
POLICY TITLE: Gift Acceptance Policy

RESPONSIBILITY: Director of Giving Strategies

REV. DATE: 12/2012

PURPOSE

These guidelines, approved and adopted by the Board of Trustees, are designed to outline gift and fund policies which support our mission, assure accountability, promote our development efforts, and protect the integrity of The Community Foundation of Herkimer & Oneida Counties, Inc. (Foundation). In view of the growing complexity of IRS regulations and the wide range of gift types, consistent policies allow us to work effectively with donors to ensure their charitable donations result in the greatest value to the community.

RELATED MATERIALS

- N/A

DEFINITIONS

- N/A

POLICY

LEGAL CONSIDERATIONS

- A. *Compliance:* Gifts to The Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents The Foundation from freely and effectively employing the transferred asset, or the income derived therefrom, in furtherance of its exempt purposes. If a gift must be refused, The Foundation will communicate the reason in writing to the donor or fiduciary. The Foundation shall comply with all local, state and federal laws and regulations concerning charitable gifts it encourages, solicits or accepts.
- B. *Endorsement of Providers/Legal, Tax and Financial Advice:* The Foundation shall not:
 1. Endorse legal, tax or financial advisors to prospective donors
 2. Provide, legal, tax or financial advice, and shall encourage prospective donors to discuss all charitable gift planning decisions with their own advisors before entering into any commitments to make gifts to The Foundation.
- C. *Finder's Fees and Commissions:* The Foundation shall not pay fees to any person as consideration for directing a gift to The Foundation.
- D. *Preparation of Legal Documents:* The Foundation *shall not prepare legal documents* for execution by donors, except forms to create charitable gift annuities. The Foundation may provide model language, such as sample bequest language, fund agreements or charitable remainder trusts, but shall strongly encourage prospective donors to have this language reviewed by their own counsel.
- E. *Payment of Fees:* It will be the responsibility of the donor to secure an appraisal (where required) and to pay for the advice of independent professional advisers.
- F. *Service as Executor or Trustee:* The Foundation will not agree to serve as executor of an estate or as trustee except as trustee of trusts to maintain its gift annuity reserve accounts.

- G. *Use of Counsel:* The Foundation shall seek the advice of legal counsel in matters relating to the acceptance of gifts when appropriate, such as gifts of closely held stock; gifts involving contracts; bargain sales; reformation of charitable trusts; and transactions involving potential conflicts of interest.

OVERVIEW OF GIFT ACCEPTANCE

All gifts are officially received by the President/CEO on behalf of the Board of Trustees. The President/CEO has the authority to accept or refuse gifts to The Foundation. When further review is desirable or advice of legal counsel has been sought as to acceptance, the gift shall be referred to the Executive Committee of the Board of Trustees (Committee). The Committee may refer the gift directly to the Board of Trustees. Final ratification of all gifts rests with the Board of Trustees which has full legal and fiduciary responsibility for them.

FUNDAMENTAL CONSIDERATIONS FOR GIFT ACCEPTANCE

- A. Does the purpose of the gift fall within the broad charitable mission of The Foundation?
- B. Does the gift place other assets of The Foundation or its tax exempt status at risk?
- C. Can the donation be utilized or easily converted into assets that support our investment strategy?
- D. Can The Foundation assure adherence to the terms of the gift in accordance with the donor's wishes?
- E. Is the cost to maintain the asset prohibitive?
- F. Is the gift discriminatory in nature?

FOUNDATION RESPONSIBILITIES

- A. *Role of Staff:* The role of the staff shall be to inform, guide and assist donors in fulfilling their philanthropic wishes. Written records of donor discussions shall be maintained. Foundation staff shall review with the donor the basic tenets regarding the gift, including but not limited to:
 - 1. Irrevocability
 - 2. Choice of confidentiality;
 - 3. Prohibition of donor control, benefit or material restriction;
 - 4. Variance power;
 - 5. Processing and acknowledgements;
 - 6. Grant making procedures;
 - 7. Accounting and fund statements;
 - 8. Investment strategy, market risk and spending policy.
- B. *Disposition of Gifts:* The staff shall discuss with donors the potential investment or disposition of donated assets in order to meet its tax exempt purpose or other reasons solely at the discretion of The Foundation.
- C. *Ethical Standards:* The Foundation is committed to the highest ethical standards. The Foundation, its staff and volunteer representatives shall adhere to the Statement of Ethical Principles, as adopted by the Council on Foundations, the Model Standards of Practice for the Charitable Gift Planner, as adopted by the Partnership for Philanthropic Planning ("PPP"), and the Code of Ethical Principles and Standards as adopted by the Association of Fundraising Professionals ("AFP"). The Foundation will not participate in gift discussions if there is a known question as to the title/ownership of the asset or the donor's competency to transfer an asset.

RIGHT OF REFUSAL/TIMING

The Foundation may accept or not accept a gift for reasons stated or not stated in this policy and will, within a reasonable period of time of being offered a gift, decide whether to accept or reject the gift.

CURRENT GIFTS

- A. The following outright gifts are generally acceptable upon receipt and are acknowledged in writing, in a timely fashion:
 - 1. *Cash:* The Foundation accepts cash, checks, money orders and credit card charges, as well as online gifts through its website. Gifts directly transferred from an IRA, as permitted under the Pension Protection Act of

2006 and subsequent extensions, commonly known as the IRA Charitable Rollover, as well as matching gifts, shall fit in this category. Checks should be made payable to "The Community Foundation", with the fund designated. For security reasons, credit card numbers are not stored in our computer database. The date of gift will be determined in accordance with IRS regulations.

2. *Pledges*: Pledges of future monetary gifts must be in writing and shall include the name of the fund that will benefit from the gift, the anticipated payment schedule, and the signature of the donor. Pledge payment reminders will be sent to the donor within 30 days of the date the next installment is due. Pledges must have a duration of no longer than 5 years.
 3. *Publicly Traded Securities*: Readily marketable securities can be accepted by The Foundation Generally, donated securities are sold by The Foundation.
 4. *Existing Life Insurance Policies*: The Foundation will accept life insurance policies as gifts when The Foundation is named as the owner and beneficiary of 100% of the policy. If the insurance policy lists multiple beneficiaries or is not fully paid, the acceptance of the gift shall be judged on a case-by-case basis. If the policy is not fully paid, The Foundation may accept it and cash it in for its surrender value or continue to pay the premium.
 5. *Charitable Lead Trusts*: The Foundation will accept a designation as payment beneficiary of a charitable lead trust. It will not serve as trustee of a charitable lead trust.
- B. The following outright gifts require review and approval by the Committee. For non-cash charitable gifts, IRS Form 8283 may be required. The Foundation is currently required to file Form 8282 if it sells or disposes of the asset for which it signed Form 8283 within 3 years of receipt. Gifts may require a qualified appraisal by an independent professional to determine value. Gifts of business interests to donor advised funds carry the additional requirement of meeting Internal Revenue Code (IRC) section 4943, regarding Excess Business Holdings and Disqualified Persons. The Committee may seek guidance from legal counsel to assure compliance. Specifically this would apply to gifts of interests in closely held businesses or security derivatives such as options and warrants.
1. *Real Property*: The Foundation has established and approved separate policies for gifts of real property, including bargain sales and retained life interests – see "*Policy & Procedures For Potential Gifts of Real Estate*".
 2. *Tangible Personal Property*: Non-cash gifts such as furniture, jewelry, artwork, equipment, collections, etc. shall require the approval of the Committee. The property may be sold at the sole discretion of The Foundation. The donor shall provide a qualified appraisal by an independent professional to determine the gift's fair market value.
 3. *Other Property and Structured Outright Gifts*: Property not otherwise described in this section, (including but not limited to mortgages, notes, contract rights, copyrights, patents, trademarks, mineral rights, oil and gas interests and royalties), or other structured outright gifts, may only be accepted upon prior approval of the Committee.

FUTURE GIFTS

Gifts whose benefit does not fully accrue to The Foundation until some future time, or whose benefits provide a payment interest to another before accruing to The Foundation are future gifts.

- A. Future Gifts Not Subject to a Payment Interest
 1. *Gifts by Will or Living Trust*: The Foundation accepts bequests from donors who have directed in their wills/living trusts that certain assets be transferred to The Foundation.
 2. *Retirement Plan, Life Insurance and Other Beneficiary Designations*: Donors may name The Foundation as the beneficiary of their Individual Retirement Accounts (IRA), 401(k), 403(b), defined contribution plans, life insurance policies, payable on death accounts and donor-advised funds.
- B. Future Gifts Subject to a Payment Interest

The Foundation will work closely with donors to implement giving options which provide income to a donor or his/her designees, as well as financial benefit to The Foundation (split-interest gifts):

1. *Charitable Remainder Trusts (CRTs)*: The Foundation encourages donors to consult their own legal counsel and tax advisors to create charitable remainder trusts. At the donor's request, the Foundation will confer with his/her advisors to assist in establishing the trust. When The Foundation is named as the irrevocable beneficiary of all or part of a CRT, it will request that the Trustee provide The Foundation with a copy of the trust document and an annual investment statement.
2. *Charitable Gift Annuities (CGAs)*: CGAs are contracts between The Foundation and the donor. The Foundation agrees to make payments to one or two named beneficiaries for their lifetimes. Upon the death of the last payment beneficiary, the residuum is available for use by The Foundation for the purpose designated by the donor.
 - a. *CGA Terms and Types*: The Foundation offers immediate payment, deferred payment and flexible payment charitable gift annuities, provided:
 - i. Minimum funding amount: \$10,000
 - ii. Minimum charitable interest: 25% (income tax charitable deduction must be at least 25% of the total funding amount)
 - iii. Reinsurance considerations: A gift equal to the greater of \$250,000 or 50% of total gift annuity pool or gifts which cause one donor to represent more than 50% of the gift annuity pool shall be reinsured at the time of the gift. Gifts of less than this amount may also be considered for reinsurance by the Foundation on a case by case basis.
 - iv. Minimum age(s): 60 at the time payments start for a single life annuity or average age of 60 at the time payments start for a two-life gift annuity
 - v. Ultimate beneficiary: The Foundation for 100%, irrevocably
 - vi. Payout rate: American Council on Gift Annuities recommended rates (All proposals shall include an offer of 100%, 90% and 80% of the ACGA recommended rate)
 - vii. Payment schedule: Monthly, quarterly, semi-annual or annual
 - b. *Compliance*: The Foundation shall at all times comply with federal and state regulations regarding the issuance of gift annuities. It shall not issue a gift annuity to a resident outside of New York without complying with the laws and regulations of said jurisdiction.
 - c. *Asset Management*:
 - i. The Foundation shall invest 100% of all gift annuity gifts in its gift annuity reserve account
 - ii. Only when a gift annuity matures shall the residuum attributable to the gift annuity be removed from the reserve account and put to the designated purpose
 - iii. The Foundation will monitor the performance of the gift annuity reserve on a contract by contract basis. In the event the residuum of any one contract drops below 50%, the Committee will be notified immediately and determine if said contract should be reinsured.
 - iv. In the event the total reserve account should fall below mandated minimums, The Foundation shall add funds from its general fund to achieve the mandated minimum reserve
 - v. Fees for asset management and administration shall be charged against the gift annuity reserve account
 - d. *Restrictions*: Donors may restrict the ultimate use of the residuum from a gift annuity
 - e. *Gift Annuities to Benefit Other Charities*:
 - i. In order to facilitate gifts to benefit the entire community, The Foundation may offer gift annuities in partnership with other charities. Said gift annuities will be contracts between the donor(s) and The Foundation. No fees (other than standard fees for asset management and administration paid to vendors) shall be charged for this service. At the time the gift annuity matures, the residuum shall be used to create or add to an endowment fund held by the Foundation for the benefit of the named charity.

COMPONENT FUNDS

The Foundation offers a variety of fund types designed to respond to donors who wish to make a large gift, create a named fund and serve a charitable purpose. Component funds are tailored to meet the needs of the donor whenever possible and must be consistent with our mission. A fund agreement is required to establish a fund and a minimum required contribution has been established, currently \$10,000 except for a scholarship fund which requires \$25,000. Funds may be endowed (distributions in the form of grants are made based on The Foundation's spending policy and statutory law regarding endowment spending) or non-endowed (principal and earnings may be distributed), but a minimum market value of \$10,000 must be maintained at all times, with the exception of an Expenditure Fund (below). Funds designated as "acorn" funds may also be developed over time per The Foundation's "Acorn Fund Policy". Basic fund types include:

- A. Agency Fund. A component fund established by a nonprofit agency for its own benefit, so it may benefit from our investment, accounting and professional services. The Foundation regularly distributes the available grant dollars from the fund back to the agency for general purposes or special purposes per the fund agreement. The fund may be endowed or non-endowed based on the agency's needs. Additions may be added to the fund by the agency itself or by donors (third-parties) and will be tracked separately.
- B. Designated Fund. A component fund that supports a nonprofit organization selected by the donor at inception. Grants go directly to the nonprofit yearly or as determined by the fund agreement.
- C. Donor-Advised Fund. A component fund in which an advisor (the donor, another designee, or a committee) may recommend eligible charitable recipients for grants from the fund. Advised funds have a \$10,000 minimum which must be maintained and are otherwise non-endowed, but may be created as true endowments.
- D. Field-of-Interest Fund. A component fund that utilizes the available grant dollars based on the donor's specific areas of interest or a geographic preference.
- E. Scholarship Fund. (\$25,000 required) A component fund established to provide support for undergraduate or graduate education, professional development or educational enrichment opportunities.
- F. Unrestricted Fund. A component fund that uses available grants dollars for a broad range of community needs as determined by The Foundation's Grants Committee.
- G. Expenditure Fund. A temporary fund, created by a nonprofit organization or a donor, for a specific charitable project or purpose that exists for a limited period of time per the fund agreement and will be completely spent as designated. In most cases, a second component fund of The Foundation is associated with an expenditure fund in some way.

CONFIDENTIALITY

All fund agreements, gift values, and personal information about donors and prospects shall be held in strict confidence by The Foundation, subject to legally binding requests from governing agencies or courts. All other requests for the release of information will be honored only if permission is obtained from the donor prior to release. Gift amounts shall be revealed only to Staff involved in gift processing and the Board of Trustees as they deem necessary. The Foundation shall respect the wishes of any donor offering anonymous support and will implement reasonable procedures to safeguard such donor's identity.

REPORTING AND VALUATION STANDARDS

- A. *Gift Reporting and Counting*: For outright gifts, The Foundation shall follow the Council for Advancement and Support of Education ("CASE") *Reporting Standards and Management Guidelines for Educational Institutions*. For future gifts, The Foundation shall follow the *PPP Guidelines for Reporting and Counting Charitable Gifts*.
- B. *Gift Valuation*: The Foundation shall follow the *PPP Valuation Standards for Charitable Planned Gifts*.

PERIODIC REVIEW

This Gift Acceptance Policy will be reviewed annually by the Vice President of Development to ensure compliance with state and federal law, IRS regulations and good business practices. In the absence of a Vice President of Development, the review will be initiated by the President/CEO or his/her designee. Any required or suggested changes shall be submitted for consideration by the Board. This Gift Acceptance Policy shall be available to the community online and upon request.

Policies are general guidelines that regulate organizational actions and conduct, and should answer the basic questions of who, what and why. Policies are typically written in sentence and paragraphs.

Procedures include the steps necessary to comply with a policy, and should answer the basic question of how. Procedures should be designed in such a way that makes them most useful and meaningful. A variety of formats can be used, including lists, tables, infographics, screenshots and flowcharts.

REVISION & APPROVAL HISTORY

Date	Description
6/2006	Approved by Board of Trustees
12/2012	Approved by Board of Trustees