



## *GIFT ACCEPTANCE POLICIES*

The Mission of the Southern Maine Agency on Aging is to improve the physical, social, emotional and economic well-being of older adults living in southern Maine.

The Southern Maine Agency on Aging (SMAA), a non-profit organization organized under the laws of the State of Maine, encourages the solicitation and acceptance of gifts to SMAA for purposes that will help the organization fulfill its mission. The following policies and guidelines govern acceptance of gifts made to SMAA or for the benefit of any of SMAA's programs and to ensure that the donor's purposes may be fulfilled.

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

It is the purpose of these policies and guidelines to govern the acceptance of gifts by SMAA and to provide guidance to prospective donors and their advisors when making gifts to SMAA. The provisions of these policies shall apply to all gifts received by SMAA for any of its programs or services.

### *II. Gift Authority*

It is ultimately the responsibility of the SMAA Board of Directors (Board) to accept or decline gifts to the organization. The Board shall, through various methods, communicate these policies and guidelines to prospective donors and advisers. The Board shall review and approve all gifts that may potentially create a financial obligation or risk for the organization and determine changes and exceptions to these policies. The Board shall make all final decisions on the restrictive nature of a gift and its acceptance or refusal.

SMAA reserves the right to decline remainders under trust instruments created without its knowledge if the nature of the property or the conditions on its use are not consistent with the best interests and activities of SMAA. Decisions on whether to accept trust remainders that consist of property other than cash or marketable securities or which are subject to use restrictions are made by the

Board of Directors. Unrestricted remainders consisting of cash or marketable securities may be accepted by the Executive Director.

### *III. Professional Advisers*

- A. SMAA may seek the advice of professional advisers (legal, financial, accounting, etc.) in matters relating to acceptance of gifts that, in its discretion, requires such advice and counsel or may potentially create a financial obligation or risk for SMAA. Professional advice is recommended for gifts involving:
  - 1. Closely held or restricted stock;
  - 2. Contracts requiring SMAA to assume an obligation;
  - 3. Transactions with potential conflict of interest;
  - 4. Appraisal or valuation questions;
  - 5. Acceptance of securities or financial contracts;
  - 6. Potential non-compliance with IRS regulations; and
  - 7. Situations with unquantifiable potential risks.
  
- B. All prospective donors shall be strongly urged to seek the assistance of professional financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. SMAA will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving.

### *IV. Donor Rights and Confidentiality*

- A. SMAA shall adhere to the *Donor Bill of Rights*.
- B. Confidential Gift Information: SMAA shall keep confidential all information obtained about donors, prospective donors and specific gift arrangements regardless of whether or not a gift is made. SMAA may use selected information for purposes of referral, testimonial or example if a donor grants permission.

### *V. Donor Restrictions on Gifts*

SMAA will accept unrestricted gifts, and gifts for specific programs and purposes, including gifts for endowment (named or unnamed) subject to the policies herein stated.

The donor may designate a gift for specific programs or purposes provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. Donors should discuss the feasibility and practicality of intended restrictions with the Director of Development or the Executive Director.

VII. Types of Gifts

The following gifts are acceptable:

- A. *Cash*: Cash is acceptable in any form. Checks shall be made payable to "SMAA" and shall be mailed or delivered to the development office at 136 US Route One, Scarborough, ME 04074.
- B. *Securities*:
  - 1. Publicly Traded Securities may be transferred/delivered in good order to a brokerage account maintained by SMAA. Transfer details may be obtained from the SMAA development office.
  - 2. Restricted Securities, which may include closely held stock, non-publicly traded companies, limited partnerships, may be accepted if it is determined that they may ultimately be favorably liquidated and SMAA is able to receive value for these assets.
- C. *Real Estate*: SMAA may accept gifts of real property, both improved and unimproved, by the Director of Development after consultation with the Executive Director and the Director of Finance. Under Treasury regulations, a donor must pay for any appraisal made on the property for valuation purposes. Unless waived by SMAA, it is the responsibility of a donor to cover all the costs involved in an environmental impact study, title search and any other related studies. Before accepting any gift of real estate, SMAA must minimally have evidence of good marketable title, subject to any acceptable encumbrances, liens, or restrictions, a recent (within last 60 days) fair market appraisal, evidence of carrying costs (such as association dues and taxes) and an environmental audit if there is reason to believe one is appropriate. Ordinarily an environmental audit will not be required for residential properties, which have been used solely for residential purposes for a significant period of time (at least twenty years). Execution and delivery of a deed of gift or other conveyance will complete the gift.

The Director of Development, after consultation with the Executive Director and the Director of Finance, may accept a gift of real property with a retained life estate. A gift of real property with a retained life estate involves the transfer of the title to a personal residence, farm or timberland to SMAA whereby the donor or another person retains use of the property for a specified term of years or for the duration of the life/lives of the donor and/or another person. The agreement creating the life interest must provide that the donor and/or life tenant shall remain responsible for the payment of mortgages, taxes, insurance, utilities, maintenance/repairs and other costs associated with the property, unless other specific provisions are made for the payment of these expenses. Donor(s) shall not violate or allow to be violated any environmental laws/ordinances covering this property.

SMAA ordinarily does not accept real estate that is encumbered by mortgages or other liens.

Except in extraordinary circumstances, SMAA will decline gifts of real estate located outside the State of Maine.

- D. *Tangible Personal Property*: Gifts of tangible personal property may be accepted where it fulfills the mission of SMAA or is otherwise converted to cash without undue expense, complexity or possible liability on the part of the organization.
- E. *Life Insurance*: SMAA may accept gifts of life insurance in many forms including:
1. Ownership Transfers may consist of either partial or full transfers of contract ownership rights to SMAA. If the donor contributes future premium payments, SMAA will include the entire amount of the additional premium payment as a gift in the year that it is made. Ownership transfers will be valued in accordance with generally accepted practice and IRS guidelines.
  2. Beneficiary Designations may be either full or partial as well as being either revocable or irrevocable in nature. Beneficiary designations must be irrevocable in order for the gift to be recorded as received prior to the death of the insured(s). Revocable beneficiary designations will be recorded as being received after the insured in deceased and the benefit received by SMAA.

- F. *Bequests:* Donors and supporters of SMAA shall be encouraged to make bequests to SMAA under their wills and trusts. Such bequests shall not be recorded as gifts to SMAA until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.
- G. *Retirement Assets:* SMAA may accept the gift of retirement plan assets from donors through either lifetime contributions or via full or partial beneficiary designations. Retirement Plan assets may include:
1. IRA or ROTH IRA
  2. SEP, SIMPLE, or other small business plan
  3. 401(k), Pension or Profit Sharing Plans
  4. Lifetime Gifts may be transferred to SMAA from retirement account custodians directly to SMAA or withdrawn by the donor and delivered to SMAA directly. Under the 2006 Pension Protection Act, some retirement vehicles may be transferred directly under very donor-favorable tax conditions.
  5. Beneficiary Designations allow donors to transfer retirement plan assets to SMAA upon death. As retirement plan assets cannot be pledged or collateralized under current IRS codes, the gift will be recorded when received.
- H. *Charitable Annuities and Trusts:* SMAA may accept gifts of present (income) or remainder interests in charitable annuity contracts as well as charitable trust arrangements. Given the complex nature of these various arrangements, special care should be taken to protect the interests of the donor as well as SMAA.

It is the policy of SMAA not to serve as trustee of trusts of which SMAA is a beneficiary. This policy is intended to assure that such trusts receive full-time management that they deserve and to eliminate conflicts of interest. Representatives of SMAA are, however, available to cooperate in the establishment of such trusts to assure that payments to SMAA

from any such trust can be used by SMAA in accordance with the donor's wishes and expectations.

1. *Charitable Gift Annuities:* The minimum amount required to create a charitable gift annuity with the Southern Maine Agency on Aging is \$10,000 and the minimum age is 65 for one or two lives. Annuity rates will be based on current American Council on Gift Annuities rates. Disclosure will be provided.
2. *Charitable Remainder Trusts:* It is the policy of SMAA not to serve as trustee of charitable remainder annuity trusts or charitable remainder unitrusts of which it is a beneficiary. This policy is intended to assure that such trusts receive the full-time investment management that they deserve and to eliminate any possibility of a conflict of interest in investment choices or any other subject between the current annuity or unitrust beneficiaries of such trusts and SMAA as remainder beneficiary. Representatives of SMAA are, however, available to cooperate with any potential donor to a charitable remainder trust in tailoring the provisions of those trusts to the donor's particular situation.
3. *Charitable Lead Trusts:* It is the policy of SMAA not to serve as trustee of charitable lead trusts of which SMAA is a beneficiary, for reasons similar to those outlined above in the discussion of charitable remainder trusts. As with remainder trusts, however, representatives of SMAA are available to cooperate in the establishment of such trusts to assure that payments to SMAA from any such trust can be used by SMAA in accordance with the donor's wishes and expectations. The Trust can be for a term of up to 20 years.

SMAA reserves the right to decline to accept distributions from charitable lead trusts in the drafting of which SMAA has not been consulted if the distributions consist of property other than cash or marketable securities or if the uses to which the distributions are to be put are restricted under the terms of the trust instrument to purposes not consistent with the mission and programs of SMAA.

4. *Donor Advised Funds:* SMAA may accept a designation as a permissible grantee of this type of arrangement.

- I. *Other Gifts*: Every consideration will be given to other gift arrangements suggested by donors and are subject to acceptance by the Board.

VIII. Miscellaneous Provisions

- A. *Securing appraisals and legal fees for gifts to SMAA*: It shall be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to SMAA. In instances in which SMAA decides to request an independent appraisal, SMAA is responsible for that fee.
- B. *Valuation of gifts for development purposes*: SMAA shall use the donor's date of gift value as the value that it records the gift on its books and credits the donor on its records.
- C. *Responsibility for IRS filings upon sale of gift items*: The Chief Financial Officer of SMAA is responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt by SMAA when the value of the gift for charitable purposes was greater than \$5,000. SMAA must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.
- D. Acknowledgement of all gifts received by SMAA and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the Director of Development.

IX. Changes to Policies

These policies and guidelines have been recommended by the Marketing & Development Committee and the Planned Giving Advisory Committees and adopted by the Board on December 15, 2006. The Board of Directors of SMAA may make changes to these policies.

Revisions Approved by the Board on November 19, 2009.

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Don McDowell, President, Board of Directors, Southern Maine Agency on Aging