

## ENSURING PROPER DIRECTION AND CONTROL WHEN WORKING WITH NONQUALIFIED DONEES

A foundation consider using all of the measures of control listed to demonstrate direction and control when providing funds/resources to a nonqualified donees (Blumberg, 2020).

1. Creation and implementation of a **written agreement** with the Intermediary which includes all necessary CRA elements below:
  - exact legal names and physical addresses of all parties
  - a clear, complete, and detailed description of the activities to be carried out by the intermediary, and an explanation of how the activities further the Charity's purposes
  - the location(s) where the activity will be carried on (for example - physical address, town or city)
  - all time frames and deadlines
  - any provision for regular written financial and progress reports to prove the receipt and disbursement of funds, as well as the progress of the activity
  - a statement of the right to inspect the activity, and the related books and records, on reasonably short notice
  - provision for funding in instalments based on satisfactory performance, and for the withdrawing or withholding of funds or other resources if required (funding includes the transfers of all resources)
  - provision for issuing ongoing instructions as required
  - provision for the Charity's funds to be segregated from those of the intermediary, as well as for the intermediary to keep separate books and records
  - if any of the Charity's funds or property are to be used in the acquisition, construction, or improvement of immovable property, the title of the property will vest in the name of the Charity
  - for joint ventures, provisions that enable the Charity to be an active partner, with a proportionate degree of direction and control in the venture as a whole, as well as assurances of the following:
    - the Charity's resources are devoted to activities that further its purposes
    - the Charity maintains and receives financial statements and records for the entire project on a regular basis
    - effective date and termination provisions
    - signature of all parties, and the date
2. Creation and communication of a **clear, complete and detailed description of the proposed activities** (which is **discrete and separate** from existing projects of the Intermediary), which forms part of the written agreement;
3. Ongoing **monitoring** and supervision of the activities by receiving timely and accurate reports from the Intermediary;
4. Providing clear, complete and detailed **ongoing instruction**/direction to the Intermediary with respect to the activities;

5. Providing **periodic payments** to the Intermediary based on demonstrated performance of the activities;
6. Arranging for the Intermediary to keep the Charity's **funds separate** from its own and to keep **separate books and records**;
7. Maintaining proper **books and records** with respect to the activities:
  - Must be kept within Canada (at one of the Charity's address on file with CRA)
  - Preferably in English or French
  - Original source documents, if possible