

Standards and Practices for Gift Acceptance (Addendum to *Financial and Accounting Procedures Manual*)

Purpose

These practices relating to gift acceptance are to serve as guidelines to (1) Center for Natural Lands Management (CNLM) staff involved in soliciting and accepting gifts; (2) outside advisors who assist in the gift planning process; and (3) prospective donors who wish to make gifts to CNLM. This *Standards and Practices for Gift Acceptance* defines the terms and conditions under which CNLM may accept gifts from individuals, corporations, and foundations in a manner that supports the purposes and activities of CNLM and is administratively acceptable. They also memorialize existing CNLM policies and document a giving policy for CNLM that encourages donors to plan gifts of assets in addition to pledged cash contributions. These practices are intended only as a guide and do allow for some flexibility on a case-by-case basis, as may be determined as necessary in consultation with the Board of Directors.

Overview of *Standards and Practices*

This *Standards and Practices* covers the following topics:

- Definitions
- Gift Acceptance and Valuation
- Authorizations required to solicit donations
- Descriptions of gifts acceptable to CNLM
- Specific terms for accepting selected types of gifts
- IRS reporting obligations
- Review of gift proposals by legal counsel

Definitions

Contributions and exchange transaction. This *Standards and Practices* applies to those “contributions” which are not the result of a regulatory or other governmental exaction, but rather as a product of “detached and disinterested generosity” by the donor (who may be eligible for favorable tax treatment as a direct result of his/her transfer of assets to CNLM).

Contribution – An unconditional transfer of cash or other assets to CNLM, or a settlement or cancellation of CNLM’s liabilities, in nonreciprocal transfer by another entity acting other than as an owner.

Exchange Transaction - A reciprocal transaction in which CNLM and another entity each receive and sacrifice something of approximately equal value.

Distinguishing Contributions from Exchange Transactions: CNLM may receive income in the form of contributions, revenue from exchange transactions, and income from activities with characteristics of both contributions and exchange transactions. CNLM shall consider the following criteria, and any other relevant factors, in determining whether income will be accounted for as contribution income, exchange transaction revenue, or both:

1. CNLM's intent, or its predecessor's in interest intent, in soliciting the asset, as stated in the accompanying materials;
2. The expressed intent of the entity providing resources to CNLM (i.e. does the resource provider state its intent is to support CNLM's programs or that it anticipates specified benefits in exchange?);
3. Whether the method of delivery of the asset is specified by the resource provider (exchange transaction) or is at the discretion of CNLM (contribution);
4. Whether payment received by CNLM is determined by the resource provider (contribution) or is equal to the value of the assets/services provided by CNLM, or the cost of those assets plus a markup (exchange transaction);
5. Whether there are provisions for penalties (due to nonperformance) beyond the amount of payment (exchange transaction) or whether penalties are limited to the delivery of assets already produced and return of unspent funds (contribution); and
6. Whether assets are to be delivered by CNLM to individuals or organizations other than the resource provider (contribution) or whether they are delivered directly to the resource provider or to individuals or organizations closely connected to the resource provider.

Gift. A "gift" is a product of "detached and disinterested generosity" by the donor and is a subset of "Contributions". For the purposes of CNLM *Gift Acceptance Practice*, "gift" is defined as an item with quantifiable monetary value which is freely and willingly provided or donated to CNLM from an individual or entity. Specific examples are described below; this is not intended to be an exhaustive list of potential types of gift(s). This definition is intended to be consistent with IRS Form 990 and the definitions provided in that form's Glossary.

Gift Acceptance and Valuation

Acceptance of gifts and gift plan arrangements must fully support the purposes and activities of CNLM and will fully reflect the donor's wishes.

CNLM shall not advise donors or prospective donors as to the tax implications of their gift for federal income tax purposes, but rather will advise donors and prospective donors to consult their own tax advisors.

The responsibility for determining the value of any gift to CNLM is the responsibility of the donor and not CNLM. CNLM will not provide an opinion of value. CNLM practice is to request that the donor provide CNLM with a copy of any appraisal on significant gifts, particularly where the value is not easily determined. [Note: in negotiations with a prospective donor, CNLM will advise that it reserves the right to seek a review appraisal – at donor's reasonable expense -- of the one to be provided by the donor.]

Gift Solicitation

The Executive Director of CNLM must authorize the solicitation of planned gifts.

Gift Acceptance by Type

Types of gifts readily acceptable to CNLM

Cash and marketable securities. CNLM will accept cash donations whether by cash, check or credit/debit card, either solicited or unsolicited, from individuals/business association provided that the donation is unrestricted (provides general support for the organization and our mission). Checks must be payable to CNLM, in no event shall a check be accepted which is made out to an individual or company other than CNLM. CNLM will accept marketable securities.

CNLM may accept donations with temporary or permanent restrictions after reviewing and accepting the terms of the restrictions and memorializing such restrictions through a written instrument or that such restriction have arisen through the solicitation process and are memorialized in the written solicitation material created and distributed by CNLM. Acceptance of donations with permanent restrictions must be approved in advance by the Board of Directors.

Types of gifts which may be acceptable to CNLM.

CNLM may accept the following type gifts subject to prior review:

- Restricted or closely held securities

- Tangible personal property
- Real property
- Bargain sales assets (only if CNLM has a clear understanding of the value of the property)
- Retirement plan beneficiary designations
- Charitable remainder trusts
- Charitable lead trusts
- Charitable gift annuities
- Bequests and trust gifts
- Pooled income fund gifts if CNLM establishes a Pooled Income Fund
- Oil, gas, and mineral interests
- Limited partnership gifts
- Royalties and Patents
- Life insurance

CNLM may accept pledges for future gifts on the condition that the pledge to give is confirmed in writing by the donor. CNLM will expect that all pledges will be in support of CNLM's mission, will be made in good faith, and will be honorably fulfilled by the donor. In return, CNLM will expend effort and underwriting to fulfill its obligations to provide appropriate recognition for the gift. CNLM will treat such pledges as irrevocable commitments to give and, pursuant to generally accepted accounting principles, will record the pledge as revenue in its financial statements during the fiscal year in which the pledge was made. However, CNLM will not issue a written acknowledgement of the donation to the donor until that donation is actually received.

Donors who make long-term pledge commitments are encouraged to include CNLM in their estate or contingency plans to cover any unfulfilled commitment in the event of unexpected death or disability. CNLM's general practice is to not pursue any unfilled pledge commitment through legal means unless the CNLM Board of Directors directs that such action is warranted due to the circumstances of the particular situation.

Specific terms for accepting selected types of gifts

Trust Management. The costs of managing gift annuities and income trusts will be borne by the gift annuity and income trusts. CNLM will not act in the capacity of trustee for charitable trusts in which CNLM is named as remainder beneficiary.

Non-Standard Contributions. CNLM does not accept non-standard contributions as they are defined by the IRS: A *non-standard contribution* includes a contribution of an item that is not reasonably expected to be used to satisfy or further CNLM's exempt purpose (aside from the need for income or funds) and for which (a) there is no ready market to which CNLM can go to liquidate the contribution and convert it to cash, and (b) the value of the item is highly speculative or difficult to ascertain.

Publicly Traded Securities. CNLM may accept readily marketable securities, such as those traded on the stock exchange. Gift securities are likely to be sold immediately by CNLM and converted into cash. The value of the gifted securities for accounting and gift crediting purposes shall be determined in a manner consistent with IRS regulations:

- If the stock certificate and stock power (properly endorsed) are mailed to CNLM, the gift is the effective date of mailing (postmark date).
- If the stock is electronically processed, the valuation date is the date the securities hit CNLM's account.
- If the securities are transferred into CNLM's name, the valuation date is the date that the ownership is recorded on the corporation's books (date that is printed on the stock certificate).
- If the stock certificate and stock power are physically delivered to a representative of CNLM, the valuation date is the date of delivery.

Closely Held Securities. Non-publicly traded securities may be accepted after consultation with CNLM's legal counsel. A qualified appraiser must determine the fair market value of the securities. Prior to acceptance, CNLM shall explore methods of liquidation through redemption or sale. A representative of CNLM shall contact the closely held corporation and determine if there are any restrictions on the transfer prior to acceptance. No commitment for repurchase of closely held securities or any other property shall be made prior to completion of the gift of securities.

Real Property. CNLM will not accept permanently restricted donations of real property if they (a) do not conform to the standards in the **Conservation Property Interest Acquisition Policy** and (b) which are not accompanied by a stewardship endowment intended to produce a growing perpetual annuity sufficient to support the perpetual obligations that CNLM would be accepting. Determination of the annualized costs of these perpetual obligations and the endowment amount needed to support them is the sole responsibility of CNLM and all expenses associated with determining this will be borne by the donor.

Donations of real property to CNLM which the donor intends to result in a tax-deductible transaction must be indicated as such by the donor at the outset of the transaction. The donor shall be responsible for obtaining and paying for an appraisal of the fair market value and an environmental audit of the property.

If CNLM accepts a gift of real property that does not conform to these principles, the intent will be to immediately sell the real property and convert its value into cash. The donor will be credited with the cash value realized through the sale.

Tangible Personal Property. Gifts of tangible personal property to CNLM should have a use related to CNLM's tax-exempt status. The Executive Director is responsible for approving gifts of jewelry, artwork, collections, equipment, software and the like. Such gifts shall be used or sold for the benefit of CNLM. The Board of Directors is responsible for approving gifts of property that require special facilities or security measures. If the anticipated value of the gift exceeds \$5,000, CNLM shall require the donor to have a qualified outside appraiser value the gift before it can be accepted. CNLM adheres to IRS requirements related to disposing of gifts of tangible personal property and filing appropriate forms.

Gifts In-Kind. CNLM may accept gifts in-kind that are directly related to accomplishment of its mission. The value of gifts in-kind will be established by CNLM as that value indicated by the third party provider of the gifted goods and/or services in conformance with generally accepted principles of contemporaneous substantiation.

CNLM shall not act as an executor (personal representative) for a donor's estate.

CNLM shall not act as a trustee or co-trustee of a charitable remainder trust.

CNLM shall not pay for the drafting of legal documents for trusts or wills.

CNLM shall not pay any finder's fee or other fee for directing gifts to the organization.

Reporting to the IRS

As required by law, CNLM will report any donation of \$5,000 or more from an individual to the Internal Revenue Service (IRS) on Form 990.

Review of Gift Proposals by CNLM General Counsel

CNLM will seek advice of its own legal counsel (or, as necessary, outside counsel specializing in planned giving, charitable tax issues, and/or estate planning concepts) before accepting certain gifts, including the following:

- Gifts with unusual conditions
- Restricted securities
- Any arrangement where CNLM is named trustee, co-trustee, or is agreeing to serve as trustee on a current, future, or stand by basis.
- Any real estate gift agreement, option or contract.
- Any gift involving a bargain sale arrangement
- Charitable gift annuity
- Gifts where CNLM is accepting liability as a part of the gift arrangement (excluding normal gift annuity arrangements)

- Gifts where conflict of interest situations may arise or may have the potential for a perception of potential conflict to an uninformed observer
- Situations where IRS questions about the tax status of the gift or the use of CNLM's tax status could reasonably be raised
- Gifts involving buy/sell agreements
- Any partnership agreement
- Any gift requiring a contract or legal document other than a gift annuity
- Any gift where unrelated business income tax (UBIT) is a reasonable possibility