

The Community Foundation of West Texas

GIFT ACCEPTANCE POLICY

1. Purpose

The purpose of this Gift Acceptance Policy (“Policy”) is to provide guidelines for negotiating and accepting various types of gifts to the Community Foundation of West Texas (“Foundation”). This Policy is intended only as a guide and allows for some flexibility on a case-by-case basis. All gifts to the Foundation must be for charitable purposes consistent with the Foundation’s governing instruments and must comply with Internal Revenue Service requirements. All gifts to the Foundation must comply with this Policy as it may from time to time be amended by the Foundation’s Board of Directors.

2. Executive Committee

A. Composition and Responsibilities. The Executive Committee shall consist of the Foundation’s President, President-Elect, Vice President, Secretary/Treasurer, and the Chair of the Grants Committee. The Executive Committee is responsible for evaluating certain types of proposed gifts before they are accepted by the Foundation. If necessary to evaluate a proposed gift, the Executive Committee will seek advice from the Foundation’s Investment Committee, legal counsel, and/or other professionals. The Executive Committee will meet as needed.

B. Gifts That Do Not Require Approval by the Executive Committee. Foundation staff members may accept the following types of gifts on behalf of the Foundation without approval by the Executive Committee:

- i. Cash,
- ii. Checks,
- iii. Marketable securities,
- iv. Life insurance policies that name the Foundation as beneficiary (donor must continue to pay all premiums),
- v. Individual retirement accounts that name the Foundation as beneficiary, and
- vi. Gifts of usable furniture or office equipment for use by the Foundation.

C. Gifts That Require Approval by the Executive Committee. Gifts not described in section 2.B above must be approved by the Executive Committee before acceptance by the Foundation.

3. Gifts of Non-Publicly Traded Securities and Business Interests

Gifts of non-publicly traded securities or business interests must be approved by the Executive Committee before acceptance by the Foundation. Prior to approval by the Executive Committee, a Foundation staff member will investigate methods of liquidation for the securities/business interests, any restrictions on transfer, and any recent sales. A Foundation staff member will also obtain an estimate of fair market value of the proposed gift. A formal appraisal at the donor’s expense may be required for

gifts exceeding \$5,000. No commitment for repurchase of closely held securities or business interests shall be made prior to completion of the gift of those securities or business interests.

4. Gifts of Real Estate

A. Executive Committee Approval. Gifts of real estate must be approved by the Executive Committee before acceptance by the Foundation. Prior to approval, a Foundation staff member or qualified real estate appraiser will attempt to visually inspect the property. To aid the Executive Committee in evaluating a proposed gift of real property, the donor shall provide the Executive Committee with the following documents and information:

- i. An appraisal of the property, the cost of which shall be borne by the donor,
- ii. A real estate deed,
- iii. A real estate tax bill,
- iv. A plot plan, if any,
- v. Substantiation of zoning status,
- vi. Any known or suspected environmental concerns and/or an environmental review stating that the property is free of environmental hazards, and
- vii. Any other documentation required by the Executive Committee to evaluate the gift.

B. Costs of Sale. As a general rule, the Foundation will sell gifts of real estate as soon as possible after the gift is complete. The donor may be asked to pay for all or a portion of the expenses associated with the sale, including but not limited to the following items:

- i. Maintenance costs,
- ii. Real estate taxes,
- iii. Insurance,
- iv. Real estate broker's commission, and
- v. Environmental assessments.

For gift crediting and accounting purposes, the value of the gift shall be the appraised value of the real estate. The Foundation may be required to exclude expenses associated with sale from the value of the gift.

5. Gifts of Tangible Personal Property

Gifts of tangible personal property, such as jewelry, artwork, collections, equipment, vehicles, etc., must be approved by the Executive Committee before acceptance by the Foundation. In evaluating a

proposed gift of tangible personal property, the Executive Committee may consider the estimated value of the gift and/or any qualified appraisal, the potential uses of the gift for the Foundation, any special storage facilities or security measures the gift may require, the costs of sale, and any other relevant factors.

Depending on the anticipated value of the gift, a qualified outside appraiser may be required to value the gift at the donor's expense.¹ Gifts of tangible personal property shall be sold or used by the Foundation. If the donated property is sold, the donor may be required to pay all or part of the costs associated with the sale.

6. Planned Gifts

A. Executive Committee Approval Required. All planned gifts must be approved by the Executive Committee before acceptance by the Foundation. In evaluating a proposed planned gift, the Executive Committee should consider the estimated value of the gift, pay-out rates, administration costs, potential financial risks, potential tax consequences, and/or any other factors relevant to whether the proposed gift will further the charitable purposes of the Foundation.

B. Role of Legal Counsel and Financial Professionals. A donor should be represented by his or her own legal counsel when making any planned gift to the Foundation. The donor's attorney(s) should review and approve the language of any document and the viability of the planned gift design within the context of the donor's financial and estate plans. This review may require the advice of tax and/or financial professionals. To avoid conflicts of interest and the unauthorized practice of law, the Foundation will not provide legal advice to a donor in connection with a donor's proposed gift to the Foundation.

C. Charitable Gift Annuities and Deferred Gift Annuities. A charitable gift annuity (or a deferred gift annuity) is a binding contract between a donor and the Foundation. It is not a trust. The donor transfers cash, marketable securities, or other assets to the Foundation. In exchange, the Foundation pays a fixed amount of money to one or two individuals ("annuitants") for their lifetime. The rate at which the Foundation pays the fixed amount is stipulated in the annuity contract. A single charitable or deferred gift annuity may not have more than two annuitants. The Foundation must be the 100% remainder beneficiary.

D. Charitable Remainder Trusts. A donor may name the Foundation as a beneficiary of a charitable remainder trust ("CRT"). With a CRT, a donor irrevocably transfers property to a trustee selected by the donor. The trustee pays the donor (or income beneficiaries designated by the donor) either a fixed percentage of the market value of the trust's assets (a charitable remainder unitrust) or a fixed amount (a charitable remainder annuity trust). The payments are made during the lifetime of the income beneficiaries or for a fixed period of years. Upon termination, the assets of the trust are transferred to the Foundation and become part of (1) the Foundation's unrestricted funds or (2) a new or existing permanent fund of the Foundation as requested by the donor. The Foundation shall not serve as trustee or co-trustee for a charitable remainder trust.

E. Charitable Lead Trusts. A donor may name the Foundation as a beneficiary of a charitable lead trust (CLT). With a CLT, a donor irrevocably transfers property to a trustee selected by the Donor. The trustee pays the Foundation either a fixed percentage of the market value of the trust assets (a charitable lead unitrust) or a fixed dollar amount (a charitable lead annuity trust). Upon termination, trust assets are transferred to the ultimate beneficiary named by the donor. The Foundation shall not serve as trustee or co-trustee for a charitable lead trust.

¹ Generally, if a donor intends to claim a deduction of more than \$5,000 for a gift of tangible personal property, the IRS requires the donor to obtain a qualified appraisal and report a summary of that appraisal on IRS Form 8283.

F. Bequests. Bequests received by the Foundation shall be applied for the charitable purposes designated by the donor to the extent that those purposes are consistent with the Foundation’s governing instruments. Donors and/or their attorneys are encouraged to confer with Foundation staff members during the preparation of a bequest to the Foundation to ensure that the donor’s charitable intent can be honored.

G. Retained Life Estates. A donor may deed real estate – including a personal residence or vacation property – to the Foundation and continue to occupy the property for the remainder of the donor’s life. During the time of occupancy, the donor is responsible for taxes, insurance, upkeep, and maintenance. Proceeds from the eventual sale of the property will be applied to a new or existing component fund of the Foundation as determined by the donor.

7. Miscellaneous Gifts

Gifts not described in any of the above sections or gifts that create unusual responsibilities or risks for the Foundation require approval by the Executive Committee before acceptance by the Foundation. The Foundation reserves the right to refuse any gift.

8. Special Rule for Gifts to Donor Advised Funds

The Foundation shall not acquire any interest on behalf of a donor advised fund that would subject the Foundation to tax under section 4943 of the Internal Revenue Code of 1986, as amended (“Code”), concerning “excess business holdings.” To facilitate this provision, any proposed gift that would result in a donor advised fund acquiring any of the following holdings must be referred to the Foundation’s legal counsel for an opinion on the possible application of Code section 4943:

- a. A 20% or greater interest in a business or entity or
- b. Any interest in an entity in which any of the following individuals or entities holds an interest:
 - i. A donor or advisor to a donor advised fund,
 - ii. A family member of a donor or advisor to a donor advised fund, or
 - iii. An entity in which donors or advisors to a donor advised fund own more than 35 percent control or interest.

Ownership of unincorporated businesses that are not substantially related to the fund’s purposes is also prohibited.

9. Types of Funds

A. In General. Except for gifts that are designated for the Foundation’s Operating Fund (which supports the Foundation’s day-to-day operations) gifts accepted in accordance with this Policy will be used to establish or add to a fund administered by the Foundation. The Foundation administers various types of funds (described below). Foundation staff members will work with donors to determine which type of fund best corresponds with donors’ needs and charitable interests.

B. Unrestricted Funds. Unrestricted funds give the Foundation’s Board of Directors the most flexibility to respond to the changing needs of the community. These funds are used to support all aspects of community well-being: arts and culture, education, environment, health and human services, neighborhood revitalization, historic preservation, and more. Unrestricted funds have the flexibility to make a difference where the Foundation determines they are most needed.

C. Field of Interest Funds. Field of interest funds allow donors to address needs in a particular field such as arts and culture, child welfare, animal welfare, scientific research, beautification of a particular geographic area, etc. Donors identify their personal areas of interest when setting up funds of this type. The Foundation’s Board of Directors awards grants from the earnings of the fund to community agencies and programs that make a difference in the donor’s selected field of interest.

D. Scholarship Funds. Scholarship funds allow donors to support the educational endeavors of worthy recipients. Scholarship recipients are recommended by selection committees whose composition is determined at the time a scholarship fund is established. The Foundation will distribute awarded amounts directly to the educational institutions at which scholarship recipients are enrolled.

E. Designated Funds. Individual donors or organizations establish these funds so that income will be distributed regularly to charitable organizations designated at the time the fund is established. If a named charitable recipient is no longer active or no longer provides a needed service, or if the purpose of the fund becomes impractical or impossible to fulfill, the Foundation’s Board of Directors may select another recipient with a similar charitable purpose consistent with the Foundation’s governing instruments.

F. Agency Endowments. Non-profit organizations qualified by Internal Revenue Code section 501(c)(3) establish these funds so that income will be regularly distributed back to the non-profit organization. If the organization is no longer active or no longer provides a needed service, or if the purpose of the fund becomes impractical or impossible to fulfill, the Foundation’s Board of Directors may select another recipient with a similar charitable purpose consistent with the Foundation’s governing instruments.

G. Donor Advised Funds (Permanent and Non-Permanent). Donor advised funds allow donors to have ongoing involvement in the use of their gifts. Donors work with Foundation staff members to identify the community needs that the donors are most interested in supporting at any given time. Donor recommendations as to grant recipients are submitted at least annually to the Foundation’s Board of Directors for approval. Grant recipients must be organizations qualified by Internal Revenue Code section 501(c)(3).

H. Non-Endowed Restricted Funds. Non-endowed restricted funds are pass-through funds in which the donated amount is distributed to an identified charitable recipient at a future date specified by the donor. Grant recipients must be organizations qualified by Internal Revenue Code section 501(c)(3).

10. Endowed Fund Minimums

The following amounts are suggested minimums to establish endowed funds at the Foundation:

Unrestricted Funds	\$5,000
Field of Interest Funds	\$5,000
Designated Funds	\$5,000
Donor Advised Funds	\$5,000

Agency Endowments	\$10,000
Scholarship Funds	\$25,000

11. Acknowledgment

Within 30 days of the Foundation's receipt of any gift, the donor(s) of that gift shall receive from the Foundation an expression of sincere thanks and an acknowledgment in accordance with federal regulations.

12. Publicity

The Foundation will not generate any public media exposure about a donor's gift without the consent of the donor.

13. Material Restrictions on Gifts Prohibited

In accordance with federal regulations, a donor may not impose any material restriction or condition on a gift that prevents the Foundation from freely and effectively employing the gift in furtherance of the Foundation's charitable purposes.

14. Investment of Gifts

All gifts to the Foundation will be invested in accordance with the Foundation's Investment Policy.

15. Administrative Costs

In general, donors are expected to bear any costs associated with a gift, including legal and accounting fees, costs of appraisal and/or escrow, etc.. Special requests for exceptions to this practice may be presented to and considered by the Foundation's Executive Committee and Board of Directors.

16. Confidentiality

Unless otherwise required by law, Foundation staff members shall maintain strict control over files and information received from or about donors or prospective donors and shall maintain confidentiality over such information.

Adopted by the Board of Directors on September 29, 2005
Revised by the Board of Directors on October 28, 2010
Revised by the Board of Directors on August 18, 2011