
Appendix F – Overview of Articles in a Comprehensive Model Fundraising Agreement

Article

I. Background

Provides the context for the Fundraising Agreement and states the intent of the parties. This information is helpful to have when interpreting provisions of the agreement.

- a. Who the parties to the Fundraising Agreement are.
- b. A description of what the parties are trying to accomplish.
- c. A brief history of the relationship between the parties.
- d. Relevant legislation if it exists.
- e. The Partner's fundraising goal and a very brief overview of the Partner's proposed fundraising activities.
- f. Other facts critical to understanding the Fundraising Agreement
- g. An explanation of whether and how existing or related agreements affect the Fundraising Agreement.

II. Definitions

Define meanings of terms of art, critical terms, etc. Do not assume the reader already knows these definitions.

III. Statutory Authority

Authority to Accept and Expend: NPS must have authority to both accept and expend/utilize donations. In General, NPS can expend donated funds, and use donated goods, services on anything NPS can expend appropriated funds for.

An example of a NPS Statutory Authority provision found in a Comprehensive Fundraising Agreement:

"NPS enters into this Fundraising Agreement pursuant to authority provided by (1) the NPS Organic Act (16 U.S.C. §§ 1-4), which authorizes NPS to undertake activities in furtherance of NPS mission objectives; (2) 16 U.S.C. § 6, which authorize NPS to accept donations in furtherance of NPS mission objectives; and (3) 43 U.S.C. § 1473a, which gives the Secretary authority to accept and use contributions for cooperative projects with other Federal, State, or private agencies."

IV. Responsibilities and Understandings of the Parties

- a. NPS agrees to:
- b. The Partner agrees to:
- c. The NPS and the Partner jointly agree to:

Significant Provision:

NPS Agrees to:

1. Review proposed donations of in-kind goods and services to ensure that they meet NPS needs, requirements and specifications.
2. Upon receipt of all appropriated and donated funds necessary to undertake activities authorized under this Agreement, NPS will: [list NPS obligations].

The Partner agrees to:

1. Make a good faith effort to attain the monetary and in-kind fundraising and donation goal(s) identified in this Fundraising Agreement.
2. Consistent with the terms of this Fundraising Agreement, expend donated funds received for the benefit of NPS as follows: [List authorized expenditures, if any, and any associated NPS requirements.]
3. Review the contributions of donors to ensure that proposed donations do not give rise to an appearance of loss of integrity or impartiality, or otherwise reduce public confidence in the Partner or the NPS.

V. Endowments and Investment Accounts

An **endowment** is usually a long-term financial instrument established to produce an income stream. The base amount in the endowment is generally not expended, and a portion of annual earnings remains in the endowment account allowing it to grow at a pace that is generally equal to inflation. The remainder of earnings may be made expended on projects and programs.

An **investment account** is a financial instrument established to produce income, but is usually more flexible than an endowment with regard to the expenditure of funds.

Key Endowment and Investment Account Provisions

1. The Partner must establish, manage and administer [insert account type(s)] according to a professionally prepared Statement of Investment Policy (Investment Policy) that conforms to applicable legal requirements and ethical standards for non-profit organizations. The Investment Policy must be generated by the Partner and must be updated by the Partner as necessary.
2. Prior to a mutually agreed upon annual date, NPS and the Partner must jointly develop and enter into a written budget agreement governing expenditure of account funds deemed available for expenditure by the Partner in the coming year.

IV. Intellectual Property

Intellectual property licensing provisions are used where NPS and its Partner are exchanging the right to use intellectual property in furtherance of Fundraising Agreement goals. Intellectual Property provisions address: (1) the use of proprietary marks, logos, and taglines, (2) the right to link to websites, or (3) the use and disposition of materials created during the partnership.

VII. Term of the Fundraising Agreement

Fundraising agreements cannot exceed a term of 5 years. They can be renewed for additional periods of up to 5 years each if agreed to by the parties in writing prior to expiration.

VIII. Termination and Expiration

The Termination and Expiration Section of a Fundraising Agreement addresses (1) a party's ability to terminate the Fundraising Agreement, and (2) what happens to donations, including interest and earnings on cash donations, after termination or expiration of the Fundraising Agreement.

IX. Key Officials

Key Officials of both parties play a very important role in ensuring proper implementation of Fundraising Agreements. Therefore, consideration should be given to whether the Key Officials have the time and expertise necessary to discharge their responsibilities over the full term of the agreement.

XI. Insurance and Liability

a. Significant Insurance Provisions

The Partner shall, at its sole cost and expense, maintain during the Term of this Agreement commercial general liability insurance including bodily injury and property damage (including coverage for contractual liability) in adequate amounts *of not less than a limit of One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) general aggregate.*

NPS will not be responsible for any omissions or inadequacies of any insurance coverage and amounts in the event that insurance purchased by the Partner is inadequate or otherwise insufficient for any reason whatsoever.

b. Significant Liability Provision

The Partner assumes liability for and does hereby agree to, save, hold harmless, defend and indemnify the United States of America, its agents and employees from

and against any and all liabilities.

XII. Financial Management

a. The Partner must maintain accounting books and records under a system of accounts and financial controls that is consistent with Generally Accepted Accounting Principles.

b. Once the Partner raises \$1 million or more in funds for the benefit of NPS during the term of this Fundraising Agreement, the Partner must annually furnish NPS with a financial audit generated by an independent certified public accountant (CPA) in conformance with Generally Accepted Accounting Principles, during the remaining term of this Fundraising Agreement.

XIII. [Optional] Annual Support Assessment

Assessment report by NPS and Partner on partnership successes and challenges.

XIV. Required Miscellaneous Clauses

Significant provisions:

NPS Donation Acceptance. This article basically says that both parties intend to be legally bound by this Fundraising Agreement.

No Lobbying for Federal Funds: The Partners will not seek appropriations from Congress to support any ongoing or proposed Partner activity or project relating to the subject matter of this Fundraising Agreement.