

GUIDELINES FOR GIFTS OF REAL ESTATE

Southwest Missouri State University Foundation

Adopted October 11, 1991

Revised October 11, 1996

GUIDELINES FOR ACCEPTANCE OF GIFTS OF REAL ESTATE

I. Title: Real Estate Gift Acceptance Guidelines

II. General: Establishing guideline procedures for the acceptance of gifts of real estate to *The Southwest Missouri State University Foundation, Inc.* is important for the protection of the donor, the University, the *SMSU Foundation*, and those soliciting the gift. Unlike gifts of cash or publicly-traded securities, gifts of real estate require specialized effort in both development and management. A review of these guidelines should be made regularly by the Board of Directors of the *SMSU Foundation*.

Gifts of real estate are desirable where such gifts are given in support of the university's programs and where, in most cases, the proceeds rather than the property itself, are to be used to further University goals.

All gifts of real estate must have an appraised fair market value of at least \$10,000.

III. Definition: Gifts of real estate come in many types, usually somewhat complex in nature, having a number of financial ramifications for the donor and the *SMSU Foundation*. Questions regarding real estate gifts should be referred to the Vice President for University Advancement and the Director of Development and Alumni Relations.

IV. Real Estate Gift Types:

- A. Land - developed, undeveloped
- B. Rental property
- C. Personal home
- D. Apartments
- E. Motels/Hotels
- F. Businesses/Commercial Property
- G. Vacation homes/condos
- H. Other

V. Basic Methods of Real Estate Giving:

- A. **Outright Gifts** - If all gifts of real property were ranked from the best possible gift, the outright gift of land with no encumbrances would rank as the best. (The gift with the most problems might be in unrelated income property which the organization or individual had trouble selling.)
- B. **Life Income Situations** - A donor gifts a piece of property which is sold or put in a trust to provide a life income to the donor.
- C. **A Life Estate Contract** - A donor gives his/her residence to the University but continues to live in it during his/her lifetime.
- D. **Bargain Sale** - A donor sells property to the *SMSU Foundation* for less than the full fair market value. The donor's deduction is approximately equal to the difference between FMV and the sale price.

VI. Varieties of Real Estate Gifts:

- A. **Outright Gift of an Entire Interest** - Any gift of property for which the donor retains no incidence of ownership. This may include property where the use of the property or proceeds is designated or restricted by the donor to ongoing programs of the University.
- B. **Gifts of a Partial Interest** - Any gift where any incidence of ownership is retained by the donor. A gift of a partial interest occurs under a life income agreement such as a charitable trust, or where there is a life estate retained by the donor.
- C. **Real Property Gifts to an Endowed or Current Use Fund** - Any gift of real property, for which the proceeds are designated by the donor for inclusion in an endowed or restricted current fund managed by the *SMSU Foundation*.
- D. **Real Property Gifts to the Unrestricted Fund** - Any gift of real property for which no purpose or recipient is specified by the donor and which will be held with proceeds from the sale increasing the unrestricted fund.

VII. Considerations to Accepting Gifts of Real Estate:

A. An outright gift is not always as outright as it appears.

1. A donor may make a gift of real property because he has recently received a high appraisal which induces him to make the donation and take the charitable deduction.
2. An income property can present a number of difficult problems.
 - a. The *SMSU Foundation* must weigh whether or not it has the desire, interest and ability to manage the property for whatever length of time it takes to sell it.
 - b. An income property may be subject to taxation as unrelated income and this should be considered before acceptance.

B. Real property gifts with an encumbrance can sometimes present special problems.

1. If the property produces income, the *SMSU Foundation* must weigh the amount of income it receives against the ongoing cost of the encumbrance.
 - a. In addition, the income itself can be a problem if the property requires considerable time, attention and management.
 - b. The location of property also has a bearing upon its supervision and management. Obviously, property located in another city can be almost impossible to manage without professional assistance, cost and time.
 - c. As the ramifications of new laws requiring environmental impact studies develop, new responsibilities on the part of the donor and the need for extreme care to be utilized on the part of the *SMSU Foundation* require such transactions be reviewed with the help of a variety of experts.

VIII. The Development Steps:

A. Initial Donor Contact -

1. Determine the method of gifting that will appeal to the donor (i.e. outright, life income, life estate, etc.).

2. Obtain information about the donor and the property sufficient to prepare a written proposal (**Utilize Checklist**).
3. Set the stage for delivery of a written proposal.

B. Written Proposal to Donor -

1. State the assumptions about the donor and the property on which the proposal is based.
2. Explain clearly how the property can be gifted to meet the donor's objectives.
3. Set forth potential tax and University benefits.
4. Insist that the donor review the proposal with his/her financial advisor.

C. Confirmation of Donor's Interest -

Confirm the donor's interest in proceeding with the proposed gift which may be contingent on the value or other factors.

D. Qualified Appraisal -

Request that the donor have a qualified MAI appraisal made on the property.

E. Secure Title Insurance -

Because, when a property is sold the buyer(s) will require proof of marketable title, title insurance should be secured before accepting any real property. The amount of title insurance should equal the purchase price the donor paid for the property or the amount of a current appraisal, whichever is more appropriate.

**Correction of Defects in the title - If defects are found in the title, the SMSU Foundation reserves the option of requiring correction of such defects, at the donor's expense, or to rescind the contract, without any cost to the SMSU Foundation. Also, if the SMSU Foundation takes possession before the closing of the title, defects found in the title are not waived.*

F. Property Inspection and Analysis Information -

Physically inspect the property and make arrangements with the donor to obtain any additional specific information that will be needed to complete the gift property analysis. (Deed, mortgage information, potential ADA non-compliance situation, rental agreements, etc.)

G. Taxes and Assessments -

Be certain all taxes and assessments for previous years have been paid in full and are not merely being paid on the deferred payment plan. Determine if taxes and assessments are to be apportioned for the calendar year to the date of closing. To avoid expense to the *SMSU Foundation*, the agreement should be written whereby the donor has responsibility for the calendar year.

H. Property Insurance -

Determine if existing insurance policies are to be assigned to the University. If so, a copy of the policy should be obtained and a binder indicating the amount of coverage and expiration date. If not, the SMSU Director of Procurement Services must be informed of the acquisition so the property can be included under the University's blanket policy and also under the *SMSU Foundation's* liability policy.

I. Gift Agreement -

The gift agreement should state the terms under which the property is being donated which should include the date of delivery of possession to the *SMSU Foundation*. Agreements on property being donated with retained interests must be reviewed by legal counsel, the Executive Director of the *SMSU Foundation*, and the Director of Development and Alumni Relations prior to the *SMSU Foundation's* acceptance by its Board of Directors.

J. Notification of Procurement Services -

Upon the completion of a gift of real estate, the SMSU Director of Procurement Services should be furnished with all original documents to determine if procedures have been completed.

IX. The Gift Analysis Steps:

A. Physically Verify Condition of the Property -

The Executive Director of the *SMSU Foundation* or his representative will personally inspect each gift property and complete a thorough analysis of each gift including:

Assess the character of the property in relationship to the area and surrounding properties.

Determine the physical condition of the improvements and amenities. As nearly as possible, try to determine compliance with the Americans with Disabilities Act (ADA). Ascertain if public authorities have issued any order requiring repairs to building(s). It may be necessary to secure an opinion from a contractor or from an inspector for ADA compliance if a major problem is suspected.

Observe any apparent liabilities such as unfenced swimming pool or other potential hazards.

During the physical inspection, note the names and numbers of real estate brokers who have neighboring properties listed or offices in the immediate area.

In the case of distant property, it may be possible to enlist the assistance of another institution or a local broker to perform the physical inspection and report the findings.

B. Review of the Donor-Provided Environmental and Disclosure Statement -

The Executive Director of the *SMSU Foundation* or his representative will review the Donor-Provided Environmental and Disclosure Statement. If the Physical Verification listed above and/or the Environmental and Disclosure Statement indicates any potential problems, the *SMSU Foundation* may elect not to accept the property or to request a Phase I (historical) and/or a Phase II (testing and estimated cost of clean up) Environmental Report. At the request of the donor, the *SMSU Foundation* may pay for the Phase I and/or Phase II Environmental Report and provide a copy to the donor.

C. Verify Current Fair Market Value -

Fair market value is best defined as: The price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

While appraisals prepared by qualified appraisers are required in connection with gifts of real estate, these appraisals are prepared for income tax purposes and reflect a professional opinion usually based on historical data or "best use." These appraisals may or may not reflect the price at which the property can currently be sold. Generally, appraisal fees are to be paid by the donor, as they may be used in preparing the donor's federal income tax return. At the request of the donor, the *SMSU Foundation* may pay appraisal fees for potential gifts of real estate and provide a copy to the donor.

A real estate broker who is marketing similar properties in the area should be asked for a current market analysis. Brokers will generally do this hoping for an opportunity to list the property.

If the market analysis indicates a price less than the appraisal or donor's expectation, the analysis should be reviewed with the donor.

D. Determine Marketability -

Once the value has been established, the *SMSU Foundation* must be concerned with marketability. Other factors such as the availability and type of financing, community development plans, geological factors such as environmental impact as well as economic conditions will all affect marketability.

Unlike cash gifts, there will be expense to the *SMSU Foundation* connected with acquiring, holding and selling real property. Acquisition costs are not generally a concern unless a bargain sale is involved. If a mortgage is to be paid off, back taxes or assessments are due, a third party interest must be purchased, or other acquisition costs are involved, these should be set forth accurately in the gift analysis.

If the property does not produce an income, the encumbrance can be a greater problem.

Equally important to the *SMSU Foundation* will be the costs to hold the property for sale. These costs may include property taxes, mortgage payments, insurance, utilities, security, maintenance, association and membership fees. An assumed holding period of 18 to 24 months is recommended.

If a property is being accepted subject to a mortgage, a written statement must be obtained from the lender regarding the present balance and terms of the loan and the lender's agreement to transfer the loan.

A gift which costs the *SMSU Foundation* until it is sold may not be worth accepting. Frequently, the donor can be persuaded to make whatever payments are necessary until the property is sold or at least for a given period of time.

E. Assess the Effect of Rental Agreements -

In the case of income property which is being rented at the time of the gift, a copy of the rental agreement(s) should be analyzed and attached to the gift evaluation. Particular attention should be paid to whether or not the *SMSU Foundation* will be bound by the agreement. If so, the terms of the agreement will be extremely important in determining cash flow, management and marketability. Whether or not the property is subject to rent control should be determined.

F. Analyze Transfer Documents -

It is absolutely necessary that legal counsel in cooperation with the real estate agent and title insurance company prepare and review all legal documents. No commitments should be made without legal review.

Southwest Missouri State University Foundation

[INTERNAL USE ONLY]

REAL ESTATE GUIDELINES
CHECKLIST

(Review the items listed below and complete this form when talking to a prospective real estate donor.)

1. Prospective donor information:

Name(s)

Social Security #(s)

Address

Daytime Telephone

City

State

Zip

Evening Telephone

2. Is the primary motivation of the donor a sincere desire to provide support for Southwest Missouri State University? (Charitable disposition/intent)
YES / NO (circle one)
3. What is the property's approximate present value? (Describe basis for estimate.)
\$ _____
4. Generally, appraisal fees are to be paid by the donor, as they may be used in preparing the donor's federal income tax return. At the request of the donor, the *SMSU Foundation* will pay appraisal fees for potential gifts of real estate and provide a copy to the donor. Is the donor providing the *SMSU Foundation* with an appraisal at his/her expense?
YES / NO (circle one)
5. Has an appraisal been prepared within the last sixty (60) days? (Attach copy of appraisal.)
YES / NO (circle one)
- Date of appraisal: _____
Independent appraiser's name _____
6. Was the donor advised of IRS Form 8283 appraisal requirements?
YES / NO (circle one)
7. Was the donor told that the *SMSU Foundation* must report to the IRS on Form 8282 if property is sold within two years after date of gift?
YES / NO (circle one)

8. Legal description and location of the property:* (Attach legal description if available.)
*Examples: "160-acre farm in Greene County, Missouri, 3 miles east of Nixa, MO."
9. Is the property owned jointly with other individuals? (Not including spouse)
YES / NO (circle one)
If yes, indicate name and address and joint owner's involvement in gift.
10. Are all taxes, covenant fees and maintenance expenses up to date?
YES / NO (circle one)
If yes, list the amounts of annual taxes and other fees attached to the property.
11. Is the property encumbered?
YES / NO (circle one)
If yes, indicate amount of unpaid mortgage or lien, interest rate, amount and frequency of payments and due date.
12. Does the property currently produce income?
YES / NO (circle one)
If yes, indicate the specific source, amount and guidelines of lease. (Attach a copy of the lease.)
13. Has the property been on the market at any time during the last two years?
YES / NO (circle one)
If yes, indicate dates, offering price(s), and name, address and telephone number of representing agent.
14. Was the donor informed of the need for an environmental questionnaire to be completed prior to acceptance of gift?
YES / NO (circle one)
15. Is there a known environmental problem such as underground storage tanks or piping?
YES / NO (circle one)

16. Are there any unique situations or problems that have not been discussed?

YES / NO (circle one)

If yes, explain.

Are there any aspects of the property that do not meet American with Disabilities Act (ADA) guidelines?

YES / NO (circle one)

If yes, explain.

Have any public authorities issued any orders requiring repairs or corrections? (i.e., zoning questions, neighbor disputes, property upkeep, controversial development planned for the area, etc.)

YES / NO (circle one)

If yes, explain.

17. Will the gift be used to provide income to donor and/or other beneficiaries? (i.e., charitable remainder trust, etc.)

YES / NO (circle one) *(If NO, skip #18 and #19.)*

18. If used for income-producing purposes, what kind of arrangement is being considered?

☐ charitable remainder annuity trust
☐ charitable remainder unitrust (conventional)
☐ charitable remainder unitrust (with make-up provision)
☐ bargain sale

19. Will there be more than one life income beneficiary?

YES / NO (circle one)

If yes, indicate names, birth dates, and social security numbers.

20. Is there a life estate interest in the property?

YES / NO (circle one)

If so, we will need a copy of the legal document.

21. When and how did donor acquire the property and what is its adjusted basis?**
\$ _____

***"Adjusted basis" is the donor's "tax cost" in the event of sale of the property. Usually this is:

Start with	(1) original purchase price
Add	(2) cost of improvements
Subtract	(3) depreciation claimed while owned
Equals	(4) adjusted basis.

22. Please list the purpose for with the donor wants this gift to be used.

23. Process *SMSU Foundation* paperwork and forward original documents (deed, title insurance, etc.) to the SMSU Director of Procurement Services.

Southwest Missouri State University Foundation

REAL ESTATE GUIDELINES
CHECKLIST

(To be completed and signed by current owner.)

1. Donor information:

_____	_____
_____	_____
Name(s)	Social Security #(s)
_____	_____
Address	Daytime Telephone
_____	_____
City	State
Zip	Evening Telephone

2. Please describe the reason behind your interest in making this gift to the *Southwest Missouri State University Foundation* in support of Southwest Missouri State University?
3. What is the property's approximate present value? (Describe basis for estimate.)
\$ _____
4. Generally, appraisal fees are to be paid by the donor, as they may be used in preparing the donor's federal income tax return. At the request of the donor, the *SMSU Foundation* will pay appraisal fees for potential gifts of real estate and provide a copy to the donor. Are you providing the *SMSU Foundation* with an appraisal?
YES / NO (circle one)
5. Has an appraisal been prepared within the last sixty (60) days? (Attach copy of appraisal.)
YES / NO (circle one)
Date of appraisal: _____
Independent appraiser's name: _____
6. Are you aware of IRS Form 8283 appraisal requirements?
YES / NO (circle one)
7. Are you aware that the *SMSU Foundation* must report to the IRS on Form 8282 if property is sold within two years after date of gift?
YES / NO (circle one)

8. Please provide a legal description and location of the property:* (Attach legal description if available.)

*Examples: "160-acre farm in Greene County, Missouri, 3 miles east of Nixa, MO."

9. Is the property owned jointly with other individuals? (Not including spouse.)

YES / NO (circle one)

If yes, indicate name and address and joint owner's involvement in gift.

10. Are all taxes, covenant fees and maintenance expenses up to date?

YES / NO (circle one)

If yes, list the amounts of annual taxes and other fees attached to the property.

11. Is the property encumbered?

YES / NO (circle one)

If yes, indicate amount of unpaid mortgage or lien, interest rate, amount and frequency of payments and due date.

12. Does the property currently produce income?

YES / NO (circle one)

If yes, indicate the specific source, amount and guidelines of lease. (Attach a copy of the lease.)

13. Has the property been on the market at any time during the last two years?

YES / NO (circle one)

If yes, indicate dates, offering price(s), and name, address and telephone number of representing agent.

14. Are you aware the *SMSU Foundation* requires an environmental questionnaire be completed prior to acceptance of gift.

YES / NO (circle one)

15. Is there a known environmental problem such as underground storage tanks or piping?

YES / NO (circle one)

16. Are there any unique situations or problems that have not been discussed?

YES / NO (circle one)

If yes, explain.

Are there any aspects of the property that do not meet American with Disabilities Act (ADA) guidelines?

YES / NO (circle one)

If yes, explain.

Have any public authorities issued any orders requiring repairs or corrections? (i.e., zoning questions, neighbor disputes, property upkeep, controversial development planned for the area, etc.)

YES / NO (circle one)

If yes, explain.

17. Will the gift be used to provide income to you and/or other beneficiaries? (i.e., charitable remainder trust, etc.)

YES / NO (circle one) (If NO, skip #18 and #19.)

18. If used for income-producing purposes, what kind of arrangement is being considered?

☐ charitable remainder annuity trust

☐ charitable remainder unitrust (conventional)

☐ charitable remainder unitrust (with make-up provision)

☐ bargain sale

19. Will there be more than one life income beneficiary?

YES / NO (circle one)

If yes, indicate names, birth dates, and social security numbers.

20. Is there a life estate interest in the property?

YES / NO (circle one)

If so, we will need a copy of the legal document.

21. When and how did you acquire the property and what is its adjusted basis?**

\$ _____

***"Adjusted basis" is the donor's "tax cost" in the event of sale of the property. Usually this is:

Start with	(1) original purchase price
Add	(2) cost of improvements
Subtract	(3) depreciation claimed while owned
Equals	(4) adjusted basis.

22. Please list the purpose for which you want this gift to be used.

23. Please forward paperwork and original documents (deed, title, insurance, etc.) to the *SMSU Foundation*, c/o SMSU Director of Procurement Services.

(Signature)

(Title)

(Date)

Southwest Missouri State University Foundation

REAL ESTATE GUIDELINES
ENVIRONMENTAL QUESTIONNAIRE AND DISCLOSURE STATEMENT

(To be completed and signed by current owner and attached to Checklist.)

1. Describe the present use of the property:
2. Describe previous use of the property over the past 50 years (attach separate sheet if needed):
3. Please list the names of former property owners over the past 50 years that you know of (attach separate sheet if needed):
4. Describe present and previous uses of immediately adjacent property:
5. Asbestos
 - A. Is asbestos currently present in any of the structures?
YES / NO (circle one)
 - B. If asbestos is present, has a survey been made to assess the type, amount, location and condition of the asbestos?
YES / NO (circle one)
If yes, attach a copy of survey.
 - C. Have asbestos air samples been taken?
YES / NO (circle one)
If yes, what were the results?
6. Polychlorinated Biphenyls (PCBs)
 - A. Have PCBs been used in electrical transformers, capacitors, or other equipment on the property?
YES / NO (circle one)
If yes, describe the use and quantity of PCBs used on the property.

7. Fuel/Chemical Storage Tanks, Drums, and Pipelines

- A. Are there any above ground or underground gasoline, diesel, fuel oil, or other chemical storage tanks or pipelines on the property?

YES / NO (circle one)

If yes, describe substances stored, capacity of tank(s), and use of any pipelines.

- B. Have the tanks and/or pipelines been inspected or tested for leakage?

YES / NO (circle one)

If yes, when was the most recent test? What were the results?

- C. Are any other chemicals stored on the property in drums or other containers?

YES / NO (circle one)

If yes, describe substances, quantities stored, and types of containers.

- D. Have there been any spills, leaks, or other releases of chemicals or petroleum products on the property?

YES / NO (circle one)

If yes, describe the chemicals or petroleum products and quantities released; any clean-up measures taken; and the results of any soil or groundwater samples performed to detect the presence of the chemicals or petroleum products spilled, leaked, or released on the property.

- E. Attach copies of any permits or licenses pertaining to the use, storage, handling, or disposal of chemicals or petroleum products on the property.

8. Air Emissions/Radon Gas

- A. Are there any air emissions from each source of air pollutants, including fuel burning equipment on the property.

YES / NO (circle one)

If yes, describe type of fuel burned.

Describe air pollution control equipment used to reduce emissions for each source of air pollutant.

- C. Are air emissions monitored?
YES / NO (circle one)
If yes, indicate frequency of monitoring.
- D. Attach copies of any air permits or licenses pertaining to operation on the property.
- E. Have tests to determine the existence of radon gas been performed?
YES / NO (circle one)
If yes, when? _____ Results? (Attach copy of test reports.)

9. Water Discharges

- A. Are there any water discharges from the property?
YES / NO (circle one)
If yes, is the waste water discharged to surface water, septic systems or holding ponds?
- B. List the average daily flow:
- C. Attach copies of any water discharge permits or licenses pertaining to operations on the property.

10. Waste Disposal

- A. Are there any other types of liquid wastes or solid wastes generated from the property?
YES / NO (circle one)
If yes, describe the types of liquid wastes (other than waste water described above) and any other solid wastes generated at the property.
- B. Describe how the liquid and solid wastes generated at the property are disposed.
- C. Attach copies of any waste disposal permits or licenses pertaining to operation on the property.

11. Has the property been used for industrial purposes?

YES / NO (circle one)

If yes, provide the following additional information:

A. Has the property been used for disposal of any liquid or solid waste?

YES / NO (circle one)

If yes, describe the location of all disposal sites; the type of wastes disposed at each site; the results of any soil or groundwater samples taken in the vicinity of each site; and the manner in which each site not presently in use was closed.

B. Have evaporation or storage ponds been located on the property?

YES / NO (circle one)

If yes, describe the location of all ponds; the type of wastes placed in each pond; the results of any soil or groundwater samples taken in the vicinity of each pond; and the manner in which each pond not presently in use was closed.

C. Have waste water treatment facilities, such as acid neutralization vaults, been located on the property?

YES / NO (circle one)

If yes, describe the location of all facilities; the type of wastes treated in each facility; the results of any soil or groundwater samples taken in the vicinity of each facility; and the manner in which each facility not presently in use was closed.

D. Are there raw chemical or waste chemical storage areas located on the property?

YES / NO (circle one)

If yes, describe the location of all areas; the type of products or wastes stored in each area; the results of any soil or groundwater samples taken in the vicinity of each area; and the manner in which each area not presently in use was closed.

12. Is the property now used for or has the property previously been used for agricultural purposes?

YES / NO (circle one)

If yes, provide the following additional information:

- A. Have pesticides, herbicides, or other agricultural chemicals been applied to the property?

YES / NO (circle one)

If yes, describe the locations where such pesticides, herbicides, or other chemicals were applied; the type of said in each area; and the results of any soil or groundwater analyses performed to detect pesticides, herbicides, or chemicals used at the site.

- B. Have pesticides, herbicides, or other agricultural chemicals been mixed, formulated, rinsed, or disposed of on the property?

YES / NO (circle one)

If yes, describe locations and types that were rinsed, mixed, formulated or disposed of; and the results of any soil or groundwater analyses performed to detect pesticides, herbicides, or chemicals mixed, formulated, rinsed, or disposed of at the site.

As the present owner of the property or as an officer or a general partner of the present owner of the property (or the duly authorized representative of such owner), I am familiar with all of the operations presently conducted on the property, have made a diligent inquiry into the former uses of the property, and hereby certify to and for the benefit of any purchaser of the property that, to the best of my knowledge, information and belief, the information disclosed above is true and correct.

(Signature)

(Title)

(Date)

The Executive Director of the *SMSU Foundation* or his representative will review the Donor-Provided Environmental and Disclosure Statement. If the Physical Verification of the property and/or the Environmental and Disclosure Statement indicates any potential problems, the *SMSU Foundation* may elect not to accept the property or to request a Phase I (historical) and/or a Phase II (testing and estimated cost of clean up) Environmental Report.

NOTES