

UNIVERSITY OF HOUSTON SYSTEM
ADMINISTRATIVE MEMORANDUM

SECTION: University Advancement

NUMBER: 08.A.03

AREA: Gift Acceptance

SUBJECT: Gift Acceptance – Gifts from Individual Donors

1. PURPOSE

- 1.1. This document establishes policies and procedures required for the System to fully implement the authority delegated to the Chancellor by the University of Houston Board of Regents (Board policies [32.03](#) and [32.04](#)).
- 1.2. This document is intended to articulate the types of gifts that can be accepted and the criteria for acceptance of those gifts, to manage any potential risks to the UH System in the acceptance of gifts, and to ensure that gifts contributed to the UH System by donors can be effectively used to further the UH System's charitable purpose and mission.
- 1.3. This document's goal is to encourage financial support for the UH System while avoiding gifts that either generate more cost than benefit, or that are restricted in use or purpose in a way that does not advance the System's charitable purpose and mission.

2. DEFINITIONS

- 2.1. Every reference in these policies to the UH System shall mean the UH System or any of its component Universities, Colleges or Non-academic Programs as designated by the Donor.
- 2.2. Outright gifts are a current, voluntary and irrevocable transfer of cash or an asset to the UH System. Common types of current gifts include:
 - a. Cash and cash equivalents, which include U.S. currency, checks, electronic fund transfers (e.g., automated clearinghouse and wire transfers), US payroll deductions and credit and debit transactions.
 - b. Publicly traded securities, which are stocks, bonds, options, and similar interests that are traded on an exchange or other publicly reported market.
 - c. Closely held securities (or privately traded securities), which include stocks, bonds, options, and similar interests sold in private or non-public markets, as well as interests in LLPs, LLCs, or other privately-owned business forms.

- d. Real property, which includes land and generally whatever is affixed to land, as well as those rights that issue out of land. Real property may include residential property, rental property, commercial property, farmland, undeveloped land, oil and gas interests, mineral interests, timber, and similar interests.
 - e. Tangible personal property, which includes furniture, jewelry, works of art, collections, vehicles, boats, aircraft and similar physical items.
 - f. Insurance Policies, where the donor names the UH System as both the owner and beneficiary of the policy.
 - g. Bargain sales which involve the UH System's purchase of an asset at a price lower than the asset's fair market value, where the donor has the intent to make a charitable gift of the difference between the purchase price and the asset's fair market value. Bargain sales generally involve real property or tangible personal property but can involve any type of asset.
- 2.3. Irrevocable split-interest gifts are irrevocable gifts created by the donor which split the interests in the gift between the UH System and one or more named individuals. Common types of irrevocable split-interest gifts include the following:
- a. Charitable lead trusts which are irrevocable trusts that distribute either a fixed amount (Charitable Lead Annuity Trust) or a fixed percentage of the trust's annual market value (Charitable Lead Unitrust) to one or more charities over the term of the trust and at termination distributes the remaining assets to the donor or one or more named individuals.
 - b. Charitable remainder trusts which are irrevocable trusts that distribute either a fixed amount (Charitable Remainder Annuity Trust) or a fixed percentage of the trust's annual market value (Charitable Remainder Unitrust) to one or more named individuals over the term of the trust and at termination distribute the remaining assets to one or more charitable organizations.
 - c. Charitable gift annuities, which are transfers of assets to a charity in exchange for that charity's promise to pay one or two named annuitants a fixed amount for life based on the annuitants' age at the date the charitable gift annuity is created, using rates published by the American Council on Gift Annuities.
 - d. Remainder Interest In A Residence Or Farm (Retained Life Estate) is an irrevocable transfer of the real property to the UH System and provides a donor or other beneficiary with the use of property with the component

university receiving a remainder interest.

- 2.4. Revocable deferred gifts are revocable gifts put in place by donors today, which do not become irrevocable and complete until a future date or event, generally the donor's death. Common types of revocable deferred gifts include:
 - a. Bequests, which are gifts under a donor's will;
 - b. Testamentary provisions under a revocable trust;
 - c. Pay on death provisions on financial accounts;
 - d. Retirement plan or IRA beneficiary designations; and
 - e. Life insurance beneficiary or contingency beneficiary designations.

3. GENERAL GUIDELINES

- 3.1. The UH System holds all communications with donors and information concerning donors and prospective donors in strict confidence, except as required by law. All other requests for or releases of information concerning a donor or a prospective donor will be granted only if permission is first obtained from the donor.
- 3.2. The UH System will not accept gifts or participate in gift planning activities if there is a question as to whether the donor has sufficient title to the assets or whether the donor is mentally competent to transfer the property legally.
- 3.3. The UH System does not solicit gifts or market gift planning techniques as investments or securities. All disclosures required by state and federal law (such as the requirements under the Philanthropy Protection Act of 1995) shall be made in a timely manner.
- 3.4. The UH System will not pay a fee to any person as consideration for directing a gift by a donor to the System. Payment of this kind raises legal and ethical issues and, in the case of irrevocable deferred gifts which involve management of assets, the payment of such a fee may subject the UH System and its management and Board to federal and state securities regulations.
- 3.5. The UH System does not provide personal, legal, financial or other professional advice to donors or prospective donors. Donors and prospective donors are strongly urged to seek the assistance of their own professional advisors in matters relating to their gifts and the resulting tax and estate planning consequences. The UH System endorses the Model Standards of Practice of the Charitable Gift Planner promulgated by the Partnership for Philanthropic Planning and the Donor Bill of Rights promulgated by the Association of Fundraising Professionals and

follows guidelines and rules published by the IRS and the [Council for Advancement and Support of Education \(CASE\)](#). CASE is a nationally-recognized organization that establishes reporting and valuation standards for gifts.

- 3.6. Gifts restricted for specific programs and purposes may be accepted, provided they are consistent with the UH System's mission, purpose, and priorities. The UH System will not accept gifts that are inconsistent with its mission, purposes or priorities, are too difficult or costly to administer, or otherwise may be inadvisable.
- 3.7. All gifts must comply with applicable UH System policies for agreements documenting the gift and, if an endowed gift, the establishment of endowment accounts.
- 3.8. Gifts from foreign sources are subject to disclosure requirements in accordance with federal and state laws.
- 3.9. The UH System, or any representative of the System, shall not agree to act as administrator or executor of any estate, trustee or administrator of any trust, and shall not act on another's behalf through a power of attorney or similar instrument.

4. DELEGATION OF AUTHORITY

- 4.1. In accordance with Board policies [32.02](#) and [32.03](#), the Board must approve the acceptance of gifts that result in the naming of a facility, college, school, program, institute or center. The Chancellor may give preliminary approval upon the recommendation for acceptance by the Vice Chancellor for University Advancement, but the Board must make final acceptance. The Board delegates to the Chancellor the final authority to accept all other gifts, including gifts of Real Estate in accordance with Board policy [32.04](#).
- 4.2. The Chancellor delegates to the Presidents of each component university, or their designees, authorization to accept gifts of cash, cash equivalents, and publicly traded securities to their respective component universities.
 - a. Such acceptances are to be completed according to guidelines and procedures established by the Vice Chancellor for University Advancement, who is hereby assigned by the Chancellor to facilitate all gift approvals.
 - b. Cash and cash equivalents will be accepted in cooperation with the System Office of Gift Processing and Records.

- c. Acceptance of public securities is generally routine and must be coordinated through Gift Processing and Records. Gift Processing and Records will facilitate the receipt and processing of securities with the System Office of the Treasurer. Some securities may be restricted and the System Office of Gift Planning should be consulted before acceptance.
- d. Revocable deferred gifts are encouraged and require the involvement of the UH System Office of Gift Planning.
- e. The Vice Chancellor for University Advancement will appoint a Gift Acceptance Committee to review and make recommendations on the acceptance of all other gifts.

5. GIFT ACCEPTANCE COMMITTEE

- 5.1. The Gift Acceptance Committee will review and make recommendations on all non-marketable gifts, including gifts of real property, closely held securities, gifts of personal property and other gifts referred to the Committee by senior Advancement staff.
- 5.2. The Vice Chancellor for University Advancement will appoint the members of the Gift Acceptance Committee.
 - a. The members of the Gift Acceptance Committee shall include:
 - The System's Chief Development Officer or designee
 - Chief Advancement Services Officer or designee
 - Chief Gift Planning Officer
 - General Counsel or designee
 - System Treasurer or designee
 - Director of the System Office of Real Estate or designee
 - Other System employees appointed by the Vice Chancellor for University Advancement
 - b. The Gift Acceptance Committee will consult with the UH System's internal resources in reviewing particular gifts as set out below:

Type of Gift	Resource
Closely held securities	Vice Chancellor for Administration and Finance
Real Estate/Mineral Interests	System Office of Facilities, Planning and Construction, Vice Chancellor for Legal Affairs, Vice Chancellor for Administration and Finance, Representative from System Office of Risk Management, if applicable
Gifts that may have a tax impact to the University or System	Tax Director, Office of Finance
Various	External resources as needed

- 5.3. The Gift Acceptance Committee shall seek the advice and/or approval of the Vice Chancellor for Legal Affairs for the following:
- a. Privately-owned stock transfers that are subject to restrictions or buy-sell agreements;
 - b. Documents naming the UH System as Trustee;
 - c. Gifts involving contracts or other documents requiring the UH System to assume a legal obligation;
 - d. Gifts of patents and other intellectual property;
 - e. Transactions with potential conflict of interest that may invoke IRS sanctions;
 - f. Real Estate;
 - g. Oil and gas; or
 - i. Other instances in which use of legal counsel is deemed appropriate by the Gift Acceptance Committee.
- 5.4. The Chief Gift Planning Officer shall serve as Chair of the Gift Acceptance Committee. The Chair shall be responsible for preparing a written memo outlining the details of the proposed gift and addressing the criteria identified for review of the gift as set out in Section 6 below, as well as a recommendation to the Committee. The Committee shall then meet as quickly as possible by telephone or in person to review the recommendation and provide a prompt response to proffered gifts. The Committee’s final recommendation will be documented.
- 5.5. The Chair of the Gift Acceptance Committee shall submit all recommendations to the Chancellor or its designee for approval. The Chancellor or its designee shall report its decisions on gift acceptance to the UH System Board of Regents as required or as requested by the Board. To the extent Board of Regent or further

governmental approval is required to accept a specific gift; such approval shall be sought as expediently as possible. *See, e.g.*, Board of Regent Policies [32.03](#) and [32.04](#); Texas Higher Education Coordinating Board Rules [17.10](#) and [17.11](#) ([19 TAC 17.10](#), [19 TAC 17.11](#)).

- 5.6. The Gift Acceptance Committee shall maintain a record of gifts considered by the Committee, including a document outlining its review and recommendation for acceptance or decline. The records shall be maintained in the Office of Gift Planning.
- 5.7. Gifts that do not meet the criteria for acceptance may be declined. The UH System, through the Office of University Advancement, shall promptly communicate the decision to decline the gift to the donor. In the event that such a gift is from the estate of a deceased donor, the decision to decline the gift will be communicated to the legal representatives within applicable deadlines, if any.

6. STANDARDS GOVERNING ACCEPTANCE OF NON-CASH GIFTS

6.1. Tangible Personal Property

- a. Tangible personal property such as jewelry, works of art, collections, etc., normally shall not be accepted unless there is reason to believe the property has a value in excess of \$10,000 or value directly related to the UH System's academic mission.
- b. In assessing the acceptability of the gift, the following should be considered:
 - 1) The estimated value of the tangible personal property based on insurance values, purchase values, other commercially reasonable means, or if available, the donor's appraisal for gift purposes;
 - 2) Ability to take good title to the property;
 - 3) The marketability of the property, including the market for sale, the logistics of the sale, and the costs of sale (including transportation and commissions);
 - 4) The carrying costs while holding the property, including insurance, storage, and maintenance or repair.
 - 5) Any restrictions on the property's use, display, or sale.
- c. Whenever possible, tangible personal property should be sold as expediently as possible following receipt. The UH System should communicate to the donor, prior to acceptance of the tangible personal property gift, its plans to either sell the property or use it in furtherance of

its charitable mission as such plans may have tax consequences for the donor and may affect the amount of the charitable contribution.

6.2. Publicly-Traded Securities

In some cases, publicly-traded/marketable securities may be restricted by applicable securities laws (such as [Rule 144 under the Securities Act of 1933](#)). In such instances, the Gift Acceptance Committee will review and recommend whether to accept the restricted securities.

6.3. Options and Other Rights in Securities:

- a. The UH System may accept options, which are financial instruments such as Puts and Calls in securities, with the recommendation of the Gift Acceptance Committee.
- b. The Gift Acceptance Committee shall consider the following factors in its review of options and similar rights in securities:
 - 1) If the UH System is required to advance funds to exercise the gift, the funds must be available, the Gift Acceptance Committee must recommend it is appropriate to do so, and the Vice Chancellor for Administration and Finance must approve the appropriation of those funds;
 - 2) The Gift Acceptance Committee must analyze the potential risk of loss in exercising the option or right;
 - 3) If the options or rights are restricted, the Gift Acceptance Committee must determine how that restriction impacts the ability to sell the interest or the value of the gift; and
 - 4) If unrelated business taxable income is generated by the transaction, that cost must be reasonable in relation to the net proceeds, and UH System funds must be available to pay that tax.

6.4. Privately-Traded Securities:

- a. The UH System may accept gifts of privately traded securities which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership entities with the recommendation of the Gift Acceptance Committee.
- b. The Gift Acceptance Committee shall consider the following criteria for acceptance of privately-traded securities:
 - 1) The form of the interest, such as C Corporation, S Corporation, LLC, LLP, general partnership or other business entity;

- 2) The likelihood the interest will generate unrelated business taxable income and if so, the extent of such unrelated business taxable income, whether the cost is reasonable in relation to the net proceeds, and whether the UH System has funds to pay the tax;
- 3) Whether the gift officer has advised the donor to check with his or her advisors about the tax consequences to the donor on contribution of the asset (specifically a trigger of passive income to the donor or other negative income tax consequences);
- 4) A review of any documents placing restrictions on the sale or ownership of the security, including rights of first refusal subject to a set sales price;
- 5) Restrictions on the security that prevent the UH System from selling or converting the assets to cash;
- 6) A review of potential liability in holding the stock related to the operation of the business interest;
- 7) The appropriateness of the ownership interest in relation to the UH System mission; and
- 8) An analysis of the market for sale and the estimated time and costs required for sale.

6.5. Real Estate

- a. The UH System may accept gifts of real estate with a market value that justifies due diligence, acquisition and holding costs (generally at least \$100,000) subject to the recommendation of the Gift Acceptance Committee. Real property may be recommended only after due diligence work performed in accordance with Board policy [51.01](#) and [SAM 01.C.08](#). Gifts of real estate may include residential property, commercial property, rental property, farmland, or undeveloped property.
- b. The Gift Acceptance Committee shall consider the following criteria in reviewing a gift of real estate:
 - 1) Whether the property will be held and used in the UH System's mission, or whether the property will be sold.
 - 2) The form of and extent of ownership in the property.
 - 3) The results of appropriate real estate surveys conducted of the property.
 - 4) An assessment of the restrictions, reservations, easements, or other limitations imposed on the property.
 - 5) Value of the property determined by appraisals conducted in accordance with Board of Regent [Policy 51.01](#).

- 6) The information obtained by the gift officer working with the donor as indicated on the real estate disclosure checklist provided by the UH System Office of Real Estate.
- 7) Environmental considerations reflected by the results of a Phase I environmental review of the property, provided that in the event the initial inspection raises a potential environmental concern, the UH System may retain a qualified inspection firm to conduct a further environmental assessment. The Donor shall bear the costs of the initial and any subsequent environmental reviews.
- 8) Clear title to the property without any unreasonable encumbrances, and a title commitment and policy. Where appropriate, the Donor shall bear the costs of the title commitment and policy.
- 9) To the extent any structures exist on the property, appropriate inspections to determine the presence of any issues and extent of any repairs or remediation to be made.
- 10) If the property will be used by the UH System, an assessment of how the property will be used.
- 11) If the property is to be sold, the expected time required for the sale of the property. Board of Regent approval will be required for the sale of real estate under Board of Regent [Policy 55.01](#).
- 12) The carrying costs for holding the property for the time prior to sale including insurance, property taxes, mortgages, or notes associated with the property. The UH System will not generally assume debt on contributed property, and further consultation with University officials, including the UH System's tax director, is required before accepting such property.

6.6. Oil, Gas, and Mineral Interests

- a. The UH System may accept oil, gas, or mineral interests after consideration by the Gift Acceptance Committee and requisite approval.
- b. In reviewing the acceptance of oil, gas, or mineral interests, the Gift Acceptance Committee will consider the following criteria:
 - 1) The types of mineral interest being conveyed, *i.e.* royalty or working interest. The UH System will not accept a mineral working interest.
 - 2) The potential for generating sufficient income to justify acquisition and holding costs, as documented by leases in place, leasing or drilling activity in the area, or the findings of an appropriate professional or expert. Outright gifts of mineral ownership through deed are preferred, but gifts of royalty and override interests will be considered in individual circumstances.

- 3) The presence of any restrictions or conditions.
- 4) The potential for extended liabilities or other considerations that make receipt of the gift inappropriate.

6.7. Life Insurance

- a. The UH System may accept gifts of life insurance policies, including whole life, variable life, and universal life policies that name the UH System as both owner and beneficiary, with the recommendation of the Gift Acceptance Committee. The System, however, does not encourage gift planning wherein the primary gift technique involves the purchase of a new policy of life insurance designating the System as a beneficiary.
- b. Criteria for acceptance of life insurance policies include the following:
 - 1) The policy must have a minimum face value of \$100,000;
 - 2) The company must have an investment grade rating;
 - 3) If the policy has outstanding premiums, the donor must be willing to make a commitment to cover the premiums payments until the policy is paid up; and
 - 4) The donor understands that the UH System has sole discretion whether to cash in the policy, convert the policy to a paid up policy, or otherwise act in the best interests of the UH System to secure the value of the policy to the UH System.
- c. No insurance products and no insurance companies are endorsed by the System for use in funding gifts to the UH System.
- d. In no event shall the UH System or component university staff become involved in the furnishing of donors' names to other persons for the purpose of marketing life insurance to those donors. This practice represents a potential conflict of interest, raises issues concerning donor relations and donor privacy, and may subject the UH System to regulation under state insurance law if the activity is construed as involvement in the marketing of life insurance. Any external request for donor information will be referred to the Office of General Counsel in accordance with the System Administrative Memorandum [03.H.02, Open Records](#).

7. STANDARDS GOVERNING ACCEPTANCE OF IRREVOCABLE SPLIT-INTEREST GIFTS

7.1 Remainder Interest in Real Property

- a. The UH System may accept a remainder interest in a personal residence or farm subject to the provisions and procedures set forth below and in paragraph 6.5 pertaining to gifts of real estate.

- b. All gifts of remainder interests in a personal residence or farm shall require an operating agreement between the life tenants and the UH System setting out the obligations and responsibilities of the life tenant(s) and the UH System over the term of the life tenancy. This agreement shall address the responsibility for maintenance of the property as well as the costs for maintenance, real estate taxes, insurance, and capital repairs on the property over the term of the life interest.
- c. The UH System will have sole discretion, at the recommendation of the Gift Acceptance Committee, as to whether, at the conclusion of the life tenancy, the UH System will continue to utilize or sell the property.

7.2. Charitable Gift Annuities

The UH System does not issue charitable gift annuities. However, donors interested in creating charitable gift annuities for the benefit of the UH System may be referred to a UH Support Organization or third party charity authorized to issue charitable gift annuities in the state of Texas and the state of the annuitant(s) residence outside of Texas.

7.3. Charitable Remainder Trusts

- a. The UH System does not serve as Trustee of charitable remainder trusts.
- b. The UH System encourages its donors to name the UH System as a remainder beneficiary of a charitable remainder trust and to use a professional fiduciary to serve as trustee.

7.4. Charitable Lead Trusts

- a. The UH System does not serve as Trustee of a charitable lead trust.
- b. The UH System may accept a designation as income beneficiary of a charitable lead trust.

8. COSTS ASSOCIATED WITH THE GIFT ACCEPTANCE PROCESS

- 8.1. Costs of appraisals for donor tax compliance. The donor is responsible for the appraisal required to support the charitable deduction for the gift.
- 8.2. Costs of additional appraisals requested or required by the UH System to analyze gift acceptance shall be the responsibility of the UH System.
- 8.3. Costs of documents to transfer ownership from the donor to the UH System are the responsibility of the donor.
- 8.4. The responsibility for other costs may be addressed elsewhere in this policy.

9. REVIEW AND RESPONSIBILITIES

Responsible Party: Vice Chancellor for University Advancement

Review: Every three years on or before March 1

10. APPROVAL

Approved: Eloise Stuhr
Vice Chancellor for University Advancement

Jim McShan
Interim Vice Chancellor for Administration and Finance

Renu Khator
Chancellor

Date: July 27, 2015

REVISION LOG

Revision Number	Approval Date	Description of Changes
1	05/15/1992	Initial version
2	09/01/1995	Changed name from Gift Acceptance Policies to Acceptance and Disposition of Donated Monetary Assets. Added documentation to policy to reflect current operating practices. Added Vice Chancellor, Institutional Advancement to responsible parties. Changed Index Terms in Section 13
3	02/01/2002	Applied SAM revised template. Changed name from Gift Acceptance Policies to Gift Acceptance. Added content to reflect all changes in UH System structure for accepting and monitoring gifts, including creation of University Advancement. Changed the responsible party from Vice Chancellor for Administration and Finance to Associate Vice Chancellor for Finance and Vice Chancellor for University Advancement. Changed review date from even numbered years on or before September 1 to every three years on or before July 1. Added Vice Chancellor for Administration and Finance to approval cycle

Revision Number	Approval Date	Description of Changes
4	01/31/2009	Applied SAM revised template. Changed information throughout to reference Policy 32.03. Removed underlines for Section 2 definitions. Changed information on Gift Transmittal Form in Section 2.11 to reflect current operating requirements. Changed Section 6.3 to reflect current deposit procedures for cash gifts and cash equivalents. Changed Office of Development to Office of Planned Giving throughout document. Changed review period from every three years on or before July 1 to every three years on or before March 1. Added Vice Chancellor for University Advancement to approval cycle. Removed Index Terms
5	07/27/2015	Applied SAM revised template and added new Revision Log. Changed SAM 03.F.01 to SAM 08.A.03, and changed all content and title to reflect current University Advancement gift acceptance procedures for individual donors