Internal Revenue Service

Date: August 25, 2005

UNIVERSITY OF SOUTH FLORIDA
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TAMPA FL 33620-8001

Department of the Treasury
P. O. Box 2508
Cincinnati, OH 45201

Person to Contact:
Patricia Sims #31-04345
Customer Service Representative
Toll Free Telephone Number:
8:30 a.m. to 5:30 p.m. ET
877-829-5500
Fax Number:
513-263-3756
Federal Identification Number:
59-3102112

Dear Sir or Madam:

This is in response to your request of August 25, 2005, regarding your organization's federal tax status.

Our records indicate that your organization may be a governmental instrumentality or a political subdivision of a state.

No provision of the Internal Revenue Code imposes a tax on the income of governmental units (such as states and their political subdivisions). Therefore, it has been the position of the Service that income of governmental units is not generally subject to federal income taxation. If, however, an entity is not itself a governmental unit (or an "integral part" thereof), its income will be subject to tax unless an exclusion or exemption applies.

One exclusion is provided by section 115(1) of the Code, which excludes from gross income:

> "...income derived from ... the exercise of any essential governmental function and accruing to a State or any political subdivision thereof ..."

Your organization's income may not be subject to tax, either because the organization is a governmental unit (or an "integral part" thereof), or because the income is excluded under section 115. In addition, your organization may also be eligible to receive charitable contributions, which are deductible for federal income, estate, and gift tax purposes. Also, your organization is probably exempt from many federal excise taxes.

Your organization may obtain a letter ruling on its status under section 115 by following the procedures specified in Rev. Proc. 2002-1 or its successor.

Your organization may also qualify for exemption from federal income tax as an organization described in section 501(c)(3) of the Code. If the organization is an entity separate from the state, county, or municipal government, and if it does not have powers or purposes inconsistent with exemption (such as the power to tax or to exercise enforcement of regulatory powers), your organization would qualify under section 501(c)(3). To apply for exemption, complete Form 1023 and pay the required user fee.

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Sometimes governmental units are asked to provide proof of their status as part of a grant application. If your organization is applying for a grant from a private foundation, the foundation may be requesting certain information from your organization because of the restrictions imposed by the Code on such foundations. One such restriction imposes a tax on private foundations that make any "taxable expenditures." Under section 4945(d) and (h) of the Code, "taxable expenditures" include (1) any grant to an organization (unless excepted), unless the foundation exercises "expenditure responsibility" with respect to the grant; and (2) any expenditure for non-charitable purposes. Under section 4942 of the Code, private foundations must also distribute certain amounts for charitable purposes each year--"qualifying distributions"--or incur a tax on the undistributed amount. "Qualifying distributions" include certain amounts paid to accomplish charitable purposes.

Private foundation grants to governmental units for public or charitable purposes are not taxable expenditures under these provisions, regardless of whether the foundation exercises "expenditure responsibility." Under section 53.4945-5(a)(4)(ii) of the Foundation and Similar Excise Tax Regulations, expenditure responsibility is not required for grants for charitable purposes to governmental units (as defined in section 170(c)(1) of the code). Similarly, grants to governmental units for public purposes are "qualifying distributions", under section 53.4942(a)-3(a) of the regulations; and, if they are for charitable purposes, will not be taxable expenditures, under section 53.4945-6(a) of the regulations. Most grants to governmental units will qualify as being for charitable (as well as public) purposes.

Because of these restrictions, some private foundations require grant applicants to submit a letter from the Service determining them to be exempt under section 501(c)(3) and classified as a non-private foundation. Such a letter, or an underlying requirement that a grantee be a public charity, is not legally required to be relieved from the restrictions described above, when the prospective grantee is a governmental unit and the grant is for qualifying (public or charitable) purposes.

We believe this general information will be of assistance to your organization. This letter, however, is not a ruling and may not be relied on as such. If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely,

Janna K. Skufca

Janna K. Skufca, Director, TE/GE
Customer Account Services