

Gifts Can Be Dangerous:

How & Why Gift Acceptance Policies are Necessary & Essential

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Let's start with a quick poll

Does your nonprofit have gift acceptance policies and or procedures?

- Yes
- Yes, but hasn't been dusted off for awhile
- No
- Don't Know



Gift Acceptance Policies and Procedures

- Good philanthropy and donor relations
- Good stewardship and governance
- No organization is too small or too limited



Terminology: Policies & Procedures

- Often used interchangeably or combined into one document
- Technically different - different purposes and audiences
- Encouraged to maintain as two separate documents



What is the Difference?

Policies

- Broad statements by governing bodies
- Consistent with the values and objective of your organization
- Brevity is good

Procedures

- Detailed steps, rules and processes for execution of policy
- Directed to those responsible for gift acceptance operations
- User's manual customized to your organization



Primary Function of GAPs

- Provide discipline and consistency
- Define role in gift administration
- Educate organization staff/board
- Outline assets and gift vehicles accepted
- Protect organization and donor
- “Thank you, but no thank you”



Creating and Adopting GAPs

- Create as early in an organization's infancy as possible
 - Create a committee now
 - Prevent "blingy gift" blindness
 - CYOA (cover your organizational assets)
- Collaborative process
 - PG or dev. staff, CEO, CFO, board members, etc.
 - Cumulative knowledge/guidance
 - Customize to the organization
 - Educate the board and staff in the process of gift evaluation



Creating and Adopting GAPPs

- Adoption process is opportunity to educate
 - Staff, board, and even donors
 - Include in board and staff orientation
- Adoption creates organizational consistency
- Annual review
 - Maintain customization



Gift Acceptance Committee

- Review gifts and makes recommendations
- CEO, CDO, CFO, board members, etc
 - Gift planner or another development officer reports to the GAC
- Flexible and able to make quick decisions



Suggested GAPP Contents

1. Purpose of GAPP
2. Use of legal counsel
3. Conflict of interest statement
4. Restrictions on gifts
5. Gift Acceptance Committee



Suggested GAPP Contents, cont.

6. Gift vehicles your organization accepts
7. Assets your organizations encourages
8. Payment of Fees
 - Finders Fees
 - Professional Fees
9. Gift documentation and gift recognition
10. Sample forms/checklists



Types of Gifts Your Organization Accepts

- Bequests
- Charitable gift annuities
- Real property
- Charitable remainder trusts
- Charitable lead trust
- Donor advised fund
- Pooled income fund
- Retained life estate
- Testamentary life income
- Charitable bargain sale



Assets Your Organization Encourages

- Cash
- Securities
- Life insurance
- Personal property
- Real estate
- Retirement plans
- Business interests
- Oil, gas, mineral interests
- Intellectual property rights
- Grain, livestock



Useful Forms for your GAP

- [Donee Information Return IRS Form 8282](#)
- [Noncash Charitable Contributions IRS Form 8283](#)
- [Instructions for Form 8283](#)
- [Publication 526: Charitable Contributions](#)
- [Publication 561 - Determining the Value of Donated Property](#)
- [Revenue Procedure 2007-45](#)
- [Revenue Procedure 2007-46](#)
- [Internal Revenue Bulletin \(2005-34\): ESTATE TAX](#)



Sample Forms

- [UT System Endowment Agreement](#)
- [UT System Life Estate Form](#)
- [UT System Gift Pledge Form](#)
- [Howard University Real Estate Checklist](#)
- [The Nature Conservancy Legal Designation Language Form](#)
- [Kathryn Miree Gift Acceptance Form](#)
- [AFP Sample GAPP](#)



Case Studies



Our Superhero to the Rescue

A entrepreneurial trustee donates \$5 million worth of stock in exchange for immediately naming a program on campus during a campaign. The donor asks that the stock be held for a year before being sold. As an added bonus, the university Chancellor would like to announce the gift today!



Our Superhero to the Rescue

A donor calls and wants to give their entire estate (valued at \$5 million) to your organization and is revising their will and estate documents. Your organization provides children's services. The donor wants to restrict the gift to building a health center for low income on your property.



Our Superhero to the Rescue

A well-intentioned board member calls the executive director and relays that a local antique shop is “going out of business” and wants to donate their building and land to your foundation. The business is a former site of a local historic gas station and auto garage.



Our Superhero to the Rescue

The president of your organization calls and tells you she just had a wonderful conversation with a trustee who wants to donate an airplane to your organization. Your organization is an art museum.



Our Superhero to the Rescue

A Chicago regional religious entity whose purpose includes assisting with the establishment of new congregations for its denominational affiliate receives a gift of 5 acres of land in far south Dallas. The land was donated for the use of one of the denominational affiliates by a well intended parishioner in 2013. She acquired the land from a relative in 2002. It was recorded at the tax appraised value of \$74,000 by the church. The regional religious entity has no gift acceptance policy.



Our Superhero to the Rescue

Two retired Doctors own a medical office building next to a hospital to that hospital. One doctor wishes to gift and the other wishes to sell outright. FMV of the building is 4 times the cost basis. Hospital wishes to use the building for a related use with moderate anticipated costs to renovate the facility. One doctor lives locally and the other, the one wishing to sell, lives in Australia.



Our Superhero to the Rescue

The President of a hospital approaches a donor prospect about making a gift to the entity. The President and the donor have several meetings to discuss this opportunity and it is the gift opportunity presented is a women's clinic. After consideration, the donor makes the solicited gift in the amount of \$500,000 to construct and name a women's center after the donor's late mother. The agreement between the parties was never committed to writing. Six years later, the hospital had not begun construction on the women's center...



Our Superhero to the Rescue

And now, the rest of the story...

In early 2012, a jury awarded in favor of the plaintiff/donor in a lawsuit that claimed that the hospital defaulted on an oral agreement to construct and name a women's center after the donor's late mother in exchange for the \$500,000 donation. ADDITIONALLY, The jury awarded the donor punitive damages of \$500,000 in addition to the return of the \$500,000 donation.

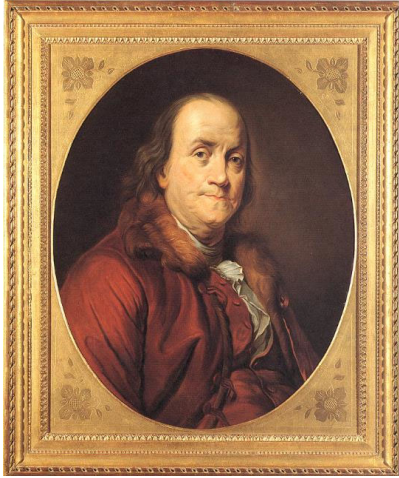


Conclusion

- Written policies and procedures are crucial to managing risk and allocating resources
- Important elements in effective governance and operation of your organization
- Include routine or anticipated issues that could potentially “threaten” the viability of the organization
- One size does NOT fit all
- Objective should be to encourage gifts, not to discourage them



Ben Franklin, 1751



“Originality is the art of concealing your sources”

Sources

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- www.nature.org
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- <https://ccbjournal.com/articles/garth-brooks-has-friends-law-places1-donor-restricted-gifts-and-consequences-nonpro>

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