



# The Helene Wurlitzer Foundation of New Mexico

218 Los Pandos Rd • Taos, New Mexico • wurlitzerfoundation.org

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## HWF Gift Acceptance Policy

The Helene Wurlitzer Foundation of New Mexico (HWF) is a nonprofit 501(c)(3) corporation (EIN# 85-0128634) located at 218 Los Pandos Road in Taos, organized under the laws of the State of New Mexico on March 20, 1956. HWF encourages the solicitation and acceptance of gifts for purposes that will help HWF to fulfill its mission to Support the Artist and the Creative Process. The following policies and guidelines govern the acceptance of gifts made to the HWF.

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## **I. Purpose of Gift Policies and Guidelines**

The Board of Trustees (Board) of HWF and its staff solicit current and deferred gifts from individuals, corporations and foundations to help fulfill the mission of this vital agency. These policies and guidelines govern the acceptance of gifts by HWF and provide guidance to prospective donors when making gifts to HWF.

## **II. Use of Legal Counsel**

HWF will seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- A. Gifts of securities that are subject to restrictions or buy-sell agreements.
- B. All transactions governed by contracts or other legal documents. This would include gifts of real estate, bargain sales, trusts naming HWF as trustee, or documents obligating HWF to act in any fiduciary capacity.
- C. All transactions with potential conflicts of interest.
- D. Administration of estates of which HWF is named as a beneficiary.
- E. Other circumstances in which the staff or Board of Directors believe that use of counsel is appropriate.

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

## **III. Donor Relations**

The HWF endorses the Donor Bill of Rights created by the Association of Fundraising Professionals, the Association for Healthcare Philanthropy, the Council for Support and Advancement of Education, and the Giving Institute: Leading Consultants to NonProfits (*see Attachment A*). HWF also follows the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving (*Attachment B*).

All information obtained from or about donors or prospective donors shall be held in strictest confidence in accordance with HWF's Donor Privacy Policy.

## **IV. Review of Gifts**

All contributions are reviewed by the HWF's executive director to insure we address the excess business holding rules. Should there be any questions regarding any gift, it will be reviewed by the Board. The Board of Trustees will review of the following types of unsolicited gifts:

- A. Certain gifts of tangible personal property (as outlined in section X)
- B. Gifts of publicly traded securities that are restricted by securities laws
- C. Closely held securities
- D. Select life insurance policies (as outlined in section X)
- E. Real property
- F. Restricted bequests
- G. Charitable gift annuities
- H. Proposed new endowment funds

Upon review of these gifts, the Board of Trustees makes recommendations to the

executive director regarding gift acceptance, and the interpretation of these gift policies.

## V. Conflict of Interest

The HWF Board will assure itself that HWF personnel are circumspect in all dealings with donors in order to avoid even the appearance of any act of self dealing. The Board will consider a transaction in which the employee has a "material financial interest" with a donor an act of self-dealing. The Board will examine all acts of self-dealing including, but not limited to prohibition against personal benefit. Those individuals who normally engage in the solicitation of gifts on behalf of HWF shall not personally benefit by way of commission, contract fees, salary, or other benefits from any donor in the performance of their duties on behalf of the HWF.

## VI. Donor Acknowledgement and Recognition

- A. **General Gift Acknowledgement:** All gifts to the HWF will receive acknowledgement from the executive director within one week of receipt of the gift, if possible. An acknowledgement letter including a stating the value and description of the gift will be sent to each donor upon acceptance of a gift. Receipts and acknowledgements are necessary to ensure that gifts are deposited correctly and also serve as additional verification of a tax-deductible gift for the donor. Gifts of \$500 or more will also be acknowledged with a phone call from a Board member, staff member, or fundraising volunteer within 24 hours, or as soon as possible, following receipt of the gift.
- B. **Donor recognition:** All donors will be recognized in the HWF annual report and may be included in mailings, special events, and activities.
- C. **Anonymity:** Requests for donor anonymity will be honored, and donors who wish to remain anonymous may do so with every confidence.
- D. **Confidentiality:** Files, records, and mailing lists regarding all donors and donor prospects are maintained and controlled by the HWF as outlined in the HWF Donor Privacy Policy.
- E. **Naming Opportunities:** Donors making gifts of \$100,000 or more may be considered for recognition through the dedication of a casita (artist studio/house).

## VII. Restrictions on Gifts

HWF will accept unrestricted gifts and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes and priorities. HWF reserves the right not to accept any gifts that are too restrictive in purpose. Gifts that are too restrictive include gifts that violate the terms of the HWF's governing documents, gifts that may be too difficult or costly to administer, or gifts that are for purposes inconsistent with or outside of the scope of the mission of the HWF. The executive director shall have the independent authority to decline proposed cash gifts that are too restrictive in purpose. If the executive director deems appropriate, in the alternative, such proposed gifts may be submitted to the Board for review in accordance with the terms of this Policy.

## **VIII. Gift Designations/Earmarks**

HWF records each gift according to the designation indicated by the donor. If specific restrictions are indicated and the donor's restrictions cannot be followed, the gift will not be accepted or will be redirected with donor approval toward a similar area of focus within the HWF mission. To designate a gift to a specific HWF program, a donor must give prior notice to HWF. Non-designated outright gifts of cash are attributed to the HWF Operating Account.

## **IX. Unacceptable Gifts**

HWF reserves the right to refuse any gift that is not consistent with its mission. In addition to and without limiting the generality of, the following gifts will not be accepted by HWF:

- A. Gifts that violate any federal, state, or local statute or ordinance
- B. Gifts that contain unreasonable conditions (e.g., a lien or other encumbrance) or gifts of partial interest in property
- C. Gifts that are made with the condition that the proceeds will be spent by the HWF for the personal benefit of a named individual
- D. Gifts that could expose HWF to liability

## **X. Types of Gifts Accepted**

HWF accepts gifts in the form of outright gifts, pledges, planned gifts and endowment gifts. The details of gift acceptance by gift type follow.

### **A. Outright Gifts Accepted:**

- 1. Cash:** Unrestricted gifts of cash are acceptable without prior review of the Board, and will be accepted by HWF regardless of amount. Checks shall be made payable to "The Helene Wurlitzer Foundation of New Mexico". The Board will review restricted gifts of cash as requested by the executive director.
- 2. Professional Services:** Gifts of necessary professional services will be acceptable without prior review of the Board of Directors. These gifts will be accepted, and with an assigned dollar, at market rate, determined by the donor.
- 3. Tangible Personal Property (TPP):** Furniture, equipment, vehicles, instruments, goods, collectibles, and jewelry must be deemed by the executive director to be of general or specific value to HWF prior to acceptance. In reviewing these gifts, the following criteria shall be considered:
  - a) TPP will only be accepted if HWF can benefit from using or selling the property. Gifts shall be used by or sold for the benefit of HWF.
  - b) The gift will be completed by the execution and delivery of a Deed of Gift, and the delivery of the property.
  - c) TPP valued in excess of \$5,000 requires an independent appraisal in accordance with IRS regulations in order to substantiate the fair market value of the goods donated. The donor is responsible for the cost of the appraisal. In addition, the filing of IRS Form 8283 by the donor is required by the IRS for gifts of assets valued at more than \$5,000. This form will be prepared by the

HWF and forwarded to the donor along with instructions for its inclusion on the donor's tax return. Any subsequent sale of the gift property by HWF within two years of the gift must be reported by HWF to the IRS on Form 8282.

- d) Property with any restrictions on the use, display, security, or sale of the property must be reviewed by the Board before acceptance.
- e) Where applicable, property with carrying costs (art, stamps, coins, libraries and other collections) are encouraged to be accompanied by a fund equal to 25 percent of the assessed valuation or projected maintenance costs. (to cover insurance, maintenance, handling, storage and other costs).

**4. Publicly Traded Securities:** Securities regularly traded on a public stock exchange are acceptable without prior review of the Board of Trustees.

- a) 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.
- b) All marketable securities will be sold promptly upon receipt unless otherwise directed by HWF Finance Committee.
- c) In some cases marketable securities may be restricted, for example, by applicable securities laws or the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Finance Committee.
- d) Gifts of publicly traded, marketable securities will be credited (in conformity with IRS guidelines) as the mean value between the 'high' and 'low' market prices on the date of the gift. If the security was not traded on its exchange on that date, the date of the most recent prior sale will be used. Regardless of the redeemed value upon sale of the securities, the gift amount recognized will be that intended by the donor when making the gift so long as the tax deductible value (as determined above) is within 2 percent of the pledged amount. Brokerage fees, as well as changes in value of securities after their receipt, are considered operating costs and do not affect the value credited.

**5. Closely Held Securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, may be accepted subject to the prior review of the Board of Trustees provided:

- a) There are no restrictions on the security that would prevent HWF from ultimately converting those assets to cash, and
- b) The security will not generate any undesirable consequences for the HWF.
- c) 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 final determination on the acceptance of closely held securities shall be made by the Board of Trustees, and legal counsel when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

## **6. Real Estate: (See HWF Real Estate Acceptance Policy)**

### **7. Life Insurance Policies:**

- a) HWF will only accept life insurance policies as gifts when HWF is named as the owner and beneficiary of the policy. In addition, HWF shall request a copy of the contract.
- b) If a fully paid whole life policy is given, the value of the gift for gift crediting and accounting purposes is the policy's replacement cost.
- c) If a fully paid whole life policy is given, the donor may deduct for income tax purposes the lesser of the fair market value of the policy or the net premium paid.
- d) If the policy is new, the donor may deduct for income tax purposes each year the amount of the premium paid.
- e) If the policy is partially paid up, the value of the gift for gift crediting and accounting purposes is the policy's cash surrender value. (Note: For IRS purposes, the donor's charitable income tax deduction is equal to the interpolated terminal reserve, which is an amount slightly in excess of the cash surrender value.)
- f) When the donor contributes gifts to cover future premium payments, HWF will include the entire amount of the premium payment as a gift in the year it is made. HWF prefers that the Foundation pay the premiums when notices come to the HWF as owner, with the donor then making a gift to the HWF in the amount of the premium. This process will maintain a clear audit trail for the substantiation of gifts.
- g) If the donor names HWF as owner of a life insurance policy but the donor does not elect to continue to make gifts to cover premium payments on the policy, HWF may:
  - (1) Continue to pay the premiums, or
  - (2) Convert the policy to paid up insurance, or
  - (3) Surrender the policy for its current cash value

### **8. Pledges:** These are commitments to give a specific dollar amount according to a fixed schedule.

- a) All non-conditional pledges are recorded in the HWF database and included in financial reporting.
- b) Pledges of gifts other than cash and marketable securities will be recorded after review by the Board.
- c) All donors must confirm the pledge in writing.
- d) A pledge will be considered unfulfilled if it is unpaid after 12 months of the pledge date, or after 12 months of the last scheduled payment, whichever is applicable. Once a pledge becomes unfulfilled the donation is written off following standard accounting procedures.

## **B. Planned Gifts Accepted:** HWF accepts the following planned gift options when HWF is a beneficiary/remainderman.

- 1. Charitable Gift Annuities:** The HWF may offer charitable gift Annuities subject to the prior review of the Board.

2. **Charitable Remainder Trusts:** HWF may accept designation as remainder beneficiary of a charitable remainder trust without prior review by the Board. HWF will not accept appointment as Trustee of a charitable remainder trust. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded and recognized at the time the gift becomes irrevocable.
3. **Retirement Plan Beneficiary Designations:** Donors and supporters of the HWF will be encouraged to name HWF as beneficiary of their retirement plans. Retirement plan beneficiary designations are acceptable without prior review by the Board. However, such designations will not be recorded as gifts to HWF until the gift is received. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded and recognized at the time the gift becomes irrevocable.
4. **Bequests:** Donors and supporters of HWF will be encouraged to make bequests to HWF under their wills and trusts.
  - a) Such gifts will not be recorded as gifts to HWF until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded and recognized at the time the gift becomes irrevocable.
  - b) HWF shall encourage assets transferred through bequests that have immediate value or can be liquidated. Gifts that appear to require more cost than benefit shall be discouraged or rejected.
  - c) Donors who have indicated that they have made a bequest to HWF may, depending upon the individual situation, be asked to disclose, in writing or by copy of the will, the relevant clause that benefits HWF as evidence of their gift. This information is used for internal financial purposes and is not binding on the donor and will be kept confidential at all times.
5. **Life Insurance Beneficiary Designations:** Life insurance beneficiary designations are acceptable without prior review by the Board. Donors and supporters of HWF will be encouraged to name HWF as beneficiary or contingent beneficiary of their life insurance policies. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded and recognized at the time the gift becomes irrevocable.

**C. Endowment Gifts:** Endowment gifts contribute to the long-term financial health of HWF and are deeply appreciated and encouraged. Gifts made to the HWF Endowment Fund will be subject to review by the Board. Gifts to HWF Endowment Fund are held in perpetuity, subject to the policies adopted from time to time by the Board.

## **XI. Special Circumstances**

- A. Matching Gifts:** The HWF accepts matching gifts subject to the prior review of the Board.
- B. Memorial, Honorary and "On Behalf Of" Gifts:** Memorial and honorary gifts are encouraged by the HWF as generous and thoughtful ways to recognize people's

lives and accomplishments.

**C. Appraisals & IRS Requirements:** Generally, if a donor intends to claim a deduction of more than \$5,000 for a non-cash gift either outright or in trust, the IRS requires the donor to obtain a qualified appraisal and report a summary of that appraisal on IRS Form 8283. Exceptions to this general rule are: (1) if the gift consists of publicly traded securities, no appraisal is required; and (2) if the gift consists of closely held stock, an appraisal is required for gifts exceeding \$10,000.

1. It will be the responsibility of the donor to secure an appraisal and independent legal counsel for all gifts made to the HWF. The donor will pay all associated costs for the appraisal absent a prior arrangement with the HWF. The donor also is responsible for payment of all of his or her own legal fees.
2. HWF executive director reserves the right to obtain and pay for an additional appraisal if he/she determines that it is prudent to do so.
3. HWF executive director will acknowledge the appraisal summary on IRS Form 8283. A copy of the signed appraisal will be retained in HWF files. (The IRS qualified appraisal rules should be reviewed before processing a gift requiring an appraisal)
4. Responsibility for IRS filings upon sale of certain donated property: HWF must inform donors that if a non-cash gift for which the donor was required to file IRS *Form 8283* is sold within two years of the date of gift, HWF, as required by law, will complete and submit IRS *Form 8282* to the IRS, reporting the amount for which the asset was sold.

**D. Alumni Damage Deposit Refunds:** Upon departure from their residency, and upon inspection of their casita, a refund check will be issued to the alumni along with their grant-in-aid report. Deposit-refund checks not cashed within three months are considered a cash contribution and recorded as so by HWF.

**XII. Processing of Gifts:** HWF abides by established procedures for accounting, recording and acknowledgement of gifts. These procedures are outlined and kept up-to-date in the HWF Employee Handbook, accessible by HWF Board and staff at <https://wurlitzerfoundation.org/admin/handbook>. The following procedures are detailed in the HWF Employee Handbook:

- A. Processing Gifts**
  1. Recording Gifts in QuickBooks
  2. Recording Gifts in HWF Admin App
- B. Viewing Gift Records**
- C. Creating Donation Thank You Letters**

**XIII. Changes to Gift Acceptance Policies:** These policies and guidelines have been reviewed and approved by HWF Board of Trustees. All proposed amendments to the Gift Acceptance Policy are subject to final approval by the Board of Trustees.

**Approved by the HWF Board of Trustees on Aug. 27, 2020**



# Attachment A

## DEVELOPED BY:



Association of Fundraising Professionals (AFP)



Association for Healthcare Philanthropy (AHP)



Council for Advancement and Support of Education (CASE)



Giving Institute: Leading Consultants to Non-Profits

**PHILANTHROPY** is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

### I

To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

### II

To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

### III

To have access to the organization's most recent financial statements.

### IV

To be assured their gifts will be used for the purposes for which they were given.

### V

To receive appropriate acknowledgement and recognition.

### VI

To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.

### VII

To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

### VIII

To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

### IX

To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

### X

To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

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## Attachment B



# MODEL STANDARDS OF PRACTICE For the Charitable Gift Planner



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A code of ethical practice for all professionals who work together to structure gifts that balance the interests of the donor and the purposes of the charitable institution.

**PREAMBLE** purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as “Gift Planners”), and by the institutions that these persons represent. This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

**I. PRIMACY OF PHILANTHROPIC MOTIVATION** The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

**II. EXPLANATION OF TAX IMPLICATIONS** Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

**III. FULL DISCLOSURE** It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

**IV. COMPENSATION** Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

**V. COMPETENCE AND PROFESSIONALISM** The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

**VI. CONSULTATION WITH INDEPENDENT ADVISORS** A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor’s choice.

**VII. CONSULTATION WITH CHARITIES** Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor’s objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity’s input in the gift planning process.

**VIII. DESCRIPTION AND REPRESENTATION OF GIFT** The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor’s family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

**IX. FULL COMPLIANCE** A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

**X. PUBLIC TRUST** Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain. Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999. © National Association of Charitable Gift Planners 2017. All rights reserved.