

**GIFT ACCEPTANCE POLICY
OF
THE UNIVERSITY OF MONTANA FOUNDATION**

**March 11, 2000
Update: December 7, 2004
Update: January 14, 2005
Approved by COG on March 10, 2005**

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GIFT ACCEPTANCE POLICY OF THE UNIVERSITY OF MONTANA FOUNDATION

NOTE: This document is meant as an internal document to provide guidance to fundraisers and staff in the acceptance of gifts. At no time should this document be shared with donors or prospective donors.

All real property, tangible and intangible personal property gifts of \$100,000 and above will be directed to the Committee on Gifts. The Committee on Gifts will review and forward their recommendation to the Executive Committee for their approval.

SECTION I POLICY STATEMENT

This Gift Policy is established to maintain and preserve the integrity of both the Foundation and the University that it serves. In addition, the policy is intended to protect all donors and prospective donors to the Foundation and the University. Accordingly, this policy shall govern the acceptance and disposition of all gifts made to The University of Montana Foundation, whether such gifts are *inter-vivos* (lifetime) or gifts from estates.

SECTION II GENERAL POLICIES

SOLICITATION OF GIFTS

Any formal solicitation of gifts to the Foundation should only be made by authorized representatives, primarily the staff of the Foundation. All employees, representatives or friends of the Foundation or of the University are encouraged to refer any prospective donor to the Foundation.

CONFLICT OF INTEREST

The interests of the prospective donor shall be a primary consideration with respect to any gift to the Foundation. Employees of the Foundation shall provide information to the donor concerning planning techniques available to achieve a donor's charitable goals. Pressure techniques shall be avoided and no program, agreement, trust or contract shall be presented which would benefit the Foundation at the expense of the donor's best interests and charitable motivations.

CONFIDENTIALITY

All information concerning prospective and/or current donors shall be confidential. Except with respect to annual reports, no information shall be released to the general public without securing the prior permission of the donor.

LEGAL AND TAX COUNSEL

Donors shall be encouraged to secure the advice of independent legal and tax counsel in all matters relating to tax and estate planning when considering a gift to the Foundation.

WAIVER OF FEES

In its fiduciary capacity, the Board of Trustees has established policies to assure the optimum investment opportunity for all funds received and to support its operations. The Foundation's fee policies will not be adjusted or waived without the explicit approval of the Executive Committee.

GIFT PLANNING ALTERNATIVES

There are two primary options available to a donor: a current gift and a deferred gift.

A current gift involves the transfer of money or property to a qualified charitable organization by a donor, without the receipt of consideration or economic benefit. In order for the transfer to qualify as a current gift, the donor may not retain control over the money or property transferred. The donor may however, place restrictions on the use of the asset.

A deferred gift involves the irrevocable transfer of an asset to a charitable organization. The donor generally retains either an income stream or the remainder interest. The Foundation has a number of deferred gift plans available for donors.

A variety of assets are suitable for either current or deferred gifts. While the Foundation accepts a wide variety of non-cash gifts, they must comply with the procedures described in the following Sections.

SECTION III

GIFTS OF TANGIBLE PERSONAL PROPERTY

Tangible personal property is property, other than real property, that can be "touched" and is herein referred to as "Gifts-in-Kind." The Foundation will consider gifts of tangible personal property including but not limited to automobiles, boats, computer hardware, clothing, personal papers, antiques, china, stamp collections, manuscripts, rare coins, works of art, books, jewelry, gemstones, and home furnishings and appliances.

CRITERIA FOR ACCEPTANCE

Gifts-in-Kind will be considered for acceptance after a thorough review indicating the property is:

- a. readily marketable; or
- b. needed by the University or the Foundation for use in a manner related to one of the purposes for which tax exempt status was granted to the Foundation or the University; that is, for education, research, service, or a combination thereof; and will not require excessive and non-recoverable holding or carrying costs.

APPROVAL/ACCEPTANCE PROCESS

The Foundation staff will prepare a written summary of the gift proposal prior to acceptance of the gift. The summary should include the following information;

- a. a description/photograph of the asset;
- b. the purpose of the gift (endowed chair, deferred gift, scholarship) and the department, program or endowment to benefit from the gift;
- c. an appraisal or if applicable, the gift's fair market value and marketability;
- d. confirmation of the related use and potential acceptance by the program or department to benefit from the asset; and
- e. any special arrangements requested by the donor concerning disposition (e.g., price consideration, holding period prior to disposition, potential buyers, etc.).

The summary will be reviewed by the designated Foundation staff and a determination made to accept or reject the proposed gift (or to postpone a decision pending additional information). Any prospective gift that does not clearly follow the above criteria must be reviewed by the Committee on Gifts and forwarded to the Executive Committee for approval.

The execution and delivery of a deed of gift or other appropriate conveyance acceptable to the Foundation staff, and the delivery of the property, will complete the gift. Costs associated with the conveyance and delivery of the gift will be paid by the donor unless other arrangements have been made.

The Foundation staff may require documentation from the donor or the department or program to benefit from the Gift-in-Kind in order to substantiate the donor's cost and/or the market value of the goods donated.

It is the donor's responsibility to establish a value of gifts-in-kind for purposes of the charitable deduction. The donor shall commission and pay for the qualified appraisal required by the IRS for gifts of tangible personal property valued in excess of \$5,000.

DISPOSITION

Gifts of tangible personal property will be sold unless the gift is intended for a specific University or Foundation purpose in which case the property may be transferred to the University or held by the Foundation as the case may be.

If in the judgment of the Foundation staff a current appraisal of the property would assist in disposing of the property, the Foundation staff may have the appraisal performed.

Upon sale of the property, a final report on the property, including a financial summary of net proceeds to the extent known, will be prepared and distributed to the department designated to benefit from the gift.

The Foundation staff is responsible for filing Form 8282 for gifts of tangible personal property valued at more than \$5,000 sold by the Foundation within two years of the date of the gift. If the gift is transferred to the University and then later sold, the University shall be responsible for filing Form 8282.

The disposition of tangible personal property for a price of more than \$100,000 in the aggregate is subject to approval by the Executive Committee.

SECTION IV GIFTS OF REAL PROPERTY

The Foundation will consider gifts of real property, including, but not limited to, improved and unimproved land, single family dwellings, apartment buildings, condominiums, office buildings, farms, ranches, leasehold interests and gifts subject to a retained life estate.

Gifts of real estate can be illiquid and costly to maintain. Prior to acceptance, potential gifts of real property will be carefully reviewed in accordance with the following criteria.

CRITERIA FOR ACCEPTANCE

1. **Market Value/Marketability.** The donor must provide the Foundation staff with the current value of the property and the value of the interest in the property the Foundation will receive if the gift is approved. Foundation staff will inform the donor that, if the gift is completed, the IRS will require an appraisal made within sixty days of the date of the gift. Foundation staff must understand and communicate to donors that it is the Foundation's policy to dispose of all gifts of real estate (other than property which the Foundation or the University wishes to retain) as expeditiously as possible. Thus, regardless of the value placed on the property by the donor's appraisal, the Foundation will attempt to sell at a reasonable price in light of current market conditions, and the donor needs to be informed that any such sale occurring within two years of the date of gift will be reported to the IRS on Form 8282.
2. **Environmental Report.** A Phase I environmental audit must be performed on all gifts of real property including gifts from estates. This requirement may be waived for certain residential properties used exclusively for residential purposes for a period of thirty years. In cases where this exception applies, and no environmental audit is undertaken, the donor or executor must have an outside party complete an environmental checklist. In either situation the donor or executor may be required to execute an environmental indemnity agreement.
3. **Encumbrances/Restrictions.** All mortgages, deeds of trust, restrictions, reservations, easements, mechanic liens and other limitations must be disclosed. No gift of real estate will be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged, except in very unusual cases where the fair market value of the Foundation's interest in the property, net of all encumbrances, is substantial.

4. **Carrying Costs.** Foundation staff will request disclosure of all carrying costs including, but not limited to, taxes, insurance, association dues, membership fees, and transfer charges.

5. **Title Information.** A copy of any title information in the possession of the donor, such as a recent survey, title insurance policy, and/or an attorney's title opinion must be furnished.

APPROVAL/ACCEPTANCE PROCESS

Foundation staff shall prepare a written summary of the proposed gift, to include the following information:

- a. description of the property;
- b. purpose of the gift (e.g., endowed chair, a deferred gift, scholarship) and the department, program or endowment to benefit from the gift;
- c. appraisal of the property and the percentage of interest to the Foundation or the University;
- d. income/expenses, encumbrances, carrying costs;
- e. environmental risks or problems revealed by audit or survey;
- f. any potential Foundation or University use; and
- g. special arrangements for disposition requested by donor (e.g. price considerations, holding period prior to disposition, potential buyers, realtors or brokers with whom the donor would like the Foundation to list the property, etc.).

The Foundation staff will review the information provided and determine whether to accept or reject the proposed gift (or to postpone a decision pending additional information) and shall communicate the recommendation to accept or deny to the Committee on Gifts. The Committee on Gifts will review and forward a recommendation to the Executive Committee for their approval. The committee chair will inform the Foundation staff about their decision. Foundation staff will communicate to the donor in writing, including any conditions for acceptance of the gift.

If a gift of real property is approved the Foundation staff will acknowledge receipt of the gift upon notice that the property has been properly recorded in the local county records. The Foundation will not appraise or assign a value to the gift property. It is the donor's responsibility to establish a value for the gift and to commission and pay for the qualified appraisal required by the IRS.

The execution and delivery of a deed of gift or other appropriate conveyance will complete the gift. The costs associated with the conveyance and delivery of the gift, including but not limited to recording fees and, if deemed necessary, a current survey, title insurance and/or an attorney's title opinion, will either be paid by the donor or charged to the fund to benefit by the donation

IRS requires donors to file Form 8283 for gifts of real property valued at \$500 or more. If the value of the gift is greater than \$5,000 the form should be sent to the Foundation office for completion and signing of the donee section.

DISPOSITION

It is the responsibility of authorized Foundation staff to dispose of all gifts of real property, except those gifts of real property acquired by an investment pool under the management of the Foundation at the time a gift is received or otherwise retained. If it is determined that it is in the best interests of the Foundation to retain for its own use a gift of real property, a recommendation may be made to the Executive Committee that, in the case of gifts designated for endowment purposes, they designate and reclassify unrestricted quasi-endowment or other available funds for the purpose of providing the designated endowment fund with an amount equal to the fair market value of the property as of the date of its receipt by the Foundation; and that, in all other cases, they authorize liquidation of such gifts for the benefit of the designated gift purpose.

All expenses connected with carrying, maintaining and selling the property will be borne by the fund benefiting from the gift.

Upon sale of the property, the Foundation staff will prepare a final report on the property, including a financial summary of net proceeds, and distribute it to the designated representative of the department to benefit from the gift.

The Foundation staff is responsible for filing Form 8282 for gifts of real property sold by the Foundation within two years of the date of the gift. If the gift is transferred to the University and then later sold, the University shall be responsible for filing Form 8282.

The disposition of real property for a price of more than \$100,000 in the aggregate is subject to approval by the Executive Committee.

SECTION V INTANGIBLE PERSONAL PROPERTY

Intangible personal property is personal property (other than real estate) the value of which stems from intangible elements rather than physical or tangible elements. Examples include securities, patents, copyrights, subscription lists, goodwill, trade names and trademarks, player contracts and installment obligations. It also includes partnership interests and certain rights to tangible property, whether personal or real, such as mineral production payments.

The distinction between intangible and tangible personal property is important for purposes of computing the charitable income tax deduction. Gifts of intangible personal property are not subject to the future interest rule, or the related use rule, which apply to tangible personal property. A donor can retain a right to use intangible personal property and still receive a charitable income tax deduction, provided the partial interest rule is observed. Also, a donor does not have to reduce the value of the contribution by the amount that the property has appreciated if the charity does not plan to use the property for its tax-exempt purposes.

Stocks and bonds of publicly traded companies contributed to the Foundation shall be converted to cash immediately following receipt unless donor restrictions or other compelling reasons dictate otherwise.

Gifts of publicly traded stock are recorded at the mean market value of the stock on the date of the gift. Gain or loss resulting from the sale of securities, as well as commissions and brokerage fees, are borne by the fund benefiting from the gift.

CRITERIA FOR ACCEPTANCE

1. **Market Value/Marketability.** Excepting publicly traded securities, a donor must provide the Foundation staff with an appraisal of the property and the interest in the property the Foundation will receive if the gift is approved. The appraisal must indicate that there is a market for the asset and that it can be sold in a timely fashion.
2. Any real property held by an intangible asset under consideration must meet the criteria for acceptance described in Section V.
3. **Encumbrances/Restrictions.** All mortgages, deeds of trust, restrictions, reservations, easements, mechanic and other limitations must be disclosed. No gift of an interest in real estate will be accepted until all mortgages, deeds of trust, liens and other encumbrances have been discharged, except in very unusual cases where the fair market value of the Foundation's interest in the property net of all encumbrances is substantial or where a separate agreement to pay any such encumbrances which might be charged to the Foundation has been executed by a financially responsible party.
4. **Carrying Costs.** The Foundation staff shall request disclosure from the donor of all carrying costs including, but not limited to, taxes, insurance, association dues, membership fees, and transfer charges must be disclosed.
5. **Title Information.** The donor shall provide at the donor's expense a policy of title insurance where appropriate.

APPROVAL/ACCEPTANCE PROCESS

Foundation staff shall submit a written summary of the proposed gift with the following information to the Committee on Gifts; who will review and forward a recommendation to the Executive Committee for their approval:

- a. description of the property;
- b. purpose of gift;
- c. appraisal of the property and the percentage interest of the Foundation;
- d. income/expenses, encumbrances, carrying costs;
- e. environmental risks or problems; and
- f. special arrangements for disposition requested by donor.

CONSIDERATIONS

Securities are the most common item of intangible personal property donated to a charity and raise certain unique planning considerations. The following matters should be carefully reviewed prior to acceptance of a gift of closely held or restricted stock:

- a. Restricted securities and closely held stock are not generally a good candidate for a deferred gift due to the income requirements. Closely held stock may not be marketable and is generally not income producing. Rule 144 may prevent restricted securities from being readily convertible to cash.
- b. The amount of a donor's income tax charitable deduction may be reduced for a gift of Section 306 stock, stock rights or stock in a collapsible corporation, by the amount of ordinary income that would be generated upon the sale of the foregoing types of securities.

DISPOSITION

It is the responsibility of the authorized Foundation staff to dispose of all gifts of intangible assets.

Upon sale of the property, the Foundation office responsible for disposing of the gift will prepare a final report on the property, including a financial summary of net proceeds to the extent known, and distribute it to the department to benefit from the gift.

The Foundation staff is responsible for filing Form 8282 for gifts of intangible personal property valued at more than \$5,000 sold by the Foundation within two years of the date of the gift.

SECTION VI LIFE INSURANCE

The Foundation will accept, gifts of life insurance policies, including whole life, variable and universal life policies, which meet the following criteria:

- a. The policy is paid-up; **or**, (if not paid-up as of the date of the gift) the policy has a minimum face value of \$10,000 and a payment schedule, not to exceed twelve years, that assumes an interest rate not to exceed one percent below the prevailing prime interest rate as reported in the Wall Street Journal (for existing policies an “in force” illustration will be required). In addition, the donor shall sign a written pledge for a charitable contribution to the Foundation in a total amount that equals or exceeds the total premiums due, and with pledge payments scheduled so as to equal or exceed each policy premium payment as that payment becomes due.
- b. The University of Montana Foundation is designated as the owner and beneficiary of the policy and the donor acknowledges the Foundation’s right to cash in the policy.
- c. If the gift is intended for endowment purposes, the face value of the policy meets the minimum funding standards for endowments for its stated purpose(s) established by the Board of Trustees and in effect at the time of the gift of the policy. Foundation staff needs to be aware, however, that the actual funding of an endowment funded with the proceeds of life insurance takes place following the death of the insured, and that minimum funding requirements in effect at the time of the insured’s death will govern whether there are sufficient death benefits to fund such endowment for its stated purpose(s).

APPROVAL/ACCEPTANCE PROCESS

Foundation staff will prepare a written summary of any proposed gift of a life insurance policy that fails to meet all of the criteria specified above. The summary shall include the following information:

- a. description of the type of life insurance policy, face value, premium payment schedule, interest rate, age of insured(s), and other relevant policy information; and
- b. the purpose of the gift (e.g., to fund an endowed chair, a deferred gift, an unrestricted gift) and the department(s), program(s), or endowment(s) to benefit from the gift.

The Committee on Gifts will review the material presented and forward a recommendation to the Executive Committee for their approval. The committee chair will inform the Foundation staff about their decision. Foundation staff will communicate to the donor in writing, including any conditions for acceptance of the gift.

The gift will be completed upon the execution and delivery of the life insurance policy to the Foundation or an assignment of the policy in the event that the Foundation is not the original owner of the policy.

ADMINISTRATION

The Foundation staff will administer all gifts of life insurance policies and shall maintain records of all donor policies, contribution schedules, donor designations of death benefits, and shall be responsible for pledge reminders and monitoring payments of premiums.

The Foundation staff will be responsible for confirming the existence and cash value of all policies in force at least annually and for collecting and distributing death benefits. Upon receipt of death benefits, the Foundation staff will provide notice to the department(s), program(s), or endowment(s) to benefit from the gift.

SECTION VII

DEFERRED GIVING OPPORTUNITIES

A deferred gift involves the irrevocable transfer of an asset to a charitable organization. The donor generally retains either an income stream or the remainder interest.

GENERAL GUIDELINES

USE OF LEGAL COUNSEL. The Foundation staff shall seek the appropriate legal counsel in all matters pertaining to its planned giving program and shall execute deferred giving agreements only with the advice of its legal counsel. All agreements shall follow the format of the sample agreements approved by the Foundation's legal counsel. All prospective donors shall be urged to seek their own legal counsel in matters relating to tax and estate planning.

CONFIDENTIAL INFORMATION. Donors shall be encouraged to notify the Foundation in writing of all Will provisions and other planned gifts directed to the Foundation. The Foundation shall keep all information concerning these gifts in confidence unless permission is obtained from the donor or his/her counsel to release this information.

AUTHORIZATION FOR NEGOTIATION. The President of the Foundation and the President's designee are authorized, without further approval, to negotiate planned giving agreements with prospective donors including those under which the Foundation may act as trustee. All agreements that do not follow the format of the sample agreement, or otherwise do not meet the requirements of the guidelines, shall be subject to review by Foundation legal counsel.

INVESTMENTS. All funds shall be invested in accordance with Foundation policies unless otherwise directed by the donor or required by the gift instrument as approved by the Foundation President.

PAYMENT SCHEDULE. The Foundation's life income plans will make monthly, quarterly, semi-annual, or annual payments in accordance with the donor's and income recipient's desires and as permitted by the gift plan.

FUNDING. Cash, securities, real property, personal property, or a combination of these may fund planned gifts, although some assets are not suitable to fund certain plans. Listed assets traded on a recognized exchange are accepted at their value on the date of the gift, which is ordinarily the mean between the high and low selling price on that date.

SECTION VIII APPRAISALS

QUALIFIED APPRAISALS. The donor must commission and pay for a qualified appraisal required for a contribution of property other than money and publicly traded securities if the aggregate reported value of the item of property exceeds Five Thousand Dollars (\$5,000). In the case of non-publicly traded stock, a qualified appraisal is required if the value exceeds Ten Thousand Dollars (\$10,000).

A qualified appraisal must be prepared, signed and dated by a qualified appraiser. The qualified appraisal must be completed no earlier than sixty (60) days prior to the date of the contribution and no later than the due date for filing the return.

QUALIFIED APPRAISERS. To be a qualified appraiser, an individual must hold himself or herself out to the public as an appraiser, or perform appraisals on a regular basis and have qualifications to make appraisals of the type of property being valued. A Qualified Appraiser may not be any of the following persons:

- a. the donor or the taxpayer claiming the deduction;
- b. the donee charitable institution or one of its employees;
- c. a party to the transaction by which the donor acquired the property being appraised;
- d. any person employed by any of the parties described in (a) through (c) above or related to any of them;
- e. any person whose relationship to any of the foregoing would cause a reasonable person to question the independence of the appraisal; or
- f. an otherwise qualified appraiser if the donor has knowledge of facts that would cause a reasonable person to expect the appraiser to falsely overstate the value of the donated property.

SECTION IX EXCEPTIONS

Exceptions to this policy must be approved in writing.

This policy was first adopted on March 11, 2000