

CAPITAL AREA FOOD BANK GIFT ACCEPTANCE POLICIES

Capital Area Food Bank, a nonprofit organization headquartered in Washington, DC, encourages the solicitation and acceptance of gifts to Capital Area Food Bank (hereinafter referred to as CAFB) for purposes that will help CAFB further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to CAFB or for the benefit of any of its programs and activities related to its mission and work.

I. Purpose of Policies and Procedures

The purpose of this document is to set forth the criteria that CAFB and its Gift Exceptions Committee use to determine that a proposed gift is acceptable and to inform prospective donors and their advisors of the types of gifts CAFB accepts. While these guidelines establish best practices, they are designed to provide flexibility as directed by the Gift Exceptions committee.

II. Use of Legal Counsel

CAFB seeks the advice of outside legal counsel as appropriate on matters relating to acceptance of gifts. Review by legal counsel is usually sought in connection with:

- a. Documents naming CAFB as Trustee
- b. Gifts involving contracts, such as bargain sales or other documents requiring CAFB to assume a legal obligation
- c. Gifts of patents and intellectual property
- d. Transactions with potential conflict of interest that may invoke IRS sanctions
- e. Other instances in which use of counsel is deemed appropriate by CAFB's Board of Directors or Gift Exceptions Committee.

III. Communications with Donors

CAFB holds all communications with donors and information concerning donors and prospective donors in strict confidence, subject to legally authorized and enforceable requests for information by government agencies and courts. All other requests for or releases of information concerning a donor or a prospective donor will be granted only if permission is first obtained from the donor.

IV. Conflict of Interest

CAFB does not provide personal legal, financial or other professional advice to donors or prospective donors. Donors and prospective donors are strongly urged to seek the assistance of their own professional advisors in matters relating to their gifts and the resulting tax and estate planning consequences. CAFB endorses the Model Standards of Practice of the Charitable Gift Planner promulgated by the National Committee on Planned Giving (attached as Appendix A) and the Donor Bill of Rights promulgated by the Association of Fundraising Professionals) (attached as Appendix B).

V. Restrictions on Gifts

Restricted gifts and gifts for specific programs and purposes may be accepted, provided they are consistent with CAFB's mission, purposes and priorities. CAFB will not accept gifts that are inconsistent with its mission, purposes or priorities or are judged too difficult to administer.

VI. The Gift Exceptions Committee of CAFB

The Gift Exceptions Committee will review all non-marketable gifts to CAFB, and those gifts referred to it by the Director of Development. The Gift Exceptions Committee consists of the following individuals:

[need to determine – should include legal counsel, finance, development, board representative]

The Gift Exceptions Committee is responsible for regularly reporting its decisions on gift acceptance to the Board of Directors. The Committee is also responsible for reviewing these Policies and Procedures at least annually or more often as needed to ensure that they remain consistent with applicable laws and the programs of CAFB.

VII. Types of Gifts

A. The following gifts may be considered for acceptance by CAFB:

1. Cash
2. Securities (Public Only)
3. Life insurance
4. Charitable remainder trusts
5. Revocable trust agreements
6. Charitable lead trusts
7. Retirement plan beneficiary designations
8. Bequests
9. Life insurance beneficiary designations

B. The following criteria apply to the acceptance of gifts in these categories.

1. Cash: Cash may be accepted in any negotiable form. Checks must be made payable to CAFB and should be delivered to _____ at CAFB's administrative offices.

2. Securities: CAFB can accept both publicly traded securities and closely held securities.

Publicly Traded Securities: Marketable securities will be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities will be sold upon receipt unless otherwise directed by the Budget & Finance Committee of CAFB. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities may be made by the Gift Exceptions Committee of CAFB.

Options and Other Rights in Securities: The following questions apply to acceptance of warrants, stock options and stock appreciation rights:

- Is CAFB required to advance funds upon exercise of the gift? If so, does CAFB have the required funds?
- Is CAFB at risk of loss of funds in accepting the gift?
- Are the rights restricted? And if so, does the restriction affect the ability of CAFB to dispose of the asset? Does the restriction materially impact the value of the gift to CAFB?
- Will acceptance of the gift and/or exercise of the option trigger any tax consequences to the donor?

8. Life Insurance: CAFB must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. In determining whether CAFB will accept the policy, the following criteria shall be considered:

- What is the type of policy, i.e., whole life, variable life, universal life, variable universal life, or term?
- Are there premiums due to ensure the death benefit will remain in place? If so, will those payment be made by the donor, and will those payments be made to UH or directly to the company? Or, does the donor intend that the payments be made with current cash value? Or does the donor expect CAFB to make the payments if the donor is unable or unwilling to do so?
- What is the rating of the insurance company?
- Are there investment options within the policy that will impact the death benefit? Does CAFB have the capacity to evaluate and execute those options?
- Does the donor understand that CAFB will evaluate the policy annually and may decide to convert the policy to paid up insurance or surrender the policy for its current cash value?

4. Charitable Remainder Trusts: CAFB encourages its donors to name the organization as a remainder beneficiary of a charitable remainder trust and will work with its donors to structure such agreements. However, CAFB will not serve as trustee of a charitable remainder trust and will instead encourage the donor to use a professional fiduciary.

5. Revocable Trust Agreements: CAFB encourages its donors to name the organization as a beneficiary of all or a portion of a revocable trust agreement. However, CAFB will not serve as trustee of a revocable trust agreement and will instead encourage the donor to use a professional fiduciary.

6. Charitable Lead Trusts: CAFB may accept a designation as income beneficiary of a charitable lead trust. CAFB will not accept an appointment as Trustee of a charitable lead trust.

7. Retirement Plan Beneficiary Designations: Donors and supporters of CAFB will be encouraged to name CAFB as beneficiary of their retirement plans. Such designations will not be recorded as gifts to CAFB until such time as the gift is irrevocable.

8. Bequests: Donors and supporters of CAFB will be encouraged to make bequests to CAFB under their wills and trusts. Such bequests will not be recorded as gifts to CAFB until such time as the gift is irrevocable.

9. Life Insurance Beneficiary Designations: Donors and supporters of CAFB will be encouraged to name CAFB as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to CAFB until such time as the gift is irrevocable.

VIII. Miscellaneous

- A. *Securing appraisals and legal fees for gifts to CAFB*: It will be the responsibility of the donor to secure an appraisal (where required) and the advice of independent legal, financial or other professional advisers as needed for all gifts made to CAFB.
- B. *Valuation of gifts for development purposes*: CAFB will record a gift received by CAFB at its valuation for gift purposes on the date of gift.

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- C. *Responsibility for IRS Filings upon sale of gift items:* The Treasurer's office is responsible for filing IRS Form 8282 upon the sale or disposition of any non-marketable asset sold within three years of receipt by CAFB when the charitable deduction value of the item is more than \$5,000. CAFB must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.

- D. *Acknowledgement of all gifts made to CAFB and compliance with the current IRS requirements in acknowledgement of such gifts is the responsibility of the Secretary/General Counsel of CAFB or his/her designee.* IRS Publication 561 Determining the Value of Donated Property and IRS Publication 526 Charitable Contributions provide excellent guidance and can be downloaded from www.irs.gov.

- E. *Disclosure provided for pooled funds.* CAFB will provide all appropriate disclosures as required by the Philanthropy Protection Act of 1995 for gifts contributed to pooled funds.

Adopted by : _____ on _____.

APPENDIX A

MODEL STANDARDS OF PRACTICE FOR THE CHARITABLE GIFT PLANNER

PREAMBLE

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process, gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

I. PRIMACY OF PHILANTHROPIC MOTIVATION

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

II. EXPLANATION OF TAX IMPLICATIONS

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

III. FULL DISCLOSURE

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

IV. COMPENSATION

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are employed by a charitable institution is never appropriate.

V. COMPETENCE AND PROFESSIONALISM

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

VI. CONSULTATION WITH INDEPENDENT ADVISORS

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisors of the donor's choice.

VII. CONSULTATION WITH CHARITIES

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

VIII. DESCRIPTION AND REPRESENTATION OF GIFT

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

IX. FULL COMPLIANCE

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

X. PUBLIC TRUST

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.

APPENDIX B

The Donor Bill of Rights was created by the American Association of Fund Raising Counsel (AAFRC), Association for Healthcare Philanthropy (AHP), the Association of Fundraising Professionals (AFP), and the Council for Advancement and Support of Education (CASE). It has been endorsed by numerous organizations.

The Donor Bill of Rights

Philanthropy is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To ensure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the nonprofit organizations and causes they are asked to support, we declare that all donors have these rights:

- I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.
- II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.
- III. To have access to the organization's most recent financial statements.
- IV. To be assured their gifts will be used for the purposes for which they were given.
- V. To receive appropriate acknowledgement and recognition.
- VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.
- VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.
- VIII. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.
- IX. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.
- X. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.