CHARITABLE GIFT PLANNING NEWS

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Gift Acceptance Policies—Why, When, What, How And Who

by Barbara Rhomberg*

To a struggling charity, the idea of refusing to accept a charitable gift is a strange concept. After all, whatever the gift is, and whatever its worth, the gift is more than the charity had before, right? Wrong. Some charitable gifts are more trouble or expense than they are worth. Some gifts expose the charity to more potential liability than they are worth.

Why and When

The main goal of a gift acceptance policy is to avoid accepting gifts that will harm the organization. The policy should help the charity to evaluate the risks, costs, and benefits of a proposed gift before it is made. The charity can then decide whether it is in the charity's best interests to accept the gift, reject the gift, or renegotiate the gift with the donor.

The classic "problem" gift was described thousands of years ago in *The Iliad*. To defeat the Trojans, the Greeks built a huge wooden horse and rolled it up to the gates of Troy. The unsuspecting Trojans opened the gates and pulled the wooden horse inside. Once night fell, Greek soldiers who were hiding in the horse's belly emerged to sack the city. Clearly the Trojans needed a gift acceptance policy. If they had checked out the wooden horse more carefully before they opened the city gates, Troy might still be around today. There is a lesson here for charities: Check out potential gifts *before* you open the gates.

A second purpose of a gift acceptance policy is to speed up the process of closing gifts. It seems like donors always come to charities with the most difficult and complex gifts in December, and of course the donor is always anxious to complete the transaction by the end of the year. When a major gift is on the table, you don't want to be scrambling to figure out what to do. To the extent that a charity has thought through potential issues in advance, made decisions about how to handle those issues and how to evaluate the gift, and identified who is authorized to make the decision, the organization can respond to donors and close gifts more quickly.

Finally, gift acceptance policies are a tool to help development staff say "no" tactfully. Nobody wants to turn away a contributor, but sometimes this has to be done in order to protect the charity. It might be a little easier if the charity can explain the decision in terms of an established policy. If the donor understands the charity's evaluation process and concerns, the donor is more likely to understand if the charity later refuses the gift.

Some organizations have additional goals for their gift acceptance policies. For example, some charities use their gift acceptance policy as a tool to educate donors or development staff, and may even post the policy on their website. Others address stewardship or fundraising ethics in their policies. If your organization can get extra mileage out of its gift acceptance policy, that is great; but the priority of the policy should be protecting the charity from bad gifts while facilitating the evaluation process.

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What, How, and Who

Broadly speaking, a gift acceptance policy should consider what, how, and who. "What" covers what types of gifts a charity will accept. This means what types of assets, what kinds of planned gifts, what restrictions, and so on. "How" means how the charity will evaluate the gift. This includes checklists of issues to consider, or checklists of documents to review, in arriving at a decision. For some gifts, the review process may include getting outside advice. For example, the policy may require an environmental assessment for gifts of real property, or legal review of a charitable remainder trust (CRT) if the charity is going to serve as trustee. The use of outside experts may be essential for a charity contemplating a complex or high stakes gift. The gift acceptance policy should give staff the authority to hire experts when appropriate to help with the evaluation process.

"Who" means who will evaluate the gift and decide on behalf of the charity whether to accept it. The success of the policy in protecting the charity is going to depend on the good judgment of the people who make these decisions.

Most gift acceptance policies spend a lot of ink on "what;" in other words, they include lists of the various types of assets and the forms of planned gifts that the charity will accept. However, the "what" part of the policy *by itself* is not that helpful. For example, I've never yet seen a gift acceptance policy that said "We don't take gifts of real estate," even though real estate gifts can be among the most problematic for a charity. The "what" part of the policy is not going to protect the charity, because it does not say which real estate gifts to take and which to reject.

The key to a successful gift acceptance policy is going to be the "how" and the "who" parts of the document. The "how" part of the policy will help the decision makers arrive at the right decision. Some gift acceptance policies spell out in significant detail how the charity should investigate a potential real estate gift, for example. The policy may cover what documents should be obtained, what level of environmental review isneeded, what problems to watch out for, and so on.

The "who" part of the policy is crucial, because ultimately the decision will come down to a judgment call. It is the responsibility of the Board to decide who will make these calls for the organization. Through the gift acceptance policy, the Board of the charity decides who is authorized to accept what kinds of gifts.

The "how" and the "who" parts are also important for the second goal of a gift acceptance policy—speeding up the process of closing gifts. Procedures and issue checklists can help the charity review potential gifts more expeditiously, and having a clear policy regarding who is authorized to accept a gift can avoid confusion and delay.

Varieties of Lemon Gifts

Gifts that could be problematic, or "lemons," come in many varieties. Once your charity identifies a type of gift that is potentially a lemon, the policy should address how the charity is going to evaluate it and who is going to decide whether or not to take it.

Problems with the Asset

The most typical problem is hard-to-handle assets. To put it bluntly, people will try to give junk to a charity. By junk, I mean not only broken toasters, but also worthless partnership interests, unmarketable real estate, and other assets the donor is eager to unload. Also, property that is not junk may still be too costly or risky for the organization to handle.

Factors to consider

In general, a charity should look at five factors to evaluate assets:

- Whether it will cost the charity money to own the asset
- Whether it will cost the charity money to sell the asset
- Staff and volunteer time required to manage or sell the asset
- Whether owning or selling the asset will expose the charity to liability
- The marketability of the asset and the cash flow it can be expected to generate

The first four factors relate to possible costs the charity will incur as a result of accepting the gift; these costs should be weighed against the potential benefits. Unless the gift is something the charity can use in its day-to-day activities, the benefit a charity is looking for is money in the bank. Usually a charity will not get cash until it sells the asset, so marketability of the asset is key; occasionally a charity may want to hold an investment asset that generates an income stream. Either way, the fifth factor looks at what cash will be realized and when.

When to Say "No"

A charity should refuse a gift if the time and costs of handling the asset are disproportionate to its expected value, or if the charity's exposure to liability is excessive, or if the charity's prospects for realizing cash are distant and disproportionate to the current costs of holding the asset. If a gift seems like a loser in this analysis, that is not necessarily the end of the story. Sometimes if a charity identifies potential problems ahead of time, it can work with the donor to structure the gift in a way that takes care of the charity's concerns.

Applying the Factors

A gift acceptance policy will typically list various types of assets, and address how the charity will handle proposed gifts of each type, based on the five factors discussed above. The most common types of gifted assets are cash, publicly traded stock, real estate, closely held business interests, and insurance gifts.

Gifts of Money or Publicly Traded Stock

Cash gifts are always good. Stock that trades on a stock exchange is also easy to handle. It costs nothing to own (except for fees the charity already pays for brokerage accounts); it does not cost much money, or take much staff time, to sell; there is no exposure to liability; and the charity can easily turn the gift into cash. Therefore, a gift acceptance policy will not need to say much about gifts of cash and publicly traded stock. The policy only needs to cover who is authorized to accept such gifts.

Real Estate

Real estate gifts can be fantastic for charity, but an organization can also run into big problems on any of the factors. Real estate costs money to own; for example, there are insurance costs, maintenance, and property taxes. For a condominium, there are association fees. Real estate also costs money to sell. The charity has to pay the real estate agent and the title company, and the charity might also have out-of-pocket expenses for cleaning, repairs, and inspections.

Liability is a huge concern. First and foremost, there is a risk of environmental liability. If the charity is in the chain of title, it

could be exposed to liability for toxics on the property under state and federal environmental laws. Before accepting real estate, a charity should undertake some investigation to assess that risk. Owning property also exposes a charity to liability of the slip-and-fall variety; it must maintain insurance to cover this. Finally, there is also potential liability to the buyer for problems with the property, including problems with title.

Marketability can be a problem for real estate gifts, too. Commercial property or undeveloped land can be difficult to sell. It may be hard to believe given our recent overheated market, but you cannot always count on a quick sale of residential property either.

A charity needs to balance the costs and risks of accepting a real estate gift against the expected value of the property. When estimating value, a charity should check for any mortgages or liens on the property which will be paid out of sale proceeds. It also should review any leases or contracts that the property will be subject to, since lease obligations can greatly affect value. If the property is subject to debt, the charity should also consider whether part of its proceeds from the sale of the property might be subject to unrelated business income tax (UBIT).

Real estate gifts are high stakes, and thorough evaluation is essential. Knowing ahead of time what questions to ask, what documents to obtain, and how to approach the evaluation process will help an organization do a good and expeditious job in deciding whether to accept a real estate gift. The high stakes also make this an important area for the Board to set policy by deciding who is authorized to accept a real estate gift, and what evaluation procedures should be used.

Closely Held Businesses

Gifts of closely held business interests also require careful evaluation. These assets include stock in corporations that are not listed on stock exchanges, and ownership interests in other types of business entities like partnerships and limited liability companies. There is a tremendous amount of value in businesses that are not publicly traded. However, marketability is often an issue—it can be difficult to turn that value into cash. Usually charities are offered a minority stake in the business, and not many investors want to buy a noncontrolling share of someone else's family business. Often the only potential buyers are the other owners of the business, who may be relatives of the donor.

Also, there may be legal restrictions on transferring small business interests. Small business owners often enter into agreements with the other owners which limit their ability to sell. Employees who get stock as part of their compensation may get restricted shares that cannot be sold. A charity has to take these restrictions into account, along with the practical limits on marketability, to assess whether it can turn this asset into money in the bank.

Small business interests often cost money to sell. Without a public market, it is hard for the charity to know what its stake is worth. The charity may need an expert appraisal to determine what a fair price would be. If no other owner is interested in buying, the charity may need a business broker. Business interests are usually sold with a purchase and sale agreement; any time a charity signs a complex contract, it should probably get legal advice.

Small business interests can also cost money to own. One crucial factor to examine is whether the charity will be liable for taxes on its share of the business income. Many small businesses, including partnerships, limited liability companies, and S corporations, are "pass-through" tax entities. At the end of each year, the business calculates how much taxable income it earned, and allocates this income among the owners. Each owner is re-

quired to report his or her share of the business's taxable income on the owner's individual tax return, whether the income is distributed to the owner or not. If the business decides to reinvest its profits instead of distributing them to owners, the owners are out of luck—they pay taxes on their share of the taxable income anyway.

For a charity, income from a pass-through entity may be unrelated business taxable income, subject to UBIT. Therefore, in evaluating a potential small business gift, a charity needs to assess whether it is likely that the charity will have to tap other assets to pay unrelated business income tax on its share of the business's taxable income, if the income earned by the business is not immediately distributed to the charity.

Liability is a huge issue for sole proprietorships or general partner interests, since owners of these interests are liable for business debts. Liability for business debts is not much of a concern for other types of holdings, like limited liability company interests or corporate stock. But a charity still needs to be cautious about any possible costs of ownership; for example, it should check whether any business agreements allow the business to make capital calls. Also, if the charity is ever offered a majority interest in a business, there can be fiduciary liability to the minority owners.

So what might the gift acceptance policy say about small business interests? In terms of "how," the policy should require the charity or its attorney to review governance documents of the business (like a partnership or LLC agreement), and any agreements relating to the business that the donor has entered into, like shareholder agreements. The charity should also look at financial information about the business. In terms of "who," a charity will usually want its finance people (whether on the staff or on the Board) to evaluate the gift and either make, or participate in, the decision.

Tangible Personal Property

Another commonly gifted asset is what lawyers call "tangible personal property," and what everyone else calls "stuff." Sometimes donors offer stuff for a charity to use in its program. The charity needs to have a review process in place to make sure that donated stuff is really needed and useful, so the donor's junk does not become the charity's junk.

If the charity does not want donated stuff for its own use, it needs to evaluate whether it can make enough money selling the property that taking the gift is worth the trouble. Stuff may cost money to own—there may be insurance costs, storage fees, and transportation costs. It may also take significant staff time to find a buyer. If someone donates collectibles or art, for example, the charity would have to find an appropriate dealer and get some quotes. Nowadays a charity may be able to auction stuff off on eBay, but it still might need expert advice to determine what it has acquired and how much to ask for it.

Life Insurance

Life insurance gifts are also common. They run the gamut from legitimate charitable gifts to outright scams. It is always fine for a donor to name a charity as a beneficiary of his or her life insurance; this puts no obligation on the charity. But if the charity is given a policy or asked to enter into any kind of contract, it should review the documents carefully and make sure it understands how the arrangement will work and what the costs and risks are. A helpful resource is "Guidelines for the Evaluation of Life Insurance Gifts," which was recently released by the National Committee on Planned Giving. A gift acceptance policy might address insurance gifts by setting out some basic parameters—like no split-dollar arrangements—and

by requiring someone on the finance team to evaluate any proposed insurance gift that is more complex than just being named as a beneficiary.

Other Assets

Finally, charities may get contributions that fall into the "other" category. It is neither practical nor possible to list every type of asset that may be gifted—there are just too many possibilities. Someday a donor may want to give your charity a currency futures contract, or timber rights, or a copyright. At my law office, we had a client call regarding a potential gift of dairy cows. This does not mean that every gift acceptance policy should include a section on livestock, though—a gift officer could have a long and illustrious career in development without ever handling a gift of a dairy cow. When a charity is offered an asset that is not specifically addressed in its policy, the decision-maker will have to fall back on the five basic factors and determine how they apply to the offered asset. Therefore, even if the policy is not specific about how, it still needs to cover who will evaluate "other" gifts.

Restrictions on Use or Disposition of the Asset

Problem assets are often the focus of gift acceptance policies, but there are other types of "lemon" gifts to watch out for, and flag, in the gift acceptance policy. A common issue is donor restrictions on the use or disposition of the donated assets.

When donors are giving stuff, they may want the charity to agree to keep the donated item for use in the charity's program. Maybe the donor gets a warm, fuzzy feeling about giving a charity something that will be put to good use. More often, the donor is worried about his or her tax deduction. The deduction for a gift of tangible property is more generous if the charity uses the item in its charitable program than if the charity sells it for cash. Donors want to be assured they will get the higher tax deduction.

If the charity has a legitimate need and use for the item, it is reasonable to agree to keep it, at least for some period of time. For example, nonprofit hospitals are filled with donated works of art. Since the hospital has a legitimate use for donated art, it would be acceptable for the hospital to agree to keep and display a gifted piece as a condition of the gift. However, the gift acceptance policy should generally limit the amount of time the charity will agree to keep an item. Over time, the charity will probably want to clean out old stuff to make way for new. Also, in the case of a gift of art or a collectible, something may become really valuable and the insurance costs to simply hang it up on the wall will become prohibitive.

If a charity does not have a genuine need and use for a donated item, it should not promise donors that it will keep and use the property. Under the Pension Protection Act of 2006, the charity must notify the IRS if it disposes of donated items within three years. Unless the charity certifies that it actually used the items in its program (or intended to do so, but the intended use became unfeasible), the donors will have recapture income if they claimed a higher "related use" deduction.

Charities might also be offered gifts of land conditioned on the charity using it rather than selling it. This is most prevalent with environmental organizations, and they need to work out criteria for when to accept donated land and when to pass. Other charities might also be offered "use it or lose it" real estate gifts, but such gifts are not that common and are not discussed here.

Occasionally donors want a charity to hold a donated investment asset. This should raise a red flag, and a charity's policy should prohibit this. As a general rule, a charity

should not promise to retain assets that the charity will hold for investment rather than use in charitable activities. The donor may be absolutely convinced that the stock will go up or the real estate will appreciate. It is fine for the donor to play those odds, but a charity should adopt a prudent investment policy and follow it.

Problems with the Restrictions on Charitable Use

All charities love to get unrestricted gifts, which they can use for any aspect of their operations. The reality is that many donors want to limit what the charity may do with the donor's contributions. These restrictions can be problematic in a number of circumstances.

First, a charity should not accept gifts if the restriction is inconsistent with its mission. Taking the high road is easier to say than do; money is hard to come by, and charities have an understandable inclination to take the money and live with the restrictions somehow. But if the gift is truly inconsistent with a charity's mission, no good is likely to come of it.

A more typical problem with restrictions is accounting costs. When a charity holds restricted funds, accounting rules require that the charity track the restricted funds separately and document that it uses them for an appropriate purpose. If a gift is restricted so narrowly that it requires a new fund, the charity should make sure that the fund is big enough that the accounting work involved does not cost more than the gift is worth. If someone wants to set up an endowment fund, for example, many organizations require the new fund to meet a minimum size requirement. Donors can make smaller endowment gifts if they are willing to contribute to an existing fund. This is mostly an issue with endowment gifts, but can also arise with current gifts. A gift acceptance policy should address how big a gift will have to be before the charity will set up a new fund for it.

Even if accounting costs are not a concern, a narrowly restricted gift can be difficult to use. For example, a scholarship fund can be so narrowly restricted that it is difficult to find potential beneficiaries. A narrowly restricted endowment fund can also create problems if it does not generate enough money to fully fund an activity. This problem is preventable if the donor agrees (in a written gift agreement) to give the charity some variance power, that is, power to use the endowment for a purpose as close as possible to the original purpose, if the original purpose is not possible or practical.

The gift acceptance policy should put some review process in place for restricted gifts (at least for gifts that require a new fund) so that the organization makes sure it can live with the restrictions without undue compliance costs. The policy should also set forth some uniform policies for endowments that the charity will incorporate into gift agreements with donors, including a term giving the charity variance power.

Finally, there is the problem every fundraiser wants to have—a gift or grant that is so humongous that it will change the focus or the size of the organization. Although these are exciting gifts, they also deserve some attention in the gift acceptance policy, because a gift or grant that is big enough to change the focus of the organization should only be accepted after a serious review of the implications by the Board.

Strings and Conditions

Some gifts come with strings and conditions. While it is impossible to anticipate all of the possible donor requests that may arise, some issues are predictable and your organization can plan for them.

For example, it is fairly common for a donor to ask the charity to pay for some of the donor's costs of making the gift, like legal costs of drafting a CRT, or the costs of an appraisal the donor needs in order to deduct the gift on his or her tax return. If a charity does agree to pay some of the donor's bills, the transaction is no longer a simple contribution for tax purposes—it is a bargain sale. This has important implications for the charity in documenting the gift. A charity cannot send an acknowledgement that says "no goods and services were provided in exchange for this contribution" if the charity actually promised to provide the donor with an appraisal. Paying the donor's bills is a return benefit, and this has to be disclosed in the acknowledgement.

As a general rule, a charity's policy should provide that it will not pay a donor's bills as part of a charitable gift transaction. If the donor does not want to pay an attorney to draft a CRT, the charity can engage its own lawyer to draft the trust on behalf of the charity. Similarly, if the charity obtains an appraisal of property for its own purposes (as trustee of a CRT, or for insurance purposes), it may give a copy to the donor; but the charity should not ordinarily prepare an appraisal just for the donor, or promise to provide an appraisal as a condition of the gift.

Inevitably, some gifts are going to come along that are worth making an exception for. The gift acceptance policy should indicate who has authority to promise a return benefit to the donor on behalf of the charity. If a charity does agree to pay some donor costs, it is crucial that whoever acknowledges the charitable gift is informed about the deal so that an accurate receipt can be issued to the donor.

Naming opportunities are another typical condition requested by donors. This is not usually a problem, but charities that regularly offer naming opportunities should have policies in place to ensure consistency. Charities might also want to reserve the right to dump a name that later becomes embarrassing. The University of Missouri-Columbia is probably not that happy to be stuck with a "Kenneth L. Lay Chair in Economics," for example. Some organizations provide for "unnaming rights" in their agreements with donors so that the charity may cease to use the name in specified circumstances. (This is one issue that can only be tackled through a consistent gift acceptance policy, and not on a case by case basis. Consider presenting this to donors as a way to protect the donors from having their building, brick, or endowment right next to one honoring a white collar criminal.)

Sometimes the donor wants to be involved in controlling the charity's use of the gift. For example, the donor may want a role in hiring a staff member who will be paid with the donated funds, or selecting beneficiaries for a scholarship. Some involvement in an advisory capacity is fine, but the donor cannot have the power to veto the charity's choices or to select a staff member or a beneficiary. Among other reasons, this destroys the donor's charitable tax deduction.

Embarrassing Gifts

Sometimes a gift is so embarrassing that the charity wishes it had never accepted the contribution. Typically, the problem is that the gift that undermines public confidence in the organization's integrity. For example, a gift from a tobacco company to a public health organization might be so embarrassing that the public relations fallout costs more money than the gift was worth. This might be worth mentioning in your gift acceptance policy; for some organizations, it is a big concern.

Tax Shelters

The involvement of charities in tax shelters is the subject of scrutiny and concern

these days, both at the IRS and on Capitol Hill. It is too early to say whether all the talk will generate significant enforcement efforts. Tax shelters are a complex topic, well beyond the scope of this article. Even trying to define what constitutes a tax shelter, as opposed to legitimate tax planning, is contentious. For our purposes, it is probably enough to say that charities should be suspicious of, and get legal advice about, any proposed deal that seems a little too sweet to donors.

Red flags include transactions that involve a complex series of steps, requirements that the arrangements should be confidential (aside from protecting the privacy of the donor), and "side agreements" that are not reflected in the main documents. Any complex transaction should probably be reviewed by the charity's attorney anyway.

Concerns Specific to Planned Gifts

The issues discussed above relate to both outright and planned gifts, but evaluation of planned gifts involves some special concerns.

First, charities need to be especially wary of uneconomic gifts in the planned giving context, using a cost /benefit analysis to make sure the charity will not end up losing money. Factors to consider include costs to close and administer the gift, exposure to liability, and expected value to the charity. For example, a charity can spend too much money to close a planned gift or to administer the gift compared to its value. If a charity pays legal fees to draft or review a CRT and then incurs annual administrative costs to serve as its trustee, the charity might lose money if the value of the charitable remainder is too small. Charities can prevent this by setting out some standards in their gift acceptance policies for serving as trustee or paying any costs associated with setting up a CRT. These standards might address minimum gift amounts to fund the CRT, a minimum percentage of the remainder that will be irrevocably designated for the charity, and minimum ages of the income beneficiaries to limit the number of years the trust will have to be administered. Charities should also be careful in agreeing to trustee any CRT with a high payout percentage or annuity amount, since the high payments to donors will erode the value of the charitable remainder if investment performance lags.

If a charity offers gift annuities, there is always a risk that the annuity payments to donors could exhaust the charity's reserve fund, forcing the charity to tap other funds to meet its annuity obligations. This situation could arise if the donated property sells for less than expected, or has significant selling costs. For example, if real estate is contributed in exchange for an annuity, the annuity amount the charity will pay the beneficiary is based on the appraised value of the property on the date of the gift. However, the charity's proceeds from the sale will be reduced by selling costs, such as a realtor commission, escrow fees, title insurance, etc. This means the charity may wind up with less cash to invest in its reserve fund than the value used to calculate the annuity payments. The charity could narrow this gap by asking the donor to accept a lower annuity payment (and increase the amount of his or her deduction) to decrease the charity's risk of being caught short. As with CRTs, a charity may also choose to set a minimum age for beneficiaries to limit the duration of its annuity payment obligation.

Planned gifts can also involve additional liability risks. For example, if the charity serves as trustee of a CRT, it will have liability for any breach of fiduciary duty to the income beneficiaries of the trust, and to any other charities that share in the remainder. Therefore, a charity should never serve as trustee unless it has the capacity and commitment to do a good job. A charity might also want to look harder at trusteeship if there

are beneficiaries other than the donors. The donors chose the charity, like the charity, and want the charity to have some of their money; they will not be inclined to sue. The donors' kids are another story. For this reason, some charities will not trustee a charitable lead trust, and are cautious about a trusteeship of a CRT if there are income beneficiaries other than the donors.

Developing a Gift Acceptance Policy

Need for a Written Policy

The success of a gift acceptance policy comes down to the good judgment of the people who decide whether to accept or refuse gifts. Why, then, does the charity need a written gift acceptance policy?

First, it is the Board's responsibility to establish policies to protect the charity. It is also the Board's responsibility to decide who is authorized to make important decisions for the charity, like accepting a major gift. Approving a written gift acceptance policy is a mechanism for the Board to exercise these responsibilities.

Second, individuals come and go. A charity does not want the value of their experience to go with them. A gift acceptance policy should develop over time into a tool that embodies the collective wisdom of the organization. Every time the charity revises its policy, the staff and board members involved in the process will improve the policy based on what they have learned from their experience in handling difficult gifts. Potential problems are flagged, checklists on how to evaluate gifts are developed, and the policy becomes a tool to help the organization benefit from past experience.

Finally, a written policy can speed up a charity's gift evaluation process. For example, if the policy has a checklist of documents needed to evaluate a real estate gift, the development officer knows right away to ask the donor for these documents. Also, a written policy can prevent confusion about who is authorized to make a decision.

Handling Exceptions

The idea of a written policy makes some fundraisers uncomfortable, since for every rule there is bound to be an exception. Nobody wants rigid rules to get in the way of a big contribution.

However, it is the Board's decision who is authorized to make an exception to the policies they approve. If the gift acceptance policy says nothing about exceptions, then the Board needs to approve any deviation from the policy. If the gift is worth it, directors will agree that an exception is warranted. A better strategy is for the policy to be explicit about making exceptions. Since most charity boards do not meet that frequently, the policy should establish an expeditious way to address special situations. For example, the policy may authorize a Board Committee to approve an exception, or may allow the charity's CEO to make the call.

Customizing the Policy

To get the full benefit of a gift acceptance policy, a charity's staff and board need to write it themselves. It is not enough to get another organization's policy and use "find/replace" on the word processor to substitute your charity's name.

First, that is like skipping class and reading a classmate's notes. If your charity does not go through the process of thinking through the issues and developing its own policy, the board and staff will not really focus on what kinds of problems the charity could have and what steps are appropriate to minimize the risks.

Second, a policy needs to be tailored to the circumstances of the organization. Since "who" is the most important part of the

policy, the policy needs to take into account who the charity has available. In a small organization, the directors may feel that the Board finance committee should make the final decision about any gifts of real estate or closely held business interests, for example. As the organization grows and gets more capacity on staff, the Board may decide that some of these decisions should be delegated to staff.

A policy also needs to be customized to address the particular issues that are likely to arise for an organization, based on its size, circumstances, and mission. For example, a college can expect to be offered scholarship gifts with restrictions; its policy may address in some detail what restrictions are acceptable. A college's policy should also anticipate that donors may want to steer scholarships to particular students, and make it clear that this is not acceptable.

Although charities should develop their own policies, they do not need to reinvent the wheel. The policies of other, similar organizations are a great resource, as long as they are used as a tool to help a charity to consider its own needs and develop appropriate policies, and not as a substitute for this crucial process.

Keeping the Policy Up-to-date

To remain a useful tool, a gift acceptance policy must be revised and updated frequently. The people change, and the organization changes, and the charity will need to go through the process of thinking through the issues, and tailoring the policy to the charity's current circumstances, again.

Also, the policy should help the organization learn from its experience. Revising the policy is a way to institutionalize the lessons that individuals have learned. Finally, the landscape of charitable giving will change—new laws are passed, new types of gifts become popular, and new scams are invented. Revisiting the policy every few years will help a charity stay abreast of these developments.

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