

Texas Woman's University University Regulation and Procedure

Regulation and Procedure Name: Acceptance of Gifts and Grants from Private Sources

Regulation and Procedure Number: URP: 03.200

Policy Owner: University Advancement

POLICY STATEMENT

The purpose of this policy is to establish policies and procedures related to acceptance of all gifts, donations, and non-contractual grants from private philanthropic sources: e.g., individuals, foundations, and corporations to Texas Woman's University ("TWU" or "University").

The TWU Board of Regents recognizes the TWU Foundation and its mission to accept and manage gifts to benefit TWU.

APPLICABILITY

This policy is applicable to TWU Students, Faculty, and Staff

DEFINITIONS

1. "Faculty" means an individual who is employed by TWU as a member of the faculty and whose duties include teaching, research, service, and administration. Professional librarians and graduate assistant titles are excluded from the definition of faculty.
2. "Staff" means each classified, administrative, and professional employee who is appointed to work in a regular full time or regular part time position, excluding students employed in positions for which student status is required as a condition of employment and those employees holding teaching and/or research positions classified as faculty.
3. "Student" means an individual who has applied for admission or readmission to the University, who is registered or enrolled in one or more courses for credit at the University, or who currently is not enrolled but has a continuing academic relationship with the University.

REGULATION AND PROCEDURE

I. General

- A. The Chancellor and President of TWU, or their designee, will make the final determination to accept or reject any gift, donation, and non-contractual grant from private philanthropic sources.
- B. Private sector support is critical to TWU. Contributions from individuals, foundations, corporations, and other entities are vitally important to the fulfillment of the university's mission and to the provision of high-quality educational opportunities. The purpose of these policies and procedures is to clarify and facilitate the process for making gifts to the Texas Woman's University Foundation ("TWUF") for the benefit of TWU.
- C. In addition, these procedures are designed to outline administrative processes associated with the acceptance, administration, and investment of gifts processed or administered by the Office of University Advancement ("OUA") in a prudent and efficient fiduciary manner. These procedures are also intended to ensure that staff members can function in a timely, effective, and professional manner and are engaged in comprehensive fundraising efforts. When these procedures do not indicate an appropriate course of action or if an exception may apply in a special circumstance, staff members are directed to consult with the relevant offices as outlined in these procedures to determine an appropriate course of action.

II. Responsibility to Donors

- A. OUA staff should make reasonable efforts to be aware of and sensitive to donors' expectations.
- B. OUA staff will not provide legal counsel or tax advice and will advise all prospective donors in writing to seek such advice from their own counsel and professional consultants. Each TWU representative should be knowledgeable about gifts and should disclose to the donor advantages and disadvantages that could reasonably be expected to influence the decision of the donor to make a gift to the TWUF. In particular, planned gifts that may have adverse tax implications to the donor or are subject to variability (such as market value and income payments) should be discussed fully.
- C. The OUA and TWUF will not knowingly accept a gift that it believes to be contrary to the donor's best interests, and there must be a reasonable expectation that accepting the gift will ultimately benefit TWU.
- D. The OUA or TWUF will not furnish property appraisals or valuations to donors for tax purposes or any other purpose. The TWUF will not knowingly

participate in a transaction in which the value of a gift is inflated above its true fair market value to obtain a tax advantage for a donor.

- E. In accordance with best stewardship practices and the provisions of the Internal Revenue Code of 1986, as amended and related regulations, OUA will provide a timely written statement or acknowledgment of a donor's contribution that includes the university's name; amount of cash contribution or description (but not value) of non-cash contribution; and a statement that no goods or services were provided by the institution in return for the contribution (if that was the case) or description and good faith estimate of the value of goods or services, if any, the institution provided in return for the contribution.
- F. Appropriate gift records are maintained and required tax returns are filed by the TWUF for all gifts processed and/or administered by the OUA. The Vice President for University Advancement ("VPUA") or the VPUA designee(s) shall execute all necessary Internal Revenue Service ("IRS") forms that relate to gifts processed or administered by the OUA, including IRS Forms 8283 and 8282.
- G. TWU and OUA staff will adhere to strict confidentiality regarding any information, records, and personal documents pertaining to donors and gifts. A gift record will be released only when authorized by the donor or as required by law. Under Texas Government Code Section 552.1235, TWU may be required to release information pertaining to gifts and grants. Names of donors (other than donors that are governmental bodies) are not subject to disclosure and will be kept confidential under Texas Government Code Section 552.1235 as applicable.
- H. TWU and the TWUF shall respect the wishes of donors who choose to support the university anonymously and will take reasonable steps to safeguard the donors' identities.
- I. TWU and the TWUF are required to submit reporting on foreign gifts and contracts to the United States Department of Education under Section 117, Higher Education Act of 1965. Gifts and contracts from any single source (individual foreign citizens, companies, governments, etc., not the aggregate from a country) exceeding \$250,000 must be reported to the Department of Education semi-annually on January 31st and July 31st. When TWU is required to submit these reports to the Department of Education, the reports must also be submitted to the Higher Education Coordinating Board at the same time.

- J. Employees are required to report being offered a gift from a foreign source of a foreign adversary as well as any other violations of these requirements, per [URP 01.210](#).

III. Review and Acceptance of Proposed Gifts

- A. Prior to acceptance, all gifts will be evaluated for the following:

1. Determine how the gift may impact the image of TWU.
2. Determine if TWU can administer a restriction imposed upon the gift by the donor, if any.
3. Determine if the gift is directly or indirectly offered from a foreign source of a foreign adversary. TWU may not accept these gifts.
4. If the gift is a non-cash asset, evaluate the following potential risks:
 - a. Economic risks and future potential liabilities to TWU to own the asset.
 - b. TWU's capacity and expertise to administer, maintain, and protect the asset.
 - c. Costs to maintain and administer the asset.
 - d. Disposition of the asset.
 - e. Determine if gift has an ascertainable value.

- B. The TWU Board of Regents recognizes the TWUF and its mission to accept and manage gifts on behalf of TWU. All funds or gifts accruing to or received by the TWUF, whether solicited or unsolicited, are for the use and benefit of TWU and are held in accordance with the intent of the donor. The TWUF, through the OUA, has the authority to receive, hold, and administer all private donations to the university, as chartered by the State of Texas, and described in a Memorandum of Understanding between TWU and the TWUF.

- C. The OUA will ensure all gift receipts are handled in accordance with the receipt procedures as directed by the university, OUA, and the TWUF.

- D. The OUA will review unusual gifts to determine whether they should be accepted, including consideration of any required cash expenses, liabilities, contingent liabilities, unrelated business income taxes, donor requirements that may result in risk of loss, and other sources of funds available to cover expenses and liabilities.
 - 1. This review process shall determine whether the economic risks are appropriate prior to acceptance of the gift.
 - 2. Examples of assets requiring review include limited partnership interests, stock of closely held corporations, and stock of S Corporations, stock options, warrants, and intellectual property.
- E. Assets to be processed or administered by OUA that create potential unrelated business income tax liability must be reviewed by the Senior Vice President of Finance and Administration (“SVPFA”) in conjunction with the TWU Foundation Board of Directors for expense implications and by the Office of General Counsel (“OGC”) for legal implications.

IV. Real Property

Gifts of real property must meet the following conditions of acceptance:

- A. Donations of real property should be made to the TWUF with the intent to sell the property in a reasonable amount of time.
- B. No working interests will be accepted.
- C. The donor must provide an acceptable title insurance policy, or an acceptable title opinion provided by an attorney.
- D. If OUA or Office of Finance and Administration (“OFA”) staff determines that circumstances surrounding the property warrant an environmental audit, the donor must provide an environmental audit for hazardous waste.
- E. If OUA or OFA 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 TWU nor TWUF 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 will not be accepted.
- K. Gifts of Real Property: Procedures for Acceptance Official approval must be obtained before a gift receipt may be issued for the property.
 - 1. Initiate a Gift-in-Kind Information Form through OUA. A third-party, independent appraisal of the property must be attached to or included with the form. Employees of TWU cannot appraise the property, nor can TWU funds or TWUF funds be used to pay for the appraisal.
 - 2. The VPUA will review and approve the proposed gift. The VPUA will forward the form to the SVPFA for review. The SVPFA will return the form to the VPUA after either approving or disapproving the acceptance of the gift. The VPUA will seek approval from the TWUF Board of Directors. After receiving all approvals, the OUA will acknowledge acceptance of the gift to the donor.
 - 3. If approval to accept real property is granted, OGC will be consulted regarding any additional required documentation.
 - 4. Any forms required by the IRS by the TWUF as the charitable donee of real property must be forwarded to the VPUA for appropriate signatures and processing. This includes IRS Form 8283.
 - 5. If any real property is sold within two years of acquisition by the TWUF, the TWU employee responsible for the transaction must notify the VPUA of such sale, including the amount received at sale. The VPUA will file the appropriate IRS Form 8282 as required.

V. Gifts of Personal Property

- A. All personal property is considered for acceptance to the TWUF through OUA. If personal property may not be sold, OFA must approve the acceptance and potential transfer of the property to TWU.
- B. Initiate a Gift-in-Kind Information Form through OUA. A third-party independent appraisal of the gift (valued greater than \$5,000) must be attached or included with the information form. Employees of TWU cannot appraise the gift, nor can TWU funds or TWUF funds 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. The fair market value price must include any educational discounts that would have been provided if the equipment were purchased by TWU directly from the manufacturer.
- C. The VPUA will review and approve the proposed gift. The VPUA will forward the form to the SVPFA for review. The SVPFA will return the form to the VPUA after either approving or disapproving the acceptance of the gift. The VPUA will seek TWUF Board of Directors approval for any gift that has been appraised for \$50,000 or more. After receiving all approvals, the OUA will acknowledge acceptance of the gift to the donor.
- D. Gifts that involve chemicals and/or equipment producing or containing hazardous materials must have prior approval from the SVPFA and coordination with TWU's Office of Risk Management.
- E. Equipment donations requiring installation, utility service connections (gas, water, electric, etc.), and/or environmental temperature conditions require prior approval from the SVPFA and coordination with TWU's Facilities Management and Construction. The department accepting the donation will be responsible for funding costs associated with installation and disposal.
- F. Any forms required by the IRS by either TWU or the TWUF as charitable donee of personal property must be forwarded to the SVPFA for appropriate signatures and processing. This includes IRS Form 8283.
- G. If any personal property is sold within two years of acquisition by TWU or TWUF, the person responsible for the sale must notify the VPUA of such sale, including the amount received at sale. The VPUA will file the appropriate IRS 8283 as required.

VI. Gifts of Securities

- A. Gifts of securities that are donated to the TWUF must be reviewed and processed by OUA. The VPUA will designate appropriate personnel to purchase, exchange, sell, assign, and transfer securities on behalf of the TWUF Board of Directors. No other person or entity may execute or instruct others to execute a transaction involving any securities in the name of the TWUF.
- B. Sale of the securities will take place as soon as possible after the transfer. The OUA will notify the donor of the receipt and sale of securities as early as practicable. Acknowledgment of the gift shall be provided to the donor by OUA.

VII. Gifts of Closely Held Stock

- A. OUA staff should obtain nonbinding repurchase provisions when the gift involves securities for which the donor or related parties are the primary market.
- B. The OUA must obtain a written gift agreement indicating the donor's intent to make the gift and its purpose.
- C. Prior to acceptance, the donor must provide to the OUA financial and valuation information on the stock, including appraisals and/or statements of value.
- D. Copies of any applicable shareholder agreements and buy-sell agreements must be provided by the donor for review by OUA, OFA, the OGC, and the TWUF, especially those that include any restrictions on the transfer of the stock (i.e., rights of first refusal or formulas for determining stock price).
- E. The donor must provide a written copy of any related offer to purchase the stock, including the purchase price per share.
- F. The ownership of the stock must be properly assigned by the donor to the TWUF.

VIII. Gifts of Interests in Limited Partnerships:

The OUA may accept gifts of interests in limited partnerships, subject to a thorough analysis of all available information by the VPUA, SVPFA, the OGC, and the TWUF Board of Directors. At a minimum, this information will include the limited partnership agreement, the proposed assignment of interest, and financial documentation sufficient to describe the assets of the partnership and their valuation.

A. The OUA, the OGC, the SVPFA, and the TWUF Board of Directors will analyze a proposed gift of an interest in a limited partnership to confirm that there is a real benefit to be derived by the institution that is commensurate with any potential risks and costs associated with the gift. Among the factors that will be considered are the following:

1. The donor's relationship to TWU, the history of demonstrable charitable intent, and whether the limited partnership is merely a tax accommodation for the donor.
2. Administrative obligations to be assumed by the TWUF, such as monitoring the partnership for unrelated business income tax.
3. Guaranteed annual distribution from the partnership interest sufficient to TWU to justify the administrative costs or a cumulative payment made in the form of a preferred return before distributions to other partners at the termination of the partnership.
4. Whether the partnership agreement provides for a defined distribution/ termination event or date.
5. Whether the TWUF has any obligation to make capital contributions to the partnership.
6. Whether the TWUF would be held liable for debts of the partnership.
7. Whether the partnership appears to be adequately capitalized considering its activities and maintains liability insurance.
8. All confidentiality requirements must allow release of information as required by the Texas Public Information Act.
9. The TWUF should receive a full accounting for the partnership annually, as well as copies of any tax returns filed or required to be provided to partners pursuant to the Internal Revenue Code.

IX. Non-Conforming Acceptance of Gifts

Recommendations regarding the acceptance of gifts or other actions that do not conform to these procedures shall be made through the VPUA to the Chancellor and President, the TWUF Board of Directors, and TWU Board of Regents after review by appropriate offices of the terms of the gifts, the nature of the donated assets, and/or the requested action.

X. Council for the Advancement and Support of Education Compliance

The TWUF and the OUA will comply with, and gifts will be counted in accordance with, Council for the Advancement and Support of Education (“CASE”) gift counting guidelines as published in the CASE Global Reporting Standards, 1st edition, and subsequent editions. TWU will follow CASE standards as the official guide for campaign counting and for reporting progress to CASE and to the public toward institutional campaign goals. This will allow for parity when measuring performance against institutional peers involved in campaigns.

REVIEW

This policy will remain in effect and published until it is reviewed, updated, or archived. This policy is to be reviewed once every six years. Interim review may be required as a result of updates to federal and state law or regulations, Board of Regents policies, or internal processes or procedures.

REFERENCES

[URP 01.210 – Ethics Policy for Employees](#)

[URP 01.295 – Foreign Adversary Countries](#)

[Section 117 of the Higher Education Act of 1965](#)

FORMS AND TOOLS

[TWU Foundation Documents](#)

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