

BEST PRACTICES IN DONOR ADVISED FUNDS

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Practice: Donor Advised Funds vs. Donor Directed Funds vs. "Serving as Agent" *Who is the donor – and how do you decide?*

Category: Records Management: Gift Records

Description of Practice: Ascertaining the nature of a transaction, especially when third parties are involved, is necessary in order to ensure the legal donor's record is properly credited. More to the point it ensures receipts are accurate and that gift processing does not result in an action that could cause the donor, or donee, harm.

Definitions:

- Donor Advised Fund – An accounting sub-fund of a legally registered qualified nonprofit organization (Sponsoring Organization). Individuals may make a tax-deductible donation restricted to said named fund. Those donations are receipted for tax deduction purposes when made. The donor advised fund (DAF) permits the named advisor to make recommendations of charities to receive grants, however, the Sponsoring Organization is under no obligation (other than donor relations & reputational) to honor those recommendations.
- Donor Directed Fund – A fund held by a financial institution on behalf of an individual, under their name, and associated with the individual's Social Security number. The deposits made to these funds are still owned by the individual, who must pay taxes on any interest earnings. At their own discretion, the individual may direct the financial institution to issue a check to a nonprofit organization. Such a payment is recognized and receipted as a gift by that individual at that time. (Note: Community Foundations sometimes use this term to describe named endowed funds that support one or more specifically named charities annually. This Community Foundation definition is not relevant for the purpose of this best practice document.)
- Serving as Agent activity – An entity that is authorized to control/hold assets temporarily that were contributed by others. That agent, in turn, makes a donation on the behalf of those it is serving as agent for. A typical example includes University officials who collect cash contributions at a University event. As a documented agent for these individuals, gifts may be entered on the original donor's records and receipts may be issued to them, and not to the entity given temporary control of the assets. (Note: for this to be legal, the 'acting as agent of' arrangement must be stated in advance in writing and the terms clear.)

Prospective Users of Practice:

- Gift records supervisors – set policies, design processes
- Gift recording operators – Implement and manage the process
- Gift officers – Communicate issues and opportunities with donors
- Donor relations officers – Communicate issues and opportunities with donors
- Management – Assured confidence in legal compliance

Issue Addressed:

Understanding the legal ramifications, and proper gift entry procedures, for gifts from three similar looking, but vastly different, gift delivery mechanisms.

Desired Outcome:

Proper recording and receipting of gifts.

Process:**1. Ascertain the legal owner of a gift**

- Traditional donor advised fund (DAF) grants are now almost always identified as such by the entity sending the payment (Fidelity Charitable Gift Fund, Schwab Charitable Gift Fund, Community Foundations, etc.). However, other third parties that operate as donor advised funds such as Razoo, Network for Good, or some third party employee giving/matching program services may be less clear. When in doubt, call the check issuer and ascertain the legal relationship between the recommending/original contributor and the check issuer.
- Donor directed fund gifts are less obvious as to legal donor status. Unless accompanied by a letter from the check issuer (usually a financial institution), a call to the check issuer is nearly always required to confirm legal donor status.
- Agent delivered gifts require substantiation from the original donor, unless the agent is an employee of the organization receiving the donations. Another exception occurs when the agent is the employer of the donor, collecting gifts from their employees for consolidation and transmittal to a charity. Certification from the employer in such a case is satisfactory. In that case, a list of donors and amounts on organization letterhead is sufficient in order to record the donations on the original donor's record. Acting as agent web portal services are becoming increasingly common as third parties sign on to administer employee giving and matching programs. Take care to ensure the relationship of such programs.

2. Record the gift on the legal donor's record

- DAF gifts must be recorded on the record of the Sponsoring Organization. Some databases allow for a record for the named fund, with a child-parent relationship to the Sponsoring Organization. Contributions should be receipted to the Sponsoring Organization. For the purpose of schedule B reporting, all contributions must be listed as from the Sponsoring Organization. Soft, or recognition, credit is usually given to the individual/s recommending the grant.
 - Under no circumstances can a DAF grant be applied to an individual's pledge. If it is believed that the intent by the recommending individual was to satisfy a personal obligation, your organization's attorney will provide advice as to the proper method to relieve the individual of their personal obligation. This is usually accommodated in one of two ways:
 - Manually reduce the individual's pledge by an amount equal to the DAF grant, but without actually applying the gift as a pledge payment
 - Delete the original pledge in its entirety, and ask the donor to sign a new pledge agreement stipulating the amount they will be personally responsible for
 - Under no circumstances can a DAF payment result in any substantial tangible benefits to either the individual recommending the grant. This means, for example, that if giving at a

certain level results in an invitation to an annual event or gala, no such invitation can be issued in this case. Nor can the recommending individual be offered to pay for their admission instead, as that invitation would not have been issued were it not for the gift by the DAF (see IRS discussions on bifurcated payments).

- Many employer matching gift programs do not match contributions recommended through a DAF. However, this is changing with the proliferation of DAFs. Always check the company's matching rules and call if you are unsure before verifying a grant for matching purposes. When verifying a DAF grant for matching purposes, be clear of the source of the contribution.

- Once a donor directed gift has been confirmed as such, it may be treated as though it were a personal check from the individual, with standard crediting and processing. Adding a note as to the source of the funds can be helpful for long term donor relations purposes and as a wealth indicator that your Research team may find helpful.

- Once an agent delivered gift has been confirmed as such, it may be treated as though it were a personal check from the individual(s), with standard crediting and processing.
 - If there is no documentation to support the agent status of the individual delivering the payment, the gift must be recorded on the "agent's" record only. Soft crediting of other individuals is at the discretion of the organization.

AASP Recommendation:

- Strictly adhere to the above procedures. Always record gifts on the record of the legal donor only. Take great care when processing gifts from DAFs (and private foundations) to ensure there is no direct correlation between such a gift and relieving an individual of a personal financial obligation. Also ensure that such payment never results in benefits (other than those defined as insubstantial per IRS publication 1771) to the recommending individual or other disqualified person.

Recommended Links:

- [Flow chart for determining a donor advised fund](#)

[Council on Foundations - Donor Advised Funds](#)