



# Developing and Maintaining Effective Gift Acceptance Policies

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# Overview

## **Policies v. procedures**

- Policies: relating to donors
- Procedures: accepting/managing gifts
- Analogy: constitution of PG program
- Analogy: articles and bylaws

# Overview

## Sources of policies/procedures

- Consultants (Newman, Miree, etc.)
- Colleges and universities
- Other large national charities
- Professional groups like NACGP

# Overview

## Three important caveats

- Beware of gifts that eat.
- One size does NOT fit all.
- Worse than having no policy is having a policy you don't follow.

# Topics for Policies

## General relationship with donors

- Assistance in accomplishing mutual goals
- Confidentiality of donor information
- Compliance with model standards
- Primacy of donor's welfare

# Topics for Policies

## Acceptable restrictions on gifts

- Unrestricted gifts encouraged
- Restrictions allowed if reasonable and related to charitable purpose
- Enforcement procedure, if any
- Mechanism for modification or removal

# Topics for Policies

## **Assistance to donors and advisors**

- General information on planned and deferred gifts
- No legal advice provided

## **Service as fiduciary**

- Not by charity or its representatives, or
- Only with certain vested interests

# Topics for Policies

## Continuing stewardship

- Extent and timing of reports
- Donor recognition practices
- Extent of donor advice or control
- Modification of restrictions



# Topics for Policies

## Gift acceptance criteria

- Ability to use or market
- Restrictions on use or disposition
- Income production potential
- Cost and expenses of owning
- Potential liability (personal injury, environmental damage, UBTI)
- Donor's reserved rights or benefits

# Topics for Procedures

## **Authority to negotiate and accept**

- Individuals and/or committee
- Specific assets or terms
- Types of assets
- Acceptable gift vehicles
- Ability to refuse/disclaim

# Topics for Procedures

## Types of gift property

- Cash
- Marketable securities
- Real estate
- Tangible personal property
- Life insurance
- Retirement plan assets
- Closely-held business interests

# Topics for Procedures

## Gifts of cash

- Acceptance procedure
- Gifts by check or credit card

## Marketable securities

- Physical and electronic transfer procedures
- Sale or retention

# Topics for Procedures

## Real estate

- Environmental and legal review
- TOD deeds

## Tangible personal property

- Nature and duration of use
- Property given for sale
- Special rules for vehicles, clothing, etc.

# Topics for Procedures

## Life insurance

- Paid-up policies
- Continuing premium obligations
- Right to convert or surrender
- Promotion of beneficiary designations

# Topics for Procedures

## **Retirement plan assets**

- Beneficiary designations
- Tax-free rollovers, when allowed

## **Non-publicly traded companies**

- Valuation issues
- Sale v. retention

# Topics for Procedures

## Other acceptable gifts

- Intellectual property
- Partial interests (life estates and remainders, fractional interests, CRTs, CLTs, CGAs, PIFs, DAFs, bargain sales)



# Topics for Procedures

## Endowment gifts

- Investment policies
- Target spending rate
- Permissible expenditures
- Modification procedures

# Topics for Procedures

## Gift acknowledgment

- General receipt criteria
  - Description, not value, of assets
  - Quid pro quo rules
- Donor's qualified appraisal
  - Completion of Form 8283
  - Obtaining own appraisal if needed
- Form 8282 for disposition within 3 years

# Topics for Procedures

## Investment of gifts and proceeds

- Immediate sale and reinvestment
- Separate investment or accounting, where needed
- Authority under UPIA and UPMFIA

# Topics for Procedures

## **Modification of purposes and restrictions**

- Authority to designate alternative use and purpose
- Modification of operational restrictions
- Role of UPMIFA and Uniform Trust Code

# Topics for Procedures

## Information and protection

- Monitoring estate and trust administration
- Use of advisors
- Seeking aid and guidance from courts or attorneys general

# General Disclaimers

- While possibly exhausting, this list is not exhaustive.
- Not guaranteed to ward off white elephants (but can provide useful protection).
- Issues contemplated by these policies are closer than they appear.

**Questions? Comments?**

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