

NATIONAL GALLERY OF ART
POLICY AND GUIDELINES FOR ACCEPTING GIFTS OTHER THAN ART
(Revised April 27, 2023)

The mission of the National Gallery of Art (the “National Gallery”) is to serve the nation by welcoming all people to explore and experience art, creativity, and our shared humanity. The National Gallery welcomes and encourages gifts that further its mission. The purpose of this document is to establish policies and guidelines governing the National 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 National Gallery.

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

1. INDEPENDENT ADVISORS

The National Gallery will comply with all tax laws and other legal requirements regarding gifts, including not accepting gifts that provide improper private benefit or which would be considered an excess benefit transaction.

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 National Gallery. The National Gallery may not act as an advisor to any donor with respect to such matters. However, the National Gallery is always pleased to work with a donor’s advisors to provide information needed regarding proposed gifts. Each donor shall be responsible for obtaining appraisals of gifts where required for the donor’s tax return. The National Gallery does not select the appraiser, hire the appraiser, or pay for such appraisals, and does not 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, the Deputy Director and the Chief Development 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 National Gallery should accept the offered gift. The Finance Committee will make the final decision.

3. FORMS OF GIFTS

Gifts may take the following forms:

- Cash and Publicly Traded Securities Not Subject to Restriction
- Certain Cryptocurrency

- 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
- Other Cryptocurrency and Other Forms of Digital Assets

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.
- **Certain Cryptocurrency** – Outright gifts of cryptocurrency that are donated via the National Gallery’s cryptocurrency platform provider where such provider is able to and does automatically liquidate such donation into USD currency for deposit into the National Gallery’s account, do not require GAC review.

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 National 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 National Gallery will make every effort to sell the securities as soon as legally permissible.

- **Charitable Gift Annuities** -- Ordinary charitable gift annuities offered by the National 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 National 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 National Gallery as a remainder beneficiary of a charitable remainder trust or as an income beneficiary of a charitable lead trust will not generally require GAC review. The GAC, however, will review any non-cash funded trusts or other variations or unusual terms. The National 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 National Gallery as beneficiary of their retirement plans. Unless conditions are imposed on the National Gallery, the naming of the National Gallery as beneficiary of a donor's retirement plan will not require GAC review.
- **Life Insurance Plan Benefits** -- The National Gallery may accept a gift of life insurance in the form of a transfer of a paid-up whole life policy without GAC approval. Transfer of 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 future premiums. The National Gallery reserves the right, at its discretion, to cash in any insurance policy or to retain it. In addition, donors are encouraged to name the National Gallery as beneficiary or contingent beneficiary of their life insurance policies. Unless conditions are imposed on the National Gallery, the naming of the National Gallery as beneficiary of a donor's life insurance policy will not require GAC review.
- **Tangible Personal Property and Real Property** -- The National 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 National 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 National Gallery.

Tangible Personal Property -- In determining whether the National 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 National 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 National 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 National 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 National 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 National 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.

- **Other Cryptocurrency and Other Forms of Digital Assets** – The National Gallery may accept gifts of cryptocurrency (other than donations of cryptocurrency via the National Gallery's platform allowing for immediate liquidation, as described above)

and other forms of digital assets after due diligence is performed by the GAC to determine that the asset is able to be transferred and liquidated. The donor may not gift such other cryptocurrency or form of digital asset until the Finance Committee has determined it can accept the contribution of such asset.

Regardless of the form of the gift, unusual structures or other aspects of a proposed gift should be reviewed by the Office of the Secretary and General Counsel prior to acceptance.

4. RESTRICTIONS ON GIFTS

The National Gallery may accept gifts with one or more purpose restrictions, provided the restrictions are determined to be consistent with the mission of the National 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 National Gallery in effect at the time and all applicable laws and regulations.

6. PLEDGES

Legally enforceable commitments to make a future gift to the National 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 National Gallery are recorded in the National Gallery's records by the name of the donor and include the date of the gift, purpose (if any), and value (if known). The National Gallery will provide written acknowledgement of gifts as and to the extent required by law and will comply with all applicable legal reporting requirements.

The National Gallery's Development Office has the responsibility to send each donor a gift acknowledgement. A gift acknowledgement must include, among other things, the National Gallery's name, the date of the gift, the amount of cash contribution or a description (but not value) of non-cash contribution, and a statement that no goods or services were provided in exchange for the gift or a description and good faith estimate of any goods or services that were provided in exchange for the gift.

8. SOURCE OF DONATION

The National 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 National Gallery Circular No. 36, *Employee Responsibilities and Conduct*.

Specifically, the National 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 National Gallery contracts. The National 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 National Gallery on similar terms.

9. REJECTION/RETURN OF GIFTS

The National Gallery reserves the right to refuse, disclaim, or return any gift that may be deemed to be inappropriate to the effective operation of the National Gallery or otherwise inconsistent with the National Gallery's mission.

Control over the National Gallery's collections, programs, and/or exhibitions rests solely with the National Gallery. The National Gallery may not accept gifts (a) that are not reasonably expected to be used to satisfy or further the mission of the National Gallery, (b) that provide control to the donor over the contents of museum collections, programs, and/or exhibitions, or that would require involvement by the donor in directing the use and/or administration of the gift, (c) from which the donor may benefit directly, or appear to benefit, through use or control of the funds, (d) that require the National Gallery to grant vendor rights in exchange for the contribution, or (e) with restrictions that unlawfully discriminate or have the effect of unlawfully discriminating.

In compliance with applicable laws, and in addition to any other provisions of this policy, the GAC may refuse any gift and the Finance Committee, following recommendation from the GAC, may terminate, return, or refuse any gift (including any gift involving naming rights), and all rights and benefits of the donor hereunder, including refusing any further gifts, refunding any previous gifts, or terminating any naming rights, under the following conditions:

- In the event of any default in payment of the gift as provided in the applicable gift agreement or pledge form;
- If the gift is inconsistent with the stated scope of the collection or the National Gallery's mission of serving the nation by welcoming all people to explore and experience art, creativity, and our shared humanity;
- If the funds or property donated were acquired by other than legal means; or
- If the donor or a member of the donor's family, donor's company or organization, or other entity closely related to, or led by, the donor has been convicted of a felony, a

crime involving moral turpitude, or directly participated in any illegal, unethical, or other behavior or activity such that the retention of the gift or continued association with the donor would adversely impact the reputation, standing, mission, or integrity of the National Gallery.

The National Gallery should ensure that provisions for termination and return as outlined above, as well as a statement informing the donor that control over the National Gallery's collections, programs and/or exhibitions rests solely with the National Gallery, are included in all major gift agreements (including any agreement involving naming rights).

10. REVIEW OF POLICY

The GAC will review this policy at least every two (2) years.