

Internal Revenue Service
P. O. Box 2508
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Department of the Treasury

Number: 201608016
Release Date: 2/19/2016

Employer Identification Number:

Person to Contact - ID#:

Date: November 24, 2015

Contact Telephone Numbers:

UIL: 501.03-00; 501.03-08

LEGEND:

B = Organization
C = County
D = State
x dollars = Amount
y dollars = Amount
z dollars = Amount

Dear :

We have considered your October 2, 2015, request for recognition of an unusual grant under Treasury Regulations section 1.170A-9(f)(6)(ii) and related provisions.

Based on the information provided, we have concluded that the proposed grant constitutes an unusual grant under section 1.170A-9(f)(6)(ii) and related provisions of the regulations. The basis for our conclusion is set forth below.

Facts:

You are a public charity described in Internal Revenue Code section 509(a)(1) and 170(b)(1)(A)(vi) and you are actively engaged in a program of activities in furtherance of your exempt purpose. Your mission is to improve the relationship, trust, and communication between law enforcement officials, at-risk youth of all gender, ethnic, and religious backgrounds, and the community while interacting with other community service organizations that work with youth to leverage resources. Your mission has been achieved by creating and implementing a variety of science and technology summer camps and afterschool programs. The programs have been conducted at various facilities that have been rented you or donated by a municipal entity. Television, media, and newspaper documents show that you have been actively engaged in these programs.

Your Board of Directors includes the school superintendent, university level educators, aviation, science, and boating professionals, the Housing Authority Executive Director, federal and local law enforcement personnel, and banking officials. You have a highly experienced management team with transparent policies and internal checks and balances to oversee policies and procedures. No one in your organization is affiliated with B.

You are located in the fifth largest county in D, C. However, it is an extremely poor region which makes raising funds difficult. Your funding has historically come from a variety of private, corporate, and municipal funding sources. You have solicited for public support in the past and have previously met the one-third support test without the exclusion of any unusual grants. A significant amount of support has come from the government and public sector. You expect to continue to attract a significant amount of public support after receipt of the grant.

You submitted two grant applications to B. One grant application submitted by you to B was for a capital grant for x dollars to construct a youth science, technology, and health center and purchase outdoor playground equipment. The other grant application was for a y dollar operating expense budget and material acquisition. B will consolidate the two grant applications into one grant request totaling z dollars because of the unusual multi-faceted purposes of the grant requests from one organization. The grant will be in the form a check payable to you to be used to purchase building materials, services, and supplies that will allow you to construct a facility and develop and enhance programs and services for the underrepresented youth in C. B has not imposed any conditions on you that must be satisfied prior to receiving the grant other than requesting that you consider the ramifications of a large grant on your public charity status.

B is currently one of the largest private trusts in D and B's mission is to "improve the quality of life and quality of health for the financially needy of D." C is one of the five especially poor counties that B has designated as priority regions to focus on funding health related initiatives. B was informed about your mission and programs by members of the C educational system, municipal government, media, representatives of other private community based programs, and citizens of the community. B has no prior affiliation with you and B has no one in a position of authority on your staff or Board of Directors. You submitted a detailed online proposal to B on how you plan to use the grant funds relative to a healthy living/fitness program. An external and impartial B Advisory Board of professionals reviewed the current funding cycle grant applications. The Advisory Board then made recommendations to the funding committee as to what applications/amount should be considered for funding.

Law:

Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) set forth the criteria for an unusual grant.

Treasury Regulations section 1.170A-9(f)(6)(ii) states that, for purposes of applying the 2-percent limitation to determine whether the 33 1/3 percent-of-support test is satisfied, one or more contributions may be excluded from both the numerator and the denominator of the applicable percent-of-support fraction. The exclusion is generally intended to apply to substantial contributions or bequests from disinterested parties which:

- are attracted by reason of the publicly supported nature of the organization;
- are unusual or unexpected with respect to the amount thereof; and
- would, by reason of their size, adversely affect the status of the organization as normally being publicly supported.

Treasury Regulations section 1.509(a)-3(c)(4) states that all pertinent facts and circumstances will be taken into consideration to determine whether a particular contribution may be excluded. No single factor will necessarily be determinative. Such factors may include:

- Whether the contribution was made by a person who
 - a. created the organization
 - b. previously contributed a substantial part of its support or endowment
 - c. stood in a position of authority with respect to the organization, such as a foundation manager within the meaning of section 4946(b)
 - d. directly or indirectly exercised control over the organization, or
 - e. was in a relationship described in Internal Revenue Code section 4946(a)(1)(C) through 4946(a)(1) (G) with someone listed in bullets a, b, c, or d above.

A contribution made by a person described in a. - e. is ordinarily given less favorable consideration than a contribution made by others not described above.

- Whether the contribution was a bequest or an inter vivos transfer. A bequest will ordinarily be given more favorable consideration than an inter vivos transfer.
- Whether the contribution was in the form of cash, readily marketable securities, or assets which further the exempt purposes of the organization, such as a gift of a painting to a museum.
- Whether (except in the case of a new organization) prior to the receipt of the particular contribution, the organization (a) has carried on an actual program of public solicitation and exempt activities and (b) has been able to attract a significant amount of public support.
- Whether the organization may reasonably be expected to attract a significant amount of public support after the particular contribution. Continued reliance on unusual grants to fund an organization's current operating expenses (as opposed to providing new endowment funds) may be evidence that the organization cannot reasonably be expected to attract future public support.
- Whether, prior to the year in which the particular contribution was received, the organization met the one-third support test described in section 1.509(a)-3(a)(2) without the benefit of any exclusions of unusual grants pursuant to section 1.509-3(c)(3);
- Whether the organization has a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and
- Whether material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) have been imposed by the transferor upon the transferee in connection with such transfer.

Application of Law:

You successfully meet the criteria set forth in Treasury Regulations section 1.1 70A-9(f)(6)(iii). B, the grantor, was informed about your mission and programs by members of the C educational system, municipal government, media, representatives of other private community based programs, and citizens within the community. The anticipated grant amount is unusual

based on the funding amounts you typically receive. The grant will consist of two components: (1) capital grant: x dollars to construct a facility, and (2) operating expense funding of y dollars. The large size of the grant from B would adversely impact your public charity status.

Pursuant to Treasury Regulations section 1.509(a)-3(c)(4), all pertinent facts and circumstances have been considered and analyzed in determining whether the grant or contribution is an unusual grant as follows:

- B as the grantor is a disinterested party with respect to you in the sense that the donation is made solely because of the publicly supported nature of the organization. B is an independent charitable trust with which you have no prior or current affiliation with.
- B has no one in a position of authority on your staff or on your Board of Directors. No one in your organization is affiliated with B.
- The anticipated grant will be in the form of a check payable to you that will be used to purchase building materials, services, and supplies that will allow you to construct a facility and develop and enhance programs and services for the underrepresented youth in C which fulfills your charitable mission.
- You are a public charity described in Internal Revenue Code section 509(a)(1) and 170(b)(1)(A)(vi) and you are actively engaged in a program of activities in furtherance of your exempt purpose. You have conducted a variety of science and technology summer camps and afterschool programs since formation that have been documented by television, media, and newspaper coverage. Additionally, as shown in your previous financial data, you were able to attract a significant amount of support from the public sector and the government in the past.
- Based on the type and scope of the science, technology, and health related programs that you will implement with the B funding, and your existing programs and program support reflected in the financials submitted, you should be able to continue to attract a significant amount of public support after the grant as you have in the past that will allow you to continue to meet your mission objectives.
- You have previously met the one-third support test without the exclusion of any unusual grants. You have never benefited from the use of the exclusion of unusual grant exemption to meet the one-third support test.
- You have a representative governing body. Your Board of Directors includes a school superintendent, university level educators, aviation, science and boating professionals, the Housing Authority Executive Director, federal and local law enforcement personnel, and banking officials.
- B has not imposed any conditions on you that must be satisfied prior to receiving the grant other than requesting that you consider the ramifications of a large grant on your public charity status.

For all the forgoing reasons, the grant from B should be characterized as an unusual grant as the criteria set forth in Treasury Regulations sections 1.170A-9(f)(6)(ii) and 1.509(a)-3(c)(4) for an unusual grant have been met.

If you have any questions, please contact the person listed in the heading of this letter.

Sincerely,

Jeffrey I. Cooper
Director, Exempt Organizations
Rulings and Agreements