

GIFT ACCEPTANCE

Key Players

- Sr. Director of Development and Marketing
- Development Director
- Gift-in Kind Manager
- Development Associate
- Executive Director
- Board of Directors
- CFO

Purpose

This policy is designed to ensure that all gifts to, or for the use of, HFHO are structured to provide maximum benefits for both the donor and HFHO. Throughout its existence, HFHO has benefited from gifts from friends, churches, corporations and foundations.

Introduction

All gifts to HFHO shall be evaluated within the following guiding principles:

- In accepting a gift, HFHO also accepts the responsibility to the donor to steward that gift properly. This includes administering the gift properly, providing the donor with accurate, timely financial information about the gift, and when appropriate, reporting to the donor about the use of the gift.
- Donations of gifts for unrestricted, general purposes are encouraged because of the flexibility they provide.
- HFHO does not provide legal, accounting, tax or other such advice to donors. Each donor is ultimately responsible for ensuring their proposed gift meets and furthers their charitable, financial, and estate planning goals. As such, each donor is encouraged to meet with a professional advisor before making a gift to HFHO.
- HFHO shall acknowledge all gifts and donations in a manner that respects and honors the donor. Reference: [SOP - Gift Acknowledgement.docx](#)
- HFHO reserves the right not to accept certain gifts, including:
 - Those which would not be in the best interest of the donor (i.e., ones that might be inappropriate in light of the donor's personal or financial situation).
 - Those that might benefit the donor in certain ways that are not available to others of similar status and interest.
 - Those from which HFHO will realize little or no financial gain.
 - Those that are offered for purposes inconsistent with HFHO's mission.
 - Those which have restrictions that might violate HFHO's ethical standards or require any form of discrimination.

General Policies

Use of Counsel

HFHO reserves the right to consult with and/or seek the advice of legal counsel in any and all matters related to the acceptance of gifts.

Donor's Use of Professional Advisors

Donors and prospective donors will be urged to seek the assistance and advice of independent professional advisors, including, but not limited to, tax or legal counsel and financial advisors, where appropriate, prior to and in matters relating to making a gift.

Evaluation of Cost Associated with Acceptance of Certain Gifts

Proposed gifts of property and in-kind gifts must be evaluated to determine whether the costs to HFHO associated with receiving the gift can be accommodated prudently. Such evaluations might include the possible cost of transportation, storage, maintenance, repair, insurance and cost of disposal. For example, accepting real property might require payment of closing cost, payoff of debt secured by the property, and physical changes to the property necessary to ensure safety or to control environmental hazards. Associated costs must be considered when considering the acceptance of such gifts. The authority and responsibility for prompt, careful evaluation of such costs shall rest with the Executive Director (ED). After conferring with the appropriate staff and board members the ED shall make the decision to accept or deny the gift.

Acceptance and Administration of Restricted Gifts

It is the responsibility of HFHO to comply with the donor's wishes regarding designated, program specific gifts. The Sr. Director of Development, under the direction of the ED, is responsible for ensuring compliance with the requirements regarding gift use, acknowledgement and receipts.

Qualified Appraisals

Legal and ethical requirements prohibit HFHO from appraising gifts. This protects both the donor and HFHO. Such appraisals are to be conducted by certified, independent appraisers not associate in any way with HFHO. The cost shall be the donor's responsibility.

Gift Acceptance Policies

Cash

Cash is often the easiest way to give and the form of gift most frequently accepted by HFHO. These gifts can take the form of currency, check or credit card. Cash may delivered in person, by mail, EFT or wire transfer.

- Cash (currency and check) gifts are reported the day it is received.
- EFT or wire transfer gifts are recognized as received on the date the money is transferred into HFHO's bank account.
- Credit card gifts are reported on the day the credit card gift is received.

Gifts of Insurance

HFHO will accept life insurance policies as gifts only when HFHO is named as the irrevocable owner and sole beneficiary of the policy.

HFHO prefers life insurance policies that are fully paid. Those gifts will be valued at the replacement cost of the policy. All partially paid policies must have written explanation of how further premiums are to be paid. Said proposed gifts must be presented to and approved by the ED prior to gifting. Said gifts will be valued at the surrender value of the policy the day the gift transaction is completed.

Personal Property/Real Estate

Z://standard operating procedures/Development/Development/SOP- Gift Acceptance

****Refer to the section above regarding costs associated with acceptance of certain gifts.***

For gifts of real estate refer to: <..\Executive\SOP - House or Lot donation procedure.doc>

No property will be accepted that has violations of local, state or federal law. There must be a clear title to the property, one not encumbered by recorded or unrecorded rights of way or easements.

Gifts of tangible personal property shall be subject to review by the ED and Finance Committee of the Board of Directors unless received in connection with an auction or raffle organized and conducted by HFHO, or as donations to be sold at the ReStore. Such gifts may be sold upon receipt by HFHO.

Gifts of personal property or real estate will be evaluated by the ED, Director of Land Acquisition and/or the Sr. Director of Development and Marketing prior to accepting gift.

The HFHO Finance department, with direction from the Executive and/or Development office, is responsible for issuing the Form 8283 (Non-Cash Charitable Contributions) to the donor and for issuing the Form 8282 (Donee Information Return) to the IRS. The Form 8282 will be issued in the event the gift of personal property is sold within two years from the date of gift.

Securities

Securities or mutual funds that are traded on any recognized stock exchange or that have prices quoted daily are readily marketable will be accepted as outright gifts or pledge payments.

The value of said securities is determined by averaging the high and low trading price on the day the securities are received by HFHO in accordance with established IRS policy. This is the amount of the gift that will be recorded in e-Tapestry and in donor acknowledgements. For financial recording, the amount actually received will be recorded in Peachtree. These two numbers will not be equal.

The <..\STOCK GIFT FORM.docx> must be completed.

Closely Held Securities

For purposes of this policy, closely held securities shall mean securities that are not publicly traded and shall include, but shall not be limited to, debt and equity interests in non-publicly traded or closely held entities, as well as interests in LLPs and LLCs. Interests in other forms of ownership may be deemed closely held securities.

Closely held securities may only be accepted if: 1) the beneficiary is HFHO and 2) if approved by the ED and the Finance Committee of the Board of Directors. Considerations shall include: whether the securities possess any restrictions that would hinder their liquidation to cash, marketability of the securities, and estimate of the fair market value of the securities and the presence of any detrimental tax consequences for HFHO. Counsel may be sought during the review process. Closely held securities shall be sold upon acceptance.

Pledges

Pledges are commitments to give a specific dollar amount according to a fixed time schedule. Pledges must have written documentation that contains the following:

- The amount of the pledge must be clearly specified.
- There should be a clearly defined payment schedule.

Z://standard operating procedures/Development/Development/SOP- Gift Acceptance

- There shall be no contingencies or conditions.
- The donor must be considered to be financially capable of making the gift.
- The acknowledgement and any benefits associated with the pledge shall be removed if for any reason the pledge is not completed within the agreed upon payment schedule.

Pledge Recording Policies

- Anticipated matching gifts will not be included in pledge amounts.
- Pledges and expected matching gifts will qualify separately for donor recognition in appropriate giving level groups.
- For gift recognition purposes, donors will not be recognized publicly until the pledge is paid in full.
- If, for any reason the pledge amount is altered, the donor will be recognized at the level of final payment.
- In the event of death, pledge balances will be written off when HFHO is notified, unless there are provisions in the donor's will or the family has indicated there is intent to complete the pledge.

Services/In-kind Gifts

Gifts of service may include construction labor and/or materials or other specialized services (i.e. legal or financial counsel, architectural services, etc.). Donor shall complete and return a GIK donation form: <..\..\Forms\2013 GIK Form.docx>. All recognition of services, which include a statement of value, shall be issued by the Development Office. Development and Finance shall follow all applicable laws, including IRS guidance, in determining the appropriate statement of value.

Planned Gifts

HFHO encourages donors to disclose their bequest intentions to the Development Office in writing to ensure HFHO is able to carry out their wishes and that the gifts conform to the principles stated in the Gift Acceptance Policy.

If there is a gift from the estate of a deceased donor HFHO is unaware of that does not meet the principles of this Gift Acceptance Policy, that decision will be communicated to the legal representative of the estate. Attempts will be made to achieve a mutually acceptable gift agreement between both parties.

Charitable Bequests

HFHO suggests the following language be incorporated into bequests.

I give and bequeath to Habitat for Humanity of Omaha, a non-profit corporation established under the laws of the state of Nebraska <gift amount>.

Charitable Gift Annuities

A Charitable Gift Annuity is a contract between HFHO and the donor, whereby the donor makes an initial payment of cash or marketable securities to HFHO and HFHO agrees to pay the donor an annuity for the rest of his/her lifetime.

No gift annuity that names an income beneficiary younger than age 60 shall be accepted without approval from the ED.

Z://standard operating procedures/Development/Development/SOP- Gift Acceptance

Gift annuities will be accepted for a single life or two life-joint and survivor only unless otherwise approved in advance by ED.

The minimum initial contribution for a Gift Annuity shall be \$20,000. Additional gifts to an existing annuity can be made in \$10,000 payments.

HFHO will use the payout rate schedule suggested by the American Council on Gift Annuities (ACGA) for its gift annuities.

Charitable Remainder Annuity Trusts

A Charitable Remainder Annuity Trust is established when a donor irrevocably transfers money or securities to a trustee (not affiliated in any way with HFHO) who invests the assets to pay annual lifetime income to the donor or others chosen by the donor. At the end of the beneficiaries' lives, the remaining assets are distributed to HFHO.

Annuity trusts provide the tax advantages of current contributions with the security of fixed, lifetime incomes, generally for the donor and spouse. The agreed-upon annual payments remain unchanged regardless of how the investments perform.

A Charitable Remainder Unitrust (CRUT) differs from the remainder annuity trust as it provides a variable income to the donor. Payment in this case is based on a fixed percentage of the net fair market value of the trust's assets as valued on a certain day annually.

Charitable Lead Trusts

This type of gift provides an income stream for a specified period of time to HFHO. HFHO receives the income from the trust and applies it, usually to a pre-determined project. The principal is then returned at the end of the set period to whomever the donor designates.

Gifts of Life Insurance

Gifts of life insurance as part of planned giving should name HFHO beneficiary of the policy upon death or as beneficiary and owner. All previously mentioned conditions also apply to planned gifts of insurance.

Retirement Plans

Donors shall be encouraged to name HFHO as beneficiary of their retirement plans. Such designations shall not be recorded as gifts on the books of HFHO until such time as the gift is irrevocable. When the gift is irrevocable (i.e., upon early death), but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

Reporting Policy

All irrevocable planned gifts will be reported at full fair market value.

GIFT ACCEPTANCE POLICIES

I. PURPOSE OF POLICY AND GUIDELINES

The purpose of the Gift Acceptance Policy and Guidelines is to guide the efforts of the Lincoln Community Foundation, a donor, and their professional advisor(s) in processing gifts to achieve the donor's charitable goals. This document summarizes the policies and guidelines for accepting various types of assets and the types of gift mechanisms that can be used. The Foundation seeks to ensure that any asset it accepts does not place the Foundation or donor at risk.

The Foundation follows the Council on Foundations' *National Standards for U.S. Community Foundations* and *Model Standards of Practice for the Charitable Gift Planner*, as adopted by the National Committee on Planned Giving.

II. GIFT ACCEPTANCE

A. Gift Factors

The following factors will be considered in determining whether gifts should be accepted by the Foundation:

1. meets IRS qualifications as a charitable gift;
2. nature of and documentation of any donor restrictions or conditions;
3. economic practicality of administering the gift;
4. marketability of the gift;
5. liability risks (financial, legal, nonprofit status);
6. whether subject to unrelated business income tax (UBIT).

III. TYPES OF GIFTS

A. Restrictions

In conformance with applicable statutes and regulations governing community foundations, gifts to the Foundation may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the Foundation from employing the transferred assets or the income derived from them in furtherance of its exempt purposes.

B. Asset Types

The Foundation will accept the following gifts using the criteria noted within each gift type. If the donor wishes to have a gift receipt from the Foundation, the donor should provide his/her name and address. Other documents may be necessary for some asset types. Gifts of closely held stock, real estate, and other not readily marketable, long-term capital gain property are subject to specific fees and policies. *Please see Exhibit B.*

- 1. Cash, cash equivalents or checks.** Cash is acceptable in any form. Checks shall be made payable to the "Lincoln Community Foundation" and shall be delivered to the Foundation's

administrative office. Information as to the purpose for which the contribution is to be used should also be provided.

2. **Pledges.** Written pledges to make future gifts will be accepted. When appropriate, the donor will be invoiced according to the schedule.
3. **Publicly Traded Securities.** Publicly traded stocks and bonds may be electronically transferred, re-registered in the name of the Foundation or conveyed through use of a stock power form. The Foundation will also accept shares in mutual funds.

As a general rule, all marketable securities shall be sold upon receipt. Donors shall be advised of this practice and may not request the Foundation to engage in market timing. In some cases, applicable securities laws may restrict marketable securities; in such instance, the President, the Vice President of Development and Marketing and the Chief Financial Officer shall make the final determination on the acceptance of the restricted securities.

4. **Closely Held Securities.** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs, LLCs, Limited Partnerships, Family Limited Partnerships, Charitable Limited Partnerships or other ownership forms, can be accepted subject to the approval of the President, the Vice President of Development and Marketing and the Chief Financial Officer. However, gifts must be reviewed prior to acceptance to determine that:
 - a. there are no restrictions on the securities that would prevent the Foundation from ultimately converting those assets to cash;
 - b. the security is marketable; and
 - c. the security will not generate any undesirable tax consequences for the Foundation.

If potential problems arise on initial review of the security, additional review from an outside professional shall be sought before making a final decision on acceptance of the gift. The final acceptance decision shall be made by the Director of Marketing and Donor Relations and the Chief Financial Officer and legal counsel where necessary.

5. **Real Property.** It shall be the policy of the Foundation to liquidate all real estate gifts as soon as possible unless otherwise instructed by the Finance Committee. Before accepting a gift of real estate, all pertinent items on the Land Donation Checklist must be met, including clear title, no debt attached, no environmental issues and readily marketable. *Please see Exhibit A.*

A. General Guidelines:

1. The Finance Committee will approve all transactions in real estate. All transactions exceeding \$500,000 will be approved by both the Finance Committee and the Board of Directors.

B. Policies and Procedures for Farm Leases and Other Rental Properties:

1. As a general rule, farm and rental property will be liquidated as soon as possible. In the event that property is retained as an investment or until sold, the following procedures may apply:
 - a. Farm Leases: All farm properties will be moved to cash rent at the earliest opportunity, due to tax implications.
 - b. Rental Property other than Farms: The staff may seek the advice of local real estate companies in arriving at an equitable rent. The Chief Financial Officer is authorized to determine the rental rate, to conclude the rental agreement and to seek services to administer the property.

6. **Insurance policies.** Donors may transfer ownership of paid-up policies or premium-due policies to the Foundation. In either case, the Foundation shall be the owner and permanent beneficiary of the policy and retain the policy in its office.

Contributions for premium-due policies must be made directly to the Foundation at least ten days prior to the premium date. **It is the Foundation's practice to hold life insurance policies until maturity, but the Foundation, as the owner of the policy, reserves the right to redeem the policy before maturity and to determine how best to use the cash value. This right usually applies only upon default of contributions toward premium payments.**

The Foundation does not enter into charitable reverse split-dollar agreements.

7. **Retirement Assets.** "Account" type retirement plans, in which a balance accumulates as principal, may be gifted to the Foundation. These include Individual Retirement Accounts (IRA), 401(k), 403(b) and defined contribution plans. ("Annuity" plans such as defined benefit plans in which retirement benefits are paid out as income and principal does not accumulate generally cannot be used for making charitable gifts.)

A. Methods for gifting retirement assets include:

1. naming the Foundation as successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse;
2. creating a testamentary charitable remainder trust with the assets upon the death of the asset owner, naming the Foundation as the remainder beneficiary and non-charitable heirs as income beneficiaries.

8. **Other Assets.** The Foundation can accept other assets, such as personal property, royalties, and interests in a business. These gifts will be evaluated on a case-by-case basis, using the gift factors noted in Section II.

9. **Planned and Testamentary Gifts.** The Foundation's planned and testamentary giving program encompasses all forms of gifts whose benefits do not fully accrue to the Foundation until some future time, such as: the death of the donor or other beneficiaries, the expiration of a

predetermined period of time, or whose benefits to the foundation are then followed by the interests of non-charitable beneficiaries.

While there are many types of planned and testamentary gifts where the Foundation would be the income beneficiary or remainderman, the most common are:

- A. **Charitable Remainder Trusts.** The Foundation may accept designation as remainder beneficiary of a charitable remainder trust. The Foundation will not accept appointment as trustee of a charitable remainder trust.
- B. **Charitable Lead Trusts.** The Foundation may accept a designation as income beneficiary of a charitable lead trust. The Foundation will not accept appointment as trustee of a charitable lead trust.
- C. **Gift Annuities.** The Foundation does accept gifts to create gift annuities. Charitable gift annuity contracts will be issued only if (a) there are no restrictions on use of the residuum, **OR** (b) a separate agreement directs the residuum to an existing or new permanent fund from which no return of principal is permitted. Minimum amount required for a contract is \$10,000. Maximum payout frequency is quarterly. Minimum age of youngest annuitant is 50. The Foundation generally follows the annuity rates as set by the American Council on gift annuities. The Foundation will not exceed these rates, but, at times, may find it appropriate to reduce the rate. The Foundation does levy fees as recommended by the American Council on gift annuities.
- D. **Retirement Plan Beneficiary Designations.** The Foundation can accept gifts from retirement plans and encourages its donors to name it as a beneficiary in an IRA, 401(k), 403(b) or other retirement plans.
- E. **Life Insurance Beneficiary Designations.** The Foundation can accept gifts generated by beneficiary or contingent beneficiary designations of life insurance policies.
- F. **Bequests.** The Foundation will accept testamentary gifts. Donors are encouraged to share testamentary plans with the Foundation, and the Foundation shall engage legal council for evaluation when a testamentary plan is questionable. The Foundation is not obligated to accept all testamentary gifts and such gifts may be disclaimed if the Foundation considers the gift unacceptable.

IV. FUND DEVELOPMENT PRACTICES

A. Donor Relations

The Board of Directors of Lincoln Community Foundation, Inc. has adopted the following six general principles as guidelines for all relations between donors and prospective donors and the staff and volunteer leadership of the Foundation.

1. **Disclosure.** Full disclosure shall be made of donor options and the range of possible results from a proposed gift plan.

2. **Donor advisors.** Donors shall be urged in writing to review all proposed gift plans with their own professional advisor(s).
3. **Freedom from pressure.** Foundation representatives shall refrain from any and all forms of pressure and shall be sensitive to the mental, emotional, and financial capacities of prospective donors.
4. **Incentive compensation.** No representative of the Foundation shall receive any commission, bonus or other form of incentive compensation related to performance in the area of gift planning and solicitation.
5. **Finders' fees.** Lincoln Community Foundation will pay no finders' fees to intermediaries proposing charitable gifts from anonymous donors nor make any payments otherwise characterized that do not represent fair compensation for services rendered to the Foundation.
6. **Confidentiality.** All information on past donors, prospective donors and gifts received shall be held in confidence unless permission is received for releasing or publishing such information.

11/20/03

Rev. 11/20/08

Rev. 8/15/2012

EXHIBIT A

LAND DONATION CHECKLIST - NOT FROM ESTATES

BEFORE ACCEPTING GIFT (clear title, NO debt, NO environment issues, & ready market):

- _____ Receive written communication from donor or agent as to their intent to make the gift. They also need to provide the legal description of the property at this time.
- _____ Written agreement/understanding with donor that donor will pay for related expense if gift is not accepted.
- _____ Appraisal done by and paid by donor (appraisal copy to LCF)
- _____ Physically observe the real estate (when possible)
- _____ LCF staff consult with real estate agent(s) to determine the potential value and marketability
- _____ Order title search on the property. Determine the transferability and potential problem areas from such a search. Verify there is NO debt.
- _____ Order Phase I environmental site assessment (Commercial property only). Such assessment should, at a minimum,
 - include inquiry into the following areas:
 - > 50-year title history
 - > Aerial photographs and Sanborn Fire Insurance maps
 - > Existence of Federal, State, and local statutory environmental clean-up liens.
 - > Review of Government records of sites where there have been releases that are likely to cause contamination at the site
 - > Visual inspection of the site and immediately adjacent sites, including investigation into chemical use, storage, treatment and disposal practices at the site and adjacent sites
 - > On-site interview
 - > Asbestos
 - > Radon
 - > Lead-based paint
 - > Underground and above ground storage tanks. They may wish to contact the fire marshall to determine the location of all such fuel oil tanks

It is important to ask the vendor doing the Phase I research and testing to provide a certificate of insurance which verifies a minimum of \$1 million of insurance and indemnification coverage

ACCEPTING GIFT:

- _____ Acceptance of gift by LCF Finance Committee (via fax vote)
- _____ Approve leases (if any)

AFTER ACCEPTING GIFT & BEFORE SELLING THE GIFT:

Enter into the following agreements with the donor:

- _____ Fund Agreement, to be reviewed by our attorney-if applicable (if a restricted donation either by purpose or time)
- _____ Subsequent expenses reimbursement and fee agreement (if not covered in pre-acceptance agreement)
- _____ Deed execution
- _____ Title insurance policy
- _____ Obtain liability coverage for the site until sold
- _____ Record deed
- _____ Receipt gift (Form 8283 if over \$5000)

PREPARING TO SELL THE GIFT:

- _____ LCF Finance Committee approve selling price range for staff to work with (via fax vote)
- _____ Contract with real estate agent to sell property

AFTER SELLING THE GIFT:

- _____ Place sale proceeds into the established fund, if applicable (net of expenses, commissions and fees)
- _____ File Form 8282 with the IRS (if sold within two years of gift date & if original gift was over \$5000)
- _____ Cancel liability coverage

EXHIBIT B

GIFTS OF CLOSELY HELD STOCK, REAL ESTATE, AND OTHER NOT READILY MARKETABLE LONG-TERM CAPITAL GAIN PROPERTY TO THE LINCOLN COMMUNITY FOUNDATION *or* THE LINCOLN COMMUNITY FOUNDATION DONOR-DIRECTED DEPOSITORY, INC.

The Board of Directors of the Lincoln Community Foundation, Inc. (Foundation) and the Lincoln Community Foundation Donor-Directed Depository, Inc. (DDD), have established the following policies regarding gifts of closely held stock, real estate and/or other not readily marketable assets:

1. Charitable Tax Deduction

A donor receives a charitable deduction based on the value of the gift on the date of the gift transfer, per IRS rules. A qualified appraisal complying with IRS regulations is required when the value of the asset(s) exceeds \$5,000, except for certain publicly traded securities.

2. Sale of Securities or Real Estate

As a general rule, gifts of securities or real estate are sold as soon as possible (in the case of securities, usually on the same day as the gift). The donor's "cash" account is then credited with the proceeds from the sale, after commissions and expenses, if any. If the sale of closely held stocks, real estate or other not readily marketable assets is completed within two years of the date of the gift, the Foundation or the DDD will report to the IRS the actual sale proceeds of the asset(s) (Form 8282).

For gifts of closely held stock, real estate or other not readily marketable assets, the donor will need to disclose any transfer restrictions and any other encumbrances that will limit or restrict the Foundation's or DDD's ability to sell the gift. The gift will not be considered accepted until the Foundation or DDD approves the transfer restriction and encumbrances.

In the case of gifts of land, stock of closely held corporations, or other assets that are not readily marketable at the time of the gift, there may be delays, perhaps even years, before the assets can be sold. The value of the land, closely held stock, or other not readily marketable asset as of the gift date, plus or minus any "gains or losses," fees, and expenses that are incurred during the time between gift transfer and subsequent sale by the Foundation or the DDD will be reflected in the value of the donor's "asset" fund or account.

In negotiating the sale of the closely held stocks, a fair market value (price per share) will be established at the time of the sale. No warranty is given by the Foundation or the DDD that the valuation will be acceptable to the IRS.

All paid dividends or other income will belong to the Foundation or the DDD, but will be credited to the donor's fund or account, net of fees.

The Foundation and DDD reserve the right to set aside a portion of the gift proceeds to cover expenses.

As closely held stock, real estate, or other not readily marketable assets are sold, proceeds net of expenses, will be added to the donor's "cash account" and the donor will be able to make charitable distributions to eligible organizations. For Donor Directed Depository accounts, a waiting period of 60 days from the transfer of proceeds into the donor's account is required.

Early withdrawal is allowed, however the donor must follow the Depository's early withdrawal policy.

3. **Treatment of Excess Business Holdings**

Under the Pension Protection Act of 2006 (PPA), the private foundation "excess business holdings" rules now apply 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 interest 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 1969⁴.

The Foundation will identify and monitor any new gift to a donor advised fund of any interest qualifying as an "excess business holding" under the Internal Revenue Code and applicable regulations. The Foundation 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, and will, in any event, dispose of any excess business holding prior to the five year time limit unless an extension to the holding period is available under applicable law. The Foundation will notify potential donors of such interests of this requirement prior to the contribution of such interest. This policy shall also apply to Lincoln Community Foundation Donor-Directed Depository, Inc. (DDD) accounts.

Definitions:

- 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

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. 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. Additional rules apply to cover situations such as mergers, redemptions, and acquisitions.

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.

- 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.
- Donors and persons appointed or designated by donors as “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 36-percent-controlled entities as defined in section 4958(f)(3).

4. Fees

For closely held stock, real estate or other not readily marketable assets donated to the Foundation or the DDD, the following fees will be charged to the fund/account established by the Donor. These fees are in addition to all other fees including the one-time assessment fee to Expendable Advised Funds:

- In Year 1—For gifts of closely held stock, real estate, and/or other not readily marketable assets, on the date of the gift, a fee of 2% will be charged based on the fair market value. A minimum fee of \$2,000 will apply only to gifts of real estate or other not readily marketable assets.
- Subsequent years—A 2% annualized fee based on the original fair market value. Fees will be calculated using the anniversary date of the gift. In the case of closely held stock, the value is the remaining number of shares held by the Foundation or the DDD times the original fair market price per share.
- Fees may be accrued and netted from sales proceeds or paid in cash annually to the Foundation or the DDD.
- If the proceeds are put into a permanently endowed fund, these fees will be waived. If a fraction of the proceeds are put into a permanently endowed fund, the fees will be waived pro-rata.

In accordance with Internal Revenue Code regulations, all income/credits earned by a donor’s account in the Lincoln Community Foundation Donor-Directed Depository must be distributed to qualified charities no later than the 15th day of the third month after the close of each fiscal year in which the income is realized (i.e., March 15th). This regulation applies only to the income/credits earned by the account and does not affect the principal. If applicable distributions have not been directed by that date, the DDD is required to make such distributions on the donor’s behalf.

This policy was established based on current laws and regulations and is subject to change by the Board of Directors of the Lincoln Community Foundation and the Lincoln Community Foundation Donor-Directed Depository.

5/21/98
 Rev. 11/18/99
 Rev. 11/16/00
 Rev. 11/21/02
 Rev. 06/30/11
 Rev. 11/16/11