**SPECIAL INSTRUCTIONS**

1. **Grant Agreement to use**
   1. None, not permitted:
      1. Type III, non-functionally integrated supporting organization
      2. Political or lobbying organization
   2. Charity:
      1. 501(c)(3) public charity other than a controlled 509(a)(3) supporting organization
      2. Private operating foundation
   3. Private non-operating foundation
      1. Private non-operating foundation
      2. Controlled public charity
      3. Controlled Type I, II, or functionally integrated Type III supporting organization
   4. Other:
      1. Taxable organization
      2. Any organization not described above
2. **Typing the 501(c)(3) organization**
   1. Form 990 Schedule A is a very useful tool
   2. Form 990 Part 1
      1. Per se public charities: boxes 1 to 6
      2. Box 7 and 8 requires more than 1/3 of public support from the broad public
         1. Grants from organizations other than public charities or governmental organizations are limited to 2% of total support – the excess should appear on line 5
         2. If prior grantee of the Foundation and the Foundation knows it gave more than 2% of the amount on line 11(f) in the previous 5 years, if nothing appears on line 5 – then that is a good sign that the schedule may not have been prepared correctly
         3. See part II line 14 – this should be more than 33 1/3% - the higher the number the better.
      3. Box 9 requires more than 1/3 of public support from the broad public and no more than 1/3 of total support from investment income
         1. This category is typically used by organizations that collect gross receipts as opposed to just charitable contributions
         2. Grants from disqualified persons (which includes substantial contributors) are excluded from the numerator and should appear on line 7a of part III
         3. A substantial contributor is a person who contributed an aggregate amount of more than 2% of the total contributions received by the organization
         4. See Part III line 15 – should be more than 33 1/3 % - the higher the better
         5. See part III line 17 – this must be less than 33 1/3% - the lower the better
      4. **All of above will use the public charity grant agreement unless it is controlled by the Foundation**
      5. Box 11 – recommend contributions not be made to these organizations. For those with box 11 checked – there is generally a public charity that is supported and may be a good alternative for a grant.
         1. However, if they have an IRS determination letter that shows type I or II, then grants to them would be OK and would not require expenditure responsibility
      6. Box 11 d – not permitted to contribute to this type of organization
3. **Tipping considerations**
   1. This only applies to public charities, and specifically to 509(a)(1) and (a)(2) public charities – boxes 7, 8 and 9 of Form 990 Schedule A Part I) and is intended to look at whether the public charity would become a private foundation as a result of contributions by the Foundation
   2. This is a rolling 5 year test that is reflected on Form 990 Schedule A part II or III
   3. The Form 990 you will find on Guidestar is likely to be a year or more old. However, it is useful as a starting point.
   4. For box 7 and 8 organizations:
      1. Consider how the Foundation’s contributions for the past 4 years, including the proposed grant, compares to 2% of the amount shown on part II line 11(f). if the total of these grants is more than 2% of line 11f, then perform the following calculation:
         1. Revise line 6: Prior line 6 + the proposed grant less the excess determined above
         2. Revise line 11(f) : Prior line 11f + the proposed grant
         3. Recalculate line 14 by dividing (1) by (2) – result should be more than 33 1/3%. If over 45% - no further inquiry. If under 45%, consider further inquiry of the proposed grantee.
   5. For box 9 organizations:
      1. Consider how the Foundation’s contributions for the part 4 years, included the proposed grant, compares to 2% of the amount shown on part III line 13(f). If the total is more than 2% of this amount, then perform the following calculation:
         1. Add the proposed grant (as well as prior grants) to this grantee to the line 7a and correspondingly reduce the line 8 amount
         2. Add the proposed grant to the line 13 amount
         3. Divided (1) by (2) - result should be more than 33 1/3%. If over 45%, no further inquiry. If under 45%, consider further inquiry of the proposed grantee.
   6. Note – above revised calculations do have flaws –
      1. The organization may have already limited the amount of prior contributions by the Foundation in their Schedule A calculations. However, there is no way, without further inquiry of the grantee, for the Foundation to know whether that did in fact occur and the amount.
      2. The calculation does not reflect other potential grantees in the current year or even total support for the current year. Thus, the above is just used as a tool to identify a potential issue and when to make further inquiries of the charitable organization.
4. **Disqualified person includes:**
   1. A person (including an individual, corporation, partnership, trust, estate, or other private foundation) standing in one or more particular relationships with respect to a private foundation, its trustees, and its founders. The following are a few examples of a disqualified person:
   2. Substantial contributor — a person who contributed an aggregate amount of more than 2 percent of the total contributions received by the private foundation before the close of its tax year in which the contribution is received by the private foundation from that person
   3. Foundation manager — an officer, director, or trustee of the private foundation, or an individual having powers or responsibilities similar thereto
   4. Certain 20 percent owners — an owner of more than 20 percent of the total combined voting power of a corporation, the profits interest of a partnership, or the beneficial interest of a trust or unincorporated enterprise, any of which is a substantial contributor to a private foundation
   5. Family members — a member of the family of an individual who is a substantial contributor, a foundation manager, or one of the previously discussed 20 percent owners