

# Benevolent Funds: A Toolkit to Charitable Giving



NATIONAL  
ASSOCIATION *of*  
REALTORS®

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# Introduction

The purpose of this toolkit is to provide information about the different charitable giving vehicles (benevolent funds) available that best suit an organization's charitable giving goals and mission. This toolkit is also designed to provide information regarding the various considerations that should be taken into account when establishing a charitable giving vehicle and assistance in defining grant making priorities and guidelines.

## COMMON REASONS FOR CHARITABLE GIVING

- ◆ Disaster victims
  - Shelter
  - Medical attention
  - Food and Water
  - Clothing
  - Housing essentials/ household items
- ◆ Catastrophic illness
- ◆ Financial hardship or need
- ◆ Educational scholarships, grants, etc.
- ◆ Expanding homeownership opportunities
- ◆ Community growth and involvement
- ◆ Housing developments
- ◆ Minority and immigrant housing
- ◆ Memorials

### DISCLAIMER:

*It should be noted there is no one-size-fits-all approach to charitable giving vehicles. In response to state and local associations requests for assistance in finding out more about benevolent funds, The National Association of REALTORS® intent is to provide information regarding charitable giving vehicles. This toolkit is designed to provide general information only and should not, nor is it intended to be, comprehensive. For additional information on the material discussed in this toolkit please see the sources or additional information referenced throughout the toolkit. Please consult your legal and/or tax advisor regarding specific steps and requirements to organize and operate a desired charitable vehicle.*

# Tax-Exempt Organizations

While there are a number of different considerations to address in determining which vehicle will best suit your association's charitable giving goals and mission, it is important to first gain a general understanding of a charitable organization.

- Most types of benevolent funds would qualify as a charitable organization
- To qualify, an organization must meet both the operational and organizational test as described below:
  - **Organizational Test** – An organization's governing documents must display a commitment to an exempt purpose and its assets must be permanently dedicated to an exempt purpose
  - **Operational Test** – An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities that accomplish exempt purposes specified in the Internal Revenue Code
- Organization must not be organized or operated for the benefit of private interests, and no part of its net earnings may inure to the benefit of any private shareholder or individual
- Organizations may choose to be organized as a corporation or trust
  - Public charities are most commonly organized as corporations
  - There are advantages to both organization types
  - Both would still be classified under IRC Section 501(c)(3)
- An organization would request tax exempt status through the filing of Form 1023, Application for Recognition of Exemption with the IRS<sup>1</sup>

## Key Benefits of 501(c)(3) Status

- ◆ Exemption from federal and state income taxes
- ◆ Exemption from sales tax on certain purchases
- ◆ Ability to offer donors a tax deduction for charitable donations

*For more comprehensive information regarding tax-exemption please see IRS Publication 557, Tax-Exempt Status for Your Organization.*

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<sup>1</sup> Refer to IRS Publication 4220, Applying for 501(c)(3) Tax-Exempt Status, for more specific information on how to apply for recognition of exemption with the IRS.

## Common Types of Charitable Giving Vehicles

There are several vehicles through which charitable giving or assistance can be administered. Among others, these vehicles include public charities, private foundations, donor advised funds, and community foundations.



### Definition of IRC (Internal Revenue Code) Sec. 501(c)(3) Organization

An organization that is organized and operated exclusively for “religious, charitable, scientific, testing for public safety, literacy, or educational purposes, to foster national or international amateur sports competition, to promote the arts, or for the prevention of cruelty to children or animals.”

## PUBLIC CHARITY

The most common type of charitable organization is a public charity. Public charities represent a large share of active IRC Section 501(c)(3) organizations. In order for a charitable organization to be classified as a public charity, it must meet one of the three most common IRC Section 509(a) categories of public charities that are described as follows:

- *Section 501(c)(3) organizations described in IRC Sec. 509(a)(1)* –The main distinction of a IRC Sec. 509(a)(1) public charity is that the organization normally receives a substantial (more than 33 1/3%) part of their support from governmental units or from direct or indirect contributions from the general public, which could include the member base of a state and local association. Examples include:
  - American Red Cross
  - Salvation Army
  - United Way
  - Most hospitals and colleges
  
- *Section 501(c)(3) organizations described in IRC Sec. 509(a)(2)* - IRC Sec. 509(a)(2) organizations normally receive a substantial amount of its support from the general public through the conduct of exempt trades or businesses. Examples include:
  - Most cultural organizations (museums, zoos and symphonies)
  - Long term health care organizations
  - Continuing care retirement communities
  - Hospice care organizations
  
- *Section 501(c)(3) described in IRC Sec. 509(a)(3)* – IRC Sec. 509(a)(3) organizations are organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more tax exempt organizations. Examples include:
  - Organizations whose sole purpose is to conduct fundraising activities on behalf of another tax exempt organization
  - Organizations providing support services, such as management functions, to one or more tax exempt organizations

Public charities are subject to public support tests and criteria they must meet and continue to meet annually in order to maintain their public charity status. A new public charity has a five year grace period in order to meet the public support test. Failure to meet the public support test could cause an organization's public charity status to be in jeopardy and could potentially result in a reclassification from a public charity to a private foundation, but should not adversely impact its "charitable" status. Typically an organization that has been reclassified as private foundation from public charity must maintain private foundation status for a minimum of five years before they are able to reapply to be a public charity.

## PUBLIC CHARITY (CONTINUED)

### KEY CONSIDERATIONS

#### ORGANIZATIONAL

- ◆ Longevity .....Long-term
- ◆ Degree of involvement .....High
- ◆ Cost & Admin Duties .....High
- ◆ Commitment to the Organization ..High
- ◆ Deductibility of the Donation .....Yes

#### SOURCES OF FUNDS

- ◆ Donor Base .....Large
- ◆ Funding by: State & Local Associations .....Yes\*
- ◆ Funding by: Member Contributions .....Yes
- ◆ Conduct Fundraising Events .....Yes
- ◆ Accept Cash and Noncash Donations .....Yes

#### ADVANTAGES

- ◆ Higher thresholds for donors to deduct charitable donations on their income tax returns
- ◆ Less stringent rules restricting their activities

#### DISADVANTAGES

- ◆ Subject to public support tests and criteria they must meet and continue to meet annually in order to maintain their public charity status

If you determine a public charity is an appropriate fit for your organization, please see the IRS' website to view a graphic depiction of the lifecycle of a public charity: <http://www.irs.gov/charities/charitable/article/0,,id=122670,00.html> or IRS Publication 4221-PC, Compliance Guide for 501(c)(3)Public Charities.

\*As a public charity cannot be funded solely by a state or local association, careful consideration must be exercised by the association in determining the appropriate amount of funding contributed to its public charity organization.

## PRIVATE FOUNDATION

By default or by failure to meet the public support test, an organization will be classified as a private foundation. A private foundation can be further classified as either operating or non-operating. While operating private foundations typically have less stringent provisions on activities and donors are entitled to more favored tax treatment, non-operating private foundations are more common vehicles for charitable giving.

**Operating private foundation:** An organization that makes specified levels of qualifying distributions for the express purpose of conducting the activities constituting the exempt purpose or function of the organization. The focus for operating private foundations is on the activities conducted by the foundation itself, rather than the activities of other nonprofit organizations that receive grant monies from the foundation. They operate in between the more restrictive rules of private non-operating foundations and more relaxed provisions of the public charity rules. Operating private foundations include organizations similar to public charities, such as museums, zoos, research facilities and libraries without meeting the public support test as required by public charities.

**Non-operating private foundation:** An organization that generally makes grants to other nonprofit organizations for charitable, educational, religious or other exempt purposes. The exempt activities are not carried on by the foundation itself; rather grants are made to organizations for the purpose of aiding the nonprofit recipient to further their charitable purpose. Non-operating foundations are commonly seen in the form of small family foundations that are generally funded by a small group of individuals. They range in size from family foundations with only a few hundred thousand of dollars of investment assets to truly large private foundations with billions of dollars of investment assets. Non-operating private foundations have two major distinctions from public charities:

- They must pay a 1-2% excise tax on their net investment income
- They are subject to a 5% minimum distribution requirement which stipulates that they must annually distribute, through grants or expenditures towards its charitable purpose, an amount equal to 5% of the net value of its non-charitable use assets

Since the private funding and private control of a private foundation increase the likelihood that the foundation will improperly benefit those who control the foundation, the Internal Revenue Code subjects a private foundation to certain requirements and restrictions that are not applicable to public charities. These are:

- Restrictions on acts of self-dealing between private foundations and disqualified persons (IRC Section 4941). A disqualified person is any person who was in a position to exercise substantial influence over the affairs of the applicable tax-exempt organization at any time during a 5-year lookback period including officers, directors, substantial contributors or key employees
- Requirements to annually distribute income for charitable purposes (IRC Section 4942)
- Limits on private business holdings (IRC Section 4943)
- Provisions that restrict “jeopardizing investments” (IRC Section 4944)
- Provisions to assure that expenditures further exempt purposes (IRC Section 4945)



## PRIVATE FOUNDATION (CONTINUED)

### KEY CONSIDERATIONS

#### ORGANIZATIONAL

- ◆ Longevity .....Long-term
- ◆ Degree of involvement .....High
- ◆ Cost & Admin Duties .....High
- ◆ Commitment to the Organization ..High
- ◆ Deductibility of the Donation .....Yes

#### SOURCES OF FUNDS

- ◆ Donor Base .....Small
- ◆ Funding by: State & Local Associations .....Yes
- ◆ Funding by: Member Contributions .....Yes
- ◆ Conduct Fundraising Events .....Yes
- ◆ Accept Cash and Noncash Donations .....Yes

#### ADVANTAGES

- ◆ Ability to pursue immediate and long-term charitable goals (perpetual relationship), while allowing control over charitable distributions
- ◆ Donors are able to deduct a charitable contribution on their income tax return

#### DISADVANTAGES

- ◆ Increased responsibility to be involved in the activities of the foundation, which requires a significant investment of time and resources
- ◆ Subject to certain Internal Revenue Code requirements and restrictions as mentioned above

*\*Please note these areas of the Internal Revenue Code are largely based on interpretation. For more information on the requirements and restrictions above, please consult your legal or tax advisors.*

*If you determine a private foundation is an appropriate fit for your organization, please see the IRS' website to view a graphic depiction of the lifecycle of a private foundation: <http://www.irs.gov/charities/foundations/article/0,,id=127912,00.html> or IRS Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations.*

## DONOR ADVISED FUND

A donor-advised fund is a charitable giving vehicle that is administered by a third party and is created for the purpose of managing charitable donations of behalf of a donor. Generally donor advised funds are maintained and operated by a Section 501(c)(3) organization (commonly referred to as a sponsoring organization). These funds typically allow the donor over time, to recommend how, when, and to which charities income and principal from the account is distributed. A donor advised fund is a fund or account :

- That is separately identified by reference to contributions of a donor or donors
- That is owned and controlled by a sponsoring organization (generally a Section 501(c)(3))
- That allows a donor to make an irrevocable tax-deductible contribution to a fund, from which the donor has or reasonably expects to have advisory privileges with respect to the distribution or investments of amounts held in the fund by reason of the donor's status as a donor

### KEY CONSIDERATIONS

#### ORGANIZATIONAL

- ◆ Longevity .....Short-term
- ◆ Degree of involvement .....Low
- ◆ Cost & Admin Duties .....Low
- ◆ Commitment to the Organization ..Low
- ◆ Deductibility of the Donation .....Yes

#### SOURCES OF FUNDS

- ◆ Donor Base .....Small
- ◆ Funding by: State & Local Associations ...Yes
- ◆ Funding by: Member Contributions .....No
- ◆ Conduct Fundraising Events .....No
- ◆ Accept Cash and Noncash Donations .....Yes

### ADVANTAGES

- ◆ Similar to those of private foundations, however easier to establish and less costly and time-intensive to administer
- ◆ Allow donors to have a continued advisory role over donated funds
- ◆ Established with far fewer resources than would typically be required to establish a private foundation

### DISADVANTAGES

- ◆ Sponsoring organization has control over the donation, including the right to ignore donor advice, determine the timing on distributions, and control investments
- ◆ Typically restricted by the IRS from making grants to private foundations
- ◆ Clear legal guidelines or requirements have not been specifically established

## COMMUNITY FOUNDATION

In general, a community foundation qualifies as an IRC Sec. 501(c)(3), publicly supported grant-making organization designed to attract large contributions (often from a small number of donors) of capital or endowment nature that will benefit a specific geographic area or community. They are typically an accumulation of trusts or funds subject to varying degrees of control by a single governing body that is composed of representatives of the particular area or community.

### KEY CONSIDERATIONS

#### ORGANIZATIONAL

- ◆ Longevity .....Short-term
- ◆ Degree of involvement .....Low
- ◆ Cost & Admin Duties .....Low
- ◆ Commitment to the Organization ..Low
- ◆ Deductibility of the Donation .....Yes

#### SOURCES OF FUNDS

- ◆ Donor Base .....Small
- ◆ Funding by: State & Local Associations .....Yes
- ◆ Funding by: Member Contributions .....No
- ◆ Conduct Fundraising Events .....No
- ◆ Accept Cash and Noncash Donations .....Yes

### ADVANTAGES

- ◆ Well suited for donors who are committed to giving back to their communities and the lives of people in a defined geographic area

### DISADVANTAGES

- ◆ The community foundation has control over the donation, including the right to ignore donor advice, determine the timing on distributions, and control investments
- ◆ Typically restricted by the IRS from making grants to private foundations
- ◆ Clear legal guidelines or requirements have not been specifically established

## DIRECT GIFT

While the preceding analysis presents the various charitable giving vehicles that are available, donors may simplify their options by choosing to make direct gifts either to existing IRC Sec. 501(c)(3) organizations or to individuals.

Direct gifts can be appropriate for donors wishing to make immediate gifts without the cost and administrative duties associated with establishing an IRC Section 501(c)(3) organization. Although it may be a simplified method of giving, donors should understand that they do not offer the same advantages as IRC Section 501(c)(3) tax-exempt organizations.

### KEY CONSIDERATIONS

#### ORGANIZATIONAL

- ◆ Longevity .....Short-term
- ◆ Degree of involvement .....Low
- ◆ Cost & Admin Duties .....Low
- ◆ Commitment to the Organization ..Low
- ◆ Deductibility of the Donation .....No

#### SOURCES OF FUNDS

- ◆ Donor Base .....Small
- ◆ Funding by: State & Local Associations .....Yes
- ◆ Funding by: Member Contributions .....No
- ◆ Conduct Fundraising Events .....No
- ◆ Accept Cash and Noncash Donations .....Yes

### ADVANTAGES

- ◆ None of the costs and administrative duties associated with establishing an IRC Section 501(c)(3) organization
- ◆ Donations can be made on a relatively spontaneous basis, rather than making irrevocable commitments

### DISADVANTAGES

- ◆ Do not offer the same advantages as IRC Section 501(c)(3) tax-exempt organizations. For instance, direct gifts to individuals do not provide a charitable tax deduction for the donor on their personal income tax return
- ◆ May be gift tax implications for the donor as a result of awarding gifts directly to individuals

# Choosing the Right Charitable Giving Vehicle

In determining the type of charitable giving vehicle to establish, it is important for a state and local association to identify the various considerations that must be taken into account. These considerations, among many others, will play an important role in determining what charitable giving vehicles best suit an association’s goals and mission. For the purposes of this document, these considerations have been broken into two sections:

- **Organizational**
- **Source of Funds**

The next sections will provide a more in-depth discussion of how organizational and sources of funds considerations apply to the various charitable giving vehicles.

## ORGANIZATIONAL CONSIDERATIONS

The following chart outlines the high-level, organizational considerations that state and local association executives and leadership should weigh as they approach the creation of a charitable organization for their associations.

ORGANIZATIONAL CONSIDERATIONS										
Entity	LONGEVITY		DEGREE OF INVOLVEMENT		COST & ADMIN DUTIES		COMMITMENT TO ORGANIZATION		DEDUCTIBILITY OF DONATION	
	Long-Term	Short-Term	High	Low	High	Low	High	Low	Yes	No
Public Charity	♦		♦		♦		♦		♦	
Private Foundation	♦		♦		♦		♦		♦*	
Donor Advised Fund		♦		♦		♦		♦	♦	
Community Foundation		♦		♦		♦		♦	♦	
Direct Gift		♦		♦		♦		♦		♦

\*The above donations could be subject to certain percentage limitations as imposed by IRC Section 170.

- **Longevity of Arrangement** (duration of involvement)
  - Short-Term: Donate funds towards a single purpose or immediate need, could be a single contribution
  - Long-Term: Donate funds for indefinite period of time, or long-term

## ORGANIZATIONAL CONSIDERATIONS (CONTINUED)

- **Degree of Involvement/Commitment**

- Different charitable vehicles demand various levels of involvement from the association ranging from highly engaged to very minimal involvement
- State and local associations should identify their role with respect to the proposed charitable vehicle and must determine what degree of control that it would like to maintain over the charitable giving vehicle. Other considerations include the active role in the undertaking of the organization's charitable activities as well as the level of control over the direction of the funds of the charitable vehicle

- **Cost and Administrative Duties**

- Some vehicles can incur very large start-up costs while others can be very minimal or none at all
- The following are potential costs and administrative duties:
  - Application for Employer Identification number (Form SS-4)
  - Articles of Incorporation
  - Establishing bylaws
  - Establishing an active and engaged governing board of directors
  - Implementing policies and procedures governing the activities of the organization
  - Application for Recognition of Exemption (Form 1023)
  - Federal Annual Filing Requirements (Federal Form 990, 990-EZ, 990-N or 990-PF)
  - State Annual Filing Requirements
  - Requirement for an annual audit and financial statements
  - Annual filing fees
  - Potential other required filings (Form W-2, Form 1099-Misc and Form 990-T, Exempt Organization Business Income Tax Return)

- **Deductibility of Donations**

- Important for both the organization establishing the charitable giving vehicle as well as for the level of future donations
- Charitable vehicles that provide donors with higher charitable contribution deduction on their federal income tax return typically enjoy an advantage in fundraising
- Charitable gifts given directly to an individual or to an organization for the benefit of a specific individual are generally held to be nondeductible
- Deductibility of contributions may vary depending on the charitable giving vehicle
  - For example, contributions to public charities will be limited as a deduction to 50% of an individual's adjusted gross income while contributions to certain private foundations are limited to 30% of the donor's adjusted gross income
  - Consult your local legal or tax advisor for further guidance if necessary

## SOURCE OF FUNDS CONSIDERATIONS

The source of funds is a particularly important consideration for charitable vehicles. Charitable vehicles, specifically those whose exempt functions are intended to be more long-term in nature, should consider:

- Makeup of its donor base
- Methods for raising contributions
- Types of donations

SOURCES OF FUNDS CONSIDERATIONS										
Entity	DONOR BASE		FUNDED BY STATE & LOCAL ASSOCIATIONS		FUNDED BY MEMBER CONTRIBUTIONS		CONDUCT FUNDRAISING EVENTS		ACCEPT CASH AND NONCASH DONATIONS	
	Small	Large	Yes	No	Yes	No	Yes	No	Yes	No
Public Charity		♦	♦*		♦		♦**		♦	
Private Foundation	♦		♦		♦		♦**		♦	
Donor Advised Fund	♦		♦			♦		♦	♦	
Community Foundation	♦		♦			♦		♦	♦	
Direct Gift	♦		♦			♦		♦	♦	

\*As a public charity cannot be funded solely by a state or local association, careful consideration must be exercised by the association in determining the appropriate amount of funding contributed to its public charity organization.

\*\*This assumes fundraising events are conducted by the charitable vehicle

- **Donors (Small or Large)**
  - Important in determining whether or not an organization is publicly supported within the meaning of the IRC Section 509(a) public support rules. To qualify as a publicly supported organization, it must receive a substantial part of its support from a governmental unit or from the general public
  - Depending on the level of charitable donations, consider potential state filing and reporting requirements. The state registration and independent audit requirements, as well as the required annual filings and fees, vary significantly state by state<sup>2</sup>
- **Funded by State and Local Associations**
  - Although common, typically organizations funded solely by one donor or a small group of donors are not able to meet the annual public support test of a public charity. To qualify as a publicly supported organization, a charity must receive a substantial part of its support from the general public, which could include the member base of the state and local association

<sup>2</sup> Refer to the National Association of State Charity Officials' website for more information regarding charitable registration and fundraising in the U.S. - <http://www.nasconet.org/>

## SOURCE OF FUNDS CONSIDERATIONS (CONTINUED)

- **Funded by Member Contributions as Part of Annual Membership Dues**

- Contributions are solicited through annual request for membership dues as potential source of revenue
- Contributions received from a state or the member base could represent a donor base large enough to qualify the charitable vehicle as a publicly supported organization under IRC Sec. 509(a) (please refer to the “Public Charity” section)
- Member contributions can also be used to support a private foundation. However, private foundations do not need to meet the public support test on an annual basis and therefore do not need to maintain a large donor base. Private foundations are ideal for charitable vehicles supported by a small donor base
- Due diligence must be exercised in collection of charitable donations versus member dues. Members should be provided with adequate documentation substantiating the receipt of contributions that are collected on behalf of the charitable vehicle in order to properly report on their personal income tax returns

- **Fundraising Events**

- As defined by the IRS, are those events not regularly carried on that are conducted for the primary purpose of raising funds. They are endeavors for which the primary purpose of raising contributions for an organization is accomplished by the selling of certain goods or services for more than their direct cost
- Typical activities:
  - Golf outings
  - Dinner/dances
  - Door-to-door sales of merchandise
  - Concerts
  - Carnivals
  - Auctions
- Activities that do not qualify:
  - The conduct of a trade or business that is regularly carried on
  - Activities substantially related to the accomplishment of the organization’s exempt purposes (other than by raising funds)
  - Solicitation campaigns that generate only contributions, which may involve gifts of goods or services from the organization of only nominal value, or sweepstakes, lotteries, or raffles in which the names of contributors or other respondents are entered into in a drawing for prizes of only nominal value
  - Gaming Events<sup>3</sup> (including but not limited to)
    - Raffles, casino nights, card games, bingo and pull tabs

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<sup>3</sup> If considering gaming events as a method of raising contributions for an organization, refer to IRS Publication 3079, Gaming Publication for Tax-Exempt Organizations.



## SOURCE OF FUNDS CONSIDERATIONS (CONTINUED)

- **Cash and Noncash Donations**

- An organization should consider the type of charitable donations (cash versus noncash) that it is willing to accept
- Although cash contributions are relatively straight forward, the valuation and substantiation for noncash contributions can complicate the process
- Noncash donations are contributions of property, tangible or intangible, other than money
  - Include, but are not limited to, donations of stocks, bonds and other securities, real estate, works of art, collectables, clothing and household goods, vehicles, supplies and intellectual property such as patents or copyrights
  - Do not include the value of volunteer services performed or the value of the donated use of materials, facilities, or equipment
- Organizations receiving noncash donations should adopt a gift acceptance policy. A gift acceptance policy is:
  - A written compilation of guidelines and suggestions for the organization's process for evaluating and accepting various kinds of gifts
  - Allows an organization to protect itself by limiting the types of gifts it is willing to accept, specifically those gifts that could cause an organization a great deal of administrative time or additional reporting requirements
  - Addresses the types of contributions that are acceptable, the forms of gifts that are acceptable, and the organizations role in gift administration
- Substantiation is required for noncash contributions, over certain amounts, in order for donors to deduct the charitable contribution on their individual income tax return
  - The reporting requirements and methods of appraisal vary depending on the type of noncash property donated

*For detailed information on the valuation of noncash donations, refer to IRS Publication 526, Charitable Contributions and IRS Publication 561, Determining the Value of Donated Property*

# Grant Making Guidelines & Priorities

Charitable vehicles are typically established to accomplish the charitable objective of one or more donors. In order to accomplish such a charitable objective, an organization must define its mission, goals (both long-term and short-term), spending policies, and, among others, its grant making priorities and guidelines. Examples of such grant making guidelines include:

- Identifying whether the organization will make grants to predetermined not-for-profit organizations or whether they will make grants based on a formal application process to individuals and projects
- Determining the size and number of grants paid on an annual basis
- Determining whether grants will be one-time-only distributions or multi-annual distributions to the same recipient

## EARMARKED DONATIONS

An IRC Section 501(c)(3) organization must not be organized or operated for the benefit of private interests, and no part of its net earnings may inure to the benefit of any private shareholder or individual.

- Charitable vehicles must benefit a charitable class rather than select groups of people.
  - A charitable class is a group that is large enough that the community as a whole is benefited when a charity provides assistance.
  - For state and local associations, this may represent members of communities in certain counties, regions, or states.
  - If a state and local association were to establish an IRC Sec. 501(c)(3) exempt organization, they would be restricted, by the IRS, from directing assistance to particular individuals rather than a charitable class for a general cause.
- According to IRC Publication 526, examples of nondeductible contributions to individuals include:
  - Contributions to fraternal societies made for the purpose of paying medical expenses of deceased members.
  - Contributions to individuals who are needy or worthy including a contribution made to a qualified organization earmarked for a particular individual or family.
  - Payments to a member of the clergy for personal expenses.
  - Expenses paid for another person to provide services to a qualified organization.
  - Payments to a hospital that are for specific patient's care.

*For more information; please refer to IRS Publication 526, Charitable Contributions.*

## GRANT APPLICATIONS AVAILABILITY

A state and local association organized for the purpose of providing aid or assistance to a certain charitable class must consider whether or not they will implement a formal application process for selecting qualified recipients for aid. Items to consider:

- Whether application submissions will be taken from the general public or only from a certain group of individuals
- Whether grant applications will be made available via a website and other public forums or made available through member only channels such as mailings, emails or member only sites for grant programs that are not open to the public (ie only members may apply)

## GRANT APPLICATION

The grant application is pivotal in administering a grant program. State and local associations must customize their grant application in order to ensure qualified recipients of aid, as identified by their grant application, will be in line with the organization's mission and further its exempt purpose. Items that should be considered for inclusion in grant application:

- **Referrals**
  - Consider whether grants will be limited to only applicants who receive a referral from a current member
- **Geographic Region**
  - Consider restricting the availability of grants to individuals or organizations within their geographic region
  - Annual reporting, as may be required by the IRS, can be more burdensome for organizations maintaining grant programs to distribute funds overseas rather than those limited to only U.S. organizations or individuals
  - Organizations distributing funds outside the United States will be required to exhaust more resources to keep records and monitor the use of grant funds distributed to foreign recipients than would an organization only making grants to recipients in the United States
- **Individual or Organization**
  - Deciding whether to make grants to individuals or other IRC Sec. 501(c)(3) organizations depends on the original intentions of the charitable vehicle. For example, an organization furthering the education of professionals in the real estate field may make grants to individuals for scholarships or education related expenses. A state and local association establishing a charitable vehicle to assist disaster victims might make grants directly to individuals or might make grants to other organizations involved in providing disaster relief

## GRANT APPLICATION (*CONTINUED*)

- To reduce monitoring and record keeping obligations, consider selecting predetermined IRC Sec. 501(c)(3) organizations as qualified recipients for aid
- **Proof of Eligibility**
  - Healthcare Grants (Medical records, Medical bills supporting expenses)
  - Education Grants (Proof of attendance at a qualified educational organization, Qualified educational expenses, Curriculum that is real estate related)
  - Disaster Relief Grants (Federal/state/local declared disasters)
  - Financial Hardship Grants (Current and prior tax returns, bank statements and other measures of financial position, current and future sources of income, establish circumstances are beyond the person's control)
- **Strictly Prohibited Activities**
  - Must explicitly prohibit the use of grants fund for certain activities. Specifically grants made by tax-exempt organizations should not be used by the recipient for legislative or political activities. IRC Sec. 501(c)(3) organizations are strictly prohibited by the IRS from participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office whether directly or indirectly. Such activities will jeopardize the organization's tax-exempt status

## APPLICANT REVIEW

Successful grant programs are often those which have the proper procedures in place to enable the program to run efficiently and evaluate applicants in a timely manner. Before administering a grant program, an organization should outline the method in which it plans to process applications from beginning to end, specifically the procedure for applicant review. Issues to consider when defining the applicant review process:

- Initial review for eligibility and satisfaction of basic criteria
- Reference checking
- Final committee or board review for selecting recipients of grant funds
- If no formal review process, take other steps to ensure potential recipients are within the organization's criteria for grants, such as confirming tax-exempt status

## DISTRIBUTION OF FUNDS

Determining how to distribute funds to grant recipients is an important consideration. An organization can administer grants or aid through:

- Payments made on behalf of a grant recipient or to a third party
  - Can provide the organization with the sense of security in knowing exactly how the grant funds were used
  - Examples: A scholarship program for continuing education credits might distribute scholarship funds directly to the educational organization itself on behalf of the recipient. An organization aiding disaster victims to rebuild damaged or destroyed homes may issue payments to building contractors on behalf of the grant recipient
- Payments given directly to the grant recipient
  - Less burdensome in distribution of funds
  - May find more time and effort in following up with grant recipients to monitor and ensure grant funds were used for their intended purpose

## CONFIRMATION OF GRANT USE

Subsequent to the distribution of grant funds, state and local associations must determine the appropriate follow up procedures to confirm grants were used for their intended purpose. Examples of such procedures:

- Require grant recipients to provide reports on the status of grant monies used and projects undertaken
- Site visits
- Require grant monies provided to individuals for education to maintain a certain grade point average or full-time enrollment



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