

# **THE UNIVERSITY OF CENTRAL OKLAHOMA FOUNDATION**

## **POLICIES ON USE OF FOUNDATION FUNDS**

**(This policy only pertains to donor designated funds; not the Foundation Operating fund.)**

# University of Central Oklahoma Foundation

## *Policies on Use of Foundation Funds*

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# University of Central Oklahoma Foundation

## *Policies on Use of Foundation Funds*

### **1.0 OVERVIEW OF FUND TYPES AND FUND ADMINISTRATION**

#### **1.1 General**

The Foundation's records are maintained in accordance with the principles and practices of "fund accounting." Each fund account (or "fund") is a separate accounting entity; however, funds may be grouped together for accounting, investing and reporting purposes.

When donors make a gift to the Foundation, they may designate which University program, project, college or area will benefit from that gift. They may also specify whether their gift may be spent entirely or will be used to create a permanent or endowed fund. Two broad fund classifications, along with other classifications used in special circumstances are described below. These fund classifications help the Foundation administer its resources in accordance with the guidelines established by donors.

For each fund, no matter what its classification, the Foundation formally identifies an individual, known as the primary fund manager, who is authorized to recommend disbursements from that fund. The fund manager is the faculty member or professional staff member who is responsible for the University division that is to benefit from the gift. For example, a department chair likely would be identified as the fund manager for a fund to benefit a specific department, and a Dean likely would be identified as the representative for a fund to benefit a college. This responsibility is usually assigned after discussions between the Foundation, the donor and/or appropriate University personnel.

Fund accounts are invested under guidelines established by the Foundation's Board in professionally managed investment pools maintained by the Foundation. This helps ensure the effectiveness of donors' gifts by providing incremental resources, over and above the required State funding, to encourage excellence in the University programs that the donors wish to support.

Financial information about specific fund accounts is made available only to donors, to those persons serving as University representatives for the subject fund account and to persons legally entitled to receive information, such as federal or state auditors.

Standard reports of fund account transactions are available to fund managers semi-annually. It is important for appropriate University personnel to review these reports to ensure the accuracy of the Foundation's transactions.

Donors contribute resources to the Foundation to help the University of Central Oklahoma achieve its goal in education, research and public service. An obvious, but critical element in the success of this system is the expenditure of the contributed resources. Although a significant majority of the Foundation’s spendable resources are disbursed and expended for the purpose specified by the donor, some funds may be underutilized, or may even become dormant. When the spendable portion of the fund has not been used for three years, the Foundation may contact the University representatives for the fund to determine appropriate alternative steps to ensure the use of the fund as the donor (s) expected.

1.2 Special Funds

Donors can specify that their gifts may be spent entirely for the purpose they designate. These expendable gifts provide readily available resources that enable the University to take advantage of unexpected opportunities. Expendable funds are assessed an administrative fee on all gifts or other deposits into the fund as follows:

- 5% on gifts of \$1.00 to \$999,999.00
- 2 ½% on gifts of \$1,000,000.00 to \$4,999,999.00
- 1% on gifts of \$5,000,000.00 to \$7,500,000
- .5% on gifts of \$7,500,000 and above

No fee is assessed on grant funds. A grant is a contribution received by an institution for either unrestricted or restricted use the furtherance of the institution that typically comes from a foundation or other organization, rather than an individual. The Vice President for Advancement may determine that what a donor calls a grant is, for internal recordkeeping, a gift.

A grant received by the institution that did not result from a specific grant proposal. The institution does not commit specific resources or services and is not required to report to the donor on the use of funds. It is this type of “grant” that will be designated as a gift for internal accounting purposes.

A grant received by the institution resulting from a grant proposal submitted by the institution. The institution commits resources or services as a condition of the grant, and the grantor often requests an accounting of the use of funds and or results of the programs or projects undertaken.

Exceptions to the policy of fee assessment may be made at the discretion of the Foundation president. Income earned on special funds is not allocated to the individual funds.

Special funds may be classified as unrestricted net assets or temporarily restricted net assets as follows:

Unrestricted Net Assets – Unrestricted net assets are assets that are not subject to donor-imposed restrictions and may be expended for any purpose in performing the primary objectives of the organization.

Temporarily Restricted Net Asset – Gifts subject to donor-imposed stipulations that may or will be met, either by action of the Foundation and/or the passage of time. Grant funds, scholarship funds, and gifts for the purchase of assets are examples of temporarily restricted assets. When a restriction is met, expires, or is no longer valid, temporarily restricted net assets are reclassified as unrestricted net assets.

Quasi Endowment-To the extent that any special funds are to be invested similar to endowed funds, they will be considered temporarily restricted net assets. Under foundation guidelines, the minimum contribution for establishing a temporarily restricted account is \$10,000. The funds must be in the account for a minimum of six months before any withdrawals may be made. A maximum of four withdrawals annually may be made with a minimum withdrawal being \$2,500. The balance in the account may not fall below \$10,000.

### 1.3 Endowed Funds

Endowment funds are permanently restricted assets subject to donor-imposed stipulations that they be maintained permanently by the Foundation. This means that a gift will create a permanent fund which will be invested to provide income to support the University across generations.

Unrestricted or temporarily restricted funds (as defined above) may be designated to act as endowed funds at the discretion of the Board. These funds are not permanently restricted funds, but retain the original restriction of the fund(s). They are classified as unrestricted or temporarily restricted, but ‘board designated’. The external donor is the only party that may place restrictions on donated funds.

Under Foundation guidelines, the minimum contribution for establishing an endowed fund is \$10,000. The initial gift required can be no less than \$2,000 with a maximum period of 5 years to build the amount to the required \$10,000. A plan to reach the \$10,000 must be in place before acceptance of the gift. Endowed funds support a wide variety of purposes, such as named scholarships, fellowships, professorships, chairs, research, etc. Once an endowed fund has been established with the minimum contribution, additional gifts may be made to the fund in any increments. If an endowed fund does not reach \$10,000 within a five year period, the Trustees of the Foundation may, at their discretion, move the funds to the General Endowed Scholarship Fund with the earnings to be distributed as scholarships. An endowed fund opened with less than \$10,000 must receive annual gifts. All distributions will be returned to the endowment until the fund reaches \$10,000. If a spendable gift is given, 50% of the gift must go to the endowment and 50% to the spendable.

The Foundation places endowed funds in its consolidated investment pool, where they are collectively invested in a professionally managed portfolio. A designated percentage of the fund's market value determined by the Foundation's current spending policy is available to the University for spending to support the University program or purpose designated by the donor. The donated principal cannot legally be spent and remains intact.

Funds are not available for distribution until after they have been invested for at least six months after the endowment has reached the \$10,000 minimum. The objective of the spending policy is to provide for sufficient growth after spending requirements in order to preserve the inflation-adjusted value of the endowment fund, at a level of risk acceptable to the Foundation. In the event of underwater accounts the Foundation may suspend distributions or may make a determination to continue to distribute earnings in accordance with the donor's intent.

#### 1.4 Methods of Investing

The consolidated investment pool is designed for investment of endowed funds and other types of funds with similar long-term objectives. These funds are pooled together and invested in a diversified portfolio, which is managed by firms selected by the Foundation for their expertise in specialized portfolio management. The Foundation's objectives for this pool are:

- To choose an asset mix that will provide both stability and long-term growth
- To provide a reasonable rate of spendable income to benefit faculty, staff and students.

Over the long-term, the Foundation manages endowed funds so as to achieve a total return objective that will cover both spending and inflation based upon the Higher Education Price Index (HEPI). It has consistently achieved this objective by investing for long-term growth.

In keeping with its goals, the Foundation has developed a spending policy that states the percentage of the consolidated investment pool that can be spent on a regular basis. The spending rate is based on a three year rolling average of the market value of the consolidated investment pool. The spending policy is reviewed by the Board each year and is subject to change if conditions warrant. Funds participating in the consolidated investment pool receive semi-annual distributions which are available for current spending. The dollar amount available for an individual fund account is based on the number of units it holds in the consolidated investment pool at the date of distribution. The number of units held is based on donor's contributions to the fund. When a donor makes a gift to create or support an endowed fund, the gift is invested in the consolidated investment pool by "buying" units at the current price per share. The current value of a unit is determined by dividing the total current market value of the consolidated investment pool by the total number of units outstanding. Share value is figured monthly so that new gifts buying in pay the current market value per share. As the market value fluctuates with changes in the market prices of the portfolio investments, so does the value of a unit. Growth in the market value of the consolidated investment pool provides protection against inflation as well as increased spending amounts available to each participating fund.



## 2.0 FUND MANAGERS

### 2.1 Overview/Identification Process

The Foundation recognizes appropriate individuals who are authorized to recommend disbursements from Foundation funds in consultation with appropriate University personnel and in accordance with the purpose of the fund. This responsibility is usually assigned through discussions with the donor, appropriate University personnel, and the Foundation.

Generally, the faculty or professional staff member who is closest to the specific work to be supported from the gift and one who is responsible for the University unit which could reasonably benefit from the gift are assigned the responsibility of fund manager. For example, a department chair would likely be identified as the fund manager for a fund to benefit a specific department.

### 2.2 Responsibilities/Requirements

The most important responsibility of the fund manager is to obtain appropriate approval and submit expenditure requests which are consistent with the donor's intent for the use of the fund. Approval being from the Dean, Assistant Dean, Vice President or Assistant Vice President. In order to fulfill this responsibility, fund managers should be knowledgeable of the purpose of the fund and familiar with the policies and procedures outlined in this document. The Foundation will assist fund managers in an effort to appropriately utilize donor contributions and fund managers are encouraged to contact appropriate Foundation personnel whenever questions arise.

Although a significant majority of the Foundation's spendable resources are appropriately used for the exact purpose specified by the donor, there are occasional instances where Foundation funds are underutilized, or may even have become dormant. There are usually valid reasons for such inactivity, such as temporary moratoriums on spending in order to save for the acquisition of an expensive capital item, or excessively restrictive donor guidelines, etc. The foundation will review its funds from time to time to ensure that they are satisfactorily being used as the donors intended.

When funds are underutilized due to overly narrow donor guidelines, the Foundation will endeavor to broaden the allowable use of the fund, either through direct communication with the donor(s), or perhaps by invoking alternate use provisions which are present in most fund establishment documentation. (For the record, donors are encouraged to place as few restrictions on their gifts as possible, but we are not always able to succeed in this effort, such as with unexpected gifts by Will, or instances where donors are adamant about the restriction.) Each fund manager should feel free to contact the Foundation whenever he/she is unable to use the donor's resources as contributed, so that the Foundation may begin researching and arranging alternate uses as soon as possible.

When Foundation funds are underutilized due to inattentiveness on the part of the fund manager, the Foundation will consult with the fund manager to recommend an appropriate use of the funds. In a time of limited public resources and increasing public scrutiny, these situations are especially troubling because of the inherent waste and the negative perception to the donor. The Foundation's/University's ability to raise additional funds from prospective donors is hampered when it can't demonstrate the need based on utilization of current funds.

An individual who personally contributes to a Foundation fund, or is responsible for directing more than one-third of the contributions to the fund from related parties, may not serve as the fund manager, regardless of whether or not he/she otherwise meets the above requirements. Generally, this individual's supervisor will serve in that capacity.

When questions arise about the propriety of a requested transaction, Foundation staff may involve the requestor's supervisor or other appropriate University personnel as necessary to handle it appropriately.

### **2.3 IRS Penalties**

Failure to properly document and report fund expenditures can result in the imposition of penalties by the IRS on the Foundation and re-characterization of reimbursements as income to the recipients. In addition the IRS prohibits the use of Foundation funds for private benefit. A finding of excess private benefit might result in the imposition of the "intermediate sanction penalties" or, in severe cases, revocation of tax-exempt status.

The Taxpayer Bill of Rights 2 law provides that intermediate sanction penalties may be assessed to "organization managers," as well as the recipients of the funds, when payments from 501(c)(3) entities provide excess benefit to disqualified persons. It is possible that the IRS may consider University employees recommending disbursement of Foundation funds (the fund manager) to be included within the definition of organization managers or disqualified persons. The penalties apply to both the persons receiving the excess benefit and the organization managers who approved the disbursement and can be severe. Additionally, payments which are reported on a 1099 but which IRS later determines should have been taxed as W-2 employee compensation to the recipient cannot be reclassified as employee compensation to avoid the penalty.

## **3.0 ADDITIONS TO FUNDS**

### **3.1 Fund Account Establishment Procedures**

The purpose of any new fund accounts must be to benefit the University of Central Oklahoma, its students, faculty and/or staff. All donor solicitations, regardless of whether or not a new Foundation fund is established, must be coordinated with appropriate Foundation staff and University personnel.

New funds which commit the University to establish a new program, or obligate the University to additional expense will not be accepted at the Foundation without the approval of the University President or appropriate Vice President. Any other deposit requests or receipts which raise questions about the propriety of the Foundation's acceptance will be reviewed with Foundation and University staff, as appropriate, before acceptance.

Scholarship contributions for an individual who is specifically identified by the donor will not be considered a donation and therefore, will not be tax deductible to the donor. These payments may be directed to the University's Office of the Bursar.

All new funds must have written documentation (letter of gift, will or other estate/trust documents, memoranda from appropriate University staff, etc.) which clearly specifies the donor's/depositor's intent for the use of the fund and the Foundation's approval to accept management of the funds. The originating documentation will also identify the suggested University representative(s) responsible for recommending expenditures to the Foundation for approval and payment.

### 3.2 Contributions, Deposits, and Other Payments Received

The purpose of the University of Central Oklahoma Foundation is to encourage, accept, and administer contributions and bequests for the benefit of the University of Central Oklahoma. The Foundation is responsible for providing appropriate documentation to substantiate donors' tax-deductible contributions, usually in the form of a tax receipt, in accordance with IRS requirements. Fund managers or other University personnel should not acknowledge donor gifts on behalf of the Foundation without prior approval from the Foundation President.

### 3.3 Payments to be Deposited in State Accounts

Payments which are either too restrictive or have other "strings" attached by the donor, or payments in which the payer receives equal benefits back from the University, are generally not considered contributions. Such payments should not be deposited at the Foundation.

The State statutes which govern the deposit of funds for the University of Central Oklahoma require that all payments for tuition, fees, and other charges must be deposited into State (University) accounts. Likewise, payments which represent a reimbursement or refund of previously expended State funds, also cannot be deposited at the Foundation.

Conferences or other events hosted at the University of Central Oklahoma campus should be processed through the University and not deposited into the Foundation unless the payment is a donation.

Government grants generally do not qualify for deposit with the Foundation. It is also generally not appropriate to deposit other grants and contracts with the Foundation where overhead or

matching requirements by the university are involved. Exceptions to these rules on accepting grants must be approved in advance by the Vice President for Advancement.

#### 3.4 Contributions to the University of Central Oklahoma

Contribution checks made payable to the University of Central Oklahoma or one of its subdivisions cannot be accepted by the Foundation unless it can be shown by written proof that the funds were solicited on behalf of the Foundation. Requests to the University instead of the Foundation should be routed to the University Office of Legal Counsel.

#### 3.5 Quid Pro Quo Contributions

A *quid pro quo* contribution is a contribution where the donor receives a benefit in response to making the contribution. An example of this situation is when a particular University unit organizes a concert, dinner or other activity as a fundraising event to raise scholarship or operating resources. Typically, an admission fee is charged in excess of the actual value of the benefits received by the persons attending the event. In these cases, the amount of the payment received from the donor which exceeds the value of the *quid pro quo* benefit (meal/entertainment, etc.) provided to the donor should be considered a tax-deductible contribution.

*Quid pro quo* contributions may be deposited into a Foundation fund. Because the cost of the return benefit to the donor does not always equal the non-deductible portion of the payment/contribution, however, the Foundation staff must be involved to properly determine the tax-deductible (contribution) portion of the payment, as differentiated from the non-deductible portion of the benefits by the attendee/donor.

In order to ensure good donor relations, this disclosure of the tax-deductible/nondeductible components of the contribution should be provided to the prospective donor as a part of the gift solicitation materials. Additionally, the deductible portion and the non-deductible portion should be clearly specified on the *Foundation Deposit Request Form*, so the Foundation's receipt to the donor can properly comply with the tax reporting requirements.

Payments where the payer receives an equal or larger benefit back from the University than the amounts paid are not tax-deductible contributions, and generally should not be deposited at the Foundation. Additionally, Foundation accounts may not be utilized for events which are not sanctioned by the University.

In the case of charitable auctions or sales of merchandise, funds may not be deposited in the Foundation if the merchandise was donated to the University or purchased from University funds.

### 3.6 Credit Card Contributions

The Foundation accepts all major credit cards for contribution payments. Complete information about the credit card contribution transaction must be provided for it to be properly recorded, i.e. name on card, number, and expiration date.

The Foundation absorbs all credit card fees that are received from credit card transactions.

### 3.7 Contributions of Non-Cash Assets

The Foundation must approve in advance the acceptance of all non-cash gifts, except publicly traded securities. Because of potential tax and administrative issues for these types of gifts, always encourage the prospective donor to discuss the gift with appropriate Foundation staff. It may be necessary for the Foundation Executive Committee to review a proposed gift to ensure that the gift can be accepted as the donor intends. If such gifts are accepted, the Foundation will review the gift, work with the University to assess the needs of the University and will then determine whether the gift is held, sold or ownership is transferred to the University. When property is transferred from the Foundation to the University, it is subject to all normal restrictions on university property.

Gifts of tangible personal property, such as works of art, books, scientific equipment, etc., usually should be given to the Foundation for the use of the appropriate museum, library, school, department or other University unit. The donor is often able to claim an income tax deduction for the full fair market value of the tangible property, as determined by a qualified appraisal paid for by the donor, if the gift is given to the Foundation in this way – for a use related to the University’s educational mission. Foundation staff is available to assist in coordinating these gifts to ensure maximum benefit to the donor. The Foundation will then transfer ownership of the items to the University where appropriate.

### 3.8 Memorial and Tribute Contributions

Formal acknowledgement of memorial contributions will be sent to the donors and to the decedent’s family. Please provide the following information: full name of decedent; name and address of spouse or family member to be informed of memorial gifts; fund name to be credited, if known. Include a copy of an obituary notice if available.

Formal acknowledgements will also be sent for tribute gifts made to commemorate special occasions such as birthdays and anniversaries. Please provide the following information: full name and address of honoree; name and address of donor, reason for tribute; and fund name and number to be credited, if known.

### 3.9 Corporate Matching Gifts

Many employers will match gifts made by their employees. Employees of participating companies may obtain matching gift application forms from their employers or in many cases on line. Unless otherwise directed by the donor matching funds will follow the original gift.

### 3.10 Pledges

Gifts represented by pledges should 1) be in writing from the donor naming the Foundation as the recipient of the gift, and 2) set forth the payout schedule not to exceed five years. 3) Exceptions can be made by Foundation President in certain circumstances.

### 3.11 Other Contributions / Payments

Funds raised for the purchase of personal gifts should not be deposited at the Foundation, even if the provider is not intending the payment to qualify as a charitable contribution. Disbursements for personal items (such as for retirement gifts, wedding/baby gifts, etc.) which clearly have no purpose directly related to the University's educational mission, will not be paid. In contrast, funds raised to honor or memorialize individuals by establishing an endowment fund related to the University's mission, such as for a scholarship fund, are considered charitable contributions and are entirely appropriate for the Foundation to receive and administer.

An honorarium received by a University employee and subsequently endorsed over to the Foundation is considered a charitable contribution from the individual who has the authority to redirect the honorarium. A contribution receipt will be provided to the employee donor. Generally, the honorarium remains taxable income to the University employee who redirects the payment to the Foundation.

### 3.12 Completion of Foundation Deposit Request Form

All funds deposited to the Foundation must be accompanied by a Foundation *Deposit Request Form*. Separate forms to transmit tax-deductible contributions versus non tax-deductible deposits must be used. For non-deductible deposits, the item(s) must be described in detail before the funds may be accepted or deposited to a Foundation account. Deposits of refunds or expense reimbursements must explain when the Foundation fund which is receiving the deposit had previously incurred the expense.

*Quid pro quo* contributions may be reported on one form, by properly denoting the tax-deductible versus non-deductible elements of the payment on the form. If you have questions, please contact the Foundation to ensure that your intent is understood when completing the Form for *quid pro quo* contributions.

It is important that the Foundation appropriately recognize donors. Your help in completing the Foundation *Deposit Request Form* as accurately as possible is an important first step in recording the value of a gift in the Foundation's donor record system.

## 4.0 DISBURSEMENTS

### 4.1 General

All disbursements from Foundation funds must: (1) be reasonable and benefit the University of Central Oklahoma within a University sanctioned program; (2) fall within the donor's intent for the gift; (3) not jeopardize the Foundation's tax-exempt status, and (4) comply with all applicable statutes and regulations. These issues must be considered when completing and paying every request. The Foundation Disbursement Request forms will assist in complying with these requirements, and must be used whenever a disbursement is requested. Forms are available from the Foundation Office or on line on the Foundation's website.

Each field requested, question asked, and statement made on the payment request form is important, and must be completed before processing by the Foundation. Fund managers must understand that their signatures serve as a certification of the propriety of the requested expenditure in furthering the mission of the University of Central Oklahoma to the best of their knowledge and belief.

The Foundation will not make payments on behalf of personal accounts (accounts in the individual's name), such as credit card statements, cell phone bills, etc. The individual is liable to take care of all personal accounts and request an expense reimbursement as set out in the following paragraphs for allowable business expenses from Foundation funds.

#### IRS Accountable Plan Rules

The concept of an "accountable plan" was developed by IRS in setting forth rules which define legitimate expense reimbursements. The components of a qualified accountable plan require all expenditures to: 1) have a bona fide business purpose; 2) be properly substantiated; and 3) be accounted for on a timely basis. These three elements are explained further in the following paragraphs, and they are a consistent theme throughout the rest of this section.

IRS requires that Foundation payments to University employees which do not qualify as accountable plan payments will be included in the employee's W-2 wages. At the University's request the Foundation does not make taxable payments to University employees, therefore, the Foundation will not make any payments to University employees which do not qualify as accountable plan reimbursements. Additionally, the Foundation will not process the payment request if any of the three elements of an accountable plan are missing.

#### Documenting Business Purpose

The Foundation's experience has been that the IRS may view a disbursement as providing a personal benefit if there is any doubt concerning business purpose. The importance of properly documenting the business purpose of the expenditure as proof of its propriety cannot

be overstated. Even though in some cases the business purpose may be implied, it must be specifically documented to pass IRS scrutiny. Therefore, it is imperative that the University purpose be documented and the specific project or purpose be identified where possible. A small amount of time taken to properly document University purpose will save significant amounts of time in the event of an audit.

For example, the purchase of computer software should include a statement that it is used solely for University purposes, even though that may be implied by an invoice showing delivery to the University office. Examples of documentation for other commonly encountered types of expenses are included in the following sections.

### Receipt Substantiation

As for proper substantiation, the Foundation requires **original receipts** except in the case where an employee is reimbursed for a portion of the expenses from University sources. In these instances, a copy of the receipt and the University reimbursement form will be accepted provided that the items for which reimbursement is requested are clearly identified. Receipts received electronically will be accepted. Any item not clearly identified will not be reimbursed.

Credit card statements are not sufficiently detailed to provide adequate supporting documentation for a reimbursement request.

The Foundation reimburses actual expenses incurred by employees conducting business activities. The Foundation does not reimburse on a per diem basis. Actual and reasonable expenses will be reimbursed, assuming sufficient receipt documentation is provided.

The IRS generally allows persons to reconstruct certain records when the original documentation was destroyed or lost through circumstances beyond the taxpayer's control. Examples of these situations are destruction by fire, flood, earthquake, or tornado. However, loss of records in the course of moving between offices or residences is specifically not the type of casualty that will excuse failure to substantiate expenses. Clearly, the IRS considers the substantiation of expenses to be extremely important.

### Timely Accounting

To be considered as being accounted for on a timely basis, the request for reimbursement must be provided to the Foundation within 90 days from the date in which the expense was incurred.

### Sales Tax

The Foundation is currently exempt from the payment of sales tax in Oklahoma.

Any payment requests asking the Foundation to pay a University account that is normally required to charge State sales tax will be subject to State sales tax.



### Alcoholic Beverages

All alcohol purchases should be approved by the Vice President for Advancement in advance of the purchase. All alcoholic beverages must be provided by a caterer with an ABLE Commission Special Event License. No bottles of wine may be set on the tables. All alcohol must be served by a licensed bartender.

The UCO Foundation requires preapproved written acceptance for payment of alcohol to be served at a university-sponsored event where students will be present. The President, Provost or the Vice President for Advancement may preapprove.

### Other Issues

“Lavish” or “extravagant” expenses are not reimbursed. These terms are used in IRC Sec. 162 and are repeatedly used in IRS documents, usually with a following statement that these expenses are non-deductible. The Foundation, as a tax-exempt organization, will determine in its sole discretion whether to reimburse, not to pay, or to reduce payment requests for expenses which appear unreasonable and unjustified.

The fund manager must provide a signature on the payment request form as their certification of the appropriateness of the expenditure request. This is an important financial control feature to help protect the Foundation from unauthorized – and potentially inappropriate – uses which are unknown to the fund manager. Electronic signatures are legally recognized where a signature is required except for wills, trusts and codicils.

Please spell out the names of professional societies or other groups which may be referenced on payment requests. Although the preparer may well know the meaning of a particular entity’s acronym, the Foundation staff reviewing the request may not have such knowledge – and the payment may be delayed until the name and business relationship of the subject organization to the University of Central Oklahoma is confirmed.

Payment requests to reimburse a University account must indicate the University organization name and number on the payment request form. Such requests must be clearly documented and supported by a copy of the University Statement of Account highlighting the items for which payment is being requested and validated by an attached tape which equals the total amount being requested.

Please contact Foundation staff concerning questionable transactions before Foundation funds are committed.

#### 4.2 Employee vs. Independent Contractor Defined

The complex and ever-changing Internal Revenue Code and IRS rules, regulations and procedures cause the distinction between employee status and independent contractor status to be difficult to determine and often subjective in nature. See flowcharts at the end of this section to assist in determining whether the individual providing services is an independent contractor or an employee.

Payments for services provided by non-employees (independent contractors) are reported to the recipient and the IRS on 1099 forms. Compensatory payments to employees are paid through the university payroll system so that the amount is included on the employee's W-2 form.

The definition of an employee is not limited to persons currently being paid through the University payroll office. The facts of the situation related to the services being performed will determine whether the services are those of an independent contractor or an employee. But, any payments for services to current University employees shall be paid through the University payroll system.

#### 4.3 Faculty and Staff Awards, Bonuses, etc.

The Foundation does not make taxable payments to University employees except for award payments. Award payments are taxable payments and will be reported to the IRS on 1099 forms. All such award payments must be approved by the President or the appropriate University Vice President.

#### 4.4 Employee Gifts

Regardless of the type or value of the gift, including meals, Foundation funds should not be used to purchase personal gifts such as those for Secretary's Day, Boss' Day, new baby, weddings, funerals, etc. These items provide a personal benefit to the recipient. As such, the expenditures are not made for a business purpose as defined by IRS regulations. Because the Foundation is tax exempt under IRS Sec. 501(c)(3) it must use its funds only for tax-exempt purposes. If Foundation funds are used to provide a "personal benefit," both the Foundation and the person authorizing the expenditure from the Foundation fund may be subject to "intermediate sanctions" from the Internal Revenue Service.

#### 4.5 Employee Retirement Gifts/Events

In recognition of University service it may be appropriate to recognize retiring employees with a retirement event. The expenses for retirement events can be paid for using funds from the Foundation. The expense for which should be reasonable and must comply with the donor's wishes.

#### 4.6 Seasonal/Holiday/Celebratory Events

Seasonal/holiday/celebratory events that promote institutional business may be paid for from Foundation accounts subject to the following guidelines:

- a) Such events must include a large portion of students, donors, and friends of the University.
- b) The business purpose should be recognition of such individuals whose support is critical to the mission of the University.
- c) All payment requests must be reviewed and co-signed by the President or appropriate University Vice President.
- d) Funds used must be unrestricted.
- e) Approval by the President, Provost or Vice President for Advancement must be obtained before the event.

#### 4.7 Employee Fringe Benefit Payments

The University of Central Oklahoma Foundation is a 501(c)(3) tax-exempt organization. As such, the tax law imposes limitations upon the types of payments which can be processed. All payments must be related to the purpose for which the organization is incorporated. Payments by the Foundation must support the mission of the University of Central Oklahoma.

Any payment to or on behalf of an employee of the University which is to be paid for by the Foundation must first be paid through the University system and later reimbursed by the Foundation unless such payment is made in accordance with the rules of an accountable plan or represents an award or bonus as described in 4.3 above. In order to be considered within the scope of an accountable plan, the Payment must (1) have a business purpose; (2) the payment must be properly substantiated; and (3) the expense reimbursement must be accounted for on a timely basis.

Occasionally, payments could still be classified as taxable compensation to an individual even though such payments meet the criteria of an accountable plan. For example, a cash award to a faculty member clearly meets the above requirements but still constitutes taxable wages to the recipient. When a payment confers personal benefit to an individual, such payment is considered to be a fringe benefit. As a general rule, any fringe benefit provided to an employee must be reported to the taxing authorities unless such fringe benefit is specifically excluded by the tax laws.

One of the excludable fringe benefits provided by the tax laws is known as a “working condition fringe benefit”. This clause excludes from an employee’s income any fringe benefit which would be deductible by the employee as an ordinary and necessary business expense if the employee had paid for such expense. In other words, there must be a valid business connection to the reimbursement. Examples of such expenses include mileage reimbursements and airfares for business trips, business meals, membership dues in a professional association, etc.

Since the primary objective of the payment is connected to business and not personal gain, these types of payments are excludable from the employee's income.

Club Dues:

Donor funds may not be used to pay dues for country clubs, airline travel clubs or similar social club expenses.

Mobile/Cellular Phones:

The Foundation does not reimburse for the purchase or use of mobile/cellular telephones.

**4.8 Meals and Entertainment Payment to Employees**

Non excessive employee reimbursements received under an accountable plan for meals and entertainment expenses incurred in the performance of an employee's duties for the University generally need not be reported in the employee's taxable income. To be excluded from income, the expenses must be necessary within the usual operation of the University's mission and directly related to that mission.

Entertainment is generally defined to include attendance at restaurants, theaters, sporting events, etc. as well as the furnishing of food and beverages or hotel accommodations. The inclusion of meals here is when other persons join the employee at the expense of a Foundation fund.

As previously stated, in order to comply with the rules of an accountable plan, the payment must:

- 1) have a bona fide business purpose;
- 2) be sufficiently substantiated;
- 3) be accounted for on a timely basis.

The elements required to prove the legitimacy of entertainment expenditures are:

- 1) the amount of each separate expenditure;
- 2) the date of the activity;
- 3) the place and description of the entertainment, such as dinner or theater;
- 4) the business purpose – benefit which will derive to the University;
- 5) the name and title of the other person(s) in attendance, to support how the benefit required in number 4 above will be derived.

In general, business must be discussed during the meal or other activity and every person whose expenses are paid for by the Foundation must have a business connection to the activity. Even though in some cases the business purpose is implied, it must be specifically documented to receive favorable tax treatment. In most cases, a short description will suffice (i.e. discussed new research project, conducted departmental staff meeting, etc.) The Foundation will refuse payment for any meal or entertainment expense for which the business purpose has not been

sufficiently documented. In addition, the Foundation will refuse payment for any meal which is lavish or extravagant.

If business and non-business individuals are entertained at the same event, the Foundation will only reimburse for the business persons at the event. If the expenses for the business individual are not specifically identifiable, it is permissible to allocate the total bill on a pro rata basis for the business persons.

The business purpose for the meeting must not be incidental. In this regard, it is difficult to justify the expense of an activity as related to the University's mission when an employee is not present at the business meal or other entertainment activity.

Additionally, reimbursing for entertainment activities at theaters, sporting events, social gatherings, such as cocktail parties, country clubs, and golf and athletic clubs, are red-flag issues under an IRS audit. Clearly, certain University staff may have bona fide reasons to entertain colleagues at various University functions, but the fact remains that these activities are highly scrutinized by the IRS and must be carefully documented to comply with the requirements outlined in this section. Please contact the Foundation's staff in these situations before committing Foundation funds, to ensure that the reimbursement or other payment request can be processed.

#### Expenses for Spouses

The Foundation may reimburse meal or entertainment costs for an employee's spouse if the meal or entertainment is directly related to University business, rather than a personal or social purpose. It is generally not appropriate for spouses to be reimbursed for business meals or other entertainment activities when the other attendees of the function are all University employees.

#### Retreats

Faculty and staff retreats may be bona fide business activities, but reimbursing for spousal attendance or recreational and an entertainment activity during the retreat is not allowable.

#### 4.9 Travel for University Employees

Any payment to or on behalf of an employee of the University for travel expenses must first be paid through the University system and later reimbursed by the Foundation. This ensures that all travel expenses for employees are in accordance with applicable State travel regulations and University policies.

## 4.10 Payments to/for the Benefit of Students

### Terminology

There are many names used for payments to or for the benefit of students – scholarships, fellowships, awards, stipends, wages, expense reimbursements. The IRS requires the provider of any of these payments to follow the tax reporting and/or withholding rules based on the reason for the payment, regardless of the terminology used to describe the payment. All Foundation payments to or for students can generally be categorized into one of the following four tax categories:

**Scholarships** or other payments, including certain forms of graduate fellowships, which are designed to assist in retaining students at the University of Central Oklahoma, and with no other benefit expected by the University (i.e. no employee relationship). All scholarships will be paid through the student's bursar account.

**Awards** and other payments which are designed to recognize a past academic achievement, which are not based on any employment relationship to the University, and which do not tie the future studies of the recipient to the University. These awards are subject to taxes.

**Employment-related payments**, for example including awards and other payments for graduate teaching/research assistant (GA's / RA's if the payment is to recognize the recipient based on his/her teaching/research performance rather than his/her academic excellence).

**Expense reimbursements** where the expenditure primarily benefits the University.

### Tax Background

Under Internal Revenue Code (IRS) Section 117, scholarships for tuition, books and fees are not taxable.

Any scholarship amounts in excess of tuition, books and fees, such as for room and board, are taxable. Any payment for services which benefit the University, regardless of whether it is called a scholarship, is considered employment compensation and must be included on the employee's form W-2. For example, even payments for tuition and books will be taxable if they are provided to compensate for research or teaching services. All scholarships which are unrelated to services performed, except those for non resident aliens, are not reportable to the IRS although the student must include the portion of the amount received in excess of tuition, books and fees as taxable income.

### Under IRS

Section 74, in general, prizes and awards are includible in gross income. These amounts are reportable on a form 1099. As such, all student awards are taxable and those amounts which exceed \$600, when aggregated with other reportable payments, must be reported on form 1099. Please note that taxable awards may include payments made directly to a student or those made indirectly on a student's behalf.

Through Revenue Rulings, the Service has provided some guidance to help in differentiating an academic award from a scholarship. The general rule is that a prize or award is primarily related to past activities of the recipient, while a scholarship is prospective in its objective to keep the student enrolled. However, selecting a payee based upon past academic performance will not preclude a payment which maintains the enrollment of the selected individual from being considered a scholarship. If a payment which advances a student's academic program has elements of both past activities and prospective activities, then it is presumed to be a scholarship, unless the facts of the specific situation dictate that the payment is clearly a student award or compensation for services.

#### Payments to/for Students – Scholarships and Expense Reimbursements

To qualify as a scholarship payment, the student must be enrolled at the University at the time the payment is made. According to IRC Section 117(c), the definition of a qualifying scholarship excludes payments by the Foundation, even if for tuition, fees and books, if the payment requires teaching, research or other services to be performed by the student as a condition of receiving the payment. These employment-related tuition payments are compensation and must be paid by and reported by the University on the recipient employee's W-2.

Traditional scholarships for tuition, books and fees are provided at the beginning of each semester. All scholarships whether awarded through the Office of Student Financial Aid, a College, Department or any other University office are reported to the Office of Student Financial Aid and the IRS.

Certain other types of payments made on behalf of students, such as for travel or lodging may also be considered scholarships. These types of payments generally fall into one of the following categories: 1) students representing the University of Central Oklahoma; or 2) payments related directly to the academic program of the student, such as when a student travels on a research trip, or payments for the purchase of a specific student's textbooks. As a general rule, any payment on behalf of a student which does not fall within the two previous categories will not be paid. When payments on behalf of a student have elements of both representing the University and augmenting the academic program of a student, the payment is presumed to be for the student to represent the University.

For payments where the student's activities (e.g. travel) are primarily benefiting the University, any benefit that the student receives is treated like an employee working condition fringe benefit. As a result, these payments can be made by the Foundation, and any such payment which complies with the accountable plan rules (see 4.1) is not reportable or taxable.

A payment where the activity being supported is primarily benefiting a student's academic program is considered a non-traditional scholarship.

The Fund Manager in conjunction with the Foundation staff must make a determination of the correct classification between a scholarship payment and an award payment when the payment has elements of both scholarship and award. Student award processing procedures are outlined below. Please note that if a student-related check request is submitted to the Foundation which has elements of both a scholarship and an award (but which clearly does not qualify as an accountable plan expense reimbursement), the Foundation will presume the Fund Manager has determined the payment to be a student award.

#### Payments to/for Students – Awards and Employment-Related Compensation

Award payments to recognize academic achievement are paid directly by the Foundation to the students and are considered to be taxable payments, reportable on form 1099.

#### 4.11 Payments for Admission Fees to University-Related Events

University employees are occasionally requested by their supervisor to attend events hosted by the University or related entities. In these cases, it is expected that these persons will be official University representatives conducting University business at the events. An explanation of the business purpose for the employee's attendance must be adequately documented by the supervisor. The employee's cost of attending such events may then be reimbursed from appropriate Foundation funds for the benefit of the employee's academic area. If attendance is directly related to University business and the spouse of other attendees are customarily in attendance, the expenses for the employee's spouse to attend the event are also reimbursable from Foundation funds.

#### 4.12 Retired Employees/Volunteers

Payments to or for the benefit of retired or emeritus employees must have a documented business purpose which benefits the University, as with all types of expenditures. The fact that these persons are no longer on the active payroll need not exclude supporting their activities, as long as the activities directly benefit the University and the University benefit is sufficiently documented.

Generally, volunteers fall into the same category. Payments or reimbursements to support their work at the University are entirely appropriate, as long as these expenses are providing a direct benefit to the University and the value of the services rendered exceeds the cost of the expenses being reimbursed.

From a tax standpoint, payments to retired or emeritus faculty and volunteers which must be considered taxable must be approved in advance by the appropriate Vice President and, if paid, will be reported as an independent contractor on form 1099.



#### 4.13 Payments Processed Through the University to be Reimbursed by Foundation Funds

##### Employee Salaries Partially or Fully Underwritten by Foundation Funds

It is permissible to use Foundation funds to support specific University faculty or staff positions, as long as this use is within the Foundation fund guidelines, the use is approved by the appropriate Foundation fund manager, and appropriate University staff approves the employee position. All such payments will be made through the University system. The University Payroll Office will process a State check for the persons being paid from Foundation accounts and request reimbursement from the appropriate Foundation fund at the end of the fiscal year.

The Foundation has been advised that before the University Budget Office will approve a position supported by a Foundation fund, they will confirm that adequate resources are or will be available to support the salary level proposed.

Whenever an employee's salary is to be reimbursed from a Foundation fund, the Foundation needs to be informed. This is accomplished by sending a completed Request for Support Staff/Professional Position (RSP) to the University office of Hiring and Benefits, which will serve as notification to the University and then be forwarded to the Foundation for approval. The RSP form should clearly indicate the amount to be paid from Foundation funds, the fund number, and the approval of the fund manager.

Please note that the Foundation will not authorize reimbursement to the University if the fund does not have sufficient resources, if it is not properly documented and authorized, or if the request does not fit within the Foundation fund guidelines. Should the Foundation be unable to reimburse the University in these situations, the Foundation will notify the University Budget Office of the situation.

##### Equipment/Book/Furnishing Purchases

Assets purchased with Foundation funds must benefit the University and become University property when acquired. In an effort to assist the University in controlling University assets, the Foundation will not accept expenditure requests for equipment, furnishings, or other physical assets. Likewise, requests for repairs or maintenance of University equipment will not be paid. All purchases of these types of items should be made through the University and reimbursed from Foundation funds.

##### Departmental Operating Expenses

Any other expenses which would be considered to be normal operating expenses of a University department will not be paid directly by the Foundation. All such expenses should be processed through the University Purchasing and Accounts Payable Office. Requests may be made for reimbursement from Foundation funds with proper documentation and proof of payment by the University.

#### 4.14 Payments to Non-Resident Aliens

Requests for payments from Foundation funds to non-resident aliens should be processed through the University system, except in cases where the non-resident alien is being reimbursed for approved travel or other substantiated business expense payments. The University will make most payments directly to the non-resident alien individual and will be reimbursed by the appropriate Foundation fund.

Check requests for travel and other business expense reimbursements for non-resident aliens (the exception noted above) may be directed to the Foundation for payment.

*\* Approved by the Board of Trustees on February 17, 2005*

*\* Amended October 27, 2005*

*\* Amended May 4, 2006*

*\* Amended January 30, 2007 (Board of Trustees on January 25, 2007)*