

Internal Revenue Service
P. O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Employer Identification Number:

Person to Contact - ID#:

Contact Telephone Numbers:

LEGEND:

B= Date

C= State

D= Foundation Name

w dollars= Amount

x dollars= Amount

Dear :

We have considered your October 15, 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 Sections 509(a)(1) and 170(b)(1)(A)(vi) and formed on B in the state of C. Your mission is to enrich the lives of at risk youth and foster children by providing programs that restore and increase self-esteem, self-worth, self-sufficiency, and the opportunity for long term success.

You have attracted support from public sources including private companies, individual donors/benefactors and fund raising events. Your gross revenue for last year was about w dollars.

You have also been actively seeking other sources of funding in order to expand your programs for youth and recently become aware of D. D is a new private foundation, has no prior affiliation with you, did not create you, and has no one in a position of authority within you or on your Board of Directors.

You submitted a grant application to D for x dollars to be used to expand your programs to end teen homelessness. These programs are to develop self-esteem in youth, help them with social skills, provide college scholarships, provide free dermatology clinics, and the opportunity for

long term success. Since your formation, your research shows that restoring an abused child's self-esteem and self-worth takes time and energy. You have found that only with continuity and quality of care can you improve their self-esteem, change their mindset from negative to positive and most importantly change their outlook on what they think and believe they can achieve as adults.

The grant will be awarded primarily in cash over several years to expand your programs but you are willing to accept up to 25% in stock. There will not be any conditions or restrictions imposed on you other than you meet your goals and milestones set forth in the grant application as well continued existence as a Section 501(c)(3) exempt public charity.

You expect to continue to attract significant and broad public support from private businesses, individual benefactors and fundraising events such as galas. You also have a large board of directors including public figures, representatives from private industry and a physician. None of your directors or officers is a trustee, director, agent, or employee of D nor does D exert any control, direct or indirect, over you.

You have not previously applied for nor received any grants from D. Furthermore, due to its size, the grant will adversely affect your status as normally being publicly supported under Section 170(b)(1)(A)(vi) for the applicable period.

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:

The potential contribution meets the requirements of Treasury Regulations section 1.170A-9(f)(6)(ii) because the grant is from a disinterested party, and:

- The grant was attracted by reason of your publicly supported nature.
- The grant is unusual or unexpected with respect to the amount.
- The grant will adversely affect your status as normally being publicly supported.

The grant meets the requirements of Treasury Regulations section 1.509(a)-3(c)(4) based on the following facts and circumstances.

- The potential contribution is from D, a disinterested party that:
 - a. Did not create you;
 - b. Has not previously contributed to you;
 - c. Does not stand in a position of authority with respect to you;
 - d. Does not directly or indirectly exercise control over you; and
 - e. Was not in a relationship described in IRC Section 4946(a)(1)(C) through 4946(a)(1)(G) with someone listed in bullets a, b, c, or d above.
- The potential contribution will also primarily be in the form of cash, or equivalent, which furthers your exempt purposes.
- You have been successful in seeking sources of public support and conducting exempt activities. For example, your programs have been funded by private companies, benefactors and fundraising events since your inception.
- You reasonably expect to continue to attract a significant amount of public support after the grant.
- You have a representative governing body as described in Treasury Regulations section 1.509(a)-3(d)(3)(i); and
- No material restrictions or conditions within the meaning of Treasury Regulations section 1.507-2(a)(7) will be imposed by the grantor.

For all the forgoing reasons, the grant should be characterized as an unusual grant within the meaning of Treasury Regulations section 1.509(a)-3(c)(4).

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