

# Creating a Standardized In-Kind Gift Policy:

More than IRS requirements  
and dollar amount thresholds

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# GIK can be... frustrating

- ★ They are “all” unique
- We only want 10% of the collection
- So much legalese
- How do we appraise
- Is there a minimum value?
- How do we attribute a value to something?
- Who’s going to pay for shipping?
- How should materials be stored?
- Storage
- Preservation needs
- Embargo?

**With a clear policy,  
GIKs don't have to be**



# Harvard Library

**Guiding star: Open Access**  
**Collection Development: Minimize Duplication**

## **25+ libraries | 800+ staff**

- All handling GIK differently
- Countless questions each time I learned about a potential GIK (if I even knew about it...)

**...it felt like every time we had a GIK  
we were starting from scratch**



# Harvard University

## May 2020

- Rolled out new University Gift Policy
  - Further the mission of the University
  - No financial burden
  - **Protect staff**
  - Clarity on gift expectations



# Landscape Research

## Harvard Library

- What were teams doing?
  - Collection parameters
  - Documentation?
  - Staff involved

## Central Development

- Did gift officers want to be involved?
- Ideal process
- What documents were required?
  - What are our federal tax requirements?



# Guiding Questions

Minimum value threshold? **No**

Do we have to do Paperwork for every gift? **Based on Charitable Deduction**

How can we make sure we only get what we *actually* want? **Pre-work with donor**

How can we ensure unit director awareness? **Include them from the start**

Who can do appraisals? **Unaffiliated 3<sup>rd</sup> parties**

Will development tell us what we can and cannot accept? **Never.**

(and many more)



# New Policy

## Main parameters:

- Item(s) must further RTL mission (non duplicate item)
- Unit director in agreement
- Gift officer aware (as needed)
- Not incurring a financial burden
- Clear expectations in the Deed agreement and strong communication with donor
- Set guidelines for when Deed & additional documents are needed
- No appraisals allowed by affiliates

**All of this required...**



# A New Deed Agreement

## 5 New Deed templates (based on ©):

- No Copyright
- Grant Non-exclusive copyright
- Grant Exclusive Copyright
- Grant Exclusive copyright + Creative Commons License
- Split copyright *coming soon*





# Refreshed Deed language

## OLD VERSION

**I/We**[DONOR] affirm that I/we am/are the sole owner(s) of the Gift and that to the best of my/our knowledge the Gift is free and clear of all liens and encumbrances and I/we have full authority to make this gift. **I/We** further affirm that to the best of my/our knowledge, since \_\_\_\_\_ **[date]** the Gift has not been imported into or exported from any country contrary to its laws.

[DESCRIBE GIFT] + SIGN

## NEW VERSION

I, **[DONOR NAME]** of **[ADDRESS]** (“the Donor”), give to President and Fellows of Harvard College (“Harvard”), a Massachusetts charitable corporation, for the benefit of the **[Harvard Library or Archive Name]**, all of my right, title and interest in **[NAME OF GIFT]** (the “Materials”) identified in Appendix A below. This gift is effective immediately upon Harvard’s acceptance and is unconditional and irrevocable.

**Plus...**



# Added: Distinct Clauses

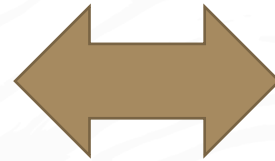
Harvard and the Donor agree as follows:

1. Donor hereby irrevocably assigns, transfers, and gives all of their right, title and interest, exclusive of copyrights, in the Materials to Harvard.
2. After execution of this Deed of Gift by Donor and acceptance by Harvard, title to the Materials shall pass to Harvard upon acknowledgement of receipt of the Materials by the [Harvard Library or Archive Name]]
3. [COPYRIGHT CLAUSE]
4. The Donor represents, to the best of their knowledge, that the Donor is the sole and absolute legal owner(s) with full right and authority to donate the Materials.
5. The Materials may be incorporated into Harvard Library's online digital collections and discovery systems, including, but not limited to, Harvard's Library catalog, Hollis.
6. The donor further warrants that they have the legal right and power to grant Harvard the rights granted above.
7. The donor understands and agrees that they will not receive any payment, now or in the future, in connection with this donation to Harvard for the use and dissemination of the Materials in furtherance of Harvard's non-profit, educational, teaching, research, and/or scholarly mission.
8. This agreement constitutes the entire agreement between the parties with respect to the subject matter and supersedes all pre-existing agreements and understandings between them.
9. The Donor further agrees that this Deed of Gift constitutes an enforceable legal obligation and is binding upon the Donor's heirs, executors, personal representatives, successors, and assigns.
10. This Deed of Gift is executed as a document under seal governed by the laws of the Commonwealth of Massachusetts.



# Approvals

1. 5 New Deed templates
2. Policy
3. Process



**Development Gifts  
Management team  
&  
Office of General  
Counsel**



# New Process

1. Conversation with donor
2. Confirm with unit director *loop in gift officer if needed*
3. Select appropriate deed + additional clauses (if needed)
4. Review deed with donor
5. Donor signs
6. Library signs
7. Paperwork goes to development
8. Development handles IRS 8283 with donor
9. Final executed copies go to donor & library
10. Acknowledgements



# Roll out

- Staff Trainings
  - Incredibly informative and acted as another check that the Policy **worked** for staff and the common issues they saw
- Accompanying talking points for development
- Annual review to keep things fresh



# Outcomes

- Long-term clarity with strong deeds
- Unit directors *know* what's coming in
- Gift officers are looped in *and* understand what the Library is looking for
- Uniform process and resources
  - Clarity & support network among staff
  - Needs for other resources surfaced (i.e., processing plans and cost analyses)



# Recommendations

- Talk to library staff
- Understand your legal/financial/university requirements
- Decide on parameters, such as:
  - Gift officer involvement in conversations
  - Library director(s) awareness
  - Documentation when...
  - Not a financial burden
  - **Support the collection and mission of Library**



# Thank you! Questions?

Let's talk GIK!

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