

# **Gift Acceptance Policy**

The Foodbank, Inc.

## **Mission**

The Foodbank, Inc. is a 501(c)(3) nonprofit organization under the laws of Ohio. Its mission is to relieve hunger in the community through a network of partner agencies by acquiring and distributing food.

## **Purpose**

The Foodbank encourages planned and deferred gifts from individuals, corporations, and foundations to further the mission of the organization. The following policies serve to direct the acceptance of gifts to the organization and provide guidance to potential donors.

The Gift Acceptance Policy will apply to all gifts to The Foodbank. Any deviations from or exceptions to the policy must be approved by the Board of Directors and Chief Executive Officer.

While The Foodbank appreciates all support, some donations could expose the organization to undesirable costs, liabilities, or other problems. To avoid these concerns, the organization will review all gifts that are not cash or certain types of in-kind donations, such as food. The decision to accept or refuse a gift is made by the CEO and Board of Directors.

The Foodbank retains the right to refuse any gift.

## **Donor Rights**

The Foodbank will make every appropriate effort to protect the rights and interests of donors. Employees of The Foodbank involved with the solicitation or administration of gifts will be paid a fixed salary or hourly rate. They will not be paid a commission or other form of incentive for obtaining gifts. The Foodbank follows the Model Standards of Practice of the Charitable Gift Planner, included in attachment I.

In the absence of written consent of the donor, The Foodbank will maintain confidentiality of all donor information to the extent allowable. If such consent is given, donors will receive appropriate acknowledgement and recognition of gifts as approved by The Foodbank.

The Foodbank may be required to disclose some donor information when it is requested in gift applications, needed for bank credit transactions, or required by law. In these circumstances, The Foodbank may not be able to obtain the donor's prior consent.

Further information regarding donor privacy may be found in attachment II, The Foodbank's Donor Privacy Policy.

The Foodbank will make every reasonable effort to administer the gift in accordance with the donor's wishes, but this may not be possible under every circumstance. If the program the gift is restricted to no longer exists or another such issue arises, the organization will redirect the funding to other operations as appropriate. If they desire, donors can expect updates on the status and impact of their gift. The organization welcomes feedback, but providing a gift does not allow a donor any real oversight of The Foodbank's operations.

The Foodbank will follow the Association of Fundraising Professionals Donor Bill of Rights, included in Attachment III, which provides further definition of rights due to donors.

### **Legal Counsel**

The Foodbank will consult the advice of legal counsel prior to the acceptance of gifts when appropriate. The expense of this counsel will be the responsibility of the organization. In particular, The Foodbank will seek legal counsel to review:

- Stock transfers subject to buy-sell agreements or other restrictions,
- Any transfer of real estate,
- All gifts that involve contracts or other legal agreements,
- Any agreement that would designate The Foodbank as a trustee,
- Transactions that may invoke a conflict of interest,
- Any gifts which require The Foodbank to assume an obligation or make payments,
- And other instances deemed appropriate by The Foodbank

All prospective donors are strongly encouraged to seek their own legal or financial advice prior to issuing a donation. Employees of The Foodbank cannot provide legal counsel to donors, and Foodbank employees are prohibited from providing donors advice regarding the tax consequences of their donations. The organization also cannot pay for a donor's legal or financial counsel.

### **Acceptable and Unacceptable Gifts**

The Foodbank encourages donors to make unrestricted donations, which allow the organization to redirect funds where they are most needed over time. If the donor wishes to issue a donation to a particular program, they may do so if the program already exists. Donations to programs that do not already exist or are outside of the scope of The Foodbank's mission may be rejected.

While The Foodbank is grateful for all donations, gifts that do not further the organization's mission will not be accepted. The following gifts will generally not be accepted, or will require prior review before being accepted:

1. Transactions that would be in violation of the organization's Articles of Incorporation or could create negative legal consequences
2. Gifts that are too restrictive or too difficult to administer
3. Gifts with high associated costs, such as insurance or property tax, which may outweigh the value of the gift
4. Donations or arrangements that The Foodbank cannot use for its food relief programming or general operations, such as personal property that would need to be resold
5. Gifts that could damage The Foodbank's reputation

The Foodbank reserves the right to refuse any gift. All gifts, except for cash donations and in-kind donations of certain types are subject to review by the Chief Executive Officer and the Board of Directors.

The following gifts may be accepted:

1. Cash
2. Personal property
3. Publicly traded securities
4. Closely held securities
5. Real estate
6. Remainder interests
7. Oil, gas, and mineral interests
8. Bargain sales
9. Life insurance policies
10. Retirement plan beneficiary designations
11. Life insurance plan beneficiary designations
12. Charitable gift annuities
13. Charitable remainder trusts
14. Charitable lead trusts
15. Bequests

The following guidelines oversee the acceptance of these specific types of gifts.

1. **Cash:** Donations of cash are acceptable in any form. Checks must be payable to The Foodbank and never any individual employee. There is no minimum cash donation.
2. **Personal Property:** The Foodbank encourages in-kind donations that may be used to provide for the hunger-relief aspect of the organization's mission, such as gifts that can store, transport, or distribute food, or otherwise assist in those operations. Donations of food are always accepted unless the food poses a potential safety hazard, such as food that has been stored at an unsafe temperature.

In keeping with IRS guidelines, in-kind donations may be subject to an independent appraisal before they are recorded for tax deduction purposes, the cost of which will be the responsibility of the donor. The gift will be recorded at the value determined by independent appraisal.

The organization encourages the donation of gifts that can be used as part of The Foodbank's hunger relief programs or general operating. Gifts the organization cannot use, which would have to be resold, will generally not be accepted.

Other considerations for this kind of gift include:

- a. Whether the gift comes with undue restrictions, such as limitations on the display or use of the property, which would make the gift less usable to The Foodbank
- b. Costs associated with the gift, such as insurance or liabilities, which may outweigh the benefit or value of the property

The Foodbank does generally accept gifts of live animals that may be used for food. The organization typically will not accept gifts of other live animals, personal vehicles, airplanes, or boats.

3. **Publicly Traded Securities:** Readily marketable securities are acceptable. Unless the CEO and Board of Directors decides otherwise, securities received will be sold as quickly as possible. Securities will be valued at the average high and low on the date of the gift for the purpose of crediting and accounting purposes.
4. **Closely Held Securities:** Closely held securities are subject to the approval of the CEO and Board of Directors, as well as review by legal counsel. Gifts must fit the criteria that:
  - a. There are no restrictions on the security that would prevent its conversion to cash.

- b. The security is marketable.
  - c. The security would not generate undesirable tax consequences for the organization.
5. **Real Estate:** The Foodbank may accept gifts of real estate, particularly if the property is useful to the purposes of the organization. The organization does not typically accept gifts of real estate that are not usable for the organization's hunger relief programs, such as personal homes or other property that would have to be resold. Gifts the organization cannot use will generally not be accepted.

The Foodbank will seek independent appraisal of the real estate prior to acceptance. The organization will also require an environmental review of the property prior to the acceptance of the property. The Foodbank may require title insurance before accepting real estate. The cost of the independent appraisal, the environmental review, title insurance, and other such expenses will be the responsibility of the donor in most cases.

Other considerations regarding donations of real estate include:

- a. Any restrictions, reservations, easements, or other limitations on the property
  - b. Carrying costs, including insurance, taxes, mortgages, and other costs
  - c. Concerns raised in the property's environmental review
6. **Remainder Interests:** The Foodbank may accept remainder interests in real estate if the property furthers the mission of the organization. Occupants will retain ownership of the property for the duration of their stated life. In the event that there is indebtedness associated with the property, the payment of debts will be the responsibility of the donor or donor's estate. Acceptance of gifts of remainder interests will be subject to the same considerations as real estate.
7. **Oil, Gas, and Mineral Interests:** The Foodbank may accept oil and gas property interests, where appropriate. All gifts of oil and gas interests are subject to approval by the CEO and the Board of Directors, as well as the consultation of legal counsel. These gifts are also subject to an environmental review, which should be obtained at the cost of the donor.

Considerations of acceptance for these interests include:

- a. Gifts of surface rights should be valued at \$20,000 or greater.
  - b. Gifts of oil, gas, and mineral interests should generate at least \$3,000 in yearly royalties or other income. The yearly income will be determined by the average of the three years prior to the gift.
  - c. There should not be any extended liabilities associated with the gift.
  - d. The donation should not require The Foodbank to issue payments or assume any other obligation, except under special circumstances.
  - e. There should not be any environmental liability discovered in the environmental review.
- 8. Bargain Sales:** When such a sale would further the mission and purposes of The Foodbank, the organization may enter into a bargain sale after approval by the CEO and Board of Directors. The Foodbank will require an independent appraisal of the property prior to acceptance of a bargain sale arrangement. Considerations for the acceptance of these arrangements include:
- a. The usability of the property
  - b. Any debt associated with the property
  - c. Carrying costs, such as necessary insurance
  - d. Potential tax ramifications
- 9. Life Insurance:** The Foodbank may accept gifts of donors' life insurance policies. The organization must be named owner and beneficiary of an insurance policy before the gift can be recorded. These gifts will be recognized at the interpolated terminal reserve value if ongoing premiums are required. Future premium payments will be recorded as gifts the year they are made.

In the event that the donor does not make future premium payments, The Foodbank may:

- a. Make the future payments
- b. Convert the policy to fully paid life insurance

c. Surrender the policy for its current cash value

10. **Retirement Plan Beneficiary Designation:** The Foodbank encourages donors to name the organization as a beneficiary or contingent beneficiary of their retirement plan. The gift will not be recorded until the designation becomes irrevocable, regardless of the date the gift is due.

11. **Life Insurance Beneficiary Designations:** The Foodbank encourages donors to name the organization as a beneficiary or contingent beneficiary of their retirement plan. The gift will not be recorded until the designation becomes irrevocable, regardless of the date the gift is due.

12. **Charitable Gift Annuities:** The Foodbank may offer charitable gift annuities, given certain conditions. The gift of funding should be \$5,000 or greater and the minimum age for beneficiaries is 55. If a deferred gift annuity is offered, the minimum age for beneficiaries will be 45. No more than two life income beneficiaries can be permitted for any gift annuity. Gift annuities that do not meet the above constraints may still be accepted at the discretion of the CEO and Board of Directors.

The Foodbank will not accept any illiquid asset in exchange for current gift annuities. On occasion, the Foodbank may accept real estate, tangible personal property, or other such assets in exchange for a deferred gift annuity if it is at least 5 years in advance of the payment date.

13. **Charitable Remainder Trust:** The Foodbank may accept designation as a beneficiary of a charitable remainder trust. The organization will not typically accept an appointment as trustee unless the appointment is approved by the CEO and Board of Directors.

14. **Charitable Lead Trusts:** The Foodbank may accept designation as a beneficiary of a charitable lead trust. The organization will not typically accept an appointment as trustee unless the appointment is approved by the CEO and Board of Directors.

15. **Bequests:** Bequests to The Foodbank are encouraged and welcomed. Bequests will not be recorded as gifts until the time they become irrevocable, regardless of if the gift is due at a date later than the time it becomes irrevocable.

### **Additional Provisions**

Some gifts require an independent appraisal before they may be recorded for a tax deduction. In these cases, securing and funding this appraisal is the responsibility of the donor. The Foodbank may also require other forms of review of a donation before its acceptance, such as environmental surveys or additional appraisals, the cost of which will generally be the expense of the donor. The compensation of any independent professional will be based on the time spent reviewing the gift, never its appraised value. The donor will not be asked to fund any legal counsel sought on behalf of The Foodbank.

The Board of Directors will be responsible for the acknowledgement of gifts to The Foodbank in compliance with current IRS requirements. Gifts will be valued in the manner directed by the IRS. More information regarding the valuation of gifts can be found in IRS Publication 561.

These policies and guidelines have been reviewed and accepted by The Foodbank's Chief Executive Officer and Board of Directors. The CEO and Board of Directors must approve any changes to or deviations from the policy.



