Key Issues

- Self-Dealing
- Compensation
- Travel Expenses
- Sharing Resources
- Pledges
- Tickets to Fundraisers
Self-Dealing

- No financial transactions with disqualified persons
- Disqualified Persons: Foundation managers, substantial contributors, family members of the above
- Major Exception: Compensation is allowed if
  - Reasonable and necessary
  - Personal services
- Penalties:
  - 5% on the self-dealer (10% in ’07)
  - 2.5% on managers (5% in ’07)
Compensation

- **Personal Services:**
  - Banking, legal, accounting, investments
  - Not real estate management, interior decoration, most consulting
  - Narrow interpretation by IRS
- **Reasonable:** What similar people get paid for similar work in similar circumstances
- **Necessary:** Consistent with exempt purpose
- **Reimbursement of expenses is permissible and is generally not compensation**
Determining Compensation

- Data – use appropriate comparables
- Decision by disinterested governing board or committee (where possible)
- Document, document, document
### Compensation Example

Chief Executive Officer/President of Family Foundation

<table>
<thead>
<tr>
<th>Asset Group (in millions)</th>
<th>Salary</th>
<th></th>
<th>Range</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10 to $24.9</td>
<td>Median $77,175</td>
<td>Mean $86,618</td>
<td>$46,350 to $145,000</td>
</tr>
</tbody>
</table>

From Council on Foundations, 2005 Grantmakers Salary and Benefits Report
Travel Expenses for Family

- Spouses and children are disqualified persons
- Paying their travel expenses is self-dealing
- Two Exceptions:
  - Family member has reasonable foundation duties
  - Treat reimbursement as taxable income to foundation director or staff person whose relative is reimbursed
- Expenses must be reasonable
Sharing Resources

- Foundation can’t pay DQP for services unless “personal”
- Payments to third parties ok
- Zero interest loan to foundation
- Records must be meticulous
- DQP can donate services
  - Valuation issues
  - No deduction for partial interests in property

"Don’t be silly—lots of men share the same briefcase."
Paying Pledges

- Assuming a debt of a disqualified person is self-dealing
- **Legally binding** pledges may not be paid by the foundation
- State law determines whether a pledge is legally binding
- Be careful in communicating with potential grantees
Tickets to Fundraisers

- Possibly self-dealing if used by a disqualified person
- Ticket may have some economic value
- Charitable dollars can’t provide private benefit
- No violation if staff has duty to monitor and evaluate
- OK if value treated as income
- No bifurcation permitted