

Lake Area Foundation Due Diligence and Expenditure Responsibility

COMMUNITY GRANTS

- 1) Staff reviews all grant proposals requesting funding from the Community Grants Program. Areas reviewed include:
 - a) Completion of applications, including attachments
 - b) Authorized signatures
 - c) Clarity of the request
 - d) Eligibility requirements for serving the lake area.

- 2) Staff reviews charitable status and charitable purpose:
 - a) Grants may be made to organizations defined as a 501(c)(3) public charity and 509(a)(1), and must be used for charitable purposes as defined by IRC 170(b)(1)(A)
 - b) Grants may be made to non - charities, e.g., grants to for profit, 509(a)(4) public safety organizations and other 501(c) organizations. Grants to non - charities require expenditure responsibility
 - c) Primary data sources to verify public charity status include IRS Business Master File (BMF), Publication 78 and the potential grantee's IRS determination letter.

- 3) Staff contacts grant applicants either by phone, in person meeting, site visit, email correspondence, etc. for additional information or missing material.

- 4) A Distributions Committee comprised of 25 to 30 individuals representing a cross section of our region is selected by the LAF Board of Directors. Their responsibilities include:
 - a) Contact grant applicant by mail, phone and/or email to set up an interview appointment. (site visits may be conducted by Distributions Committee members with assistance of staff as appropriate)
 - b) Depending on the nature of the grant request:
 - Interview key staff members/grant applicant/applicant's board members
 - Interview collaborative partners
 - Contact other funding sources
 - Estimate overall potential impact on the community
 - Review program outcomes and objectives
 - c) Review financial information including annual audit and/or financial statements, the budget
 - d) Recommend grant recipients and award amounts.

- 5) Foundation Board of Directors reviews grant recommendations made by the Distributions Committee and exercises final approval authority.
- 6) Grant notification letters are mailed by staff; recipients are provided a contract explaining their responsibilities in accepting and using the grant funds.
- 7) Grant checks are awarded when the Foundation staff receives documentation that the related project/program has been initiated and the funds are needed. If an organization is unable to use an approved grant within a year, they must submit a formal request for an extension subject to the approval of the Foundation Board of Directors.
- 8) Final reports must be submitted by each grant recipient. Staff and board members make appropriate site visits to further ensure appropriate use of funds.

DONOR ADVISED FUNDS GRANTS

Certain types of grants are prohibited under Pension Protection Act of 2006. They include:

- a) Grants to individuals, including grants made directly to an organization for the benefit of a specific individual (ex: grant to a school to be re-granted to a specific student)
- b) Grants to donors, advisors or parties who have a relationship with the fund's donors and/or advisors
- c) Grants for non-charitable purposes.

Staff has grant expenditure responsibility when such is required by law or policy. Grants to organizations not described in 170(b)(1)(A) of the internal Revenue Code such as non-charities, private non-operating foundations, or certain supporting organizations of public charities all require expenditure responsibility.

Supporting organizations receive public charity status from the IRS due to its particular relationship with another publicly supported charity or government unit. Based on that relationship, a supporting organization is defined as Type I, Type II, or Type III. Type III supporting organizations are further defined as functionally or non-functionally integrated.

Any type of supporting organization that supports a public charity which is controlled directly or indirectly by the donor, donor advisor, or related party requires expenditure responsibility by the Foundation. Any non-functionally integrated Type III supporting organization requires expenditure responsibility.

The following steps should be followed to determine whether a grant recommendation from a Donor Advised Fund requires expenditure responsibility:

- 1) Verify that the organization is a public charity by checking its status in IRS Publication 78, the organization's IRS determination letter, or IRS Business Master File.

- 2) Determine if the public charity is a supporting organization from one of the following sources:
 - a) The IRS Business Master File (BMF) and the potential grantee's IRS determination letter, or
 - b) A report from a third party that includes the grantee's name, EIN, and public charity classification under 509(a)(1), (2), or (3); a statement that the information is from the most currently available IRS monthly update to the BMF, along with the IRS BMF revision date; the date and time of the grant maker's search. The grant maker must retain this report in electronic or hard-copy form.

- 3) Determine the type of Supporting Organization from one of the following sources:
 - a) For Type I or Type II supporting organizations a written representation signed by an officer, director, or trustee of the grantee if both of the following are true:
 - i) The representation describes the process used for selecting the grantee's officers, directors, or trustees and references the pertinent provisions of the grantee's organizing documents that establish the grantee's relationship to its supported organization
 - ii) The grant maker collects and reviews copies of the grantee's governing documents. If the grantee's governing documents are not sufficient to establish the relationship, the grant maker must also collect organizing documents from the supported organization.
 - b) For determining that a Type III supporting organization is functionally integrated, the Foundation must do the following:
 - i) Obtain the grantee's written representation identifying the organization it supports
 - ii) Collect and review the grantee's organizing documents (and those of the supported organization if necessary)
 - iii) Collect a written representation signed by an officer, director, or trustee of each supported organization stating that the supporting organization is functionally integrated and that but for the involvement of the supporting organization, the supported organization normally would engage in those activities itself.
 - c) Alternatively, the Foundation may rely on a reasoned written opinion of counsel of either the grantee or the Foundation in making the determination that a supporting organization is a Type I, Type II, or functionally integrated Type III supporting organization.

- 4) Once the Foundation has determined that a potential grantee is a supporting organization and is not a Type III non-functionally integrated supporting organization (where expenditure responsibility is automatically required), the Foundation, working with local counsel, will determine whether the donor, donor advisor, or related parties control the supported organization. Control can be determined in one of the following ways:

- a) If any donor, donor advisor, or related parties may, by aggregating their votes or positions of authority, require a supported organization to make expenditure, or prevent a supported organization from making an expenditure
- b) Working from a collected list of organizations that the potential grantee supports, the Foundation will work with the donor(s) and advisors to determine whether any of those supported organizations are controlled by the donor, advisor, or related party. Certification from either the donor or advisor or directly from the supported organization indicating that the donor, advisor, or related parties do not control the supported organization must be obtained.

If the Foundation determines through the above stated processes that the expenditure responsibility is required, it will perform the following steps:

- 1) The Foundation will conduct a pre-grant inquiry to determine whether the proposed grantee is reasonably likely to use the grant for the specified purpose
- 2) The Foundation and grantee will sign a written grant agreement with specific terms required by law
- 3) The grantee will maintain the grant funds in a separate account on the grantee's books
- 4) The grantee will report to the grantor, in writing, not less than every three (3) months during the term of the grant, explain how it used the funds and describing its compliance with the grant terms and its progress toward the grant purposes.

Note that requirements regarding grant recipients making final reports and using grants within a specified time period (as outlined under Community Grants) also apply to grants from Donor Advised Funds.

FIELD OF INTEREST

Staff will follow the steps required under Community Grants, and further will review proposals for appropriateness of funding based on the donor's intent as stated in the fund agreement.

DESIGNATED FUNDS

Staff ensures, when working with a donor to establish a designated fund that the recipient organization qualifies for such a charitable grant. Designated grants are paid out to the relevant organization named in the fund each year. Organizations may receive their grant at the beginning of the new payout year or at another time specified and requested by the recipient organization.

AGENCY ENDOWMENT FUNDS

Agency grants are paid out to the relevant organization named in the fund each year. Organizations may receive their grant at the beginning of the new payout year or at another time specified and requested by the recipient organization.