



Policy on the Acceptance or Refusal of Donations

Approved by the Board in April 2009

This document outlines ACORD's global policy on the acceptance and refusal of donations/grants¹. It provides a set of principles that will be used to guide ACORD's decisions and situates the procedures that would be followed. This policy is aligned with the Codes of Fundraising Practice² published by the Institute of Fundraising in the United Kingdom.

Purpose and Rationale

- Ensure compliance with legal regulations
- Clarify the trustees' legal obligations with regard to the acceptance/refusal of donations
- Avoid confusion between trustees, fundraisers, volunteers and staff as to who has the authority to take decisions in differing circumstances
- Help to ensure that decisions are not taken on an ad-hoc basis, but are grounded in ACORD's mission and agreed strategic objectives
- Provide a clear objective standard against which external bodies can judge ACORD's actions in cases of potential or actual dispute
- Protect ACORD's reputation against adverse public reaction from existing or potential supporters

The Trustees' Legal Obligations with Respect to the Acceptance or Refusal of Donations

- Ultimate responsibility in respect of the acceptance or refusal of all donations rests with ACORD's elected trustees.
- The trustees (and their delegates) must take all decisions relating to the acceptance/refusal of donations in the best interest of ACORD. They should not let their personal views or prejudices affect their conduct as trustees. They should exercise the same degree of care in dealing with the administration of ACORD as they would exercise in managing their own affairs, or those of someone else for whom they were responsible.³
- The trustees (and their delegates) must be able to demonstrate that they have acted "in the best interest" of ACORD irrespective of any individual or collective personal interest or predilection, in each and every case. The trustees (and their delegates) have a duty to consider carefully, on the basis of the evidence available to them whether ACORD's interests will be better served by accepting or refusing the donation and to act accordingly. In making these judgments, trustees and their authorized decision-makers must not allow individual or collective personal, political or ethical issues, which are not directly related to the interests of ACORD, to affect their judgment.
- Trustees must derive no personal benefit (individually or collectively) from donations, loans or other material support offered to ACORD. Where material benefit is tied to support, the support, the benefit or both must be declined.

Procedures

- ACORD's Board of Trustees delegates the responsibility to accept or refuse donations to ACORD's Executive Director assisted by the Senior Management Team in the Secretariat.

¹ See also ACORD's policy on accepting donations from the private sector, approved by the Board of Directors in October 2006

² <http://www.institute-of-fundraising.org.uk/bestpractice/thecodes/>

³ See UK Charity Commission leaflet CC3

- ACORD's internal procedures for donor relation are that all draft grant contracts must be sent to the Secretariat for a review coordinated by the Partnership Development Unit. The Partnership Development Manager will consult with the members of the Senior Management Team and recommend for the Executive Director the acceptance or refusal of the suggested donation. Similarly, the Partnership Development Unit is responsible for ensuring an ethical screening of potential corporate or individual donors and make recommendations to the Executive Director on acceptance or refusal of suggested donations.
- If in doubt on whether to accept or refuse a donation, the Executive Director might decide to consult the Board of Trustees. The Executive Director will also make sure to inform the Board of Trustees on any donation that he/she judges could potentially raise questions to why ACORD rejected it or accepted it and share the core decision points and procedure that was followed in that particular case.
- All contracts above USD 10,000 and all contracts with international donors should be signed by the Executive Director unless he/she has issued a formal letter delegating the signatory authority to an ACORD country coordinator or other appropriate representative. ACORD country coordinators are authorized to accept donations below USD 10,000 at the local level, but should consult with and keep the Secretariat informed.

Guiding Principles

Several factors must be analyzed in order to establish whether a suggested donation/grant would be in the best interest of ACORD:

- The donation/grant should contribute towards ACORD's overall strategic plan or country/thematic strategic programmatic objectives
- The eventual budget for restricted donations/grants should cover the cost of delivery including the management and administrative costs that will be occurred to deliver the action
- ACORD should be able to successfully deliver the agreed activity and advance its mission under the conditions tied to the donation/grant, such as schedule and channeling of payment(s), required co-funding if any, reporting requirements and other legal aspects of the contract
- The donor's objectives or activities must not appear to be incompatible with ACORD's vision, mission and values, particularly if this risks causing significant damage to ACORD's integrity, public image or professional reputation. ACORD will not accept donations from companies or individuals whose wealth are known to result from illegal activities or where there are indications of corruption and related economic crime.

ACORD will refuse donations/grants in the following situations:

- Where it is clear that the activities of a donor are directly inimical to the objectives of ACORD, the agreed policies of ACORD or to the beneficiaries of ACORD
- Where it can be clearly shown that the cost to ACORD of accepting a donation will be greater than the value of the donation itself and that acceptance of the donation will itself directly lead to a net decline in the asset base of ACORD
- Where the offer of support is dependent upon the fulfillment of certain conditions placed upon ACORD and any of the conditions:
 - is in itself contrary to the objectives of ACORD
 - is regarded as unreasonable in relation to the nature of the support in terms of its size or impact on the work of ACORD
 - will divert ACORD from pursuing its current objectives, policies or work priorities as a necessary result of the fulfillment of the conditions alone
 - tie the funds and/or property, in which case that activity must in itself fall within ACORD's scope of work and be practically achievable.

Great care will be taken by the trustees (and their delegates) in deciding whether to accept or refuse a donation:

- Where an offer of support is itself dependent upon the charity first spending its own money or resources in order to facilitate the execution of the original offer of support, as this might be placing ACORD's assets under undue and inappropriate risk and/or unduly strain ACORD's working capital. Donations should preferably be given in full up-front or alternatively in several tranches up-front linked to an agreed work plan.
- Where the support, whilst reflecting ACORD's objectives, is impractical for instance because ACORD does not have the resources with which to maintain the running costs associated with it.
- Where the support consists of goods, services or property which ACORD can not lawfully use, convert, exchange or sell in direct support of its charitable objectives.

Relevant Legal Framework

- As a way to pre-empt possible disputes and/or negative publicity in complex or potentially difficult cases, ACORD as a UK registered charity, has the option of applying to the Charity Commission for an order authorizing ACORD to refuse a donation. This is contained within powers conferred on to the Charity Commission by Section 26, Charities Act 1993.
- Whilst in general it is not sufficient cause to refuse a donation on the grounds of a general objection to the potential donor, Section 62, Charities Act 1992, Part II, does provide trustees with some leeway in this respect. However, precise procedures must be followed if injunctions from the courts are to be obtained.
- Section 61, Charities Act 1992, Part II, provides for the return of donations of more than GBP 50 made by credit/debit card within a seven day 'cooling off' period.
- An ex-gratia payment is a payment made to discharge a compelling moral, but not legal, obligation. This type of payment needs to be authorized by the Charity Commission under section 27, Charities Act 1993. See Commission's leaflet, Ex-gratia Payments by Charities (CC7).