

### **Gift Acceptance Policy**

The purpose of the Gift Acceptance Policy is to provide a set of standards by which gifts are reviewed and accepted by the College of William & Mary Foundation (the “Foundation”) for the benefit of the College of William and Mary (William & Mary). The policy is intended to protect donors, the university and the Foundation and serve as a resource and guide for staff, compliance officers and donors. The policy addresses ethical practices, the types of gifts accepted, necessary documentation, gift restrictions and special circumstances.

University Advancement and the College of William & Mary Foundation do not provide legal, accounting, tax or other professional service advice to prospective donors. Under IRS regulations, gifts to William & Mary and its related foundations are generally tax deductible if the donor does not retain control over the gift or receive personal benefit. Each prospective donor is urged to seek the advice of independent legal, financial or tax counsel in the gift process.

The College of William and Mary is a tax-exempt organization under Internal Revenue Code Section 170(c)(1) as a public college that is a political subdivision of the Commonwealth of Virginia. The College of William & Mary Foundation is a tax-exempt organization under Internal Revenue Code Section 501(c)(3) and not private foundations under Sections 509(a)(1) and 170(b)(1)(A)(iv). All questions concerning the Federal tax status of the university or its related foundations should be forwarded to the Office of the University Recording Secretary, which keeps IRS Letters of Tax Determination for the university and its related foundations on file.

#### **Guiding Principles**

Principle 1: A gift shall not be accepted by William & Mary or any of its related foundations unless there is a reasonable expectation that acceptance of the gift will advance the mission of the university and complies with IRS statutes and regulations and applicable state and Federal law.

Principle 2: A gift shall not be accepted by William & Mary, or any of its related programs or foundations if such acceptance imposes upon the university or any of its related programs or foundations overly burdensome administrative or other costs or other financial risk.

Principle 3: Every William & Mary employee engaged in Advancement work has primary and ultimate responsibility to serve the university and its related foundations in a manner befitting the profession. Donors should be actively encouraged both in written proposals or

**October 21 – 23, 2015**

**Page 2 of 12**

financial illustrations, as well as in person, to consult their own financial and/or legal advisors when contemplating a gift. Advancement staff should not portray themselves as financial or legal advisors to a prospective donor. A disclaimer clause to this effect shall be incorporated in proposals and illustrations as appropriate.

Notwithstanding this statement of limits of accountability, no development officer should knowingly accept or encourage a gift, if, in his or her professional opinion, the making of the gift is not in the donor's best interest.

### **Gift Acceptance Committee**

Questions concerning the acceptability of a gift should be referred to the University Recording Secretary who, when necessary, and in consultation with the Vice President for University Advancement will convene the Gift Acceptance Committee for review of the proposed gift. The University Recording Secretary is the staff liaison for the Gift Acceptance Committee. All non-standard gifts must be reviewed by the Gift Acceptance Committee. The IRS defines a non-standard gift as an item that is not reasonably expected to be used to further the organization's exempt purpose (other than the need for funds) and for which there is no ready market to liquidate the contribution and/or the value of the item is highly speculative or difficult to ascertain. A Gift Acceptance Committee for the College of William & Mary Foundation comprised of the Chair of the College of William & Mary Foundation or his/her designee, the Assistant Treasurer of the College of William & Mary Foundation, Assistant Secretary of the College of William & Mary Foundation, Vice President for University Advancement the Senior Vice President for Finance and Administration, the Executive Director of Gift Planning, and the University Recording Secretary will be responsible for making decisions concerning the acceptance of special, conditional, or non-standard gifts. Any requests for special consideration of a gift or exceptional circumstance must be presented to the University Recording Secretary prior to referral to the Gift Acceptance Committee. Exceptional circumstances will not be granted to any gift of less than \$100,000 in value except in the case of an estate provision.

### **Receipt of Gifts**

#### Gift Processing

Whether gifts are solicited by a department (i.e., website, newsletter, direct mailing) or through representatives of the Advancement Office, ALL forms of gifts (checks, cash, stocks, etc.) must be processed through the Gift Accounting Office in University Advancement for proper acknowledgement, recording and reporting. The preferred method would be to have donors send their gift contributions directly to Gift Accounting. This reduces delays and potential problems.

**October 21 – 23, 2015**

**Page 3 of 12**

Only the Gift Accounting staff may acknowledge donor gifts as tax deductible contributions to the university or a related foundation.

Due Diligence

Federal Anti-money Laundering Requirements & Patriot Act -

In order to maintain compliance with Federal anti-money laundering requirements and the Patriot Act, certain additional procedures are needed for individual gifts in excess of \$100,000 (or for a donor making smaller gifts totaling \$250,000 in one year), and for gifts of any amount drawn on foreign bank accounts, sent from a foreign jurisdiction, or from a donor with a foreign address. As these procedures must be completed before accepting a gift, the Director of Gift Accounting should be contacted prior to accepting a check or other gift, or providing wire instructions.

Anonymous Gifts

Donors may request their gift to be noted as anonymous on donor lists and reports, and may also decline any publicity of their commitment. Totally anonymous gifts are not accepted with the exception of money in cash collection boxes for university purposes (Ex: collection box at the Wren Building). Donor name, address, and any other information required under the provisions of the Foundation's Anti-Money Laundering Policy must be obtained or a gift cannot be accepted.

Types of Gifts

Cash: Cash gifts may take the form of currency, check, or credit card contribution.

Securities: Public and readily tradable investments.

Non-publicly traded investments, closely held and restricted stock: The Office of Gift Planning and the Office of the Associate Vice President for Advancement Services have the responsibility for coordinating the process of review and determination of acceptance for any proposed gifts of non-publicly traded investments, including, but not limited to partnership interests, mineral rights, interests in real estate investment trusts, options and derivatives.

Gifts-in-kind and Tangible and Intangible Personal Property: It is the general policy to sell upon receipt all gifts of tangible personal property which will not be used to further the mission of William & Mary. Gifts-in-kind and tangible gifts may include but are not limited to works of art, motor vehicles, antiques, equipment, stamp and coin collections, jewelry, furniture, rare books, manuscripts, or any other item that has determinable value. Intangible gifts may include patents, copyrights, and intellectual property.

October 21 – 23, 2015

Page 4 of 12

The Office of Gift Planning has responsibility for coordinating the review and acceptance process for all tangible and intangible gifts with a value of \$500 or more except for certain gifts to Swem Library and the Muscarelle Museum of Art as further described below:

Muscarelle Museum of Art or the College of William and Mary (Tangible gifts of art or art related materials are made to the Muscarelle Museum of Art Foundation, College of William and Mary or the College of William & Mary Foundation): The Head of Collections & Exhibitions Management, Muscarelle Museum of Art has responsibility for coordinating the review and acceptance process of all tangible gifts of art with a value of \$500 or more. Only the authorized individuals identified further below may execute acceptance documents for tangible gifts of art with a value of \$500 or more.

University Libraries (Tangible gifts of books and related materials are made to the College of William and Mary in almost all cases. In general, University Libraries does not accept tangible gifts of books or related materials for ownership by the College of William & Mary Foundation): The Dean of University Libraries has responsibility for coordinating the review and acceptance process for all tangible gifts of books, or related materials for Swem Library or other university libraries. In the exceptional circumstance that a tangible gift of books or related materials would seem appropriate for the College of William & Mary Foundation to accept, the recommendation would be referred to the Gift Acceptance Committee for decision.

Intangible gifts: The Office of Technology Transfer and the William and Mary Intellectual Property Foundation have responsibility for registration of intellectual property with the United States Patent Office. The Gift Planning Office coordinates with the Office of Technology Transfer and the Office of University Counsel regarding intangible gifts.

### **Documents Evidencing Gift Acceptance**

All documents evidencing gift acceptance, such as endowment agreements, deeds of gift, grant agreements from foundations, charitable gift annuity agreements, etc., must be signed by an authorized individual. Authorized individuals to execute Deeds of Gift and 8283 forms are stated below under the Tangible and Intangible Gifts section of this policy.

The authorized individuals to execute all other documents evidencing gift acceptance including, but not limited to, endowment agreements, grant agreements from foundations, charitable gift annuity agreements, etc. for the College of William & Mary Foundation, are the Assistant Secretary or the Assistant Treasurer for the College of William & Mary Foundation and the university's Senior Vice President for Finance and Administration. The Senior Vice President for Finance and Administration or the Vice President for University Advancement are the authorized individuals for the College of William and Mary.

October 21 – 23, 2015

Page 5 of 12

Letter of Commitment (LOC) or Letter of Designation (LOD)

A LOC outlines the details of a pledge for a donor(s) to give a specific dollar amount to one or more areas of the university according to a fixed time schedule. If monies have already been received but documentation is needed to confirm donor intent, a LOD may be used.

- Generally, pledges should not exceed five years; exceptions must be approved by the University Recording Secretary, in consultation with the Vice President for University Advancement.
- Only the entity with legal control over the assets to be given can make a pledge. Therefore, an individual cannot make a pledge that includes anticipated matching contributions from an employer or some other source. Nor can an individual commit funds that may come from a donor-advised-fund or community foundation.
- The entity to which the pledge is being made must be clearly identified (i.e. College of William and Mary, College of William & Mary Foundation, etc.).
- Changes to original pledges/LOCs (e.g., pledge amount, payment schedule or changes in the designation of a pledge) must be documented in writing and approved by the University Recording Secretary. LOCs are signed by the donor but do not require a counter signature.

The University Recording Secretary will draft the LOC if any of the following apply:

- commitment is for a new expendable fund
- commitment of \$50,000+ will be allocated to more than one agency
- commitment of \$50,000+ to be paid on a schedule

Endowment Agreement and Gift Agreement (EA and GA)

A fund for restricted gifts for a specific purpose will be established for commitments that meet the minimum funding thresholds and if the restriction has been vetted and approved by the University Recording Secretary.

The University Recording Secretary is responsible for drafting agreements if any of the following apply:

- gift is for a new endowment
- gift is connected to a naming opportunity
- gift requires a commitment of funds by the university (also requires approval by the Vice President for University Advancement and the Senior Vice President for Finance and Administration)
- gift involves a challenge match by donors (also requires approval by the Vice President for University Advancement)
- gift involves a condition

October 21 – 23, 2015

Page 6 of 12

Deed of Gift

Gifts-in-kind valued at more than \$500 must be accepted by the university or Foundation by execution of a deed of gift by the donor(s) and the authorized individual of the university or Foundation as further described below. The Office of Gift Planning has the responsibility for drafting this deed of gift and for coordinating this acceptance process, with the exception of books and/or related materials for University Libraries and art and/or related materials for the Muscarelle Museum. The Head of Collections & Exhibitions Management, Muscarelle Museum of Art shall coordinate the deed of gift and acceptance process with the Office of Gift Planning with respect to items of art given to the Muscarelle Museum. The Dean of University Libraries shall prepare the deed of gift and coordinate the acceptance process with respect to books and related materials given to University Libraries.

Statement of Value for Gifts Valued \$5,000 or Less

In addition to the Deed of Gift, if the value of the tangible or intangible gift(s) is between \$500 and \$5,000, the donor must provide a signed statement of the donor's good faith estimate of fair market value of the item(s) for gift documentation purposes. Determination of value of the gift(s) for income tax deduction purposes is a matter between the donor and the IRS. While the donor's written estimate of value may be used for internal gift crediting purposes, a written, signed statement of value obtained from an on-campus professional may be used, but must not be shared with the donor.

Gift receipts from the Office of Gift Accounting and acknowledgements to the donor from others employed by the university or Foundation for a tangible or intangible gift will not state the value placed on the gift but will include a description of the item.

IRS Form 8283

The IRS requires the donor to file Form 8283 for non-cash gifts in excess of \$500, but the charity does not sign the 8283 form unless the value of the tangible or intangible gift exceeds \$5,000. For gifts of any item or group of similar items exceeding \$5,000, the IRS requires a current qualified appraisal and an executed 8283 form from the Donor. The 8283 form may only be executed by an authorized individual as further described below.

Gifts Valued at More than \$5,000

If the article(s) exceed \$5,000 in value, the development officer involved with the gift should ensure that the donor is aware that a current, qualified, professional independent appraisal must be obtained at the expense of the donor within specific time deadlines imposed by the IRS and no later than April 15 following the close of the fiscal year in which the gift was accepted. The qualified appraiser must execute the appraiser portion on the second page of the IRS 8283 form in order for the donor to claim the charitable deduction.

**October 21 – 23, 2015**

**Page 7 of 12**

If the donor does not provide a copy of their appraisal, it is the responsibility of the department receiving the gift to obtain an appraisal – absorbing the cost involved. A copy of the appraisal will not be provided to the donor and an IRS Form 8283 will not be executed under these circumstances. Exceptions to this policy must be approved by the Office of Gift Planning.

Only authorized individuals for the university or the Foundation may sign 8283 forms and deeds of gift acknowledging receipt. For the College of William & Mary Foundation, authorized persons are the Assistant Treasurer or the Assistant Secretary (contact the Office of Gift Planning for further information); and for the university, the authorized persons are the Senior Vice President for Finance and Administration and the Vice President for University Advancement. No other persons, including Directors or Department heads, are authorized to sign 8283 forms. No signature may be made on an 8283 form unless the professional appraiser portion of Section B, Part III of the 8283 form has been executed by a professional appraiser first, and the form has been reviewed by the Office of Gift Planning.

IRS Form 8282 and Form 1098C: If the gift is disposed of within three years, Form 8282, which provides information about the disposal (including sales price), must be filed by the charity (the university or the Foundation) with the IRS and a copy provided to the donor. It is the general policy to keep all gifts of tangible personal property used to further the mission of the university for at least three years. William & Mary and its related foundations reserve the right to sell or otherwise dispose of tangible and intangible gifts at any time. Please note that a gift such as an automobile also requires transfer of title with the appropriate state agency and an IRS 1098C form executed by an authorized individual as identified above.

### **Restrictions on Gifts of Personal Property**

#### Tangible gifts not accepted by the College of William & Mary Foundation

The College of William & Mary Foundation does not accept gifts of marine vessels, aircraft, fixtures or equipment where the insurance costs of operation may be prohibitively expensive. Such gifts may be used by the university, and development officers may explore having these items gifted to the university or to VIMS, in consultation with the Office of Gift Planning. The College of William & Mary Foundation does not accept books or related materials for Swem Library or other University Libraries, except as authorized by the Gift Acceptance Committee as an exceptional circumstance (see above).

Livestock is not accepted by either the university or the Foundation.

**October 21 – 23, 2015**

**Page 8 of 12**

Tangible Gifts for University Libraries

The administrative contact for, and the authority to accept, donations of books and materials for University Libraries, including Swem Library and/or its Special Collections Research Center (SCRC), is restricted to the Dean of University Libraries and whomever is authorized as stated in policies of the University Libraries. This includes drafting and execution of any documentation including, but not limited to, Deeds of Gift, and other forms for donations approved in university library policies. For tangible gifts valued in excess of \$5,000, only the Dean of University Libraries has the authority to accept the tangible gift on behalf of the College of William and Mary by execution of the Deed of Gift and the 8283 form. The Dean of University Libraries has no authorization to accept any gifts on behalf of the College of William & Mary Foundation.

The following restrictions apply to any proposed tangible gifts for University Libraries, including Swem Library and/or its Special Collections Research Center (“SCRC”).

Generally, University Libraries does not collect:

- Large collections unrelated to the university’s academic mission.
- Photocopies of materials held in other repositories.
- Collections that are primarily in foreign languages.
- Duplicate items already in the collections, that are in poor physical condition.
- Fractional shares of tangible gifts.
- Gifts of tangible property on the condition that the items will be permanently exhibited or that the collections will be maintained and shown as such.

In addition to the restrictions listed above, the SCRC does not collect:

- Photocopies or other reproductions of original material, unless the originals are no longer in existence or are unavailable to the public.
- Images of museum objects.
- Duplicates of material already in the SCRC collections, except when the duplicate is in better condition than the SCRC copy.
- Research notes, unless included as a sub-unit of a collection of related primary material or unless largely focused on local genealogy.
- Current local, state, and federal government records,
- Autographs (signatures with no historically significant information), in most cases.

Real Property

Outright gifts of real estate, including contributions of fractional interests and remainder interests in charitable life estates, are subject to review and acceptance in advance by the William and Mary Real Estate Foundation. The Office of Gift Planning has responsibility for coordinating the process of review and acceptance of all outright gifts of real property in



**October 21 – 23, 2015**

**Page 9 of 12**

consultation with the William and Mary Real Estate Foundation and other administrative units as appropriate.

Time Share

Gifts of timeshare interests are not accepted by the university, The College of William & Mary Foundation, or the William and Mary Real Estate Foundation.

Life Insurance

The Office of Gift Planning has responsibility for coordinating the process of review and acceptance of all outright gifts of life insurance (whole, variable, universal, etc.) consistent with existing guidelines, requirements and conditions that are in force by the university or its related foundations, which meet the following criteria:

The policy has a minimum face value of \$100,000; has a payment schedule not to exceed twelve years; assumes an interest rate not to exceed one percent below the prevailing prime interest rate as reported in the Wall Street Journal (for existing policies an “in force” illustration will be required); and requires a written pledge of a charitable contribution from the donor to the Foundation in a total amount which equals or exceeds the total premiums due.

The Foundation does not accept life insurance policies that involve premium financing.

**Deferred Gifts**

Irrevocable Deferred Gifts

Irrevocable deferred gifts include charitable gift annuities, charitable remainder trusts, pooled income fund contributions, and gifts of real estate subject to retained life estate(s). The Office of Gift Planning has responsibility for assisting donors and their professional advisors in establishing such gifts and for coordinating the process of review and acceptance in consultation with the designated corporate trustee, constituent schools, related foundations, and other administrative units as appropriate.

Once the College of William & Mary Foundation is named as irrevocable beneficiary of a deferred gift, the donor may not re-designate the remainder interest to be distributed to another charity, including other university-related foundations. This applies to charitable gift annuities, charitable remainder trusts, life insurance policies which are owned by the Foundation, gifts to the Foundation’s pooled income fund, and other such gifts.

Revocable Deferred Gifts

The Office of Gift Planning has responsibility for assisting donors and their professional

advisors in naming the College of William and Mary and its related foundations as beneficiary of a will, trust, life insurance policies, commercial annuities, IRA and other retirement plans in consultation with other constituent schools, related foundations and administrative units as appropriate.

#### Oil, Gas, and Mineral Interests

The Office of Gift Planning has responsibility for coordinating the process of review and acceptance of all outright gifts of oil, gas, and mineral interests for the university and the Foundation. Oil and gas property interests may be accepted, when appropriate and when necessary criteria (see Procedures) have been met. Prior to acceptance of an oil and gas interest, the gift shall be approved by the Gift Acceptance Committee, and if necessary, by the Office of University Counsel.

### **Special Situations**

#### Conditional Gifts

Conditional gifts are those gifts that, because of some qualifier or restriction, are considered non-routine. Conditional gifts may commit the university or the College of William & Mary Foundation to act within a specified time or use a gift for a specific purpose. All conditional gifts must be reviewed and approved by the Senior Vice President for Finance and Administration or the Gift Acceptance Committee, depending on the condition. Gift acceptance agreements should specify a time period for meeting the conditions for the gift and should also indicate what will happen to the gift if the conditions are not met.

#### Challenge Gifts

All challenge gift requests should be submitted to the University Recording Secretary who will share it with appropriate staff for review (see Procedures).

#### Group Gifts

Donors (graduating classes, alumni groups, friends and family of athletic programs or an academic discipline, etc.) who wish to establish a new fund collectively as a group must meet the following criteria (see Procedures).

- When soliciting a group of donors for new endowments the discussion and determination of the agency that will hold the account and how the monies will be used must first be established and explained and agreed upon with the donors.
- A new endowment fund cannot be solicited first as an expendable with the thought that once the monies reach the minimum amount required for an endowment that the monies will be switched or transferred to an endowed fund.

- It is important that the donors are aware and agree upon the intent and use of the account at the time of solicitation.
- The appropriate foundation board or William & Mary's governing board has final approval for the establishment of endowments. Expendable accounts do not require board approval.

### **Third Party Grants**

#### Donor Advised Funds (DAF)

Generally, a donor advised fund is a separately identified fund or account that is maintained and operated by an external section 501(c)(3) organization, which is also known as a *sponsoring organization*. Each account is composed of contributions made by individual donors. Once the donor makes the contribution, the DAF has legal control over it. However, the donor, or the donor's representative, retains advisory privileges with respect to the distribution of funds and the investment of assets in the account.

- When a grant is received through a DAF, the legal donor is the DAF making the contribution, and the entity advising is known as the recommender.
- Recommenders may not receive any impermissible benefit (e.g., tuition, membership fees with more than incidental benefits, dues, admission to charitable or other event, goods bought at auction, etc.) from the university or a related foundation as a result of receiving a grant. Examples of permissible benefits include benefits that are not more than incidental, such as free or discounted admission, free or discounted parking, token logo-bearing key chains, caps, T-shirts, and calendars.
- The grant may not fulfill all or a portion of a recommender's pledge because release from a debt is an impermissible benefit.
- The grant does not entitle the recommender or any other person to an income tax charitable deduction, because they were eligible to take a deduction at the time of the contribution(s) to the DAF.

#### Corporate Matching Gifts

- Donors may only pledge their own personal monies and may not commit those of another entity.
- A matching gift may not fulfill all or a portion of a donor's pledge to the university or a related foundation.

#### Recognition of Discounts and Services

William & Mary recognizes that corporations or private individuals may offer significant discounts on materials or services to the university. While these "gifts" do not qualify as tax-deductible donations, it is important to acknowledge and recognize these items through the university's formal stewardship programs. Donor acknowledgement of a significant discount

**October 21 – 23, 2015**

**Page 12 of 12**

on materials or services will be made by the Office of University Advancement and the receiving department at its discretion. See form for Recognition of Donations of Discounts and Services.

If, in any instance, a gift offered by a donor would put William & Mary in an embarrassing or untenable position with the general public, the university and the Foundation will decline acceptance.