

## **Chapter 11: Fundraising and Charitable Gift Acceptance Guidelines**

### **Canonical Overview**

The Archdiocesan Charitable Gift Acceptance Guidelines are established to ensure the proper stewardship procedures over the acceptance and valuation of all charitable contributions to the Archdiocese, its ecclesiastical related organizations and/or the parishes within the territory of the Archdiocese pursuant to canon law. On November 13, 2002, the USCCB approved the implementation of Canon 1262 for the dioceses of the United States. The action was ratified by the Holy See on May 2, 2007 and is now incorporated in the particular law of the Archdiocese.

In accordance with the provisions of Canon 1262, the following general norms shall govern fundraising appeals to the faithful for Church support.

- Fundraising appeals are to be truthful and forthright, theologically sound and should strive to motivate the faithful to a great love of God and neighbor.
- Fundraising efforts are to be for defined needs.
- The relationship of trust between donor and fundraiser requires that
  - Fund collected be used for their intended purposes;
  - Funds collected are not absorbed by excessive fundraising costs.
- Donors are to be informed regarding the use of donated funds and assured that any restricts on the use of the funds by the donor will be honored.

Canon 1262 addresses the competent Ecclesiastical Authority as follows:

- Institutes of consecrated life and societies of apostolic life require approval of the respective competent major superiors and the Archbishop to solicit funds; diocesan entities require approval of the Archbishop to solicit funds; other public juridic persons and Catholic organizations require the approval of the Archbishop to solicit funds.
- Approval for fundraising by the Archbishop is to be given in writing with reference to the purpose for which the funds are being raised, the time frame, and the methods to be used in raising them.
- Oversight of fundraising programs is to be maintained by competent authority through periodic review and, where necessary, appropriate sanction.

- Competent major superiors of institutes of consecrated life and societies of apostolic life are to submit to the Archbishop of the place where the fundraising originates, periodic reports on the fundraising programs and the apostolic activities they support.

### **Purpose**

The following Guidelines state the specific procedures for implementation of Canon 1262 and for the proper handling of gifts. While gifts to The Catholic Foundation, Seeds of Hope, Catholic Charities, and Archdiocesan Housing Committee, Inc. and/or other related ecclesiastical organizations are governed by Canon 1262, these entities also maintain specific policies and guidelines for their respective organizations. The primary function of the accompanying policies and procedures is to preserve the donor's charitable intentions.

The Archdiocese highly encourages donors to review current Internal Revenue Service regulations that govern charitable contributions. Additionally, the Archdiocese highly encourages donors to review their charitable intent with legal and/or accounting professionals prior to presenting their gift.

Confidentiality: The Archdiocese or recipient organization are to use reasonable efforts to keep all information concerning donors or prospective donors, including their names, the names of their beneficiaries, the amount of the gift, size of the estate, etc., strictly confidential whenever desired by the donor. Donor information should not be released unless written permission is obtained from the donor or estate to release such information and/or pursuant to a court order.

#### 11.1. **Administrative Authority**

The Office of FAP, Moderator of the Curia and the CFO have the administrative authority of the Archbishop in all programs of fundraising and support pertaining to ecclesiastical related organizations. The Office of FAP and/or the Management Corporation is to be of assistance to individuals, parishes, schools and other Catholic institutions within the territory of the Archdiocese.

11.1.1. Each Archdiocesan office and/or department must annually submit their capital fundraising programs above \$5,000.00 for review and approval to the Moderator of the Curia or CFO of the Archdiocese.

11.1.2. Each parish or related ecclesiastical organization must annually submit their fundraising programs above \$300,000.00 for review and approval to the Moderator of the Curia or CFO/President of the Management Corporation.

11.1.3. Although the generosity of parishioners enables parishes and missions to provide varied services, there are some services, ministries and initiatives that must be organized and financed by the Archdiocese. Since 1967, the Archbishop's Catholic Appeal (ACA) has become a primary means to fund an array of Archdiocesan ministries, enabling

them to deliver corporal and spiritual works of mercy. The ACA is organized and managed by the Moderator of the Curia and his staff.

11.1.4. It shall be the responsibility of the Moderator of the Curia or the CFO, on behalf of the Archbishop, to coordinate with the Archdiocese, the parishes within its territory and its related ecclesiastical organizations all types of fund raising programs and the solicitation of funds/grants from private individuals, foundations, businesses, corporations, and organizations in order to avoid an excessive number of solicitations in the name of the Archdiocese. Other Catholic organizations may collaborate in the coordination of these fund raising programs as deemed advisable by the organizations' governing boards. Programs to be staffed and coordinated may include:

11.1.4.1. Plans to raise funds from parishioners/donors on an annual basis.

11.1.4.2. Establishment of an "associates," "friends," or "membership" program designed to solicit financial support.

11.1.4.3. Special fund raising efforts appealing to various constituencies regarding scholarships, memorial funds, aid programs, endowed chairs, etc.

11.1.4.4. Plans to raise private funds for construction, expansion, or renovation.

11.1.4.5. Requests to private sources for grant funding of new or existing programs.

11.1.4.6. All other Archdiocesan programs to raise funds in the private sector.

11.1.5. In order to clarify the intention of the donors, the Office of FAP has the responsibility of seeking clarification regarding unclear language in wills, trusts, foundations and other legal documents. Should donations or grants with conditions be proposed, the Office of FAP will assist in formulating clear language, in studying the conditions proposed and in advising the Archbishop or his designee, whether the acceptance of a donation or grant is appropriate.

11.1.6. The Archdiocese, its ecclesiastical related organizations and parishes within its territory shall not engage in offering legal or tax advice to donors or gift prospects. Donors and prospects shall be urged to contact their own professional advisors.

11.1.7. As a general rule, a bequest or trust distribution to a parish or school now closed or to an inactive organization related to the Archdiocese, shall be directed to the Archbishop for use in a manner best meeting the intention of the donor and consistent with the principles of Canon Law.

11.1.8. Ultimately, the Office of FAP and the parishes will be responsible for any donation their respective organizations receive, to:

11.1.8.1. Provide written acknowledgment of contributions to those individuals and organizations that contribute in fundraising and capital campaigns. The amount of the contribution should be accurately indicated.

11.1.8.2. Where the payment of funds or goods is a partial contribution and a partial reimbursement, the true value of the contribution should be stated. The Office of FAP and the Director for Parish Finance are available to assist parishes within the territory of the Archdiocese in formulating acknowledgments of contributions that are in accordance with guidelines issued by the IRS.

11.1.8.3. All donations in funds, grants, services or talents are to be given without the expectation of procuring a financial or individualized benefit in any program offered by the Archdiocese, parishes or related ecclesiastical organizations of the Archdiocese.

11.2. **Gift Acceptance Provisions for the Archdiocese, Related Ecclesiastical Organizations and Parishes within the Territory of the Archdiocese**

Gift Acceptance Provisions: All gifts to the Archdiocese, its related ecclesiastical organizations and parishes must be properly accepted. After properly recording and confirming the charitable donation, gifts may then be sold, transferred and/or otherwise invested or reinvested by the appropriate Archdiocesan organization. No donor shall hold the Archdiocese, parish, or members of any of their respective committees liable as individuals.

No Archdiocesan related ecclesiastical organization and/or parish employee may enter into any legal contract or agreement with any individual or institution on behalf of the Archdiocese without written approval of the Archbishop or his designee. Parishes will be immediately informed if a gift is received by the Archdiocese for the benefit of any specific parish(es).

11.2.1. *Types of Gifts:* Acceptance of gifts of cash, securities, real estate, property, equipment, insurance, annuities, terminal trusts, revocable trusts, etc. are subject to the approval of the Archbishop, his designee, or the Parish Pastor in certain situations. Both unrestricted and restricted gifts must meet the guidelines which follow. All gifts must be properly received, and if deemed necessary by these Guidelines, receive the approval of the appropriate finance council (parish or Archdiocesan) and, if applicable, the Archdiocese Investment Committee.

11.2.1.1. Acceptance of certain types of gifts can result in complicated transactions with potential or real liability. Therefore, ecclesiastical related organizations or parishes receiving gifts of real estate, property, equipment, insurance, annuities, terminal trusts, revocable trusts, etc. are subject to the approval of the Archbishop or his designee.

11.2.2. *Unrestricted Gifts:* Unrestricted gifts are those whose net annual income, as well as principal or the principal to the extent authorized by the terms of the gift, can be used at the discretion of the Archbishop, the Parish Pastor or Officer of a related ecclesiastical organization.

The Archdiocese will accept all gifts of cash or property, which can be liquidated into cash unless any such gift would result in a potential liability to the Archdiocese and/or Trust or would be in violation of any standards or policies of the Archdiocese. Any gift to the Archdiocese about which there might be a question as to acceptability shall be referred to the appropriate committee (i.e. Investment, Accounting, or Real Estate) of the AFC. Any Archdiocesan gift about which there is a question regarding the acceptability shall be referred to the Executive Committee of the AFC. Any Parish gift, in which there is a questions of acceptability shall be referred to its Parish Finance Council, the CFO of the Archdiocese and/or the Office of Parish Finance for appropriate consultation.

11.2.3. *Restricted Gifts:* The Archdiocese, related ecclesiastical organizations and parishes within the territory of the Archdiocese, reserves the right to accept or refuse any gift. Restricted gifts for programs outside of a parish/school institution must earn sufficient net annual income, if required, to cover any investment and/or administrative costs. All gifts, pooled funds or trusts from donors or institutions must benefit either the Archdiocese, its related ecclesiastical organizations or a parish. Parishes may not accept any restricted gift for the benefit of other entities or non-parish purposes without permission of the Archbishop or his designee. This does not apply to second collections approved by the Archbishop or small charitable appeals approved by the pastor and initiated by the parish.

Acceptance of a restricted gift imposes an obligation to comply with the terms established by the donor. Therefore, it is necessary that the nature and extent of this obligation be clearly understood. For this reason, the terms of each restricted gift will be reviewed with utmost care to ensure that they do not hamper the usefulness and desirability of the gift to the Archdiocese, parish or related ecclesiastical organization. If a gift is deemed unacceptable because of the restrictions the donor has placed on its use, the donor will be informed immediately and provided with the opportunity to remove and/or modify the identified restriction(s) or revoke the gift.

11.2. 4. *Unacceptable Gifts:* After consultation with the Archbishop, the Moderator of the Curia and/or the CFO, the Archdiocese, a related ecclesiastical organization or a parish receiving a gift may refuse or return a gift when it:

11.2.4.1. Is inappropriate or not conducive to the best interests of the mission or ministry of the Archdiocese, parish, related ecclesiastical organization and/or trust.

11.2.4.2. Is known or suspected to be from an illegal source.

11.2.4.3. Is a commercial endeavor.

11.2.4.4. Would obligate the parish, the Archdiocese or a related ecclesiastical organization to undertake responsibilities, financial or otherwise, which it may not be capable of meeting for the period required by the terms of the gift.

11.2.4.5. Creates excessive administrative, recording, tracking, or reporting procedures for the Archdiocese, parish and/or related ecclesiastical organization.

11.2.4.6. Ordinarily mortgaged property will not be accepted as an outright gift; however, exceptions may be made when the property has sufficient equity to justify assumption of the liability and the property is marketable.

### 11.3. **Receiving Gifts in Kind**

Gifts-in-kind, securities, real estate, property, equipment, works of art, furniture, antiques, automobiles, jewelry, miscellaneous personal property, etc., should be reviewed with special care to ensure that acceptance will not involve financial commitments disproportionate to the usefulness of the gift. Consideration will be given to the cost of maintenance, cataloging, delivery, insurance, display, liquidation, and/or any space requirements for exhibition or storage.

11.3.1. *Appraisals:* When gifts-in-kind are given to the Archdiocese, a related ecclesiastical organization or parish, it shall be the responsibility of the donor to obtain an appraisal of the gift for tax purposes. The Archdiocese, a related ecclesiastical organization or parish shall not become involved in the appraisal process other than for internal valuation and accounting purposes. Direct involvement in securing appraisals could result in the appraisal's accuracy and objectivity being challenged by the Internal Revenue Service. It is in the donor's best interest that the Archdiocese neither provide directly nor be responsible for securing the services of appraisers in connection with gifts to the Archdiocese.

11.3.2. *Documents to be Submitted:* Documentation regarding all prospective gifts-in-kind should be initially submitted to the Office of FAP or the appropriate officer of the Archdiocese ( Moderator of the Curia, CFO) for review and processing. Original documents will be forwarded to the Controller of the Archdiocese for recording and receipting purposes. Copies of all documentation will be on file with the Office of FAP, as required by law. Subsequently, all gifts-in-kind to the Archdiocese, parish, related ecclesiastical organization will be documented, verified, inventoried and become the legal property of the respective donee (the Archdiocese, parish or related organization) pursuant to the Donor's intentions.

### 11.4. **Receiving Gifts of Securities**

Gifts of marketable securities will be accepted by the Archdiocese, a parish or related ecclesiastical organizations. Generally, all gifts of securities, including bonds, will be liquidated immediately and the revenue will be deposited in the proper account in accordance with the donor's wishes. Parish receipt of marketable securities should be reviewed by the parish finance council.

11.4.1. *Taxes:* Tax substantiation verification is to be determined on the date that the wire transfer is received at the Archdiocesan brokerage firm or the date the actual securities are received by the Archdiocese, parish or related ecclesiastical organizations. The CFO or his designee of the Archdiocese will communicate with all donors who wish to donate securities to the Archdiocese.

11.4.2. *Limitations of Acceptance:* The Archdiocese discourages parishes from establishing brokerage accounts. The reason for this policy is that it is difficult to monitor,

control, record, and track activity and to ensure all required tax substantiation verification letters are sent in a timely manner. The Office of FAP can assist parishes in liquidating such securities (Ref: 11.4.4.1.).

11.4. 3. *Procedure for Partial Stock Donations:* If the security (stock certificate) donated to the Archdiocese is issued for more shares than the donor wishes to donate, the Archdiocesan broker will re-issue a stock certificate for the remaining shares (for a nominal fee paid by the donor) back to the donor by forwarding the appropriate documentation (Accommodation Transfer Authorization) and a signed letter from the donor stating the intent to the attention of the CFO of the Archdiocese.

11.4. 4. The donor can:

11.4.4.1. Wire transfer securities from the donors broker to the Archdiocesan broker. The donor must provide the Office of FAP, and/or the parish with a signed letter stating the name and quantity of the securities donated and the designation of their donation.

11.4.4.2. In the alternative, the donor may forward the original security (stock certificate) and appropriate paperwork to the Office of FAP – attention CFO. Parishes should encourage donors to avoid using certificates to donate stock and use a broker to transfer shares (if a parish does not have a brokerage account, a parish may utilize the Archdiocese’s broker if more convenient).

11.4.5. *Acknowledgment of Gift:* The Office of FAP and the CFO of the Archdiocese, the pastor of the parishes or officer of a related ecclesiastical organizations must require the following documentation from a donor:

11.4.5.1. A signed letter from the donor stating the name and quantity of the securities donated and the designation of their donation, or stating specific donor restrictions and the amounts for each.

11.4.5.2. A limited stock power and Third Party Release signed by the donor (signature guaranteed by an authorized banking institution), if the stock is in the donor’s name.

11.4.5.3. All documentation relating to a security donation is forwarded to the Office of FAP for the Archdiocese or to the parish (if the parish has a brokerage account) for the liquidation process to begin. The documentation should include the following:

- a. Original stock certificate;
- b. Signed letter from the donor;
- c. Limited stock power (signature guaranteed by an authorized banking institution), if the security (stock) is not in the name of the Archdiocese; and
- d. Copy of the thank you letter of acknowledgment and tax substantiation form/receipt.

11.4.6. The Office of FAP or the applicable Director/Officer of the Archdiocese prepares all documentation for the signature of the Archbishop or his designee, with all the executed documents maintained in the Office of FAP. After liquidation of the stocks, all checks and documents related to the sale are returned to the Office of FAP to avoid the transfer fees and to ensure there is closure on the transaction. The checks are coded by the Controller and delivered immediately to Accounts Receivable. A tax substantiation letter and an acknowledgment by the Archbishop are sent from the Office of FAP to the donor for tax purposes, if the gift's value is over \$250.00. A copy of the check is sent to the department receiving benefit from the donation to communicate the completion of the transaction.

11.4.7. *Safeguarding the Valuation of Securities:* Securities should be transferred in such manner that the donor and the Office of FAP, the applicable Director/Officer of the Archdiocese and/or the parish pastor sign specific documentation verifying date of actual transfer. The valuation of the securities will be equated as the average between the "high" and "low" trading price on the date of receipt of the securities by the Archdiocese or the parish.

11.4.8. *Readily Marketable Securities:* Readily marketable securities are handled in the following manner:

11.4.8.1. The securities may be sold through the Archdiocese's trust broker, or an Archdiocesan approved trust broker on the open market (in special cases only).

11.4.8.2. If the number of shares involved is sufficient to have a depressing impact on the price of the stock, in the opinion of the Investment Committee of the AFC, the sale may be extended over a period of time necessary to avoid such an impact. Parishes would consult their finance councils.

Stock controlled under Securities and Exchange Commission Rule 144 will be held until the restriction on the sale expires and will immediately be sold in the same manner as stipulated above.

11.4.9. *Non-readily Marketable Securities:* Careful consideration will be given to the acceptance of gifts of securities that are not readily marketable or gifts of closely-held corporate stock and/or limited partnership interests. It is important to ensure that the donee assumes no liability in receiving such securities and that such property can be sold within a reasonable time period. If accepted, these will be carried on the applicable donee's books (Archdiocese, related ecclesiastical organization or Parish) at \$1.00 in the absence of financial information that would enable the accurate determination of fair market value. Such securities will be carried at the fair market value only when complete financial statements are provided to the Archdiocese, its related ecclesiastical organization or parish and a fair market value is established.

Note: If material, the Investment Committee of the AFC or the Parish Finance Council, prior to acceptance, must review securities that are not readily marketable and are without readily

available market(s). Generally, parishes should not accept closely or privately held stock without prior consultation with the Office of Parish Finance.

11.4.10. *Non-acceptable Gifts of Securities:* Securities that will not be accepted include:

11.4.10.1. Securities that are assessable or in any way could create a liability to the donee (Archdiocese, its ecclesiastical related organizations or Parishes).

11.4.10.2. Securities that transfer an ownership interest that may convey a liability to the donee (the Archdiocese, its ecclesiastical related organizations or Parish).

11.4.10.3. Securities that, by their nature, may not be assigned, transferred/conveyed to another party (Such as series "E" savings bonds).

11.4.10.4. Securities that, upon investigation, have no apparent value.

## 11.5. **Receiving Gifts of Real Estate**

As part of its overall strategy for financial resource development, the Archdiocese encourages gifts of real property (real estate, e.g. land and/or buildings) and interests in real property either for its use or for eventual resale. Whenever a donor wishes to contribute real property or an interest in real property to the Archdiocese or to the Archdiocese for the benefit of a parish or a related organization, the Director of Real Estate of the Archdiocese, with the assistance of the outside counsel and other real estate professionals, as needed, shall consider all the facts and circumstances and these guidelines in determining whether to recommend accepting the gift. Parishes may not accept gifts of real estate or real property without the approval of the Archbishop or his designee (Ref: Chapter 8). Only after consultation with the Archbishop will the Moderator of the Curia and/or the CFO accept such gifts.

These guidelines apply to all real property and interests in real property (such as a remainder interest in a personal residence). They apply to all gifts of such interests, and bargain sales of such interests (where the seller offers the interest to the Archdiocese at a price less than the fair market value).

11.5.1. The following issues must be addressed in reviewing the possible acquisition of real estate covered under this policy:

11.5.1.1. *The Value and Marketability of the Property:* When acquisition of a property is part of a gift or bargain sale transaction, the donor or seller is responsible for obtaining appropriate evidence of value for gift substantiation purposes.

11.5.1.2. *Carrying Charges of the Property:* In all cases, the property will have certain carrying charges. These could include taxes, sewer fees, condo fees, insurance, and other liabilities. The total of these expenses must be carefully reviewed as one of the criteria for approval.

Arrangements may be made by the prospective donor to cover these carrying charges.

11.5.1.3. *Environmental Aspects of the Property:* Because of strict liability imposed for certain environmental conditions and the potential costs associated with a required environmental cleanup or remediation, an environmental review must be conducted in accordance with these guidelines. The scope of such review will depend upon the type and condition of the property. The donor may be required to pay for the environmental impact review.

11.5.1.4. *Legal and Tax Aspects of the Property:* In order to assure that the donor/seller is permitted and authorized to sell or donate the property, the Director of Real Estate will obtain such information as may be necessary from the donor/seller or from public records to make such a determination. This includes title information. Federal, state or local laws, regulations, ordinances or zoning or tax requirements must also be reviewed. In the case of income-producing properties, questions of unrelated business income must also be addressed.

11.5.1.5. *Insurance and Protection Against Liability:* All issues regarding property and liability insurance must be researched and resolved.

11.5.1.6. *Suitability of the Property:* The property should be evaluated to determine that the ownership of the property interest by the Archdiocese will be consistent with the mission of the Archdiocese.

11.5.2. *Information Required:* In order to conduct the review required to make a determination whether to acquire real property, the following information shall be obtained by the Archdiocese. To the extent feasible, such information shall be obtained from the prospective donor/seller to assist in the evaluation.

11.5.2.1. In the initial stages of review, the Director of Real Estate shall obtain, if possible, the following:

- a. As applicable, any site plans, building plans, and other descriptive information relating to the property and improvements.
- b. As applicable, any prior environmental assessments and appraisal reports, market studies or descriptive information that could include a summary of any outstanding agreements that could survive closing, transfer or service contracts, listing agreements or the like. Appropriate evidence of value will be submitted to the Archdiocese when the prospective donor obtains it for gift substantiation purposes.
- c. Zoning information, including whether any existing or proposed use violates zoning provisions.
- d. An ownership and encumbrance report from a title company.

- e. In the case of commercial property, the rent roll showing leases and amendments, commencement and expiration dates, rents, and pro rata shares actually being collected and security deposits being held.
- f. If the proposed gift is of an undivided interest in the real property, a copy of any tenants-in-common or other agreement, together with all amendments, which may affect the ownership of such real property.
- g. If the proposed gift is a partnership interest, a copy of the current partnership agreement or business formation agreement, together with all amendments, and evidence that all required filings have been made at the Federal level and with the state in which the partnership or business was organized.
- h. Where applicable, documents are required demonstrating that the donor has the authority to transfer all or a partial interest of the real property, or interest in real property or partnership business interest, to the Archdiocese, parish and/or related organization without the consent of any other party. If other such consents have been given, information relating to any restrictions on the ability of the Archdiocese, parish or related organization to sell the property will be required.
- i. Copies of any current leases of the property together with all tenant information.

11.5.2.2. If the preliminary review is favorable, the Director of Real Estate shall obtain the following information:

- a. Complete legal description and property identification.
- b. Title commitment to issue an owner's policy of title insurance, with copies of all documents that constitute exceptions to title.
- c. Current real estate assessment notice and evidence of payment of current real estate taxes.
- d. Evidence of all insurance policies currently in effect, including a description of coverage (certificate of insurance and declaration pages of policies indicating coverage may be used). The amount of annual premiums due with respect to such policies shall also be included.

11.5.3. *Physical Inspections:* Prior to accepting any gift of real property or any interest in real property, the Director of Real Estate, working with the Director of Construction, shall physically inspect the real property (or cause such inspection to be conducted).

11.5.3.1. In the case of improved property, such inspection shall include, but not be limited to:

- a. Condition of Roof;
- b. Parking lot and other paving;
- c. Condition of HVAC;
- d. Structural components;
- e. Mechanical and electrical components;
- f. Compliance with applicable building codes; and
- g. Termite inspection.

11.5.3.2. In order to assess the salability and marketability of unimproved property, the following specific factors (which can usually be assessed from visual inspection and readily available public records) shall be considered:

- a. Topography
- b. Access
- c. Boundary and area
- d. Wetland area (from soil maps) and forest buffers
- e. Steep slopes
- f. Availability of municipal water and sewer (or suitability for private sewage disposal if public sewer is not available)
- g. Regulatory restrictions or development moratoria
- h. Forest conservation or reforestation, issues
- i. Master plan conflicts
- j. Impact fees or other exactions
- k. Drainage issues
- l. Any other relevant factors affecting property value or future development

11.5.4. *Environmental Review:* All property and property interests offered to the Archdiocese shall be reviewed to assess the environmental liability risks associated with the property. In appropriate cases, as a prerequisite to accepting the property, the donor/seller shall be requested to indemnify the Archdiocese and pay the cost of any clean-up work or, in the alternative, to provide the Archdiocese with insurance coverage for clean-up costs.

11.5.4.1. *Type of Assessment:* Except as otherwise provided herein or as otherwise may be determined by the Director of Real Estate, a phase one environmental assessment report shall be conducted in accordance with ASTM E 1527-95 (or such other recognized standards as may be in use at the time) prior to acceptance/acquisition. Such an audit shall be conducted to determine whether possible contamination may exist on the property, based on a site inspection, historic research, review of public records, examination of facility records, and interviews of past and present owners/operators. Additional environmental assessment may be required, at the discretion of the Director of Real Estate, based on the findings of the phase one assessment.

11.5.4.2. *Alternative Assessment:* In some cases a less formal transaction screen (ASTM E 1528-93) or environmental review by the Director of Real Estate or a designated representative may be used in lieu of a phase one environmental assessment, but only for obviously benign properties where the likelihood of contamination is extremely remote (e.g. residential or agricultural). The decision whether to utilize this less formal process will be made at the discretion of the Director of Real Estate based on the findings of the transaction screen.

11.5.4.3. *Environmental Questionnaire:* Solely for the convenience of the Director of Real Estate, but without limiting the scope of its inquiry in any way, the environmental questionnaire (available upon request) may be used in the course of the Director of Real Estate's environmental review of real estate offered to the Archdiocese.

11.5.4.4. *Timing of Gifts:* Because of the scope of review to be undertaken in connection with the offer and acceptance of real property, prospective donors are encouraged to submit their request no later than October 1 if a determination of acceptance of the gift is desired or required prior to the end of the calendar year.

11.5.4.5. *Unrelated Business Taxable Income (UBI) Issues:* If the proposed gift consists of income-producing property, a review should be made as to whether any of the income will constitute UBI and thereby subject the Archdiocese, a parish within its territory, or a related organization to income tax on such income. For example, rental income from mortgaged real estate may constitute UBI.

11.5.4.6. *Marketability:* Prospective donors will be encouraged to make gifts of real property or interests in real property which are readily saleable. If the property or interest in real property being offered is not readily saleable, the Director of Real Estate may request the donor to make a cash gift in an amount sufficient to pay for the anticipated expenses related to the ownership of the real property during the period of time that it can be sold.

11.5.4.7. *Additional Capital Requirements:* The Director of Real Estate shall consider whether or not additional capital is likely to be required during the period that the Archdiocese may be holding the real property or interest in real property. In the event that such capital contributions are anticipated, the Director of Real Estate may request that the donor contribute additional cash as necessary to allow the Archdiocese to meet such capital requirements or execute a promissory note or pledge obligating the donor or the donor's successors to supply such capital requirements if and when they become necessary.

11.5.4.8. *Form of Deed:* All transfers of real property should be by warranty deed or special warranty deed, or such other form as is customary in the state in which the real property is located.

11.5.4.9. *Tax Reporting:* In any case in which, within two years from the date of the gift, the Archdiocese, parish or related organization sells the property with respect to which it has received IRS Form 8283, the donee must report the details of the sale and gift to the Internal Revenue Service on the IRS Form 8282. It is generally the policy of the Archdiocese to sell gifts of property. The Archdiocese will insist that no restrictions be placed on the manner in which the Archdiocese, parish or related organization may use or dispose of the property. The Archdiocese, parish or related organization will not establish or corroborate the value of any property for the purpose of substantiating the donor's income tax charitable deduction.

## 11.6. Receiving Other Gifts

Gifts of works of art, both self-created and purchased, may be accepted by the Archdiocese, a parish or related organization upon whatever terms are deemed appropriate and are consistent with the policies of the Archdiocese.

11.6.1. *Determination of Receipt:* The decision whether or not the art is displayed within the Archdiocese or parish will rest with the Archbishop, his designee or the parish pastor. No commitment will be made to keep the art. If the art is not suitable for display, requires restoration and/or storage, it may be sold.

11.6.2. *Valuation of Gift:* The gift will be placed on the Archdiocese's or parish's books at \$1.00 unless a valid, independent appraisal is supplied by the donor.

11.6.3. *Valuation by Donor:* Donors are responsible for establishing the amount of their deduction. For instance, the donor will ask a furniture and/or antique dealer to give a written estimate of value so that it can be properly booked as an asset, in cases where the items are to be retained by the Archdiocese or a parish.

11.6.4. Gifts to be considered include:

11.6.4.1. *Gifts of furniture:* Gifts of furniture and/or antiques will be accepted if the furniture and/or antique are useable to the Archdiocese or parish or the furniture and/or antique can be sold.

11.6.4.2. *Automobiles:* Automobiles will be accepted by the Archdiocese or parish if the vehicle is in working order and is saleable. If it is determined that the vehicle will not be of practical use, it will be sold immediately at public auction. Vehicles that are to be retained by the Archdiocese or trust will be booked at retail “blue book” price less any necessary repairs.

11.6.4.3. *Personal Property:* Gifts of jewelry and/or miscellaneous personal property will be accepted if they are useable by the Archdiocese or parish or are saleable. Establishment of the value is the responsibility of the donor. Other matters that will be taken into consideration by the Archdiocese or parish prior to acceptance of gifts of jewelry and/or miscellaneous personal property will be: cost of administration; cost of storage and/or transportation cost of selling and/or liquidation; cost of maintenance and/or repairs.

## 11.7. **Planned Gifts and Bequests**

A planned gift is legally established during the donor's lifetime or by means of the donor's will or other testamentary instrument, with the principal benefits generally not accruing to the Archdiocese, its ecclesiastical related organizations and parishes within its territory until some future date. Planned gifts include bequests, life insurance, charitable gift annuities, pooled income funds, real property, and charitable trusts. When property, other than cash, listed securities or securities traded over the counter is involved, approval of the Office of FAP shall be required. If deemed necessary, approval of the parish finance council or the AFC's Executive Committee shall be required. The Archbishop has the exclusive authority to sign deferred giving agreements on behalf of the Archdiocese. Parishes may not accept a planned gift without approval of the Archbishop or his designee.

11.7.1. *Charitable Remainder Trusts:* The Archdiocese shall not, except in extremely rare and extenuating circumstances (following consultation with appropriate councils and committees), act as trustee or co-trustee for any charitable remainder trusts. The Archdiocese, its ecclesiastical related organizations and parishes within its territory shall abide by all charitable remainder probability tests and any other regulations set by the Internal Revenue Service when considering negotiating payout rates and shall require donors to seek independent council in drafting any trust documents.

11.7.2. *Charitable Gift Annuities:* No gift annuity shall be issued for an amount less than \$25,000 or for the life of an individual under 50 years of age without the approval of the Archbishop or his delegate. Any time a gift annuity is discussed with a potential donor, the Archdiocese Gift Annuity Disclosure Statement will be either handed, or mailed, to the individual(s) to comply with the 1995 Philanthropic Protection Act. No gift annuity agreement shall be executed unless the charitable gift, computed using government tables, exceeds 10% of the amount transferred for the annuity.

11.7.3. *Life Estate Gifts:* The Archdiocese, its ecclesiastical related organizations and parishes within its territory shall not serve as trustee for a short-term trust or a revocable trust but will refer this type of agreement to a corporate trustee. If an individual opens a bank account in trust for the Archdiocese or a parish, the individual retains the right to close the account at any time. Therefore, there is no necessity for a guideline governing deposit agreements.

11.7.3.1. The naming of the Archdiocese or parish as a beneficiary of an insurance policy/program implies no obligation on the part of the Archdiocese or parish.

11.7.3.2. A donor may transfer title of their home, ranch or farm to the Archdiocese and retain a life estate therein along with the responsibility for expenses, such as real estate taxes and insurance, thus placing no obligation upon the Archdiocese. The minimum age of a donor under such agreements should be no less than 55. Parishes may not accept such arrangements without approval of the Archbishop or his designee.

11.7.3.3. The donor must comply with all guidelines regarding a gift of real estate. The Archdiocese will not assist in the valuation of such property; therefore, there is no necessity for the guideline governing life estate gifts, except the approval of the AFC or the board of trustees.

11.7.3.4. Parishes may not accept such arrangements without permission of the Archbishop or his designee.

#### 11.7.4. Investment of Funds and the Interval of Payments:

11.7.4.1. *Charitable Remainder, Unitrusts, Annuity Trusts and Gift Annuities:* The management of funds, securities or property received under trust agreements in which the Archdiocese is the trustee shall be administered by the Office of FAP in separate accounts for each contract and managed to meet the objectives of each individual trust.

11.7.4.2. *Pooled Life Income Agreements:* The Archdiocese shall establish a co-trustee agreement with a corporate trustee to manage all monies and/or securities received under pooled life agreements in accordance with the objectives set by the Investment Committee of the AFC.

11.7.4.3. *Interval of Payments:* Each trust agreement shall designate the date for the initial and all subsequent payments to donors and their surviving beneficiaries on either a quarterly, semi-annual or annual basis.

11.7.5. *Disposition of Deferred Gift Funds:* Upon the death of the surviving beneficiary of the deferred gift agreement, the agreement shall terminate and the assets and any accruals shall be retained by the Archdiocese for its general purposes, or as restricted by the donor for specific use stated in the agreement. The Archbishop may allocate such funds to current unrestricted or restricted uses.

#### 11.8. **Other Archdiocesan Guidelines**

11.8.1. The Archdiocese, its ecclesiastical related organizations and parishes within its territory are not primarily designed to engage in money management, real estate or other securities management on behalf of donors.

11.8.2. Only rarely, and for relatively short terms, can the Archdiocese, its ecclesiastical related organizations and parishes within its territory accept gifts with

restrictions that would require administrative skills and/or responsibilities beyond normal trust officers (e.g. hold stock, not sell property).

11.8.3. All net investment income is distributed at least annually to encourage investors to fulfill the intentions of the donors and/or depositors. Capital gains and losses may be used to offset fluctuations in markets and inflation.

11.8.4. Distributions are made on the basis of formal proposals, never indiscriminately. Criteria for grant allocation are promulgated to all concerned.

11.8.5. Guidelines and a committee to apply them are established to determine the acceptability of gifts offered to the fund.

11.8.6. Guidelines are designed to provide reasonable results with a minimum amount of risk.

#### 11.9. **Permanency Clause/Variance Power**

As appropriate, the terms of the designated or endowed fund must include language to permit the Archdiocese or parish to assign different, alternative, modified but related use of funds as conditions dictate in some distant future.

"If, in the opinion of the Archbishop or his designee, all or part of the earnings of the fund cannot be usefully applied to the purpose designated (or in the manner requested), the Archdiocese or parish may use the same for any purpose within its corporate powers to decide or for any other purpose, which, in its opinion, will most nearly accomplish my purposes, wishes, and intent."

#### 11.10. **Contracts and Gift Processing**

Donor and agency contracts and/or letters of agreement are available for all gifts and required for all restricted gifts. These contracts and/or letters of agreement assure that the intentions of the donors are respected. All original correspondence and documentation should be forwarded to the Office of FAP or parish office within 3 working days after receipt of the gift. Additionally, a summary document should be submitted pertaining to the gift containing the following information:

11.10.1. Donor's name and street address. If the gift is from other than an individual, e.g., corporation, foundation, association, etc., an individual's name and title should be reported in addition to that of the firm.

11.10.2. Nature of gift.

11.10.3. Amount of the gift and date the gift was received.

11.10.4. Account number and name in which the gift is to be deposited. If a new account is to be established for the gift, so indicate.

11.10.5. Designation (school, parish, ministry, trust, program).

11.10.6. Purpose (scholarship, institute, cost of education, general fund, historic preservation, etc.).

11.10.7. Other comments or special instructions. If no original correspondence accompanied the gift, this must be stated in writing when the gift is transmitted.

11.10.8. All correspondence pertaining to the gift, its handling or use, and a copy of any acknowledgment written by the recipient should be attached to the gift transmittal along with the check or currency. This should be done within three working days after receipt of a gift. Copies of the gift transmittal and related correspondence will become a part of the permanent gift files.