

Gift Acceptance Policy and Guidelines

Updated

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NEBRASKA CULTURAL ENDOWMENT
Arts + Humanities
LIVELIHOOD

Gift Acceptance Policies and Guidelines Nebraska Cultural Endowment

I. Introduction

The Nebraska Cultural Endowment, a not for profit, 501(c)(3) organized under the laws of the State of Nebraska, encourages the solicitation and acceptance of gifts to the Nebraska Cultural Endowment (hereinafter referred to as NCE) for purposes of furthering and fulfilling the mission of the NCE. The following policies and guidelines govern acceptance of gifts made to the NCE for the benefit of the educational mission of the Nebraska Humanities Council and the Nebraska Arts Council.

The mission of the NCE is to cultivate a legacy of stability, advocacy and leadership in the arts and humanities in Nebraska.

II. Purpose of Policies and Guidelines

The Board of Directors of the NCE and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of the NCE. These policies and guidelines govern the acceptance of gifts by the NCE and provide guidance to prospective donors and their advisors when making gifts to the NCE. The provisions of these policies shall apply to all gifts received by the NCE for any of its programs or services.

In order to ensure that this policy continues to be effective, the NCE Gift Acceptance Committee shall review it periodically and recommend changes, if any, to the NCE Board of Directors. The Executive Director is responsible for initiating this review at intervals not to exceed three (3) years.

III. Use of Legal Counsel

When appropriate, the NCE will seek the advice of legal counsel in matters relating to acceptance of gifts. Review by counsel is recommended for

- a. Closely held stock transfers that are subject to restrictions or buy-sell agreements
- b. Documents naming the NCE as Trustee
- c. Gifts involving contracts, such as bargain sales or other documents requiring the NCE to assume an obligation
- d. Transactions with potential conflict of interest that may invoke IRS sanctions
- e. Other instances in which the use of legal counsel is deemed appropriate by the NCE Gift Acceptance Committee.

IV. Gift Solicitation

The NCE's Executive Director in concert with members of the Board of Directors will be responsible for developing and executing the solicitation of gifts.

The NCE will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences.

The NCE will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving and the Association of Fundraising Professionals shown as appendixes to this document.

V. Gift Eligibility

The NCE accepts restricted and unrestricted gifts that support the pursuit of its mission. Indicators that a gift is acceptable include:

- a. The NCE has a use or need for the gift, or when there is no immediate need, the gift is marketable
- b. The gift and its accompanying terms are legal
- c. The purpose of the gift is compatible with the mission of the NCE
- d. The cost required to support/sustain the gift does not diminish the value of the gift to a negligible sum
- e. There does not appear to be a liability concern associated with the gift

The NCE deems the following types of gifts eligible for acceptance:

- a. Outright gifts of cash, checks, or marketable securities
- b. Gifts-in-kind
- c. Life Insurance
- d. Annuity contracts and gifts of residual interest
- e. Trust agreements
- f. Bequests

The NCE has the right to decline any gift that is not consistent with its mission. Gifts will not be accepted by the NCE that, in the judgment of the members of the NCE Gift Acceptance Committee,

- a. Violates any federal, state or municipal law
- b. Compromises the NCE's integrity or interfere with the NCE's institutional judgment
- c. As a condition thereof, requires any action on the part of the NCE which is unacceptable to the NCE or violates the NCE policies and regulations
- d. Contains unreasonable conditions
- e. Are gifts of partial interest in property, unless the NCE agrees otherwise
- f. Are financially unsound or that would expose the NCE to liability or to diminishment of its reputation
- g. Rely on an appraisal or evaluation provided to the donor by third parties, that is perceived to be inaccurate or unreliable.

VI. Gift Acceptance

The board shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if, in the sole judgment of the board (without the approval of any trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the mission of the Nebraska Cultural Endowment.

Undesignated or unrestricted gifts shall be used for such purposes as the NCE judges will best advance its mission and priorities.

The NCE Gift Acceptance Committee shall make all final decisions on the restrictive nature of a gift, its acceptance or refusal.

VII. The NCE Gift Acceptance Committee

The NCE Gift Acceptance Committee shall consist of the members of the NCE Audit, Finance and Investment Committee.

The Gift Acceptance Committee is charged with the responsibility of reviewing all gifts made to the NCE, properly screening and accepting those gifts, and making recommendations to the Board on gift acceptance when appropriate.

VIII. Types of Gifts

The following gifts are acceptable:

- a. Cash
- b. Tangible Personal Property

c. Securities

- d. Real Estate
- e. Remainder Interests in Property
- f. Oil, Gas, and Mineral Interests
- g. Bargain Sales
- h. Life Insurance
- i. Charitable Gift Annuities
- j. Charitable Remainder Trusts
- k. Charitable Lead Trusts
- l. Retirement Plan Beneficiary Designations
- m. Bequests
- n. Life Insurance Beneficiary Designations

The following criteria govern the acceptance of each gift form:

a. **Cash:** Cash is acceptable in any form. Checks shall be made payable to the Nebraska Cultural Endowment and shall be delivered to Pamela H. Snow, Executive Director, 1004 Farnam Street, Plaza Level, Omaha, NE 68102

b. **Tangible Personal Property:** Gifts of jewelry, works of art, collections, equipment and other tangible personal property shall not be solicited unless there is reason to believe the property has a value in excess of \$5,000, though gifts with a lower value may be accepted. Gifts-in-kind, defined as equipment or material that may be put to use for purposes related to the mission of the NCE are included in the definition of personal property. Gifts of tangible personal property shall be examined in light of the following criteria:

- Does the property fulfill the mission of the NCE?
- Is the property marketable?
- Are there any undue restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?
- Does the gift obligate the NCE to perpetual ownership?

The NCE Gift Acceptance Committee shall make the final determination of the acceptance of other tangible property gifts.

c. **Securities:** The NCE can accept both publicly traded securities and closely held securities

Publicly Traded Securities: Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a rule, all marketable securities shall be sold upon receipt unless otherwise directed by the NCE Gift Acceptance Committee. In some cases, applicable securities laws may restrict marketable securities; in such instance, the NCE Gift Acceptance Committee shall make the final determination on the acceptance of the restricted securities.

Closely Held Securities: Closely held securities, which include not only debt and equity position in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the NCE Gift Acceptance Committee. However gifts must be reviewed prior to acceptance to determine that

- There are no restrictions on the security that would prevent the NCE from ultimately converting those assets to cash
- The security is marketable
- And the security will not generate any undesirable tax consequences for the NCE

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The NCE Gift Acceptance Committee and legal counsel, when necessary, shall make the final determination on the acceptance of closely held securities. Every effort will be made to sell non-marketable securities as quickly as possible.

d. **Real Estate;** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, the NCE shall require an initial environmental review of the property to ensure that the property has no environmental damage. In the event that the initial inspection reveals a potential problem, the NCE shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor.

In general, gifts of commercial or residential real property with a net value estimated at \$75,000 or greater may be considered if there is reason to believe the property is highly marketable.

When appropriate, a title binder shall be obtained by the NCE prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

Prior to acceptance of the real property, the NCE Gift Acceptance Committee and the NCE's legal counsel shall approve the gift. Criteria *for* acceptance of the property shall include:

- Is the property useful for the purposes of the NCE?
- Is the property marketable?
- Are there *any* restrictions, reservations, easements, or other limitations associated with the property?
- Are there *any* restrictions, reservations, easements, or other limitations associated with the property?
- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes etc., associated with the property?
- Does the environmental audit reflect that the property is not damaged?

e. **Remainder Interests in Property:** The NCE will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph d. above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, the NCE may use the property or reduce it to cash. Where the NCE receives a gift of a remainder interest, expenses and maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.

f. **Oil, Gas, and Mineral Interests;** The NCE may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest, the gift shall be approved by the Gift Acceptance Committee, and if necessary by the NCE's legal counsel. Criteria for the acceptance of the property shall include:

- Gifts of surface rights should have a value of \$20,000 or greater
- Gifts of oil, gas, and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
- The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate
- A working interest is rarely accepted. A working interest may only be accepted when there is a plan to minimize potential liability and tax consequences
- The property should undergo an environmental review to ensure that the NCE has no current or potential exposure to environmental liability

g. **Bargain Sales:** The NCE will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the NCE. All bargain sales must be reviewed and recommended by the Gift Acceptance Committee and approved by the Board of Directors. Factors used in determining the appropriateness of the transaction include:

- The NCE must obtain an independent appraisal substantiating the value of the property
- If the NCE assumes debt with the property, the debt ratio must be less than 50% of the appraised market value
- The NCE must determine that it will use the property or that there is a market for sale of the property allowing sale within 12 months of receipt
- The NCE must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period

h. **Life Insurance:** The NCE must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the NCE will include the entire amount of the additional premium payment as a gift in the year that the gift is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the NCE may:

- Continue to pay the premiums
- Convert the policy to paid up insurance, or
- Surrender the policy for its current cash value

i. **Charitable Gift Annuities:** The NCE may offer charitable gift annuities. The minimum gift for funding a charitable gift annuity is \$100,000. The NCE Gift Acceptance Committee may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The NCE Gift Acceptance Committee may approve exceptions to this payment schedule. The NCE shall issue gift annuities at rates suggested by the American Council on Gift Annuities.

The NCE will not accept real estate, tangible personal property or any other illiquid asset in exchange for current charitable gift annuities. The NCE may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the NCE Gift Acceptance Committee recommends the transaction and the Board of Directors approves the arrangement.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to the NCE's general endowment funds, or to such specific fund as designated by the donor.

The NCE Gift Acceptance Committee will determine if the NCE wants to assume the liability for the gift annuity or sell the annuity at a discount.

j. **Charitable Remainder Trusts:** The NCE may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the NCE Gift Acceptance

Committee. The Board of Directors of the NCE will not accept an appointment as sole Trustee of a charitable lead trust.

Upon the recommendation of the Gift Acceptance Committee and by approval of the NCE Board of directors, the NCE may serve as co-trustee of a charitable remainder trust that benefits the NCE, provided

- A financial services partner is specifically named in the trust agreement as co-trustee.
- The amount funding the trust is \$250,000 or more or the net present value of the remainder interest is at least 20% of the initial amount funding the trust, if the NCE serves as co-trustee without compensation
- The unitrust or annuity amount is no less than 5% distributed at least annually to one or more beneficiaries for life or for a term not to exceed 20 years and the present value of the remainder is computed to be greater than 10% of the value funding the trust.
- Any income beneficiary shall be 30 years or older
- Maximum number of beneficiaries shall be four
- The calculated net present value of the charitable contribution computed using government tables is 20% or more of the value of the initial amount funding the trust or the anticipated financial benefit to the NCE from the trust is not less than 20% of the charitable remainder.
- The charitable remainder trust designation is irrevocable

k. **Charitable Lead Trusts:** The NCE may accept a designation as income beneficiary of a charitable lead trust. The Board of Directors of the NCE will not accept an appointment as sole Trustee of a charitable lead trust.

Upon the recommendation of the Gift Acceptance Committee and approval by the Board of Directors of the NCE, the NCE may serve as co-trustee of a charitable lead trust that is to benefit the NCE provided

- A financial services partner is specifically named in the trust agreement as co-trustee.
- The expected annual payment to the NCE for serving as a co-trustee without compensation is \$10,000 or more.

l. **Retirement Plan Beneficiary Designations:** Donors and supporters of the NCE will be encouraged to name the NCE as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the NCE until the gift is irrevocable. When the gift is irrevocable, but not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

m. **Bequests:** Donors and supporters of the NCE will be encouraged to make bequests to the NCE under their wills and trusts. Such bequests will not be recorded as gifts to the NCE until the gift is irrevocable. When the gift is irrevocable, but not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

n. **Life Insurance Beneficiary Designations:** Donors and supporters of the NCE will be encouraged to name the NCE as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the NCE until the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

IX. Miscellaneous Provisions

a. **Securing appraisals and legal fees for gifts to the NCE:** It will be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to the NCE

b. **Valuation of gifts for development purposes:** The NCE will record a gift received by the NCE at its valuation for gift purposes on the date of the gift. The financial value of an irrevocable deferred gift is expressed as

- The discounted present value of the future interest to NCE (using the methodology recommended by the National Committee on Planned Giving Valuation Standards) at the time the gift is made, and
- As the face amount, funding the deferred gift at the time the gift is made.

The financial value of a revocable deferred gift (designation of NCE as beneficiary in a will, living trust, life insurance contract, or retirement plan) is expressed as

- the discounted present value and
- the face amount, as with irrevocable deferred gifts, taking into account the probability of receipt using the methodology recommended by the National Committee on Planned Giving Valuation Standards.

c. **Responsibility for IRS Filing upon sale of gift items:** The NCE Gift Acceptance Committee is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by the NCE when the charitable deduction value of the item is more than \$5,000. The NCE must file this form within 125 days of the date of sale or disposition of the asset.

d. Acknowledgement of all gifts made to the NCE and compliance with the current IRS requirement in the acknowledgement of such gifts shall be the responsibility of the Executive Director under the direction of the NCE Board of Directors.

X. Changes to Gift Acceptance Policies

These policies and guidelines have been reviewed and accepted by the NCE Gift Acceptance Committee and approved by the NCE Board of Directors. The Gift Acceptance Committee of the Nebraska Cultural Endowment must approve any changes or deviations from these policies

Approved on the _____ day of _____, 2014

President, Board of Directors of the Nebraska Cultural Endowment