Stick to the Plan:

A Guide to the Do's, Don'ts, Ins and Outs of Planned Giving

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Face it, no one likes to talk about death — especially not his or her own. And to talk about planned giving, you have to acknowledge the fact that a "planned" gift is one that will be given to a charity after the donor has shuffled off his or her mortal coil. It takes a very specific approach — and personality type — to do it well.

That said, there are some general things to acknowledge, or know, or master that can help propel your organization toward more successful planned-giving strategies. Here a handful of experts from across the fundraising spectrum weigh in on the best do's and don'ts of planned-giving campaigns.

LAUNCHING A CAPITAL CAMPAIGN

From Alexander "Sandy" Macnab, president of Chicago-based Alexander Macnab & Co.:

Even though most development professionals understand the pyramid of giving and know that planned gifts sit at the top, many organizations never get a planned-giving program established because something else always seems a higher priority.

But a few simple steps can help even the smallest organization get started.

1) **Recalculate your existing personnel budget, allocating a portion or percentage of the chief development officer's time (and salary) to planned giving.** Consider starting with 5 percent or 10 percent. Naturally, that means delegating or eliminating activities now taking that portion of the job. Build it into the job description. Add a similar amount of time to whatever support staff is available.

2) **Find a board member or volunteer who will serve as the planned- and major-gifts chair and help you build a supportive committee.** The person you seek is someone who has very likely been a board chair and has either personally benefited or has a close family member or friend who has benefited from your organization's work.

   Don't expect the committee to do the work. It's there to provide support and open doors for the work you will do. Let the committee decide which of several planned-giving brochures you provide for it is the best fit for your organization. If it helps choose one, it will proudly carry it to friends and acquaintances.

3) **Join an existing planned-giving support group in your community.** Visit the Partnership for Philantrhopic Planning Web site -- www.pppnet.org -- and find a group in your area. Ask those who attend what they've been doing that works and then copy it. Learn about the more complex planned gifts from this group. Ask questions and listen. Attend planned-giving training seminars.

4) **Decide what you're going to promote.** We all eventually die, so bequests are a logical starting point. In fact, even at places with very large, established planned- and major-giving programs, bequests represent the lion's share. So start asking to be included in wills, and actively ask for bequests.

5) **Design a simple (and inexpensive) lapel pin that will be given to everyone who has named your organization in a will (or established some other planned-gift arrangement, but start with bequests).** Name the recognition society you have just created for someone who helped in the past. Ask your planned-giving chair to make a bequest provision and to ask fellow board members to do so also. In time, this will result in substantial gifts.

6) **Look back over the past few years and make a list of board members and supporters who have died.** Use the list as a reminder that your organization needs a will and bequests program. Once you have an identifiable bequest program, you'll be ready to expand to promote other arrangements such as gift annuities, charitable trusts, life insurance policies (usually existing ones), retirement funds and houses.

7) Establish a simple, month-by-month time line of what you want to accomplish and by when. List only those activities you can actually accomplish with 5 percent or 10 percent of your time given to it. You were not hired as a planned-giving expert, so if you can afford it, consider hiring a consultant to help you, at least in the early stages.

THOU SHALT: 10 THINGS YOU MUST KNOW ABOUT PLANNED GIVING

From Scott Janney, director of planned giving at Pennsylvania health care system Main Line Health:

1. Know yourself. Some people look to planned giving as a way to hide behind their computers and spend their time reading about esoteric plans and legal opinion. Planned giving is a part of development, which is a noble, though often misunderstood, profession. When someone at a party says to you, "I could never do what you do," she's referring to the dreaded task of "asking for money." If you can't ask for money, then you can't raise planned gifts.

The main qualification you need to promote planned gifts — as a director of planned giving, a development or major-gifts officer, or a volunteer — is the ability to tell people why they should support your charity.

2. Know that the simple gifts are the best gifts. Most planned-giving officers get excited over things such as flip charitable remainder unitrusts with makeup, but most of the planned-giving money that supports charities comes from bequests in wills — and most of those gifts are simple bequests in simple wills. You'd be hard-pressed to hear a planned-giving professional claim that it's different for his or her charity.

Some planned gifts are even simpler than a will. Everyone should have a current will that has been crafted by a competent estate attorney. However, most people would rather have their teeth cleaned than talk with an attorney about how to divide their assets after death. But most donors can change the beneficiary designations on their IRAs, qualified pension plans and life insurance policies without visiting an attorney. Many of these changes can be made online or by completing a standard form and sending it to the plan administrator. The same goes for naming a charity on a CD at the bank and for a number of other assets. There are important reasons why gifts from an IRA, 401(k) or 403(b) can make a great deal of sense to most donors, too, but you won't find tax law in a list of the top 10 things you need to know.

3. Take every chance you get to promote planned gifts. Put "Please remember ________ in your will" at the bottom of every letter. Get others — like your CEO — to end their letters that way, or have it printed on the stationery. If your charity has a director of annual funds, ask that person for ideas about how to promote planned giving in annual-appeal pieces.

Look for opportunities to speak to groups about how planned gifts, especially those from simple wills, have helped your organization. Put ads in your organization's magazines or newsletters, send planned-giving postcards, and make planned-giving information easy to find on your Web site. Remember, the best person to promote planned giving is the one who can ask people to support your charity, so have him or her exercise that quality by asking in as many ways as possible.

4. Know your best prospects. How good is your database? You have a huge head start if you can identify your most loyal donors, those who love your charity and have supported it consistently over the years. Your best prospects often are older, or have never been married, or have no children.

5. Go beyond the basics. Don't just know your donors' basic demographics; know what words they use and what they love most about your charity, and learn to speak their language. You may need to self-edit your technical vocabulary around the average donor. However, those more complicated concepts and terms come in handy around donors' attorneys and accountants.

6. Tell stories. Be sure to tell stories about faithful new planned givers and those from your charity's history. Even the smallest charities have experienced a couple of generous and foresighted individuals who have named them in their wills or helped them through some other planned gifts. Singing their praises is extremely important because it reminds your volunteer and administrative leaders that planned giving already has made a difference. It reminds potential planned givers about the generous acts that help you fulfill your mission. You want people to know that it's honorable to support your charity, that people like them and people they respect have remembered you through their wills and estate plans, and that their gifts won't be forgotten.

7. Offer options. Research shows that charities that offer the widest variety of planned-giving options raise the most planned gifts. Even very large charities that employ a number of planned-giving attorneys receive most of their planned-giving money from bequests, often 75 percent to 85 percent of all planned-giving contributions. The attorneys earn their salaries not just through the more complicated gifts, but also because there is a great value in letting people know that your organization is "in the business" of planned giving. Don't let donors wonder whether or not they can put your charity in their wills.

8. Stand out from the crowd. Don't send planned-giving communications that look like the ones from every other charity. The best planned-giving pieces, like the best development pieces, tell your charity's story. Your mission and the work you do are the real hooks that attract donors to fund annuities or make bequests to your organization. Keep the language about wills, charitable-gift annuities, retirement plans and other gifts clear and accurate, and speak to how gifts from these techniques promote your cause and mission.

9. Don't be too cute. Speak clearly about the benefits of the gift plans you offer in ways that your donors will understand, and avoid jargon that only other professionals can pronounce. Don't give your legacy society a name that always needs to be explained. You can have fun and choose titles that grab attention, but always come back to the mission that planned gifts will support and the clear benefits they have for the donor and for your charity.

10. Acknowledge that you need help. Every planned-giving program needs help from paid and volunteer advisers. You need to develop a network of legal and financial professionals who enhance the publicity about your program, add a sense of confidence among donors and prospects, and provide advice in their areas of expertise. Whether your charity has been around for months or centuries, and whether you're new to this profession or seasoned, building a network of skilled and trustworthy professional advisers will open doors, open eyes and save you from many pitfalls. Only select professionals who are charitably inclined, and avoid those with sales pitches to sell their products but offer only dubious benefits for your charity.

THOU SHALT NOT: SEVEN COMMANDMENTS OF PLANNED GIVING

From Johni Hays, senior planned-giving consultant for Des Moines, Iowa-based The Stelter Co.

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The Seven Commandments of Planned Giving highlight areas to avoid as we interact with donors and ask for planned gifts. By reviewing each commandment, you can develop a road map to assist you as you navigate through the perils of planned giving.

1. Thou shalt not ignore donors' motivations, goals and financial situations. It's important to know more than cursory information about donors before creating and recommending an appropriate gift proposal. Since planned gifts are generated from matching donors' passions and goals with what your organization has to offer, get to know your donors by building genuine relationships with them. Find out what's important to them, what motivates them and how they'd like to put their charitable dollars to work.

In addition, you need to know your donors' financial situations before recommending an appropriate charitable gift. For example, you shouldn't recommend a charitable trust over a bequest if you don't know about the donor's assets and whether or not a trust is feasible given her desires coupled with her finances.

2. Thou shalt not make recommendations without adequate technical advice. It's important to know the legal tax implications of recommended gifts. Luckily, most major donors want to seek professional advice from a lawyer, CPA or some other type of financial adviser before agreeing to a large gift.

So bring your donors' professional advisers into the loop early on in the discussions. Have them counsel your donors on the tax effects of their gifts and provide any needed legal advice. You don't want to be held accountable for that; let the professionals do it. In addition, inviting the advisers to be involved will make them less likely to act as gatekeepers and oppose your proposal.

3. Thou shalt not recommend an inappropriate gift vehicle. Not all gift vehicles are appropriate for certain assets. Depending on the type of asset your donor has under consideration, some vehicles work better than others. For example, the following assets and vehicles can be quite troublesome when paired together: real estate in a charitable remainder annuity trust; tangible personal property in a charitable remainder unitrust or annuity trust; mortgaged property in a charitable remainder unitrust or annuity trust.

It's important for gift planners to know what type of assets work best with certain gift vehicles so they can give solid recommendations to the donors and avoid giving them harmful advice.

4. **Thou shalt not recommend the donation of inappropriate assets.** Some assets, although necessarily complex, are still appropriate for planned gifts; however, others are inappropriate in nearly every situation. Assets that can be unsuitable for lifetime gifts due to the tax problems they pose are IRAs, commercial annuities, savings bonds and qualified retirement plans.

   Since IRAs and retirement plans typically are funded with pre-tax income, withdrawals are considered taxable income to the account owner. Further, with commercial annuities and savings bonds, any appreciation over the original cost basis is also considered taxable income when withdrawn or cashed.

   Moreover, unlike gifts of appreciated securities where the long-term capital gain is avoided when given to charity, if these assets are used to fund a lifetime gift, the taxable event is unavoidable. When a donor uses these assets to make a lifetime charitable gift, he still pays income tax, even if the asset is given to charity.

   The same theory holds true if the donor keeps these assets during her lifetime and gives them away after death. If the donor leaves these assets to heirs, the heirs must pay the income tax. Again, the taxable event cannot be avoided.

   Charitable bequests of these same assets are more appealing. Leaving a savings bond, commercial annuity, IRA or retirement plan to charity at death avoids the taxable event as the nonprofit benefits from a zero-income tax bracket. The donor's estate becomes eligible for an estate tax charitable deduction, reducing potential estate taxes more.

   What about the donor's heirs? With the stepped-up cost basis available on inherited assets such as real estate, estate planners say that when deciding which assets people should leave to heirs and which to leave to charity, real estate is better for heirs, while IRAs and savings bonds are better for charitable causes.

5. **Thou shalt not recommend techniques that are ripe for IRS scrutiny.** Take care when dealing with techniques that aren't IRS-approved charitable techniques. Being creative isn't bad or wrong, but falling prey to "schemes" can be disastrous.

   Most traditional life insurance gifts such as giving ownership of an existing policy to a charitable organization are legitimate planned gifts. But a recently promoted life insurance approach called "stranger-owned life insurance" is much different. A trust or someone with no relationship or giving history to the charity owns a policy or multiple policies on large donors. Many commentators argue that the arrangement violates insurable interest standards and public policy, which has attracted congressional attention.

6. **Thou shalt not allow the tail to wag the dog.** Care should be taken to avoid outside influences from controlling the donor's choices or from controlling the recommendations for a planned gift. To illustrate, a donor who establishes a charitable remainder trust in favor of your charitable organization might feel that the gift is made to benefit the nonprofit financially (albeit down the road as a remainder beneficiary), therefore the organization should pay the legal fees to establish it. The charitable organization, however, should not pay the fees for the donor's trust documents, legal fees or fees for other professional advice. Payment of a donor's fees by a nonprofit can risk the donor's charitable deduction.

   Also, an argument exists that the organization is giving the donor a private benefit because the charity will be using its own funds to pay for the personal debt of a donor. As a result, it's in the donor's best interest to have independent legal advice and to pay for that legal advice out of his or her own pocket.

7. **Thou shalt not act as trustee unless qualified to do so.** Acting as trustee is a fiduciary duty sometimes not well understood by donors, advisers and nonprofits. Generally, most professional advisers (with the exception of skilled trust officers) aren't well-trained in the duties imposed on the trustee as a fiduciary.

Moreover, these advisers typically are not trained to understand the legal terms used in trust documents and how to properly administer them. For many reasons, even attorneys are reluctant to serve as trustee because they know all too well the exposure involved when acting as a fiduciary. Further, not all states allow charitable organizations to act as trustee, so be careful when responding to a donor's request to do so.

SHOWING THE LOVE

From Alison O'Carroll, an associate at Planned Giving Services, a division of Cambridge, Mass.-based PG Calc.

We all know how important recognition is — it's an opportunity to acknowledge, thank and celebrate donors for their trust in, and commitment to, your organization's mission. But recognition of planned-giving donors often won't happen through conventional donor-recognition channels. That is where a heritage society comes in.

Why a heritage society?
Including planned-giving donors in outright giving clubs raises difficult issues regarding how to value and credit planned gifts. A commonly adopted option is to establish a special society known, generically, as a heritage society.

A heritage society helps ensure that planned-giving donors receive recognition and are thanked systematically. Their decisions to make deferred gifts (which are, after all, revocable in many instances) are reinforced by being part of a group and by connecting them with other far-thinking individuals. In addition, a heritage society can be a very helpful way to initiate conversations with prospects about their legacy planning and possible future gifts.

Who can join?
Since one of the underlying purposes behind the society is to strengthen relationships with your organization, it's to your advantage to be generously inclusive. In that spirit, all donors who make future financial provisions for the organization should qualify. This means any donors who establish life income arrangements (charitable trusts, gift annuities), arrange for retained life estates or donate life insurance policies (all irrevocable), as well as those providing for bequests or naming your organization as a beneficiary of their retirement plans or life insurance policies (revocable). The common theme of these donors is their belief that providing for the future of the organization is important.

Two things follow from this inclusiveness. First, required "proof" of a gift should be minimal. Any written or verbal indication of a commitment should be sufficient; more formal documentation could follow, but it doesn't really matter whether it does or not. Very rarely will donors tell you they have made these types of gifts when they haven't. Second, there should not be a minimum required gift size. By their very nature, bequest gifts are difficult to "value" and to "credit" and might even vary over a donor's lifetime (for example, a gift of a stated percent of the donor's residual estate). No purpose is achieved by excluding a deferred gift donor.

How to get started
Consider a charter membership period as a way to encourage donors who already included your organization in their estate plans to reveal their gift intentions, draw attention to your new program, add a bit of urgency by publishing a deadline and give special recognition to those who are committed, "early" investors.

Publish an announcement of your new program in your newsletter, send a mailing to all or a targeted portion of your constituency, and consider a special event to which you invite not only those who already have informed you of their deferred gifts, but also prospects. Indicate when you plan to make the first public announcement of the charter membership.

Once established, look for ways to grant public recognition to members of your society — articles for your organization's newsletter, annual report and Web site; announcements at public events or ceremonies; donor lists in print or physically presented on a donor wall.

Include society members in organization events. Often this takes the form of an annual gathering, such as a luncheon. The main purpose is to recognize and thank donors and allow them an opportunity to meet likeminded supporters. Indicate the importance of their gifts by having the trustees/directors and executive staff attend.

But don't limit the activities of your society here. Consider these individuals major donors and look for opportunities to include them in other important events such as annual meetings, building openings, receptions for new leaders, award ceremonies and such. Look for ways to identify them as society members at these events.

Mementos or token gifts can serve to remind a donor of your organization and as evidence to others that he or she supports you. Small gifts can provide you with an opportunity to meet and visit with your donor and begin to develop a relationship. Also consider a certificate of membership and/or a society pin for the donor to wear.

Send an "Insider's Report" once or twice a year that gives your members the "inside scoop" or perhaps a personal perspective on something happening at the organization. These should be from someone high in the organization and could be sent on society letterhead to reinforce the feeling of belonging to a community of special donors.

And, of course, don't forget that the very best recognition often is regular personal contact — to the extent time permits and donors allow — with your society members through letters, visits and phone calls.

When a donor makes a deferred gift to your organization, it often is the single largest, most thoughtful charitable gift in his or her lifetime. When you are remembered in his or her will, a donor has, in some respects, elevated your cause to the status of family. A fitting response by your organization is to honor the donor and express continued appreciation for his or her support. A heritage society is a great way to accomplish this.

PRIVACY ALERT

From Robert Sharpe Jr., president of Memphis, Tenn.-based The Sharpe Group.

No area of fundraising intertwines development staff and donors in more personal relationships than planned giving.

In many cases, all a prospective donor asks is that a development executive supply generic information about how a particular gift plan might function, what the payment rates or tax deduction might be, or whether an organization can serve as a trustee.

But in other cases, the process of planning a gift — the who, what, when, why and how of it — results in the development officer becoming privy to very private information.

For example, suppose a donor informs an organization of her intention to include a charitable gift as part of her estate plans. She says she would like the organization to serve as trustee of two trusts to be created under the terms of her will. She has a brother and a sister, both in their late 60s.

She would like to leave half of her estate in a charitable remainder annuity trust that will provide her sister with a fixed income for life, with the remainder going to the charity at her death. So far, so good.

Next, the donor shares that her brother has had a history of drug and alcohol abuse dating to the 1960s. Her mother left her brother's inheritance to her and asked her to "take care of him." What she would like to do is create a trust under which the nonprofit organization as trustee would provide for her brother as his needs require, but never give him access to the corpus.

There could be as much as $1 million in the trust. She says her brother is "functioning," and that this family issue has never become public. One reason she wants the organization to serve as trustee is that she feels this will be more private. She doesn't, for example, want the information to be known in the trust department of her local bank.

Suppose, as would be the case for many institutions, that the decision is made not to serve as trustee of the brother's trust. Should this decision and the information surrounding it be permanently recorded in the donor's file? Should it be entered into a contact report in the organization's donor-tracking system?

One approach might be to indicate that there were personal family issues that led the charity to decide his trust would best be handled by someone else. This makes it clear that there was a specific reason for not serving as trustee, but it doesn't spread around any details. Sometimes it's not just what you do or do not say, but how you do or don't say it.

Obviously there are conflicting interests at play in a situation such as the one described above. It might be important for your successor or others on staff to know this information, but what about the donor's interest in maintaining her privacy and that of her family?

Pitfalls abound

This is just one example of the types of delicate situations that can develop when donors share personal motivations underlying their desire to make a particular gift.

Three different groups consistently appear as beneficiaries in wills and other estate plans: family members, close friends and charitable interests.

When a person includes a nonprofit organization in her will, she does not benefit from an income tax deduction or receive any income. Relatively few donors will tell you in advance about their plans, so there often is no desire for recognition. On top of that, the vast majority will not benefit from estate tax savings.

A donor who decides to include a nonprofit in her will is, in effect, elevating the charity to the status of a family member. If she decides to inform the organization of her intentions, the donor often treats the organization from that point on as a family member. Representatives of the organization might then become privy to information, such as what's in estate documents, that otherwise would be shared only in a very trusting relationship. In such situations, it's critical to hold such information in confidence.

It's perfectly proper to note that a donor enjoys hiking, music, bridge or gardening. These things help you (and your successor) find shared interests and values, without intruding on someone's privacy.

What to do?

There are situations in which a development officer's duty is to not record donors' personal information.

In some cases this includes not even revealing that a donor is a donor. One Ivy League university president was approached by a donor regarding a multimillion-dollar bequest. The donor wanted the top management of the institution to know that the bequest was in the foreseeable future and to plan for it accordingly.

The donor's wish was that the amount of his bequest and his desires regarding the eventual use of the funds be known only to the president, who would have to agree he would not record the information or share it with anyone — including the board of the institution.

The president informed the board of the donor's conditions and was told to respect his wishes. Only then would the donor inform the president of the size and scope of the bequest.

This example also illustrates why planned-gift development efforts usually are very staff-driven, with less involvement by volunteers than some other methods of fund development. Donors might be friendly with volunteers, but they might not want to share very personal information with them.

Staff members who interact with donors who might share personal information should be trained to be aware that this could occur and to feel comfortable in not recording certain information.

In some cases, a staff member might wish to verbally convey information to her superior to assure institutional memory without making permanent notations.

When working with a donor who shares particularly sensitive personal information about the circumstances surrounding a gift, it might be appropriate in some instances to ask the donor if she would mind if certain information was recorded for future reference, to make sure her intentions are carried out. If the donor prefers that information not be kept, it would be wise to follow her wishes.

Untangling the Web

What about information gathered during a donor's visit to a planned-giving Web site? For example, if you maintain a tax-deduction calculator on your site, should you be recording information a donor might enter regarding the amount of a proposed gift, pay-out rate, age, etc.?

Without permission, probably not. How do you ask for permission? One way might be to ask Web site visitors at the outset if they want the information saved. How would you answer that question if you were about to embark on an exploration of your organization's Web site?

Another possibility might be to indicate before a donor leaves the site that only by checking a box will personal information be shared with the charity.

In any event, it might be wise to seek a legal opinion and/or board-level approval of policies regarding the retention and use of information donors might leave behind after a visit to your site.

What about information that is publicly available? Would most donors be offended if you obtained age information from public sources to reduce the cost of your fundraising efforts by, for example, not sending information about gift annuities to people in their 30s? How would you answer that question if the information obtained was your age?

Clearly the gathering and use of certain information is appropriate and would be expected to lead to few, if any, objections from donors. In other cases, the answer might not be so clear.

As in many other areas of human endeavor, there are no clear-cut answers to questions regarding the gathering and use of information as part of planned-gift development efforts.

Five tests

When faced with donor-privacy decisions that might have moral and ethical implications, it's wise to put the decision to these five tests.

1. **Is the activity legal?** If you don't know or aren't sure, find out. If it isn't, you can disregard the rest of the tests. An example of information that may not legally be used in planned-gift development is personal health history that a hospital has because a donor was treated at the facility. That is not an ethical issue; it's federal law.

2. **If it is legal, does it pass the "stomach test"?** We can all think of examples of behaviors that are legal but just don't "feel right" for one reason or another.

3. **If the behavior passes the legal and stomach tests, does it pass the "relative test"?** Would this be something that would be OK to you if it was your mother or other close relative? Or you? How much information about your personal affairs would you want to be a part of an institution's permanent records?

4. **If it passes the legal, stomach and relative tests, take the "60 Minutes" test.** Would you like what you are about to do to be the subject of a Page 1 article in your local newspaper tomorrow morning?

5. **Finally, take the "witness stand" test.** Keep in mind that donor records can be discovered in a will contest or other legal action.

When recording information in a donor's file, imagine that you or someone else could be asked to read the report from a witness stand. Or simply imagine the donor herself reading your notations.

Create policies

The best course of action is to anticipate certain situations that could arise and to formulate policies in advance so that you or your staff members don't have to make important determinations on the fly. Once policies are in place, make sure they're disseminated among staff and volunteers and periodically updated to reflect changes in the law, technology and other factors that could underlie them.