

Crafting a Gift Acceptance Policy

by Dennis Walsh CPA

If your nonprofit is like most, you rely on a continuous stream of gifts for financial solvency. Even organizations with mature fee based programs typically depend on philanthropy to fill the inevitable budget gap left after receipts of earned income, grants, and investment income.

In the ideal nonprofit world all gifts would be in the form of your lifeblood -- cash - - and arrive free of restriction as to how the money can be used. However, factors such as donor preferences, legal liability, accounting rules, and tax law have all converged to create an environment where the receipt of a charitable gift can be something less than simple and ideal.

Well intended donors may wish to attach conditions to their gift that you may not be comfortable with. And donors with specific tax and estate planning objectives may proffer gifts of property in lieu of cash, such as:

- Securities
- Real Estate
- Personal property
- Oil, Gas, and Mineral Interests
- Life Insurance policies
- Charitable Lead or remainder Trusts
- Retirement Plan Beneficiary Designations
- Life Insurance Beneficiary Designations
- Bequests
- Testamentary trusts

Even a gift of cash accompanied by a simple donor restriction, such as “for use in program X,” can create major headaches if your staff and accounting systems aren’t ready.

Are you prepared?

Consider how you might respond to the following questions when faced with one of the preceding:

- Will our systems, staffing, and financial resources allow us to receive and manage the gift economically and in accordance with the donor’s wishes, if any, without unduly interfering with our program activities?
- If other than cash, can the property be liquidated economically and in a reasonable amount of time?
- Are there unexplored risks associated with taking ownership of the property?

How is a gift acceptance policy beneficial?

Consider the following benefits:

- *Enhance gift effectiveness* –A gift acceptance policy provides guidelines to help you work with donors in crafting gift stipulations that satisfy donor objectives or that result in gifts of property that will be practical and cost effective to administer.
- *Reduce risk* – A gift acceptance policy provides a systematic framework to help identify legal, financial, and mission related risks associated with various types of gifts.
- *Reduce mission drift* - It is not unusual for organizations to experience 'mission drift' as a result of unwittingly accepting gifts with strings that either take them places they're not ready to go or that are not congruent with their mission activities.
- *Promote good donor relations* - A well thought out gift acceptance policy puts you in a better position to deal objectively with donors having ego or control issues or who might be easily put off by the suggestion that you may need to turn down their proposed gift.

Your gift acceptance policy should begin with your mission statement, followed by a statement of purpose (e.g. to promote good stewardship, long-term financial solvency, build good donor relations, etc.). Your mission statement is the ultimate benchmark for testing the appropriateness of a particular gift.

As with any organizational policy, your gift acceptance policy must be communicated to relevant persons, understood, and put into practice to be effective. While it is prudent to engage the assistance of qualified counsel as needed, consider affirming these guiding principles in your policy:

- We reserve the right to decline or refund any gift that may detract from our mission, character, integrity, or independence.
- We will only use gifts for the particular purpose designated by the donor or as set forth in solicitation materials.
- We will employ responsible internal procedures to safeguard donor privacy and other confidential information.
- We will follow the letter and spirit of all laws and regulations affecting or relating to charitable giving and fund raising.
- We will seek the advice of legal counsel where appropriate.
- We will not pay finder's fees, commissions or other fees to an independent gift planner as a condition for the delivery of a gift.

Consider these actions as well:

- Require an individual to be responsible for preparation of donor confirmations/thank you letters, reporting of *quid pro quo* contributions, the

special reporting of donated vehicles, and the preparation of IRS Form 8282. (For a discussion of these requirements, see *“When Should You Report a Contribution?”* located in the Financial Management Updates index.)

- To help keep management costs reasonable, set a minimum dollar threshold for the acceptance of a contribution for the creation of an endowment.
- To avoid inadvertent over-solicitation of donors, establish a prospect clearance procedure.
- Set minimum dollar thresholds or other criteria for the naming of buildings, building improvements, or facility components.
- Establish criteria for recognition of contributions of merit, whether financial, in-kind, or volunteer service.

For proposed gifts with donor-imposed restrictions, provide that stipulations are to be clearly detailed in writing and that you will not accept gifts that are too costly or difficult to administer. This gives you considerable flexibility in assessing less desirable gifts while standing an improved chance of avoiding a negative donor reaction. State the specific types of gifts that you are willing to accept, taking into account resources needed to receive, manage and liquidate the gift.

For each proposed gift of non-cash property, your policy should require documented answers to the following types of questions:

- Is the property suitable for our purposes?
- If we will not use the property, is it marketable (i.e. can it be readily converted to cash at or near its stated value)?
- Does the property carry any liabilities?
- For donations of real estate, is an environmental audit appropriate?
- Are there any undue restrictions on the use, display, or sale of the property? For example, if a donor insists that the property not be sold for at least three years, this should be a red flag for potential tax fraud because of your IRS Form 8282 reporting requirement. Don't worry about appeasing the donor – exercise due diligence and agree only to restrictions that are reasonable for your nonprofit.
- Are there any carrying costs for the property?
- Will the receipt of income generated by the gift create any undesirable tax consequences (such as the unrelated business income tax (UBIT))?
- Is it prudent to involve legal or other outside counsel to help evaluate the gift?
- Who will bear the cost of counsel, appraisals, and other expert advisors?

For a sample gift acceptance policy that includes the types of considerations described in this article, please contact the Financial Management HelpDesk.

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