

NATIONAL GALLERY OF ART
POLICY AND GUIDELINES FOR ACCEPTING GIFTS OTHER THAN ART
(Adopted October 3, 2014)
(Revised May 11, 2018)

The National Gallery of Art (“the Gallery”) welcomes and encourages gifts that further its mission. The mission of the Gallery is to serve the United States of America in a national role by preserving, collecting, exhibiting, and fostering the understanding of works of art at the highest possible museum and scholarly standards. The purpose of this document is to establish policies and guidelines governing the Gallery’s acceptance of gifts, pledges and grants and to assist the staff when providing guidance to prospective donors and their advisors with respect to proposed gifts to the Gallery.

The scope of this policy is limited to gifts offered to the Gallery that are not works of art to be accessioned. The Bylaws of the Trustees of the Gallery and the Gallery's Charter Provisions set out the Gallery's rules for accepting works of art for accession.

1. INDEPENDENT ADVISORS

It is the donor’s responsibility to secure independent legal, tax, financial and estate advice with respect to a gift proposed to be made to the Gallery. The Gallery may not act as an advisor to any donor with respect to such matters. However, the Gallery is always pleased to work with a donor’s advisors in structuring the form and terms of a proposed gift. Each donor shall be responsible for obtaining appraisals of gifts where required for the donor’s tax return. The Gallery does not select the appraiser, hire the appraiser or pay for such appraisals, or give any opinion on the value of a gift.

2. GIFT ACCEPTANCE COMMITTEE

The Gift Acceptance Committee (the GAC) consists of the Director, the Secretary and General Counsel, the Treasurer, and the Chief of Development/Corporate Relations Officer. The GAC will review potential gifts as provided below and will make recommendations to the Finance Committee of the Board of Trustees (the Finance Committee) on whether the Gallery should accept the offered gift. The Finance Committee will make the final decision. The Gallery reserves the right to refuse or return any gift that may be deemed to be inappropriate or otherwise inconsistent with the Gallery's mission.

3. FORMS OF GIFTS

Gifts may take the following forms:

- Cash and Publicly Traded Securities Not Subject to Restriction
- Publicly Traded Securities Subject to Restriction
- Closely Held Securities and Other Ownership Interests
- Charitable Gift Annuities Charitable Remainder and Lead Trusts
- Retirement Plan Benefits
- Life Insurance Plan Benefits
- Tangible Personal Property and Real Property

Certain gifts do not require GAC review:

- **Cash and Publicly Traded Securities Not Subject to Restriction** – Outright gifts of cash and publicly traded securities that are not subject to restrictions -- either by the donor or applicable law -- do not require GAC review. Cash is acceptable in any form. Checks should be made payable to “National Gallery of Art.” Credit card payments and fund transfers (including wire and ACH transfers) are also acceptable. Publicly Traded Securities may be accepted and will be sold upon receipt unless otherwise directed by the Finance Committee.

Other forms of gifts may require GAC review (and Finance Committee approval) as set forth below.

- **Publicly Traded Securities Subject to Restriction** – Gifts of otherwise marketable securities restricted by applicable law or other restriction will be reviewed by the GAC. Any restricted marketable securities that are accepted by the Gallery will be sold as soon as practicable upon expiration or satisfaction of their restrictions.
- **Closely Held Securities and Other Ownership Interests** – Gifts of closely held securities, including debt and equity positions in non-publicly traded companies, as well as interests in LLPs, LLCs or other ownership forms, must be reviewed by the GAC, taking into account:
 - Legal or contractual restrictions and company policies on resale
 - Special issues arising from co-ownership or ownership of a non-controlling or minority interest
 - Marketability
 - Potential tax consequence
 - The nature of the company's business
 - Potential liability, costs or other obligations arising from ownership of the interest

If accepted, the Gallery will make every effort to sell the securities as soon as legally permissible.

- **Charitable Gift Annuities** -- Ordinary charitable gift annuities offered by the Gallery will not require GAC review. The GAC, however, will review any variations or unusual terms. Payout rates will depend on the number of annuitants and their ages. The Gallery follows the rates recommended by the American Council on Gift Annuities. The minimum gift for funding is \$10,000, and the minimum age for a beneficiary is 60 years old (at the time the annuity is funded or, in the case of a deferred annuity, at the time the annuity is scheduled to begin payments to the annuitant).
- **Charitable Remainder and Lead Trusts** -- Designations of the Gallery as a remainder beneficiary of a charitable remainder trust or as an income beneficiary of a charitable lead trust will not require GAC review. The GAC, however, will review any non-cash funded

trusts or other variations or unusual terms. The Gallery will not serve as a trustee of a charitable remainder trust or a charitable lead trust.

- **Retirement Plan Benefits** -- Donors are encouraged to name the Gallery as beneficiary of their retirement plans. Unless conditions are imposed on the Gallery, the naming of the Gallery as beneficiary of a donor's retirement plan will not require GAC review.
- **Life Insurance Plan Benefits** -- The Gallery may accept a gift of life insurance in the form of a transfer of a paid up whole life policy without GAC approval. Designation of the Gallery as beneficiary or contingent beneficiary on a donor's life insurance policy that is not paid up will require GAC review to assure that the donor has made satisfactory provisions for the payment of any future premiums. The Gallery reserves the right, at its discretion, to cash in any insurance policy or to retain it.
- **Tangible Personal Property and Real Property** -- The Gallery ordinarily will not accept gifts of tangible personal property or real property, except when the Finance Committee, upon consideration of the GAC's recommendation, determines that the expected benefits to the Gallery sufficiently outweigh the costs, burdens, and potential liability of receiving, maintaining, and disposing of the property. All gifts of tangible personal property or real property should be capable of being readily liquidated or marketed to generate cash or must be property intended for use or consumption by the Gallery.

Tangible Personal Property -- In determining whether the Gallery should accept a gift of Tangible Personal Property, the following factors will be considered:

- Restrictions on sale or use
- Potential liabilities
- Practical use to the Gallery and relatedness to its mission
- Costs of receiving, maintaining or selling the property (including insurance, shipping, storage, care or appraisals)

Real Property -- Gifts of real property must take the form of an outright donation by all owners of the property of all of their interest, except where the property is subject to a life estate and meets all of the requirements set out below. In determining whether the Gallery should accept the gift, the following factors will be considered:

- Donor restrictions or conditions
- Current market conditions for the type and location of the property
- Encumbrances, including mortgages, liens, and unpaid taxes
- Easements, zoning regulations, or other restrictions
- Any potential joint or partial ownership that may result or persist following transfer to the Gallery
- Commitments for sale or lease
- Pending or anticipated litigation or other proceedings, including eminent domain or condemnation actions
- Environmental hazards and liabilities

The following, which will be furnished to the Gallery by the donor (at the donor's expense) or otherwise paid for by the donor, will also be considered:

- Results of title search and building and environmental inspection
- Title insurance
- Maintenance and carrying costs, including utilities, property management, insurance, and security
- Qualified independent appraisal report
- Transfer and recordation costs, including taxes, upon accepting and disposing of the property

The Gallery will not accept real property subject to a retained life interest unless the property has a minimum value of \$500,000 and the youngest life tenant is at least 70 years of age. Any retained life estate should include provisions requiring the life tenant to maintain the property, pay all taxes on the property, insure the property, and refrain from encumbering the property.

4. RESTRICTIONS ON GIFTS

The Gallery may accept gifts with one or more purpose restrictions, provided the restrictions are determined to be consistent with the mission of the Gallery and its needs. All restricted purpose gifts must be documented in writing and signed by the party imposing the restriction.

5. ENDOWMENTS

The minimum amount necessary to establish a separately named endowment is \$250,000. Endowments may be funded with outright contributions, including contributions pledged over a maximum period of five years. Endowments may also be funded with contributions from bequests, life insurance policies, retirement plans, charitable remainder trusts, charitable gift annuities and similar instruments.

The principal of each endowment fund will be pooled and invested, and the income expended in accordance with the Board-approved investment and spending policies of the Gallery in effect from time to time and all applicable laws and regulations.

6. PLEDGES

Legally enforceable commitments to make a future gift to the Gallery may be made through written pledges payable according to a fixed time schedule over a period of no more than five years.

7. GIFT ACKNOWLEDGEMENTS

All charitable gifts to the Gallery are recorded in the Gallery's records by the name of the donor and include the date of the gift, purpose (if any), and value (if known). The Gallery's Development Office has the responsibility to send each donor a gift acknowledgement. A gift

acknowledgement must include a good faith estimate of any goods or services that were provided in exchange for the gift.

8. SOURCE OF DONATION

The Gallery will not solicit or accept gifts or donations that would result or give the appearance of resulting in any unethical, illegal or inappropriate advantage to the donor or a third party or that otherwise would be inconsistent with Gallery Circular No. 36, *Employee Responsibilities and Conduct*.

Specifically, the Gallery will not solicit or accept gifts or donations from current contractors or concessionaires or those involved in current active Requests for Proposals (RFPs), solicitations, bids or offers relating to any Gallery contracts. The Gallery, however, may solicit and accept gifts or donations from vendors that routinely sell standard products and equipment to the general public or to organizational buyers and sell such products and equipment to the Gallery on similar terms.