on the gift, the Office of Institutional Advancement will acknowledge the gift to the donor. No recitation of valuation will be made in the

acknowledgment letter.

- (c) If the decision to accept real property is approved, the VPIA and General Counsel will be consulted regarding required documentation. A copy of the *Gifts-in-Kind Information Form* (Attachment A) will be forwarded to the CFO for appropriate accounting entries.
- (d) Gifts of real property to TTFI must be approved only by the Board of Directors of TTFI.
- (e) **Internal Revenue Service Reports.**
  - (i) Any forms, including but not limited to IRS form 8283, required by the Internal Revenue Service by either TTUHSC El Paso or TTFI as charitable donee of real property must be forwarded to the VPIA for appropriate signature and processing.
  - (ii) If donated real property is to be sold within three years of acquisition by TTUHSC El Paso or TTFI, the person responsible for the sale must notify the VPIA of such sale, including the amount received at sale. The VPIA will file the appropriate Internal Revenue Service Form 8282 as required.

**D. Personal Property**

- 1) If the personal property is to be sold, the property should be donated to TTFI. If the personal property is not to be sold, it should be donated to TTUHSC El Paso.
- 2) **Procedure for Acceptance.** Official approval must be obtained before a gift receipt may be issued for the property. In order to obtain official approval, the following steps must be followed:
  - (a) Initiate a *Gifts-in-Kind Information Form* (Attachment A) through administrative channels to the Office of Institutional Advancement via the faculty member, staff member, student or student organization's administrative head or dean. A third-party independent appraisal of the gift secured and paid for by the donor must be attached to the information form. Employees of neither TTU nor TTUHSC El Paso can appraise the gift. TTU and/or TTUHSC El Paso funds cannot be used to pay for the appraisal. For new equipment, a fair market value price of the item may be provided by the manufacturer in lieu of an appraisal.
  - (b) The VPIA will review and approve the proposed gift. The VPIA will forward the information form to the CFO for review. The CFO will return the information form to the VPIA after either approving or disapproving the acceptance of the gift. The VPIA will seek Board of Regents approval of the gift if the gift has been appraised for \$250,000 or more. After receiving all approvals on the gift, the Office of Institutional Advancement will acknowledge the gift to the donor. No recitation of valuation will be made in the acknowledgment letter.
  - (c) The assistant vice president for Physical Plant and Support Services (AVPPPSS) will review the gift to determine whether further assessment is required regarding gifts involving hazardous materials and/or equipment installation.

- (i) Gifts that involve chemicals and/or equipment producing or containing hazardous materials must have prior approval from and coordination with the TTUHSC El Paso Department of Safety Services. Safety Services will provide the requesting department with guidelines for accepting donations involving hazardous materials and an estimated cost of ultimate disposal.
  - (ii) Equipment donations requiring installation, utility service connections (gas, water, electric, etc.), and/or environmental temperature conditions require coordination with the Physical Plant. Submit a *New Construction Request Form* indicating requirement and equipment specifications to Physical Plant for engineering and cost estimates. The department accepting the donation will be responsible for funding costs associated with installation and disposal.
- (d) Upon coordination with Safety Services and Physical Plant, the AVPPPSS will approve or disapprove the acceptance of the gift and return the information form to the VPIA. The Office of Institutional Advancement will notify the originator of the form through the appropriate administrative head that approval or disapproval of the gift acceptance has occurred.
- (e) If approval to accept personal property is granted, a copy of the *Gifts-in-Kind Information Form* (Attachment A) will be forwarded to the CFO for appropriate accounting entries.
- (f) Gifts of personal property with a value of \$50,000 or more to TTFI must be approved only by the Board of Directors of TTFI.
- (g) **Internal Revenue Service Reports**
- (i) Any forms, including but not limited to Internal Revenue Service form 8283, required by the Internal Revenue Service by either TTUHSC El Paso or TTFI as charitable donee of real property must be forwarded to the VPIA for appropriate signature and processing.
  - (ii) If donated real property is to be sold within 3 years of acquisition by TTUHSC El Paso or TTFI, the person responsible for the sale must notify the VPIA of such sale, including the amount received at sale. The VPIA will file the appropriate Internal Revenue Service form 8282 as required.

E. **Library Gifts.** Unrestricted gifts of books, collections, and other library materials (not including equipment) valued at less than \$50,000 donated to the TTUHSC El Paso library(ies) will not require the usual approval process as set forth in these operating policies. These gifts will be handled in the following manner:

- 1) The donor will be provided with a copy of *Doris F. Eisenberg and Delia-Montes Gallo Libraries of the Health Sciences Gift Information for Prospective Donors* (Attachment B).
- 2) The final decision on acceptance of such gifts lies with the director of the library and the president of TTUHSCPEP.

- 3) The director of the library will write a letter of appreciation to the donor with a copy to the VPIA. Information forwarded to the PCIA will include the following: (i) full name of donor; (ii) a concise description of the gift; (iii) anticipated benefit to TTUHSC El Paso; (iv) expenses connected to the gift; and (v) TTUHSC El Paso contract.
- 4) If the gift of library materials is valued at \$50,000 or more, or if there are restrictions on the gift (outside the bounds of accepted archival practice) by a potential donor, the director of the library must follow the approval process for other gifts of personal property.

- F. **Vehicles** All motor vehicles to be donated to TTUHSC El Paso are subject to the standards and procedures outlined in HSCEP OP 63.03 on Vehicle Fleet Management Program, and must receive the approval of the Vehicle Fleet manager. Color requirements, alternative fuel program and vehicle use reporting are also applicable.

Donated vehicles may not be replaced without approval of the state Office of Vehicle Fleet Management.

- G. **Computing Donations** Gifts of software and hardware are accepted for academic and research purposes only. Educational discounts are not considered gifts to the institution.

All qualified computing donations donated to TTUHSC El Paso are subject to the approval of the associate vice president for Information Technology.

### III. **Deferred Gifts**

#### A. **Bequests**

- 1) If approached by the attorney or other representative of a person intending to leave a bequest to TTUHSC El Paso or TTFI, all efforts should be used to ascertain the name of the donor, and all other relevant details of the bequest, while also recognizing the confidentiality, if applicable, that exists between the donor and representative.
- 2) When approached by the donor or representative intending to leave a bequest to TTUHSC El Paso or TTFI, the donor should be informed that the bequest will be officially accepted at the donor's death only in accordance with the terms of paragraphs 2.a. through 2.g. above.
- 3) If notified during the lifetime of the donor about a bequest that does not comply with the provisions of paragraphs 2.a. through 2.g. above, the donor should be informed of the likelihood that the bequest will not be accepted upon the death of the donor unless action is taken to bring the bequest into conformity with these policies. If notified of a bequest that does not comply with the acceptance policies of TTUHSC El Paso and TTFI, upon the death of the donor, the bequest shall be disclaimed. Legal counsel shall expeditiously communicate the decision of TTUHSC El Paso or TTFI to the legal representatives of the estate.

#### B. **Charitable Trusts**

- 1) Attempts should be made to discover all charitable trusts of which TTUHSC El Paso or TTFI is a beneficiary and for which TTFI does not serve as trustee.
- 2) TTFI may elect to serve as trustee of charitable remainder trusts which benefit

TTFI if the trusts conform to the policies and procedures adopted by TTFI. Such selected trusts will be managed by a manager from outside TTUHSC El Paso that will be engaged to provide the appropriate services necessary to manage and report on the trusts.

- 3) Unless otherwise approved by the TTFI Board of Directors, charitable trusts for which TTFI serves as trustee must comply with the following requirements:
  - (a) The value of the initial corpus of each trust must be no less than \$50,000, or the donor must agree in writing to bring the corpus of the trust to a minimum of \$50,000 within three years from the date of the donation.
  - (b) With regard to charitable remainder trusts, TTFI must receive 100% of the remaining corpus of the trust upon its termination.
  - (c) Any gift in trust to TTFI must comply with the existing gift acceptance policies of TTFI.
  - (d) All trusts must use a standard written trust agreement appropriate to the gift approved by the TTFI Board of Directors.

**C. Charitable Gift Annuities**

- 1) TTFI has established a gift annuity program and will accept and establish gift annuities and deferred gift annuities that benefit TTFI, provided they comply with the policies of TTFI on gift annuities.
- 2) All gift annuities and deferred gift annuities will be managed by a manager from outside TTUHSC El Paso and engaged to provide the appropriate services necessary to manage and report on gift annuities.
- 3) Without prior approval of the treasurer of TTFI, no gift annuity shall be accepted which names an income beneficiary under 60 years of age.
- 4) Deferred gift annuities shall be accepted from donors under 60 years of age if income is not payable until the donor reaches the age of 60 years or after.
- 5) There shall be no more than two income beneficiaries for a gift annuity.
- 6) The minimum initial contribution for a gift annuity shall be \$10,000.
- 7) The minimum contribution for an additional gift annuity by an individual who has previously established a gift annuity shall be \$2,500.
- 8) TTFI will use those gift annuity rates recommended by the American Council on Gift Annuities as a guideline in establishing rates for gift annuities, with a maximum rate at the rate recommended for a single-life annuity at age seventy-five.

**D. Remainder Interests**

- 1) Gifts in which the donor retains a life interest in real property may be accepted if approved by the TTFI Board of Directors or the TTU System Board of Regents, if applicable.

- 2) The subject real property should constitute a minor portion of the donor's estate, and the donor should receive full disclosure of the possible future ramifications of the transaction.

#### E. Life Insurance

##### 1) General

- (a) Donors are encouraged to transfer to TTFI ownership of life insurance policies donors own and for which all premiums have been paid, with no further payment due.
- (b) No insurance products may be endorsed for use in funding gifts to TTFI without appropriate approval of the TTFI Board of Directors.
- (c) The names of donors to TTFI and TTUHSC El Paso will not be furnished to anyone for the purpose of marketing life insurance benefiting TTFI or TTUHSC El Paso as this practice constitutes a potential conflict of interest and may be construed as involvement in the marketing of life insurance.

##### 2) Whole Life and Variable Life Insurance Policies

- (a) TTFI will accept ownership of whole life insurance policies owned by donors that are considered paid-up policies.
- (b) When ownership of a whole life insurance policy has been transferred to TTFI, notice of future premium payments will be sent to the donor of the policy. The donor should make all future premium payments through the Office of Institutional Advancement, after which time the donor will then receive an official gift receipt for the amount of such premium payment.

- 3) **Term Life Insurance Policies.** Donors may make TTFI the beneficiary of term life insurance policies, but term life policies may not be transferred, nor accepted, by TTFI.

#### IV. Gift Exclusions

The following list delineates types of transactions not classified as gifts:

- **Advertising Revenue:** The Internal Revenue Service defines advertising as qualitative or competitive pricing or product information displayed because of a donation, or any form of endorsement on the part of the host organization.
- **Alumni Membership Fees/Dues:** While the IRS may suggest that certain amounts paid as alumni dues constitute a legal gift, for these standards they are always excluded. The terms *alumni dues* and *membership fee* imply a perceived benefit to the donor of equal or greater value. Therefore, alumni dues, as such, are excluded from official fundraising totals. However, if an amount is paid over and above the assessed alumni dues amount in conjunction with that dues payment and that additional amount is applied toward philanthropic endeavors, those additional funds are counted as a gift.
- **Appraisal Costs**
- **Contract Revenues**, including clinical trial funds.



- **Contributed Services**, FASB and GASB recognize certain contributions of professional services as assets to an institution, which are therefore entered as such on the accounting books of the institution. However, contributions of said services are not charitable contributions in the eyes of the Internal Revenue Service and are excluded from CASE (Council for Advancement and Support of Education) and CAE (Council for Aid to Education) reporting.
- **Discounts on Purchases**, such as the common practice of offering education discounts, but not to be confused with “bargain sales” which are countable gifts.
- **Earned Income**, including transfer payments from medical practice plans or other campaigns, even if realized during the campaign reporting period.
- **Expenses** associated with transferring a gift to an institution.
- **Gifts or Pledges**, outright and deferred, that already have been counted in previous campaigns, even if realized during the campaign reporting period.
- **Gifts to Social Organizations** such as sororities and fraternities, even if the organizations are affiliated with the institution.
- **Government Funds**, whether local, state (including state matching grants), federal, or foreign. This includes distributions from Indian Tribal Governments, including payments from Indian Tribal Enterprises acting as conduits for those governments; distributions from these entities should be treated similarly to transactions from state governments. This exclusion also applies to contributions from cities or regional governments, even though those entities may be incorporated. While the Canadian Council for the Advancement of Education (CCAEE) reporting standards for annual campaigns do permit limited counting of certain gifts from city, municipal, and regional governments, for consistency and comparison purposes they are excluded from reports to CASE and CAE.
- **Investment Earnings on Gifts**, even if accrued during the fundraising reporting year and even if required within the terms specified by the donor. The only exception permitted is interest accumulations counted in guaranteed investment instruments that mature within the reporting year, such as zero-coupon bonds.
- **Monies Received as a Result of Exclusive Vendor Relationship**, such as “pouring rights” agreements.
- **Non-gift Portions of Quid Pro Quo Transactions.**
- **Proceeds from Sale of Merchandise**, unless the merchandise is sold as part of a fundraising program and the charitable portion of the transaction is clearly identified.
- **Royalties** from affinity agreements.
- **Sales Tax** on the purchase of goods.
- **Surplus Income** transfers from ticket-based operations, except for any amount equal to that permitted as a charitable deduction by the Internal Revenue Service when identified to donors as a gift in advance of their ticket purchase.
- **Tickets Purchased** at fair market (face) value.
- **Tuition Payments.**

As proscribed by the *Council for Advancement and Support of Education Reporting Standards & Management Guidelines for Educational Fundraising*– 4<sup>th</sup> Edition, 2010