

GUIDELINES FOR MUSEUMS ON DEVELOPING AND MANAGING INDIVIDUAL DONOR SUPPORT

Approved, November 2002, AAM Board of Directors

Introduction

Not-for-profit, charitable, educational, and scientific organizations and those they serve have always benefited from the generosity of individual donors—from the private patrons of centuries ago to the philanthropic foundations that arose in the 19th century to the businessmen and women of today. A museum's ability to fulfill its mission and serve its public depends largely on the resources it has available.

Individual donors also have benefited from their relationships with the museum community. Through museums, donors can reaffirm their commitment to the arts, sciences, history, and lifelong learning and to creating a stronger and more civil society by making objects and information accessible. In addition, individual donors often have family connections or other close personal relationships with the museums they support, adding to the importance and significance of that support.

As museums become more advanced and sophisticated in their management, and individual donors seek new ways to give to museums and play a role in their activities, the relationship between the two groups has become more complex. In light of today's often intricate museum-donor relationships, the U.S. museum community and the American Association of Museums (AAM) have established ongoing discussions about ethical practice in this area. Recognizing that a museum's credibility and success depends on how well it fulfills its public trust, AAM offers these guidelines as a tool for developing and managing individual donor support. Museums serve their publics better when they offer individual donors a variety of methods for supporting mission-related activities.

The U.S. museum community and AAM are committed to identifying and encouraging the highest standards of ethical practice and enhancing the ability of museums to fulfill their missions. In November 2001, the AAM Board of Directors asked the AAM Ethics Committee (a committee of the board) to form a task force to study the issue of individual donor support for museums and recommend guidelines to help museums establish policies for developing and managing such support. The task force comprised the AAM Ethics Committee and experts on the subject from inside and outside the museum community.

These guidelines are intended to help museums develop and implement policies and practices that address their relationships with individual donors. It is essential that each museum draft its own policies, appropriate to its mission and programs, regarding its relationship with individual donors. Policies provide a consistent position that can be articulated by trustees and staff and understood by the public, and are vital to a museum's public accountability. Museums should remain current on standards, best practices, and statutory and regulatory developments related to this topic, and regularly review and update their policies, as necessary.

For the purposes of these guidelines, "individual donor support" refers to cash, real property, or planned gifts from an individual, family, or family foundation, regardless of the use of the support and/or the tax implications of the gift. It should be noted that donations of objects to museum collections are governed by museum accession policies, which are not covered in these guidelines.

General Principles

- Compliance with Applicable Law

The AAM *Code of Ethics for Museums* states that compliance with applicable local, state, and federal laws and international conventions is a minimum requirement. Ethical standards often exceed these minimums.

- Loyalty to Mission

To ensure accountability and informed decision-making, individual museums develop written and board-approved policies and procedures to protect their assets and reputation and to guide institutional actions consistent with their mission. Thus, methods of developing and managing individual donor support should be consistent with a museum's mission and with the policies and procedures that flow from that mission.

- Content Control and Integrity

The museum community recognizes and encourages appropriate collaborations with a variety of stakeholders, including a museum's donors. A museum's careful examination and control of the content and integrity of programs, exhibitions, and activities is essential to its public trust responsibility.

- Avoidance of Conflict of Interest

The AAM *Code of Ethics for Museums* notes that where conflicts of interest—actual, potential, or perceived—arise, the duty of loyalty to the museum and its

mission must always be honored. Thus, a museum's governing authority and staff must ensure that no individual benefits at the expense of the museum's mission, reputation, or the community it serves.

- **Transparency**

A museum should take reasonable steps to make its actions open, available, and understandable to the public, especially where a lack of such transparency may reasonably lead to the appearance of a conflict of interest or inappropriate involvement.

- **Responsibility to Individual Donor**

A museum should respect its relationships with individual donors by providing them with accurate information about its mission, finances, and programs and by using their support for agreed-upon purposes. A museum should ensure that information about donations is handled with respect and with confidentiality to the extent provided by law.

Guidelines

1. Developing Policy on Individual Support

A museum should formulate a written policy about individual donor support—either as a separate document or as part of another museum policy. The policy should be approved by the museum's governing authority, disseminated to staff, and made publicly accessible. A museum should be consistent in following its policy; any changes should correspond to evolving standards and best practices and the institution's mission and strategic direction. A museum should not change policy solely in response to a specific situation.

The following guidelines are intended to help a museum develop its policy addressing individual donor support. The policy should define the museum's position on these issues, even if that position is not to engage in certain activities.

A. Defining Statement

A museum should define its policy and goals for developing and managing individual donor support and the importance of this support to the museum's ability to fulfill its mission.

B. Delineation of Process and Fulfillment of Obligations

A museum should outline the process used to make decisions about individual donor support. Such decisions include but are not limited to solicitation, gift acceptance, fulfillment, recognition, and public inquiry. The responsibilities of the governing body and staff should be delineated. A museum should ensure that it has the necessary human and financial resources for fulfilling its obligations in any museum-donor relationship.

C. Potential Conflict of Interest

No individual may use his/her position in the museum for personal gain or to benefit another at the expense of the museum, its mission, its reputation, and the community it serves.¹

A museum should adopt procedures to address individual donor support opportunities in which a member of the museum's governing authority or staff may have an interest. This should be consistent with any existing conflict-of-interest policy. Such a policy should include an individual's obligation to disclose any interest in the museum-donor relationship under consideration. Such disclosure does not preclude or imply ethical impropriety. In creating such a policy, a museum may wish to consider:

- a) requiring that the individual recuse him/herself from any discussion and/or action regarding decisions to accept support from a donor with whom he/she is associated or has an interest
- b) documenting the individual's role in any other aspect of the project or program supported by that donation

D. Donor Communication and Relationships

A museum should develop clear procedures concerning which staff and/or governing body members are authorized to make or change agreements with individual donors. In addition, a museum should have a clear policy concerning the level of financial, tax, and legal information it will provide to individual or potential donors, including a policy of recommending that donors consult their own legal and financial advisors.

E. Types of Individual Donor Support a Museum will Accept

A museum should develop a gift acceptance policy outlining the types of support it accepts from individual donors and delineating a process for determining whether or not—from a mission, operational, business, and legal perspective—to accept a gift as offered.

¹ *Code of Ethics for Museums*, 2000, American Association of Museums.

F. Recognition

A museum should consider the range of recognition it may offer an individual donor. In doing so, it may consider:

- a) general standards for recognizing individual donor support based on the level of support received
- b) standards for recognizing individual donor support, such as those relating to the use, placement, size, etc., of names, signage, etc.

G. Confidentiality

A museum should ensure that a relationship of trust is established and maintained with its individual donors by respecting the private nature of information about the donor and the donation. In doing so, it may consider:

- a) developing a system to control access to and handling of donor information
- b) balancing the museum's obligation to maintain public accountability with its obligation to protect donors' privacy by outlining what type of information can and cannot be kept confidential
- c) collecting only relevant information about donors or potential donors

H. Anonymity

A museum must determine whether and under what circumstances it will accept anonymous gifts. A museum should avoid agreeing to requests for anonymity that conceal a conflict of interest, real or perceived, or raise other ethical concerns.

I. Uncollectable Pledges

A museum should recognize that instances may arise when donors cannot or do not honor a pledge. In determining the enforceability of a pledge that is not honored, a museum may consider:

- a) the legal and accounting implications
- b) the overall impact of the gift on the museum
- c) the museum's history and previous relationship with the donor
- d) the attitude of the community toward the situation

J. Documentation

A museum should require that all documents relating to the development of individual donor support be maintained and retained in accordance with applicable law and record retention policies.

K. Application of Policy

A museum should identify clearly all entities, such as friends groups, voluntary organizations, components of a museum system, etc., that must comply with its policies about individual donor support.

2. Procedures for Documenting Individual Donor Support

A museum should establish procedures for documenting museum-donor relationships. Documentation should reflect the nature and complexity of the relationship; some agreements may be documented with standard forms or form letters while others may require contractual agreements or memoranda of understanding. A museum may consider including the following components in its documentation of individual donor support:

A. Scope of the Relationship and Term of the Agreement

The museum and individual donor should specify the activity(ies) for which the support may be used and whether there are any time limitations to the support.

B. Forms of and Parameters for Recognition

The museum and individual donor should agree on the manner in which the donation will be recognized. All recognition must comply with the museum's policy on recognition.

C. Contingencies in Case of Institutional or Programmatic Change

When appropriate, a museum may consider adding a contingency plan to the scope of the support in case of institutional or programmatic changes. These plans are intended to ensure that the support can advance the future mission and goals of the museum and may specify among other things:

- a) an acknowledgement that institutional and programmatic change may require that original scope of the support be flexible
- b) how to make such changes in cases where the donor is deceased, heirs not available, or the estate not active

D. Procedures for Terminating the Agreement

A museum may consider including a cancellation provision. Grounds for canceling an agreement may include:

- a) engagement of an individual in an activity that is counter to the museum's policy, mission, and good reputation
- b) inability of either party to carry out its responsibilities as outlined in the agreement due to unforeseen circumstances

E. Signature Page, including date and approval by legal counsel, if required

3. Legal, Tax, and Accounting Issues

A museum should be familiar with applicable legal, tax, and accounting principles before engaging in a museum-donor relationship. A museum should seek appropriate legal, tax, and accounting advice, as needed, when developing and managing individual donor relationships.

A. Legal

A museum should be aware of and comply with applicable state and local laws as well as the body of general legal principles regarding solicitation, acceptance, and use of individual donor support. Particular areas of attention include contract law and laws regulating charitable contributions.

B. Tax

A museum should be aware of and comply with applicable federal, state, and local tax laws. A museum also should be aware of special tax laws and rules that prohibit individuals from inappropriately benefiting from a contributory or other voluntary support relationship.

C. Accounting

A museum should comply with generally accepted accounting principles relating to accounting and crediting of revenue (including contributions) in accordance with FASB or GASB². In addition, museums should report fund-raising results in a consistent manner, using standards for campaign reporting.

² FASB: Financial Accounting Standards Board; GASB: Government Accounting Standards Board

4. Public Accountability

A museum should respond to all public and media inquiries about its support from individual donors, including allegations of unethical behavior, with a prompt, full, and frank discussion of the issue, the institution's actions, and the rationale for such actions.

Commitment of AAM

AAM recognizes that the issuance of these guidelines begins an education process within the museum community. Museums will need to examine policies currently in place or begin the process of drafting policies where none exist. This document constitutes the first step in an exercise that may take several years. Critical to this process is an informed discussion within the museum community about what these guidelines imply, research into and collection of resource materials on this topic, and samples of current best practice.

These guidelines and links to related resources can be found on AAM's Web site at www.aam-us.org.

As part of its commitment to identifying and disseminating best practices, AAM will allocate resources to:

1. disseminate these guidelines widely and frequently along with other references that exist on the topic;
2. collect examples of best practices and policies from inside and outside the museum community on individual donor support;
3. make the above information available to the museum community through the AAM Web site, reports, conference sessions, and other appropriate mechanisms; and
4. provide electronic links from AAM's Web site to resources in these areas.

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