



Gift Acceptance Policy

Mathematical Sciences Research Institute

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1. Introduction

- a. This policy governs the solicitation and acceptance of philanthropic gifts benefitting Mathematical Sciences Research Institute.
 - i. This policy supersedes all previous gift acceptance policies issued by MSRI.
- b. This policy exists to protect MSRI from reputational, legal, and financial risks that may be associated with the improper acceptance and/or use of gifts. Adherence to this policy also ensures that donor intentions can be followed, thereby leading to positive donor relations.

2. Applicable Laws and Standards

- a. MSRI follows relevant United States federal and California state laws and published guidance, as well as pertinent laws of other countries as they may change from time-to-time when determining whether or not to accept a gift. Among the most relevant are:
 - i. Federal laws regarding anti-terrorism and illegal financial activities, including money laundering;
 - ii. Internal Revenue Code (IRC) and Department of Treasury Regulations (Treasury) promulgated thereunder ;
 - iii. The Uniform Prudent Management of Institutional Funds Act (UPMIFA), as adopted by the State of California on January 1, 2009;
 - iv. State of California laws applicable to charitable gifts and charitable trusts; and
 - v. The United States' Civil Rights Act of 1964 that prohibits discrimination on the basis of race, gender, national origin, and other individual characteristics.
- b. MSRI follows relevant accounting standards as they may change from

time-to-time when determining whether or not to accept a gift. Among the most relevant are:

- i. Government Accounting Standards Board Statement No. 33
Accounting and Financial Reporting for Non-Exchange Transactions.
- c. MSRI follows relevant professional guidelines, including the *Reporting Standards & Management Guidelines for Educational Fundraising* issued by the Council for Advancement and Support of Education (CASE), as they may change from time to time when determining whether or not to accept a gift.

3. Authority to Solicit and Accept Gifts¹

- a. The authority to solicit and accept gifts benefitting MSRI rests with the MSRI Director, who will consult with the MSRI Director for Advancement and External Relations. Plans to solicit a gift at or above the \$3,000,000 level require prior consultation with the Chair of the MSRI Board of Trustees.

4. Definition of a Philanthropic Gift and Quid Pro Quo

- a. A philanthropic gift, otherwise known as a charitable contribution, is defined as a voluntary transfer of assets where any privileges or benefits expected, implied, or forthcoming in return to the donor are insubstantial.
 - i. Gifts are motivated by philanthropic intent, i.e., the donor intends to make the donation;
 - ii. Gifts irrevocably transfer assets, and MSRI is not required to return unexpended funds; and

¹ This refers to gifts accepted on behalf of MSRI. Gifts received by employees are subject to restrictions of the California Fair Political Practices Commission.

- iii. Gifts are generally not subject to an exchange of consideration or other contractual duties, although broad objectives may be stated and funds may be restricted as to purpose.
 - iv. And, if any goods or services are provided, the donor must intend to make and actually make a contribution in excess of that value.
 - b. Sponsored awards, which include grants and contracts, are not gifts.
 - i. These types of funding usually stipulate a scope of work and/or detailed financial reporting and may involve the expectation of tangible benefits in exchange for funding, including rights to intellectual property.
 - ii. Grants from private sources, while not gifts, are included in reports of private support.
 - c. A *quid pro quo* contribution is a payment that a donor makes partly as a gift and partly for goods and services. This is generally the case with fundraising events where a meal is provided, but may also relate to the provision of merchandise or other goods and services.
 - i. Only the gift portion is accepted and recorded as a gift and the value of goods or services received in connection with the gift is stated on the charitable gift receipt.

5. Gift Acceptance

- a. MSRI makes every effort to accommodate and accept all charitable contributions from donors. It will not, however, accept a gift whose terms:
 - i. Knowingly violate this policy or the policies of MSRI;
 - ii. Knowingly violate United States federal, California state, or other relevant laws;
 - iii. Knowingly conflict with MSRI's *Principles of Community* (see Appendix B);

- iv. Interfere with, or otherwise restrict, MSRI's institutional autonomy and academic freedom relating to its research, and public service objectives;
 - v. Do not further MSRI's tax-exempt purposes as stated in its mission: *the advancement and communication of fundamental knowledge in mathematics and the mathematical sciences, the development of human capital for the growth and use of such knowledge, and the cultivation in the larger society of awareness and appreciation of the beauty, power and importance of mathematical ideas and ways of understanding the world.*
construed as broadly as is reasonable under the gift circumstances;
 - vi. Are so restrictive as to make it impossible or impractical to utilize;
 - vii. Impose overly burdensome administrative or other costs, or other financial risks, including market risk;
 - viii. Provide the donor with broad indemnification that is not commensurate with damages caused by MSRI;
 - ix. Necessitate a use that is illegal or could seriously damage MSRI's reputation;
 - x. Could jeopardize MSRI's tax-exempt status;
 - xi. Could interfere with MSRI's independent decision-making, including allowing the donor to earmark a gift to or for the use of a specific individual; or
 - xii. Provide a donor with goods or services of more than insubstantial financial value in exchange for the donor's gift, unless the gift is acknowledged as a *quid pro quo* contribution such that the value of goods or services is fully disclosed in the time and manner required by federal and state law and reduces the recorded value of the gift as applicable.
- b. Exceptions to (a) may be made by the Director of MSRI, in consultation with the Gift Acceptance Committee (see Appendix A), and MSRI Legal

- Counsel, as appropriate.
- c. MSRI employs industry standards promulgated by the Association of Professional Researchers for Advancement to conduct research on prospective donors to assess their suitability as philanthropic partners.
 - i. Due diligence research is conducted prior to the acceptance of all principal gift level gifts, currently defined by MSRI as gifts of \$5,000,000 or more. This includes, but is not limited to, gifts that are recognized by the naming of programs or spaces. Such research reports are attached to the gift agreement as part of the permanent record of the gift.
 - ii. MSRI does not knowingly accept gifts where the donor or source is antithetical to MSRI's *Principles of Community* (see Appendix B).
 - d. Corporate sponsorships that support activities, events, and projects, and that offer public recognition in return, can be accepted and recorded as gifts in most cases. Treasury Regulations governing "qualified sponsorship payments" allow forms of recognition including listing the sponsor, along with contact information, on the website or in the program, a value-neutral description of the sponsor's goods or services, and the inclusion of the sponsor's brand/trade name on materials.
 - e. Membership contributions that do not provide tangible or non-publicly available benefits and those that provide benefits disregarded for purposes of the income tax charitable deduction can be accepted as gifts. Contributions for higher membership tiers that include some tangible benefits in addition to the disregarded benefits may be accepted as *quid pro quo* gifts.
 - f. MSRI does not accept, as a gift, funding that, by virtue of the documentation that accompanies it, is deemed to be a sponsored award (e.g., a grant or contract).
 - g. Government funds are, by their nature, not philanthropic and, therefore,

are generally not accepted and recorded as gifts. There may be instances where municipalities, counties, quasi-governmental agencies, and foreign governments provide funding that meets the criteria for acceptance as a gift. There are extraordinarily limited scenarios under which MSRI would record gift monies from the State of California or the United States government.

- h. Gifts are accepted with the expectation that they will be expended by MSRI. Gifts cannot be re-gifted.

6. Gift Fiduciary

- a. Donors should be directed to make all gifts to MSRI.

7. Identity of the Donor and Anonymity

- a. MSRI does not accept gifts from individuals or entities included on various lists of restricted persons or entities, including, but not limited to, the U.S. Treasury Specially Designated Nationals List and the U.S. State Department's Terrorist Exclusion List.
- b. MSRI understands and respects the preference of donors who wish to remain anonymous. MSRI does not, however, accept gifts that are completely anonymous.
 - i. United States federal law requires that MSRI know from whom it is accepting money.
 - ii. Gifts directed anonymously through legal intermediaries, including Donor Advised Funds, are credited as gifts from the intermediary or sponsoring organization. In such cases, MSRI relies on those entities to comply with United States federal laws.
- c. MSRI employs two approaches to address situations where donors seek anonymity.
 - i. The most commonly used approach is to code the gift transaction

appropriately on the donor's record, which enables the provision of charitable gift receipts. A wide range of donor motivations for anonymity can be accommodated this way.

- ii. When the identity of the donor of a low-valued gift, such as a gift of cash collected from several people, is not known and cannot be ascertained without extensive effort, the gift is recorded to the Anonymous entity record.

8. Solicitation of the Gift

- a. Staff are expected to work with professional fundraising staff when soliciting gifts.
 - i. Certain jurisdictions (e.g., states and countries) require registration in order to solicit or accept gifts from their residents.
- b. Solicitations must be documented. Acceptable forms of documentation include proposals, emails, and contact reports. In some cases, solicitations become part of the gift instrument.
- c. Solicitations made through funders' online portals must be completed in accordance with this policy.
- d. Solicitations should encourage unrestricted or loosely restricted giving. The solicitation of highly restricted gifts should be reserved for individualized major and principal gift level fundraising.
- e. *Quid pro quo*, when relevant, must be stated in solicitation materials.

9. Gift Purpose, Donor Intent, Gift Funds, and Use of Gift Funds

- a. MSRI documents gift purpose and donor intent in gift agreements.
 - i. A gift agreement is required when a gift establishes a new fund, or when a donor makes a pledge or documented intention of \$25,000 or more to an existing fund.
 - ii. Pledges of less than \$100,000 may be documented via an email

- exchange.
- iii. The Director for Advancement and External Relations drafts all gift agreements, and collaborates with the MSRI Director, as needed, on complex gift agreements.
 - iv. The Director for Advancement and External Relations approves all gift agreements, and changes requested by donors, before they are executed.
- b. Gifts that require gift agreements cannot be recorded until gift agreements are fully executed.
- i. Gift agreements are signed by the donor or, in the case of documented intentions, the donor advisor.
 - ii. The MSRI Director signs the agreement to affirm that the gift will be expended according to donor intent and in compliance with all relevant policies.
- c. Any gift agreement that establishes a new fund must contain a contingency in the event that it ever becomes impractical, impossible, unlawful, inadvisable, or wasteful to carry out the originally intended purpose of the fund.
- i. MSRI may redirect the fund to another purpose consistent with the donor's general charitable intentions, as allowed by law.
- d. Corporate and institutional funders may submit their own award letters for MSRI's acceptance. MSRI reserves the right to work with professional fundraisers to negotiate these agreements so that they adhere to this policy.
- i. The original proposal must be submitted with all such agreements.
- e. If a gift is given for a short-lived purpose, such as a specific research project, event sponsorship, facility improvement, equipment purpose, or art acquisition, once that gift's restricted purpose is fulfilled, any funds remaining from the donor's gift may be used for a similar purpose unless

otherwise stated in the gift agreement.

10. Gifts to Endowments

- a. An endowment, or true endowment, is created with a gift in which the donor's intent is for MSRI to preserve the principal in perpetuity and spend income. A term endowment is created with a gift in which the donor's intent is for MSRI to spend the principal and income over a specified period of time, generally five to 20 years.
- b. Additions to an existing endowment take on the terms of that fund. Donors wishing to give to pre-existing endowments must be made aware of this; solicitations must provide information about the purpose of the endowment.
 - i. Donors should not generally be solicited to add to pre-existing endowments established by other donors because the comingling of gifts from multiple donors can create legal issues should the fund need to be repurposed.
- c. Donors may not establish funds functioning as endowments (FFEs). These are funds that are invested as if they are true endowments, but which MSRI may withdraw from in-part, or fully, over time. FFEs may only be established by MSRI.

11. Pledges and Documented Intentions

- a. A pledge is a commitment to make a gift or gifts in the future.
 - i. Only an entity with legal control over the assets to be given can make a pledge. Therefore, an individual cannot make a pledge that includes anticipated employer matching contributions or that commits funds from a Donor Advised Fund (DAF) or a private foundation.
 - ii. Pledges must contain three elements – a dollar amount, a payment

- schedule, and a fund(s) to which payments will be credited.
- iii. Pledges must be documented in U.S. dollars. Payments may be made in U.S. dollars or foreign currency.
 - iv. MSRI accepts pledges to be paid over seven years. The first payment on any pledge should be received no later than one year from the date the pledge is executed. On an exception basis, and to advance a specific donor relations strategy, pledges of longer duration may be accepted.
- b. A documented intention is a commitment to make future grant² recommendations from a donor-advised fund.
- i. Subsections (ii) and (iii) above apply to documented intentions.
 - ii. Documented intentions are not ever considered legally binding.
- c. Pledges and documented intentions may be written-off when there is relative certainty that no further payments/grants will be received. The Director for Advancement and External Relations performs an annual review of pledges to determine which to write-off and consults with legal counsel, as necessary.

12. Gifted Assets and Gift Types

- a. The following can fund outright gifts and pledge payments:
 - i. Cash (currency, check, wire transfer).
 - ii. Credit or debit card. The specific cards that MSRI accepts may change from time to time.
 - iii. Publicly traded securities and mutual funds. Positions are liquidated upon acceptance. MSRI may decide to decline a gift of publicly traded securities that comes with trading restrictions. On an exception basis, and to advance a specific donor relations

² The word “grant” has a specific meaning in the context of donor-advised funds. Grants from donor-advised funds can be accepted as gifts if they otherwise display the attributes of gifts.

- strategy, the Foundation may hold a gift of publicly traded securities in its investment portfolio.
- iv. Cryptocurrency. A cost-effective, immediate mechanism must exist for liquidation of the specific cryptocurrency. On an exceptional basis, and to advance a specific donor relations strategy, the Foundation may hold a gift of cryptocurrency in its investment portfolio.
 - v. Tangible personal property (aka gifts-in-kind). MSRI accepts gifts-in-kind that can be used to fulfill its mission. These include, but are not limited to, works of art, books, ephemera, equipment, software, and vehicles.
 - vi. Bequests, charitable bargain sales, charitable gift annuities, charitable lead trusts, charitable remainder unitrusts, deferred charitable gift annuities, donor-advised fund beneficiary designations, IRA charitable rollovers (also known as qualified charitable distributions), lifetime gifts of insurance policies, privately held securities, real estate, retained life estates, and retirement plans. The Director for Advancement and External Relations must be involved in the solicitation and acceptance of any such gifts pursuant to its internal guidelines for accepting said gifts.
- b. MSRI encourages donors to avail themselves of employer matching gift programs.
- i. Matching programs vary greatly as to match ratio and timing, and procedures. It is increasingly common for companies to use third-party intermediaries, each of which has its own idiosyncrasies, to manage their programs.
 - ii. Unless otherwise specified by the matching program, the employer match follows the designation of the underlying donor's gift.

- c. Grants from DAFs may not be used to make gifts that include a *quid pro quo* component³. Specifically, a donor advisor of the DAF may not bifurcate a grant from a DAF and use DAF funds to make the charitable contribution while using other sources to fund a *quid pro quo* portion.

13. Date of Gift and Valuation

- a. The date of the outright gift or pledge payment is determined by the asset type and the method of delivery. Some of the more common are:
 - i. The “mailbox rule” applies to all cash gifts sent through the US Mail. This means that the postmark on the envelope, not the date of receipt, determines the date of gift. There may be rare instances at the end of the calendar year when the postmark on the envelope is not an accurate gift date.
 - ii. For cash gifts sent by Fed Ex or similar delivery services, the date of receipt determines the date of gift.
 - iii. An important exception to (i) and (ii) relates to IRA rollover gifts, known as qualified charitable distributions. For these gifts the date of gift when facilitated by the financial institution is the date of receipt by MSRI. In cases where the donor has check writing privileges, the date of gift is the date the funds leave the donor’s account.
 - iv. For gifts made by credit or debit card, the date of gift is the date that the card is charged.
 - v. For gifts of publicly traded securities and mutual funds the date of gift is the date that the shares are received in MSRI’s account. When a donor sends stock certificates to MSRI, the date of gift rule follows (i) and (ii) above.
 - vi. For gifts of cryptocurrency for which there is a market, the date of

³ See e.g., IRS Notice 2017-73

- gift is the date the cryptocurrency is received in MSRI's account.
- b. The valuation of the gift for purposes of gift credit at MSRI is determined by the asset type⁴.
 - i. Gifts of publicly traded securities are valued at the average of the high and low market prices observed on the date of the gift. Gifts of publicly traded mutual funds are valued based on the closing market price on the date of the gift.
 - ii. Gifts of cryptocurrency are valued based on the cash received following liquidation. When held in the Foundation's investment portfolio, the gift is valued at \$1 given the speculative nature of the investment.
 - iii. Gifts of tangible personal property other than cryptocurrency are valued based on qualified appraisals provided by the donor, which are required for the donor's tax purposes for gifts valued at \$5,000 or more⁵.
 - iv. Gifts of real estate are valued based on the net proceeds received from the sale of the property⁶.
 - c. While rare, because MSRI liquidates gifts of publicly traded securities upon acceptance, dividends associated with gifted shares are not recorded as gifts. When significant they follow the gift; otherwise they are credited to the Annual Fund.

⁴ See e.g., IRS Publication 526 *Charitable Contributions* and Publication 561 *Determining the Value of Donated Property*

⁵ IRS Forms 8283 (*Noncash Charitable Contributions*) and 8282 (*Donee Information: Return, Sale, Exchange or Other Disposition of Donated Property*) stipulate certain reporting and appraisal requirements associated with certain gifts-in-kind, including those valued at more than \$5,000. These are relevant to gifts of cryptocurrency irrespective of the different determination of valuation for purposes of gift credit.

⁶ The donor must obtain a qualified appraisal for the donor's tax purposes related to the gift.

14. Gift Processing and Charitable Gift Receipts

- a. All gifts, with the exception of those listed in Section 12.a.vi above, must be processed through the Director for Advancement and External Relations to ensure proper recording, receipting, and reporting.
- b. All gift documents must be signed by an authorized individual with the appropriate delegation of authority to accept gifts.
 - i. No person may sign a gift agreement without this authority, even if they have other delegations of authority to transact business on behalf of MSRI.
- c. When processing gifts received in response to direct response marketing solicitations, the Director for Advancement and External Relations will do a limited amount of research in situations where the gift is less than \$1,000 and the donor is not specific as to which fund it wishes to support. Gifts whose purpose cannot be easily identified will be recorded to the appropriate unrestricted fund.
- d. The Director for Advancement and External Relations is responsible for providing donors with charitable gift receipts for all gifts above.
 - i. Only the Director for Advancement and External Relations staff may acknowledge donor gifts as tax deductible contributions to MSRI.
- e. Charitable gift receipts are only provided to legal donors, for example, the donor whose name appears on a check. The legal donor is generally the last entity that has legal control of the gift being given.
 - i. The receipt, not any subsequent acknowledgement, serves as the official IRS documentation.
- f. MSRI has a policy that establishes allowable indirect costs charged against restricted gifts by MSRI; these are gifts which earmarked for specific funds. Unrestricted gifts are not charged. Gifts to the Endowment

are not charged, however distributions from the Endowment are. Exceptions for the rate may be made depending on donor foundation restrictions.

- i. Donors must be notified of these during solicitation. They are incorporated into all MSRI-generated gift agreements, and are disclosed on MSRI's online giving site.
- g. Gifts are also subject to fees imposed by financial institutions, including credit card fees, wire transfer fees, and the fees associated with liquidating gifts of securities, mutual funds, and cryptocurrency.
 - i. These fees do not impact the recorded value of the gift but are charged against MSRI's operating expenses.

15. Gifts of Goods and Services, and Honoraria

- a. Donors may provide goods or services to MSRI that do not qualify as charitable contributions and are therefore not accepted and recorded as gifts to MSRI. These are sometimes received in conjunction with auctions/events and examples include use of property or facilities, merchandise, and professional services.
- b. MSRI benefits from the engagement of volunteers who often incur travel expenses in order to fulfill their volunteer obligations. While MSRI benefits from these expenditures, which may be allowable as tax deductions, MSRI does not accept and record these as gifts-in-kind.
- c. The above notwithstanding, MSRI generally accepts gifts that support travel for purposes of MSRI business. These gifts are handled as gifts-in-kind.
 - i. The valuation of commercial airfare is limited to the class of travel allowed under MSRI's travel policy.
 - ii. The valuation of charter services is based on prevailing market rates.

16. Gifts that Name MSRI Properties, Facilities, and Academic and Non-Academic Programs

- a. MSRI typically looks to secure a gift of value at least 50% of construction costs in order to consider naming an entire building for a donor or in honor of a person of the donor's choosing. Exceptions to this expectation may be made at the discretion of the Director.

17. Future Events and Authority to Return Gifts

- a. Where future actions of a donor or new facts related to a donor's past potentially trigger exclusions described in Section 5.a of this policy, the Director for Advancement and External Relations and the MSRI Director in conjunction with the Gift Acceptance Committee (see Appendix A) will lead a review to determine what course of action to take.
 - i. Whether or not the gift has been fully expended and whether or not the donor was publicly recognized for the gift in a tangible way will factor into the determination.
 - ii. Actions may include returning gifts, removing names from programs, endowments, spaces, or buildings, or repurposing gifts, as allowed by law.
- b. The authority to return gifts benefitting MSRI will be determined by the Director of MSRI and the Director for Advancement and External Relations
 - i. MSRI distinguishes between returning gifts in situations where donor intent cannot be fulfilled, in which case the delegation of authority is invoked, and returning gifts ("refunds") in order to correct mistakes. Mistakes include overpayment of a pledge, and the use by the donor of the wrong account or credit card.
 - ii. In exceptional cases, such as when stipulated in a gift agreement, a



gift may be transferred to another qualifying charity rather than being returned to the donor.

Appendix A: Gift Acceptance Committee

The Gift Acceptance Committee for the Mathematical Sciences Research Institute includes the following:

1. MSRI Director
2. MSRI Board of Trustees Chairman
3. MSRI Treasurer
4. MSRI Director for Advancement and External Relations
5. MSRI Controller

Appendix B: MSRI Principles of Community

These principles of community for MSRI are rooted in our mission of support for the mathematical community through the facilitation of research collaboration, development of talent and broadening public understanding. Every member of the MSRI community has a role in sustaining a safe, caring and humane environment in which these values can thrive.

- We recognize the relation between excellence and inclusiveness in all our endeavors.
- We affirm the dignity of all individuals and strive to uphold a just community in which discrimination and hate are not tolerated.
- We are committed to ensuring freedom of expression and dialogue that elicits the full spectrum of views held by our varied communities.
- We respect the differences as well as the commonalities that bring us together and call for civility and respect in our personal interactions.
- We embrace open and equitable access to opportunities for research and learning as our obligation and goal.