



**GETTING BEQUESTS RIGHT:
FROM PROSPECT IDENTIFICATION
TO REALIZATION**

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I. INTRODUCTION

Bequest gifts are the revenue generator of most planned giving programs. This is the case for both large national charities with comprehensive planned giving programs and small organizations that often do not have formal efforts to promote planned gifts. But bequest gifts don't just happen. Those organizations with established bequest pipelines have in most cases devoted staff and economic resources to promote to their constituencies the impact that bequest gifts have on the mission and sustainability of the organization.

There are many components that go into building a successful bequest program: prospect identification, marketing, gift officer training, donor cultivation, stewardship, and efficient administration of realized bequests. Those charities that commit the resources (often at minimal dollar amounts) to proactively promote bequest gifts are investing to create a revenue stream that will serve the charity well for years into the future.

Charities also need to focus on getting “good bequests” – bequests that meet organization priorities. A charity's legacy society, while primarily used for stewardship and recognition, can play a role in getting donors to disclose their bequest intentions. In the course of thanking a donor for a bequest intention, charity staff can tactfully explore the nature of the gift.

This paper will discuss the components necessary for a successful bequest program. Charities large and small should have a bequest program. Here's how to do it.

II. WHY HAVE A BEQUEST PROGRAM

Nationally, gifts from estates can fluctuate year-to-year as determined by the number of large estates that close. However, over the longer term, gifts from estates have represented an increasing portion of overall charitable giving, reaching 7.8% of total charitable giving in 2016 (*Giving USA 2017: The Annual Report on Philanthropy for 2016*). It is not necessary for a charity to make a significant investment to start or grow a bequest program. It can be argued that a bequest program gives the largest return on investment of all planned giving gift vehicles. But perhaps the most significant reason for a charity to have a bequest program is because it enables loyal donors to make larger gifts that in all likelihood they would not make during lifetime.

III. THE MYSTIQUE OF BEQUEST GIFTS

There is a certain mystique to bequest gifts due to the largely unknown existence of most estate commitments. It is estimated that charities know of only approximately one-third of donors who have included the charity in their estate plans. These gifts can be for significant amounts, which while good for the receiving charity also poses a problem if the gift is: (1) not for a priority of the charity; (2) for a program that is already over-funded; or (3) for a program that no longer exists. Some of the largest bequests can come from donors who were totally “off the radar screen” of charity staff and not engaged about current programs and priorities of the charity. Charities want to encourage bequest gifts from loyal donors, but it is important that the bequests received are “good bequests.”

IV. THE MYTH OF BEQUEST GIFTS

Bequest gifts don't just happen. Yes, some bequests come in over the transom. For that reason, leadership may believe that little or no activity or budget are necessary for the organization to receive bequest gifts. Nothing could be further from the truth. For a charity to maximize the gifts

coming from bequests, it must have a strategy to promote these gifts. The strategy should include identifying the best bequest prospects within the charity's constituency, cultivating those prospects, preferably through visits from staff, and having staff who understand and can articulate how donors can make bequest gifts. If a donor moves forward with an estate commitment, then the charity must steward the donor for the charity to remain in the estate plan. Getting donors to commit to bequest gifts requires patience, persistence, and follow-up. Charity staff must be proactive.

V. WHY CHARITIES LIKE BEQUESTS

Charities like bequests due to the relatively low cost to implement and maintain a bequest program and for the potential to receive significant gifts from estates. For those charities that promote gifts from estates, a pipeline of income from bequests can be established, thereby bringing in an additional source of revenue. Due to fluctuations in bequest income from year to year, those charities that incorporate income from bequest gifts into their annual budgets will often take the average of bequest income over a multi-year period to smooth the fluctuations for bequest revenue. Charities may wish to exclude unusually large estate gifts from a budgeting formula if such gifts are infrequently received.

VI. WHY DONORS LIKE BEQUESTS

Donors like including gifts in their estate plans to their favorite charities. Donors find making a gift in their will, trust, or from a retirement plan account an appealing way to give for many reasons.

- **Easy to arrange.** A gift in a will or trust can be easy to arrange. While an attorney should be involved in drafting documents, a simple sentence can accomplish the donor's philanthropic goal. A beneficiary designation in a retirement plan account or a life insurance policy can be accomplished with a simple form or even on-line at some companies.
- **Revocable/Retain control of the assets** – The donor can change their mind for whatever reason. If the donor needs the assets in retirement, they are available.
- **Flexible.** The donor can structure the estate gift to meet other family needs and priorities. For example, the gift can be contingent on another family member predeceasing the donor.
- **Reduce estate taxes** – If the donor's estate will be subject to federal estate tax, the estate will be entitled to a dollar-for-dollar federal estate tax charitable deduction for the amount going to a qualified charity.
- **Satisfaction of giving without parting with the asset.** The donor does not need to part with the asset when the gift is put in place, yet the donor can have the satisfaction of having provided for the future of the charity.

VII. WAYS DONORS CAN MAKE A BEQUEST GIFTS

A. How Property Passes at Death

There are essentially five ways a person's assets can be distributed upon death:

1. by default according to state law ("intestate")

2. by will
3. by living trust
4. by beneficiary designation
5. by form of title (joint tenancy with right of survivorship, tenancy by the entirety)

Distributions subject to probate.

No will. If someone dies “intestate,” that is to say, without having executed a valid will while alive, applicable state law will determine how her assets will be distributed. Significantly, no provision for charity exists under the laws of any state, even if the decedent made substantial charitable contributions during her lifetime.

Will. If a person dies testate, i.e., having executed a valid will, then her assets will be distributed according to the terms of the will.

Either way, the person’s estate will be subject to **probate**, a court supervised process in which the person’s assets are identified; debts, taxes, and estate settlement costs are paid; and whatever remains is distributed (once again, according to the terms of the will if there is one but otherwise as required by state law).

Distributions not subject to probate.

Revocable Living Trust. A revocable living trust (RLT) is sometimes referred to as a “will substitute.” This is not entirely true as a person establishing a RLT should also have a will. However, the will is secondary and usually used only to ensure that all assets of the deceased are part of the corpus of the trust and will be distributed in accordance with the trust provisions. (Hence, its common moniker of ‘Pour-Over Will’ - the will “pours” assets into the trust upon the person’s demise). *Assets placed in a living trust pass directly to named beneficiaries and do not go through the probate process.* This is one of the advantages cited for this type of estate distribution vehicle.

Beneficiary Designation. Regardless of whether a person dies having executed a valid will, certain assets can be distributed without having to go through the probate process, pursuant to written instructions furnished by the person while living. Examples include funds remaining in an IRA or the death proceeds associated with a life insurance policy she owned.

Form of Title. This is a type of concurrent ownership in which co-owners have a right of survivorship, meaning that if one owner dies, that owner’s interest in the property will pass to the surviving owner or owners by operation of law and not through probate. This is called a joint tenancy with right of survivorship (JTROS or JTWROS) and tenancy by the entirety. This form of ownership is perhaps most often associated with real estate but it can also but used with other types of property, e.g., bank accounts.

B. Types of bequests and sample language

There are several forms a bequest can take, and sample bequest language is helpful to have to offer people who indicate that they are considering a bequest commitment. The language can be a discussion point to explain to the donor the benefits of and the differences between, for example, a gift of a specific dollar amount and a gift of the

residue of the estate (or a percentage thereof). More importantly, the conversation offers an opportunity to learn more about the donor's interest in the charity's mission. Donors are usually grateful for any language you or they can provide their attorney.

Below are the basic ways a bequest can be structured, along with applicable specimen bequest provisions. Any sample language a charity actually furnishes a donor or a donor's attorney should first be approved by the charity's legal counsel.

- Pecuniary Bequest (\$) – This is simply a certain sum of money.

"I give the sum of _____ dollars (\$ _____) to ABC Charity, which has a federal tax identification number of _____ and a current address of _____, or its successor organization."

- Specific Bequest (property) – In this instance, the donor is leaving the charity a particular asset or assets, such as real estate, securities, jewelry, works of art, etc.

"I give [100 shares of XYZ Corp. stock/ my guitar collection/ the real estate legally described as follows] to ABC Charity, which has a federal tax identification number of _____ and a current address of _____, or its successor organization."

- Residual Bequest (%) – This is a gift of all (or perhaps only a portion) of what remains of a donor's estate after any pecuniary or specific bequests have been made and debts, taxes, and other estate expenses have been paid. Note: It is not possible for a person to make a bequest of literally all (or a portion) of her entire estate because, at a minimum, some of the assets of the estate will need to be drawn upon to pay estate expenses or other things that need to "come off the top."

*"I give all [**alternative:** _____ percent (___%)] of the residue of my estate to ABC Charity, which has a federal tax identification number of _____ and a current address of _____, or its successor organization."*

- Contingent Bequest (?) – This is a pecuniary, specific, or residual bequest that takes effect only under certain circumstances.

"If my spouse does not survive me, then I give _____ to ABC Charity, which has a federal tax identification number of _____ and a current address of _____, or its successor organization."

In addition to the bequest language given above, ideally the donor will indicate the intended use of their bequest. If the donor is silent on this point, from a legal standpoint the gift is unrestricted and can be used however the organization sees fit. Nevertheless, from a donor relations standpoint, the answer may not be so clear, given indications in the donor's file (sometimes conflicting), oral representations made by the donor over time, or the donor's giving pattern while living. It is better to nip any issues in the bud and have the donor specify her intention in the will itself. *Regardless of how a bequest is*

structured, a donor is free either to allow the charity to use the gift in its complete discretion or to require the charity to use it in some particular way.

- Unrestricted Use

“. . . to be used for such charitable purposes as the governing board of ABC Charity may determine.”

- Restricted use

“. . . to support medical research in the field of cardiology,” “for student financial aid,” “for producing television programs on matters of local interest.”

- Establishment of an endowment

“Provided that at the time of my death this gift meets ABC Charity's minimum funding requirement for an endowed fund, this gift shall be (i) entered into ABC Charity's books and records as the *JOHN AND JANE DOE ENDOWMED FUND*; and (ii) held, invested, administered, and distributed in accordance with ABC Charity's policies as they apply over time to similar endowed funds. This gift may, for investment purposes, be merged with any of the investment assets of ABC Charity. Distributions from the endowment shall be used to [specify purpose, if any; otherwise indicate that distributions may be made without restriction].

“If, at the time of my death, this gift does not meet the minimum funding requirement for an endowed fund, it shall be [*option 1*: held for current use consistent with the purposes set forth above] [*option 2*: added to an existing endowed fund that benefits _____].”

Useful as well is a power-to-vary provision:

“If, as determined by the governing board of ABC Charity, it becomes inappropriate or impractical to use this gift for the specific purpose stated above, then the governing board may, in its discretion, re-designate the purpose of the fund and any distributions therefrom, provided that the fund shall bear the name of _____ and the amended terms shall adhere as closely as possible to my original intent for this fund.”

C. **Types of beneficiary designations.**

Beneficiary designations are where a person indicates in writing other than in a will or living trust who (or what) is to receive the asset upon her passing. Most often this is done through a beneficiary designation form, which is completed at the time the asset is established and may be changed thereafter at any time by the asset owner. Donors can make charitable gifts at death by so designating a charity as a beneficiary.

Beneficiary designations resemble either pecuniary or specific bequests, in that the donor is specifying that either a certain sum of money or a certain asset (or group of assets) is to go to charity upon the donor's death. In some cases, the gift can even be contingent. The main difference is that the gift is not structured through a will or a living trust.

While this type of gift can apply to many assets, the basic options are as follows.

- IRA and Qualified Retirement Plan Designations

A donor can designate that a charity receive all or a portion of what remains in an IRA (regardless of the type of IRA) or in most qualified retirement plans, such as 401(k) and 403(b) plans. The custodian of the account simply furnishes the donor with a form that can be completed and returned to the custodian.

- Bank Accounts [Pay on Death (POD)]

A “pay on death” account involves the donor instructing a bank to pay to a charity all or a portion of what remains in an account when the donor dies.

- Brokerage Accounts (securities, bonds, mutual fund shares) [Transfer on Death (TOD)]

A “transfer on death” account entails the donor giving essentially the same instruction to a brokerage firm with regard to investments held in the account at the time of the donor’s death. The particulars of each arrangement will depend on the bank or brokerage firm in question.

- Life Insurance and Commercial Annuity Contracts

The donor simply completes and returns to the insurance company a form designating that a charity receive all or a portion of the death benefit associated with a life insurance policy or the remaining contract value, if any, associated with a commercial annuity.

VIII. WHEN DO DONORS MAKE BEQUEST INTENTIONS

It is well-accepted in planned gift fundraising that donors make planned gift commitments on their clock, not the charity’s preferred timetable. For those charities that are committed to building a pipeline of bequest gifts, it is necessary to consistently promote the importance of gifts from bequests to the mission of the organization. This effort should involve gift officers making donors aware of bequest gifts during all visits, marketing bequest gifts in both dedicated planned giving communications and general communications sent to the charity’s constituency, and also sharing testimonials from donors who have included the charity in their estate plan. Gift officers need to be conversant about the multiple ways donors can add the charity to their estate plan, some of which do not require the drafting or revising of estate documents. When donors do their estate planning, the charity must be on their mind so that it gets included as part of the estate plan.

IX. THE MARKETING FUNNEL – SEEKING THE BEST BEQUEST PROSPECTS

Not everyone who supports your organization wants to make a bequest to your organization. However, organizations with strong planned giving programs follow some straightforward paths to uncover the needles in the haystacks. One path is looking internally to ask your volunteers,

mine your data, and look for the most likely people to give; then these folks should be the focus of your time and energy. Another way is to spread the word far enough and wide enough to get folks to self-identify. Either way, you want to catch people through what many call “the marketing funnel.”

The marketing funnel is a series of stages that, like a kitchen funnel, gets smaller and smaller as you go down. Much has been written on this subject and some experts recommend having as many as seven different stages to their funnel. For simplicity here we have three stages:

- At the top of the funnel you have a large group of people called Suspects. No one has the time or budget to market indiscriminately so there are some common sense filters applied before everyone in the world is contacted. You are successful reclassifying a Suspect to a Prospect when they have done something to attract your attention to them.
- Prospects are in the middle of our three-staged funnel and the job here is to qualify them so that you spend your precious time and energy on those most likely to make a bequest. Qualified prospects either are found through awareness activities or are identified from within. Qualification can take many different forms but often you are working with 5-100 unqualified Prospects to get every qualified one.
- Prospects move to the Qualified Prospects stage when they raise their hand high enough to be called or are visited, at which point they are at the last stage of the funnel. Those that make a gift are the drips that come out of the funnel. Even though you are working with these Qualified Prospects at this stage you’re doing well to close one donor for each 5-10 you approach for a bequest.

Promoting Awareness

When it comes to increasing awareness of the bequest program of your organization, the communication goal is to disseminate appropriate information to as wide an audience as possible. You want to get as many prospective bequest donors onto a more targeted list (prospects) so you can work to discover which ones are likely to make gifts (become bequest donors). Suspects aren’t the entire universe of living people and who they are often depends on the scope of the mission of the organization. The number of suspects for any given nonprofit varies dramatically from charity to charity; for example, a national cancer center will have more suspects than a 40-year-old boarding school.

This stage of marketing largely entails identifying and attracting the attention of consistent annual fund donors, former/current volunteers or Board members, grateful patients, former students, former faculty members, and other likely planned gift prospects. You want to use the tools available to you to create connections with individuals of this profile and prepare them to be nurtured and cultivated toward a planned gift. It’s likely that people in the organization other than the Development team will orchestrate the broad-based promotional activities that power the awareness stage of marketing, but to ensure that bequest suspects are motivated to become prospects you will have to make sure the message is one of long term needs and deep appreciation for loyal donors.

And unlike asking for general support, you have to overcome the fact that bequests are usually given only to a few of a donor's most cherished charities. Here are a few important ways to reach your audience and increase awareness:

There are many simple ways you can promote bequests. A number of these involve "piggybacking" on communication tools you probably already have in place.

A. Check-off Boxes

Give donors and friends an opportunity to request information about including a bequest in their will or living trust, or to disclose the fact that they have done so. Check-off boxes on annual pledge cards and/or reply envelopes can be as simple as the following:

- "I would like more information about how to include ABC Charity in my will or living trust."
- "I have already included ABC Charity in my will or living trust."

B. Inserts and Taglines

It is easy and inexpensive to include a "buck slip" or "lift note" featuring a bequest message and the legal name of your organization with all gift acknowledgments, as well as in other mailings. It can also be available for distribution at appropriate events. Consider adding a tagline to gift receipts, your letterhead, and e-mail signatures such as "*Please remember ABC Charity in your estate plan.*"

C. Miscellaneous Written Materials

Suggest bequests in every major publication produced by your organization. Make your constituents aware that your organization can benefit from bequests. Awareness comes from *frequent and continuous exposure* to the importance of planning a bequest. A small, boxed-in announcement in a corner of every newsletter and a similar announcement in every annual report will help get the word out. Occasional newsletter articles that highlight the gift of a bequest donor can encourage his or her peers to do likewise. Ask the donor to describe the motivation that led to the decision to plan a bequest, and include a photograph with the story to give it a warm, personal touch. By using existing in-house publications, you eliminate time and monetary costs of developing separate materials.

Create a brochure or fact sheet providing sample bequest language and indicating how bequest commitments will be honored. A generic brochure from one of the companies that specializes in these publications can be relatively inexpensive, whereas a custom brochure tailored to your policies and organization can be quite expensive and go out of date quickly. These and similar items can constitute a "will kit" for use in following up on inquiries.

D. Targeted Mailings

At some point you may want to do mailings targeted to a specific donor group that you have identified, reminding them about the importance of having a will and suggesting that they consider including your organization in their estate plans. The group can be large or small (thousands or just dozens). The key concept is that mailings will be distinguished. A letter to those who have been loyal and consistent donors for many

years will be different, for example, from a letter to retired staff or to those who have made prior gifts of securities.

If possible, all mailings should thank and recognize recipients for the nature of their support thus far. The communication is driven by a wish to offer useful information to donors and to remind them that the charity is there to offer help and guidance at no cost or obligation.

Possible market segments:

- Childless
- Members of a Monthly Giving Program
- Consistent long-term donors
- Board of Trustees members
- Major Gift Donors/Endowed Fund Donors
- Donors with Donor-Advised Funds
- Volunteers

E. Web Site Content

Bequests and other planned giving arrangements should be featured on at least one page of a charity's web site. Ideally, the case for bequests can be made on a separate subpage reached from the main development page (or the planned giving page, if there is one). In turn, the bequest page could link to a separate page with sample bequest language. At a minimum, a visitor to the charity's website (whether a donor or an advisor) should be able to find:

- The charity's legal name, federal tax identification number, and address; and
- Whom to contact at the charity for more information and how to contact him or her.

F. Testimonials

Testimonials encourage prospects to identify with a peer who has already established a planned gift. Readers feel like they can become a part of a special group of supporters. These stories can set the stage for an article about a specific gift vehicle in a newsletter. They also can be used for inserts, brochures, videos, target mailings, and web pages.

Use testimonials from donors wherever possible. Help donors organize their thoughts for testimonials by sending them a list of questions regarding how the gift came about, including their history of involvement with the organization, why they gave, the benefits, etc.

G. Telemarketing

Some organizations have borrowed this technique – commonly used in direct mail fundraising – and applied it to the marketing of planned gifts. A letter is sent to a targeted mailing list and followed up with a telephone conversation. That conversation might be as follows: “Thank you for your ongoing support of ABC Charity. I am calling to let your know how much we appreciate your generosity and to ask whether you would

consider naming ABC Charity in your will. If this is something you may be interested in, we would like to send you our will information kit.”

H. Seminars

You may want to sponsor a seminar to provide information about the basics of estate planning or estate administration. Seminars can be a good way to inform individuals about what’s happening at your charity, provide a service and, at the same time, bring them closer to your organization and its mission.

I. Internal Marketing

Be sure others at the charity, particularly the development staff and anyone who is in a “front line” position of working with the public, are aware of the program. Also, inform the leadership of any volunteer groups the charity may have. Explain their roles in the prospect identification process and ask for referrals. Make sure everyone knows that you are a resource available not just to them but also to donors and prospects.

Lead by example and plan your own bequest. Then encourage your organization’s key staff to do the same.

J. Utilize Volunteers

Whether structured as a formal committee or as a less formal advisory group, consider enlisting volunteers to help you in asking for bequest gifts. Ideally, the notion of a bequest gift will be so imbued throughout your organization that it becomes part and parcel of all ongoing annual and major gift donor conversations. However, a group of volunteers trained in the basics of estate gifts and how to talk with donors about them will help ensure this conversation is being held or will supplement the effort with visits to donors who otherwise would not receive personal asks. This not only leverages what you are able to accomplish given your other job responsibilities, but peer-to-peer solicitations can be more effective with certain donors than staff solicitations.

K. Outreach to Advisors

You might also mail information about your program to estate planning attorneys, trust officers, and other allied professionals, or – if time permits – go visit them. The package could include an annual report, sample bequest language, information about your legacy society, a gift notification form, and a supply of business cards. Advisors will appreciate knowing that you pay attention to those who plan bequests, and that you are prepared to recognize and thank those individuals who are willing to make their plans known to you. (Clients who will not permit their advisors to share this information may nevertheless allow their advisors to inform you of their bequest arrangements on an anonymous basis.) Offer an opportunity for the advisor to visit the charity and learn more about its work first-hand. Finally, if you can make use of the expertise of selected advisors as part of a planned giving committee or similar group, they may well appreciate being asked to participate.

There is one overarching rule about content when looking for bequests - always bring the discussion back to how a planned gift advances the mission of your organization. At the end of the day, conveying your mission is the most critical messaging of all you do from the time of initial awareness through to cultivating and soliciting.

X. DONOR CULTIVATION

Perhaps the most challenging part of a gift officer's role is discovering the true passion of the donor. What will move the donor to make a commitment at a major gift level? What will move the donor from making a relatively low level commitment to making a commitment that will endow a program? What will move the donor's commitment from good to great? It is the gift officer's job to discover that passion, and the job is not an easy one.

Donors are motivated to give for a variety of reasons. Some donors are motivated by a desire to help their local community or as part of their investment in the community in which they live and work. Some donors are motivated by their religious beliefs to give. Yet other donors feel an obligation to repay charity for the benefits they received in the past. This motivates many to support higher education as a way to thank an institution that helped them succeed. The grateful patient who donates to a healthcare charity also falls into this category.

Cultivating the donor often requires creativity on the part of the gift officer. It may also require starting off slowly, enabling the donor to see the benefit of her philanthropy, and then taking the donor to the next philanthropic level. In higher education, this is a practice often used in providing financial aid to students. The donor makes an annual gift that is the equivalent in amount to the spending rate from an endowed scholarship. For example, a donor who donates \$5,000 annually is making a gift equivalent to a 5% spending rate from a \$100,000 endowed fund. If the donor meets her scholarship recipient she may be motivated to make a gift to permanently endow a scholarship. While she may be unable to make a \$100,000 commitment during her lifetime, she may be capable of a \$100,000 blended gift, with some of the gift to be made during life and the remaining gift to bring the endowment up to \$100,000 to be made from an estate commitment.

XI. IN THE DONOR'S LIVING ROOM – ASKING FOR AN ESTATE COMMITMENT

The function of marketing is to raise awareness of donors that the charity welcomes gifts from estates. The hope is that donors will self-identify that they have an interest in making a planned gift. The most effective way to obtain an estate commitment is with one-to-one contact with the donor. The fundraiser must be aware that donors will react differently to this discussion. Sensitivity to the donor's response is critical on the part of the fundraiser.

A. Talking death, money, and family

Donors differ greatly, especially when it comes to matters of death, money, and family. To have a comfortable conversation about estate planning in general and bequests in particular, you need to know your donor well and to be alert and sensitive to how the conversation is going:

- some donors will willingly share sensitive details with you; others will be very reticent
- some donors will be sophisticated; others will know next to nothing about estate planning
- some will enjoy discussing technical details; others will not want to spend any time at all on such matters

B. Pursuing the topic

Even though people find it difficult to bring up the subject of bequests, it can nevertheless be incorporated into conversations you are already having.

- If you have established an element of rapport with the donor, you can ask the question in this respectful way: “Many of our donors who want to ensure the future of our mission have included ABC Charity for a gift from their will or trust. Do I have your permission to ask if you have included ABC Charity in your estate plan or have you considered that?”
- If you are already talking with a donor about gifts to your charity and he or she says, “I just am not in a position to make an outright gift now,” you could reply, “Well, you know . . . something you might want to think about . . . is putting a provision in your will . . .”
- If you are thanking your donor for longtime support, you can ask. “Have you considered endowing your support through a gift in your will or trust? Some of our donors have made provisions for an endowment gift in their estate plan that is approximately 20 times their annual gift. This ensures that the support they currently give now will continue in perpetuity.”
- You can gently ask if people have had a chance to get their estate plans in order.
- You can ask if they are aware of your charity’s legacy society and use that opportunity to explain the reason it exists. It is also a way of letting them know that others have made gifts similar to what you are asking for.
- You can’t go wrong with offering information that you believe to be helpful. Even donors who are the “let’s keep it simple” types are invariably grateful for efforts to share useful information and provide them with encouragement and resources. You need to be tuned in to what is appropriate – and to know when to hold back.
- If the conversation seems to be getting awkward or if the donor states that they choose not to share that information, thank them for their candor and move the conversation away from the topic. There can be many different reasons why a donor has not implemented an estate plan. Even if they have, they may not feel comfortable talking about it. Emotions that are often involved include indecision, apathy, guilt, or fear.
- Always suggest that the donor consult their professional advisors when considering a gift to charity in their estate plan. While gift officers may have a more in depth understanding of the various ways for donors to make estate gifts to charity, it is not the gift officer’s function to take the place of a professional advisor. Written communications on the topic of estate gifts should always contain a sentence encouraging the donor to consult their professional advisor.

Tips:

- ✓ Tell your donor that it's easy to do.
- ✓ Remind them that the plan is not written in stone – it can be changed as needed.
- ✓ If they fear getting a flood of solicitations, tell them you will protect their privacy.
- ✓ If they fear too much fuss, tell them that their gift is important, however small, and reassure them they will be able to choose their level of involvement.
- ✓ If they worry they are disinheriting children or other relatives, encourage them to get their family involved. Assure them that you know they will want to take care of family and loved ones first and that you are simply asking them to consider a place for your charity alongside them.

C. Don't miss the opportunity to learn more about the commitment

If the donor discloses that they have included your organization in their estate plan, don't miss the opportunity to learn more about the nature of the estate commitment. By disclosing that your organization is in their estate plan, the donor has opened the door to possibly discussing the details of the commitment. Your goal is to learn if the commitment is restricted or unrestricted and, if restricted, is the commitment for an organization priority. Explain to the donor that your organization wants to be sure it can honor the donor's wishes with this generous gift. Once the topic is being discussed, donors will often divulge full information about their bequest gift, including the amount.

If the donor discloses that the bequest is restricted for a specific purpose, ask the donor to send the paragraph in the will or trust showing the restriction. Donors do not always recall accurately the specifics of a restriction. Also, the donor may wish to revisit the restriction, especially if the estate document was drafted years ago.

If the donor shares that the estate gift is contingent, it is useful for the organization to know the details of the contingency.

XII. STEWARDSHIP & RECOGNITION – THE LEGACY SOCIETY

Since only a very small percentage of a charity's constituents will make an estate commitment, it is good stewardship to strengthen the donor's relationship with the charity and to let the donor know how appreciated the estate commitment is to sustaining the future of the organization. The hope is that both "new" and "uncovered" bequest donors will, as a result of recognition and good stewardship, *at least* continue to keep the provision in their estate plans and *at best* a) increase the level of their bequest, b) make additional planned gifts or c) accelerate their gifts by implementing life income plans or by making outright contributions.

A. Stewardship begins the moment the non-profit is informed of a bequest expectancy.

The stewardship process begins at the moment the non-profit is informed of the bequest expectancy, not necessarily when the development officer finds out. While often it is the development officer who is the first to know, this is not always the case. Make sure to train other staff, volunteers, and Board members so that if they are the first to be notified, they know what to say and whom they should relay the information to for follow-up.

Think ahead of time about what you want their response to be and devise a system for timely referrals.

Determine what the follow-up will be and how you will manage donors once you are notified of their bequest arrangement. Have your “thank you/welcome” packet at the ready, having already thought through the wording and signatory of the letter and prepared the reply form. Know who will acknowledge and thank the donor for what.

Before making the first call, take a moment to look at your database and learn about your donor. Has the donor given recently? Check on patterns of giving. Has the donor given over a long period of time?

When you call, thank the donor personally not just for the bequest but for yesterday’s gift, for last month’s gift, or for loyal and longstanding support in general. Also, be sure to thank the donor for sharing with you information about the bequest. In addition, you should:

- Emphasize respect for confidentiality.
- Mention that the donor is now eligible to be a member of your legacy society by virtue of the bequest. If no such society exists, don’t worry. Say that you will try to keep the donor involved in things that are going on.
- Emphasize that the donor can choose his or her level of involvement.
- Assure the donor that the gift is important no matter how small (or how contingent!).
- Make clear that you can help ensure the donor’s wishes are carried out and that you are a resource and would welcome any questions.

Once a donor has been welcomed into a charity’s community of bequest donors, the relationship should continue to grow. Indeed, the focus now shifts to deepening that relationship through ongoing contact by cards, phone calls, and personal visits.

B. The Legacy Society

A legacy society is not an absolute necessity for a planned giving program. Stewardship can certainly be done through the usual means without one. However, it has become a best practice in planned giving for several reasons. A legacy society:

- formalizes stewardship and ensures that it happens. Too often planned giving donors fall between the cracks at a non-profit and the only time the donor hears from the non-profit is a thank you upon notification (sometimes not even that!). It is not uncommon for donors to notify a charity multiple times that the charity is included in the donor’s estate plans. This happens when reply cards to planned giving marketing communications include a check-off for “I have included ABC Charity in my estate plan.” Some organizations will add: “and I’ve not notified you previously.” It is important to maintain a database that shows if the donor has received previous acknowledgments for their estate commitment. However, even if the donor has been previously thanked it is good practice to send a new acknowledgment each time the donor notifies the charity of the estate commitment.

- creates an identity and, if done correctly, helps the donor feel a part of something special. Seeing themselves as a part of like-minded community helps reinforce their gift decision and makes them good about arranging it.
- provides the means of recognizing your bequest donors. What does it say if a non-profit offers all sorts of giving levels, clubs, and recognition opportunities for donors of outright gifts but is silent for those who name the non-profit in their estate plans? While some donors will say they do not want the organization to make a fuss (ask if they are being completely honest), many others like the attention.
- can be a very useful tool for initiating planned giving conversations and promoting bequest gifts generally.

So if a non-profit is intent on increasing its number of planned gifts, it should most often look to the day when it will establish a legacy society of its own. Here are some considerations that come into play in doing so.

1. Membership - Be Inclusive

Legacy societies add value by providing a mechanism for deepening and strengthening the relationship planned giving donors have to your non-profit. This will result in the retention of what are otherwise revocable gifts, the arrangement of additional planned gifts (as well as outright ones) by individual members, and an increase in the size of these gifts. There is only an upside to being as inclusive as possible and very little, if any, downside.

This means that all bequest donors should be counted as members, regardless of gift size or if it is contingent. By including a non-profit in his or her estate plans, the donor has shown a commitment to the non-profit and a desire to leave a legacy. Beyond being the right thing to do, greater contact and stewardship through a legacy society will help small gifts to grow and contingent gifts to become certain gifts.

While it is a very good idea to eventually obtain a copy of the gift documentation, or the relevant portion thereof, do not make this an initial requirement. Instead, focus on having something in the file that is written and memorializes the gift. Next best to the actual gift documents is a “gift notification form” that provides basic information about the gift (including an approximate indication of gift size), notes any restriction as to use, and gives permission to be recognized publicly. However, any written indication from the donor should be acceptable, be it an e-mail, a letter, or the like. If it is an oral commitment and no gift notification form is forthcoming, compose a letter to the donor that expresses your understanding of the gift.

With good stewardship, there is a strong likelihood that the donor will eventually share their gift documentation. It helps to let donors know the information will be kept confidential and that your purpose in asking is to make sure their gift can be carried out as desired. It serves both the donor and the non-profit to make sure that 1) the intended organization is identified correctly, which is especially important for

non-profits with different branches or offices, 2) you can meet any gift specifications or restrictions, and 3) any possible confusion down the road is minimized.

2. Legacy Society Membership Benefits

There are some more or less standard benefits offered by non-profits to members of their legacy societies. Many donors do not want the charities they support spending money on items for which the donors have little use. Devote some time to thinking about benefits for legacy society members that best reflect your non-profit and the mission your donors feel so strongly about. Membership certificates, membership pins, mementos such as mugs and bookmarks, and invitations to special events are just a few of the benefits that can be given to members of a legacy society.

3. Recognize Donors

Public recognition offers the double advantage of recognizing donors while building awareness about your program. If donors are reluctant, let them know that public recognition is, in many ways, a second gift to your non-profit as it may inspire others to be equally generous. For many donors, this latter point is an appealing reason to be a member of the legacy society.

Look for as many opportunities to recognize your donors as you can. At a minimum, integrate them into the recognition given to other donors at your organization.

- If you have a physical donor recognition wall, add a section for the legacy society.
- Include them in donor listings in the annual report and other non-profit publications.
- If the non-profit has a planned giving newsletter, highlight new members on a periodic basis.
- Include them on the non-profit's website.

A note of caution: show great respect for a donor's preference for anonymity or confidentiality and consider proactively seeking permission to publish any names. In other words, weigh carefully the pros and cons of not listing anyone's name without their express permission, versus letting donors know you will list their names unless they "tell you otherwise."

4. Hold a Dedicated Legacy Society Event

Try to offer some type of event during the year that is for legacy society members only. Donors enjoy the chance to meet and mingle with like-minded people and it helps build a sense of a special community especially dedicated to the future of the non-profit. With this in mind, the primary goal of the event should be to recognize and thank your members and convey to them a feeling of special status. A secondary goal is to educate your donors about the activities of your organization and create a greater level of involvement.

This does not necessarily have to be a large annual event. The key is to make it be as big or as small as your non-profit can sustain, focusing on the quality of the experience. It might be something relatively simple such as coffee with the President or perhaps a tour of a new facility. If smaller groups are more manageable, offer small group meetings with the President (coffee, lunch) at different times during the year (the number will depend on the number of possible attendees). This gives flexibility to you as well as to your donors, who may not otherwise be available if a single date is chosen.

While an annual event just for legacy society members is not a necessity, for most non-profits it is a good goal to aim for. Make the event important and have board members and the executive director attend. These leaders should convey the strength, momentum, and future plans of your organization and recognize the impact deferred gifts of society members will have. Daytime events are usually preferable to nighttime.

5. Don't Limit Stewardship to Once a Year

While an annual gathering can be a very important part of stewarding your legacy society members, don't make it the only activity. Some of the very best stewardship, provided that time permits and the donor allows it, is regular ongoing personal contact through correspondence, visits, and phone calls. At a minimum, seek to have a personal visit or substantive phone call with each member of your legacy society once a year. If your legacy society is too large to do this, enlist the aid of volunteers – perhaps Development Committee members or general Board members. Or look to have this duty shifted to the portfolios of major gift officers if that is an option at your organization. They might be able to do these visits as a part of other visits they are making in the area, places where you might not have an opportunity to go. Some donors are reluctant to meet. This is where having a reason to visit such as a delivery of the membership certificate, pin, or memento can be helpful.

Consider personally thanking legacy society members when they make annual gifts, as most will do, with either a call or a hand written note. Once again, Board members or executive staff could be most helpful in this endeavor.

Have a means of distinguishing the legacy society members from others at the event. Something as simple as stickers on nametags (either color coded or ones made with the legacy society logo) will help donors feel special and will be a conversation starter – others will ask what the sticker means and how they can be members, too.

Recognize and acknowledge the legacy society members at the event, if appropriate. If a donor is being recognized for reaching a certain outright giving level, be sure to mention if they also have a planned gift.

C. The Legacy Society Survey

It is estimated that charities are informed in advance of only approximately 30% of the bequest gifts that they will ultimately receive. For those donors who have disclosed the

existence of an estate commitment, the charity should be proactive (but tactful) in trying to learn as much as possible about the commitment before it is realized. If the commitment is unrestricted, there is no issue except possibly to attempt to learn how much the commitment is for. However, if the commitment is restricted the charity should attempt to learn the details about the restriction. Is the restriction for an organization priority? Is the commitment for a popular program that is overfunded? Does the program still exist?

Personal contact is always the preferred means of communication with a donor whenever a gift matter is being discussed. The personal approach is even more important where a gift officer is attempting to learn more about a planned gift commitment. However, for those organizations with large numbers of members in their legacy societies, the legacy society survey will in all likelihood be the most efficient way to obtain information about the estate commitments of legacy society members.

A list of members in the legacy society should be reviewed first so that development staff can determine if some members should not be included in the survey. The mailing should contain a personalized cover letter explaining the reason for the survey, a questionnaire, and a reply envelope with a first class stamp. Confidentiality should be assured. Both the cover letter and the questionnaire should make it clear that by completing and returning the form the estate commitment does NOT become binding and that the donor can still use the assets intended for the gift should that become necessary. The letter should offer the opportunity for the donor to call a gift officer at the charity should there be questions or if the donor would prefer to have a conversation about the estate commitment.

What information should the charity request?

- Age of the donor
- Source of estate gift – i.e. will, living trust, beneficiary designation in a retirement plan or in a life insurance policy, upon termination of a donor-advised fund, charitable remainder trust administered outside of the charity, some other gift vehicle
- Is the estate commitment contingent upon the death of a surviving spouse or partner (if so, also ask for date of birth of the surviving spouse or partner)
- Specific or residuary bequest
- Amount of the gift or anticipated amount if residuary
- Restricted or unrestricted (if restricted, the exact wording)

If a donor is willing to send a copy of a paragraph from a will or trust, or provide account information for where the assets will come from, that is useful information, especially if the gift is restricted. Donors will frequently forget the exact wording for their gift, and just a few words can significantly affect the charity's use of the gift.

(A legacy society survey form is attached as Appendix A.)

XIII. ADMINISTERING REALIZED BEQUESTS

Whereas a bequest made through a living trust or from an account with a beneficiary designation should take relatively little time to be distributed, a bequest made through a will is going to be subject to probate. Probate is essentially an unpredictable process. Not only may assets be hard to track down, difficult to value, or hard to sell, but often there are unforeseen creditor issues and family disagreements. Moreover, the details associated with the process will differ considerably, depending on which state's law governs.

Nevertheless, it is possible to identify some points with general applicability:

- One person or office at the charity should be in charge of monitoring bequest gifts, and periodic reminders should be sent to staff to ensure that everyone in the organization knows to whom this responsibility has been assigned.
- Good communication will reduce the risk of misunderstandings and inefficiency.
- In the case of a pecuniary bequest or in the case of a typical specific bequest, you will only have to anticipate the timing of the distribution. In the case of a residuary bequest, your antennae should be up!
- If legal issues arise, the charity's legal counsel should be able to advise the organization as to whether legal action should be taken. Obviously, it is best to avoid litigation if possible, due both to the cost and to the potential for adverse publicity. On the other hand, the charity, like the person or entity administering the estate (usually called the executor/executrix or the personal representative), has an obligation to the donor to see that his or her wishes are carried out properly.

In any event, a charity will likely need to consult its legal counsel whenever there is ambiguity with regard to the wording of the bequest provision, the potential for a will contest, or a situation in which the person or entity administering the estate is not doing what he/she/it is supposed to be doing.

Effective bequest administration brings with it a number of "side" benefits, in terms of creating good will among heirs of the donor, other supporters of the organization, additional charitable beneficiaries of the estate (if relevant), attorneys and other professional advisors, and "the public" at large. In this regard, the following are ways for a charity to honor the donor and appear worthy of the gift in the eyes of others:

- make sure the gift arrives in a timely way;
- make sure the distribution is correct;
- make sure the donor's wishes are carried out and the gift is used appropriately (check for ambiguities, conflicting directions – make it your job to represent the donor's interests within your institution);
- include biographical information in your files and make sure it is available to the recipients of the gift;
- if applicable, name the fund or account after the donor;

- publicize the gift as an inspiration/example to others;
- show supporters and others that the gift is well used and appreciated;
- talk enthusiastically about the gift to your governing board; and
- keep relatives and the person or entity administering the estate informed about any fund that may have been created through the bequest and about the recipients of distributions from the fund.

In particular, you can be a source of comfort to bereaved relatives and friends. Many people are surprisingly grateful for your interest.

Also, how you respond to a notice informing you about an estate gift is a good indication of the responsiveness and effectiveness of your organization. This is an opportunity for important exposure to the advisor community. Respond quickly and enthusiastically. *Remember that comparisons may be made.* Provide tax identification numbers, and assist in any way you can. Furthermore, take advantage of this opportunity to tell advisors of the services your organization can provide, such as providing sample bequest language and preparing illustrations for life income gifts. Send your “advisor information packet” to those you are working with at the moment.

Finally, if charities in addition to your own are beneficiaries of the donor’s estate, consider:

- sharing resources, knowledge, and costs;
- joint representation if you need legal counsel and your interests are not adverse; and
- designating one charity to act as agent for the entire group.

XIV. CONCLUSION

Charities, large and small, can have a bequest program. The beauty of such a program is that the cost to implement and maintain the program can be minimal. Yet, the potential return on investment is significant. As a general rule, gifts from estates won’t happen on their own. A strategic plan to promote bequest commitments, supported by charity leadership, can provide an income stream that will ensure that the charity can carry on its mission into the future. Don’t let this opportunity pass by your organization.

Appendix A – Legacy Society survey form



Legacy Society Member Survey

MEMBERSHIP FORM

The Charity celebrates the commitment of forward-thinking donors who have provided for the future of The Charity in their estate plans, wills, trusts, retirement plan and life insurance designations, life income gifts, or other planned gifts. With our gratitude, we welcome you into the Legacy Society.

Name _____

Address _____

Phone number _____ Email _____

I/We wish to be referred to as _____
in any donor recognition materials. My date of birth is _____

Include my spouse/partner _____
as a member. My spouse/partner's date of birth is _____

I/We wish to remain anonymous and do not wish to be recognized publicly at this time.

Optional information to help us plan for the future:

I/We are pleased to acknowledge that I/we have named The Charity as a beneficiary in my/our:

- | | |
|---|---|
| <input type="checkbox"/> Will/Living Trust | <input type="checkbox"/> Donor Advised Fund |
| <input type="checkbox"/> Retirement Plan | <input type="checkbox"/> Charitable Remainder Trust |
| <input type="checkbox"/> Life Insurance Policy | <input type="checkbox"/> Charitable Gift Annuity |
| <input type="checkbox"/> Payable on Death Account | <input type="checkbox"/> Other (please specify) _____ |

My/our gift is:

- Unrestricted
- Designated specifically for _____
- Not yet determined. Please contact me to discuss options.

The Charity will receive this gift (check all that apply):

- Upon my death Upon the death of my spouse/partner Other _____

The estimated value of my/our gift is:

\$ _____ as a stated amount in my estate plan.

_____ % of my estate, currently valued at \$ _____ for The Charity.

_____ % of my retirement plan/life insurance, currently valued at \$ _____ for The Charity.

Signed _____ Date _____

Signed _____ Date _____

The Charity recognizes that this gift is subject to change depending on personal economic circumstances. This form is not intended to be a legally binding pledge. Information you provide will remain confidential.

Please mail this Membership Form to The Charity, Office of Gift Planning, 129 Mount Auburn Street, Cambridge, MA 02138. For more information call, 617-555-5555, or send an email to giftplanning@pgcalc.com.