



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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