



## THE UNIVERSITY CORPORATION, SAN FRANCISCO STATE

### GIFT ACCEPTANCE POLICY

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#### BACKGROUND

The purpose of this policy is to outline the process for the review and acceptance of gifts to be administered by The University Corporation, San Francisco State (“UCorp”). Nothing in this policy shall prevent San Francisco State University (“University”) or the San Francisco State University Foundation (“Foundation”) from accepting a gift in the name of the University or the Foundation (as per University Executive Directive 95-13), respectively, and without involvement of UCorp.

UCorp will serve as a trustee for gifts and, therefore, has fiduciary duty to the donor and University to administer the assets consistent with the donor’s wishes, the University’s policies and generally accepted financial standards.

#### POLICY STATEMENT

##### Gift Review and Acceptance

The UCorp Board of Directors has delegated responsibility to the Executive Director of UCorp to review and accept gifts, in consultation with the Director of Finance and Administration. All gifts accepted by UCorp must be consistent with the CSU and SFSU policies, and applicable Federal and State laws.

The Executive Director is responsible for development of specific guidelines and procedures for acceptance of all gifts by UCorp. These guidelines and procedures should include any preconditions regarding gift acceptance, process, amount and methodology for value and resale, location, and usage of non-cash gifts. These should be established in consultation with the Office of University Development and approved by the UCorp Board.

For purposes of acceptance, the gifts will be classified between cash and cash equivalents, and non-cash gifts.

All cash and cash equivalent gifts at the time of acceptance must include appropriate documents, which, among other things, indicates the donor’s intent, and any restrictions regarding purpose or method of spending and investments.

All non-cash gifts must include appropriate documents which, among other things, indicate donor’s intent, description of the items, general quality, age and original cost of the item, (if appropriate), amount and basis for valuation, any restrictions regarding purpose or method of usage, and resale.

U Corp will establish a process for working with Development to ensure that the donor is informed that she/he/it should seek independent advice regarding tax deductibility of the gifts and is responsible for payment of any taxes.

Such gifts include, but are not limited to:

- Gifts of real property or an interest in real property
- Gifts of personal property with a fair market value exceeding \$5,000. Examples of such gifts would include:
  - Artwork or other objects
  - Vehicles or equipment
  - Mineral, water, or timber rights
  - Overseas investments
  - Manuscripts/literary works
  - Computer hardware/software
  - Intellectual property/patents
- Gifts of real or tangible personal property subject to donor restrictions regarding disposal of the property
- Non-publicly traded securities
- Stock options
- Notification of the intent to gift real property through a bequest or trust distribution
- Alternative investments
- Other gifts of unusual items or gifts of questionable value
- Cash gifts (or pledges) totaling \$1,000,000 or more

#### **UCorp Executive Committee**

Gifts determined by the Executive Director to pose significant risk to the institution will be reviewed and considered for approval by the UCorp Executive Committee, before being accepted and before any representations are made to the donor that the gift will be accepted. The UCorp Executive Committee is defined according to UCorp bylaws. Before a proposed gift is submitted to the Executive Committee for review, the Executive Director shall perform the due diligence task of reviewing the background of the donor and the source of the gift funds. In any case in which a donor wishes to anonymously contribute or pledge to contribute \$1,000,000 or more, the due diligence task of reviewing the background of the donor and the source of the gift funds will be presented to the University President or her/his designee for consideration. If the University President approves acceptance of the gift, the matter shall then be presented to the Executive Committee for final review and consideration.

The Vice President for University Advancement, or his/her designee, will assemble documentation of the proposed gift for the committee's review. The documentation shall include the amount of the gift, the purpose for the gift, terms and conditions of the gift and any other relevant information about the proposed transaction. In addition, the documentation shall include introductory information about the donor's philanthropic history and plus brief background on the donor which includes the reason they are making the gift or donor intent.

#### **Administration**

- All necessary gift documents will be prepared by the Office of University Development.
- Appropriate records related to endowment and gift accounts shall be maintained by UCorp.
- A one-time fee not exceeding 5% of the principal will be assessed when a gift is accepted, unless the gift is for a scholarship. A fee is not assessed on gifts for scholarships.

- All non-cash gifts, pursuant to donor’s intention, will be sold. Exceptions to this will be considered on an individual basis.

### Accounting

- The cash gifts and proceeds from sale of non-cash gifts for investment purposes may be commingled consistent with legal and/or regulatory provisions. However, separate gift accounts will be maintained by UCorp, if deemed appropriate.
- The gift accounts will be audited at least annually as part of the audit of UCorp performed by an external CPA firm.

### Investment

Gift accounts are invested consistent with UCorp’s investment policy.

### WHO ADMINISTERS THIS POLICY?

- Executive Director of the University Corporation
- Director of Finance & Administration of the University Corporation

### PROCEDURES AND GUIDELINES

#### Gift Agreements

Written agreements setting for the terms and conditions of the gift are required to be signed by both UCorp and the donor for acceptance of all non-endowed gifts of \$25,000 or more, unless the gift was received from a bequest or a trust distribution or unless the execution of a written agreement is not feasible as stipulated in writing by either the University or the donor.

In situations where, despite the exercise of diligence, it is not possible or practicable to have a signed gift agreement (i.e., donor specifically indicates that he/she/it does not want to sign a gift agreement or dies prior to executing the written document,) the University Development representative who was working with the donor on the gift shall send a written memorandum to the UCorp Director of Finance and Administration indicating the circumstances under which a signed gift agreement could not be accomplished.

#### Outright Gifts

Outright gifts include cash and cash equivalents, securities, real property, interests in business entities, and personal property.

**Cash and Cash Equivalents** Cash gifts can take the form of currency, check, EFT (electronic funds transfer), wire transfer, or credit card transaction.

**Securities:** Gifts of securities are internally valued at the mean of the high and low price of the security as of the date of the gift. The date of the gift is defined as the date of the postmark on the envelope or the date the security is hand-delivered (physical certificates) or the date the stock is received in one of the UCorp brokerage accounts (book-held securities). UCorp will liquidate gifted securities as soon as possible.

**Real Property:** Real property can be used for deferred gifts (see below) as well as outright gifts. To be accepted as an outright gift or as a bargain sale gift, the gift portion of a property's fair market value must be of net benefit to the University/UCorp.

Real property includes improved or unimproved land, personal residences, farmland, commercial property, and rental property. These types of gifts are often complicated and require involvement of a number of professionals, advisors, and University and UCorp staff. This policy shall be communicated to donors when the University receives notification of the donor's intent to gift real property. In general, the University/UCorp shall not accept real estate gifts if the donor places permanent restrictions limiting the choices of UCorp to own, manage, or dispose of property, or if the real property has debt or encumbrances associated with it. Gifts of timeshares, while discouraged, will go before the UCorp Executive Committee.

As with any gift of property, if UCorp sells or otherwise disposes of the donated property within three years of the date of the gift, UCorp must file an information return on IRS Form 8282 and send a copy to the donor.

The donor of the property will be apprised that she/ he/ it should discuss any possible charitable deduction with an attorney before making the decision to donate the property. An appraisal report attesting to the market value of the proposed real property gift, prepared at or near the proposed donation and paid for by the donor, is required. Such appraisal report shall be prepared by a qualified, independent appraiser if no value is being received from the University or UCorp in exchange for the gift; UCorp shall select the appraiser if the donor will receive any item of value or right in exchange for the gift (e.g., seats at sporting events, naming rights, etc.).

If the donor wants to donate real property (or an interest in real property) to UCorp, the acceptance will require approval by the UCorp Executive Committee in accordance with UCorp policies and procedures.

Prepaid expenses shall be deducted from the gift proceeds when said proceeds are or become available for disbursement. Prepaid expenses are those that are incurred by UCorp in securing the donated property, as well as in maintaining the donated property, such as but not limited to any and all appraisal costs, environmental impact report costs, real property taxes, escrow and title insurance fees, personal property taxes, maintenance, repair, and upkeep costs and expenses as well as disposition costs and other expenses attributable to the donated property and paid or to be paid by UCorp.

**Personal Property- Accepted with the Intent to Sell:** With the exception of property the University can immediately put to use in furtherance of its mission, as discussed below, it is the policy of UCorp to sell or otherwise dispose of all gifts of personal property. UCorp's intention to sell the property and use the proceeds to further the mission of the University shall be communicated to the donor in writing at the time of the gift.

Gifts with fair market values exceeding \$5,000 will be recorded at the values placed on them by qualified and independent appraisers as required by the IRS for valuing non-cash charitable contributions. If the donor does not provide an appraisal, but there is a valid alternative means of substantiating the value of the gift, the UCorp Executive Committee will determine the value placed on them by a qualified expert. If a value as specified about is not placed on a gift of personal property, the value shall be recorded at \$1. Gifts of intellectual property shall be valued according to applicable IRS guidelines.

Title to personal property shall be clear and unencumbered, and properly documented. Careful consideration should be given to marketability, storage, transportation, and disposal costs of all gifts of personal property.

***Personal Property (or Gifts-in-Kind) - Retained for University Use:*** Gifts that are donated with the intention not to sell should be accepted by the University directly. Any exceptions will need to be brought to the UCorp Executive Committee for approval.

***Gifts of Contributed Services:*** UCorp neither records nor receipts gifts of services.

## **Deferred Gifts**

UCorp accepts deferred gifts including charitable bequests, charitable gift annuities, charitable remainder trusts, charitable lead trusts, gifts of life insurance, and retained life estates. Whenever possible, UCorp will outsource management of deferred gift instruments. UCorp will not act as a trustee of any trust (whether charitable or revocable) without the advance approval of the UCorp Executive Committee.

***Charitable Bequests:*** A donor can make a charitable bequest in a will and/or a living trust. For a bequest involving real property, the executor, personal representative, or trust may be asked to sell the property within the estate or trust and distribute the net proceeds to UCorp.

***Charitable Gift Annuities:*** A charitable gift annuity is a contract between UCorp and a donor in which the donor makes an initial payment of cash or marketable securities to UCorp and UCorp agrees to pay the donor an annuity for the rest of the donor's lifetime. The minimum acceptable gift will be assets valued at \$10,000. The annual payment to the donor is based on the age of the donor. Since the donor expects to receive payment from UCorp for the remainder of his or her lifetime, the actual "gift" to UCorp has a deductible value of significantly less than the donor's initial payment. UCorp offers the gift annuity rates recommended by the American Council on Gift Annuities. UCorp will accept current gift annuities whose initial payment is at least one year after the gift date. The deferral period will be at the discretion of the donor and the Office of University Development.

Gift annuity agreements shall be limited to one life or two lives in being at the time of the gift. Ordinarily the minimum age for annuitants shall be 45 for immediate annuities. For deferred annuities or unusual circumstances, the Director of Planned Giving or a designee will be consulted. State registration requirements will be adhered to in those states whose insurance or other laws and regulations require.

***Life Insurance:*** UCorp can receive two types of life insurance gifts: as beneficiary or as owner and beneficiary. The donor, on advice of his or her advisors, must decide which arrangement is in the donor's best interests. Should UCorp learn that it has been named as a beneficiary of a life insurance policy but is not its owner, no gift shall be counted until after the death of the donor, when the proceeds are received. When ownership of a life policy is transferred to UCorp and it further names UCorp as sole or partial beneficiary of the policy's proceeds, the University shall count its pro rata portion (if multiple beneficiaries are named) of any existing cash surrender value of the policy, and/or the pro rata portion of any premium payments made by the donor, as the gift value. Anticipated payments are not counted until they are made.

University Development, including the Director of Planned Giving or a designee, and the U Corp executive committee must also review gifts of life insurance for which UCorp is the beneficiary and owner, or gifts of insurance that are funded with assets other than cash or securities.

***Retained Life Estates:*** Donors can receive a sizable income tax deduction by making a gift of their personal residence or farm to UCorp while retaining full use and rights to the property during their lifetime: the donor retains a “life estate” and UCorp receives the “remainder interest.”

A life estate is created by transferring a deed to UCorp, which reserves a life estate for the life of the donor or his or her designees. Donors must sign life estate agreement with UCorp to clarify their responsibility for property repairs, taxes, insurance, and other expenses. Donors are encouraged to have all documents reviewed by their own attorneys. All the normal review and gift acceptance procedures for gifts of real estate apply to gifts of life estate/remainder interest deeds.

### **Pledge Payments and Documentation**

***Pledge Payments:*** Pledges must be fulfilled with payments of cash, credit cards, EFT, payroll deductions, or marketable securities.

If real estate or other non-marketable assets are used as payment, the initial value recorded against the pledge shall be the fair market value of the real estate or assets as determined by an independent qualified appraisal. As with gifts of securities, donors shall receive recognition credit equal to the fair market value (normally based on an appraisal within 60 days of the gift date), regardless of the sale price of the asset.

If publically traded securities are used as payment, the amount booked against the pledge shall be valued on the legal date of the gift.

Matching gift amounts (such as from employers) cannot be used to reduce the pledge balances. Matching gifts are not an obligation of the donor and cannot be used to satisfy a donor’s personal pledge. It is permissible for the donor to have matching funds deposited into the same fund as his or her gift if permissible by the matching corporation or entity. The pledge agreement should reflect the anticipated amount for which the donor is personally responsible.

Similarly, gifts from donor-advised funds cannot be obligated by the donor and cannot satisfy pledges nor result in benefits to the individual or the fund.

### **Special Circumstances**

***Matching Gifts:*** The University will comply with each organization’s matching gift policies. If the University or U Corp staff have reason to believe that a donor is not in compliance with a matching entity’s policies, Office of University Development will contact the matching entity for clarification. The University will not knowingly submit claims for non-qualifying gifts.

**Commemorative (Memorial, Honoria and “On Behalf Of”) Gifts:** When a memorial gift is made, the decedent’s next of kin is notified by the University Development; such notifications must not specify gift amounts. When necessary, and unless there is a gift instrument designating the use of such donations, the next of kin will be consulted about the designation of memorial monies, including whether the funds will be

spent as current funds or go into an endowment fund. In the case of Honoria gifts, the honored person is notified of the gesture but again without detail about gift amounts.

### **Gifts for the Benefit of Specific Individuals**

The University and UCorp do not accept gifts made for the personal benefit of a named individual. Funds received from a third party who has selected the recipient (such as an external scholarship granting entity) shall be accepted and processed by the appropriate University office.

### **Premiums and Goods or Services Received**

The IRS requires nonprofits to verify that no substantial goods or services were received in exchange for a contribution in order for the gift to qualify for a full charitable deduction. The IRS permits small value benefits based on the amount paid without disclosure. The IRS changes these limits annually.

### **Raffles**

UCorp is required to accurately report raffle proceeds to the IRS and the State of California on a yearly basis.

### **Corporate Sponsorship**

Most corporate sponsorship dollars are fully countable (less the value of tangible benefits received); the determining factor is whether the recognition the corporation receives constitutes advertising. The IRS defines advertising in this instance as competitive pricing or product information displayed because of the donation. If the recognition fits this definition of advertising, the sponsorship is an exchange transaction, not a gift. Simple name or logo placement is not advertising.

If, in return for a gift, a donor or donor organization has its name placed on a brick, chair, building, or other item or program that remains part of the institution, this recognition does not reduce the value of the gift so long as it is not advertising as defined by the IRS, above.

The Corporation shall have the right to terminate the naming rights in the event that the Donor(s) engage in illegal activity or other legal impropriety of such magnitude that continued recognition would not be in the best interests of the University.

### **Diversity Gifts**

In all cases, the University and UCorp will comply with federal and state regulations in effect at the time of the gift.

**Gift Refunds:** There may be circumstances when it is in the best interest of the donor relations to refund a gift to a donor. The Vice President of University Advancement and the UCorp Executive Director shall review those requests. If approved, in recognition of the fact that all gifts are permanent (a gift is not a gift unless it is irrevocably given), with the donors likely having claimed a tax reduction for the gift, any gift refunds to donors shall be treated as income to the individual. If the payment is equal to or greater than \$600, and was made in prior tax year, such refund payments shall result in the generation of a 1099 to the donor who will then be obligated to pay taxes on the stated amount.

### **Tax Considerations**

The IRS has several requirements that relate to donor tax deductions for cash and non-cash gifts to charities.

**Receipts:** The University's practice is to issue receipts for all gifts; the Advancement Office is responsible for issuing all gift receipts. (Individual areas may acknowledge gifts, but not receipt them.) The IRS requires a receipt to substantiate most charitable gift deductions. The donor should retain the receipt in his/her records; it need not be filed with the return.

**Deductibility:** Tax laws governing charitable gifts are complex; the University and UCorp encourage donors to seek professional tax advice on issues.

**Gifts of Securities:**

Securities not publically traded: A qualified appraisal and the University and UCorp's acknowledgement of receipt on IRS Form 8283 are required for gifts of securities that are not publically traded if their total value is more than \$10,000.

Publically traded securities: Additional documentation is not required for gifts of publically traded securities, regardless of their value.

**Donee Information Return (IRS Form 8282):** Under certain circumstances, if UCorp sells, transfers, exchanges, or otherwise disposed of donated property within three years of the date of receipt of the property, UCorp must file a Form 8282 (Donee Information Return) with the IRS reporting such an action.

## GLOSSARY

**Gift:** A contribution received for the benefit of the University for either unrestricted or restricted use in furtherance of the University's mission and which requires nothing in exchange beyond an assurance that the intent of the contribution shall be honored. If a donor receives benefits in return for a contribution, the amount of the gift recorded and reported is reduced by the fair market value of all benefits given in accordance with IRS regulations.

**Restricted Gifts:** This term designates gifts upon which the donor has identified definite restrictions on the purpose for which, or the conditions under which, such fund may be expended or disbursed. UCorp and the University will make every effort to fulfill that purpose and/or conditions; however, full discretion is maintained by UCorp in consultation with the University regarding its use.

**Unrestricted Gifts:** This term designates gifts upon which the donor has not placed definite restrictions as to method or purpose of expenditure, thereby, leaving the determination of the appropriate use of such funds to the University and UCorp. This may also be applied to gifts received under a continuing solicitation program for general support of the University.

**Grant:** A contribution that typically comes from a corporation, foundation, of other organization (not an individual) for either unrestricted or restricted use in furthering the mission of the University. Some grants may have special reporting requirements. In the rare cases when a difference of interpretation arises, the Provost and Vice President for Academic Affairs shall determine the proper processing and administration of the grant.

**Contract:** An agreement between the institution and another entity to provide an economic benefit for compensation. The agreement is binding and creates a quid pro quo relationship between the institution and the entity.



**Pledge:** A commitment to give a specific dollar amount according to a fixed time schedule. All pledges other than annual fund telephone pledges are required to be in writing, except that an oral pledge (a pledge that a donor declines to document in writing) may be booked by Advancement Services if the commitment is documented by the University, reflecting the understanding of the donor's verbal commitment. Documented pledges are recorded the University's fundraising database.