Short Policies – 11 pages

Policies and Procedures for the Organization's Planned Giving Program

I. INTRODUCTION

Rationale for the Planned Giving Program

Any discussion of planned giving must be based upon a common definition of a planned gift. A "planned gift" is a gift that the donor arranges during his or her lifetime. The charitable organization may not receive the donation, however, until the death of the donor and of any designated beneficiaries.

A planned giving program should be carried out using proven fundraising methods: the development of a persuasive case statement for planned giving with specific financial goals, the formal approval of the case statement by the board of directors, the board members' making their planned gift commitments as leadership gifts, and the bringing of the case to the attention of the organization's donors not only by mailings and newsletter articles but through face-to-face meetings with, whenever possible, volunteers involved who have made their own planned gifts.

Historically, the most widely accepted and most common form of planned gift is the bequest provided for in a donor's will. A donor makes a bequest to a charitable institution in a legal document (a will) that is revocable (meaning it can be changed) during the donor's lifetime. The gift becomes irrevocable after the donor dies.

In recent years, other, more sophisticated forms of planned gifts have developed. They are irrevocable gifts to charitable institutions that may provide substantial tax benefits to donors during their lifetimes and, in most cases, to donors and/or income beneficiaries during their lifetimes.

While the Tax Reform Acts of 1969 and 1976 brought about some dramatic changes in the regulations governing contributions to charitable institutions, all three branches of the Federal government support the concept and ideals of philanthropic giving. The government realizes that nonprofit organizations serve an essential role in our nation's welfare. It also recognizes that financial support for most charitable organizations must come from private sources - from people who believe in the work of these institutions - rather than from general taxation. Thus, since the inception of our tax laws in 1918, Federal government policy has encouraged voluntary support of charitable organizations by offering tax incentives to contributors.

The Tax Reform Act of 1986 created further interest in planned giving. The Act did away with most traditional tax shelters. Individuals with highly appreciated holdings - real estate and stocks, for example - are finding the tax and income benefits offered by charitable trusts increasingly attractive. This apparent advantage has created some problems as well. Insurance companies and financial planners have entered the charitable trust market aggressively. Some of them tend to emphasize the tax and income benefits and touch lightly, if at all, on philanthropic interest. Planned giving professionals in the nonprofit field are concerned that this kind of one-sided marketing may create a backlash among Congressional staff, who are already inclined to deprive nonprofits of their tax-exempt status or at least reduce the tax benefits of charitable giving. The organization must make sure its planned giving program presents both sides of planned giving - donor benefits and philanthropic interest - with balance and clarity.

Recognition of Planned Giving Potential

If planned giving is to succeed, the organization must be ready to make the required commitment to enter into the Planned Giving program. Does the organization have a history of bequest income? Does evidence suggest an increased income potential from the traditional constituency if planned giving is cultivated, solicited, and promoted in a complete organization-wide effort? Is the constituency compatible with planned giving donor profiles? Can the organization rely upon staff and volunteer support? Are sufficient budget and material resources available?

The organization must recognize not only the need for a reliable future source of income to supplement traditional sources, but also the role that planned giving can play in achieving defined goals and satisfying that need.

The organization must have a complete understanding of the planned giving concept, because its resultant income will not appear immediately. Several years of investing resources - money and personnel - are required before the investment is returned. No monetary income will be received during the first stages of implementing a Planned Giving program. The organization must be willing to make this investment in its future, an investment with a deferred yield. The organization’s willingness to make a commitment to planned giving is the first step toward a successful program.

II. POLICIES AND PROCEDURES

To administer a sound program to secure planned gifts, the organization must state and adopt definite policies. They will govern the entire operation of the program. The Board of Directors must be aware of, and in full agreement with, the objectives of a Planned Giving program. Also, it is imperative that staff be aware of approved policies and guidelines so they will know the scope of their authority and responsibility.

Conflict of Interests

The best interests of all donors or prospective donors must come before those of organization. No organization representative will encourage a donor to pursue a program agreement, trust, contract, or commitment of any kind that would benefit the organization at the expense of the donor’s best interests. The organization will not make an agreement with any agency, person, company, or organization on any matter - whether investments, management, or otherwise - unless the organization has first made every effort to see that the donor’s interests will not be jeopardized. The organization will strongly encourage all prospective donors considering planned gifts to obtain qualified independent counsel.

It is neither the philosophy nor the policy of the organization to accept a gift from any donor when the gift is not in the best interest of the donor. Staff and volunteers must at all times be honest and fair with those who place their trust in the organization. If this policy results in a small gift, or no gift at all, so be it. The organization will have increased its self-respect and maintained public confidence.

Use of Legal Counsel

The organization will seek the advice of its legal counsel, selected by the Board, in all matters pertaining to its Planned Giving program and will execute no agreement, contract, trust, or other document with a donor or anyone on his or her behalf without the advice and consent of that legal counsel. Contributions to the organization's Pooled Income
Fund are an exception to this rule because the Fund has already been reviewed and approved by the organization's legal counsel. Even so, the donor will be encouraged to at least seek an independent financial adviser.

The organization will advise all prospective donors to seek the counsel of their own attorneys and/or tax and estate planning advisors concerning proposed gifts. When the prospective donor absolutely refuses to employ counsel, the organization's counsel will be immediately contacted as to how to proceed.

Avoidance of Pressure Techniques

The organization will not use undue persuasion, influence, or duress when dealing with prospective donors. Rather, all personnel will accept the duty to inform, serve, guide, and assist the donor in every way possible to see that his or her wishes are fulfilled. All personnel should assure the prospective donor that they themselves do not receive, nor can receive, any commission for their efforts or any fee related to the size or nature of any planned gifts.

Confidential Information

All information concerning donors or prospective donors, including their names, the names of their beneficiaries, the amount of gifts, size of estates, etc., will be held in strict confidence by the organization and its authorized personnel unless the organization obtains written permission from donors or prospective donors to release such information.

Investment of Funds

The investment counsel selected by the organization to control and supervise all matters pertaining to planned gifts will be subject to supervision by the organization's Finance Committee and the Board of Directors.

Limitations

Under certain circumstances, due to financial administrative requirements, minimum limitations must be placed on the various gift agreements.

Limitation on Ordinary Bequest by Will

There are no limitations.

(Since the organization does not act as the trustee of individual charitable trusts, the text that follows in italics does not apply. If the organization should accept trustee responsibility, this text will be reviewed at that time.)

Limitations of Charitable Remainder Annuity Trust Agreements

The organization will not administer any charitable remainder annuity trust in exchange for an amount less than $50,000.

The organization will not enter into any charitable remainder annuity trust agreement for more than three lives. In a single-life agreement, the individual must be at least 50 years of age. In the case of two or three life agreements, the youngest must not be under 50 years of age.

Any exceptions to these limitations must have the approval of the Planned Giving Committee.

Limitations of Charitable Remainder Unitrust Agreements

The organization will not administer any charitable remainder unitrust in exchange for less than $50,000 on a single-life agreement.

The organization will not enter into any charitable remainder unitrust agreements for more than three lives. In a single-life agreement, the individual must be at least 50 years of age. In the case of a two- or three-life agreement the youngest shall not be under 50 years of age.

Any exceptions to these limitations require the approval of the Chairman of the Planned Giving Committee, Chairman of the Board of Directors and President of the Trustees.

Limitations on Rate of Return

Persons authorized to negotiate (not execute) any of the agreements just mentioned may do so up to a payout ceiling of two percent over the (Bank) reference rate. Any exceptions to this limit require the approval of the Planned Giving Committee Chairman, Board Chairman, President of the Trustees and Chairman of the Finance Committee.

Those authorized to execute these agreements may also do so up to a ceiling as above. Any rate of return in excess must have the approval of those cited above.

Distribution of Income and Reevaluation Dates

All income from any of the above agreements shall be distributed quarterly within two weeks of February 28, May 31, August 31, and November 30, unless otherwise requested.

The date for reevaluation of the fair market value of all agreements shall be the last business day in January, or such other valuation date that is specified in a particular trust agreement.

Pooled Income Fund Policies

$5,000 minimum gift:
The organization will not enter into any pooled income fund agreement for a contribution less than $5,000 in value. The organization will not enter into any pooled income fund agreement providing for more than two life income beneficiaries.

Additional contributions by the same donor are permitted but must be of $1,000 or more in value.

Irrevocability of the Gift

The organization must make each prospective donor aware that the transfer of property to the fund is irrevocable.

No Guaranteed Yield

The organization will advise the prospective donor that income payable to beneficiaries depends on the net income earned by the Fund as a whole, and neither the organization nor the fund's manager can guarantee or accurately predict the net income or rate of return.

No Age Limit

Although it is strongly suggested that beneficiaries not be over 50 years of age, there is no formal age limit for income beneficiaries.

Unrestricted Remainder Interest

The organization will inform the prospective donor that the remainder interest attributable to a donor's gift will become the property of the organization at the termination of the last income interest.

Limitations of Gifts of Life Insurance

There are no limitations.

Emphasis on Gift Element

When speaking with prospective donors, the organization representatives must emphasize the gift element of a contribution of the Pooled Income Fund, making clear that the primary function of the Fund is to benefit the organization, and is not primarily designed as an investment vehicle. It should also be stated that because the donor to the Fund gives up all right to reclaim the principal, the Fund should NOT be regarded as an investment opportunity comparable to those available commercially.

Disclaimer of Accuracy

Although the organization may calculate the amount of a charitable tax deduction, it must caution the prospective donor that such calculations are strictly estimates. Because of considerations peculiar to each prospective donor's situation, each individual should be urged to consult his or her own advisors regarding the exact tax implications of a contemplated gift.

Full Disclosure to Donors

An organization representative will give each prospective donor the Disclosure Statement and Trust Agreement prior to the execution of any gift agreement. The Securities and Exchange Commission requires that prospective donors be fully and fairly advised about the operation of the Pooled Income Fund and the consequences to transferring property into it.

Endowments

A donor may use an endowment to establish assets in a fund for a specific use. The donor usually specifies that the funds be invested and investment income be used for general purposes or for a specific project. The funds are held under these restrictions until a specified time or occurrence of a specified event, or in perpetuity.

"Funds functioning as endowments" are funds established to account for assets designated by the Board of Directors and/or management of an organization to be invested in income-producing assets and administered as if they were endowments.

Funds currently raised by the organization may not be set aside or diverted for the purpose of establishing endowments, funds functioning as endowments, or other such long-term funds.

Current Gift of Personal Property

The Development Office will review gifts of non-cash items or of non-publicly traded stock with the Finance Committee when those gifts exceed $10,000 in value. The Committee will determine if there are liabilities or costs assumed by the organization in accepting gifts of personal property and whether those liabilities or costs outweigh the value of the gift.

A Record Keeping System

Staff must reduce a host of procedures to a simple explanation that will guide the day-to-day administration of the Planned Giving program. The procedures should address the acceptance, processing, and administration of planned gifts. They should identify communications channels, such as who contacts the corporate trustee, under what circumstances, and how frequently. They should provide a way to respond to inquiries about planned gifts. The procedures should also outline suggested cultivation techniques for different gift vehicles, follow-up with prospective donors, and donor recognition.

Record keeping ranks as one of the most important procedures. A reliable filing system is essential for a successful Planned Giving program. The filing system will help staff and volunteers identify prospects and their progress throughout the cultivation and solicitation processes. Timing is all-important when asking for a planned gift. If staff and volunteers are reduced to storing information about prospects in their heads, they are taking an unreasonable risk.

Here is a simple suggested filing system with samples:

The first file is an "Inquiry File." This file holds the names, addresses, telephone numbers, and all other pertinent information regarding prospects who respond to mailings or announcements, participate in seminars, or express interest in the Planned Giving program. The names remain here only for the short time needed to follow up and qualify those prospects. Once a prospect is qualified, the name is moved to another file.

The second file is the "Prospect File". Persons who show promise after the initial follow-up are placed in the prospect file. The names remain here until moved either to the donor file or the inactive file. This may take some time. All names in this file must be under active consideration and cultivation. Sub-categories in this file may be helpful, such as one for large or major gifts, for different types of gifts, or for different geographic locations to assist in making a travel itinerary. Some staff or volunteers may want to use a tickler file to remind them of events such as birthdays, important occasions or deadlines regarding individual prospects.

The third file is the "Donor File". Information on persons who have made a gift are placed in the donor file and their names remain there for the rest of their lives. Persons in this file also are under active cultivation. At a minimum, they should receive information regarding the activities and developments of the organization, the administration of their planned gifts, the prospect of donating a second gift, or serving as volunteers.

The fourth, the "Inactive File", contains names of those who never made it to the prospect file or who did make it to the prospect file but did not qualify as a bona fide prospect. The inactive file contains the names of persons whose continued cultivation is no longer worth the time and effort.

The fifth file is the "Completed Gifts File". Names are placed here when the donor and/or donor's life beneficiaries die and the organization actually obtains the funds from the planned gift.

No one form is best for the filing system, but it must contain minimum information: a data sheet on each person containing name, address, telephone, marital status, family history, educational/religious/social/business background, occupation, interests, etc. This data file should contain every pertinent piece of information available about that prospect. A log of contacts should identify the date and substance of every visit, call, or mailing to that prospect as well as a list of things to be done. Also involvement with the organization, donations record, cross-reference with relatives or bequests, etc.

This filing system will assist staff and volunteers in the cultivation and solicitation of donors. It serves a second purpose by providing continuity for the organization. In the case of staff or volunteer turnover, the files will provide all the necessary background and guidance for newcomers to cultivate and solicit prospects. Donors have placed their trust in the organization to protect the confidentiality of information in these files. They should not be accessible to any staff or volunteer who does not have a legitimate need for the information in the files.

(ORGANIZATION)

Planned Giving Worksheet Date ________________

1st Person________________ Birth date___________

2nd Person________________ Birth date___________

Address_______________________ City___________________________

State_______________ Zip__________

Phone_________________

Current Tax Bracket____________ Future Tax Bracket___________

Payment Frequency (circle one): Monthly, Quarterly, Semi-Annual, Annual

Gift Date___________________

Type of Property to Fund Trust (circle one):

Cash Stock Real Estate Other

Type of Trust Preferred (circle one):

Annuity Trust 1L/2L Unitrust 1L/2L Pooled Income Fund 1L/2L

Fair Market Value ____________________________

Cost Basis ____________________________

Current % Return ____________________________

Total Return % ____________________________

Income Payout____________________________

First Payment Date ____________________________

Comments and Follow-up Plan:

(ORGANIZATION)

DONOR FILE

CONFIDENTIAL

Information Sheet

DONOR

NAME______________________________ Date of Birth_________________

ADDRESS__________________________ Male/Female_________________

____

__________________________________ Citizenship__________________

SOCIAL SECURITY #__________________

NATURE OF GIFT______________________ AMOUNT OF GIFT______________

____

DATE ACQUIRED BY DONOR______________ DATE OF GIFT_________________

BASIS OF DONOR______________________

____

INCOME BENEFICIARY

NAME______________________________ SOCIAL SECURITY #____________

ADDRESS__________________________ DATE OF BIRTH________________

__________________________________ MALE/FEMALE_________________

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Reporting Mechanisms for Evaluation

A formal reporting or monitoring system will help evaluate progress of the Planned Giving program toward its goals and objectives. It will also help avoid performing activities simply for their own sake. An annual report of activities, such as planned giving seminars, mailings, professional liaison, etc., from all staff and volunteers involved should be done. The reports should include the number of prospects contacted and the manner of contact, i.e., mailing, telephone, or personal visit.

The information generated by the reporting/monitoring system will be used to evaluate actual progress and compare it to the written goals and objectives. This evaluation can be a formal written document or something more informational. It will serve both the volunteers and staff involved in planned giving and may be a useful management tool for the Director of Development and the Board of Directors. Besides comparing progress to a plan, the Planned Giving Committee may use the information generated by this system to evaluate the performance of persons involved. Also, the Board's Finance Committee should periodically evaluate the performance of the external corporate trustee.