

Gift Acceptance Policy

Purpose

The purpose of this policy of the South Dakota Community Foundation and affiliated entity (referred to as the “Foundation” in the following sections of this policy) is to serve the best interests of the Foundation, its donors, and exempt charitable purposes by providing guidelines for negotiating and accepting various types of gifts for various types of funds. Given the increasing complexity of IRS regulations, the volume of real estate and other property gifts, and state and federal environmental laws, the Foundation recognizes the value in carefully screening proposed gifts.

The purposes of the gift must fall within the broad charitable purpose of the Foundation. In addition, the Foundation board and staff must be able to assure that gifts accepted by the Foundation do not place other assets of the Foundation at risk, and that they can be easily converted into assets that fall within the Foundation’s investment guidelines.

Scope

This policy governs any potential gift, regardless of form, being considered by the Foundation.

Policy Topics

- Foundation Responsibilities
- Gift Acceptance Committee
- Form of Gifts to the Foundation
- Gifts Declined
- Types of Funds
- Acknowledgement
- Publicity
- Restrictions
- Acting as Trustee
- Investment of Gifts
- Costs of Accepting and Administering Gifts
- Confidentiality
- Authority to Negotiate

Foundation Responsibilities: Foundation staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor’s decision to make a gift to the Foundation. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision.

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In particular, donors should be made aware of:

- the irrevocability of a gift,
- prohibitions on donor restrictions,
- items subject to variability (market value, investment return, and income yield) and
- the Foundation's responsibility to provide periodic financial statements on donor funds.

The role of Foundation staff shall be to inform, guide and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor's decision.

Gift Acceptance Committee: The President and Chief Financial Officer shall constitute the Gift Acceptance Committee, hereafter known as the "Committee."

In circumstances where a clear determination cannot be made by the Committee, the matter will be submitted to the Executive Committee. A decision will be made at this level, or advice will be sought from legal counsel or other professionals, or the matter will be addressed by the Board of Directors.


Forms of Gifts to the Foundation:

Gifts Requiring Committee Review

- Tangible personal property that is not readily marketable
- Real property
- Closely-held and S corporation stock
- Partnership interests
- Accounts receivable (gifts of loans, notes, mortgages, etc.)
- Gifts of intellectual property, mineral reserves, precious metals, and other types of assets carrying their own challenges
- Gifts whose structure fall outside the ordinary purposes, bylaws, and procedures of the Foundation
- Life insurance policies requiring future premium payments by the Foundation

Gifts Not Requiring Committee Review

- Cash or cash equivalents
- Checks
- Marketable securities
- Gifts of personal property for use in Foundation offices or programs
- Life insurance policies except as noted above

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See Appendix A for detail on each gift category.

Gifts Declined: The Foundation reserves the right to refuse any gift it believes is not in the best interests of the Foundation or does not advance the Foundation's exempt charitable purposes. In addition, the Foundation will not knowingly accept a charitable gift from a donor who:

- Has insufficient income and assets remaining after making a gift to provide for his/her needs such as personal support and healthcare.
- Has insufficient income and assets remaining after the gift to provide for his/her heirs for whom he/she is fiscally responsible.
- Has an apparent insufficient mental capacity to make a rational decision.
- Has insufficient input from competent financial, legal, and/or personal counsel.

Types of Funds: The Foundation offers a continuum of funds designed to be responsive to donor needs. A standard Advised Fund Agreement is required to establish a fund with the Foundation. Fund types are as follows:

- **Agency Endowed Funds:** Established by an exempt organization to provide financial support to the same exempt organization.
- **Community Savings Accounts:** To provide financial support to charitable and nonprofit purposes at the recommendation of a local board of directors.
- **Donor Advised Funds:** To provide financial support to charitable and nonprofit purposes at the recommendation of the donor(s) or designee(s).
- **Designated Funds:** To provide financial support to nonprofit entity(s) as designated by the donor(s).
- **Field-of-Interest Funds:** To provide financial support to a particular field or area of focus as determined by the Foundation's board of directors through an application process.
- **Scholarship Funds:** To provide financial support to students pursuing higher education opportunities.
- **Unrestricted Funds:** To provide financial support to charitable and nonprofit purposes as determined by the Foundation's board of directors through an application process.

The Foundation focuses primarily on establishing endowed funds. However, the Foundation may be willing to establish nonpermanent funds in certain instances.

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Acknowledgement: Donors shall receive an expression of gratitude from the Foundation and an acknowledgement of the gift in accordance with federal regulations.

Publicity: No public media exposure with respect to a donor's gift will be generated without the consent of the donor.

Restrictions: In conformance with Treasury Department regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income derived therefrom, in furtherance of its exempt purposes.

Acting as Trustee: By opinion of legal counsel, the Foundation may not serve as a trustee.


Investment of Gifts: It is the policy of the Foundation to convert all gifts to cash as soon as possible, except as provided in the Agricultural Land Retention Program Guidelines. The Foundation reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy.

In making a gift to the Foundation, donors give up all rights, title, and interest to the assets contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts.

However, when the size of a fund warrants separate investment consideration, the Foundation will endeavor to accommodate requests from donors for separate investment of fund assets, or use of a particular investment manager, broker or agent in accordance with the Investment Policy, and may consult with donors on investment options for such funds.

Costs of Accepting and Administering Gifts: Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the Foundation will be borne from the assets of the individual funds, except for those special circumstances as determined by the Gift Acceptance Committee. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the Foundation's guidelines and fee schedules.

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Confidentiality: Foundation staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

Authority to Negotiate: The Foundation management and administrative officers authorized to accept letters of direction and amendments thereto and to negotiate and sign charitable giving agreements with prospective donors are:

- President/CEO
- Chief Financial Officer

DATE ADOPTED	Board of Directors, May 2007
REVISION DATE & DESCRIPTION OF CHANGES	Board of Directors reviewed, May 30, 2019
REVISION DATE & DESCRIPTION OF CHANGES	Board of Directors, Oct. 16, 2025 Formatting changes
REVISION DATE & DESCRIPTION OF CHANGES	

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Appendix A **Forms of Gifts to the Foundation**

Gifts to the Foundation take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor's death or are other forms of deferred gifts.

If the value of a gift other than cash or marketable securities exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted to the IRS on Form 8283. If such gifts are sold within three years of receipt, Form 8282 must be filed by the Foundation.

The Foundation reserves the right to accept or reject any gift as it sees fit. It is the policy of the Foundation to convert all gifts to cash as soon as possible, except as provided in the Agricultural Land Retention Program Guidelines. Real estate and other assets which have potential liability associated with them shall be held by Land Gifts, LLC. Real estate shall only be retained in accordance with the Agricultural Land Retention Program Guidelines.

Cash

The Foundation accepts cash, checks, or money orders made payable to the Foundation or any of its funds.

Marketable Securities


The Foundation will add the net proceeds of a marketable securities contribution to a fund of the Foundation. The Foundation will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.

Stock in Privately Owned Companies and Partnerships

Donors wishing to make gifts of stock in a closely-held corporation or S corporation or a gift of a partnership interest, must have it valued by a qualified independent accounting or appraisal company prior to making a contribution. If it is immediately marketable, it will be sold. Otherwise, it will be held by the Foundation until it may be redeemed or sold for cash.

Generally, the Foundation does not accept gifts of general partnership interests due to potentially unlimited liability.

The acceptability of a gift of closely-held stock, S corporation stock, or a partnership interest will depend on the ultimate financial liability of the Foundation, the amount of management attention required, whether the gift provides minority or majority

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control, or any stipulations the donor may place on the disposition or retention of the stock.

Consideration will be given to whether the S corporation stock or partnership interest generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, the nature of the business, recordkeeping and accounting requirements, and how quickly the gift can be converted to cash.

Gift Annuities

The Foundation offers gift annuity contracts. The charitable remainder interest must be designated for an existing or new endowed fund at the Foundation, with ten percent of the charitable remainder interest designated to the Foundation's unrestricted fund.

Life Insurance Policies

The Foundation will accept gifts of permanent life insurance policies if the Foundation is named as owner of or is assigned ownership in such policies. Policies continuing on a premium-paying basis will be maintained as such by the Foundation so long as gifts are made to the Foundation in the amount of the premiums due. Premiums can be of a reducing amount if dividends are directed toward future premiums. Should such premium gifts not be forthcoming, the Foundation may, on the recommendation of the Gift Acceptance Committee, elect:

- To have the Foundation continue the premium payments.
- To surrender the policy in exchange for its cash surrender value.
- To invoke procedures under which the existing policy values can sustain the policy without further outlay of Foundation funds for premium. This can take on any of the following forms:
 - Change the dividends to Net (Have the dividends pay future premiums)
 - Use the Automatic Premium Loan feature (Borrow against the cash value to pay future premiums)
 - Use a combination of the two previous options (Have the dividends pay as much of the premium as possible and borrow against the cash value for the remainder amount)
 - Change the policy to Paid-Up in which case, no more premiums will be due

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Gifts Naming Multiple Beneficiaries

From time-to-time, donors may wish to designate multiple beneficiaries of the proceeds from their life insurance policies, IRA's, other qualified retirement plans, pooled income funds, gift annuities, or other forms of gifts to the Foundation. It will be encouraged that other charitable organizations be named as beneficiaries on the contract. However, if the Foundation is selected as sole beneficiary and then requested to distribute funds to other organizations, the following guidelines shall apply:

- The Committee will take into consideration the amount of the total gift, the amount designated for the Foundation both discretionary and restricted, the added value to exempt charitable purposes, and in the case of life insurance policies, whether or not the premiums are paid up.
- In the case where the Foundation becomes the sole owner of a donor's life insurance policy, the Foundation subsequently has the exclusive right to change the beneficiary/distributee designations. It can then name the Foundation or other charitable organizations as beneficiaries. These other charitable organizations must qualify as such under Section 501 (c) (3) and which are described under section 170(b)(1)(A) of the Internal Revenue Code.


If a policy beneficiary/distributee designation is to be changed to a charitable organization other than the Foundation, the Foundation shall consider the charitable intentions of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the Foundation, as owner of the policy, retains exclusive authority to direct the death benefits, maturity, and surrender proceeds of the policy.

Excessive Business Holdings

The South Dakota Community Foundation is prohibited from accepting gifts of excessive business holdings into donor advised funds held and managed by the Foundation.

Real Property

If a donor wishes to contribute real property or an interest in real property to the Foundation either directly or through a life estate arrangement, the Gift Acceptance Committee shall consider all facts and circumstances in determining whether to recommend accepting the gift. Donors always should be advised to confer with their own counsel to review the terms of the gift. Real property gifts shall be held by

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Land Gifts, LLC. It is presumed that any real estate gifted to the Foundation will be sold as soon as is convenient for the Foundation. Real estate shall only be retained in accordance with the Agricultural Land Retention Program Guidelines.

Acceptability of real estate to be gifted to the Foundation will be determined on a case-by-case basis. Criteria for acceptance of gifts of non-agricultural real estate include: marketability, encumbrances, carrying costs, value of the real estate, environmental and other risk, condition of real estate, and title clarity.

Tangible Personal Property

The donor will be advised whether the gift will be retained and used by the Foundation or disposed of immediately.