

Chapter 256-30 WAC

EASTERN WASHINGTON STATE HISTORICAL SOCIETY— GIFTS, GRANTS, CONVEYANCES, BEQUESTS AND DEVICES

WAC

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WAC 256-30-010 Purpose. Eastern Washington state historical society (society) has the power and authority to accept gifts, grants, conveyances, bequests, of real or personal property or both, whether or not these are held in trust or otherwise. It is also authorized to sell, lease, exchange, invest, or expend the same or the proceeds from rents, profits, and income except as limited by the donor's terms. The society is required by law to adopt rules to:

(1) Govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all gifts, grants, conveyances, bequests and devises to the society;

(2) Ensure compliance with state and federal laws, rules and regulations, society policies, northwest museum of arts and culture foundation policies, and professional standards of ethical and donor-centered fund-raising; and

(3) Provide protocols for individuals soliciting or accepting gifts on behalf of the society.

The purpose of these rules is to fulfill the society's legal responsibility to adopt these rules.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-010, filed 3/11/17, effective 4/11/17.]

WAC 256-30-020 Definitions. (1) "Bequest" means property or money that an individual promises to give to another person or organization after he or she dies.

(2) "Bond" means an official document in which a government or company promises to pay back an amount of money that it has borrowed and to pay interest for the borrowed money.

(3) "Conveyance" means the transfer or delivery of an item to another, commonly used to describe the transfer of title to land from one person to another by deed.

(4) "Devise" means a testamentary disposition of land or realty, a gift of real property by the last will and testament of the donor.

(5) "Eastern Washington state historical society" means a 501(c)(3) corporation and a trustee for the state of Washington pursuant to chapter 27.34 RCW. The society is responsi-

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ble for collecting, cataloging and preserving objects, manuscripts, sites, photographs and other items that illustrate the cultural, artistic, and natural history of the state and in this capacity operates a state museum which supports cultural, artistic, and educational activities and performs other responsibilities as required pursuant to RCW 27.34.070.

(6) "Grant" means to legally or formally transfer a possession.

(7) "Northwest museum of arts and culture foundation" means the foundation's articles of incorporation specify that its purpose is to support the society and it has important fiduciary responsibilities related to the funds it holds on behalf of the society. The foundation is a separate 501 (c)(3) corporation and the society does not have authority to direct the activities of the foundation. Similarly the foundation does not have authority to direct the activities of the society.

(8) "Personal property" means something that is owned by a person, business or other entity such as goods, money, notes, bonds, stocks, merchandise, furniture, etc. It does not include land, an interest in land, buildings, or items affixed to the land.

(9) "Real property" means land, including all natural resources, and generally whatever is erected or growing upon or affixed to the land including buildings and crops.

(10) "Restricted gift" means an item that is voluntarily conveyed or bestowed to the society without compensation. It may include money, securities, stocks, bonds, negotiable instruments, and real or personal property. The donor imposes conditions of ownership, retention deposition or use of the item given.

(11) "Security" means an instrument of investment in the form of a document (such as a stock certificate or bond) providing evidence of its ownership.

(12) "Stock" means a share of the value of a company which can be bought, sold, or traded as an investment.

(13) "Trust" means property, real or personal, or money held by some person, firm or corporation for the benefit of the society.

(14) "Unrestricted gift" means an item that is voluntarily conveyed or bestowed to the society without compensation. It may include money, securities, stocks, bonds, negotiable instruments, and real or personal property. The donor does not specify the imposition of any conditions as to the ownership or use of the gift.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-020, filed 3/11/17, effective 4/11/17.]

WAC 256-30-030 Procedures for accepting gifts. (1) Donors: The society greatly values its donors and their sup-

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port of the society. Society staff will treat donors with respect and professionalism. Donors will be acknowledged and thanked for their gifts in writing within a reasonable period of time, generally not to exceed one month.

(2) Donor intent: Society staff and representatives agree to respect and carry out the intentions of the donors whose gifts, grants, conveyances, bequests, or devises have been accepted by the society or the foundation on behalf of the society.

(3) Gift documentation: The society will document the receipt of all gifts. Some gifts may be accompanied by a letter or form from the donor. Ideally, the donor's gift form or letter will record:

- (a) The name of donor(s);
- (b) The date the gift was received;
- (c) A brief description of the item(s);
- (d) Serial number (if any);
- (e) The gift's value;
- (f) A declaration that the gift is irrevocable; and
- (g) The purpose of the gift.

If a gift form or letter does not accompany the gift, the society staff shall prepare and send a letter to the donor which documents this information.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-030, filed 3/11/17, effective 4/11/17.]

WAC 256-30-040 Income tax charitable deductions.

Receipts shall be issued for gifts that qualify for income tax charitable deductions.

(1) Cash and checks: Cash and checks may be accepted regardless of the amount. The value of any cash or check gift is its face value. Checks should be written to the eastern Washington state historical society or EWSHS.

(2) Real or personal property: If the gift is personal or real property the society may document the value of the gift as it was formally appraised or accept the donor's stated value as a good faith estimate.

(3) Life insurance: If the donor named the society as the beneficiary of a new or existing whole life insurance policy, the designation will be recorded as a gift, at its present value, when the gift becomes irrevocable. Alternatively, when the society is named as both beneficiary and irreversible owner of a whole life insurance policy, it will be recorded as a gift.

(4) Charitable remainder trusts, charitable lead trusts, and willed bequests: The income from a trust and/or a willed legacy will be recorded as a gift, at its present value, when a gift becomes irreversible.

(5) Retirement plan beneficiary designations: If a donor designates the society as a beneficiary of his or her retirement plan, it will be recorded as a gift, at its present value, when the gift becomes irreversible/permanent.

(6) Gifts in-kind: These include gifts of time and services. The society will record the donation of time and services, but will not identify a dollar value.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-040, filed 3/11/17, effective 4/11/17.]

WAC 256-30-050 Donations to the society. (1) When the society receives a donation, it shall comply with all the

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rules and regulations related to gift giving for gifts it receives directly. Those rules are found in state, federal and corporate law related to:

- (a) State entities and public 501 (c)(3) corporations;
- (b) Federal and state laws and regulations that apply to the society as a 501 (c)(3) corporation including, but not limited to, the U.S. Internal Revenue Service Code; and
- (c) Professional standards of ethical and donor-centered fund-raising.

(2) The society cannot have ownership in stocks nor can it make gifts of public funds.

(3) Private funds donated directly to the society shall be held consistent with all state rules and regulations governing expenditure of those funds.

(4) Restricted funds shall be kept in a separate line account as nonlapsing funds of the society together with earned interest and shall be used in accordance with the directions provided by the donor.

(5) Unrestricted funds shall be retained in a separate line account of the society as nonlapsing funds. Disbursement shall be made by the executive director in accordance with policy established by the board of trustees or in consultation with the board of trustees.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-050, filed 3/11/17, effective 4/11/17.]

WAC 256-30-060 Donations to the northwest museum of arts and culture foundation.

The northwest museum of arts and culture foundation, a separate 501 (c)(3) corporation was incorporated for the purpose of providing funds to support the operations and programs of the society. If the society receives any donations designated for the foundation, those donations shall be delivered to the foundation as soon as possible. All gifts designated for the society shall be retained by the society consistent with these regulations. If it is unclear whether a gift was intended to be given to the foundation or to the society, the society shall clarify the donor's intent and handle the donation consistently.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-060, filed 3/11/17, effective 4/11/17.]

WAC 256-30-070 Deferred gifts. (1) The society welcomes and encourages deferred gifts such as:

- (a) Charitable remainder trusts;
- (b) Charitable lead trusts; and
- (c) Testamentary bequests.

(2) Society trustees and staff members shall not serve as an executor (personal representative) for a donor's estate.

(3) Society trustees and staff members shall not serve as trustee or co-trustee on a charitable remainder trust or a charitable lead trust.

(4) If planned gift illustrations or sample documents are provided to donors, they shall be provided free of charge and shall include the following disclaimer:

"The eastern Washington state historical society, northwest museum of arts and culture, strongly urges that you consult with your attorney, financial and/or tax advisor to review and approve this complimentary information. This informa-

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tion in no way constitutes advice. We will gladly work with your independent advisors to assist in any way we can."

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-070, filed 3/11/17, effective 4/11/17.]

WAC 256-30-080 Tangible personal property requirements. (1) The following requirements apply to tangible personal property that is donated with the intent for the society to sell:

(a) Acceptance of personal property is contingent on formal approval of the society's board of trustees. The board may delegate authority for approval with formal action which identifies who has delegated authority, and the limits of any such authority;

(b) Acceptance of property shall not violate any federal, state or local statute or ordinance; and the purposes for which the item is being donated are permissible under the state expenditure rules which apply to donations to the society;

(c) All tangible property shall be valued by the proceeds from the sale or by a qualified appraisal;

(d) The society must be able to dispose of the property within a short time, normally not to exceed six months following the receipt of the gift; and

(e) The society shall adhere to all IRS requirements relating to the disposition of gifts of tangible personal property and shall provide appropriate forms to the donor and IRS where required.

(2) The following requirements apply to tangible personal property that is donated with the intent for the society to maintain:

(a) Acceptance of property shall not violate any federal, state or local statute or ordinance;

(b) The purpose for which the item is being donated shall be permissible under the state expenditure rules which apply to donations to the society;

(c) Acceptance of the property shall not interfere with the proper management and operations of the society;

(d) The property shall not place excessive burdens on the available society space, staff or budget;

(e) Use of the property shall not compromise the integrity of building structures or landscaping features;

(f) Use of gift shall not place the society in violation of the federal Occupational Safety and Health Act (OSHA) or the Washington Industrial Safety and Health Act (WISHA);

(g) Property does not require the society to employ a specified person now or at a future date;

(h) Property serves the mission, goals, and interests of the society;

(i) Property does not require the payment of maintenance costs or other expenses for which no specific provision has been made;

(j) Property cannot generate unrelated business income to the society which may jeopardize its tax-exempt status; and/or

(k) Acceptance of the property shall be financially sound.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-080, filed 3/11/17, effective 4/11/17.]

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WAC 256-30-090 Acceptance of artwork. In addition to the considerations outlined in WAC 256-30-080, prior to the acceptance of art, the society shall comply with the additional requirements of the society's *Collections Policies and Procedures, Board Policy 203*.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-090, filed 3/11/17, effective 4/11/17.]

WAC 256-30-100 Acceptance of real estate. (1) The society may accept gifts of developed or undeveloped real estate. The following requirements apply to the acceptance of real estate:

(a) Acceptance of real estate is contingent on formal approval of the society's board of trustees;

(b) Acceptance of property shall not violate any federal, state or local statute or ordinance;

(c) The property shall be useful for the society's purposes;

(d) The purpose for which the item is being donated shall be permissible under the state expenditure rules which apply to donations to the society;

(e) The property shall be marketable;

(f) The donor agrees that the property can be sold at the society's discretion;

(g) Acceptance of property shall not violate any federal, state or local statute or ordinance; and the purpose for which the item is being donated is permissible under the state expenditure rules which apply to donations to the society;

(h) The society shall adhere to all IRS requirements relating to the disposition of gifts of real estate and shall provide appropriate forms to the donor and IRS where required;

(i) Acceptance of the property shall not interfere with the proper management and operations of the society;

(j) The acceptance of the real estate shall not place excessive burdens on the available society space, staff or budget;

(k) Possession of the property shall not place the society in violation of the Federal Occupational Safety and Health Act (OSHA) or the Washington Industrial Safety and Health Act (WISHA);

(l) Property does not require the society to employ a specified person now or at a future date;

(m) Property serves the mission, goals, and interests of the society;

(n) Property cannot generate unrelated business income to the society which may jeopardize its tax-exempt status; and

(o) Acceptance of the property shall be financially sound.

(2) Prior to any acceptance of real estate the following is required:

(a) Gifts of real estate must first be reviewed by the society's board of trustees before acceptance;

(b) The donor normally is responsible for obtaining and paying for an appraisal of the property. The appraisal must be performed by an independent, qualified appraiser;

(c) The society's board of trustees may require an environmental appraisal of any proposed gift of real estate;

(d) The appraisal shall contain photographs of the property, the tax map number, the assessed value, the current asking price, a legal description of the property, the zoning sta-

tus, and complete information regarding all mortgages, liens, litigation, title disputes, and any environmental involvement;

(e) Depending on the value and desirability of the gift, the donor's connection with the society, and the donor's past gift record, the donor may be asked to pay for all or a portion of the following:

- (i) Maintenance costs, if any;
 - (ii) Real estate taxes due prior to date of conveyance;
 - (iii) Insurance;
 - (iv) Real estate broker's commission and other costs of sale;
 - (v) Appraisal and preliminary title report costs; and
 - (vi) Environmental appraisal.
- (f) The property shall be conveyed by warranty deed prior to the execution of any contract of sale by the grantor; and

(g) The value of any gift of real estate shall be its appraised value; however, this value may be reduced by costs of maintenance, insurance, real estate taxes, broker's commissions, and other expenses of sale incurred by the society.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-100, filed 3/11/17, effective 4/11/17.]

WAC 256-30-120 Acknowledgment—Receipt for gifts. On delivery of any contribution, the society is encouraged to provide a written acknowledgment of the receipt of a gift. For gifts in the amount of two hundred fifty dollars or more, the society shall provide the donor with a contemporaneous written acknowledgment; either paper or electronic document is acceptable. The acknowledgment will include:

- (1) The organization's name;
- (2) The name of the donor(s);
- (3) An expression of gratitude;
- (4) A description indicating receipt of a cash contribution and the amount of the contribution; a description of real or personal property (noncash) contributions and the value; a description of the deferred gift or insurance and the value; and/or a description of in-kind services provided;
- (5) A statement that no goods or services were provided by the society in return for the contribution, if that was the case; and
- (6) A description and good faith estimate of the value of goods or services, if any, that the society provided in return for the contribution.

The society will make an effort to issue the acknowledgment within thirty calendar days of the contribution, and no later than January 31st of the year following the donation. A copy of the written acknowledgment needs to be maintained by the society consistent with state records retention and Internal Revenue Code requirements.

[Statutory Authority: Chapter 27.34 RCW, RCW 42.56.040, 27.34.070, and 43.21C.120. WSR 17-07-057, § 256-30-120, filed 3/11/17, effective 4/11/17.]