



The State University
of New York

Office for Capital Facilities Guidance Document

CCP-5

April 2013

In-Kind Donations as Local Funding Share *A guide for community colleges*

<u>Contents</u>	<u>Attachments</u>
• General Information about Local Funding	In-Kind Request for Valuation Form
• In-Kind Type and Documentation Needed: Real Property	
• In-Kind Type and Documentation Needed: Labor/Services	
• In-Kind Type and Documentation Needed: Material	
• Approval Process	
• Samples: Donor Release and Recipient Acceptance	

Introduction

This guidance document has been designed to give Community Colleges and local sponsors a method to recognize in-kind goods and services as part of the 50% local funding share for capital projects. There are unique issues relative to capital projects, so Colleges should contact SUNY with questions.

The following guidance document is issued as of April 2013 and will be evaluated regularly for needed changes. SUNY's Office of Capital Facilities has developed an enhanced website with information and tools for Community Colleges. Guidance documents, forms and other materials currently in effect are centrally located to assist Colleges in navigating the Community College Capital Program:

<http://www.suny.edu/capitalfacilities/>

References within this document have been made to various New York State legislation and regulations, New York State Education Law Article 126 and 8 New York State Codes, Rules and Regulations, Parts 600, 603, etc. Readers are advised to refer to the official documents for details and additional questions not immediately referred to within this document.

[SUNY University Wide Policies and Procedures](#) can be found on SUNY's website and address academic, operational, governance and financial issues.

General Information about Local Funding for Capital Projects

NYS Education Law §6304(1)(c): The local sponsor or sponsors shall provide one-half of the amount of the capital costs...by appropriations from general revenues or from funds derived from special tax levies earmarked in part or whole for such purposes, by the use of gifts of money or, with the consent of the state university trustees, by the use of property, gifts of property or by the furnishing of services or, where a community college region is the local sponsor, in the manner provided by section 6310 of this chapter. *Where the local sponsor or sponsors provide all or a portion of its or their share of capital or operating costs in real or personal property or in services, the valuation of such property and services for the purpose of determining the amount of state aid shall be made by the state university trustees with the approval of the director of the budget (italics added for emphasis).*

Gifts are permitted to be used as part of the local 50% share of project costs. These gifts must be well documented and recognized by both the local sponsor and SUNY Board of Trustees (BoT) through resolution. Gifts may be monetary, real property and materials or services. In-kind gifts must not increase the project cost, delay completion, compromise the quality or compromise ethical standards.

Colleges should provide information to SUNY Office for Capital Facilities depending on the in-kind services and/or materials to be provided. The Community College Program Manager oversees the forwarding to and resolution-drafting by Counsel for ultimate approval by SUNY BoT.

Funding Sources Currently Available Requiring No Action

The following sources may be utilized by community colleges without action/authorization by SUNY BoT:

- Appropriations from Sponsor's general revenues
- Special tax levies implemented by the local Sponsor
- Grants from private foundations
- Capital chargebacks
- General fundraising
- Monetary gifts

Funding Sources Currently Available but Requiring SUNY BoT Action

The following funding sources currently require action/authorization by the SUNY BoT:

- Donations of real or personal property
- Donations of goods and services
- Proceeds from the sale of donated real or personal property
- Revenue Naming rights
- Revenue from cell towers
- Income derived from the rental of college facilities

Gifts Requiring Financial Commitment from the Organization:

Before accepting an in-kind gift, Sponsors/Colleges should consider what potential present or future financial commitment a gift may require. Before soliciting or accepting any gift, the Sponsor/College should consider related costs. For examples, a gift of property which includes a building will require maintenance costs which will increase College operational costs.

Types of In-Kind Donations and Backup Documentation Necessary for SUNY Approval:**Real Property:**

- 1) Cover sheet to SUNY containing the following:
 - a) General property information: address, acreage/building, location relative to campus
 - b) Intent for use of property
 - c) Donor or Seller
 - d) Appraisal #1: Appraiser Name, Date of Appraisal, Value
 - e) Appraisal #2: Appraiser Name, Date of Appraisal, Value
- 2) Two appraisals dated within one year of the date of transfer of title to the local sponsor
- 3) Authorizing Resolutions both from Sponsor and College Board of Trustees which contain:
 - a) Property address/location
 - b) Approval of purchase at stated purchase price or approval of acceptance of gift
 - c) Intent for use of property
 - d) Attestation that property will be held in trust for the College

Labor/Services:

- 1) Design and Consulting Fees: The value of consultant design services may be provided as an in-kind donation. To determine value, one method is by using SUCF resources which has established **Consultant Schedule of Fees** based on scale relating to construction value:
<http://www.sucf.suny.edu/design/bulletin.cfm>

- 2) Contractor Labor: Contractor Labor can be calculated by thoroughly documenting labor class and hours and can be validated for in-kind value using the Prevailing Rate Schedule developed by the Bureau of Public Works, NYS Department of Labor:
<https://apps.labor.ny.gov/wpp/publicViewPWChanges.do?method=showlt>
Another method is based on the RS Means Cost Data (<http://rsmeans.reedconstructiondata.com>) estimate of the scope of work, either by composite components which includes all steps of a project or by an itemized method, where each step of a project is priced separately.
- 3) Labor Provided by County/College Employees: In order to request acknowledgment of in-kind labor, it will need to be documented that the personnel are not being funded from operating, and are dedicated to capital. This is done by determining Labor Time X Salary + Fringe. Timesheets or a similar method to show labor spent on the projects will be required by SUNY for confirmation.

Materials:

In-kind donations of materials for major capital projects must be reviewed to ensure materials are suitable, have appropriate life cycles and can be coordinated with the construction schedule so as not to impact cost or schedule of the major capital project.

Using design/final drawings information, a calculation should be made of the exact amount of material required. The fair market value would be the basis for the in-kind donation. Generally, a donor who seeks a charitable deduction with respect to Federal income taxes will prepare and file IRS Form 8283 to support the deduction. The State University will accept a copy of Form 8233 as evidence of the fair market value of the gift of materials. In the absence of IRS Form 8233, the college, college foundation, or local sponsor recipient of the gift should provide an independent appraisal if the value of the gift exceeds \$5,000.

Approval Process for In-Kind Donations

Once SUNY's BoT approves the in-kind gift through resolution, documentation is forwarded to the Office for Capital Facilities Community College Program Manager to record the gift value and coordinate with DASNY to record the amount as part of the project local share. SUNY BoT reserves the right to:

- Accept or decline any gift
- Evaluate the acceptability of any gift that is offered: A gift's value will be considered reduced or even unacceptable if it is not considered advantageous to SUNY for any reason. Examples:
 - Gift includes obsolete equipment
 - Gift acceptance will involve significant/excessive maintenance charges after installation
 - Gift requires unacceptable modification of other building components
 - Acceptance of gift will cause unacceptable delays or cost to the project
 - Acceptance of gift is inconsistent with the principles or goals established for the project
- Request clarification or additional information in order to facilitate the gift evaluation

Once SUNY approval has been granted and before the value can be considered part of the local share of project costs, the recipient of the gift must acknowledge receipt and acceptance of the gift in writing, and forward the written acknowledgment to SUNY's Office for Capital Facilities: Content should include:

- 1) Type of in-kind gift
- 2) Value of the in-kind gift
- 3) Date of in-kind gift

- 4) That the donor has relinquished ownership

SUNY requires physical possession of the gift before the value can be considered as part of the local share of project costs.

Note: Information may be forwarded by SUNY to the Division of Budget if the donation is part of the local share of a capital appropriation request.

Samples of Donor Release and Recipient's Acceptance

Sample Contents: Donor Release:

DONOR, of , hereby confirms that he is the legal owner of and does hereby irrevocably and unconditionally give, grant, and convey an absolute, unconditional, and undivided interest in the item(s) described below, to College/College Foundation/Sponsor for the benefit of College. Title to the items and all associated rights are hereby vested in the College, without reservation and free and clear of all encumbrances.

Specific type and amount of gifted item(s)

Sample Contents: Recipient's Acceptance

Sponsor/College/College Foundation hereby confirms that an in-kind gift has been received for the purposes of capital project XXX. The gift was received on XXX and is as follows:

Specific type and value of in-kind gift

DONOR has relinquished ownership of said gift.

Dissemination of In-Kind Donation Information to DASNY

Once the donation has been transferred to the Sponsor/College, SUNY will submit documentation to DASNY of the in-kind donation amount to serve as part/all of the local share of project costs if the project is being reimbursed through PIT bond proceeds. This will ensure DASNY has sufficient information to properly reconcile local and State obligations and reimburse the Sponsor for the State share of project costs.

This information is a guideline for in-kind donations. As each instance is different, contact SUNY OCF Community College Program Manager for more details.