

PG Calc YOUR PARTNER IN PLANNED GIVING SUCCESS

Best Practices in Gift Acceptance Policies



Date: December 21, 2017
 Time: 1:00 – 2:30 Eastern
 Presenter: Gary M. Pforzheimer
 President, PG Calc

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Agenda

- I. Creating Gift Acceptance Policies
- II. General Development Policies
- III. Acceptable Assets
- IV. Acceptable Gift Vehicles
- V. Endowment Policies
- VI. Questions and Answers


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I. Creating Gift Acceptance Policies

- What are they?
- Why have them at all?
- Consequences of not having them ...

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Policies v. Procedures

- Policies
 - ✓ A set of rules on acceptable assets and gift vehicles to minimize risk and maximize gift potential
 - ✓ Not a guide to gift planning techniques
- Procedures
 - ✓ Guidelines for the processes and systems for operating a gift planning program
 - ✓ Descriptions of the internal practices for accepting and administering gifts


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Gift Acceptance Policies

- Some charities have planned giving specific policies
- Others may be part of more general policies applicable to all kinds of gifts
- Purpose is two-fold
 - ✓ Protect donors
 - ✓ Protect the charity
- Board should approve gift acceptance policies

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Drafting Gift Policies

- Define assets and gift vehicles that can be accepted without approval of charity leadership
- Determine who has authority and what due diligence is required to accept more complex assets and gift vehicles
- Be sure the right people draft and approve them


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II. General Development Policies

- Gift acceptance committee
- Donor advised funds
- General situations
- Counting and crediting
- Compliance
- Stewardship and pledges


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Authority and Due Diligence

- Gift acceptance committee
 - ✓ An ad hoc group
 - ✓ Members depend on asset and/or gift vehicle
 - ✓ Outside experts as needed
 - ✓ Is Board approval also required?
- Manage gifts requiring prior scrutiny before acceptance
 - ✓ Real estate
 - ✓ Closely-held business assets
 - ✓ Tangible personal property


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Authority and Due Diligence

- Reputational risk?
- Committee manages potential liability of gifts
- Due diligence weighs risk v. benefit of gifts
- Process should be transparent, fair, and evenly applied
- Some risks acceptable


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Donor Advised Funds

- May not be used to satisfy legally enforceable pledge
 - ✓ Permissible to enter into statement of intention
- No more than an incidental benefit
 - ✓ Gala tickets, auction items, etc.
 - ✓ Penalty tax of 125% of prohibited benefit if more than incidental
- No bifurcated gifts
 - ✓ DAF for charitable portion, cash for non-charitable


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Restricted Giving

- Gifts restricted to charity's mission generally acceptable
- Restrictions beyond mission subject to approval and possible rejection
- Endowments for particular purposes, chairs, and naming opportunities
- Endowment policies may need their own document


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Appraisals

- Donor's responsibility
- Who should pay for them?

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Counting and Crediting

- Beyond the scope of this talk!
- Various methods and kinds
- Should be decided and included in policies


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Stewardship

- Stewardship grid for all gift types
 - ✓ Equity
 - ✓ Transparency
- Written policies
- Written procedures
- Operation of legacy society

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Regulatory Compliance

- State charitable solicitation laws
- State compliance to issue gift annuities
- State and Federal disclosures relating to gift annuities
- Initial filings
- Annual renewals


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Pledges

- Pledge agreements
- Timing
- Enforceability


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III. Acceptable Assets

- Cash and marketable securities generally acceptable without oversight
- How to handle gifts of foreign currency?
- Level of due diligence proportional to the potential liability
- Some due diligence can be specified, some left to gift acceptance committee

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Publicly Traded Securities

- Valuation
 - ✓ Valued as of date of transfer (Avg. of high & low)
 - ✓ Proceeds of sale irrelevant
- Immediate sale?
- Gift must be before commitment to sell (tender offer)


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Gifts of Real Estate

- Two primary concerns:
 - ✓ Liabilities: environmental, carrying costs, premises liability
 - ✓ How to convert property to cash
- Phase I environmental audit, title search, liens, lawsuits, marketability study
- Charity appraisal
- Engage professionals to assist


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Closely-Held Business Assets

- Valuation
- Marketability
 - ✓ Plan to convert to cash
- Due diligence
 - ✓ Are there restrictions on transfer?
 - ✓ Is security marketable?
 - ✓ What are tax consequences to charity?


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Gifts of Life Insurance

- What kinds will you accept?
- Will you pay premiums?
- Will you purchase new policies?


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Oil and Gas Interests

- Not just for Texans!
- Get help!


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Tangible Personal Property Policies

- Mission related or unrelated?
 - ✓ Sell or keep decision
 - ✓ Public and donor relations issues
 - ✓ Carrying costs (insurance, storage, transport, etc.)
- Form 8283 if over \$5,000
 - ✓ Form 8282 if sold within 3 years
- Acceptable if easily monetized
- Acceptable for gift annuities?


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IV. Acceptable Planned Gifts

- Bequests and beneficiary designations
- Bargain sales
- CGAs
- CRTs
- CLTs
- RLEs
- PIFs


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Acceptable Planned Giving Vehicles

- Bequests, trusts and beneficiary designations
 - ✓ Specify title of person who manages administration
 - ✓ Gifts subject to potential liability require oversight
- Bargain sales


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Acceptable Planned Giving Vehicles

- Gift Annuities
 - ✓ Minimum ages
 - ✓ Minimum gift amounts
 - ✓ Maximum gift amounts?
 - ✓ ACGA rates? Should you cap rates?
 - ✓ State regulatory compliance

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Acceptable Planned Giving Vehicles

- Charitable remainder trusts and lead trusts
 - ✓ Will you act as trustee?
 - ✓ If yes, who will manage?
 - ✓ Gift and age minimums
- Charitable lead trusts
 - ✓ More complex than CRTs in addition to same considerations


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Acceptable Planned Giving Vehicles

- Retained life estates
- Pooled income funds


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V. Endowment Policies

- Planned giving policies are not the same as endowment policies
- Planned gifts may be unrestricted, designated for a current need, or for endowment
- Most endowments built through planned gifts


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Endowment Policies

- Investment policy for the endowment
- Role of board in administration and oversight
- Criteria for selection and evaluation of investment managers
- Distribution policy
- Criteria for establishing funds within the endowment


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Questions?



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Still Have a Question?

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