

03-2006



Stiftungs *Position*

Guiding Principles of Good Practice for Foundations

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Foreword

Foundations are living evidence of citizens' freedom and responsibility toward society. Foundations are involved in many crucial fields of society. The significance and function of foundations must thus be suitably reflected in a responsible execution of the duties incumbent upon their trustees.

These principles of good practice are to serve as guidelines for foundations' governing bodies, the managers, other members of foundation staff, as well as future founders. They are intended in particular to sharpen awareness on the part of all persons concerned with regard to avoiding potential conflicts of interest, ensuring adequate transparency in the conduct of foundation affairs, and ensuring that foundation funds are allocated efficiently.

In view of the diverse size, purpose and type of foundations in existence, the following Principles of Good Practice are to be treated as guidelines only and to be adapted to individual circumstances.

I. Foundations

These guiding principles refer to foundations which are set up for the purpose of the common good in a material sense:

- Foundations serve to pursue a particular common interest as determined by its founder. The aims of a foundation are clearly laid down in the foundation bylaws and pursued through the allocation of proceeds from the foundation's assets.
- Its financial assets are to be at the foundation's disposal on a continuous and undiminished basis.
- Foundations set up governing bodies or supporting institutions to ensure the proper attainment of the foundation's aims.
- Foundations may adopt various legal forms (e.g. incorporated under public law (*rechtsfähige Stiftung*), limited liability company (*Stiftungsgesellschaft*), or association (*Stiftungsverein*),. Foundation Trusts also fall under the general category of foundations.

II. Guiding Principles of Good Foundation Practice

1. The people involved

In the execution of their duties, the members of a foundation's governing bodies, its managers and staff are at all times to act pursuant to the legal regulations for the charitable and foundation sector, and in particular in accordance with the following principles:

- They act as trustees of the founder's intentions as laid down in the foundation bylaws.
- They are bound to the foundation bylaws and pursue its objectives in good faith and to the best of their ability.
- They are committed to maintaining the sustainable earning capacity of the assets placed in

their trust. Accounting and financial reporting procedures are to provide a realtime, accurate and complete picture of the foundation's financial situation. They are to ensure that the administrative costs do not become excessive.

- They embrace transparency as expression of the responsibility foundations have toward society and as vehicle for the creation of trust. Consequently, they provide the public in a suitable way with information on the foundation's financial situation and its affairs (especially the purpose of the foundation, the attainment of goals for the respective reporting period, funding criteria and information on the members of its bodies). They make their funding criteria public and, if advisable, engage the services of independent experts or jurors. They promptly and conscientiously carry out any legal obligations for the disclosure of information.
- Members of a foundation's body act with integrity and responsibility, carrying out their duties on the basis of sound information. When acting in an honorary capacity they are prepared to expend the necessary time and effort in pursuit of the foundation's affairs in addition to their other commitments. Members of supervisory and advisory boards remain independent from other bodies concerned with operational affairs, while these bodies are to keep them comprehensively and correctly informed.
- A foundation's governing bodies are responsible for the regular monitoring of the efficacy of the foundation's programs, in particular with regard to achieving the objectives laid down in the bylaws, the efficiency of funding measures, and behavior toward applicants for funding and the public at large; they ensure that foundation staff also act in accordance.
- The internal bodies of endowment foundations regard applicants for funding as their indispensable partners in pursuit of the foundation's objectives. Inquiries are to be answered promptly; applicants are to be kept informed of the progress of application procedures.
- A foundation's governing bodies are to promote the exchange of experience and cooperation with other foundations.

2. Avoiding conflicts of interest

Members of a foundation's governing bodies, the supervisory and advisory boards and the foundation staff are to ensure that they are not guided by their personal interest and motivation in carrying out their duties. In particular they abide by the following rules:

- In the event of any direct advantage or disadvantage for themselves or any related person or party, they are to disclose any issues that lead to a conflict of interests on their own accord and voluntarily resign from further involvement in the decision making process. Also, any personal or family ties to applicants for funding and to service providers must be openly declared.
- They are to refrain from accepting any financial advantages offered by interested parties. This also applies when benefits for favourable considerations or services are indirectly or are only expected in the future.