

*NOTE: The information provided here is for educational purposes only.
Every nonprofit organization should seek board input and legal review by
independent counsel before adopting any gift acceptance policy*

Gift Acceptance Policy Template

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_____ FOUNDATION
GIFT ACCEPTANCE POLICIES

_____ Foundation, a not for profit organization organized under the laws of the State of _____, encourages the solicitation and acceptance of gifts to _____ Foundation for purposes that will help the Foundation to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Foundation or for the benefit of any of its programs.

The mission of the _____ Foundation is to:

The Board of Trustees of _____ Foundation and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and missions of the Foundation. These policies and guidelines govern the acceptance of gifts by the Foundation and provide guidance to prospective donors and their advisors when making gifts to the Foundation. The provisions of these policies shall apply to all gifts received by the Foundation for any of its programs or services.

Protection of Donor's Interests:

- All programs, trust agreements, contracts or commitments shall benefit first and foremost the individual needs of the donor and secondly the _____ Foundation.
- Never shall a charitable gift be urged upon a donor, which shall benefit the _____ Foundation at the expense of or adverse to the donor's interest.
- A donor shall not be encouraged to make a gift which is inappropriate, in light of the donor's personal or financial situation and shall be advised if a gift proposed by another party or parties is contrary to this policy.
- A donor may expect any representatives of the _____ Foundation to reflect dignity and respect the charitable purposes of _____.

Procedures

- All solicitation for restricted or unrestricted donations or gifts will originate in the Resource Development Office. Unauthorized personnel are not to solicit specific gifts from donors for the _____ Foundation or their specific departments.
- The Resource Development Office must be notified whenever an unsolicited gift or donation is made to any _____ department. The Resource Development Office will initiate appropriate acknowledgments and record keeping. Some gifts may be deemed inappropriate.
- Gifts are generally believed to be unrestricted in nature unless the gift is made in response to a designated request or the donor requests specific restrictions. In the latter case, _____ will review the requested restrictions in advance of accepting the gift in order to determine its appropriateness. Once the gift is accepted the restrictions will be observed.

- Acceptance of gifts will be determined in accordance with impact upon the agency. Consideration will include but not be limited to:
 - Agency core values
 - Compatibility of cause with donor intent
 - Public Relations implications
 - Agency ability to meet donor intent
 - Consistency with fund raising activities and gifts
 - Form and source of gift
- Gifts may only be accepted by the _____ Foundation Board of Trustees but may be received by authorized staff.
- Gifts will be recognized within the policies established for specific campaigns, such as Annual Giving gift clubs, comprehensive capital campaign naming opportunities and _____ (others).
- The negotiation and execution of Planned Giving plans shall only be done through the Resource Development Office of _____ and the Board of Trustees of the Foundation shall have the ultimate authority in this process. It shall not be required that all gifts be accepted.
- When property other than cash, listed securities, or securities traded over-the counter is involved, approval of the Board of Trustees of the Foundation shall be required.

Confidentiality of Information:

- Information learned by any representative of the _____ Foundation about a donor or the donor's assets or philanthropic intentions shall be held in strict confidence.
- Donors will be encouraged to notify the _____ Foundation of their planned gifts, including bequests, and all such information will be kept confidential unless written permission to release it is obtained from the donor or his or her counsel.
- All details related to gift negotiation are to be considered confidential by all parties involved. This shall include, but not be limited to the donor's financial situation and philanthropic interests, as well as any tax or other legal matters discovered by our representatives while planning for a gift.
- All information concerning donors or prospective donors, including their names, the names of their beneficiaries, the amounts of gifts, size of estates, and any other personal or financial information will be kept strictly confidential, unless permission is obtained from the donor to release such information, or unless use of such information is required in the administration of the gift.
- Agency Data Base: Biographical and financial records stored in any computer data base should be treated as confidential information and should not be released or accessed without specific written approval of the CEO or designated officials in the Resource Development Office. Under no circumstances shall data be released for the primary purpose of private enterprise or gain.
- All Freedom of Information Act regulations will be observed.

Use of Legal Counsel and Conflict of Interest:

- The _____ CEO or his designee shall seek the advice of the _____ Foundation's legal counsel in all matters regarding planned giving which involve any agreement, which is binding on the Foundation.
- All planned gift agreements provided to a donor by the _____ Foundation will be created by or reviewed by legal counsel.
- Each prospective donor shall be urged to seek the advice of the independent legal counsel prior to the _____ Foundation acting in any way as a party to a planned gift. They should be

specifically encouraged to consult independent counsel on matters related to the tax implications of a gift and matters related to estate planning.

- A donor who chooses not to engage counsel must acknowledge this decision in a written statement addressed to the CEO before the CEO may accept a planned gift.
- It is neither the province of the _____ Foundation nor its volunteer or staff representatives to give legal, accounting, tax, or other advice, which is usually reserved to the donor's counsel, while acting on the Foundation's behalf. This policy does not preclude any duly licensed person representing the Foundation from advising a donor or such donor's counsel regarding a gift with appropriate disclosure to the donor that the professional involved is in the employ of the Foundation and is not acting on behalf of the donor.
- Any computations made by the Foundation volunteers or staff members are only estimates, since the Foundation may not be fully aware of the donor's circumstances.
- The Foundation will comply with the "Model Standards of Practice for the Charitable Gift Planner" promulgated by the National Committee on Planned Giving.

Gift Instruments and their Limitations

Unrestricted Gifts:

- Any contributions made to the _____ Foundation shall be allocated to the unrestricted general account unless otherwise restricted by the donor.
- Cash gifts are acceptable in any form. Gifts made by check are to be made out to the _____ Foundation. Checks will be accepted up to thirty days beyond the date of the check.

Restricted Gifts

- Acceptance of a restricted gift imposes a legal obligation to comply with the terms established by the donor. Therefore, it is necessary that the nature and extent of this obligation be clearly understood. For this reason, the terms of each restricted gift will be reviewed with the utmost care to ensure that they do not hamper the usefulness and desirability of the gift to _____.
- If a gift is deemed unacceptable because of the restrictions the donor has placed in its use, the donor will be counseled to remove or modify the restrictions. Gifts will be refused or returned when the purpose (1) is inappropriate or not conducive to the best interest of _____, (2) is clearly a commercial endeavor, or (3) would obligate _____ to undertake responsibilities, financial or otherwise, which it may not be capable of meeting for the period required by the terms of the gift.
- Gifts and bequests may be restricted by a donor for use in any specific service area, and/or for any stated _____ purpose or program.
 - When a donor wishes to place a restriction upon the use of a gift or bequest for a specific program it is suggested that the legal instrument empower the Board of Trustees, after a stated number of years, to re-evaluate the restriction. And, if the original purpose for which the gift was made is no longer relevant, to redesignate, after consultation with the appropriate professionals (Trust Department, Legal Advisor of both parties), the restriction to an alternate purpose.

Gifts-in-Kind:

- Gifts-in-kind (art objects, equipment, securities, real estate, etc.) should be reviewed with special care to ensure that acceptance will not involve financial commitments in excess of budgeted items or other obligations disproportionate to the usefulness of the gift.
- Consideration should be given to the cost of maintenance cataloging, delivery, insurance, display, and any space requirements for exhibition or storage.
- Other Considerations:
 - Does the property help to fulfill the mission of _____ Foundation?
 - Is the property marketable?
 - Are there any undue restrictions on the use, display or sale of the property?
 - Are there any carrying costs for the property?
- _____ must follow all IRS requirements in connection with disposing of gifts of tangible personal property and filing of appropriate tax reporting forms.
- When gifts-in-kind are given to the _____ Foundation with the intent of the donor receiving a tax deduction, it shall be the responsibility of the donor, not _____, to obtain an appraisal of the gift for tax purposes. _____ shall not become involved in the appraisal process. Direct involvement of _____ in securing appraisals could result in the appraisal's accuracy and objectivity being challenged by the Internal Revenue Service.
 - It is in the donor's best interest that _____ neither provides directly nor be responsible for securing the services of appraisers in connection with gifts to the _____ Foundation.
 - A report of all prospective gifts-in-kind should be submitted to the Resource Development Office. Subsequently, all gifts-in-kind to _____ will be inventoried by the agency and will become property of the agency or the Foundation.

Gifts of Real Estate

- Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, _____ Foundation shall require an initial environmental review of the property to ensure that the property has no environmental damage. Environmental inspection forms are available for this purpose. In the event that the initial inspection reveals a potential problem, _____ Foundation shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall be an expense of the donor.

Title insurance shall be obtained by _____ Foundation prior to the acceptance of the real property gift. The cost of this insurance shall generally be an expense of the donor.

Prior to acceptance of the real property, the gift shall be approved by the Resource Development Office and by the Foundation's legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of the Foundation?
- Is the property marketable?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?

- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
- Before acceptance, a qualified appraisal firm, totally independent of Foundation, must appraise gifts of real estate.
- This appraisal will perform three functions:
 - Establish the donor's tax deduction.
 - Give the agency's accounting department and auditors a reasonable value at which to carry the asset on the Foundation's books.
 - Establish an asking price for the property.
- The donor will be asked to obtain and to pay for this appraisal. The appraisal must be acknowledged by the Foundation in writing and attached to the donor's tax return.
- Unless _____ desires to retain the real estate for _____'s purpose, the property will be listed with a broker or brokers in the area in which the property is located for sale at that appraised value.
- The Foundation should be willing to wait a reasonable period of time to receive an offer in this range. One year is reasonable.
- If, because of high taxes or a sizeable mortgage, the Foundation is unwilling to hold the property for a reasonable period and will be forced to cash out as quickly as possible, the prospective donor will be so informed.
- The Foundation is required by law to notify IRS of the resale price if the property is sold within two years.

Gifts of Securities

- The Foundation will accept gifts of readily marketable securities.
 - All readily marketable securities will be sold immediately or transferred to the Endowment, as appropriate and as determined by the Board of Trustees.
 - Stock controlled under Securities and Exchange Commission Rule 144 will be held until the restriction on sale expires and then will be immediately sold in the same manner as in above.
- Securities should be transferred in such manner that donor and CEO or the Resource Development Officer sign specific documentation verifying specific date of actual transfer. Donor's tax deduction and the Foundation's evaluation should be equated as the average between "high" and "low" trade on the date of receipt of the securities in the Resource Development Office.
 - Named endowment funds can be established only for those amounts in excess of \$5,000 as is appropriate for the purpose requested; named funds indicated herein are minimal and will be "open end funds" (available for additions to capital) unless donor restricts such flexibility and subject to acceptance by the Foundation Board.
- Gifts of securities which are not readily marketable will be accepted under the following conditions:
 - Gifts of closely held corporate stock will be carried on the _____ Foundation's books at \$1.00, in the absence of financial information, which would enable determination of "book value".
 - Such securities will be carried at "book value" as long as audited financial statements are provided to the Foundation so that "book value" can be substantiated.

- Gifts of bonds, which require a "holding" period, will be accepted and cashed when the holding period has expired.
- Gifts of securities that will not be accepted:
 - Securities that are assessable or in any way could create a liability to the Foundation.
 - Securities that, by their nature, may not be assigned (such as series "E" savings bonds.)
 - Restrictions would prevent _____ Foundation from converting these securities to cash.
 - Securities that generate undesirable tax consequences to _____ Foundation.
 - Securities that, on investigation, have no apparent value.
- Exceptions to this policy may be made by Board of Trustees.

Other Miscellaneous Personal Property

- Gifts of tangible personal property to _____ should have a use related to the charity's tax-exempt purpose.
- Other items of property will be accepted if they are useful and are easily sold.
- Gifts of jewelry, artwork, collections, equipment, and software may be accepted after approval by the _____ Foundation Board of Trustees.
- Establishment of value is always the responsibility of the donor. If the item is not useable, but is marketable, the Resource Development Office will inform the donor if it is their opinion that the value placed on the item by the donor cannot be realized by its sale.
- Other matters that will be taken into consideration by the Foundation before deciding on acceptance of gifts of personal property will be: transportation cost, storage cost, cost of selling, and maintenance and repairs.

Forms for Bequests:

- All wills, bequests or estate plan documents which provide funds or other assets for use of _____ must be made payable or transferable to the "_____ Foundation," the approved corporate body to receive, manage, and disburse assets.
- Depending upon the size of unrestricted bequests, all such bequests will be added to the general endowment fund of the _____ Foundation.
- All gifts received for restricted endowment purposes, when accepted, will be accepted only on the condition that, should the purpose for which the funds are provided cease to exist, the Foundation Board shall allocate the income from those funds to purposes as near as possible to the original intent of the donor. Such provisions should be provided in all wills and devises as far as possible.
- _____ should refuse to accept (disclaim) any bequest that might prove to be more of a cost than a benefit.

Charitable Gift Annuities:

- _____ will pay annuity rates as currently suggested by the American Council on Gift Annuities.
- There shall be no more than two beneficiaries for a charitable gift annuity.
- The minimum gift accepted to establish a charitable gift annuity is \$10,000.
- No income beneficiary for a charitable gift annuity shall be younger than 50 years of age.
- No gift annuities will be issued to donors who are residents of New York State.

Deferred Gift Annuities:

- There will be no more than two beneficiaries for a deferred gift annuity.
- The minimum gift accepted to establish a deferred gift annuity is \$10,000.
- No income beneficiary for a deferred gift annuity shall be younger than 40 years of age.
- The fixed percentage to be paid shall be as suggested by the American Council on Gift Annuities.
- No deferred gift annuities will be issued to donors who are residents of New York State.

Charitable Remainder Trusts:

- No Charitable Remainder Annuity Trusts or Unitrusts shall be entered into for a sum of less than \$50,000. The fixed dollar amount to be paid annually shall be no less than the minimum required by law of the net fair market value of the assets transferred. Beneficiaries of CRTs shall be 50 years of age or older.

Charitable Lead Trusts. The _____ Foundation may accept a designation as income beneficiary of a charitable lead trust. The Board of Trustees will not accept an appointment as Trustee of a charitable lead trust.

Deferred Gifts-in-General

- Payments to donors and beneficiaries on charitable remainder unitrusts, charitable remainder annuity trusts, and gift annuities shall be made quarterly, semi-annually or annually according to the terms of the individual agreement.
- Upon the death of the surviving beneficiary of a deferred gift agreement, the agreement shall terminate and the assets and any accruals shall be paid to the _____ Foundation for the agency's endowment fund.

Investment of Funds

- Deferred Gift Trusts (Unitrusts, Annuity Trust and other forms of deferred gift contracts in which _____ Foundation is a Trustee) shall be administered by the _____ Resource Development Office and Board of Trustees of the Foundation. Each Trust will be under a separate trust agreement. The investment of trust funds will be fully consistent with the objective of each trust, and in keeping with the legal requirements for the investment of such funds. When all requirements of a trust agreement have been met and the trust is terminated, the assets of the trust will then be placed in the appropriate Foundation Asset Management Account.

Life Insurance:

- _____ should accept a life insurance policy as a gift only when it is named as the owner and beneficiary of the policy and there are sufficient funds available to pay premiums.
- _____ may be designated as beneficiary of a life insurance policy.

Expectancies

- Commitments provided by bequest, estate plan, or other planned gift program deferred gift vehicles should be counted as expectancies when they are to “mature” at some future time. In many cases donors and potential donors may change, increase, or decrease their commitment depending upon how they are treated by the leadership of the organization as “future interest” donors.
- Eventual income from such commitments must never be counted in current/annual fund income amounts, but, rather, counted ‘below the line’ as with gift-in-kind, investment income, property sale, and other income reports at their maturity value.
- Many organizations apply such income directly to endowment or use the income for urgent, non-budgeted but vital purposes. The maturity of expectancies must be counted in the full amount of the expectancy in terms of financial impact for the organization and for donor philanthropic credit. Such expectancy value must be evaluated annually.

Evaluating Potentially Controversial Gifts

- All decisions to solicit and/or accept potentially controversial gifts are to be made by the Board of Trustees, preferably prior to soliciting such gifts.
- It is recognized that _____ cannot generally ascertain whether the value of the gift was generated using commonly accepted ethical and moral standards. Furthermore, _____ asserts that its primary responsibility is to use any gifts to further the organization’s mission, goals and objectives. Accordingly, the source of the gift will, in and of itself, not be the basis for not soliciting a gift. Rather, the primary consideration will be the impact of the gift upon the organization.
- When considering, soliciting and/or accepting gifts that might be potentially controversial, the CEO and Board of Trustees will consider the following factors:
 - Core values: Will accepting the gift compromise any core values of the organization?
 - Compatibility of Cause: Is there convergence of cause and intent between the donor and recipient? Will accepting the gift further the mission, goals and/or objectives of both groups?
 - Public Relations: Will the perception of clientele’s importance to the organization be damaged so as to create a significant public relations policy for the organization?
 - Motivation: Is there clear charitable intent and a commitment to serve the community? It is understood that it is usually appropriate for there to be tax incentives, community acceptance and publicity values for donor.
 - Consistency: Will acceptance of the gift be inconsistent with other fundraising activities and/or gifts?
 - Credibility: Will the reputation of the donor have a negative effect upon the reputation of the receiving organization?
 - Organizational Stability: If controversy develops, will it likely be significant enough to undermine the stability of the organization? Will there be a sufficient reservoir of community image and goodwill to allow the organization to continue to thrive?
 - Form of Gift: Will the nature of the in-kind contribution create problems, such as advertising or sponsorship?
 - Source of Gift: Is the gift from an individual or a corporation? A gift of stock from an individual might be accepted and sold, while a cash gift or sponsorship might be rejected.

- Bottom Line: Will the gift encourage or discourage others to give? What will be the net effect on the bottom line?

Unacceptable Gifts:

- Restrictions as to relatives or descendants as beneficiaries of the gift.
- Restrictions reserving the designation of beneficiary of gift to the donor or his/her assigns; i.e., scholarships, fellowships, professorship. (Such "gifts" restrict donor tax consequences.)
- Restriction upon future employment of the recipient of any gift.
- Restriction on interest rates and conditions for repayment of loans.
- Any endowment fund with a corpus under \$5,000 for which additional sums are not assured and certified in writing.

Gift Acceptance and Acknowledgement:

- Upon receipt of a gift and/or any gift related documents, the Office of Resource Development will record gift and acknowledge donor.
- A complete record of every individual donor's contributions will be maintained.
- Restricted gifts will be recorded by the use of fund codes.
- Once a gift is accepted a written acknowledgment of the gift will be mailed within 48 hours. Honor/memorial gifts are to be acknowledged within 24 hours.
- Written acknowledgments are to be in full compliance with Internal Revenue Service regulations.

Responsibility for IRS Filings Upon Sale of Gifts Items:

- The Resource Development Office of the _____ Foundation is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the _____ Foundation when the charitable deduction value of the item is more than \$5,000. The _____ Foundation must file this form within 125 days of the date of sale or disposition of the asset. Acknowledgment of all gifts made to the _____ Foundation and compliance with the current IRS requirements in acknowledgment of such gifts shall be the responsibility of the Board of Trustees.

Changes to Gift Acceptance Policies

- These policies and guidelines have been reviewed and accepted by the Board of Trustees of _____ Foundation. The Board of Trustees of the _____ Foundation must approve any changes to, or deviations from, these policies.

Approved on the _____ day of _____, 20_____.