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Basic endowment donation concepts for small cultural organizations

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Abstract This paper highlights the basic steps to securing and maintaining endowment donations for small and mid-sized cultural institutions, including museums. If employed consistently, the healthy guidelines can be helpful for museums seeking further sustainability and intergenerational equity.

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The intricacies of securing and maintaining endowments are many, whether the institution be small or massive.\textsuperscript{1} However, there are basic negotiation and contract drafting principles that museums can apply in the governing of any endowment. Effective negotiation of contract terms for donations is the foundation of an institution’s ability to create a stable endowment. Every endowment should support the annual workings of an institution while creating intergenerational equity (Motz).\textsuperscript{2} Each organization may interpret these concepts slightly differently, yet the basic steps to securing and maintaining endowment donations remain consistent. Fundamentally, museums should nurture a strong donor relationship with a working understanding regarding contractual donor intent. They should also employ an internal structure that supports both consistent management of any endowment funds and a plan if issues are unavoidable.

When museums follow these basic steps they have a better chance to avoid broken donor trust, negative public relations, and litigation costs. Large institutions often have access to a team of attorneys, project managers and financial advisors to help them manage endowments.\textsuperscript{3} Most small nonprofit organizations are forced to take a do-it-yourself tactic due to lack of available funds for such experts. While it is always best to review these matters with consultants before making impactful decisions, this paper provides research and resources on several simple steps that small museums can take at the onset of considering endowment donations to help ensure success.\textsuperscript{4}
As stated, one of the most important primary actions a museum can take is to nurture the relationship with its donors to create a comfortable and trusting business bond (Advancement Resources). Although the relationship between a donor and a nonprofit organization is a business-like experience it should encourage mutual trust, respect and a comfort that supports the goals of both the donor and the museum. One major goal should be a favorable return on investment for all parties. The museum will invest time, energy, money, and reputation; the donor will generally invest the same, particularly money (Cain 2, 5).

Additionally, when consulting a potential donor regarding terms and restrictions, ensure there is a meeting of the minds regarding intent. The negotiation of terms should also include conferences with any donor to review and revise any restrictions on the endowment funds. There should be mutuality and a balance of donor intent with what provisions are comfortable for the nonprofit organization (National Council, Ethical). In order to honor donor intent, both parties need an unambiguous understanding of the full purpose of the donation. It is the responsibility of the cultural institution to educate the donor on the feasibility of their suggested restrictions or to negotiate mutually acceptable alternatives (Monti). When donations are made unrestricted, the museum should ensure there is transparency regarding the intended use of the funds during negotiation meetings. The transparency should be specific enough to inform the donor of what the institution considers appropriate usage, but not so specific as to hamper the free use of the funds (National Council, Ethical).

Basic steps also call for contract terms to be simultaneously specific and flexible. The wording of the contract between the donor and the nonprofit should be clear and concise leaving no room for misinterpretations. It should also allow for practicalities such as the administrative cost of maintaining large donations (Motz). Specification is not the same as rigidity, and it is imperative that institutions leave room for adjustments to the use of funds without actual changes to the contract terms (Phelan, 157-161). For example, Kind Donor (KD) endows Small but Great Museum (SBGM) with five-thousand dollars of unrestricted funds. KD trusts the funds will be spent legally by SBGM for a good purpose. SBGM should advise KD of the general uses of their donated funds, but be careful not to add self-imposed restrictions by telling KD the full donation will support a specific purchase or project. If the provisions are too specific, the donation cannot then ethically or legally be devoted to any other project without the expressed, likely written, approval of the donor. There are ways to make changes to restrictions on funds, but the process is cumbersome at best, and involves either contacting the donor, the donor’s estate for permission, or getting the permission of a Court with notification to the Attorney General (Dryburgh 4, 5).

Further, to remain in good standing with donors, endowment funds should be managed mindfully and with a stewardship reflective of the museum’s ethical mission and goals. As Benjamin Franklin would say, an ounce of prevention is worth a pound of cure. In the matter of securing and maintaining endowment funds, the prevention ounce is worth two tons of cure. Preventative measures often include maintaining good communication with donors, donor intent audits, and regimented recognition (Cain 54). Communication with donors should include a detailed accounting of expenditures, impact reports showing how the funds provide support, and benchmarked project development information so the donor can track how their intent is being matched to actions (Miller).
Every nonprofit organization should maintain a strict and well-drafted policy detailing how donors will be acknowledged. The policy should be approved and regularly reviewed by the institution’s board (National Council, Gift). That is not to indicate that donor appreciation should be disingenuous, rote, or impersonal, but to secure fair and equitable treatment for all donors. This bolsters the consistent reputation of the museum, and further enhances relationships with donors. In rare cases, a donor will request anonymity as a restriction directly in writing, or indirectly by not providing identifying contact information at the time of donation. Any request for anonymity should be vigorously honored (National Council, Ethical).

Finally, museums should have a pre-established plan that guides development of a palatable solution should conflict regarding an endowment donation arise. In cases where the consistent use of preventive measures has failed, the benefits of pre-litigation methods are faster, more cost effective, and allow the potential to salvage the business relationship. It is rare for donors to become so disgruntled as to threaten revocation or litigation. Donors also want to refrain from the financial costs and public relations fallout of a fight over breach of contract, but damage and disagreements do happen (Scutari).

When an incidence of donor dissatisfaction arises, the goal of the institution must be strategic and aimed at resolution through alternative dispute methods before litigation becomes necessary. Litigation should generally be the last resort. The museum should also consult or retain legal counsel immediately if these types of issues arise. Throughout dispute resolution processes, it is also important to keep the business end of legal matters in mind, as well. Loss of endowment funding will affect the nonprofit’s insurance, taxes, accounting, and any ongoing related projects (Phelan 162). Therefore, the museum should consult licensed professionals or experts in these areas of business. Finally, if settlement terms or resolutions can be kept confidential, it is generally better for public relations and the image of all parties involved (Reid).

Taking the time to build the foundation of a relationship and the structure surrounding an endowment fund is essential. The topics herein are detailed and require thorough research and attention from any cultural institution. Museums should not use this information as a substitute for legal or other advice, however it does provide several healthy guidelines that can be quite helpful when employed consistently.

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Notes


2 See for a clarifying example of how intergenerational equity can be accomplished through implementation of a good spending and investment policy. Monti, Frank A. “A Close Look at the Law Governing Endowment Funds.” Inside Philanthropy, March 10, 2015.

3 Large institutions employ similar concepts in governing endowments. Even large international organizations have started to mimic American institutions regarding these funds. https://www.louvre.fr/en/louvre-endowment-fund

For a brief review of the laws governing endowments, look to state statutes and UPMIFA, which has been adapted by most states. UPMIFA technically only applies to permanently restricted donations, but is a good guide regarding all endowment funds. https://www.guidestar.org/Articles.aspx?path=/rxa/news/articles/2012/ins-and-outs-of-endowments.aspx Accessed November 29, 2018.

References


