



**REPORT TO THE COUNCIL
ON A MATTER OF PUBLIC CONCERN
AS TO CERTAIN DONATIONS
RECEIVED BY THE UNIVERSITY**

BY

THE AUDIT COMMITTEE

11 March 2015

STRICTLY CONFIDENTIAL

THE UNIVERSITY OF HONG KONG

AUDIT COMMITTEE

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as to Certain Donations Received by the University**

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**Report to the Council on a Matter of Public Concern
as to Certain Donations Received by the University**

I. Introduction

This is the Report of the Audit Committee (“**the Committee**”) on a matter of public concern as to donations made by and through Mr. Benny TAI (“**Mr. Tai**”) to the University (“**the Matter**”).

2. By way of background, the Matter arose from reports in the media on 29 October 2014 of leaked documents, including the University’s internal Donations/Grants Processing Forms, relating to donations received by the University through Mr. Tai, which were later said to have been donated by Reverend CHU Yiu-ming (“**Reverend Chu**”). Mr. Tai and Reverend Chu were two of the three co-founders of Occupy Central with Love and Peace (“**OCLP**”).

3. Following these media reports, in the wake of concerns expressed by the University community and the general public to the University, the Council discussed the Matter at its meeting on 25 November 2014, including the suggestion of forming a group or a panel to look into the Matter. The Council agreed after lengthy discussion to invite its members to forward their queries and comments, if any, to the Management in writing within one week’s time, to enable the Management to make a response and provide the required information before the Council could decide on the appropriate course of action to be taken.

II. Terms of Reference

4. At its meeting on 30 December 2014, the Council considered the response of Management, which took the form of a facts-finding report dated 23 December 2014 (“**the SMT Report**”), and agreed after discussion to refer the Matter to the Committee with the following terms of reference (“**Terms of Reference**”):

- (1) *In the light of the concerns raised by the public, the media and alumni of the University and on the basis of the facts-finding report of the Senior Management Team, to assess and ascertain whether the University guidelines have been adhered to in the acceptance and utilization of donations made by and through Mr. Benny Tai to HKU*

(2) *To make recommendations, if any, for future acceptance and utilization of donations to the University*

5. The Committee commenced work by considering the Terms of Reference and, in so doing, elaborated on the steps to be taken, which were:

- (1) to identify the concerns (“**the Concerns**”) that had been raised by the public, the media and alumni of the University as to the donations (“**the Donations**”) made by and through Mr. Tai to the University;
- (2) to identify and consider the guidelines used by the University for the acceptance and utilization of donations (“**the Guidelines**”);
- (3) to gather and/or confirm the facts surrounding the Donations that relate to the Concerns (“**the Facts**”);
- (4) to assess and ascertain whether the Guidelines have been adhered to in the acceptance and utilization of the Donations;
- (5) having regard to the Concerns, the Guidelines and the Facts, to make recommendations (“**the Recommendations**”), if any, for future acceptance and utilization of donations to the University.

6. The Donations¹ (the first four of which will be referred to as the “**Cash Donations**” and the last referred to as the “**Donation-in-Kind**”) comprise the following:

- (1) HK\$200,000 donation to the School of Humanities in May 2013;
- (2) HK\$300,000 donation to the Faculty of Law in May 2013;
- (3) HK\$800,000 donation to the Public Opinion Programme (“**POP**”) in May 2013;
- (4) HK\$150,000 donation to the School of Humanities in February 2014; and
- (5) a donation-in-kind to POP in May 2014, which has been valued by POP at HK\$600,000.

7. The Committee, in undertaking Steps (1) to (3) as set out in paragraph 5 above, carried out its own facts-finding exercise. Although the Committee did refer to the SMT Report, the Committee made no assumption that the information in the SMT Report was complete or accurate. Facts were verified through written communications with various parties, including the Development and Alumni Affairs Office (“**the DAAO**”) and the Finance and Enterprises Office (“**the FEO**”) as administrators of the Donations; Professor S.P. CHOW, who was

¹ It is worthwhile to note that (a) payment of each of the Cash Donations was in the form of a cashier order payable to “THE UNIVERSITY OF HONG KONG” and (b) the cashier orders for the three Cash Donations that were received in May 2013 all bore the same date (i.e., 10 May 2013) and were consecutively-numbered (i.e., Nos. 194527, 194528 and 194529).

the-then Pro-Vice-Chancellor to whom the DAAO reported; Professor Daniel CHUA of the School of Humanities, Professor Johannes CHAN of the Faculty of Law, and Dr. Robert CHUNG of POP as the beneficiaries of the Donations; Mr. Tai and the research assistant (“**the Research Assistant**”) funded by the two donations to the School of Humanities; and other individuals referred to in various emails.

8. The findings of the Committee in relation to the Steps (1), (2) and (3) are set out in the following three sections (Sections III, IV and V) of this Report. The observations, conclusions and recommendations of the Committee in relation to the Steps (4) and (5) are set out in the next two sections (Section VI and VII) of the Report.

III. The Concerns

A. Review of the emails/letters/faxes

9. From the end of September 2014 (when OCPL announced the commencement of Occupy Central) to the end of December 2014 (when the Council decided to refer the Matter to the Committee), the University had received – through the President’s Office and the Communications and Public Affairs Office (CPAO) – a total of at least 3,600 emails, 130 letters/faxes, and 570 phone calls² from members of the University community and the public, who expressed their views on, or complained about, the involvement of students and staff of the University in the recent political movement.

10. The Committee took steps to review the aforementioned emails/letters/faxes, with the following observations:

- (1) at least 3,500 emails/letters/faxes and 400 calls were about Mr. Tai, either complaining against him, or requesting the University to investigate him or to dismiss him;
- (2) less than 10% of the emails/letters/faxes reviewed mentioned the Donations;
- (3) at least 1,600 emails received by the President’s Office were based on a few standard templates, the most popular of which did not mention the Donations;
- (4) there was a high concentration of emails at around the time Mr. Tai resumed work on 29 October 2014, which questioned Mr. Tai’s suitability to teach law at the University – due to his alleged violation of the law, his encouragement of others to violate the law and disobey court orders, and his views on the Rule of Law – in some cases expressly calling for his dismissal; and
- (5) some people sent more than one email, some of which were reminders as they had received no reply to their earlier emails.

² The figures do not tally with the ones provided in the SMT Report largely due to the double-counting of around 1,000 emails by mistake.

11. The Committee also considered media reports and questions raised by members of the Council as recorded by the Council Secretary. Further, there was a report in the media on 25 February 2015 of another leakage of documents, including what were alleged to be internal emails of the University relating to the Donation (“**the Leaked Emails**”) in the public domain. Given concerns about how these emails were obtained and placed in the public domain, no reliance has been placed on these emails in this Report. That said, the Committee did review the Leaked Emails and sought to verify the authenticity of some of them with the relevant purported sender(s)/receiver(s). Only emails provided directly by the sender(s)/receiver(s) have been used and relied upon in this Report.

B. The Concerns about the Donations

12. From these analyses, the Concerns identified fall into the following categories:

- (1) *the source of the Donations* – Where did the money come from? Although Reverend Chu was named as the donor of the Cash Donations, did any of the money come indirectly from other sources? Was there any money-laundering?
- (2) *the use of the Donations* – How was the money used? Did the Donations affect the impartiality of the University’s research, in particular, the impartiality of the surveys done by POP? Was the money used to hire a research assistant for the Faith and Global Engagement Initiative, who was later seconded to POP to support the Civil Referendum Project; if so, was this in line with the University’s rules and regulations?
- (3) *the University’s rules and regulations on donations* – Were any rules and regulations violated in the acceptance and utilization of the Donations? What are the University’s policies relating to anonymous donations and their processing? What are the University’s policies on donations towards political activities?
- (4) *Other concerns about the source/use of the University’s funds* – Did the National Endowment for Democracy (NED)/National Democratic Institute (NDI)³ fund any part of the University’s activities? What was the University’s role in the funding of the OCPL?

³ National Democratic Institute (NDI) is one of the four “core grantees” of the National Endowment for Democracy (NED), which is a private, non-profit, grant-making organization that receives an annual appropriation from the United States Congress through the Department of State. See <http://www.ned.org/about/faqs>.

IV. The Guidelines

A. The University Guidelines

13. According to the SMT Report, the University's policies and guidelines for donations (i.e., the Guidelines) are contained in the following internal documents:

- (1) FEO's Departmental Financial Administration No. 19, Solicitation and Acceptance of Donations and Sponsorships (2014)⁴ (“**DFA 19**”);
- (2) DFA 19's Annex II, namely, Guidelines on Processing Donations and Grants (2014)⁵ (“**Processing Guidelines**”) and its appendices;
- (3) Policy on Donations Leading to Naming Rights, Working Paper (2011);
- (4) The Council Paper on Naming Rights (1995);
- (5) Policy on Endowed Professorships (2014).

14. The Committee reviewed the aforementioned internal documents. As the Donations in question do not involve naming rights or endowed professorships, the Committee considers the most relevant of these documents to be DFA 19, which incorporates the Processing Guidelines as its Annex II (see Appendix A).

15. Additionally, according to the SMT Report, as a guiding principle, “while the University upholds academic freedom, it does not accept donations that carry any political requirements or criteria.” The Committee notes that, although this principle was not explicitly stated in the aforementioned internal documents, according to the DAAO, this has been the practice of the University.⁶

16. The SMT Report further states that:

- (1) the University's procedures for handling donations closely adhere to the principles laid down in a 2011 document titled “Partner for Excellence – Administration of Donations” (“**the ICAC Guidelines**”)⁷, containing guidelines which were jointly developed by the Independent Commission Against Corruption (ICAC) and Hong Kong's tertiary education institutions (TEIs); and
- (2) the University acts in accordance with international standards in the consideration

⁴ Amended in May 2014 to include a new paragraph (paragraph 12) on the requirement of opening new project accounts for donations and grants with specific purpose.

⁵ The document is an annex (Annex II) of DFA 19. No major changes since the document's introduction in 2005. Amendment in May 2014 was minor.

⁶ Note that universities in the United States, which are tax-exempt entities, are subject to legal restrictions on political activities. For example, according to Tufts University's Policy on Political Activities: “As a tax-exempt entity, Tufts is prohibited by federal law from participating in or attempting to influence campaigns for any elective public office or any political initiative (such as public referendum).”

⁷ See www.icac.org.hk/filemanager/en/Content_1031/inIdonations.pdf

and handling of donations, mentioning the Council for Advancement and Support of Education (CASE) in reference to international good practices.

B. Administration and acceptance of donations

17. Paragraph 1 of DFA 19 states: "... Donations and sponsorships may be offered in a wide range of situations and could be sensitive in nature. They could attract criticisms or perceptions of favoritism or other adverse comments, if no proper control and accountability mechanisms are in place." Paragraph 3 of DFA 19 states: "... the University has taken the advice of the Independent Commission Against Corruption (ICAC) that activities in association with solicitation and acceptance of donations and sponsorships should be administered by a central co-ordinating unit. ...". It is clear from paragraph 5 of DFA 19 that the President's Office and the DAAO are the coordinating unit. In the case of the Donations under consideration, the DAAO has taken the lead in the administration and acceptance of the Donations.

18. According to paragraph 7a of DFA 19, "[d]onations should come from reputable sources". Paragraph 2b states that "[t]here should be no conditions attached to a donation or sponsorship which would adversely affect the University's ability to carry out its functions fairly and impartially". **Accordingly, the Committee takes the view that in accepting a donation, both the source and its application should be considered by the University.** This view is in line with the ICAC Guidelines, which also states that "TEIs should only accept donations in support of their objectives and policies" (Chapter 2.1 of the ICAC Guidelines).

19. Paragraph 7 of DFA 19 states: "The Council is the ultimate authority for acceptance of donations. On a day-to-day basis, the President and Vice-Chancellor accepts donations on behalf of the Council. The acceptance of donations should be appropriately documented and reported to the President and Vice-Chancellor through the Development and Alumni Affairs Office and the Finance and Enterprises Office for record. A regular report is prepared by the Development and Alumni Affairs Office on behalf of the President and Vice-Chancellor and submitted to the Council for its endorsement...."

C. Donations versus sponsorships

20. For ease of reference, the definition of "donations" used by the University⁸ is set out below:

⁸ See Appendix A (Definition of Donations and Grants, document: 99/405) of Annex II (Guidelines on Processing Donations & Grants, document: 82/514) of DFA 19.

“2. Definition of “Donations”

- 2.1 “Donations” refer to voluntary *private* giving or sponsorships from individuals and corporations. They also include funding made by non-government foundations or bodies.
- 2.2 Donations can be for general use (i.e. unrestricted donations) or earmarked for specific purpose (i.e. restricted donations).
- 2.3 Donations to the University of Hong Kong are tax-exempted.
- 2.4 Commissioned work such as service contracts and client-specific commissioned consultancy projects leading to delivery of product or process, or income from registration fees is not regarded as donations.”

21. DFA 19 refers to both “donations” and “sponsorships”. It would appear from the above definition that sponsorships are a special kind of donation, which is in line with the definition in the ICAC Guidelines⁹.

22. For the purposes of the Committee’s work of assessing and ascertaining whether the guidelines/procedures have been adhered to, it is important to consider when a donation should be properly classified as a sponsorship, as DFA 19 specifies more stringent processing procedures for the acceptance of sponsorships. For example, the President and Vice Chancellor’s agreement should be sought for acceptance of a sponsorship exceeding HK\$2,000. It is unclear from reading DFA 19 what donations could be properly classified as sponsorships, which would require more stringent processing procedures. Paragraph 8 of DFA 19 states:

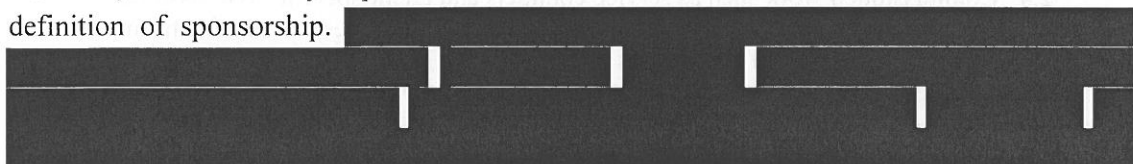
“...In considering acceptance of a sponsorship, in addition to the general conditions applicable to acceptance of donations, the following factors would also apply:-

- a. Any publicity items to be produced by the sponsor in a joint promotion should be agreed and approved by the University;
- b. The sponsor of an activity should not be allowed to generate any direct financial gains as a result of sponsoring the activity or project;
- c. When sponsoring conferences, seminars and etc., the sponsors should be advised that the University has its own nomination and selection procedures, and the recipients of the sponsorships will be selected in accordance with these procedures. The selected recipients should be delinked for an appropriate period of time from any decision making processes which may involve the commercial interest of the sponsors;
- d. For overseas site visits relating to selection of equipment items before or during tendering exercises, they should be financed by the funding of the associated departments, and should not be sponsored by any of the potential vendors; and
- e. For overseas user meetings sponsored by suppliers (for example, for the purpose of

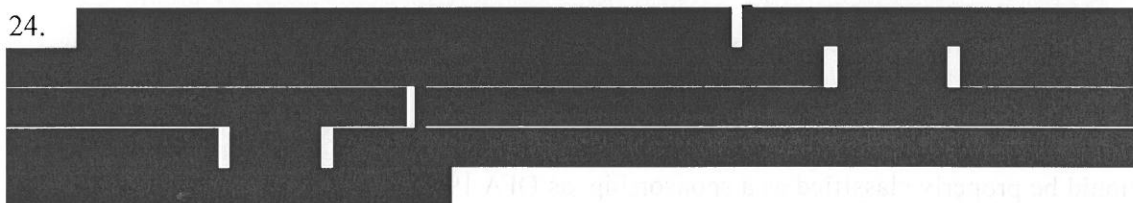
⁹ According to the ICAC Guidelines, the term “donations” covers all forms of gifts, endowment and sponsorships, in money or in kind, given to the TEIs outright, for which the donors receive no financial interest in return.

experience sharing amongst users), the sponsorships should be offered to the University instead of individual staff members. For any decision making processes which may involve the commercial interest of the sponsors, the recipients of the sponsorships should either be delinked from the processes for a specified period of time which may involve the commercial interest of the sponsors, or the potential influence arising from their participation in the user meetings be fully taken into account.”

23. The Committee reviewed various monthly Reports of Donations to the Council prepared by the DAAO, in which sponsorships were distinguished from “donations”. However, these monthly reports do not assist the Committee to understand better the definition of sponsorship.



24.



25. Having reviewed some of the DAAO’s monthly Report of Donations, **the Committee concludes that it was not unreasonable or unusual for the DAAO to have classified the Donations, at the time they were received, as donations and not sponsorships.** Consequently, the Committee proceeds on the basis that the Guidelines for donations that were not sponsorships were applicable to each of the Donations.

26. Having considered the definitions used by other universities, both in and outside of Hong Kong, the Committee takes the following view:

- (1) The need to distinguish “sponsorships” from other forms of “donations” only arises because the processing procedures for them in DFA 19 are different.
- (2) **There is merit in having a uniform set of procedures for the solicitation and acceptance of all donations, regardless of whether they are sponsorships or not.**
- (3) One possible definition for “donations” that avoids direct reference to “sponsorships” and that is distinct from “commissioned work” could be the one used by Stanford University for “gift”: *“any item of value given to the University by a donor who expects nothing significant of value in return, other than recognition and disposition of the gift in accordance with the donor’s wishes”.*
- (4) This is also in line with the definition of donation in paragraph 11 in “A Tax Guide for Charitable Institutions and Trusts of a Public Character” (“**the Tax**

Guide”) issued by the Inland Revenue Department, Hong Kong. Paragraph 11 of the Tax Guide states “*The word "donation", in its ordinary sense, means a gift. To constitute a gift, the property transferred must be transferred voluntarily and not as a result of a contractual obligation to transfer it and no advantage of a material character is received by the transferor by way of return.*”

- (5) Paragraph 12 of the Tax Guide goes on to say “*Persons administering charities should note that donors may be asked to produce receipts for donations in support of any claims they make for an allowance under the Inland Revenue Ordinance. It is therefore important to distinguish donations from other payments when issuing such receipts. Payments other than those which are strictly gifts, e.g. ... admission tickets for film shows, etc., should not be termed as donations.*” Hence, the University may need to seek professional advice whether certain types of sponsorships which entitle the sponsors to admission tickets to University events (e.g. conferences, seminars) should be regarded as tax-exempted donations.

D. Cash donations from unknown sources: money-laundering legislation

27. The Committee notes that the Processing Guidelines expressly refer to “cheques/cashier orders”, implying that cashier orders are an acceptable method of payment for donations to the University in general. Unlike a cheque but like cash, a cashier order does not give information on the source of the funds. Thus, when dealing with cashier orders, the University should be mindful of its obligations under money-laundering legislation.

28. Section 25A of the Organized and Serious Crimes Ordinance (Cap. 455 of the Laws of Hong Kong) (“**Section 25A**”) provides that, where a person knows or suspects that any property (which includes money) represents any proceeds of, or was used in connection with, or is intended to be used in connection with an indictable offence, he/she shall (as soon as it is reasonable for him/her to do so) disclose that knowledge or suspicion, together with any matter on which that knowledge or suspicion is based, to an authorized officer (such as the Police). **There are no de minimis exceptions.**

29. The Committee also notes that Section 25A implies that the University should be mindful not only whether the source of funds could be from illegal activities but also whether the intended use of the funds is connected with illegal activities. In connection with the OCPL, unauthorized assembly (section 7 of the Public Order Ordinance (Cap.245 of the Laws of Hong Kong) and unlawful assembly (section 18 of the Public Order Ordinance) may be summary or indictable offences.

30. In view of the principle stated in paragraph 7a of DFA 19 (i.e., donations should come from reputable sources) and the risks of contravening Section 25A, **the Committee takes the view that the University should not accept any donations from unknown sources.** Note

that “anonymous” sources are not the same as “unknown” sources; the identity of an “anonymous” source may be known to the University’s donation administrators but not intended to be publicly-disclosed. **The Committee takes the view that there are two distinct steps, which should be part of the acceptance process: the identification of the donor, followed by the verification with the identified donor that he/she did indeed offer the donation.**

E. Other guidelines

31. The Committee also notes two important concepts from the ICAC Guidelines:

- (1) *Accountability through documentation* – The ICAC Guidelines suggest that a mechanism should be in place to ensure that key processes in the administration of donations, such as the acceptance of donations, are well documented and available for scrutiny (Chapter 2.1 of the ICAC Guidelines).
- (2) *Approval needed from specified individuals for the acceptance of donations* – The ICAC Guidelines suggest that universities should lay down the schedule of authorities for approving acceptance of donations of different amounts and nature (Chapter 4.1 of the ICAC Guidelines).

32. The Committee also takes note of the CASE guidelines on the “Ethical Principles Behind the Acceptance of Gifts” developed for UK Higher Education Institutions (“**the CASE Guidelines**”),¹⁰ as well as the policies and guidelines of other universities, both inside and outside Hong Kong.

¹⁰ See: http://www.case.org/Samples_Research_and_Tools/Principles_of_Practice/CASE_Europe_Guidelines_Ethical_Principles_Behind_the_Acceptance_of_Gifts.html

V. The Facts about the Donations

A. The source and purpose of the Donations

33. Appendix B shows the chronology of events and related documents for the Donations. According to the related documents, the source and stated purpose of each of the Donations are set out in the table below:

	Donation	Source/Stated Purpose
(1)	HK\$200,000 donation to the School of Humanities in May 2013	Email dated 13 May 2013 from Mr. Tai to Professor Daniel Chua: "... the donation is from Anonymous to support works on Faith and Law"
(2)	HK\$300,000 donation to the Faculty of Law in May 2013	Memo dated 14 May 2013 from Professor Johannes Chan to the Administrative Assistant and the Senior Secretary of the Faculty of Law: "I have received a donation of \$300,000 from an anonymous donor. The donation is for supporting conferences and seminars on constitutional development in Hong Kong and rule of law education."
(3)	HK\$800,000 donation to POP in May 2013	Donations/Grants Processing Form (dated 20 May 2013) submitted by POP states "Anonymous" as the name of donor and "Civil Referendum Project" as the designation of the donation/grant.
(4)	HK\$150,000 donation to the School of Humanities in February 2014	Email dated 5 February 2014 from Mr. Tai to Professor Daniel Chua: "the donation like last time is anonymous".
(5)	Donation-in-kind to POP in May 2014	Letter of Acknowledgment, signed by Mr. Tai on 14 August 2014 as donor and Dr. Robert Chung on 15 August 2014 as recipient, states: "This is to acknowledge 100 units of Samsung Galaxy Note 8.0 LTE and 100 units of Samsung Galaxy Tab 3 were donated to the Public Opinion Programme at the University of Hong Kong on May 23, 2014 for the PopVote project."

34. In relation to the source and purpose of the Donations, the Committee notes that OCPL made the following official statement dated 28 October 2014 ("**the OCPL Statement**") on its website¹¹:

In 2013, a member of the public gave a donation to the Rev. Chu Yiu Ming in support of his efforts in promoting democracy in Hong Kong. Subsequently, Rev. Chu decided the donation should be spent as follows: HK\$800,000 should go to HKU's polling programme, specifically the Civil Referendum of June 22nd 2014, \$300,000 to HKU's Faculty of Law for the holding of academic seminars, and \$200,000 to the Faculty of Arts for personnel expenses involved in the Deliberation Days, the Civil Referendum and related research. All three donations were made under the name of "Anonymous".

In fact, of the funds raised at Rev. Chu's birthday dinner in 2014, was donated to HKU's Faculty of Arts¹² under the name of "Anonymous" towards financial support for research

¹¹ Source of both Chinese and English version: http://ocpl.hk/index.php?route=occupy/activity_detail&activity_id=116

¹² This refers to the HK\$150,000 donation in February 2014. The amount of HK\$150,000 is clearly stated in the Chinese version, which is also quoted here.

assistants. similarly donated anonymously. The recipient was the Faculty of Arts, HKU, towards financial support for research assistants.”

“整個捐款源於有本地熱心市民向朱耀明牧師捐款，支持他推動香港民主發展。朱耀明 2013 年決定將 80 萬元捐到港大民研計劃以支持 622 全民投票、30 萬捐到港大法律學院舉辦學術研討會、20 萬捐到港大文學院支持研究助理費以協助商討日、全民投票及相關研究。上述三筆款項，朱牧師均以「無名氏」名義捐出。

事實上，朱牧師於 2014 年壽宴所籌得的款項中，同樣以「無名氏」名義捐出 15 萬至港大文學院支付研究助理費。

35. The OCPL Statement is important as the nearest document to an official statement from ~~Reverend Chu~~ himself on the Cash Donations and their intended use. However, it is important to note that the OCPL Statement was released in October 2014 and no similar statement was publicly made in around May 2013 to trigger concern on the part of the DAAO when the first batch of Cash Donations (i.e. HK\$800,000, HK\$300,000 and HK\$200,000 donations in May 2013) was received.

36. The Committee notes that

- (1) the OCLP Statement suggests a single donor for the first batch of Cash Donations;
- (2) given that the first batch of Cash Donations was in the form of three consecutively-numbered cashier orders all dated 10 May 2013 from the same bank branch, it would have been reasonable for the DAAO to deduce that the three cashier orders came from the same source; and
- (3) if the total amount of HK\$1.3 million had been donated to a single beneficiary faculty/department/unit, the donation item would have appeared on the first page of the DAAO’s Report of Donations to the Council in the category of “Donations of or above HK\$1 million”.

37. To its credit, the DAAO did raise the alarm upon processing the first batch of Cash Donations, as evidenced clearly by the following sequence of emails (bold added for emphasis) provided by the DAAO:

- (1) From Recording Secretary of DAAO to Mr. Tai (21 May 2013):

“... Prof Daniel Chua has passed our office a donation of \$200,000 for processing, which you received from an anonymous donor. Since we are required by UGC to report the name of donor for the application of Government matching, and **it is improper for the University to receive any donation from unknown source**, I would like to seek your help in providing the name of the donor.

Please rest assured that we will keep the donor’s identity confidential...”
- (2) From Mr. Tai to Recording Secretary of DAAO (21 May 2013):

“I am sorry that i do not know the identity of the donor as the money is given to me from

an indirect source.

If we do not apply for matching, would that be a problem? **Are you suggesting that HKU will refuse to accept a donation if the identity of the donor cannot be known?"**

- (3) From Recording Secretary of DAAO to Director of DAAO (22 May 2013):
"Please see Mr Benny Tai's query on the acceptance of \$200K donation to Prof Daniel Chua's Faith and Law initiative from an unknown donor. **I've brought up the case to [REDACTED] of FEO who is seeking advice from their management.** What is your view?
There's a similar case of \$300K donation received by Prof Johannes Chan... I've asked for the donor's name via his [REDACTED] and am waiting for his reply."
- (4) From Director of DAAO to Recording Secretary of DAAO (22 May 2013)¹³:
"**Very strange** that Benny does NOT know of the identity of the donor and said it's "from an indirect source" and apparently **doesn't even want to be responsible for it.**
In this day and age, we have to be extremely careful. True that we should not receive donation from un-identifiable sources.....
Similarly, if 200K is dumped at DAAO doorstep, we CANNOT take it as donation – instead we should report to police...
This is to ensure that we won't be accused of receiving un-identifiable sources of money... We have had [REDACTED] and others who prefer to remain anonymous, but all the time we KNOW the sources proper, and if any criminal thing happens or we are accused, we can trace."
- (5) From FEO staff to Recording Secretary of DAAO (24 May 2013):
"1. Referring to DFA 19 and ICAC's guidelines on donations (http://www.icac.org.hk/filemanager/en/Content_1031/m1donations.pdf), all donations should come from a **reputable and known** source.
2. There are cases where anonymous donations from donation box set-up in the campus. The setting up of such donation box should go through established procedures. Other than this, **we do not recall any case of anonymous donations.**"
- (6) From Recording Secretary of DAAO to Dr. Robert Chung of POP (27 May 2013):
"... Your office passed us a donation of \$800,000 from an anonymous donor for processing last week. Since we are required by UGC to report the name of donor for the application of Government matching, and **it is improper for the University to receive any donation from unknown source**, I would like to seek your help in providing the name of the donor.
Please rest assured that we will keep the donor's identity confidential..."
- (7) From Dr. Robert Chung of POP to Recording Secretary of DAAO (27 May 2013):
"Let me now bridge you up with the "person" who passed me the \$800k donation. He is Professor Benny TAI Yiu Ting. ... As far as I know, Professor Tai himself received this donation from an intermediate person who had clearly spelled out to him the purpose of the donation. **I myself know nothing about that person and I do not need to know.** This has been our practice since February 2012 when we kicked off our Civil Referendum Donation Scheme. **We have enquired and followed our university policy from the very beginning.** The reasons which you now spell out – about UGC matching fund and about **"donation from unknown source" were never an issue.** We were given the understanding that provided that the purpose of the donation is clearly spelled out, and that our independence is not affected, **anonymity is not an issue.**
These said, to make things simple, we will just follow whatever your office required, so please

¹³ This email (and previous email) raises the alarm for both the HK\$200,000 donation and the HK\$300,000 donation.

settle this matter with Professor Tai directly, sooner the better because we have already deployed some manpower to work on our Civil Referendum (PopVote) Project based on the assumption that the donation exist....”

- (8) From Recording Secretary of DAAO to Director of DAAO and Director (Development) (**28 May 2013**):

“**Things are getting complicated.** There were anonymous donations to the referendum. ...”

- (9) From Director of DAAO to Recording Secretary of DAAO (**28 May 2013**)¹⁴:

“because **things are always sensitive when politics is involved**, let us immediately report to SP [Professor S.P. Chow]...

the RATS (Risk Assessment Team) has already kicked off on this. Because of the high visibility and public scrutiny there could be queries from all sides. **Of course we were never aware of this Civil Referendum Donation Scheme – and the grey area of whether it is HKU project.** ... Benny Tai talks reason, so it is not impossible to sort it out, but needs to be quick
I am therefore **copying to SP. SP may want to alert DVC, DoF and legal advisor.** ...”

- (10) From Director (Development) to Director of DAAO and others (**29 May 2013**):

“This is to let you know that Prof Chow and I just met with Benny Tai. Here’s our mutual understanding:

1. **Benny will resolve to identify the sources** of the 3 donations in question, and inform us as soon as possible.
2. In any case, the known sources should like to remain anonymous. Hence, the donations will not be submitted for Govt Matching.”

38. The Committee notes from these emails that (1) the responses given by Mr. Tai and Dr. Robert Chung show that they were not aware of any problems with accepting donations from unknown sources, (2) the Director of DAAO refers to the “grey area” of whether a project is a University activity or not, (3) the FEO appeared to be uncomfortable with accepting any donations other than from reputable and known sources, and (4) Professor S.P. Chow was copied when the alarm was raised a further time (paragraph 37(9)).

39. According to the DAAO, Mr. Tai had verbally informed the Director (Development) on **10 July 2013** (6 weeks after the 29 May 2013 meeting) that the donor of the first batch of Cash Donations was [REDACTED]. The DAAO confirmed that it did not contact [REDACTED] in order to verify that he was indeed the donor. The subsequent emails provided by the DAAO, as set out below (bold added for emphasis), give only scant information about how the matter was then handled by the DAAO after the alarm was raised.

- (1) From Director (Development) to Director of DAAO and others (**2 August 2013**):

“Just to report that while **Benny has informed me about the donor identity about 3 weeks ago**, I had the opportunity to explain to Robert Chung in person this afternoon. ...

Afterwards, we toured around his new office and I had close-door discussion with him. I relayed Benny’s information about the donor identity as Benny had not informed him so far. I reiterated the point about the need to know the identity of a donor and that the University would respect the donor’s wish for staying anonymous. **We’re in good mutual understanding.**

¹⁴ This email raises the alarm for the HK\$800,000 donation.

Case closed.”

- (2) From Recording Secretary of DAAO to Mr. Tai (**12 February 2014**) regarding \$150,000 donation in February 2014:

“We received the attached donation from the School of Humanities which you passed from an anonymous donor. We would be grateful if you could provide the donor’s name for our records. Please rest assured that his/her name will be kept strictly confidential and will not be disclosed anywhere.”

- (3) From Recording Secretary of DAAO to Mr. Tai (**27 February 2014**):

“Awaiting your advice.”

- (4) From Mr. Tai to Recording Secretary of DAAO (**28 February 2014**):

“please use this name:

██████████”

- (5) From Recording Secretary of DAAO to Mr. Tai (**28 February 2014**):

“Noted with thanks. I’ll pass the receipt to you when it’s issued.”

40. The Committee made enquiries with the Deputy Vice-Chancellor (DVC), the in-house legal advisor and Professor S.P. Chow about their involvement with the handling of the Donations. The DVC could not recall conversations that might have or might not have occurred in 2013 in relation to the Donations. According to the DVC, the Risk Assessment Team (RAT)¹⁵ does not handle donations but risky events. The legal advisor confirmed that he was not contacted in relation to the Donations. Professor Chow’s reply to the Committee’s enquiry (shown below with bold added for emphasis) reveals that, after being verbally informed the donor was ██████████, he gave instructions to the DAAO to “proceed accordingly”.

“...I would like to provide the following background information so that the Committee can better understand the rationale behind my decision and action...

1. Accepting donations can be highly sensitive as it may involve social, economic, political, legal and ethical issues. ...
2. Rejecting donations can be equally sensitive. ...
3. ... at **HKU, just like in other reputable Universities, we pay attention mainly on the academic impact as long as the donation is legitimate and legal.** We would not be biased by social, religious, political, ethnic or other issues.
4. Over the years and learning from experience, staff at DAAO, sometimes with the help of our academics, can largely determine whether a donation is in line with the academic development of the University. Only in **mega donations** ██████████

██████████ the matter would be brought up to the SMT for discussion. In the case related to Mr Benny Tai, if the identity of the donor had been revealed at the beginning, the matter would not have been even brought to my attention as the donation comes from an apparently legitimate Hong Kong citizen to support on-going academic activities.

¹⁵ Membership of the RAT includes the DVC (as its convener), the Director of Communications, the Dean of Student Affairs and the Executive Vice-President and others if necessary depending on the case on hand.

Therefore, to answer ...

(1) I was first involved with the donation related to Mr Benny Tai when staff at DAAO seemed unable to impress upon Mr Tai the importance of revealing the identity of the donor. In May 2013, I met Mr Tai together with [Director (Development)] of DAAO. In no uncertain terms, I told him that the identity of the donor must be revealed and recorded. Mr Tai said that he would think about it and let us know. He subsequently informed [Director (Development)] that the donor was [REDACTED]. [Director (Development)] then verbally informed me about it. I regard the donation as coming from a legitimate citizen of Hong Kong to support academic activities and therefore acceptable. **I instructed [Director (Development)] to proceed accordingly. ...”**

41. The Committee also made enquiries with Professor Johannes Chan, who took a similar view. Commenting upon the HK\$300,000 donation to the Faculty of Law from Mr. Tai in May 2013, Professor Chan noted that (1) the size of the donation was relatively small, (2) the donation was made for an academic purpose, and (3) as he knew [REDACTED] personally, he had no reason to doubt the integrity of [REDACTED] or Mr. Tai, and had no reason to suspect the donation was tainted with illegality or impropriety. Furthermore, according to Professor Chan’s recollection, he had asked Mr. Tai at the time he received the donation as to whom the Faculty should acknowledge the donation and was told that the Faculty should acknowledge [REDACTED]. The Committee asked for sight of the acknowledgment letter in order to confirm the date by which the Faculty was aware that the donor was [REDACTED], but was informed that no acknowledgment letter was sent by the Faculty of Law to [REDACTED].

42. The Committee notes the points made by Professors Chow and Chan and appreciates that the DAAO would normally have no good reason to question what it was told by University staff or to doubt the integrity of University staff. If the DAAO had been immediately told in response to their enquiry that [REDACTED] was the donor, there should not have been any alarm raised. But this was not the case here for the DAAO. **Having raised the alarm, especially given Mr. Tai’s delay and hesitation in replying, it would have been reasonable for the DAAO to verify with [REDACTED] that he was the “true” source of the donations.** It should be remembered that the Cash Donations were in the form of cashier orders and not cheques, which would have borne the signature of the donor. In any event, contacting donors would be a normal public relations step for the DAAO, which could be used for tactful due diligence (e.g. to confirm or clarify the intended purpose of donations).

43. **Professor Chow’s reply (see paragraph 40) led the Committee to reach the view that his decision to accept the first batch of Cash Donations was unsatisfactory** in that he was not mindful that (1) apart from academic impact, the reputational risks of a donation¹⁶ and how to manage these risks should be considered and (2) donations of relatively small amounts may expose the University to as much reputational risks as mega-donations. **The**

¹⁶ The CASE Guidelines mention “institutions may wish to consider the reputational risks that could be incurred through public perception of any particular donor”. Cambridge University’s Ethical Guidelines on the Acceptance of Benefactions, for example, ask the question: “Is there evidence that acceptance of the proposed benefaction or compliance with any of its terms will damage the University’s reputation, including deterring other benefactors?”

Committee also believes that the obligation to consider reputational (and all other) risks does not fall solely on the gate-keeper or ultimate decision-maker but on all involved parties, particularly those receiving the donations.

44. The Committee asked Mr. Tai about his emails to the Recording Secretary of the DAAO. Mr. Tai's written replies included the following (bold added for emphasis):

- (1) When asked about his email to the Recording Secretary of the DAAO dated 21 May 2013 (which is cited in paragraph 37(2)), Mr. Tai wrote:

"As I have already deleted all my email records, I cannot be sure whether the exact wording had been used as mentioned in the question. ...

As already revealed, the actual donor of the donations was [REDACTED]. The money [REDACTED] donated to the University was from other sources received by him as donation to him personally. [REDACTED] and other sources did not want to have their identities disclosed out of their personal reasons. When I was asked by [the Recording Secretary] to provide the name of the donor, **my understanding at that time was that [REDACTED] received donations himself and he would like to use those donations to support activities of the University related with constitutional development but he did not want to disclose his identity. At that point, I did not know the identities of the donors to [REDACTED].** The relationship between [REDACTED] and his donors was beyond my control. My understanding could only be based on the information I received from [REDACTED] directly. ..."

- (2) In respect of his reply in (1), he further wrote:

"I would like to add a note here that **my replies to these enquiries are not given in my capacity as a member of the staff of the University.** In matters related with the giving and receiving of the four donations [i.e. the Cash Donations], my role was no different from a University alumnus introducing donors to the University."

- (3) When he was asked to clarify whether his reply would be different if given in the capacity of a staff member, he replied:

"**My answer will be no different in whatever capacity I am answering.** The reason for making this comment is just because I want to point out that the matter does not relate with my responsibility of being a member of staff of the University. I also want to clarify that this comment is only related with the inquiry concerning the giving and receiving of the donations."

- (4) Mr. Tai subsequently added the following to his answer:

"**The authority of the Audit Committee to ask for responses from me can only be based on my capacity as a member of staff** of the University. The Committee **has no authority to demand answer from an alumnus or any other person introducing donors** to the University. The University can review its procedures in accepting donation but those **guidelines will not be binding on the donors or persons introducing donors to the University.** The University can only choose to accept or not accept a donation if the University has question about the donation.

However, I am still prepared to respond to those enquires not related with my responsibility as a member of staff of the University out of my respect for the University."

45. For avoidance of doubt, the Committee's questions were posed to Mr. Tai because he is a member of staff (unlike [REDACTED]), having regard for the limitations on the powers of the Committee to compel individuals who are not members of staff to respond. Mr. Tai's reply lends support to the Committee's views: given that Mr. Tai was trying to "introduce" a donor to the University and play the part of a middleman, it would have been incumbent upon

the DAAO to take steps to “meet” this donor directly.

B. The use of the Donations

46. The Committee reviewed financial summaries on the use of the Cash Donations.

HK\$800,000 donation in May 2013 to POP

47. The HK\$800,000 donation in May 2013 to POP was mainly used towards the “**Civil Referendum Project**”¹⁷, which was announced on 23 January 2013 as a self-financing project with an initial aim of raising HK\$800,000 in donations to reconstruct and enhance POP’s e-Voting system. POP’s online voting system had experienced malfunctions during the “3.23 Civil Referendum Project”, an earlier-concluded project which itself raised over HK\$800,000 in donations for a voting exercise held on 23-24 March 2012.

48. By way of background, POP was established in June 1991 to collect and study public opinion on topics which could be of interest to academics, journalists, policy-makers and the general public.¹⁸ Since 2012, POP has been engaged in five distinct voting projects¹⁹, two of which are funded by donations and three commissioned by the Secretariat of the OCPL.

Voting Projects Funded by Donations		
	Project	Details
(1)	“3.23 Civil Referendum Project”	Voting dates: 23-24 March 2012 Purpose: to gauge people’s choice of candidates of the 2012 Chief Executive election, including the choice of abstention Amount raised: HK\$897,019.80 Amount spent: HK\$831,974.40
(2)	“ Civil Referendum Project ” (also known as “PopVote Civil Referendum Project”)	Launch date: 23 January 2013 Purpose: to construct and enhance the e-Voting system Amount raised: HK\$853,280 ²⁰ , including the HK\$800,000 donation in May 2013 Amount spent: HK\$781,587 (mainly employing technical staff for the development of the system)

¹⁷ Project is done jointly with the Centre for Social Policy Studies at the Hong Kong Polytechnic University (CSPS)

¹⁸ Source: <http://hkupop.hku.hk/english/>

¹⁹ These are the projects that appear in <https://popvote.hk/english/project/>.

²⁰ Source: <https://popvote.hk/english/donation/cr2013/> (date of access: 23 January 2015)

Voting Projects Commissioned by the Secretariat of the OCPL		
	Project	Details
(3)	“New Year Civil Referendum”	Voting date: 1 January 2014 Purpose: to vote on 3 propositions: (1) the representativeness of the Chief Executive Nominating Committee should be increased, (2) there should not be pre-screening mechanism in the Chief Executive nomination process, and (3) Chief Executive nomination process should include element of civil nomination
(4)	“Constitutional Reform Deliberation Day” Voting	Voting dates: 4 & 6 May 2014 Purpose: to vote on 15 proposals for the 2017 Chief Executive Election – the top 3 proposals would be voted on in the “6.22 Civil Referendum”
(5)	“6.20-29 Civil Referendum” (also known as “6.22 Civil Referendum”)	Voting dates: 22-29 June 2014 Purpose: to vote on 2 motions, the first relating to which of 3 proposals to submit to the Government for the 2017 Chief Executive Election and the second relating to whether the Legislative Council should veto the Government’s proposal if it cannot allow genuine choices by electors

49. By way of further background, the donations to the 3.23 Civil Referendum Project included 178 so-called “anonymous” donations²¹ and were reported to the Council in the DAAO’s Report of Donations dated 20 July 2012 as a lump-sum “donation” (as opposed to “sponsorship”). According to POP, the first time POP called for public donations was for the 3.23 Civil Referendum Project and the second time POP called for public donations was for the Civil Referendum Project.

50. Apart from commissioning three voting projects, OCLP also commissioned POP to organize its deliberation days which were held on various dates in 2013 and 2014, the first being on 9 June 2013. With respect to the OCPL deliberation days, the POP website states *“The Public Opinion Programme (POP) at the University of Hong Kong is commissioned by the Secretariat of the “Occupy Central with Love and Peace” (OCLP) to organize the “OCLP Deliberation Series”, which aims to let members of the general public and supporters of the campaign formulate proposals for the 2017 CE Election through rational discussions.”* It also states: *“POP aims at providing the OCLP Secretariat a professional service to organize the “OCLP Deliberation Series”, in the hope of raising the operation and result of these deliberation activities to international standards. POP stays political neutral to the ‘OCLP’ Campaign per se, and the OCLP Secretariat has already pledged to give POP full autonomy in designing and conducting all activities in the Deliberation Series.”* [Underline added for emphasis.]²²

51. By looking at the scope of services in the service contract(s) for the OCLP commissioned work, it may be possible to verify that the OCLP commissioned work does not overlap with the Civil Referendum Project. For this reason, the Committee asked POP whether there was a service contract for the OCLP commissioned work. POP replied that

²¹ Source: https://popvote.hk/doc/popvote323_financial_report_en.pdf, which states: “Donors who could not be identified because they did not submit any donation form online or otherwise are labeled “anonymous”.”

²² Source: <http://hkupop.hku.hk/english/features/OCLP/index.html>

there was no service contract. POP further explained that Mr. Tai first met with POP on 25 March 2013 to discuss the blueprint for the Deliberation Series, but as the specifications changed from time to time, it was very difficult to pin down the costs of the events until the very last moment, and in any case, OCLP did not require an official quotation or service contract from POP. .

52. After its review of the financial summary, **the Committee is satisfied that the HK\$800,000 donation did not fund the OCLP commissioned work**, which resulted in over HK\$2.6 million in separate income to POP, **and that the use of HK\$800,000 donation was aligned with the stated purpose of the donation**, which was to support the Civil Referendum Project by constructing and enhancing an e-voting system.

	Event date	OCLP Event	Income (HK\$)
(1)	9 Jun 2013	DDay 1	291,325
(2)	29 Sep 2013	DP2 “CE Election Design”	406,664
(3)	1 Jan 2014	“New Year Civil Referendum”	300,000
(4)	21-23 Feb 2014	“members only voting”	50,000
(5)	6 May 2014	DDay2 “Constitutional Reform Deliberation Day” Voting	302,000
(6)	20-29 Jun 2014	“6.22 Civil Referendum”	1,175,000
(7)	25 Oct 2014	Umbrella Movement voting	88,676
		TOTAL AMOUNT:	2,613,665

Note: Items (4) and (7) do not appear in <https://popvote.hk/eng/project/> and hence are not listed in paragraph 48.

HK\$300,000 donation in May 2013 to the Faculty of Law

53. The HK\$300,000 donation in May 2013 to the Faculty of Law was placed in a newly-opened project account, into which another donation of HK\$6,600 for the Rule of Law Education (ROLE) project was placed in September 2013. According to the Faculty of Law, HK\$110,099 was used for an academic conference titled “Universal Suffrage and Nomination Procedures: Imperatives from Article 25 ICCPR”²³ held on 20 March 2014, which was hosted by the Centre for Comparative and Public Law at the Faculty of Law (“CCPL”) and HK\$21,908.30 has been spent on the ROLE project. Over HK\$174,000 remained unused as at the end of December 2014. The Committee asked Professor Johannes Chan, who received the donation, whether any part of the HK\$300,000 donation was spent on OCPL related activities, to which he replied “No”.

54. By way of background, CCPL was established in 1995 as a research centre in the Faculty of Law. Its stated goals are to (1) advance knowledge on public law and human rights issues primarily from the perspectives of international and comparative law and practice; (2) encourage and facilitate collaborative work within the Faculty of Law and the broader community in the fields of comparative and public law; and (3) make the law more accessible to the community and more effective as an agent of social change.²⁴ NDI is listed as one of

²³ “ICCPR” is the acronym for the “International Covenant on Civil and Political Rights”

²⁴ Source: <http://www.law.hku.hk/ccpl/aboutthecentre/about-centre.html>

CCPL's international partners.²⁵ Mr. Tai was one of the Deputy Directors of CCPL during July 2011-July 2013.²⁶ Mr. Tai was listed as the principal investigator of the CCPL-funded project titled "Constitutional Development in Hong Kong and Rule of Law Education".²⁷

55. After its review of the financial summary, **the Committee is satisfied that the use thus far of the HK\$300,000 donation is aligned with the stated purpose of the donation**, which was to support the conferences and seminars on constitutional development in Hong Kong and rule of law education.

HK\$200,000 donation in May 2013 and HK\$150,000 donation in February 2014

56. The HK\$200,000 donation in May 2013 and the HK\$150,000 donation in February 2014 to the School of Humanities were placed in the project account of the Faith and Global Engagement Initiative ("**the Faith Initiative**") and mixed with over HK\$3 million of other donations.

57. By way of background, the Faith Initiative is a self-funded multi-disciplinary initiative for research and teaching, providing a platform for experts to discuss the role of faith in the public, professional and cultural life.²⁸ At the Faith Initiative's inauguration in June 2012, at which the [REDACTED] gave an address, a memorandum of understanding was signed between [REDACTED] and the Faith Initiative, in which the Faith Initiative agreed to teach a course ("**the Course**") at the University on "Faith and Globalisation" with Mr. Tai overseeing this Course which would involve law, theology and issues of globalisation. Many of the donations to the Faith Initiative have been reported to the Council as "donations" rather than "sponsorships".

58. According to Professor Daniel Chua, who is the Director of the Faith Initiative, the HK\$200,000 and HK\$150,000 donations were applied to the salary of the Research Assistant, who was initially employed by the School of Humanities to be jointly supervised by Professor Chua and Mr. Tai²⁹, but was later seconded to POP. The explanation given by Professor Chua as to how this came about was as follows. The Research Assistant's job initially was to assist Mr. Tai on a full-time basis to carry out research and develop materials for the Course. Given the specialist nature of the Course, it took some time to find a suitable research assistant. By the time the Research Assistant was hired, OCLP was snowballing and Mr. Tai was no longer able to commit himself to the Course due to OCLP. Instead of terminating the Research Assistant's appointment due to the postponement of the Course, Mr. Tai suggested that she could be seconded to POP, which needed an assistant immediately. It

²⁵ Source: <http://www.law.hku.hk/ccpl/aboutthecentre/Partners.html>

²⁶ Source: CCPL Annual Report 2011-2013

²⁷ Source: CCPL Annual Report 2013-2014

²⁸ Source: <http://www.faith.hku.hk/about.html>

²⁹ Appointment letters dated 8 April 2013 and 17 March 2014 were reviewed, the first requiring the Research Assistant to work with duties and working hours laid down by Professor Daniel Chua only and the second requiring her to work with duties and working hours laid down by Professor Chua and Mr. Tai.

was expected that the Research Assistant would resume work on the Course and so it made sense to keep her under the employment of the Faith Initiative. In compensation for the secondment, the Faith Initiative received HK\$200,000 through Mr. Tai. Due to the duration of the OCLP activities, the Course was postponed several times. When the compensatory funds for the secondment ran out, the Faith Initiative received a further HK\$150,000 from Mr. Tai. Given the compensation payments, there was no need for the Faith Initiative to charge POP.

59. According to POP, the Research Assistant had been engaged by POP as an Honorary Project Officer deployed by Mr. Tai to help POP conduct deliberative research. POP's understanding of the arrangement was that the Research Assistant took instructions from and was supervised by Mr. Tai, to whom she was expected to report her working hours. POP did not supervise her and only asked for her voluntary help on the OCLP Deliberation Series and other research activities. As the Research Assistant was not housed in the POP office, POP did not know when she was working on what.

60. According to the Research Assistant, about two weeks after she had started work, she was asked by Mr. Tai to work closely with POP on the OCLP Deliberation Series. Her duties were mainly related to the preparation and execution of the OCLP Deliberation Series, which included the following events:

- (1) the deliberative polling on 9 June 2013;
- (2) the deliberative polling on 29 September 2013;
- (3) the community deliberative meetings held during October 2013 to February 2013;
- (4) the New Year Civil Referendum on 1 January 2014;
- (5) the "Constitutional Reform Deliberation Day" Voting on 6 May 2014;
- (6) the "6.22 Civil Referendum" and the mock voting;
- (7) the preparation for electronic voting in Admiralty, Mongkok and Causeway Bay in late October 2014;
- (8) the recruitment of POP telephone interviewers;
- (9) headcount operation on 1 February 2015 rally;
- (10) the RTHK Deliberative Forum ("Voices from the Hall"); and
- (11) conducting research and translation work for POP.

61. Apart from working with POP, the Research Assistant also assisted the Faculty of Law in (1) the academic conference titled "Universal Suffrage and Nomination Procedures: Imperatives from Article 25 ICCPR" held on 20 March 2014 and hosted by CCPL (which was financed by the HK\$300,000 donation) and (2) the "SEMINAR SERIES on Electing the Next Chief Executive of the HKSAR in 2017: Proposals for Electoral Reform" held in April 2014 and hosted by CCPL.

62. Mr. Tai's understanding was that the Research Assistant would be considered seconded from the School of Humanities to POP. He confirmed that the HK\$200,000 and HK\$150,000 donations were to support the arrangement and agreed that the arrangement made for the

Research Assistant’s change of job duties “might not be a good practice”. He pointed out that a better arrangement would have been to terminate her contract with the School of Humanities and to arrange a new appointment with the POP directly, resulting in the HK\$200,000 and HK\$150,000 donations being made to POP instead.

63. The Committee is of the view that the HK\$200,000 and HK\$150,000 donations, being applied to pay the salary of a research assistant mainly seconded to POP, **were not used in accordance with the original stated purpose** of supporting works on Faith and Law. They were effectively donations to support POP’s OCLP commissioned work.

64. The Committee further noted that (1) the Course was postponed several times due to OCPL and thus Mr. Tai’s teaching of and research for the Course was affected by OCPL and the original purpose of hiring the Research Assistant for the Course was not achieved, and (2) under normal practices, as advised by the Human Resources Section, a letter of appointment should be issued setting out the terms of the secondment, which would have funding implications.

The Donation-in-Kind

65. There is no contrary evidence that the Donation-in-Kind was not used for its stated purpose.

C. Funding support from NDI/NED to the University

66. The table below sets out the funding support from NDI to the University as recorded in the University’s financial and fund raising systems. No funding from the NED was noted.

Recipient	Description	Receipt Date	Amount (HK\$'000)
POP	For Project IPOP/04/025 (“Multi-party Opinion Survey on Political Development in Hong Kong”)	Jun 2004	65
POP	Sponsorship for the conference “Public Opinion: East Meets West” held on 8 December 2005	Feb 2006	25
POP	For Project IPOP/07/016	Mar 2007	30
POP	For Project IPOP/07/018	Mar 2007	7
POP	Survey on Women Rights, Protection & Retirement Plans - 1st payment	Aug 2011	37
POP	Survey on Women Rights, Protection & Retirement Plans - 2nd payment	Sep 2011	37
POP	Service fee for “Survey on Political Reform”	Nov 2014	66
CCPL	Contract research for democracy in Hong Kong per agreement of May 2013	Jul 2013-Apr 2014	384
CCPL	Contract research for democracy in Hong Kong per agreement of February 2014	Apr-Dec 2014	246
Kadoorie Inst.	KISK-ST-05-04-12	Apr. 2012	5
Univ. Central	Room rentals	Feb-Mar 2006	4
	TOTAL AMOUNT:		906

VI. The Committee’s Findings about Compliance with the Guidelines

67. The Committee reviewed other “Anonymous” donations of HK\$100,000 or above³⁰ reported to the Council in 2012-2014, in order to find cases of donations from unknown sources (“**Unknown-Source donations**”) and to understand how these were processed. There were only two cases found, these being two donations of HK\$150,000 each to POP’s 3.23 Civil Referendum Project.

68. As mentioned before, the Committee considers the most relevant of the University’s internal documents to be DFA 19 which incorporates the Processing Guidelines as an annex. The Committee notes that, while it was not explicitly specified that compliance with the guidelines in DFA 19 was mandatory, DFA 19, having been approved by the Council, should be treated as a document to be followed.

69. With respect to DFA 19, the Committee’s observations (and the DAAO’s responses) to compliance with these Guidelines are set out in the table below.

Paragraphs from DFA 19	Committee’s observations (and the DAAO’s responses)
<p>2. When considering the appropriateness of entering into a donation or sponsorship relationship with a potential donor/sponsor, the following guiding principles should be borne in mind:-</p> <p>a. Donations and sponsorships should predominantly be for teaching, research and other University activities, and under any circumstances, no personal benefits should be involved;</p> <p>b. There should be no conditions attached to a donation or sponsorship which would adversely affect the University’s ability to carry out its functions fairly and impartially;</p> <p>c. The acceptance of a contribution from a donor or sponsor must be appropriate in value and not adversely affect the University’s reputation. The policies and guidelines on the use of the University’s name and visual identity approved by the Council should be strictly adhered to (<u>Annex I</u>);</p>	<p>(1) There was no documentation provided to the Committee clearly showing that each of the guiding principles set out in paragraph 2 of DFA 19 were considered during the process of approving the acceptance of each of the Donations (though the Director of the DAAO might have considered briefly whether the Civil Referendum Project was a University activity and concluded it was a “grey area”). This was the case for each of the two Unknown-Source donations as well.</p> <p>(2) After [REDACTED] was finally named by Mr. Tai as the donor for the Cash Donations in July 2013, [REDACTED] was not contacted for verification on the source of donation. According to the DAAO, in line with its existing practices, no further verification was considered necessary.</p> <p>(3) It was unclear to the Committee when and by whom the acceptance of each of the Donations was formally approved. Furthermore, the distinction between receipt, acceptance and approval of</p>

³⁰ There were 22 such donations.

<p>d. Where marketing opportunities are involved with a donation or sponsorship, the selection of the donor or sponsor should be carried out in an open, fair and objective manner; and</p> <p>e. Solicitation of donations or sponsorships from contractors/suppliers with whom the University has business dealings should be avoided.</p> <p>...</p> <p>7. The Council is the ultimate authority for acceptance of donations. On a day-to-day basis, the President and Vice-Chancellor accepts donations on behalf of the Council. The acceptance of donations should be appropriately documented and reported to the President and Vice-Chancellor through the Development and Alumni Affairs Office and the Finance and Enterprise Office for record. A regular report is prepared by the Development and Alumni Affairs Office on behalf of the President and Vice-Chancellor and submitted to the Council for endorsement. In considering acceptance of a donation, the following general conditions should apply: -</p> <p>a. Donations should come from reputable sources;</p> <p>b. Acceptance of a donation would not in any circumstances give or be perceived to give the donor an unfair commercial advantage over others in the same trade, industry or profession; and</p> <p>c. Without the prior agreement of the University, the donor must not solicit donations or contributions from sources other than its own to meet the financial commitment towards the pledged sum.</p>	<p>donations appears to be unclear. According to the DAAO, (a) there are no specific guidelines defining when a donation is regarded as formally accepted by the University, (b) it is not practical for the President and Vice-Chancellor to approve every donation, (c) under existing arrangements, the DAAO will screen all cash donations before arranging to issue a receipt, and (d) an acknowledgment letter may or may not be issued by the President and Vice-Chancellor depending on the request of the beneficiary units and the amount involved.</p> <p>(4) Deviating from the DAAO’s regular reporting practices, the Donations were first disclosed to the Council in the DAAO’s “Report of Donation from September 17 to November 11, 2014” dated 14 November 2014 for the Council meeting on 25 November 2014, which was more than one year after the first batch of Donations were received in May 2013. According to the DAAO, since the sources of the Cash Donations needed some time to be clarified, they were not reported within the usual time frame and administrative oversight resulted in further delay.</p> <p>(5) The Unknown-Source Donations were reported to the Council within one month after they were received by the DAAO.</p>
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70. With respect to the Processing Guidelines, the Committee’s observations (and the DAAO/POP’s responses) are set out in the table below.

Paragraphs from the Processing Guidelines	Committee’s observations (and the DAAO/POP’s responses)
<p>1. All donations and grants made in cheques/cashier orders should be payable to “the University of Hong Kong”, and forwarded directly to the Development & Alumni Affairs Office (“DAAO”). ...</p> <p>2. The original cheque/cashier order forwarded to the DAAO should be accompanied with relevant documents such as copy of correspondence pertaining to the donation/grant and its handling or use. For donations in kind, relevant documents should also be forwarded to DAAO. A <i>Donations/Grants Processing Form (Appendix B)</i> should also be completed for both types of donations and grants.³¹</p> <p>3. The DAAO will bank in the cheque/cashier order within one working day and liaise with the FEO for the issuance of official receipt...</p> <p>6. For central acknowledgement, the DAAO will liaise with the President’s Office for the issuance of thank-you letter to the donor/granting body. The signatory will be in reference to the following donation levels:</p> <p>a. Donations of HK\$50,000 or above, or donations of HK\$20,000 or above with Foundation membership: acknowledged by the President and Vice-Chancellor.</p> <p>...</p>	<p>(1) In respect of the HK\$800,000 donation, the corresponding cashier order was banked-in by POP, instead of being forwarded to the DAAO. Similarly, in respect of the two Unknown-Source donations, the corresponding cheques/cashier orders were banked-in by POP, instead of being forwarded to the DAAO. According to POP, POP does not have its own bank account, so all donations go to the University’s general donation account first, and all donations have to be cleared by DAAO before POP can use them.</p> <p>(2) In respect of the Donation-in-Kind to POP, no Donations/Grants Processing Form was submitted to the DAAO. Moreover, the acknowledgment letter was dated and forwarded to the DAAO in August 2014, despite the donation having been made in May 2014. According to the DAAO, for donations-in-kind in general, beneficiary units do not need to go through the DAAO to utilize the gift and reporting is by honour system.</p> <p>(3) In respect of each of the Cash Donations, there was no central acknowledgment by the President and Vice-Chancellor to the donor, and no acknowledgment letter was issued by the beneficiary unit. According to the DAAO, it did not issue thank-you letters because no contact details of the donor were provided.</p>

71. With respect to the University’s guiding principle not to accept donations that carry any political requirements or criteria, the Committee noted that (1) strictly speaking, the Donations did not carry “any political requirements or criteria” and (2) when the DAAO was trying to ascertain the identity of the donor of HK\$800,000 donation to POP in May 2013, internal emails show that the DAAO was sensitive that there could be political/reputational issues attached with the donation to POP.

³¹ Note that a further *Asset Form* needs to be completed for donations in kind with *unit* value over HK\$10,000. The Samsung note pads of the Donation-in-Kind were valued at around HK\$3,000 per unit and hence an *Asset Form* was not required.

72. With respect to the ICAC Guidelines, the Committee’s observations are set out in the table below:

ICAC Guidelines	Committee’s observations
<p>“TEIs should only accept donations in support of their objectives and policies...” (Chapter 2.1)</p> <p>“Accountability – A mechanism should be in place to ensure that the key processes in the solicitation, acceptance, collection, allocation and disbursement of donations and the monitoring of their use are well documented and available for scrutiny.” (Chapter 2.1)</p> <p>“The central unit should draw up, in consultation with the relevant offices (e.g. Finance Office), detailed procedures governing the donation administration process (including solicitation, acceptance, collection, acknowledgement, allocation, disbursement, financial management and monitoring) for staff compliance after endorsement by management.” (Chapter 2.4)</p>	<p>(1) There was no evidence of assessment as to whether each of the Donations supported the University’s objectives, before or after acceptance.</p> <p>(2) The documentation was scant, especially on the acceptance of each of the Donations.</p> <p>(3) The procedures are not sufficiently detailed or clear to guide frontline staff.</p>

73. The Committee’s conclusions are as follows:

- (1) The Guidelines are unclear in many aspects, including:
 - (a) Whether compliance is mandatory for all University staff, or the Guidelines are for reference purpose only (paragraph 68).
 - (b) Certain staff have their own interpretations. Mr. Tai raised the question “Are you suggesting that HKU will refuse to accept a donation if the identity of the donor cannot be known” (paragraph 37(2)). Dr. Robert Chung believed “that provided that the purpose of the donation is clearly spelled out, and that our independence is not affected, anonymity [Committee’s interpretation: unknown source] is not an issue” (paragraph 37(7)).
 - (c) Lack of guidelines on certain aspects, e.g. definition of sponsorships (paragraphs 21-24), approval of donations (paragraph 69(3)) and donations-in-kind (paragraph 70(2)).
 - (d) Lack of detailed procedures governing the donation administration resulting in scant or no documentation to support the compliance of the principles set out in DFA 19, especially for the acceptance of donations (paragraph 72).
- (2) Faced with unclear Guidelines, frontline DAAO staff have to work on the basis of past practices, and in situations where there are no precedents, the DAAO is put

in a very difficult position. In the case of the first batch of Cash Donations, the DAAO had rightly raised the alarm, more than once (paragraphs 37(4) and 37(9)). It is important to remember that it would have been difficult, if not impossible, to foresee how political events in Hong Kong would have evolved by September/October 2014.

- (3) When Professor Chow was informed that [REDACTED] was the donor of the Cash Donations, he accepted this information without question and instructed the DAAO to proceed. In light of Mr. Tai's hesitation in answering the DAAO's queries as to the source(s) of these donations, the application of the funds to a possible "grey area" and the alarm having been raised (paragraph 37), Professor Chow's response was unsatisfactory (paragraph 43). The Committee is of the view that, whilst the initial responsibility to consider the legal and reputational risks lies with the individual who was introducing the Cash Donations, the DAAO should have verified with [REDACTED] directly, whether so instructed by Professor Chow or otherwise. If doubt remained after verification, the Cash Donations should not have been accepted (paragraph 42). Furthermore, the Committee notes that Mr. Tai was not as forthcoming as he should have been in revealing the source(s) of the Cash Donations.
- (4) The following processes clearly have not followed the Guidelines:
 - (a) In respect of the HK\$800,000 donation, the corresponding cashier order was banked-in by POP, instead of being forwarded to the DAAO. This seems to be the practice of POP (paragraph 70(1)).
 - (b) In respect of the Donation-in-Kind, no Donations/Grants Processing Form was submitted to the DAAO (paragraph 70(2)).
 - (c) No central acknowledgement for each of the Cash Donations was made (paragraph 70(3)).
 - (d) The cash donations of HK\$200,000 and HK\$150,000 were not used in accordance with the original stated purpose (paragraph 63). The two donations were used to support the Research Assistant who was originally hired to assist with the Course but ended up seconded to POP when Mr. Tai's obligation to teach the Course was affected by OCPL (paragraph 64). The deployment of the Research Assistant was unsatisfactory and was not in accordance with the University's Human Resources practices (paragraphs 62 and 64).
 - (e) The Donations were reported to the Council on 25 November 2014, more than 12 months after the first batch of Cash Donations was received in May 2013. This long delay is unusual, and the administrative oversight was not acceptable and not highlighted to the Council (paragraphs 19 and 69(4)).

74. While making enquiries with POP on the Donations, the Committee notes there was no service contract for OCLP commissioned work (paragraph 51). Though this area is not within the Terms of Reference, the Committee considers itself duty bound to point out the lack of a service contract in respect of commissioned work opens the University to unnecessary exposure and risk. This also appears not to be in line with the usual practice of POP.

VII. The Committee's Recommendations

75. For acceptance and utilization of donations, the Committee recommends:

- (1) The University should not accept donations from unknown sources (paragraph 30). In accepting a donation, both the source and its application should be considered by the University, and the University should only accept donations in support of its objectives and policies (paragraph 18). Such policy should be clearly spelled out in the Guidelines. Furthermore, the Guidelines should explicitly state “while the University upholds academic freedom, it does not accept donations that carry any political requirements or criteria” with guidance on what constitutes “political requirements or criteria” (paragraph 15).
- (2) It should be clearly stated that compliance with the Guidelines is mandatory for all donations/sponsorships, including donations-in-kind, and all units in the University must comply with the Guidelines.
- (3) The Guidelines should be reviewed with a view to clarifying the following areas:
 - (a) Definition of donation/sponsorship taking into account the Hong Kong tax requirements (paragraphs 26(4) and 26(5)).
 - (b) The acceptance criteria applicable to donations-in-kind (paragraph 70(2)). The Committee believes that in accepting donations-in-kind, the maintenance and related costs should be considered and, in this aspect, the FEO should be consulted before accepting such donations.
- (4) A uniform set of procedures for the solicitation, acceptance, approval, utilization and reporting of donations of all kind should be set up in the Guidelines (paragraph 26(2)). In accordance with the ICAC Guidelines, the University should specify different levels of authorisation for the approval of donations of different amounts and nature, which are workable in practice (paragraph 69(3)).
- (5) Detailed procedures should be drawn up in accordance with Chapter 2.4 of the ICAC Guidelines (paragraph 72(3)), including but not limit to the normal procedures for verifying the sources of donations, timeframe for reporting to Council and those procedures in (4) above.
- (6) Once the detailed procedures have been drawn up, a mechanism should be in place to ensure that key processes in the administration of donations are well

documented and available for scrutiny (paragraph 31(1)).

- (7) The University should take steps to promulgate the amended Guidelines and ensure they are read and understood by those within the University who handle donations, as well as new staff during their induction training.

76. The Council is (and should be) the ultimate authority for acceptance of donations. As this Matter highlights, the handling of donations could be a sensitive area, carrying significant reputational risks for the University. Risks may be mitigated through the development of clear and properly promulgated guidelines. However, written guidelines are only part of a system of risk management and internal control. As well as individual responsibilities, the Committee wishes to stress the importance of the management culture in a good system of internal control. Alumni and other stakeholders of the University, who take pride in her reputation, look to the University's Management to protect and enhance the University's reputation vigilantly on a day-to-day basis. The management and mitigation of reputational risks are not contrary to core values such as institutional autonomy or academic freedom; they are a matter of best practices. Once adopted by the Council, the University's Management should take the lead to implement the recommendations, and the Senior Management Team should set the tone at the top to drive the change in culture.

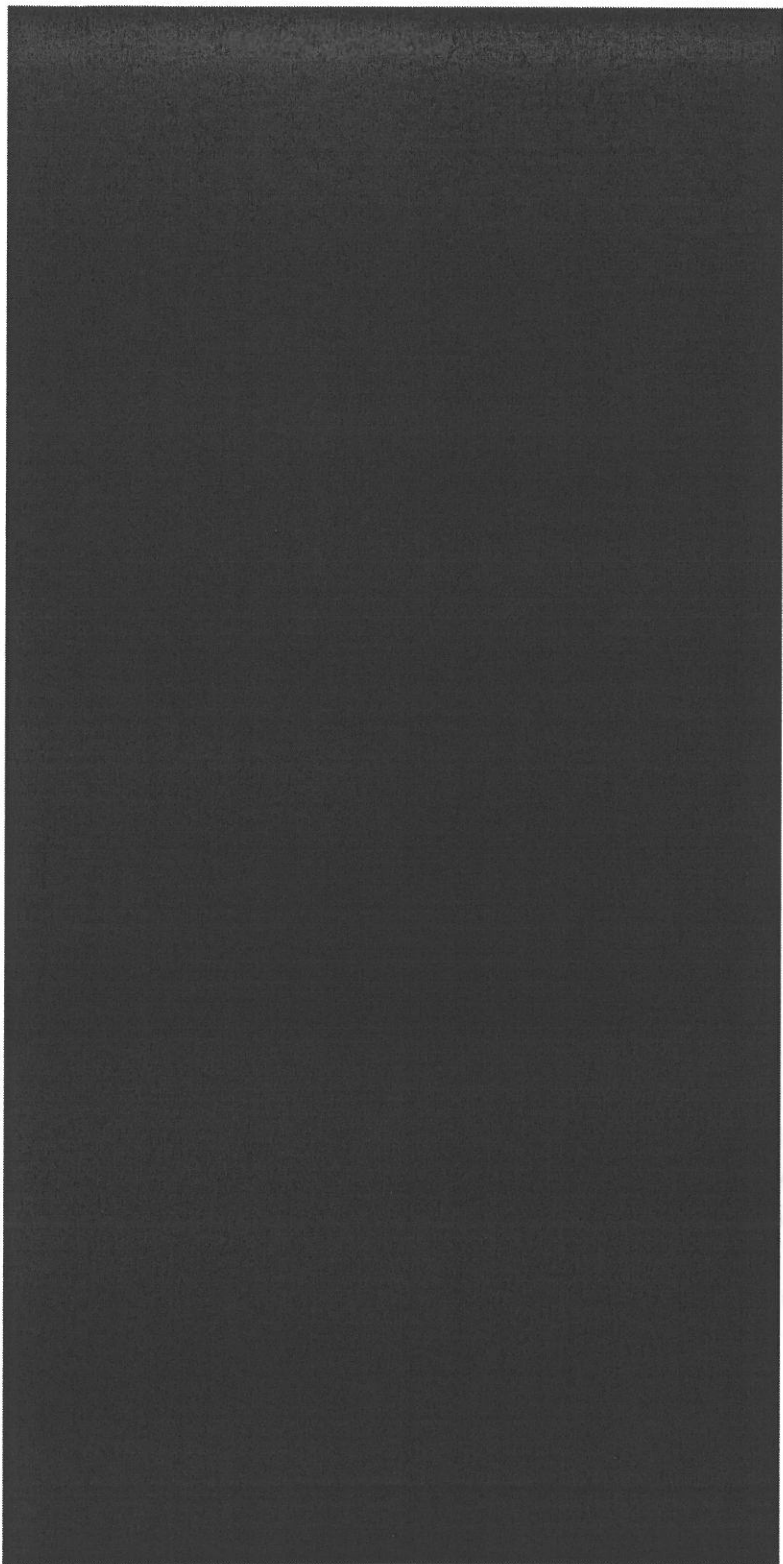
77. Considering that the Council is the ultimate authority, it has the responsibility to ensure that a proper control framework is put in place governing the solicitation, acceptance, approval, utilization and reporting of donations.

78. It lies outside the Terms of Reference of this Committee as to the courses of action that may be appropriate in light of the identified deviations from the spirit and/or the letter of the Guidelines/policies, or shortfalls in expected standards of behaviour.

79. The Committee believes that the reputation of the University is paramount. This Report highlights significant risks and shortfalls. The Council is invited to consider the findings and recommendations of this Report and to decide upon an appropriate course of action, in order to ensure the reputation of the University is upheld.

Dated 11 of March 2015

Signatures of members of the Committee, signifying their approval of the contents of this Report:-



Schedule of Appendices

- A. DFA 19 and the Processing Guidelines
- B. Donations related to Mr. Benny Tai – chronology of events

Schedule of Documents Reviewed

- 1. The SMT Report with its annexes
- 2. Various media extracts provided by the CPAO
- 3. Summary on emails/faxes/letters
- 4. DAAO reports of donations for various dates in 2012, 2013 and 2014
- 5. Internal documents related to the Donations (used to compile Appendix B)
- 6. Financial summaries prepared by the Internal Audit Office from FEO records
- 7. Appointment letters of the Research Assistant
- 8. Information from various websites (e.g. oclp.hk, hkupop.hku.hk, popvote.hk)*
- 9. The Tax Guide (i.e. “A Tax Guide for Charitable Institutions and Trusts of a Public Character”)*
- 10. The ICAC Guidelines (i.e. “Partner for Excellence – Administration of Donations”)*
- 11. The CASE Guidelines (i.e. “Ethical Principles Behind the Acceptance of Gifts”)*
- 12. Policies of other universities on donations (including the University of Aberdeen, Cambridge University, University of Leicester, University of Surrey, and University of Warwick in the United Kingdom; Boston University, Harvard University, University of Pennsylvania, Princeton University, Stanford University and Tufts University in the United States; University of Melbourne and University of Sydney in Australia; University of Alberta and Queens University in Canada; the Chinese University of Hong Kong; and the Hong Kong University of Science and Technology)*

* *External documents*

List of Acronyms Used in the Report

CASE	Council for Advancement and Support of Education
CCPL	Centre for Comparative and Public Law at the Faculty of Law
CPAO	Communications and Public Affairs Office
DAAO	Development and Alumni Affairs Office
DFA	Departmental Financial Administration
DoF	Director of Finance
DVC	Deputy Vice-Chancellor
FEO	Finance and Enterprises Office
ICAC	Independent Commission Against Corruption
ICCPR	International Covenant on Civil and Political Rights
NDI	National Democratic Institute
NED	National Endowment for Democracy
OCPL	Occupy Central with Love and Peace
POP	Public Opinion Programme
PVC	Pro-Vice-Chancellor
RAT (or RATS)	Risk Assessment Team
ROLE	Rule of Law Education
SMT	Senior Management Team
TEI	tertiary education institutions
VC	Vice-Chancellor

Appendix A

THE UNIVERSITY OF HONG KONG

Departmental Financial Administration (DFA)

No. 19 – Solicitation and Acceptance of Donations and Sponsorships

Introduction

1. Donation or sponsorship is defined as a contribution in money or in kind, either by corporate bodies or private individuals, in support of the University's objectives and activities. Donations and sponsorships may be offered in a wide range of situations and could be sensitive in nature. They could attract criticisms or perceptions of favoritism or other adverse comments, if no proper control and accountability mechanisms are in place.

2. When considering the appropriateness of entering into a donation or sponsorship relationship with a potential donor/sponsor, the following guiding principles should be borne in mind:-

- a. Donations and sponsorships should predominantly be for teaching, research and other University activities, and under any circumstances, no personal benefits should be involved;
- b. There should be no conditions attached to a donation or sponsorship which would adversely affect the University's ability to carry out its functions fairly and impartially;
- c. The acceptance of a contribution from a donor or sponsor must be appropriate in value and not adversely affect the University's reputation. The policies and guidelines on the use of the University's name and visual identity approved by the Council should be strictly adhered to (Annex I);
- d. Where marketing opportunities are involved with a donation or sponsorship, the selection of the donor or sponsor should be carried out in an open, fair and objective manner; and
- e. Solicitation of donations or sponsorships from contractors/suppliers with whom the University has business dealings should be avoided.

Administration

3. To ensure that proper control is in place and for probity reasons, the University has taken the advice of the Independent Commission Against Corruption (ICAC) that activities in association with solicitation and acceptance of donations and sponsorships should be administered by a central co-ordinating unit. It is, however, appreciated that for practical reasons, in many circumstances, it would be necessary for individual staff or departments to approach potential donors or sponsors direct, at least at the initial stage, for building up a relationship and introducing the department or the University's activities and development plans.

4. It is therefore vital that when individual staff or departments approach potential donors or sponsors direct, solicitation and acceptance of donations and sponsorships are carried out in an orderly and co-ordinated manner. Also, in the course of solicitation, it is important to adhere to the guiding principles specified in Paragraph 2 above.

5. Departments should advise the President's Office in writing the major solicitation activities under their planning, say for those involving more than \$1 million, with a copy of the notification also sent to the Development and Alumni Affairs Office and the Finance and Enterprises Office for information. The President's Office, in association with the Development and Alumni Affairs Office, will evaluate the nature of the activities, and appropriately participate and provide support to departments. Should the President's Office and the Development and Alumni Affairs Office are not involved in the major activities taken, departments should advise these central units the progress of solicitation, and the associated forward plans.

6. The Administering Authority should not commit University resources (including accommodation/space and infrastructure) before seeking prior approval from relevant authorities. [Re: DFA No. 13 para. 8]

Acceptance of donations

7. The Council is the ultimate authority for acceptance of donations. On a day-to-day basis, the President and Vice-Chancellor accepts donations on behalf of the Council. The acceptance of donations should be appropriately documented and reported to the President and Vice-Chancellor through the Development and Alumni Affairs Office and the Finance and Enterprises Office for record. A regular report is prepared by the Development and Alumni Affairs Office on behalf of the President and Vice-Chancellor and submitted to the Council for its endorsement. In considering acceptance of a donation, the following general conditions should apply:-

- a. Donations should come from reputable sources;
- b. Acceptance of a donation would not in any circumstances give or be perceived to give the donor an unfair commercial advantage over others in the same trade, industry or profession; and
- c. Without the prior agreement of the University, the donor must not solicit donations or contributions from sources other than its own to meet the financial commitment towards the pledged sum.

Acceptance of sponsorships

8. The President and Vice-Chancellor's agreement should be sought for acceptance of a sponsorship exceeding the \$2,000 threshold for acceptance of gifts as specified by the Council. Such acceptance should be properly documented, including any special conditions which may apply, with a copy sent to the President's Office through the Development and Alumni Affairs Office and the Finance and Enterprises Office for record. In considering acceptance of a sponsorship, in addition to the general conditions applicable to acceptance of donations, the following factors would also apply:-

- a. Any publicity items to be produced by the sponsor in a joint promotion should be agreed and approved by the University;
- b. The sponsor of an activity should not be allowed to generate any direct financial gains as a result of sponsoring the activity or project;

- c. When sponsoring conferences, seminars and etc., the sponsors should be advised that the University has its own nomination and selection procedures, and the recipients of the sponsorships will be selected in accordance with these procedures. The selected recipients should be delinked for an appropriate period of time from any decision making processes which may involve the commercial interest of the sponsors;
- d. For overseas site visits relating to selection of equipment items before or during tendering exercises, they should be financed by the funding of the associated departments, and should not be sponsored by any of the potential vendors; and
- e. For overseas user meetings sponsored by suppliers (for example, for the purpose of experience sharing amongst users), the sponsorships should be offered to the University instead of individual staff members. For any decision making processes which may involve the commercial interest of the sponsors, the recipients of the sponsorships should either be delinked from the processes for a specified period of time which may involve the commercial interest of the sponsors, or the potential influence arising from their participation in the user meetings be fully taken into account.

Receipts of donations and sponsorships

9. All donations and sponsorships in money should be sent direct to the University through the Development and Alumni Affairs Office and the Finance and Enterprises Office. Donors and sponsors making their contributions in money should be requested to do so by cheques made payable to "The University of Hong Kong". For donations in kind, relevant documents should also be forwarded to Development and Alumni Affairs Office.

10. The Development and Alumni Affairs Office would prepare a letter or note of thanks for each donation and sponsorship, unless advised otherwise by the department concerned. All official receipts for donations and sponsorships must be issued by the Finance and Enterprises Office. The official receipt will be sent as part of a Stewardship Package by the Development and Alumni Affairs Office to the respective donor or sponsor direct, unless requested by the department concerned to send it with their letter of thanks.

11. Annex II is the Guidelines on Processing Donations and Grants issued by the Development and Alumni Affairs Office.

12. Donations and grants with specific purposes should be credited to a new project account or to an existing account if of same/similar specific purposes and reporting requirement to the funding body. For setting up a new project account, please refer to DFA No. 13.

THE UNIVERSITY OF HONG KONG
Guidelines on Processing Donations & Grants

Objectives

The following procedures aim to facilitate an orderly processing, acknowledging and recording of donations and grants to the University. In essence, this is to ensure that:

- a. all donations and grants are properly received and documented with a central record being maintained, and
- b. each donor receives a prompt and appropriate acknowledgement.

Procedures

1. All donations and grants made in cheques/cashier orders should be payable to "The University of Hong Kong", and forwarded directly to the Development & Alumni Affairs Office ("DAAO"). For the definition of donations and grants, please refer to Appendix A. The DAAO will play the role of Central Recording Secretary on behalf of the University.
2. The original cheque/cashier order forwarded to the DAAO should be accompanied with relevant documents such as copy of correspondence pertaining to the donation/grant and its handling or use. For donations in kind, relevant documents should also be forwarded to DAAO. A *Donations/Grants Processing Form* (Appendix B) should also be completed for both types of donations and grants.
3. The DAAO will bank in the cheque/cashier order within one working day and liaise with the FEO for the issuance of official receipt¹. A donor/granting body record will then be opened or updated in the central database.
4. The FEO will credit the donation/grant to the appropriate account as specified by the receiving Faculty/Department/Unit.
5. All donations (not grants) of HK\$20,000 or above are eligible for HKU Foundation memberships, upon recommendation of the receiving Faculty/Department/Unit (Foundation's website: <http://www.hku.hk/hkuf>).
6. For central acknowledgement, the DAAO will liaise with the President's Office for the issuance of thank-you letter to the donor/granting body. The signatory will be in reference to the following donation levels:

¹ All receipts will be generated through a new database system. There is no need to provide pre-typed official receipts.

- a. Donations of HK\$50,000 or above, or donations of HK\$20,000 or above with Foundation membership: acknowledged by the President and Vice-Chancellor.
 - b. Donations below HK\$50,000 without Foundation membership: acknowledged by Director of DAAO or other appropriate authority. If the receiving Faculty/Department/ Unit prefers to send its own acknowledgement to the donor instead, it can indicate its wish on the *Donations/Grants Processing Form* and send a copy of its thank you letter to DAAO for records.
 - c. Donations below HK\$1,000: receipt sent together with a standard thank-you note.
7. The receiving Faculty/Department/Unit is encouraged to thank the donor/granting body in writing or in other ways wherever appropriate.
 8. The DAAO will be responsible for sending out a Stewardship Package with the following to the donor:
 - a. acknowledgement letter and official receipt² (The acknowledgement letter will be copied to the receiving Faculty/Department/Unit for information), and
 - b. other appropriate items, documents or publications like recent donation record and HKU Foundation Annual Report.
 9. The DAAO will be responsible for reporting all donations received to the Council.
 10. The DAAO will make arrangements for the acknowledgement of donors in University publications and publicity channels wherever appropriate.
 11. DAAO will be responsible for facilitating Faculty/Department/Unit on donor stewardship and maintaining communications with the donors.

Appendices enclosed:

A: Definition of Donations and Grants

B: Donations/Grants Processing Form (with quick reference guide)

Development & Alumni Affairs Office
May 2, 2014

² unless otherwise specified in the Donation Processing Form by the receiving Faculty/Department/Unit

The University of Hong Kong
Definition of Donations and Grants

I. Broad Definitions

1. For the sake of internal consistency and standardisation of reporting in this University, the following definitions are adopted to distinguish between the different funding sources of "Donations" and "Grants":
 2. Definition of "Donations"
 - 2.1 "Donations" refer to voluntary *private* giving or sponsorships from individuals and corporations. They also include funding made by non-government foundations or bodies.
 - 2.2 Donations can be for general use (i.e. unrestricted donations) or earmarked for specific purpose (i.e. restricted donations).
 - 2.3 Donations to the University of Hong Kong are tax-exempted.
 - 2.4 Commissioned work such as service contracts and client-specific commissioned consultancy projects leading to delivery of product or process, or income from registration fees is not regarded as donations.
 3. Definition of "Grants"
 - 3.1 "Grants" refer solely to *local government* funding or sponsorships, excluding UGC, RGC and URC grants.

II. Funding Source : Examples of Donations and Grants

A. Donations:

- Hong Kong Jockey Club Charities Trust
- The Croucher Foundation
- S K Yee Medical Foundation
- The Kadoorie Charitable Foundation
- CLP Power Renewable Energy Fund

B. Grants:

- Innovation and Technology Commission
- Small & Medium Enterprises (SME) Development Fund
- Social Welfare Department
- Quality Education Fund

**The University of Hong Kong
Donations/ Grants Processing Form**

To: Development & Alumni Affairs Office (DAAO)
Room 738, 7/F, Knowles Building (Tel: 2241 5672)

From: _____ (Name of Faculty/Department/Unit)
Contact Person: _____ Tel: _____
Date: _____ Signature: _____

Please find attached the cheque/cashier order/pay-in slip and the relevant document(s) for the following donation/grant:

I. Donor's/Granting Body's Information:

Individual Donor Corporate Donor (Please provide the contact person of the corporation.)

Name: (Mr/Mrs/Ms/Miss/ _____
Surname Given Name

Chinese Name: _____ Company Name: _____

Business Title: _____ Department: _____

Contact Address: _____

Tel: _____ Fax: _____ Email address: _____

II. Donation/Grant Information:

Cheque Number: _____ Amount: _____

Designation of Donation/Grant: _____

Please credit the above amount to account number: _____

**If a new project account is required, please fill in the "Account Opening/Classification Form for Non-UGC Funded Project Account" (document:51/606 (reamended)). Donations and grants with specific purposes should be credited to a new project account or to an existing account if of same/similar specific purposes and reporting requirement to the funding body.*

**For donations in kind with unit value over HK\$10,000, please also fill in the "Asset Form" (document : U.6/0080). (Both forms are obtainable from the Finance and Enterprises Office website.)*

III. Supplementary Information (please tick where appropriate):

- Receipt to be issued to a person or organisation different from the above donor's name.
Please specify: _____
- The donor wishes to remain anonymous.
- Please pass the receipt to the above contact person who will send it to the donor.
- There is no need for DAAO to send any thank-you letter. The above Faculty/Department/Unit will send its own acknowledgement to the donor.

IV. HKU Foundation Membership

Donors with cumulative donation of HK\$20,000 or above are eligible for HKU Foundation membership. DAAO will award or upgrade donors at its appropriate level of membership based on their overall donations to HKU. Acknowledgement letter from the President and Vice-Chancellor will be issued. If your donor DO NOT want to become an HKU Foundation Member, please check the box below:

NOT recommended for HKU Foundation membership

Categories of Membership:	Donation (HK\$)
Honorary Patron	\$5,000,000
Honorary President	\$2,000,000
Honorary Director	\$1,000,000
Honorary Advisor	\$500,000
Voting Member	\$200,000
Senior Member	\$100,000
Ordinary Member	\$20,000

(For member privileges and details, please refer to www.hku.hk/hkuf)

Quick Steps in Handling Donations/Grants

When you receive a donation or grant.....

1. Record the donation/ grant and notify relevant staff in charge in accordance with the procedures set out by your Faculty/Department/Unit.
2. Give verbal or written acknowledgement to the donor if appropriate.
3. Forward the cheque/cashier order, together with a completed *Donations/Grants Processing Form* and a copy of supporting documents (e.g. letter from the donor, acknowledgement from the receiving unit) to the Development & Alumni Affairs Office ("DAAO") before 4pm from Monday to Friday (except University holidays).
4. DAAO will then send out the official receipt, together with appropriate acknowledgement to the donor, based on the information on the Processing Form and supporting documents attached. It is thus important for beneficiary units to provide sufficient and accurate information which will be incorporated in the thank you letter.
5. For donation in kind (i.e. non-monetary donation such as equipment and furniture) with unit value over HK\$10,000, relevant documents together with completed *Donations/Grants Processing Form* and *Asset Form* (document : [U.6/0080](#)) should also be forwarded to DAAO. No official receipt will be issued.
6. If your office prefers to send your own acknowledgement and/or the official receipt to the donor, please indicate this on the *Donations/Grants Processing Form* and the DAAO will forward the receipt to your office instead. Please send a copy of your acknowledgement letter to DAAO for records in such case.
7. Please refer to the *Guidelines on Processing Donations & Grants* (document: [99/405](#)) for further details.
8. For the application of matching funds, please see details at the HKU Portal:
HKU Portal -> Campus Information Services -> Donation Administration -> Matching Grant Schemes

Development & Alumni Affairs Office
May 2, 2014

Appendix B

Donations related to Mr. Benny Tai - chronology of events

I. Three donations in May 2013

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
14/May/2013	School of Humanities passed to DAAO a \$200K donation (in cashier order) "to support works on Faith and Law".	According to the Donation Processing Form submitted by the Head of School of Humanities Prof Daniel Chua, Benny Tai was the donor who wished to remain anonymous. However, the form was attached with an email from Tai to the Head Prof Chua stating that the \$200K donation was received by him from an "anonymous" source.	Email of May 13, 2013 from Benny Tai to Prof Daniel Chua	
15/May/2013	Faculty of Law passed to DAAO a \$300K donation (in cashier order) to support "conferences and seminars on constitutional development in Hong Kong and rule of law education".	<p>The Processing Form from Law (from [REDACTED], Personal Assistant to the Dean) did not provide any donor's name. It was attached with a note from the Dean of Law Prof Johannes Chan stating that the \$300K donation was from an "anonymous donor".</p> <p>As the donations were submitted and signed by the Head of School of Humanities and the Dean of Law respectively, it was assumed that these donations would be in order and that the identity of the "anonymous donor" could be traced accordingly. Hence, they were banked-in on the same day and processed according to standard procedures, as the Guidelines also specified that DAAO would "bank in the cheque/cashier order within one working day" as performance pledge of efficiency.</p> <p>DAAO then phoned Tai and the Dean's Office respectively to further clarify about the identity of the donors. DAAO was verbally advised by [REDACTED] that the donation was received via Tai and was asked to contact Tai directly on the donor's information.</p>	<p>Cashier Order</p> <p>Number and Date : 194529 (10-May-2013) Payee : The University of Hong Kong Issuing Bank : HSBC (Kwun Tong Branch) Amount : HK\$200,000.00 (Same details as Wen Wei Po of 29-Oct-2014)</p> <p>Donations / Grants Processing Form</p> <p>Date : 14/May/2013 Submitted from : School of Humanities Signed by : Prof Daniel Chua, Head Form received by DAAO : 14-May-2013 (Ref.122547) Donor Name : Dr. Benny Tai Cashier order : 194529 Amount : HK\$200,000.00 Other Information : The donor wishes to remain anonymous. (Same details as Sing Pao of 29-Oct-2014)</p> <p>Pay-in-slip</p> <p>Date : 14/May/2013 Banked-in by : DAAO Account No : [REDACTED] Amount : HK\$200,000.00 (Ref. 122547 and one other cheque \$100,000 total \$300,000)</p> <p>Receipt details</p> <p>Receipt Number : 00062744 Date : 30/May/2013 Donor Name : Anonymous Cashier order : 194529 Amount : HK\$200,000.00 Purpose : Donation to the School of Humanities in support of works on Faith and Law</p> <p>Email of May 14, 2013 from Prof Johannes Chan, Dean of Law, to [REDACTED] and [REDACTED], Administrative Assistant and Senior Secretary of the Faculty of Law</p> <p>Cashier Order</p> <p>Number and Date : 194528 (10-May-2013) Payee : The University of Hong Kong Issuing Bank : HSBC (Kwun Tong Branch) Amount : HK\$300,000.00 (Same details as Sing Tao Daily of 31-Dec-2014)</p>	

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
15/May/2013 (con't)			Donations / Grants Processing Form	Date : 14/May/2013 Submitted from : Faculty of Law Signed by : ██████████, Administrative Assistant Form received by DAAO : 15-May-2013 (Ref. 122566) Donor Name : Not indicated Cashier order : 194528 Amount : HK\$300,000.00 Other Information : The donor wishes to remain anonymous. Please send the receipt to the Faculty of Law, HKU (attn.: (Same details as The Sun of 29-Oct-2014)
			Account Opening/Classification Form for Non-UGC Funded Project	Date : 14/May/2013 Submitted from : Faculty of Law Signed by : Prof Johannes Chan, Dean of Law Project Title : Constitutional Development in HK & Rule of Law Education Amount : HK\$300,000.00
			Pay-in-slip	Date : 15/May/2013 Banked-in by : DAAO Account No : ██████████ Amount : HK\$300,000.00
			Receipt details	Receipt Number : 00062745 Date : 30/May/2013 Donor Name : Anonymous Cashier order : 194528 Amount : HK\$300,000.00 Purpose : Donation to the Faculty of Law in support of the conferences and seminars on constitutional development in Hong Kong and rule of law education

Information provided by DAAO			Documents	Particulars
Date	Incident	Process	Documents	Particulars
21/May/2013		The Recording Secretary [REDACTED] tried to reach Benny Tai on the phone. Failing that, [REDACTED] emailed to Tai to enquire about the donor's identity. Tai replied that he did not know the identity of the donor as the money was given to him from an indirect source.	E-mails of May 21, 2013 between [REDACTED] and Benny Tai	
22/May/2013		[REDACTED] reported to Director of DAAO [REDACTED] who clarified the need to know the identity of the donor. FEO concurred with DAAO's approach that all donations should come from a reputable and known source.	E-mails of May 22-24, 2013 between [REDACTED] and Director of DAAO, and between the DAAO and FEO	
23/May/2013	Public Opinion Programme (POP) passed to DAAO a S800K donation record to support Civil Referendum Project. The Cashier order, payee HKU, was banked-in by POP on May 20 before submission to DAAO. The donor's name was filled in as "Anonymous" on the Processing Form.		Cashier Order Donations / Grants Processing Form Pay-in-slip	<p>Number and Date : 194527 (10-May-2013) Payee : The University of Hong Kong Issuing Bank : HSBC (Kwun Tong Branch) Amount : HK\$800,000.00 (Same details as Sing Tao Daily of 31-Dec-2014)</p> <p>Date : 20/May/2013 Submitted from : Public Opinion Programme Signed by : [REDACTED], Secretary Form received by DAAO : 23-May-2013 (Ref. 122599) Donor Name : Anonymous Designation of Donation : Civil Referendum Project Cashier order : Not indicated Amount : HK\$800,000.00 Other information : Please pass the receipt to [REDACTED] of POP who will send it to the donor. There is no need for DAAO to send any thank-you letter. The Faculty/Department/Unit will send its own (Same details as Wen Wei Po of 29-Oct-2014)</p> <p>Date : 20/May/2013 Banked-in by : Public Opinion Programme Account No : [REDACTED] Amount : HK\$800,000.00</p>

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
23/May/2013 (con't)			Receipt details (No hardcopy of the receipt issued)	Receipt Number : 00062746 Date : 30/May/2013 Donor Name : Anonymous Cashier order : 194527 Amount : HK\$800,000.00 Purpose : Donation to the Civil Referendum Project
27/May/2013		The Recording Secretary emailed Robert Chung to enquire about the identity of the anonymous donor. Chung replied by email that the donation was passed to him by Benny Tai. Director of DAAO suggested PVC (University Relations) Professor SP Chow, and Director (Development) [REDACTED] to further clarify donor source.	Emails of May 27, 2013 between [REDACTED] and Robert Chung Email of May 28, 2013 among [REDACTED] [REDACTED] and Director of DAAO with cc to PVC SP Chow	
29/May/2013		PVC Chow and [REDACTED] met with Benny Tai who agreed to disclose the sources of the 3 donations in question, and inform DAAO as soon as possible.	Email of May 29, 2013 from [REDACTED] to PVC SP Chow, [REDACTED] and Director of DAAO [REDACTED] of FEO was informed by [REDACTED] that DAAO should be able to obtain the names of anonymous donors (Email of May 30, 2013)	
Early July 2013		Tai verbally informed [REDACTED] that the donor was [REDACTED]. 3 donation receipts were then issued on 10/7/2013 to [REDACTED] and sent to Tai for forwarding to [REDACTED].	Official Receipt Official Receipt	Receipt Number : 00062744-M1 Date : 30/May/2013 Donor Name : [REDACTED] Cashier order : 194529 Amount : HK\$200,000.00 Purpose : Donation to the School of Humanities in support of works on Faith and Law Receipt Number : 00062745-M1 Date : 30/May/2013 Donor Name : [REDACTED] Cashier order : 194528 Amount : HK\$300,000.00 Purpose : Donation to the Faculty of Law in support of the conferences and seminars on constitutional development in Hong Kong and rule of law

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
Early July 2013 (con't)			Official Receipt	Receipt Number : 00062746-M1 Date : 30/May/2013 Donor Name : ██████████ Cashier order : 194527 Amount : HK\$800,000.00 Purpose : Donation to the Civil Referendum Project

II. One Donation in February 2014

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
6/Feb/2014	School of Humanities passed to DAAO a \$150K donation (in cashier order) to support the Faith and Global Engagement initiative. The form was attached with an email from Tai to Prof Chua stating that the donation was received by him from an “anonymous” source.	<p>The donor’s name was filled in as “Anonymous” on the Processing Form.</p> <p>As the donation was submitted and signed by the Head of School Prof Daniel Chua, it was assumed that the donation would be in order as it was referred to DAAO by reputable source, and that the identity of the “anonymous donor” could be traced. Hence, it was banked-in and processed according to standard procedures.</p>	Cashier Order Number and Date : 305861 (29-Jan-2014) Payee : The University of Hong Kong Issuing Bank : HSBC (Mongkok CVC Branch) Amount : HK\$150,000.00 (Same details as Sing Tao Daily of 31-Dec-2014)	
			Email of Feb 5, 2014 between Benny Tai and Prof Daniel Chua Donations / Grants Processing Form Date : 6/Feb/2014 Submitted from : School of Humanities Signed by : Prof Daniel Chua, Head Form received by DAAO : 6-Feb-2014 (Ref. 131141) Donor Name : Anonymous Cashier order : 305861 Amount : HK\$150,000.00 Other Information : The donor wishes to remain anonymous. Please pass the receipt to Prof Daniel Chau who will send (Same details as The Sun of 29-Oct-2014)	
			Pay-in-slip Date : 6/Feb/2014 Banked-in by : DAAO Account No : ██████████ Amount : HK\$150,000.00	
12/Feb/2014		The Recording Secretary ██████ emailed to Benny Tai to enquire about the identity of the donor.	Email of February 12, 2014 from ██████ to Benny Tai	

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
28/Feb/2014		Tai provided the name of [REDACTED] by email. Donation receipt was then issued to [REDACTED] and sent to Tai for forwarding to [REDACTED].	Email reply of February 28, 2014 from Benny Tai Official Receipt Receipt Number : 000065945-M1 Date : 28/Feb/2014 Donor Name : [REDACTED] Cashier order : 305861 Amount : HK\$150,000.00 Purpose : Donation to the School of Humanities in support of works on Faith and Law Cancelled Receipt Receipt Number : 00065945 Date : 28/Feb/2014 Donor Name : Anonymous Cashier order : 305861 Amount : HK\$150,000.00 Purpose : Donation to the School of Humanities in support of works on Faith and Law	

III. Donation in kind in August 2014

Information provided by DAAO			Documents	Particulars
Date	Incident	Process		
22/Aug/2014	POP passed a copy of acknowledgement letter to DAAO as a record of the donation of 100 units of Samsung Galaxy Note 8.0 LTE and 100 units of Samsung Galaxy Tab 3 for the PopVote Project on May 23, 2014. The letter, dated August 14, 2014, was signed by Benny Tai as the donor and Robert Chung as the recipient, with a footnote that the donation should remain anonymous.	DAAO kept it as a record of "donation in kind" in the database and reported to Council.	Letter of Acknowledgement issued by the Public Opinion Programme (signed by Robert Chung on August 15, 2014) The FEO was provided a copy of Letter of Acknowledgement. (Email of [REDACTED] of FEO on August 20, 2014)	