



Angelo State University
Operating Policy and Procedure

OP 32.01: Acceptance of Gifts and Grants

DATE: January 20, 2017

PURPOSE: The purpose of this document is to set forth 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 Angelo State University (ASU).

REVIEW: This OP will be reviewed in March every three years, or as needed, by the vice president for development and alumni relations. Changes regarding financial procedures will be made with the concurrence of the vice president for finance and administration with recommended revisions forwarded to the president in April of the same year.

POLICY/PROCEDURE

1. General

To promote and protect the interests of Angelo State University (ASU), as well as the persons and other entities who support its programs, these policies are designed to assure that all gifts to or for the use of ASU provide maximum benefits to all parties. It is the goal of ASU to encourage funding ASU without encumbering it with gifts that may generate more costs than benefits, or which are restricted in a manner that is not in keeping with the mission of the institution.

Angelo State University works closely with the ASU Foundation (ASUF) to accept gifts benefiting ASU and to fulfill the intent of each donor in supporting the university. Unless otherwise stipulated by the donor, the vice president for development and alumni relations will identify the appropriate recipient of the gift. For additional guidelines, see the ASU Foundation policy for Acceptance of Gifts and Grants.

To optimize funding from individuals and other entities, ASU must 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 because 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 governing ASU, along with legal counsel, if necessary.

2. Gift Acceptance Conditions

Only gifts that are consistent with the core educational values of the university will be accepted. Gifts must also be:

- compatible with the mission of the university and of its individual programs;
- in compliance with federal statutes, regulations, rulings, or court decisions that stipulate the conditions under which contributions can be tax favored; and
- compatible with the university's tax-exempt status.

Unless a specific exception is granted by the vice president for development and alumni relations, ASU will not accept any gift that:

- violates any federal, state or local statute or ordinance;
- creates a fund to provide for scholarships, fellowships, professorships, chairs or lecture series with restrictive clauses that could cause embarrassment to the university, or that reserve to the donor or his/her representative the right to designate the recipient;
- contains a condition that requires any action on the part of the university that is unacceptable to university administration;
- commits the university to name a fund where the gift is potentially revocable in any way;
- requires the university and its administration to employ a specified person now or at a future date;
- contains unreasonable conditions (i.e., a lien or other encumbrance)
- requires tuition payments for a family member of the donor;
- exposes ASU to potential litigation or other liabilities;
- requires the payment of maintenance costs or other expenses (e.g., debt service) for which no specific provision has been made; generates unrelated business income to the university; or appears to be financially unsound.

3. Fees

a. Finder's Fees or Commissions

- (1) Neither ASU nor ASUF will pay any fee to any person in consideration of directing a gift to ASU or ASUF. Such fees could be illegal and, in the case of irrevocable deferred gifts that involve management of assets, the payment of such may subject

ASU, its Board of Regents, ASUF, its Board of Directors, or the staff of ASU to federal and state security regulation.

- (2) No commission or finder's fee of any type will be paid to any party in connection with the completion of a gift to ASU or ASUF.

b. Professional Fees

All fees incurred by the donor in the completion of a gift to ASU will be paid by the donor unless payment or a portion thereof by ASU is authorized by the vice president for finance and administration.

4. Types of Acceptable Gifts

a. Outright Gifts

(1) Cash

- (a) Gifts in the form of cash and checks shall be accepted regardless of 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 transfer legally the funds as a gift to ASU or ASUF.

- (b) All checks should be made payable to "Angelo State University" or "Angelo State University Foundation." Checks should never be made payable to an employee, agent, or volunteer for the credit of ASU or ASUF.

(2) Securities

(a) Publicly Traded

- 1) Securities that are traded on the New York, NASDAQ, or American stock exchanges, or other readily marketable securities, shall be accepted by ASU. Such securities shall be sold immediately upon receipt by ASU. Staff shall communicate this policy prior to acceptance of such gifts.

(b) Closely Held

- 1) 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. These are generally small family companies.
- 2) 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.
- 3) 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 would be used only to reasonably value the stock for purposes of recording the gift and its sale.

- 4) 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 ASU is to sell the stock, and every effort will be made to accomplish this objective.
- 5) Before acceptance, the development officer should provide the information obtained to the vice president for development and alumni relations 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, financial solvency, or marketability, the prospective gift and circumstances will be brought to the attention of the vice president for development and alumni relations for further consideration.
- 6) 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 ASU will be required to sign the Form 8283. If ASU signs the Form 8283 and sells the stock within three years of acceptance of the gift, ASU is required to file Form 8282 with the Internal Revenue Service, reporting the net proceeds from the sale.
- 7) ASU 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.

(3) Real Property

(a) Conditions of Acceptance

- 1) ASU accepts real property if the property is not to be sold. If the real property is to be sold, it should be offered to ASUF.
- 2) No working or partial interests will be accepted without prior consultation and reference to *Regents' Rules* from the vice president for development and alumni relations.
- 3) The donor must provide an acceptable policy of title insurance or an acceptable title opinion drawn by an attorney.
- 4) If staff determines that circumstances surrounding the property warrant an environmental audit, the donor must provide an environmental audit for hazardous waste.
- 5) 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.

- 6) The donor must provide a general warranty deed by which the real property is to be conveyed.
- 7) No liens or unpaid taxes may exist on the property.
- 8) ASU shall not be made liable for any fees or assessments on the property.
- 9) The donor shall provide a fair market value appraisal by a qualified appraiser, in accordance with the policies of the Texas Higher Education Coordinating Board and the Internal Revenue Service.

(b) 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:

- 1) Initiate a *Gifts-in-Kind Information Form* (Attachment A) through administrative channels to the Office of Development and Alumni Relations 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 ASU cannot appraise the gift, nor can ASU funds be used to pay for the appraisal, unless approval is given by the vice president for finance and administration.
- 2) Final approval of gifts of real property must be approved in accordance with rules of the Board of Regents.
- 3) If approval to accept real property is granted, the vice president for development and alumni relations 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 vice president for finance and administration for appropriate accounting entries.
- 4) After receiving all approvals on the gift, the Office of Development and Alumni Relations will acknowledge the gift to the donor. No recitation of valuation will be made in the acknowledgment letter.
- 5) Internal Revenue Service Reports

Any forms required by the Internal Revenue Service by either ASU or ASUF as charitable donee of real property must be forwarded to the vice president for development and alumni relations for appropriate signature and handling. This includes Internal Revenue Service Form 8283.

If any real property is sold within two years of acquisition by ASU or ASUF, the person responsible for the sale must notify the vice president for development and alumni relations of such sale, including the amount

received at sale. The vice president for development and alumni relations will file the appropriate Internal Revenue Service Form 8282 as required.

(4) Personal Property

- (a) ASU accepts property if the property is not to be sold. If the property is to be sold, it should be offered to Angelo State University Foundation.

(b) 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:

- 1) Initiate a *Gifts-in-Kind Information Form (Attachment A)* through administrative channels to the Office of Development and Alumni Relations 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 ASU cannot appraise the gift, nor can ASU 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.
- 2) The vice president for development and alumni relations will review and approve the proposed gift. The vice president for development and alumni relations will forward the form to the vice president for finance and administration for review. The vice president for finance and administration will return the form to the vice president for development and alumni relations after either approving or disapproving the acceptance of the gift.
- 3) Final approval of all gifts of personal property must be approved in accordance with the rules of the Board of Regents.
- 4) After receiving all approvals of the gift, the Office of Development and Alumni Relations will acknowledge the gift to the donor. No recitation of valuation will be made in the acknowledgment letter.
- 5) The vice president for finance and administration will review the gift to determine whether further assessment is required regarding gifts involving hazardous materials and/or equipment installation.
 - a) Gifts that involve chemicals and/or equipment producing or containing hazardous materials must have prior approval from and coordination with the Office of Environmental Health, Safety and Risk Management. The Office of Environmental Health, Safety and Risk Management will provide the requesting department with guidelines for accepting donations involving hazardous materials and an estimated cost of ultimate disposal.

- b) Equipment donations requiring building modifications, installation, utility service connections (gas, water, electric, etc.), and/or environmental temperature conditions require coordination with Facilities Management. The department accepting the donation will be responsible for funding costs associated with installation and disposal.
 - 6) Upon coordination with the Office of Environmental Health, Safety and Risk Management and Facilities Management, the vice president for finance and administration will approve or disapprove the acceptance of the gift and return the form to the vice president for development and alumni relations. The Office of Development and Alumni Relations will notify the originator of the form through the appropriate administrative head that approval or disapproval of the gift acceptance has occurred.
 - 7) If approval to accept personal property is granted, a copy of *the Gifts-in-Kind Information Form* (Attachment A) will be forwarded to the vice president for finance and administration for appropriate accounting entries.
 - 8) Internal Revenue Service Reports
 - a) Any forms required by the Internal Revenue Service by either ASU as charitable donee of real property must be forwarded to the vice president for development and alumni relations for appropriate signature and handling. This includes Internal Revenue Service Form 8283.
 - b) If any real property is sold within two years of acquisition by ASU or ASUF, the person responsible for the sale must notify the vice president for development and alumni relations of such sale, including the amount received at sale. The vice president for development and alumni relations will file the appropriate Internal Revenue Service Form 8283 as required.
- (5) Library Gifts

Unrestricted gifts of books, collections, and other library materials (not including equipment) valued at less than \$50,000 to the ASU Library, including the West Texas Collection and other special collections, will not require the usual approval process as set forth in this policy. These gifts will be handled in the following manner:

- (a) The donor will be required to sign a *Donor's Release Agreement*. (Attachment B.)
- (b) The final decision on acceptance of such gifts lies with the Porter Henderson Library executive director or to his or her designee.
- (c) The Office of the Porter Henderson Library executive director or the West Texas Collection will write a letter of appreciation to the donor with a copy to the Office of Development and Alumni Relations. Information forwarded to the Office of Development and Alumni Relations will include the following:
 - 1) Full name of donor;

- 2) A concise description of the gift;
- 3) Anticipated benefit to ASU; and
- 4) ASU contact.

(d) If the gift of library materials is worth \$50,000 or more, or if there are restrictions on the gift (outside the bounds of accepted archival practice) by a potential donor, the Porter Henderson Library executive director must follow the approval process for other gifts of personal property.

(6) Vehicle Donations

ASU does not accept gifts of vehicles.

b. Deferred Gifts

(1) Bequests

- (a) If approached by the attorney or other representative of a person intending to leave a bequest to the ASU, 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 that exists between the donor and representative.
- (b) When approached by either the donor intending to leave a bequest to ASU or that person's representative, the person should be informed that the bequest will be officially accepted at the donor's death only in accordance with the terms of sections 4.b.(1) through 4.b.(4) of this policy.
- (c) If notified during the lifetime of the donor about a bequest that does not comply with the provisions of sections 4.b.(1) through 4.b.(4) of this policy, the donor should be informed about the probability 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 ASU upon the death of the donor, the bequest shall be disclaimed. Legal counsel shall expeditiously communicate the decision of ASU or ASUF to the legal representatives of the estate.

(2) Charitable Trusts

- (a) Attempts should be made to discover all charitable trusts of which ASU is a beneficiary and for which ASU does not serve as trustee.
- (b) The Angelo State University Foundation will serve as trustee of charitable remainder trusts that benefit ASU if the trusts conform to the policies and procedures adopted by ASUF. See the ASUF policy for Acceptance of Gifts and Grants for additional guidelines.

(3) Charitable Gift Annuities

Upon establishment of a gift annuity program, ASUF will accept and establish gift annuities and deferred gift annuities that benefit ASU, provided that they comply with the policies of ASUF on gift annuities. See the ASUF policy for Acceptance of Gifts and Grants for additional guidelines.

(4) Remainder Interests

- (a) Gifts in which the donor retains a life interest in real property may be accepted if approved by the Board of Regents governing ASU.

(5) Life Insurance

(a) General

- 1) Donors are encouraged to transfer to ASU ownership of life insurance policies that donors have purchased.
- 2) No insurance products may be endorsed for use in funding gifts to ASU without appropriate approval of the vice president for development and alumni relations.
- 3) The names of donors to ASU will not be furnished to anyone for the purpose of marketing life insurance benefiting ASU as this practice constitutes a potential conflict of interest and may be construed as involvement in the marketing of life insurance.

(b) Whole Life Insurance Policies

- 1) ASU will accept ownership of whole life insurance policies purchased by donors.
- 2) When ownership of a whole life insurance policy has been transferred to ASU, 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 Development and Alumni Relations. The donor will then receive an official gift receipt for the amount of such premium payment.

(c) Term Life Insurance Policies

Donors may make ASU the beneficiary of term life insurance policies, but the ownership benefits related to whole life insurance policies do not apply to term life insurance policies.

(d) Variable Life Insurance Policies

- 1) ASU will accept ownership of variable life insurance policies purchased by donors.

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- 2) When ownership of a variable life insurance policy has been transferred to ASU, 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 Development and Alumni Relations. The donor will then receive an official gift receipt for the amount of such premium payment.
- 3) Premium payments will be invested under a general investment policy adopted by the Board of Regents governing ASU.

Attachment A: [*Gift-in-Kind Information Form*](#)

Attachment B: [*Donor Release Agreement*](#)