

GIFT ACCEPTANCE POLICY

OPERA AMERICA

October 2023

OPERA America leads and serves the entire opera community, supporting the creation, presentation, and enjoyment of opera. Through national convenings, research, advocacy, granting, thought leadership, and a variety of programs for artists, administrators, educators, trustees, and appreciators, it moves opera forward as an industry and an art form.

Purpose

OPERA America solicits current and deferred gifts from individuals, corporations, foundations, and other agencies to support its mission. This policy governs gifts solicited and accepted by OPERA America staff and board members, as well as by contractors, volunteers, or other entities on the organization's behalf. This document also provides guidance to prospective donors and their advisors. The provisions of this policy shall apply to all gifts received by OPERA America for any of its programs or services.

Definitions

For the purposes of this policy, the following terms are defined as:

- a. **Donor** means any person (which may include one or more individuals or a corporation, foundation, or other organization) who makes a completed gift or pledges a gift to OPERA America.
- b. **Gift** means a complete, voluntary, and irrevocable transfer of assets from a donor to OPERA America where the donor intends to make a gift and relinquishes all title, dominion, and control over the assets. For a gift to be completed, OPERA America must accept the gift and must have sole authority to exercise control and discretion over the use of the gift, subject to any designation made by the donor at the time the gift is made.
- c. **Gift instrument** means a pledge or gift form, agreement, or other documentation that evidences a donor's pledge or gift, and the mutual understanding between a donor and OPERA America in relation to the pledge or gift.
- d. **Pledge** means a donor's promise to make a gift to OPERA America in the future. A pledge is not a completed gift. However, depending on the circumstances, a pledge may be enforceable as a legally binding contract between the donor and OPERA America, and required to be recorded by OPERA America as a financial asset.

Donor Bill of Rights

OPERA America adopts The Donor Bill of Rights created by the American Association of Fund Raising Counsel, Association for Healthcare Philanthropy, the Association of Fundraising Professionals, the Council for Advancement and Support of Education, and Partnership for Philanthropic Planning, and endorsed by numerous organizations.

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To ensure that philanthropy merits the respect and trust of the general

public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes they are asked to support, OPERA America declares that all donors have these rights:

- I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.
- II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
- III. To have access to the organization's most recent financial statements.
- IV. To be assured that their gifts will be used for the purposes for which they were given.
- V. To receive appropriate acknowledgement and recognition.
- VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent permitted by law.
- VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
- VIII. To be informed whether those seeking donations are volunteers, employees of the organization, or hired solicitors.
- IX. To have the opportunity for their names to be deleted from mailing lists.
- X. To feel free to ask questions when making a donation and to receive prompt, truthful, and forthright answers.

The respect paid to donors must be reciprocated to all others who participate in the organization and its activities. In accordance with the principles of Community-Centric Fundraising, OPERA America also acknowledges the rights of its staff, members, clients, and other participants to serve and participate in the organization without harassment. Any behavior or treatment by donors that violates their safety or diminishes their human value will not be tolerated. OPERA America believes that the philanthropy of a donor does not buy prerogative or authority.

Gift Classifications

OPERA America will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with the organization's stated mission, purposes, and priorities.

OPERA America will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter, are too difficult or costly to administer, or are for purposes outside the mission of the organization. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the President/CEO in consultation with the Board Chair and/or Finance Committee.

All donor restrictions must be clearly documented in the gift instrument. The gift instrument, signed by the donor and OPERA America, will serve as a mutual understanding of the donor's intentions. Once the gift has been made, neither the donor nor any persons designated by the donor may direct the use of the gift. In the absence of such an instrument, OPERA America will strive to respect the implied intent of the donor.

If a donor does not restrict a gift for a particular purpose, the gift will be recorded as unrestricted assets available for general use by OPERA America at its discretion. OPERA America's subsequent designation of such assets for a purpose does not convert the gift from unrestricted to restricted use and does not require donor consent.

Planned gifts over the value of \$100,000 which are not restricted by the donor to a specific fund will be transferred to the National Opera Center Endowment unless otherwise approved by the President/CEO.

Undesignated and unrestricted gifts, other than planned or deferred gifts, in excess of \$100,000 (received in a single fiscal year) shall be applied in a manner deemed appropriate by President/CEO. Undesignated and unrestricted gifts, other than planned or deferred gifts, of less than \$100,000 shall be applied to the annual operating fund, or in such other manner as the President/CEO deems appropriate.

Endowment and Named Gifts

Gifts may be directed to one of OPERA America's endowments or funds. Such gifts will be classified as restricted.

- Opera Fund Endowment – The Opera Fund Endowment supports grantmaking and related services toward the creation of new work, audience-building initiatives, and civic practice activity by opera companies.
- National Opera Center Endowment – The National Opera Center Endowment subsidizes the operations and accessibility of OPERA America's public rental facility for recitals, rehearsals, recordings, meetings, and other activities by opera companies and artists.
- Patricia Scimeca Fund for Emerging Singers – The Scimeca Fund supports OPERA America's annual programming in support of emerging singers.

A donors may make a gift to establish another endowment or fund at OPERA America. Such funds can be named, anonymous, unrestricted, or restricted to a single purpose or priority area.

Gifts received from donors who desire to establish a fund with specific restrictions shall be reviewed by the President/CEO with recommendations being conveyed to the Finance Committee, as appropriate. If the gift cannot be accepted under the proposed restrictions, it shall be the charge of the President/CEO to make alternative acceptable suggestions that are acceptable to both the donor and OPERA America.

The minimum gift amount for named, restricted endowment fund is \$250,000. It may be funded with a current gift, a planned gift, or a combination of a current and a planned gift. OPERA America will not make distributions from the named endowment fund until it reaches \$250,000 through either gifts and/or gifts plus accumulated return. If the fund does not reach \$250,000 during the donor's lifetime or by bequest, then all the fund proceeds shall be directed as an unrestricted gift to the existing endowment fund that most closely honors the original intention of the donor, at the review and approval of the President/CEO.

Donor Recognition

All donors are important to OPERA America. Their gifts will be celebrated and recognized, whether the gifts are revocable or irrevocable, restricted or unrestricted.

Donors' requests for anonymity will also be honored. Donors wishing to remain anonymous should notify OPERA America's development team when making their gifts.

Donors with documented or executed planned gifts will be recognized in the OPERA America's publications and inducted into OPERA America's planned giving society.

OPERA America reserves the right to remove a donor's name from a named fund, named space, or other public facing recognition if the President/CEO, with approval of the Board of Directors, deems public recognition of that individual harmful to OPERA America's mission or its community.

Types of Gifts

The following types of gifts may be considered if acceptance supports the mission, policies, and purposes of OPERA America. OPERA America may decline to accept a gift for any reason. OPERA America may request background information concerning the donor, the status of the property being gifted, and the source of the gift.

Cash

Cash is acceptable in any form, preferably in U.S. currency or checks drawn on a U.S. bank. Checks should be made payable to OPERA America.

Bequests

Donors are encouraged to make bequests to OPERA America under their wills and trusts. Bequests will not be recorded as gifts to OPERA America until such time as the gift is irrevocable. However, OPERA America strongly urges donors to notify the organization of bequests, with documentation, when possible, so that the donors may be recognized during their lifetime.

Life Insurance

Life insurance policies are an acceptable gift under certain conditions. OPERA America must be named beneficiary and irrevocable owner of the insurance policy before it is recorded as a gift and in order for the donor to receive a current income tax charitable deduction. The policy may not have any outstanding loans.

Any person naming OPERA America as a beneficiary of any life insurance policy must agree to pay all life insurance premiums when due unless there is enough value built up in the policy to automatically pay the premiums when due. In the event payment of premiums ceases, OPERA America may surrender the policy and take the cash surrender value available without notice to the donor.

Gifts of term life insurance will not be accepted, as they have no cash value.

Publicly-Traded Marketable Securities

Publicly-traded securities (stocks, bonds, and mutual funds) for which there is a recognized public market value may be transferred to an account maintained by OPERA America or delivered physically with the transferor's signature or stock power attached.

As a general rule, all marketable securities will be sold upon receipt unless otherwise directed by the President/CEO. Marketable securities are valued on the date of receipt of the gift, based on the average of the high and low price on that day.

In some cases, marketable securities may be restricted by applicable securities laws, in which case the final determination of the acceptance of the restricted securities will be made by the President/CEO, with advice from the Finance Committee. It is the donor's obligation to inform OPERA America of any restrictions applicable to the securities.

Crypto-currencies

Digital or crypto-currencies may be transferred to an OPERA America through an identified platform. As a general rule, all crypto-currency donations will be converted to U.S. currency upon receipt unless otherwise directed by the President/CEO.

Retirement Plan Beneficiary Designations

Donors may name OPERA America as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the organization until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

Real Estate

Generally, it is not the policy of OPERA America to accept gifts of real estate, although proceeds from the sale of real estate by the donor are accepted. Exceptions must be thoroughly examined on its individual merits, with input from the Finance Committee, prior to acceptance by the President/CEO.

Charitable Remainder Trusts

A charitable remainder trust is a gift established by a donor that irrevocably transfers the remainder interest on assets to OPERA America upon the death of the donor or the named beneficiaries, or at the end of a specified term of years. When informed, OPERA America may accept designation as remainder beneficiary of a charitable remainder trust with the approval of the President/CEO and Chief Advancement Officer. However, OPERA America will not serve as trustee of a charitable remainder trust and will instead encourage the donor to use a professional fiduciary. If the donor retains the right to change the charitable beneficiaries of the trust, the trust will not be recorded as a gift until the gift is irrevocable.

Charitable Lead Trusts

A charitable lead trust is a gift established by a donor that provides the income generated on assets contributed to the trust to be paid to OPERA America for a designated period of years. After the time period has elapsed, the assets pass to a non-charitable beneficiary designated by the donor in the original trust. OPERA America may accept a designation as income beneficiary of a charitable lead trust with the approval of the President/CEO and Chief Advancement Officer. However, OPERA America will not serve as trustee of a charitable lead trust and will instead encourage the donor to use a professional fiduciary.

Charitable Gift Annuities

Generally, it is not the policy of OPERA America to accept charitable gift annuities. Exceptions must be thoroughly examined for their individual merits prior to acceptance by the President/CEO.

Tangible Personal Property

Gifts of other tangible personal property, such as art, furniture, musical instruments, will be evaluated by the President/CEO in light of the following criteria:

- Does the property fulfill the mission of OPERA America?
- Is the property readily marketable without additional expenditures by OPERA America?
- Are there any undue restrictions on the use, retention, display, or sale of the property?
- Are there any costs associated with the transportation of the property or carrying costs for the property?
- Are there any liens or debt obligations attached to the property?

For musical instruments, OPERA America will selectively accept pianos with consideration of make, size, age, and condition. OPERA America may have a technician visit the piano for evaluation, although the donor should have the instrument appraised by an independent appraiser.

In many cases, it will be OPERA America's intention to sell the property and will file notice of the sale with the I.R.S. While every effort will be made to sell the property in the same tax period as the donation, OPERA America cannot guarantee this result, particularly where the property comes into its possession relatively late in the year.

Closely-Held Securities

It is OPERA America's policy not to hold non-publicly traded securities, including partnership interests, and similar assets. These gifts will normally be accepted only if the donor can demonstrate an estimated fair market value and reasonable liquidity. Exceptions will only be permitted with the approval of the President/CEO, with input from the Finance Committee. No gift involving assumption of liabilities will be accepted without the approval of the President/CEO. The value of these gifts will be determined using an independent appraisal and any applicable I.R.S. guidelines.

Gift Instruments

Gifts and pledges must be documented in a gift instrument as set forth below, unless otherwise determined by the President/CEO. The original or a copy of the fully executed gift instrument will be kept in the OPERA America records.

Undesignated and Unrestricted Cash Gifts

Cash gifts made by check, money order, or wire transfer that are not designated for a particular purpose or subject to restrictions do not require additional documentation from the donor.

Simple Pledge and Gift Forms

Gifts and pledges of cash and publicly traded securities that are designated for a particular purpose or subject to restrictions may be documented on simple pledge and gift forms or online giving systems so long as the form clearly identifies the purpose of and any restrictions on the gift.

Pledge and Gift Agreements

A formal, written pledge or gift agreement is required for all gifts and pledges that carry a naming opportunity, all gifts and pledges for endowed programs, all irrevocable pledges, all gifts and pledges of cash and publicly traded securities that are designated for a purpose or subject to restrictions that cannot readily be addressed on a simple pledge or gift form, all gifts of tangible personal property, and all other non-cash gifts. The terms of gift and pledge agreements should provide OPERA America as much flexibility as possible to permit the most productive use of the gifted assets over time, while clearly stating any donor restrictions. Information to be recorded in a pledge or gift agreement includes, without limitation:

- a description of the gift, including the dollar amount of any cash gift;
- whether the gift is an endowment or expendable (operating) gift;
- any donor restrictions on the gift, including the intended use of the gift, any time limitation on the restrictions, and provision for the handling of restrictions that become impracticable over time;
- any payment schedule for gifts that will not be completed immediately;
- the terms of any donor recognition for the gift; and

- any other reasonable requirements or obligations agreed upon by the donor and OPERA America.

OPERA America staff prepare pledge and gift agreements using approved templates. Agreements may only be signed by OPERA America's President/CEO.

Gift Award Letters

A signed award letter from a foundation or corporation is an acceptable gift instrument if the letter outlines all terms of the award proposal and clearly identifies any excluded terms, and if it contains any donor restrictions, reporting requirements, contribution schedule, recognition and/or other obligations agreed upon by OPERA America and the foundation or corporation. If a gift award proposal or other documentation was submitted to the foundation or corporation clarifying the use of the gift, such documentation is expected to be retained with the award letter/gift instrument.

The Chief Advancement Officer or approved designees have authority to sign corporate and foundation gift award letters for OPERA America, following consultation with President/CEO.

Wills, Trusts, and Estate Planning Documents

Wills, trusts, and other legal documents evidencing estate plans are acceptable gift instruments. However, to help ensure the donor's philanthropic intent is fully realized, OPERA America seeks to obtain a signed gift or pledge agreement in addition to the legal documents evidencing the estate plan.

Use of Legal Counsel

OPERA America will seek the advice of legal counsel in matters relating to the design and acceptance of gifts, whenever appropriate. The purpose of legal counsel is to protect OPERA America's interests and assets. Review by legal counsel is recommended for:

- Gifts of real estate
- Documents naming OPERA America as a trustee
- Gifts of closely held stock and interests in partnerships and limited liability companies
- Gifts involving contracts, agreements, or other legal documents requiring OPERA America to assume an obligation
- Transactions involving a potential conflict of interest
- Such other circumstances identified by OPERA America senior staff or board members

OPERA America does not give legal counsel or financial advice. OPERA America will urge all prospective donors to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. Legal and professional fees incurred in connection with a gift normally are the responsibility of the donor.

Role of Finance Committee

The Finance Committee is charged with the responsibility of reviewing gifts which are subject to prior review as mentioned in this document, properly screening those gifts, and making recommendations to the President/CEO on gift acceptance issues. The President/CEO may refer any potential gift to the Finance Committee for review before accepting the gift, thus covering situations in which a gift is difficult to liquidate, likely to be contested, may reflect poorly on the public image of OPERA America or is too restrictive in nature.

Changes to Gift Acceptance Policies

Approval of this policy is reserved to the OPERA America Finance Committee on behalf of the Board of Directors. This policy will be reviewed annually by the Finance Committee; it may be amended at any time at the Board's discretion. This policy was last approved at the regular meeting of the Finance Committee indicated at the end of this document.

The Board of Directors and the Finance Committee shall have the authority to make exceptions to this Gift Acceptance Policy as specific circumstances may warrant.

Approved on the 25th day of October, 2023.