



COMMUNITY FOUNDATION OF ANNE ARUNDEL COUNTY GIFT AND FUND ACCEPTANCE POLICY

About This Policy

The purpose of this policy is to establish criteria for accepting gifts made to the Community Foundation of Anne Arundel County (CFAAC) or to any supporting organization of CFAAC. Accepted gifts include current and deferred gifts of cash, personal property, real property, securities, life insurance and other gifts that are contributed by donors to the CFAAC.

Documenting the Purpose of Gifts

The purpose of a gift to CFAAC will be defined in a written fund agreement or deferred gift instrument (e.g., will, trust) signed by the donor, or his or her appointed representative, and if appropriate, the Executive Director of CFAAC. Additional gifts may be made to existing funds of CFAAC without restating the original purpose of the gift and without a separate fund agreement.

If a gift is being used to establish a new fund, it is the policy of CFAAC to develop a signed fund agreement prior to receiving a current outright gift. Gifts may be accepted without a signed fund agreement; however, it is in the best interest of the donor to complete the fund agreement as close as possible to the time the gift is received. In the case of a planned gift made by a living donor, a fund agreement should be completed and signed as soon as possible once CFAAC becomes aware of the existence of the planned gift.

The purpose of all gifts must align with the broader charitable purposes of CFAAC. Each proposed fund or gift will be considered on a case-by-case basis. The CFAAC reserves the right to accept or decline any proposed fund or gift to the foundation.

Standard fund agreements that have been approved by legal counsel and CFAAC's Executive Director, Board Chair or Vice Chair may be used. Fund agreements will be prepared and reviewed by employees and/or legal counsel of CFAAC.

CFAAC employees will disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor's decision

to make a gift to CFAAC. Donors will be encouraged to consult with legal counsel and financial advisors in making their decision. They will also be provided with a written fund agreement. Their signature on the fund agreement will provide evidence to CFAAC that they have read the fund agreement and attached documents thoroughly and that they understand and have agreed to the provisions of these documents.

In particular, donors should be made aware of the following provisions and powers:

- the irrevocability of a gift
- CFAAC's variance power
- CFAAC's spending policy and definition of endowment funds
- in the case of donor-advised funds, applicable policies and limitations
- donor restrictions (i.e., no self-dealing, material restrictions, advice versus control)
- items subject to variability: market value, investment return, and income yield
- any applicable administrative and investment management fees, including any additional fees charged for more complicated gifts (real estate, art collections, etc.)
- relevant administrative procedures (fundraising guidelines, check writing, grant approval process, necessary forms, etc.)

Gift and Fund Acceptance Committee

In general, CFAAC employees will be authorized by the Board of Trustees to accept new gifts and funds subject to the policies outlined herein.

To assist staff in the evaluation of complex gifts and funds, the Board of Trustees of CFAAC may appoint a Gift and Fund Acceptance Committee, which will have the responsibility to consider and make recommendations to CFAAC's Board of Trustees regarding the acceptance of new gifts and funds. Alternately, the Board of Trustees may empower an existing standing committee of CFAAC (such as the Budget & Finance Committee or the Asset Management Committee) to assist CFAAC employees in reviewing complex gifts and funds. The Board of Trustees shall have the final decision-making authority over the acceptance and rejection of gifts. A process for determining which gifts require the review of the Board of Trustees or its designated committee follows:

If a Gift and Fund Acceptance Committee is appointed, the Committee will be charged with ensuring that gifts received are consistent with these policies and that they are in the best interests of CFAAC. Committee members will reach agreement by consensus, with the assistance of advisory members who have expertise in specific types of gifts. Committee members may also review proposed funds or supporting organizations that may fall outside the ordinary scope of employee expertise.

Minimums

CFAAC's minimum non-endowed fund size is \$10,000, but may be increased or decreased by the Board of Trustees. Gifts of any size to existing funds are gratefully accepted.

Which Gifts Require Review

A) Gifts received in the following forms can be accepted by CFAAC employees and will not require prior review and approval by the Board of Trustees or its designated committee:

- **Cash or cash equivalents and checks**

CFAAC accepts cash, checks or money orders made payable to Community Foundation of Anne Arundel County or any of its funds.

- **Marketable securities and mutual funds**

CFAAC will add the net proceeds of a marketable securities contribution to a fund of CFAAC. It is the general policy of CFAAC to sell marketable securities immediately upon receiving them. CFAAC will govern the disposition of securities and will make all decisions regarding the sale or retention of securities.

- **Gifts of personal property** for CFAAC's offices or programs.

B) Gifts that shall require review and approval by the Board of Trustees or its designated committee include:

- **Tangible personal property**

Tangible personal property may be accepted as a gift. If the value exceeds \$5,000, a donor is required to have a qualified appraisal performed and submit an IRS Form 8283. If CFAAC sells the property within two years, CFAAC must inform the donor and IRS of the sale price of the item(s), and must file IRS Form 8282.

The following should be taken into consideration before acceptance of tangible personal property:

- whether or not the property is related or unrelated to the exempt purposes of CFAAC;
- whether the property is readily salable; and
- all indirect and direct costs associated with the gift including taxes, transportation and storage, security, maintenance/repair

requirements, and the cost of eventually selling the item or property.

- **Real property**

If a donor wishes to contribute real property or an interest in real property to CFAAC, whether as an outright gift or through a deferred giving arrangement, CFAAC shall consider all facts and circumstances before accepting the gift. Donors should always be advised to consult with their own legal and financial advisors in finalizing the terms of the gift.

- **Gifts of closely held and S corporation stock**

Donors wishing to make gifts of closely held corporation or S corporation stock must have it valued by a reputable independent accounting or appraisal company prior to making a contribution. CFAAC will seek expert advice as to whether to sell the stock immediately or to hold it, and will make all decisions regarding the sale or retention of the stock. Input of donors is welcome, and may be considered along with the advice of outside experts.

The acceptability of a gift of closely held, S corporation stock or limited liability company membership interests would depend on the ultimate financial liability of CFAAC, the amount of management attention required, the ability to sell the interests, and the costs of sale of the intended gifts.

C) Gifts generally not accepted and requiring special approval by the Board of Trustees or its designated committee:

- **Partnership interests**

CFAAC does not accept gifts of general partnership interests due to potential unlimited liability. The acceptability of a gift of a limited partnership interest will depend on the ultimate financial liability of CFAAC, the amount of management attention required, the ability to sell interests, and the costs of sale of the intended gifts.

This hard-to-value property is best valued by a qualified appraiser. Consideration will be given to whether generated partnership income is unrelated business income subject to income tax.

- **Gift of securities not readily marketable** (e.g., some types of privately-held stock) will generally not be accepted, especially if such securities:
 - represent a minority interest in the entity, or

- are assessable, or
- have no apparent value, or
- may not be assigned, or
- in any way could create a liability to CFAAC.

Gifts in part or in total of a Business Enterprise to a Donor Advised Fund will generally not be accepted. If such a gift is being considered for acceptance, CFAAC should take care to prevent the violation of excess business holding defined under the Pension Protection Act of 2006 (PPA). PPA mandates 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:

- 20% of the voting stock of an incorporated business, or
 - Twenty percent of the profits interest of a partnership or joint venture or the beneficial interest of a trust or similar entity, or
 - Any interest in a sole proprietorship
- **Gifts whose structures fall outside the ordinary purposes, bylaws and procedures of CFAAC**

Gifts Declined

CFAAC reserves the right to refuse any gift that it believes is not in the best interest of the foundation. If a gift is not accepted, CFAAC employees will contact the prospective donor immediately.

Acknowledgment

Accepted gifts will be acknowledged by employees in accordance with federal regulations.

Income Tax Deductions

The charitable income tax deduction claimed by a donor is generally that donor's responsibility. CFAAC will follow the requirements and guidelines established by the IRS for reporting and receiving gifts of property.

Restrictions

In conformance with Treasury Department regulations governing community foundations, gifts to CFAAC may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents CFAAC from freely and effectively employing the transferred assets or the income derived there from, in furtherance of its exempt purposes. Exceptions to this policy

include split interest gifts in which the assets are temporarily restricted, such as life estates, gifts to the pooled income fund, etc.

Investment of Gifts

Donor's advice will be carefully considered in determining disposition, retention, or investment of any gift. Donors may make choices among CFAAC's investment options. However, the Board of Trustees, advised by its Asset Management Committee, reserves the right to make any or all investment decisions regarding gifts received.

In making a gift to CFAAC, donors give up all rights, title and interest to the assets contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts. In special circumstances, such as the formation of a supporting organization, the donor and CFAAC may, by mutual agreement, design a specific investment strategy appropriate for the purposes of the gift.

Planned Gifts

A planned gift is a donation, usually other than a direct outright gift of cash which (1) usually includes assets other than cash; (2) uses tax advantaged devices as set forth by the Internal Revenue Code and Regulations; (3) involves increased face to face communication between the donor CFAAC; and (4) usually involves the counsel and advice of a financial/legal professional. Most planned gifts are deferred. Deferred implies that the charity must wait for a number of years after the gift until the occurrence of a specified event (such as the death of the donor or other income beneficiaries or the expiration of a predetermined period of time) before receiving the actual possession and ultimate control of the donated property.

CFAAC's planned giving program encompasses all types of gifts whose benefits do not fully accrue to CFAAC until some future time or whose benefits to CFAAC are then followed by the interests of noncharitable beneficiaries. The common types of planned gifts accepted include:

- **Gifts by Will or Living Trust**

CFAAC may receive bequests from people who direct through a will or a trust, that certain money or property be transferred to CFAAC. CFAAC encourages such donors to contact its employees during their lifetime to discuss their charitable intent. Sample bequest language is available from CFAAC, but donors are encouraged to consult a professional advisor for additional assistance.

- **Gifts of Life Insurance**

A donor may make a gift of life insurance to CFAAC in several ways. The donor may choose to give a life insurance policy irrevocably designating CFAAC as owner and beneficiary of an existing life insurance policy. CFAAC can also be designated as a percentage beneficiary of a life insurance policy owned by the donor. In addition, CFAAC also accepts tax-deductible gifts of insurance policy dividends.

- **Charitable Trusts:**

- **Charitable Remainder Trust**

- Under a *charitable remainder unitrust*, the donor irrevocably transfers money, securities or other property to a Director selected by the donor. The Director pays the donor or one or more income beneficiaries designated by the donor a fixed percentage of the net fair market value of the trust's assets, as determined each year. The payments are made for the life or lives of the income beneficiaries or for a fixed period not to exceed 20 years. Upon termination of the income beneficiary interest, the assets of the unitrust will be transferred to CFAAC.

- A *charitable remainder annuity trust* is similar to the unitrust except that the income beneficiary receives a fixed dollar amount annually from the trust.

- **Charitable Lead Trust**

- Under a *charitable lead trust*, CFAAC receives an income interest in the trust assets for a period of years or the lives of one or more individuals. At the end of this time, the assets are distributed to noncharitable beneficiaries designated by the donor.

CFAAC does not typically serve as a Director for charitable trusts, although it will consider serving in this role on a case-by-case basis.

- **Gift Annuities**

At the present time, CFAAC does not issue charitable gift annuities; however, that may change in the future.

- **Life Estate Agreements**

Subject to prior review and approval by the Board of Trustees or its designated committee, a donor may contribute a personal residence or farm to CFAAC and retain a life estate, which is the right to occupy the

property until death. Upon the donor's death, CFAAC will own all, or a substantial interest in the property. During their lifetimes the donors and CFAAC will sign a fund agreement specifying the use of the proceeds from the property. Gifts of life estate are subject to CFAAC policies on gifts of real property. A model life estate agreement form (called a Life Tenancy Agreement) is available.

Special Policies Governing the Acceptance of Gifts of Real Property

The following policies were developed to protect the funds and assets of CFAAC and to ensure proper stewardship of the gifts and assets entrusted to it.

- **Authority to Accept Gifts of Real Property**

Gifts of real property, including all forms of interests in real property, may be accepted on behalf of CFAAC in accordance with these policies. Each proposed gift will be reviewed and considered on a case-by-case basis. CFAAC may accept or reject any proposed gift. The following should be taken into account before acceptance: existing mortgages and liens against the property, taxes, condition and state of repair, zoning and land use violations, historical uses and presence of hazardous substances, the possibility of generating unrelated business income and similar factors.

- **Conditions for Acceptance**

In general, it is the policy of CFAAC to accept gifts of real property only if they are to be sold with the proceeds used for the charitable purposes described in CFAAC's mission. In the case of life estate gifts, such a sale will likely take place after the lifetime of the donor.

Gifts of real property will be reviewed on a case-by-case basis and may be accepted under the following conditions:

- if the donated property will be used by CFAAC in connection with established or specifically approved programs or activities, or
- if it is to be held for the production of income.

- **Prohibited Transactions**

CFAAC will not accept any real property which would jeopardize its tax-exempt status, or expose it to expenses for which no source of funds has been identified.

- **Expenses**

Prior to acceptance of any gift of real property, a source of funds must be identified for maintenance, upkeep, insurance, etc. of the donated real property.

Expenses related to the acceptance, management, sale or other expenses attributable to the acquisition or disposition of the real property shall be charged against the income or sale proceeds of the property.

- **Conditions Affecting Acceptance**

- If the real property is to be used by CFAAC, it shall be in good physical condition. If it is not in compliance with applicable building, health, and safety codes, or requires repairs or improvements, a source of funds for the costs of bringing the real property into compliance must be identified prior to acceptance.
- Prior to acceptance of the real property, CFAAC shall take such steps as are reasonably necessary to ascertain whether or not there are any environmental or similar risks associated with the real property, such as the presence of hazardous substances on or under the real property and, if so, to determine the potential liability arising from those risks.
- The proposed use must be lawful and consistent with CFAAC's mission and strategic plans.
- If the real property is to be held for the production of income, a *pro forma* positive cash flow analysis must compare favorably to the amount of income that would be obtained if the real property were sold and the proceeds invested as a part of the investment pool.
- If the real property is to be sold, it should be marketable within a reasonably short period of time. Acceptance of offers to purchase real property from CFAAC requires the signature of the Board Chair or his/her corporate legal delegate.

Procedure

Prior to formal acceptance, CFAAC shall obtain the following:

- Preliminary title report covering the subject property (the title report shall reflect that title is vested in the donor in the form represented, and is subject to no claims, liabilities, or major defects of title);
- A current valid appraisal performed by a qualified appraiser. The donor may be asked to pay the costs associated with obtaining any necessary final appraisal.

- A list of improvements to the property;
- A current list of leases, if any;
- A list of encumbrances, liens, and current expenses, if any;
- A commitment for title insurance; and
- A physical inspection of the property by an employee, agent of, or consultant to CFAAC.

Conditional acceptance may be made subject to satisfactory completion of each of the above.

Hazardous Waste Considerations

Prior to formal acceptance, CFAAC may require that a Phase One environmental inspection (as defined by CFAAC) be made at the donor's cost by a reputable, licensed environmental engineer or firm competent to advise the donor and CFAAC whether further inspections and investigations are required.

Grant Deed

Upon acceptance of the gift of real property, CFAAC will ensure that the grant deed is properly conveyed to its possession. This includes having the donor sign the deed and recording it with the appropriate county. The Executive Director or his/her legal delegate has responsibility for the proper safeguarding of all deeds.

Internal Revenue Service Form 8283

The Internal Revenue Service requires that Form 8283 be completed so it can be filed with the donor's tax return. Upon acceptance, CFAAC will be responsible for completing the "Donee Acknowledgment Section" of IRS Form 8283, mailing the original form to the donor and a copy to the Executive Director.

Internal Revenue Service Form 8282

The Internal Revenue Service requires that Form 8282 be completed and filed (with respect to any real estate for which a Form 8283 has been filed) when that property is disposed of by the donee institution within two years of the date of gift. Upon disposition, CFAAC will be responsible for filing Form 8282, if required in a timely manner.

Life Estates

- **Simple Life Estate Agreements**

In the case of property donated to CFAAC subject to a life estate, the life tenant shall enter into an agreement in writing providing that the life tenant shall pay all the costs of maintenance and upkeep of the property including but not limited to repairs, improvements, taxes, insurance, etc.

- **Life Estate with Lump Sum or Series of Payments**

These opportunities will be evaluated on a case-by-case basis. If the life tenant is also to receive a lump sum payment or a series of payments, a financial analysis will be done to determine the return on investment to the CFAAC. The analysis will include the life tenant's life expectancy, projected appreciation rate of the property, and estimates of future interest rates. Donor-authorized "impounds" from the lump sum will be necessary to cover maintenance, upkeep, insurance, property taxes, etc.

Cost Recovery

Funds to cover costs such as appraisals, hazardous substance assessments, taxes, insurance, maintenance, and unanticipated expenses may be advanced from other funds of CFAAC and recovered at the time disposition of the property is made. Donors shall be advised of this policy, since these costs will most likely be taken out of their fund once established.

Documentation of Acceptance of Property

It is the responsibility of CFAAC to secure acceptance from any of those parties authorized to accept property (see above) and assure documentation of acceptance. Documentation may be in the form of a memo to the file or more formally by letter.