

Gift Acceptance Policies: Why, When, What, How, and Who

Barbara Rhomberg
Presentation to NCPGC on January 12, 2012

I. Purpose of a Gift Acceptance Policy: Why and When

II. Potentially Problematic Gifts

A. Issues with the gifted assets

1. Factors to apply in evaluating any non-cash gift
2. Publicly traded stock
3. Real estate
4. Closely-held business interests
5. Tangible property
6. Life-insurance
7. Other assets

B. Restrictions on the use or disposition of the asset

1. Donor wants the charity to keep the asset
2. Use restriction issues
 - a) Consistency with mission
 - b) Accounting costs / minimum fund size
 - c) Overly narrow restrictions
 - d) Gifts that will change the size and focus of the organization

C. Strings and conditions

1. Naming opportunities
2. Reporting obligations
3. Donor wants the charity to pay his or her legal or appraisal costs
4. Donor wants to be involved in charity's decisions on use of the gift

- D. Embarrassing gifts (a.k.a. controversial donors)**
- E. Tax shelters**
- F. Problems specific to planned gifts**
 - 1. Illiquid assets and life income gifts
 - 2. Planned gifts with high cost / low benefit for charity
 - 3. Poor financial performance / unhappy beneficiaries
 - 4. Restrictions that are impractical given ultimate gift size

III. Contents of Gift Acceptance Policy: What, How, and Who

- A. Roles of a Gift Acceptance Policy**
 - 1. Board's vehicle for policy making
 - 2. Delegating gift acceptance authority
 - 3. Resource for Board and staff
- B. Contents of the policy (or associated procedures)**
 - 1. Who can accept what:
 - Does the Board require any gifts to be reviewed by a Board Committee or Gift Acceptance Committee prior to acceptance?
 - For gifts that can be accepted by staff, is there clear guidance from the President/Executive Director which staff members can make which decisions? Delegations of authority should consider gift size, asset type, use restrictions, and other gift terms and conditions.
 - 2. What assets can be accepted / How will they be reviewed:
 - A small organization's policy might have a general statement of the criteria for reviewing gifts of property; the policy of a larger organization that receives more complex property gifts might include additional guidance regarding the review process and acceptance criteria for specific types of property.
 - 3. Guidance on purpose restrictions:
 - Set minimums for establishing new funds
 - 4. Guidance on terms and conditions:
 - The issues to be addressed will vary depending on the size and mission of the charity, and the types of issues that can be expected to arise. Universities, for example, can expect that some donors will want to pick scholarship recipients, and should address this in

gift policies. For museums, the policy should address art gifts designated for the museum's permanent collection.

- Include guidance on when a charity will and will not agree to retain donated property.
- Consider establishing a policy that the charity will not pay a donor's legal bills or costs to close a gift.

5. Planned Gift Policies, as appropriate

- For gifts to be administered by the charity, consider age minimums, expected residue minimums, whether other charities may benefit, etc.

6. Fundraising policies

- Consider adopting Partnership for Philanthropic Planning's Model Standards of Practice for the Charitable Gift Planner, available on the PPP website, or incorporating specific PPP standards into the charity's policy.
- Require all gift restrictions and conditions to be in writing (or to be confirmed in writing to the donor as soon as possible after the gift).

IV. **Additional Resources**

- *Gift Acceptance Policies—Why, When, What, How, and Who*, by Barbara Rhomberg, J.D., published in the March 2007 issue of Charitable Gift Planning News.
- *Effective Gift Acceptance Policies and Procedures*, by David Wheeler Newman, J.D., published in the August 2009 issue of the Journal of Gift Planning. Available at <http://www.msk.com/news/pub.cfm?id=1048&type=Publication>.
- *Model Gift Acceptance Policies and Procedures*, by David Wheeler Newman. Available on the PPP website at www.pppnet.org/resource/model_docs.html.
- *Understanding and Drafting Nonprofit Gift Acceptance Policies*, Kathryn W. Miree, J.D., available at www.giftplanners.com/pdfs/understanding.pdf. Includes a sample policy in the appendix.
- *Creating Gift Acceptance Policies*, by Beth Engel, J.D., available at www.afpchicago.org/Creating_Gift_Policies.pdf.
- *Form 990 Policies Series Group Memorandum Re: Fundraising Policy*, May 21, 2010, available at http://www.publiccounsel.org/useful_materials?id=0025. Also available is a sample fundraising policy by Patrick Sternal, J.D.