



EARTHRIGHTS INTERNATIONAL

## EARTHRIGHTS INTERNATIONAL POLICY

### FUNDS AND GIFT ACCEPTANCE

June 2020

#### PURPOSE

These policies and guidelines govern the acceptance of gifts, grants, and contracts (funds) by EarthRights and provide guidance to prospective donors and their advisors, as well as staff from institutional donors, when making gifts to the organization. They also are intended to provide guidance to any individuals charged with soliciting gifts on EarthRights's behalf including staff, members of the Board of Directors, members of any fundraising committee, and fundraising volunteers.

#### I. Fund Acceptance Overview

EarthRights solicits and accepts gifts and grants from individuals, private foundations, governments, and corporate entities (on a limited and restricted basis<sup>1</sup>) for purposes that will help the organization further and fulfil its mission. When considering whether to solicit or accept funds, the organization will consider the following factors:

- Values—whether the acceptance of the funds compromises any of EarthRights' core values.
- Compatibility—whether there is compatibility between the intent of the donor and EarthRights's use of the funds.
- Public Relations—whether acceptance of the funds would damage the reputation of EarthRights.
- Consistency—is acceptance of the funds consistent with prior practice?
- Form of Funding—is the funding offered in a form that EarthRights can use without incurring substantial expense or difficulty?
- Effect on Future Giving—will the funding encourage or discourage future funding?

All decisions to solicit and/or accept potentially controversial funds or gifts will be made by the in consultation with any relevant staff and/or Board members. The primary consideration will be the impact of the funding on the organization. The Executive or Deputy Director will make the final decision after consultation with relevant parties.

#### II. Gift Acceptance

- A. Use of Legal Counsel—EarthRights will seek the advice of legal counsel in matters relating to acceptance of funds when appropriate. Review by counsel is recommended for:
  1. Gifts of securities that are subject to restrictions or buy-sell agreements.
  2. Funds requiring EarthRights to assume financial or other obligations.
  3. Transactions with potential conflicts of interest.
  4. Gifts of property which may be subject to environmental or other regulatory restrictions.

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<sup>1</sup> Please see Appendix, Corporate Gift Acceptance Policy, for additional clarification.



- B. Restrictions on funds**—EarthRights will not accept funds that
1. would result in EarthRights violating its Bylaws,
  2. would result in EarthRights losing its status as a 501(c)3 not-for-profit organization,
  3. are too difficult or too expensive to administer in relation to their value (for example, arduous reporting requirements or insufficient co-financing),
  4. would result in any unacceptable consequences for EarthRights,
  5. would result in any violation of law by EarthRights or the funder, or
  6. are for purposes outside EarthRights’s mission.

- C. Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by:**
1. For new funders that are not within the above criteria, a Gift Acceptance Committee shall be consulted. This committee shall consist of:
    - a) the Executive Director or Deputy Director;
    - b) the Director of Strategic Impact, the General Counsel, and related Regional Director
    - c) the Finance Director
    - d) relevant member of the Development team

The Gift Acceptance Committee is charged with the responsibility of reviewing all funds flagged by EarthRights’ Senior Leadership Team (SLT) as needing further discussion and approval. Gifts, grants, and contracts to EarthRights will be approved in the following manner:

- a) A Board member will be consulted if a new donor poses a risk according to this policy or exceeds \$500,000.
  - b) Due diligence will be conducted for gifts over \$10,000 or if there is a concern about the affiliation of the donor.
- 2. Funds Generally Accepted Without Review**—
- a) *Cash*. Cash gifts from individuals are acceptable in any form, including by check, money order, credit card, or on-line transfer. Donors wishing to make a gift by credit card must provide the card type (e.g., Visa, MasterCard, American Express), card number, expiration date, and name of the card holder as it appears on the credit card.
  - b) *Stocks, Bonds & Other Marketable Securities*. Marketable securities will be transferred to an account set up for this purpose and maintained by the investment firm. All marketable securities will be sold promptly upon receipt unless otherwise directed by EarthRights’s Finance Committee. In some cases marketable securities may be restricted, for example, by the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Gift Acceptance Committee.
  - c) *Charitable Remainder Trusts*. EarthRights will accept designation as a *remainder beneficiary* of charitable remainder trusts.
  - d) *Charitable Lead Trusts*. EarthRights will accept designation as an *income beneficiary* of charitable lead trusts.
  - e) *Corporate Donations through Matching Programs that meet the criteria in Appendix A*.



- f) *Renewal grants and project funding from current funders.* All grant renewals and new project funding from current funders who have been previously cleared do not need to be further reviewed. If changes for a funders' circumstance or a conflict of interest regarding a project grant arise, staff should seek consultation from the Fund Acceptance Committee.
3. Gifts Accepted Subject to Prior Review— Certain forms of gifts or donated properties may be subject to review prior to acceptance. Examples of gifts subject to prior review include, but are not limited to:
- a) *Tangible Personal Property.* The Gift Acceptance Committee will review and determine whether to accept any gifts of tangible personal property in light of the following considerations: does the property further the organization's mission? Is the property marketable? Are there any unacceptable restrictions imposed on the property? Are there any carrying costs for the property for which the organization may be responsible? Is the title/provenance of the property clear?
  - b) *Life Insurance.* EarthRights will accept gifts of life insurance where EarthRights is named as both beneficiary and irrevocable owner of the insurance policy. The donor must agree to pay, before due, any future premium payments owing on the policy.
  - c) *Real Estate.* All gifts of real estate are subject to review by the Gift Acceptance Committee. Prior to acceptance of any gift of real estate other than a personal residence, EarthRights shall require an initial environmental review by a qualified environmental firm. In the event that the initial review reveals a potential problem, the organization may retain a qualified environmental firm to conduct an environmental audit. Criteria for acceptance of gifts of real estate include: Is the property useful for the organization's purposes? Is the property readily marketable? Are there covenants, conditions, restrictions, reservations, easements, encumbrances or other limitations associated with the property? Are there carrying costs (including insurance, property taxes, mortgages, notes, or the like) or maintenance expenses associated with the property? Does the environmental review or audit reflect that the property is damaged or otherwise requires remediation?
  - d) *Charitable Gift Annuities.* EarthRights will consider charitable gift annuities on a case-by-case basis.
  - e) *Bequests and Beneficiary Designations under Revocable Trusts, Life Insurance Policies, Commercial Annuities and Retirement Plans.* Donors are encouraged to make bequests to EarthRights under their wills, and to name EarthRights as the beneficiary under trusts, life insurance policies, commercial annuities and retirement plans. Gifts that appear to require more cost than benefit shall be discouraged or rejected. As with all restricted gifts, the decision to accept a restricted bequest will be reviewed and decided by the Gift Acceptance Committee.
  - f) *Other Issues*
    - (1) EarthRights shall not act as an executor (personal representative) for a donor's estate.



- (2) EarthRights shall not act as trustee or co-trustee of a charitable remainder trust.
- (3) EarthRights shall not pay for the drafting of legal documents for trusts or wills.
- (4) EarthRights shall not pay any finder's fee or other fees for directing gifts to the organization.

### **III. Foundation, Government, and Corporate Grants**

It is the responsibility of the Development Team to properly research and vet funding opportunities for mission/programmatic alignment, conflicts of interest, and monitoring and reporting requirements. Before applying for institutional grants, EarthRights will review the gift acceptance policy to ensure that the grant would not violate any of the previously listed factors and that the corporate entity does not violate the policy as described in Appendix A.

For funding from new institutions, the Development Team will provide the grant for review to the Executive and Deputy Directors, as well as the Regional Director for the programs in question. Should any red flags be raised by any of the three directors, the grant will go before the group in Gift Acceptance. The senior leadership team will also have the opportunity to review upcoming grant opportunities in the Development update in their monthly meetings. Should staff have concerns about a new funding opportunity, it should be raised to the Deputy or Executive Director and Development team.

### **IV. Review Process:**

- A. Once a gift or grant is flagged for review, a meeting of the Fund Acceptance Committee should be called within a week.
- B. At the first meeting, the Fund Acceptance Committee should determine if more information or research is needed to make a final determination. The Committee will determine a time frame for reviewing and next steps.
- C. The Committee will also determine based on the severity of any conflicts of interest if the final vote should be unanimous or majority.

### **V. Amendments and Review**

Responsibility for review of and recommended amendments to this Policy will be that of the Finance Director, Executive or Deputy Director and approved by the Finance Committee.

### **VI. Donor and Supporter Privacy Policy**

EarthRights maintains the highest level of respect for the privacy of its donors and supporters. EarthRights does NOT sell, trade, rent, or share its donor contact lists or the personal information of its donors and supporters with any other organization. This policy applies to all information received by EarthRights from donors and supporters, both online and offline, as well as any electronic, written, or oral communications with donors and supporters. Unless indicated by the donor, gifts to EarthRights will be publicly acknowledged.



## Appendix A

### Corporate Gift Acceptance Policy

As an organization committed to holding corporations to account for human rights and environmental abuses around the world, EarthRights International recognizes the inherent conflict between receiving donations from certain types of corporations and fulfilling our organizational mission. EarthRights also recognizes that there are cases where accepting contributions from corporate entities would not cause a conflict and would assist EarthRights in achieving its mission. Therefore, while EarthRights does not make a practice of soliciting corporate donations, the decision to solicit and/or accept such gifts will be considered on a case-by-case basis using the following policy as a guide:

EarthRights will not accept contributions from corporations/industries and their respective corporate foundations whose activities are in conflict with the goals of EarthRights, or in any way limit EarthRights's ability to fulfil its mission of corporate accountability and ensuring responsible business practices globally. Acceptance of any gift does not indicate endorsement by EarthRights of any corporate entity or its activities.

EarthRights is therefore authorized to solicit and accept funds and in-kind contributions only from corporations which it determines to be of a “socially responsible” nature (which may include small businesses, companies, multinational corporations, corporate foundations, etc.) This policy excludes acceptance of gifts from any business that derives more than a de minimis portion of their income from, or is involved with the major financing of, the oil, gas, mineral or other extractive industries, the construction of large hydropower facilities, and the production and/or sale of arms, and industrial chemicals. This includes (a) outright gifts of cash or stock, (b) sponsorship or partnerships, (c) donations of goods and services, (d) company matching gifts, and (e) recognition/award gifts.

EarthRights reserves the right to reject donations for any reason including, but not limited, to the following:

- They are given with the stated or perceived intent to influence EarthRights’s position or actions in a way that is inconsistent with EarthRights’s core values or strategic objectives.
- They are given by a corporation or entity with a demonstrated disregard and disrespect for any of EarthRights’s core values.
- There is good evidence to suggest that the gift is intended to help a corporation or entity falsely promote itself as socially and environmentally responsible.
- There is a risk that accepting the gift could undermine our credibility with important allies and partners or the general public.

A final decision to solicit and accept a corporate gift will be made by the Gift Acceptance Committee with consultation from other concerned parties including relevant staff, Board and Committee members.