



Gift Acceptance Policies

Adopted June 21, 2005

Revised November 4, 2011

The Foundation promotes the use of its services by a broad spectrum of the community, and encourages gifts to the Foundation in any amount.* The Foundation also seeks to protect its reputation for competence and skill in the management of donated assets, and to preserve the assets of the Foundation from liabilities that would diminish the philanthropic impact of the generous gifts of its donors. In order to achieve these goals, and to promote understanding on the part of donors and their advisors, the Foundation subscribes to the following policies concerning the acceptance of gifts:

Proper Designation

Any gifts to the Community Foundation, including gifts of real estate, may be made to the Foundation under the following name and address:

Community Foundation of Northern Colorado
4745 Wheaton Drive, Suite 100
Fort Collins, Colorado 80525

The Community Foundation is incorporated in the State of Colorado, and is a qualified, tax-exempt organization under Internal Revenue Code § 501(c)(3).

Outright Gifts

- 1. Cash.** The Community Foundation accepts cash, checks, money orders and gifts via credit card.
- 2. Marketable Securities.** The Community Foundation accepts gifts of publicly traded stocks and bonds. When the securities are in "street name," they are transferred to the Community Foundation's account, thereafter we may either sell or hold the securities for the benefit of the donor's fund. When the gift is in the form of physical securities, we may either sell or hold the securities for the benefit of a donor's fund.
- 3. Stock in Privately Owned Companies.** To be accepted, such stocks must have a qualified appraisal performed by an independent professional appraiser. If immediately marketable, the stocks are sold. If not, they are kept (in the safe) until they can be redeemed. Prior to approval, such gifts are reviewed by the Community Foundation staff and legal counsel.
- 4. Stock in subchapter S Corporations.** To be accepted, such stocks must have a qualified appraisal performed by an independent professional appraiser. Prior to approval, such gifts are reviewed by the Community Foundation staff and legal counsel.
- 5. Real Estate.** All real estate gifts must be approved by the Executive Committee. Prior to approval, such gifts are reviewed by the Community Foundation staff and legal counsel. Concerns include legality, marketability, insurability, mortgages, easements, restrictions, and environmental problems. Until the property is sold, the donor must provide for obligations such as taxes and insurance. An arrangement to handle all expenses related to the property prior to its liquidation must be agreed to by the donor and the Foundation. In most cases, the Foundation will agree to cover certain expenses for which it can be reimbursed from the proceeds of the sale.
- 6. Tangible Personal Property.** The property must be readily marketable and the donor must agree that the property can be sold unless the Foundation agrees to use the property for a purpose related to its exempt purpose. At least one qualified appraisal by an independent professional is required. Prior to approval, such gifts are reviewed by the Community Foundation staff.

7. **Partnership Interests and Interests in Limited Liability Companies (LLC).** The Community Foundation does not accept gifts of general partnership interests. Prior to approval of gifts of limited partnership interests or interests in an LLC all relevant partnership and LLC agreements will be reviewed by the Community Foundation staff and legal counsel with particular attention given to the activity of the partnership/ LLC and how allocations are made. Further, the underlying assets and liabilities of the partnership/ LLC will be reviewed. Limited partnership interests in family limited partnerships will be considered for acceptance. These interests are also subject to review by the Executive Committee.

Deferred Gifts

8. **Bequests.** The Community Foundation receives bequests from persons who have directed in their wills that certain assets be transferred to the Foundation.
9. **Life Insurance.** The Community Foundation accepts life insurance policies for which the donor has relinquished ownership by assigning all rights, title, and interest in the policy to the Foundation. If the insurance policy is not fully paid up, the usefulness of the gift is judged on a case-by-case basis. If the policy is accepted, the Foundation may choose either to cash it in for the current surrender value or continue to pay the premium (e.g., the Foundation has paid the premium on a policy for which the donor provides an annual contribution equal to the premium).
10. **Life Income Arrangements.** Several types of deferred giving arrangements can be established during one's lifetime or through a will and can be structured to provide a life income for oneself or a loved one. Life income arrangements include: charitable remainder annuity trust, charitable remainder unitrust, and a remainder interest in a residence or farm. Charitable lead trusts provide income over a term of years or a person's lifetime to charity.
11. **Gift Annuities.** The Community Foundation will issue charitable gift annuities if funded with cash or marketable securities valued at \$25,000 or more. Rates for gift annuities issued by the Foundation will not exceed the recommended rates established by the American Council on Gift Annuities.

In conformity with the Treasury Department regulations governing community foundations, gifts to the Community Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from freely and effectively employing the transferred assets, or the income from them to further its exempt purposes.

Life Insurance Gifts

The Community Foundation may accept life insurance policies as gifts to the Community Foundation on the following terms:

1. The Community Foundation shall be both the owner and the beneficiary of any policy accepted by the Community Foundation. The Community Foundation may decline to accept any insurance policy if it is not in the best interest of the Community Foundation to accept the proposed gift.
2. The donor agrees that the proceeds from the policy will be the property of the Community Foundation for the Community Partnership Fund or to be administered by the Community Foundation for such purposes as designated by the donor, subject to the policies and procedures of the Community Foundation.
3. The Community Foundation shall have no obligation to continue premium payments on insurance policies.
4. If any insurance policy lapses for non-payment prior to maturity because a donor fails to provide sufficiently for premium payments, the Community Foundation may redeem the policy and apply the proceeds from any cash settlement to the Community Partnership Fund.
5. The minimum dollar amount of the life insurance policies to be considered for acceptance by the Community Foundation is \$50,000.
6. The Community Foundation does not participate in charitable split dollar insurance plans.

Real Estate Gifts

All real estate gifts must be approved for acceptance by the Foundation. Prior to approval, such gifts are reviewed by the Community Foundation staff and legal counsel. What follows is a comprehensive list of issues and information that may be relevant to any proposed gift. To facilitate the transfer, donors will be asked to provide the following:

REQUIRED ITEMS

1. Exact legal name of donor and federal I.D. number.
2. Legal description of property.
3. Description of any buildings or other structures located on the land.
4. Information regarding mortgage, if any.
5. Specimen of title insurance commitment or schedule describing any liens, encumbrances or title matters affecting the property.
6. Copy of appraisal showing the fair market value of the property current within 180 days.
7. Discussion or written proposal regarding source of funds to address ongoing expenses for taxes, insurance, assessments, maintenance, grass cutting, security, utilities, etc.
8. Disclosure of any and all leases, security instruments, graves or cemetery parcels, and brief history of the use of the property, on the Foundation's form.

POTENTIALLY REQUIRED ITEMS:

9. Boundary survey of property with location of all structures, easements and encumbrances appearing on the face of the survey.
10. Information regarding existing zoning status.
11. Information on all ingress/egress for the property.
12. Detailed description of prior use of the property, when prior use has been for purposes other than residential.
13. Description of use of surrounding property, with specific disclosure of any storage tanks or potential environmental factors affecting the property.
14. Disclosure of any contemplated or anticipated condemnations, right-of-ways or other actions by municipalities that may affect the subject property.
15. Phase I environmental report on the property, including environmental report on any structures located on the real estate. Such a report will usually be required when concerns regarding the property are raised by any one or more of the following characteristics:
 - Stained soils, concrete or asphalt paving;
 - Stained sinks and toilets (some companies try to dispose of hazardous chemicals by pouring them down the sinks or into toilets);
 - Stained storm drains (some owners dispose of hazardous chemicals directly down storm drains, or by pouring chemicals onto soil which subsequently migrate to storm drains);

- Stressed vegetation, or absence of vegetation where it would be expected;
- Standing lagoons, pits or ponds with suspicious content;
- Oily sheens or discoloration of surface water on the site;
- Foul or unusual odors or noxious fumes;
- Observed storage tanks or distribution lines or storage drums;
- Sprayed-on fireproofing;
- Leaking pipes, electrical transformers, tanks, barrels or containers; and
- Flaking ceiling tiles, floor tiles or insulation, due to possible asbestos mitigation concerns.

16. Disclosure of amount of existing real estate taxes, insurance premiums and assessments attributable to the property.

*Minimum levels are required for individual funds.

APPENDIX A: Excess Business Holdings

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rule applies to Donor Advised funds as if they were private foundations¹. That is, the holdings of a Donor Advised fund in a business enterprise, together with the holdings of persons who are disqualified persons with respect to that fund, may not exceed any of the following:

- Twenty percent² of the voting stock³ of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity

Ownership of unincorporated businesses that are not substantially related to the fund's purposes is also prohibited.

Donor Advised funds receiving gifts of interests in a business enterprise after the date of the PPA's enactment (August 17, 2006) will have five years to divest holdings that are above the permitted amount, with the possibility of an additional five years if approved by the Secretary of the Treasury. Funds that currently hold such assets will have a much longer period to divest under the same complicated transition relief given to private foundations in 1969.⁴

What is a business enterprise?

A "business enterprise" is the active conduct of a trade or business, including any activity which is regularly carried on for the production of income from the sale of goods or the performance of services. Specifically excluded from the definition are:

- Holdings that take the form of bonds or other debt instruments unless they are a disguised form of equity
- Income from dividends, interest, royalties and from the sale of capital assets
- Income from leases unless the income would be taxed as unrelated business income
- "Functionally-related" businesses and program-related investments
- Businesses that derive at least 95 percent of their income from passive sources (dividends, interest, rent, royalties, capital gains). This will have the effect of excluding gifts of interests in most family limited partnerships, and other types of holding company arrangements.

¹ The language is clear that it is only the Donor Advised fund—not the sponsoring charity—that is to be treated as a private foundation. Accordingly, it appears that this section does not apply to assets held by the sponsoring charity's investment pools, or assets held by funds that are not donor-advised.

² Thirty-five percent if it can be shown that persons who are not disqualified persons have effective control of the business.

³ Additionally, the Donor Advised fund will be barred from holding non-voting stock of an incorporated business unless the disqualified persons collectively own less than 20 percent of the voting stock.

⁴ Excess holdings acquired by purchase must be disposed of immediately. If purchases by disqualified persons cause the Donor Advised fund to have excess holdings, the Donor Advised fund will have 90 days to dispose of the excess.

What is a disqualified person?

Donors and persons appointed or designated by donors are disqualified persons if they have—or reasonably expect to have—advisory privileges with respect to the Donor Advised fund by virtue of their status as donors. Members of donors’ and advisors’ families are also disqualified, but the section does not define “family” and does not cross-reference either section 4958 or 4946 for the definition. Finally, the term includes 35-percent-controlled entities as defined in section 4958(f)(3).

What contributions will be affected?

The new rule will mainly affect contributions of closely-held businesses and in most cases will require the Donor Advised fund to dispose of the contributed interest within five years of the date of gift because the disqualified persons will generally own more than 20 percent of the business.⁵ The rule will not apply to assets held by the sponsoring charity—as long as they are not held by the Donor Advised fund—apparently permitting a sponsoring charity to keep a contributed asset as part of its overall investment portfolio. It will also not apply to gifts to funds—such as field-of-interest or designated funds—that are not donor-advised.

Because they are not “business enterprises,” the rule will not apply to most gifts of real property. The most important exception will be undeveloped land, which may become a business enterprise if the charity that owns it takes extensive steps to subdivide it and prepare it for sale. This is a particularly dangerous situation because this could require immediate divestiture.

Interests in investment partnerships and LLCs—including family partnerships, hedge funds, REITs, and so forth—are excluded from the definition of business enterprise as long as 95 percent or more of the entity’s income is from passive sources. Examples of other property gifts that are excluded because they are not business enterprises include:

- Oil and gas interests (non-working)
- Life insurance
- Tangible personal property (as long as it is not inventory)
- Remainder interests in personal residences and farms

The Community Foundation of Northern Colorado Policy with regard to assets categorized under PPA as “excess business holdings:

The Community Foundation of Northern Colorado will identify and monitor any new gift to a donor advised fund of any interest qualifying as an “excess business holding” under the PPA. The Community Foundation of Northern Colorado will exercise its best effort to dispose of the contributed interest at the best possible price within five years of the date of the gift, as required under PPA. In any event, The Community Foundation of Northern Colorado will dispose of any excess business holding prior to the five-year time limit, except in the event that the Treasury Department grants an additional five-year holding period. The Community Foundation of Northern Colorado will notify potential donors of such interests of this requirement prior to the contribution of such interest.

⁵ Under the *de minimis* rule, the Donor Advised fund could continue to hold an interest that did not exceed two percent of the voting stock and two percent of the value.