

# New Mexico Foundation for Open Government

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## GIFT ACCEPTANCE POLICY

*Adopted by the Board of Directors Oct. 8, 2010*

The New Mexico Foundation for Open Government (“NM-FOG”) solicits and accepts gifts that are consistent with its mission and that support its core programs, as well as special projects. The following policies and guidelines govern acceptance of gifts made to NM-FOG for the benefit of any of its operations, programs or services.

**Responsible Donorship** NM-FOG urges all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts, including the resulting tax and estate planning consequences.

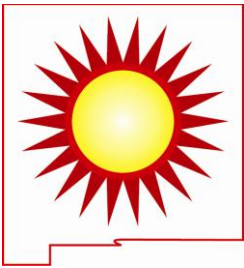
**Use of Legal Counsel** NM-FOG will seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- A. Gifts of securities that are subject to restrictions or buy-sell agreements.
- B. Documents naming NM-FOG as trustee or requiring NM-FOG to act in any fiduciary capacity.
- C. Gifts requiring NM-FOG to assume financial or other obligations.
- D. Transactions with potential conflicts of interest.
- E. Gifts of property which may be subject to environmental or other regulatory restrictions.

**Restrictions on Gifts** NM-FOG will not accept gifts that (a) would result in NM-FOG violating its corporate charter, (b) would result in NM-FOG losing its status as an IRC § 501(c)(3) not-for-profit organization, (c) are too difficult or too expensive to administer in relation to their value, (d) would result in any unacceptable consequences for NM-FOG, or (e) are for purposes outside NM-FOG’s mission. Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Committee, in consultation with the Executive Director.

### **Gifts Generally Accepted Without Review**

- A. *Cash*. Cash gifts are acceptable in any form, including by check, money order or online credit card payment.
- B. *Marketable Securities*. Marketable securities may be transferred electronically to an account maintained at one or more brokerage firms or delivered physically with the



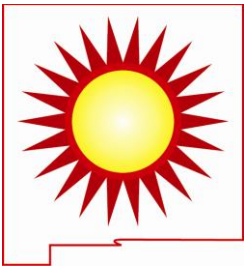
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transferor's endorsement or signed stock power (with appropriate signature guarantees) attached. All marketable securities will be sold promptly upon receipt unless otherwise directed by NM-FOG's Executive Committee. In some cases marketable securities 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 Executive Committee.

- C. *Bequests and Beneficiary Designations under Revocable Trusts, Life Insurance Policies, Commercial Annuities and Retirement Plans.* Donors are encouraged to make bequests to NM-FOG under their wills, and to name NM-FOG as the beneficiary under trusts, life insurance policies, commercial annuities and retirement plans.
- D. *Charitable Remainder Trusts.* NM-FOG will accept designation as a remainder beneficiary of charitable remainder trusts.
- E. *Charitable Lead Trusts.* NM-FOG will accept designation as an income beneficiary of charitable lead trusts.

**Gifts Accepted Subject to Prior Review** Certain forms of gifts or donated properties may be subject to review prior to acceptance. Examples of gifts subject to prior review include, but are not limited to:

- A. *Tangible Personal Property.* The Executive Committee shall review and determine whether to accept any gifts of tangible personal property. Considerations may include but are not limited to the property's furtherance of NM-FOG's mission, its marketability, restrictions on its use or sale, its carrying costs and its title/provenance.
- B. *Life Insurance.* NM-FOG will accept gifts of life insurance where NM-FOG is named as both beneficiary and irrevocable owner of the insurance policy. The donor must agree to pay, before due, any future premium payments owing on the policy.
- C. *Real Estate.* All gifts of real estate are subject to review by the Executive Committee. Prior to acceptance of any gift of real estate other than a personal residence, NM-FOG shall require an initial environmental review by a qualified environmental firm. The organization may also retain a qualified environmental firm to conduct an environmental audit. Criteria for acceptance of gifts of real estate include but are not limited to the property's usefulness, marketability, carrying costs, maintenance expenses, environmental remediation, and the existence of covenants, conditions, restrictions, reservations, easements, encumbrances or other limitations.



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- D. *Oil, Gas, and Mineral Interests.* All gifts of oil, gas or mineral interests are subject to review by the Executive Committee. Criteria for acceptance of gifts of real estate include but are not limited to the form of the interest and its predicted income generation.

**Controversial Gifts.** All decisions to solicit and/or accept potentially controversial gifts will be made by the Executive Committee of the Board in consultation with the Executive Director. The primary consideration will be the impact of the gift on the organization. When considering whether to solicit or accept potentially controversial gifts, NM-FOG will consider the following factors:

- A. Values—whether the acceptance of the gift compromises any of the core values of NM-FOG
- B. Compatibility—Whether there is compatibility between the intent of the donor and the organization’s use of the gift
- C. Public Relationships—whether acceptance of the gift damages the reputation of NM-FOG
- D. Primary Benefit—whether the primary benefit is to NM-FOG, versus the donor
- E. Consistency—whether acceptance of the gift is consistent with prior practice
- F. Form of Gift—whether the gift is offered in a form that NM-FOG can use without incurring substantial expense or difficulty
- G. Effect on Future Giving—whether the gift will encourage or discourage future gifts

*Adapted from sample policies provided by the Nonprofit Risk Management Center, [www.nonprofitrisk.org](http://www.nonprofitrisk.org)*