TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER

Operating Policy and Procedure

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

PURPOSE: The purpose of this Health Sciences Center Operating Policy and Procedure (OP) is to set forth Texas Tech University Health Sciences Center (HSC) 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 HSC Operating Policy and Procedure will be reviewed on April 1 of each even-numbered year (ENY) by the TTUS Vice Chancellor for Institutional Advancement (VCIA) and the HSC Vice President of External Relations (VPER), or the equivalent thereof. Changes regarding financial procedures will be made with the concurrence of the HSC Executive Vice President of Finance and Operations (EVPFO).

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 HSC, 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 substantive 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 TTUHSC Office of Sponsored Programs (HSC OSP) will communicate approaches and receipts for contractual grants from private sources with TTUHSC Office of Institutional Advancement (HSC IA) should it be determined there is a charitable gift component within the grant.

2. **General.**

    a. The Affiliated Entities of Texas Tech University System (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 HSC and have contracts with HSC setting forth such support. Affiliated Entities are listed in Texas Tech University System Regulation 04.04.

    HSC 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 HSC, as designated by the donor.

    b. All solicitation of gifts from private sources by any HSC faculty member, staff member, student, student organization, or affiliated entity shall be coordinated and cleared before the fact with the HSC IA. The Assistant Vice President External Relations (AVPER), the equivalent thereof or their designee, in conjunction with the development professional, if applicable, or an appropriate staff member of the HSC IA, will work with the faculty member, staff member, student, student organization, or related corporate 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 HSC must notify HSC IA 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 HSC, 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*, HSC Operating Policies and Procedures, as well as state and federal law. Further, any third party or outside contractors contracting with HSC regarding any Philanthropic Project or Event must comply with all relevant and applicable Texas Tech University System Regulations, *Regents' Rules*, HSC 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 Health Sciences Center 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 VPER, or their designee. The VPER is responsible for keeping the HSC 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 HSC Provost, President, VPER, Senior Vice President for Research & Innovation, EVPFA, the VCIA and/or the TTUS Vice Chancellor and Chief Financial Officer (VCCFO).

c. Certain philanthropic projects, including but not limited to construction projects or namings, must also be approved by the Board of Regents. Once the HSC President and/or VPER 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 VPER. 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 VPER to the President and the SVPAF and/or VCCFO. The fundraising initiator(s) must agree that, should the fundraising goal not be reached, HSC support in excess of what might be committed initially by the HSC 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. Development professional(s), or any HSC faculty member, staff, or Affiliated Entity, will inform the VPER or designee of plans to hold a Philanthropic Event. Once the development professional, HSC faculty member, staff, or Affiliated Entity receives verbal approval from HSC IA, 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 HSC gift instruments or charitable grant contracts related to philanthropic events under this subsection must be reviewed and approved by IA Legal before being presented to the donor. Drafts should be sent to 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 HSC name or logo by a third-party or unrelated entities are governed by OP 01.04 Use of Institutional Names for Private Business Purposes, or other applicable operating policies as determined or may be otherwise enacted by HSC.

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

a. HSC IA coordinates proposals and provides stewardship for private corporations and foundations. Development professionals from all HSC campuses assist faculty and staff in soliciting gifts from private corporations or foundations and should communicate with HSC IA and HSC OSP before submitting proposals through established grant or solicitation processes.

b. HSC OSP and HSC IA work with TTUS Institutional Advancement Corporation and Foundation Relations (TTUS CFR) to coordinate applications to Systemwide limited-submission charitable grants. HSC IA will work with TTUS CFR and/or IA Legal when TTFI is designated as the primary grantee for limited-submission grants.

c. Faculty and staff seeking charitable grants from private corporations or foundations through TTFI as a 501(c)(3) charitable/non-profit organization must notify HSC IA, their campus development professional, or the HSC OSP. Grant applications cannot be submitted directly by faculty or staff. Any grant agreement provided by a grantor with TTFI designated as the grantee must be signed by an officer of TTFI after concurrence from HSC OSP. No other person may sign on behalf of TTFI, regardless of their position. Faculty or staff working with foundations or corporations should communicate this to the grantor and work with HSC IA, HSC OSP, TTUS CFR, or IA Legal to provide the correct TTFI officer information to the grantor.

d. HSC IA, HSC OSP, and/or IA Legal, through a mutually agreed review process, will cooperatively determine whether a grant should be considered a charitable gift or not, and the appropriate office charged with grant submission and management of the funds.

e. 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 nongovernmental source and is either for buildings or facilities, research or a specific project, or for the endowment of TTUHSC.

(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 such as scholarships, facilities, or general research support of specific interest to the donor.

(4) The donor intends the gift to be irrevocable and, therefore, relinquishes the right to reclaim the gift or any unused remainder.

(5) The donor makes the gift to TTUHSC or TTFI without expectation of direct economic benefit or other tangible benefit commensurate with the worth of the gift.

f. Generally, funding from corporations or foundations will NOT be considered a gift or philanthropic grant if any of the following indicators exist:

(1) A contract exists between HSC 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) Agreement requires 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.

g. **Office of Sponsored Programs.** The Office of Sponsored Programs will have responsibility for negotiation and administration of the award if any of the following indicators exist:

(1) The award is from a governmental or quasi-governmental entity or is a subcontract or purchase order from a federal contractor.

(2) The award is from a corporation's research and development budget and is perceived by the company as a "cost of doing business" rather than a charitable gift.

(3) The for-profit private sponsor hopes to gain direct economic benefit as a result of the activity to be conducted under the agreement.

(4) The award is the result of a project proposal to the sponsor, and there is a written contract between the sponsor and TTUHSC.

(5) The sponsor is contractually entitled to formal financial, technical, or activity reports.

(6) There are specific limitations concerning patents, copyrights, publications, or the use and ownership of equipment.

(7) The unused portion of the award is revocable if the grant is not being used to the sponsor's satisfaction.

(8) The activity supported by the award involves patents, hazardous substances, animal or human research subjects, or classified material.

h. If funding is determined to be non-philanthropic in nature or originates from a public source, OSP has the responsibility for negotiation and administration of the award or sponsored project. See OP 65.01, Establishing Sponsored Program Funds, for guidance concerning non-philanthropic awards or grants.

6. **Texas Tech System Health and Medical Research Foundation, Inc.**

a. Texas Tech System Health and Medical Research Foundation, Inc. (TTSHMRF) is a Texas nonprofit corporation, qualified under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, established, and operated to support the medical research and clinical initiatives of all component institutions within the Texas Tech University System. When TTFI cannot be utilized due to specific grant submission requirements, TTSHMRF may be used, subject to the processes of this Operating Policy and necessary approvals. This arrangement is reserved for instances where the nature or requirements of the grant necessitate an alternative grantee.

b. Charitable grant proposals and submissions through TTSHMRF are limited to non-educational activities such as research, community outreach, clinical initiatives and activities. Submissions through TTSHMRF must be approved by the VCIA and TTSHMRF Chief Executive Officer, the VPER, and in collaboration with HSC OSP, if applicable. The proposal and all documents must be signed by the VCIA, or designee after HSC OSP concurrence, if applicable. Any submissions granted to HSC through TTSHMRF with an unauthorized signature shall be subject to return to the grantor.

7. **Payment of Gift-Related Fees.**

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

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

b. **Professional Fees.**

(1) TTFI may pay reasonable fees for professional services in connection with the completion of philanthropic gifts to TTFI, for the benefit of HSC, 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 HSC staff in pursuing a commitment on the gift.

8. **Matching Gifts.**

a. Some private corporations or foundations provide gifts to TTUHSC and TTFI to match charitable contributions made by their employees. TTUS Institutional Advancement Financial Services will verify receipt of the gift and verify that the gift is eligible for a match based on the corporation's or foundation's matching gift policy.

b. Matching gifts, including the original and matching contributions made to the related corporate entity of TTUHSC, will be forwarded to TTUS Institutional Advancement Financial Services for deposit into an account whereby the funds will be used as established by the matching gift company's policy. At no time will the funds be transferred to the related corporate entity for deposit to a bank account maintained by such entity.

c. 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 HSC VP or VCIA.