

## AMERICAN KIDNEY FUND GIFT ACCEPTANCE POLICIES

Since its inception in 1971, American Kidney Fund (AKF) has been committed to fighting kidney disease through direct financial support to patients, health education and prevention.

These gift acceptance policies have been developed by staff and legal counsel in order to set forth basic principles and procedures to guide the review of gifts proposed to be made to AKF. These policies have been approved by the Board of Trustees.

### **I. Purpose of Policies**

A. These policies govern the acceptance of gifts by AKF. These policies are not intended to create rigidity; rather, they are intended to serve as protocols to guide the gift review process. They are intended to provide consistency, a basis for good judgment by all parties and a platform for constituent relations by the AKF staff and volunteers engaged in gift solicitation. They also can provide guidance to contributors and their counsel in regard to which types of gifts may be expected to be acceptable to AKF.

B. AKF staff and volunteers are guided by the National Committee on Planned Giving Model Standards of Practice for the Charitable Gift Planner (Appendix, #1) and by the National Society of Fundraising Executives Donor Bill of Rights (Appendix, #2).

### **II. Guiding Principles are:**

A. AKF will not accept a gift if AKF has reason to believe that acceptance will not be in the interest of the contributor. A determination of the contributor's interest shall include, but not be limited to, the contributor's financial situation and philanthropic interest, as well as any tax or other legal matter revealed while the proposed gift is under discussion. AKF shall not encourage any gifts that are inappropriate in light of the contributor's personal or financial situation, insofar as it is disclosed by the contributor to AKF.

B. A gift shall not be accepted by AKF unless there is a reasonable expectation that acceptance of the gift will benefit AKF.

### **III. Definition of Gifts, Grants and Corporate Relationships**

A. A gift is consideration given for which the contributor receives no direct benefit and requires nothing in exchange beyond an assurance that the intent of the contribution will be honored.

B. A grant is an award received generally as the result of a written proposal, with the understanding that an accounting and/or report will be done at the end of the project and a copy of the results will be provided to the funder.

C. A grant that has been determined to be a gift is donative in nature. It is given voluntarily and without expectation of any tangible compensation and implies no responsibility to provide the contributor with a product, service, technical or scientific report.

D. Corporate relationships entail gifts and grants, but can also include other relationships, e.g., “qualified corporate sponsorships” within the meaning of Internal Revenue Code section 513(i) and cause-related marketing arrangements. Appendix #3, Guiding Principles in Corporate Relationships provides further definitions and guidelines.

#### **IV. Use of Legal Counsel**

- A. AKF shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate.
- B. Review by counsel is recommended for:
  - 1. Proposed gifts of closely held stock, particularly such stock when it is subject to restrictions (e.g., buy-sell agreements, or voting trusts, etc.), partnership interests, units in limited liability companies, and similar types of illiquid assets;
  - 2. Gift instruments naming AKF as Trustee;
  - 3. Gifts involving contracts (other than charitable gift annuities), or other documents requiring AKF to assume an obligation;
  - 4. Real estate gifts and gifts of oil, gas and mineral interests;
  - 5. Transactions with potential conflicts of interest or adverse implications; and,
  - 6. Other instances in which the Gift Acceptance Committee (defined below, Section VII) deems use of counsel appropriate.

#### **V. Independent Review by Contributor’s Legal and Tax Counsel**

- A. AKF strongly encourages all prospective contributors to seek the assistance of independent legal and financial advisors in matters relating to gifts and the resulting tax and estate planning consequences.
- B. AKF will not provide legal or financial advice.
- C. Nor will AKF provide assurance of any particular tax or financial result.

#### **VI. Restrictions on Gifts**

- A. AKF will accept both unrestricted gifts and gifts for specific programs and purposes if such restricted gifts are consistent with AKF’s mission.
- B. AKF will not accept gifts subject to restrictions deemed by AKF to be unduly restrictive. Gifts in this category include, but are not limited to, gifts that are excessively difficult to administer, are unfeasible from a cost/benefit perspective, are for purposes inconsistent with the mission of AKF, or which entail reporting requirements which are deemed to be unacceptably burdensome.
- C. AKF will not accept gifts from individuals or organizations which AKF, in the exercise of its sole discretion, has determined to be associated with actions or policies that are inconsistent with the core values of AKF.
- D. AKF will accept all restricted gifts that support current or projected programs. Proposed restricted gifts intended for programs not already projected or in place will be reviewed by the Gift Acceptance Committee.

#### **VII. Gift Acceptance Committee**

- A. The Gift Acceptance Committee shall consist of the:
  - 1. Executive Vice-President/CFO and COO
  - 2. Vice-President of Development
  - 3. Director of Individual Giving
  - 4. Senior Director of Corporate Engagement
  - 5. Chair of the Public Support Committee who will represent the Chair of the Board of Trustees.
- B. The Gift Acceptance Committee is charged with:
  - 1. Reviewing gifts proposed to be made to AKF;
  - 2. Properly screening such proposed gifts in accord with these policies;
  - 3. Seeking legal counsel as recommended in Article IV and as determined to be necessary in other cases; and,
  - 4. Making recommendations to the Board on gift acceptance issues.
- C. The Gift Acceptance Committee shall be consulted when
  - 1. non-marketable gifts, that is those gifts for which there is not a public and common market for sale and purchase, are proposed; or
  - 2. restricted gifts are proposed to support programs not directly related to AKF's mission or current strategic operation plan in place; and
  - 3. when the nature of the proposed gift requires advice beyond that of legal counsel.

#### **VIII. Types of Donors**

The following categories of donors are generally deemed to be acceptable:

- A. Individuals
- B. Partnerships
- C. Corporations
- D. Foundations
- E. Government Agencies
- F. Other Entities

#### **IX. Types of Gifts**

The following categories of gifts are generally deemed to be acceptable:

- A. Cash
- B. Tangible Personal Property
- C. Pharmaceutical Products
- D. Securities (e.g., stocks and bonds)
- E. Interests in Limited Partnerships and Limited Liability Companies
- F. Charitable Gift Annuities
- G. Charitable Remainder Trusts
- H. Charitable Lead Trusts
- I. Bequests
- J. Retirement Plan Beneficiary Designations
- K. Life Insurance Beneficiary Designations
- L. Life Insurance Policies (e.g., transfer of ownership to AKF)
- M. Real Estate
- N. Remainder Interests in Property
- O. Bargain Sales

- P. Oil, Gas, and Mineral Interests
- Q. Pledges
- R. Professional services
- S. Business-related gifts-in-kind
  - 1. Computer equipment
  - 2. Giveaways
  - 3. Event food and beverage
  - 4. Other tangible items directly supporting AKF operations, programmatic activities, and fundraising events.

**IX. Criteria for Acceptance**

The following criteria govern, generally, the acceptance of each type of gift:

**A. Cash**

Cash is acceptable in any form. Checks shall be made payable to the “American Kidney Fund” and shall be delivered to AKF’s office or designated lockbox.

**B. Tangible and Intangible Personal Property**

Gifts of tangible and intangible personal property shall be examined in light of the following criteria:

- 1. Marketability of the property;
- 2. Any inappropriate restrictions on the use, display, lease, or sale of the property; and,
- 3. Carrying costs associated with ownership of the property, including, but not limited to, storage and insurance premiums.

**C. Pharmaceutical Products**

- 1. AKF will consider gifts of inventory that can be used for the treatment of kidney patients.
- 2. Factors that will be considered by AKF, include type of pharmaceutical, expiration dates, and availability of means (and expense thereof) for distribution of the pharmaceuticals.
- 3. The Gift Acceptance Committee, in conjunction with patient aid specialists at AKF, will review such gifts to determine feasibility.
- 4. AKF will also consider proposed gifts of equipment used in the detection of kidney disease.
- 5. Special tax rules govern the deductibility for gifts of inventory.

**D. Securities**

AKF can accept both publicly traded securities and closely held securities.

- 1. Publicly Traded Securities
  - a) Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered to AKF with the contributor’s signature or stock power attached.
  - b) All marketable securities shall be sold upon receipt unless otherwise directed by the Investment Committee.
  - c) In some cases applicable securities laws may restrict marketable securities; in such instances, the Gift Acceptance

Committee shall make a recommendation to the Executive Committee of the Board on the acceptance or rejection of the restricted securities.

- d) Gifts of securities are valued at the average of the high and low price of the security as of the date of the gift.
- e) The date of the gift is defined as:
  - (1) The date of the postmark on the envelope; or
  - (2) The date the security is hand delivered (physical certificates); or,
  - (3) The date the stock is received in AKF's brokerage account (book-held securities), or
  - (4) If the security is not traded on that date, the date of the most recent prior sale will be used for valuation.

AKF will accept securities through all three methods above (1-3) while AKF's preference is to accept securities gifts through direct transfers to brokerage accounts to reduce risk of loss.

## 2. Closely Held Securities

- a) Closely held securities, which include not only shares in non-publicly traded companies but also interests in limited partnerships and limited liability companies (and similar non-public ownership forms), can be accepted, but require careful review prior to acceptance.
- b) Such gifts must be reviewed prior to acceptance to determine if:
  - (1) There are restrictions on the security that would prevent AKF from ultimately converting it to cash;
  - (2) The security is marketable and can be liquidated;
  - (3) The security may generate adverse tax consequences for AKF, e.g. unrelated business taxable income within the meaning of Internal Revenue Code Section 511-514.
  - (4) If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on the acceptance of the gift.
- c) The Gift Acceptance Committee, and legal counsel when necessary, shall make the final determination on the acceptance of all closely held securities.
- d) Every effort will be made to sell non-marketable securities as quickly as possible.

**E. Charitable Gift Annuities**

1. AKF may offer charitable gift annuities.
2. The minimum gift for funding is \$5,000.
3. The minimum age for payment to life income beneficiaries of a gift annuity or a deferred gift annuity shall be 55.
4. Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments.
5. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to AKF's general operating funds, or to such specific fund as designated by the contributor.
6. AKF will utilize the recommended annuity rates of the American Council for Gift Annuities.
7. AKF will also maintain the required reserves as stipulated by respective states to maintain fiscal responsibility to the annuity program. AKF also shall maintain registrations in accord with state laws requiring issuers of charitable gift annuities to register with the state.
8. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. Exceptions must be approved by the President and CEO or the Executive Vice-President/CFO and COO.

**F. Charitable Remainder Trusts**

1. AKF will usually accept designation as remainder beneficiary of a charitable remainder trust.
2. AKF normally will not accept appointment as trustee of a charitable remainder trust.

**G. Charitable Lead Trusts**

1. AKF will usually accept a designation as income beneficiary of a charitable lead trust.
2. AKF normally will not accept an appointment as Trustee of a charitable lead trust.

**H. Bequests**

1. AKF constituents are encouraged to make bequests to AKF via wills and trusts.
2. Such bequests will not be recorded as gifts to AKF until such time as the gift is irrevocable.
3. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable and is through probate.

**I. Retirement Plan Beneficiary Designations**

1. AKF constituents are encouraged to name AKF as beneficiary of their retirement plans.
2. Such designations will not be recorded as gifts to AKF until such time as the gift is irrevocable.
3. When the gift is irrevocable, but not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**J. Life Insurance Beneficiary Designations**

1. AKF constituents are encouraged to name AKF as beneficiary or contingent beneficiary of their life insurance policies.
2. Such designations shall not be recorded as gifts to AKF until such time as the gift is irrevocable.
3. Where the gift is irrevocable, but not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**K. Life Insurance Policies**

1. AKF should be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift.
2. The gift is valued at its “interpolated terminal reserve value” (which is approximately the same as “cash surrender value”) upon receipt.
3. If the constituent contributes future premium payments, AKF will include the entire amount of the additional premium payment as a gift in the year that it is made.
4. If the constituent does not elect to continue to make gifts to cover premium payments on the life insurance policy, AKF may:
  - a) Continue to pay the premiums;
  - b) Convert the policy to paid up insurance;
  - c) Or surrender the policy for its current cash value.

**L. Real Estate**

1. Gifts of real estate may include improved property, undeveloped property, and fractional interests in property, e.g., remainder interest or tenant-in-common interest.
2. AKF, as a general rule, will require an initial environmental review (Phase I) to determine if the property presents a risk of environmental liability (Appendix # 4).
3. The cost of the environmental audit shall generally be an expense of the constituent.

4. Additionally, a current appraisal not older than 60 days regarding the fair market value of the property may be required as part of the consideration. (Real estate valued at greater than \$50,000 will only be considered.)
5. When appropriate, the constituent will be required to provide an abstract of title and commitment of a title insurance company to insure the title at ordinary rates as a condition of AKF accepting the proposed conveyance of the real estate.
6. The cost of title insurance as a general rule shall be borne by the constituent.
7. Prior to acceptance of the real property, the gift shall be approved by the Gift Acceptance Committee and by AKF's legal counsel.
8. In connection with all real estate gifts, AKF shall use a written donation agreement, bargain sale agreement, remainder interest agreement or similar instrument appropriate to the type of real estate and nature of transaction.
9. The agreement shall allow a reasonable right of inspection by AKF of both the real estate and records related thereto prior to the final decision to take title to the real property. The agreement shall require the prospective contributor to warrant the constituent fully has disclosed all information known by the constituent with regard to the property. Other warranties may be required depending on the nature of the transaction.
  
10. Criteria for acceptance shall include:
  - a) Marketability of the property;
  - b) Restrictions, reservations, easements, or other limitations associated with the property;
  - c) Carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property;
  - d) Environmental audit disclosures;
  - e) Adverse tax implications;
  - f) Potential for premises liability, e.g. injuries to tenants and invitees;
  - g) Building code, zoning, ADA, or other regulatory issues to consider.

**M. Remainder Interests in Property**

1. AKF will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of Section L above.
2. Where AKF receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the contributor or primary beneficiary.
3. A written agreement must be used which will set forth the continuing obligations of the contributor during the period of the contributor's life estate and will require that AKF be named as an



additional insured on policies of insurance related to the property (i.e., premises liability and fire and extended hazard insurance).

**N. Bargain Sales**

1. All bargain sales must be reviewed by the Gift Acceptance Committee which will make a recommendation for consideration to the Executive Committee. A bargain sale is defined as a sale to AKF of property at price below fair market value. While rare such a transaction can make sense for AKF and meet the financial goals of the donor.
2. Factors used in determining the appropriateness of the transaction include:
  - a) AKF must obtain an independent appraisal substantiating the value of the property.
  - b) If AKF assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - c) AKF must determine that it will use the property, or that there is a market for the property allowing sale within 12 months of receipt.
  - d) AKF must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.

**O. Oil, Gas, and Mineral Interests**

1. AKF may accept oil, gas, and mineral interests, when appropriate.
2. Prior to acceptance of oil, gas, and mineral interests, the Gift Acceptance Committee and AKF's legal counsel shall approve the gift.
3. Criteria for acceptance shall include the following:
  - a) Gifts of surface rights should have a value of \$10,000 or greater;
  - b) Gifts of oil, gas, and mineral interests should generate at least \$2,000 per year in royalties or other income (as determined by the average of the three years prior to the gift);
  - c) The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate; and
  - d) A working interest is rarely accepted. A working interest will only be accepted if the Gift Acceptance Committee, advised by counsel, determines there is sufficient plan to minimize potential liability and any adverse tax consequences.

**P. Pledges**

A pledge is a commitment to give a specific dollar amount according to a fixed time schedule. The following minimum information must exist to substantiate a pledge:

1. The amount of the pledge must be clearly specified.
2. There must be a clearly defined payment schedule.

3. The contributor may not proscribe contingencies or conditions.
4. The evidence of the pledge should include words such as “promise”, “agree”, “will”, “binding”, legal” and
5. The contributor must be considered financially capable of making the gift.

**Q. Donated Services**

AKF is grateful for the donation of services. AKF could not provide its important services to kidney patients without the generous help of its many volunteers. There is no tax deduction for the donation of one's services. However, financial accounting rules permit AKF to record the value of services which produce a tangible result or require specialized skill as an "in-kind" donation.

**X. Miscellaneous Provisions**

- A. It is the responsibility of the constituent to secure an appraisal (where required) and secure review by independent legal counsel. These expenses shall be at the sole expense of the constituent.
- B. AKF will record a gift received by AKF at its valuation for gift purposes on the date of gift.
- C. AKF will file IRS Form 8282 upon the sale or disposition of any asset sold within three (3) years of receipt by AKF when the contributor has provided an IRS Form 8283 (Appraisal Summary) to AKF. Acknowledgment of all gifts shall be given by AKF to the contributor in compliance with IRS requirements.

**XI. Changes to Gift Acceptance Policies**

These policies have been adopted by the Board of Trustees.

The Gift Acceptance Committee shall be responsible for interpretations of the policies and for making recommendations for changes to the Executive Committee of the Board of Trustees.

Approved on \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
(Authorized Signature)

**Appendices**

- I. Model Standards of Practice of the Charitable Gift Planner
- II. National Society of Fundraising Executives Donor Bill of Rights
- III. Guiding Principles in Corporate Relationships
- IV. Environmental Impact Review Forms