



# TEXAS TECH™

## Operating Policy and Procedure

### **OP 02.02: Solicitation of Gifts and Grants from Private Philanthropic Sources**

**DATE:** August 30, 2023

**PURPOSE:** The purpose of this Operating Policy/Procedure (OP) is to set forth Texas Tech University policies and procedures related to solicitation of all gifts, donations, and non-contractual grants from private philanthropic sources (e.g., individuals, foundations, and corporations).

**REVIEW:** This OP will be reviewed every two years after publication by the Texas Tech University System (TTUS) Vice Chancellor for Institutional Advancement (VCIA) and the Texas Tech University (TTU) Vice President for the Office of Advancement (VP). Changes regarding financial procedures will be made with the concurrence of the TTU Senior Vice President for Administration & Finance (SVPAF), and the TTUS Vice Chancellor and Chief Financial Officer (VCCFO).

### **POLICY/PROCEDURE**

#### **1. Definition of Gifts**

- a. For the purpose of this OP, gifts, donations, and non-contractual grants to, or for the benefit of, TTU are defined as follows: A gift, also referred to as a charitable contribution, is defined by the Internal Revenue Service (IRS) as a voluntary transfer of property to, or for the use of, a qualified organization that is made without getting, or expecting to get, anything of equal value in return.
- b. A gift, or charitable donation, does not include event tickets purchased at fair market value, donated services, donated temporary use of real or personal property, sponsorships that require substantial advertising in return, gifts made directly to social or student organizations even if they are affiliated with the institution, grants from public entities, including local, state, and federal entities, or contractual grants, contracts, or purchase orders from private sources. The Office of Research Services (ORS) will communicate approaches and receipts for contractual grants from private sources with the TTU Office of Advancement (TTU Advancement) should it be determined there is a charitable gift component within the grant.

#### **2. General**

- a. The Affiliated Entities of TTUS, other than Texas Tech Foundation, Inc. (TTFI), are defined as separately incorporated, nonprofit organizations with federal tax-exempt status, which, pursuant to their governing documents and/or memorandum of understanding (MOU), exist solely to support TTU and have contracts with TTU setting forth such support. Affiliated Entities are more particularly described in Texas Tech University System Regulation 04.06 (link forthcoming).

TTU personnel may, in accordance with the Affiliated Entities' MOU, assist the listed Affiliated Entities in any fundraising efforts in which the contributions are made to TTFI

or TTU as designated by the donor; provided, however, that the activities of such personnel shall remain in accordance with the policies and procedures of TTU and TTUS.

- b. All solicitation of gifts from private sources by any TTU faculty member, staff member, student, or Affiliated Entity shall be approved by the VP or designee in TTU Advancement. The development professional(s) in the responsible college or unit, TTU Advancement administrator(s), and any appropriate supporting office of Texas Tech University System Office of Institutional Advancement (TTUS Institutional Advancement), will work with the faculty member, staff member, student, or Affiliated Entity on the solicitation.
- c. Any faculty member, staff member, student, student organization, or Affiliated Entity that receives an unsolicited question from a prospective donor regarding a possible gift to TTU must notify the college or unit development professional and TTU Advancement of the inquiry as soon as possible following the initial contact.
- d. If a development professional has or receives a question regarding a possible gift to TTFI, or to TTFI for the benefit of TTU, the development professional should notify TTUS Institutional Advancement/Texas Tech Foundation Inc., Legal Services (IA Legal) when appropriate for further assistance.
- e. All philanthropic projects and events shall comply with Texas Tech University System Regulations, *Regents' Rules*, TTU Operating Policies and Procedures, as well as state and federal law. Further, any third party or outside contractors contracting with TTU or TTUS regarding any philanthropic project or event must comply with all relevant and applicable Texas Tech University System Regulations, *Regents' Rules*, TTU Operating Policies and Procedures, as well as state and federal law. Any questions regarding the legality of any gift should be directed to IA Legal.

### 3. Philanthropic Projects

- a. A “philanthropic project” is defined as a university-approved initiative benefitting Texas Tech University or an Affiliated Entity, the support for which philanthropic funds will be solicited from one or more individuals, private foundations, or private business entities. philanthropic project(s) must be coordinated through the VP, or his or her designee. The VP is responsible for keeping the President apprised of philanthropic projects, as defined herein.
- b. Prior to any form of solicitation on behalf of a philanthropic project for, including but not limited to, a building, facility, center, institute, campaign, program, or initiative, the philanthropic project must be approved by the appropriate academic administrators, which may include, but are not limited to, the Provost, the President, the VP, the Vice President for Research & Innovation, the SVPAF, the VCIA and/or the VCCFO.
- c. Prior to any form of solicitation on behalf of certain philanthropic projects, including but not limited to, construction projects or namings, the philanthropic project must also be approved by the Board of Regents. Once the President and/or VP has approved the project, they will recommend the philanthropic project for approval by the Board of Regents. Development professionals shall follow the established procedures for construction projects and naming outlined in [Regents' Rules 08](#) and [13](#), or the equivalent thereof as may exist from time to time.
- d. The fundraising initiator(s) must ensure there is adequate university support for the philanthropic project(s). Requests for approval of philanthropic projects must be submitted

in writing to the VP. Requests must include a fundraising plan that includes an overall budget; timeline; cost estimate from any appropriate department or unit, such as for buildings and renovations; and a potential donor list with projected solicitation intentions. The plan must also specify what will happen to the gift funds should the Fundraising Project not reach its financial goal. The fundraising initiator(s) must agree to inform the principal donors in advance of how the funds will be used should the goal not be reached.

- e. Requests for university funds toward philanthropic projects must be submitted through the VP to the President and the SVPAF and/or VCCFO, with notice to the Provost. The fundraising initiator(s) must agree that, should the fundraising goal not be reached, TTU support in excess of what might be committed initially by the President and the SVPAF and/or VCCFO will not be sought.

#### 4. Philanthropic Events

- a. A “philanthropic event,” as defined in [Texas Tech University System Regulation 04.02](#), is an event held for the purpose of fundraising charitable funds for a specified purpose. Attendance fees for philanthropic events often include quid pro quo contributions, and sponsorships are often considered for these events. Examples include, but are not limited to, golf tournaments, concerts, guest speakers, celebrity or politician appearances, banquets, receptions, walkathons, performances, etc.
- b. The development professional(s) in the responsible college or unit, or any TTU faculty member, staff member, or Affiliated Entity, will inform the VP or designee of plans to hold a philanthropic event. Once the development professional, TTU faculty member, staff member, or Affiliated Entity receives verbal approval from TTU Advancement, then they may request approval from TTUS Institutional Advancement, Financial Services (IAFS) in accordance with established procedures outlined in [Texas Tech University System Regulation 04.02](#).
- c. All TTU gift instruments or charitable grant contracts must be reviewed and approved by IA Legal before being presented to the donor. Drafts should be sent to [IA.Legal@ttu.edu](mailto:IA.Legal@ttu.edu).
- d. Any written statement concerning tax deductibility of contributions must be reviewed and approved by IAFS or IA Legal.
- e. Policies and procedures relating to the use of the TTU name or logo by a third-party or unrelated entities are governed by [OP 01.06, Use of Texas Tech University Name or Logo for Private Business Purposes](#), or other applicable operating policies as determined or may be otherwise enacted by Texas Tech University.

#### 5. Solicitation of Gifts from Corporations and Foundations

- a. TTU Advancement coordinates proposals, provides stewardship for private corporations and foundations, and advocates for university initiatives. TTU Advancement assists faculty and staff in soliciting gifts from private corporations or foundations. The development professional in the responsible college or unit should work directly with TTU Advancement to submit proposals through established grant or solicitation processes. Where no development professional exists, or for university-wide Requests for Proposals, TTU Advancement may work directly with faculty and staff.
- b. TTU Advancement works with TTUS Institutional Advancement and IA Legal ([IA.Legal@ttu.edu](mailto:IA.Legal@ttu.edu)) to coordinate grant submissions across the System when appropriate.

TTU Advancement will work with TTUS Institutional Advancement and IA Legal when TTFI is designated as the primary grantee.

- c. Faculty and staff seeking private sector funding must engage with either TTU Advancement, and/or ORS, and their college/unit development professional before submitting all research, projects, and proposals to private corporations or foundations. TTU Advancement, ORS, and/or IA Legal, through a mutually agreed review process, will cooperatively determine the nature of the proposed funding and the appropriate office charged with management of the funds.
- d. Faculty and staff specifically seeking charitable grants through TTFI as a 501(c)(3) charitable/non-profit organization must notify TTU Advancement prior to submitting any grant application.
- e. If the funding is determined to be a gift, faculty and staff shall coordinate with TTU Advancement or the college/unit development professional for additional assistance in pursuing the opportunity and to ensure the appropriate procedures are followed. Individuals in units without a development professional should contact TTU Advancement.
- f. Generally, funding from corporations or foundations will be considered a gift or philanthropic grant if the following indicators exist:
  - (1) The award is from a non-governmental source;
  - (2) The donor specifically intends the award to be a charitable gift, as reflected by the characteristics of the award instrument;
  - (3) The conditions or stipulations placed on the intended use of the award are reasonable and serve to direct the funds to areas that are both of specific interest to the donor and beneficial to TTU;
  - (4) The donor intends the gift to be irrevocable and, therefore, relinquishes the right to reclaim the gift or any unused remainder; and
  - (5) The donor makes the gift to TTU or TTFI without expectation of direct economic benefit or other tangible benefit commensurate with the worth of the gift.
- g. Generally, funding from corporations or foundations will NOT be considered a gift or philanthropic grant if the following indicators exist:
  - (1) A contract exists between TTU and the funder committing the institution to provide an economic benefit for compensation;
  - (2) The funder is entitled to receive exclusive information and publication rights;
  - (3) Consultancy for the funder is included as part of the agreement;
  - (4) The agreement assigns full, partial, or potential future rights to intellectual property rights;

- (5) The agreement requires the return of unexpended funds at the end of a designated period or there is a requirement for return of funds due to unmet deliverables; and
- (6) Any other direct financial benefits as a condition of the funding.
- h. If funding is determined to be non-philanthropic in nature or originates from a public source, ORS has responsibility for negotiation and administration of the award or sponsored project. See [OP 74.01, Office of Research Services](#), for guidance concerning non-philanthropic awards or grants.

## **6. Payment of Gift-Related Fees**

### **a. Finder's Fees or Commissions**

- (1) Neither TTU nor TTFI will pay any fee to any person in consideration of directing a gift to TTU or TTFI. Such fees could be illegal and, in the case of irrevocable deferred gifts that involve management of assets, the payment of such may subject TTU, its Board of Regents, TTFI, its Board of Directors, or the staff of TTU to federal and state security regulations.
- (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 TTU or TTFI.

### **b. Professional Fees**

TTFI may pay reasonable fees for professional services in connection with the completion of philanthropic gifts to TTFI, for the benefit of TTU, if the TTFI Board of Directors, with a firm estimate of the anticipated expenses, approves the expenditure. If approved, IA Legal or other designated TTUS Institutional Advancement department shall assist TTU staff in pursuing a commitment on the gift.

## **7. Matching Gifts from Private Corporations or Foundations**

- a. Some private corporations or foundations provide gifts to TTU and TTFI to match charitable contributions made by their employees. TTUS Institutional Advancement Financial Services will verify receipt of the original gift and verify that the gift is eligible for a match based on the corporation's or foundation's matching gift policy.
- b. Matching corporation or foundation gifts may not be pledged by a donor for any of the following: (1) a non-charitable purpose; (2) completion of the minimum corpus of an individual endowment; or (3) for any purpose other than the purpose specified in the original gift instrument without prior approval by the VP or VCIA.