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by **Natalia Kanem**

Deputy, Office of the Vice President
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Chair, Council on Foundations International Committee

The Council's International Committee meeting in March, my first as chair, occurred at what Charles Dickens might have called the best of times and the worst of times. These are certainly interesting times for international grantmaking. On the one hand, the unprecedented response of grantmakers to the tsunami disaster in the Indian Ocean—Council members alone reported contributing more than \$100 million—has raised general awareness and appreciation for the role that U.S. foundations and corporate grantmakers play internationally. On the other hand, issues of accountability for international grantmakers continue to loom large, both within the general context of scrutiny by Congress and the media, but also more specifically around the Treasury Department's voluntary guidelines for anti-terrorist financing and heightened IRS attention.

Recognizing that grantmaker accountability and effectiveness in the international arena must take into account differences in legal systems, accounting practices, culture and other special concerns, the International Committee devoted part of its recent meeting to discussing a new international grantmaking accountability initiative. The joint effort with the European Foundation Centre is aimed at developing a set of principles of accountability and effectiveness specifically related to international grantmaking. A 14-member joint working group of the two organizations will convene in May, gather information and experience from a wide range of organizations and experts throughout the year, and make recommendations to the International Committee early next year.

These two strands—the billions of dollars in foundation and corporate philanthropy and the need to ensure that it is done with accountability and effectiveness—are woven throughout the agenda of the Council's upcoming 56th Annual Conference, which will be held April 10–12, 2005, in San Diego. This year's conference theme, "Generosity and Integrity: Values for Leadership in Philanthropy," will incorporate several international aspects, including visits to bordering towns in Mexico and speakers and sessions of special interest to international grantmakers. Former Ambassador Jeffrey Davidow, president of the Institute of the Americas and author of *The U.S. and Mexico: The Bear and the Porcupine*, will speak at the International Dinner on Saturday, April 9. In addition, Jeremy Rifkin, president of the Foundation on Economic Trends and author of *The End of Work* and *The European Dream*, will be a plenary speaker at the conference. I am looking forward to the conference and hope to see many of the Council's international grantmaking members in San Diego.



International Giving Models: Case Studies in Corporate Grantmaking

By Sarita Venkat
Communications Coordinator for Corporate Services
Council on Foundations

Background. According to *International Grantmaking III: An Update on U.S. Foundation Trends* by The Foundation Center in cooperation with the Council on Foundations, annual foundation funding [\[1\]](#) for all international programs reached \$3.2 billion in 2002 [\[2\]](#). For the study's 1,005 respondents, international grants totaled \$2.1 billion in 2002. Of that amount, corporate contributions totaled \$115.3 million [\[3\]](#). The Conference Board's 2004 *Contributions Report* states that corporate giving abroad rose almost 14 percent from 2002 to 2003. International grants now account for 16 percent of U.S. corporate giving [\[4\]](#).

While increased competition continues to drive U.S. companies to establish or expand their businesses and operations overseas, many respondents in the referenced surveys believe that international giving is now more difficult because of an increasingly demanding and uncertain regulatory environment.

Legal Requirements. Among grantmakers' concerns is Executive Order 13224, which prohibits transactions with organizations deemed to be associated with terrorism, and certain provisions of the USA Patriot Act. The Treasury Department's voluntary guidelines for anti-terrorist financing have created additional uncertainty and confusion. Corporate grantmakers must also adhere to various legal responsibilities when making international grants to ensure that grants are made for charitable purposes and will count toward the minimum 5 percent payout requirement. Private foundations making grants outside the United States can either make grants to organizations that the IRS has qualified as public charities or to organizations that are not recognized by the IRS, either by making an equivalency determination or by following expenditure responsibility [\[5\]](#).

Although most experienced international grantmakers undertake a process that combines both methods, many are now opting to use third party nonprofit organizations, such as United Way International and Charities Aid Foundation, to perform due diligence. In general, these entities manage both the pre-grant requirements and post-grant functions.

International Corporate Giving Models. While their global business interests grow, U.S. corporate grantmakers are faced with a challenge: from an operating and structural perspective, how can the company or foundation support international charitable causes in local communities? How do they identify and select nonprofits that align with the organization's priority areas? And who, within the company or foundation, manages the nonprofit relationships?

To help answer these questions, the Council's Corporate Services staff identified three distinct

international models as well as companies and foundations that use each one. The staff spoke with five corporate grantmakers to learn more about the structure and processes of each model. The models are:

- **Giving Through the Foundation or Corporation:** The corporate foundation manages the grant administration and management functions.
Examples: Alcoa Foundation's network of lead teams and international grant contacts recommend nonprofits and manage the relationships; the foundation conducts the administration (including due diligence requirements) and grantmaking. The **Microsoft Corporation's** Community Relations group relies on colleagues based in international locations to identify nonprofits.
- **Direct Giving by Country Location:** Headquarters provides overall grant funding and guidance, but actual grantmaking occurs at the local level within countries and/or business units. Business units recommend potential grant recipients and manage their own grantmaking budgets.
Example: ChevronTexaco Corporation headquarters provides grant funding, guidance and oversight to the business units.
- **Working with General, Regional or Program-Focused Funding Partners:** Under this increasingly popular arrangement, a company or foundation makes a contribution to an IRS-recognized nonprofit organization, which manages the grantmaking process. The partner administers the due diligence, performs pre-and post-grant evaluations and makes final grant decisions. Although the donor does not control the funds, once the contribution has been made, the donor can make grant recommendations.
Examples: The Citigroup Foundation works with United Way International and Charities Aid Foundation. The **American Express Company** collaborates with Give2Asia and The Resource Foundation (among others) for its grantmaking operations

The company profiles describe these models and how they align with the corporate culture. They are not one-size-fits all; companies and their foundations may use a specific model or a variation that best meets their needs.

To read company profiles click on the Corporate Services tab on the Council website at www.cof.org.

¹ Includes community and private foundation funding.

²The Foundation Center in cooperation with the Council on Foundations. *International Grantmaking III: An Update on U.S. Foundation Trends* (New York: 2004) p. X.

³Ibid. p. 23.

⁴Hempel, Jessi, et al. "The Corporate Givers: U.S. Companies Have Discovered that Global Philanthropy can Reap Big Dividends," *Business Week*. Vol. 3910 (New York: McGraw-Hill Companies, Inc., 2004) p. 100.

⁵The Council publication *Beyond Our Borders: A Guide to Making Grants Outside the U.S.* discusses these requirements in detail.



Philanthropy in Italy

By Claudia DiIioia

International Fellow, Council on Foundations

The Italian third sector is an emerging and growing presence that meets community needs not met by public institutions (national and local governments) and the market. The third sector includes associations, foundations and non-governmental organizations (NGOs). In the past ten years, the sector grew to 2.7 percent of GDP, up from 1.8 percent in the early 1990s [\[1\]](#).

Traditionally, a large chunk of funding for nonprofit organizations came from the public sector and, to a lesser extent, the private sector. Of late this tide is turning, with several new developments intended to promote a culture of giving and to develop grantmaking foundations that involve people in the communities in which they live and work.

One such development is the introduction of community foundations—a significant development in Italian philanthropy. The Community Foundations Project was launched in 1997 by the Milan-based *Fondazione Cariplo*, a community foundation for the surrounding region of Lombardy. *Fondazione Cariplo* arose from the privatization of the biggest European savings bank, *Cassa di Risparmio delle Provincie Lombarde*. The first community foundation was established in Lecco in 1999; by the end of 2004, there were 15 community foundations, with the majority located in Lombardy and promoted by **Fondazione Cariplo**. Two of these new community foundations were the result of joint efforts by the Venice Foundation and a group of citizens, companies and public organizations in nearby Vicenza.

Community foundations are an important and growing force in philanthropy in Italy, thanks to their capacity to understand the needs and opportunities of the communities they serve. They also connect local nonprofit organizations and local donors, and make it possible for individual citizens to have a larger impact on the communities in which they live.

Another important development is the establishment of **AssiFero**, a nonprofit membership association of grantmakers set up in July 2003 to develop a network for grantmakers and to promote and enhance responsible and effective philanthropy. Currently, AssiFero has a membership of 24 grantmaking organizations, of which 9 are community foundations and 1 is an association. In its second year of existence, AssiFero is in a critical start-up phase. Among other things, AssiFero assists individual members with information requests, facilitates effective communication and networking opportunities, and organizes conferences and events such as the 2004 International Conference on Community Philanthropy held in conjunction with the European Foundation Centre. The key objective of this event, which gathered representatives from foundations, banks and chambers of commerce, was to promote the concept of community philanthropy in Italy.

¹ Social Affairs Department, *Rapporto Biennale Sul Volontariato in Italia* (2000)



Global Grantmaking for Small Grants

A conversation between Chet Tchozewski, executive director of the **Global Greengrants Fund**, and Yumi Sera, secretariat of the World Bank's **Small Grants Program**, motivated the recent workshop, "Global Grantmaking for Small Grants," held on February 7, 2005, at the World Bank. Chet Tchozewski is a pioneer in international small grantmaking and received the Council on Foundations 2004 Robert W. Scrivner Award for Creative Grantmaking.

Co-organized by the Global Greengrants Fund and the World Bank's Small Grants Program and the **Grants Facility for Indigenous Peoples**, this workshop brought together public and private philanthropic charities, multilateral organizations and other development agencies to discuss the issue of small grants as a tool for social change.

Created in 1983, the Small Grants Program is one of the few global programs of the World Bank that directly funds civil society organizations. With funds from the Bank's Development Grants Facility, the program is administered through country offices. Each country office gets between \$20,000 and \$40,000, and grants generally range from \$1,000 to \$6,000 with a maximum of \$15,000.

The program, now operating in 76 countries, supports activities related to civic engagement. Several country offices have successfully leveraged the grants to form creative partnerships with foundations. The Azerbaijan office, for example, has used the Small Grants Program to build partnerships with others working at the country level such as the Open Society Institute and the Eurasia Foundation. In Ecuador, the Small Grants Program works with the Esquel Foundation.

The Grants Facility for Indigenous Peoples is another small grants initiative administered by a secretariat located in the World Bank (it will be transferred to an external entity in 2006). This program is a partnership between the World Bank and indigenous leaders to support sustainable and culturally appropriate development projects planned and implemented by and for indigenous peoples. Grants range from \$10,000 to \$30,000 and are intended to support indigenous culture, identity, knowledge, natural resources, intellectual property and human rights.

The Global Grantmaking for Small Grants workshop touched on several issues that are unique to small grants, a few of which are:

- Given that the goal of any small grant is the grant recipients "graduation" to larger grants and more sustained funding, grantmakers should target their resources to help recipients develop capacities and scale up their activities.
- Small grants often play a role in funding larger projects and long-term social movements, and in these cases it can be difficult to directly attribute results to the impact of the small grant. There is a need to design better evaluations and impact assessment tools to reflect the process of social change, rather than concentrate solely on measurable social effects.

Faced with an increasing number of proposals vying for relatively few grants, the Small Grants Program staff is trying to come up with innovative ways to process, monitor and evaluate the small grants. Future plans also include providing capacity building and technical assistance to reach a wider audience of potential applicants.

For more information on the World Bank Small Grants Program or the Grants Facility for Indigenous Peoples, e-mail Yumi Sera, secretariat, Small Grants Program and Grants Facility for Indigenous Peoples, at ysera@worldbank.org.

Notes & Announcements

Council's Corporate Members Give the Most to Tsunami Relief

Members of the Council on Foundations reported contributions of over \$104 million toward relief and rehabilitation efforts in response to the earthquake and tsunamis that hit the shores of southern Asia and the coast of Somalia on December 26, 2004. As of March 10, 2005, 122 foundations and corporate giving programs have logged in to the Council website to list their tsunami-related grants.

The following breakdown by foundation type and charitable giving program includes monetary and other assistance for both immediate needs and long-term reconstruction.

Foundation/Program Type	Amount
Community	\$2,418,502
Corporate (includes U.S.-based, international and giving programs)	\$90,073,574
Family	\$3,007,500
International (non-U.S. based)	\$4,001,170
Operating	\$1,000,000
Private Independent	\$1,875,000
Public	\$1,732,050
TOTAL	\$104,107,796

For a breakdown of contributions by donor and recipient, go to <http://www.cof.org/index.cfm?containerID=409>.

Council's Family Foundation Members Contribute \$72,100 to UN Foundation Matching Fund

The **United Nations Foundation** contributed \$1 for every \$2 donated by the Council's family foundation members to the UN Tsunami Relief Fund. The family foundations contributed \$72,100 to the fund, resulting in a co-contribution of \$36,050 from the UN Foundation. All funds raised will go to support UN agencies directly involved in the relief efforts, including The Office of the United Nations High Commissioner for Refugees (UNHCR), United Nations Children's Fund (UNICEF), United Nations Population Fund (UNFPA), the World Health Organization (WHO) and United Nations Development Programme (UNDP).

Making a Difference in Africa: Advice from Experienced Grantmakers (2004) is now available at a reduced price of \$20 for members and \$30 for nonmembers. Purchase it from the Publications section of the Council website at <http://www.cof.org> or call 888/239-5221 (301/645-7303 for international callers).

Council and EFC Roll Out Initiative on Accountability and Effectiveness for International Grantmaking

The Council on Foundations is partnering with the **European Foundation Centre** (EFC) to develop guidance for international grantmakers on accountability and effectiveness. Factors such as multiple legal systems, varied accounting standards and cultural differences distinguish international grantmaking and suggest a need for principles of accountability and effectiveness that are meaningful in the international context. The initiative is separate from but related to the Council's broader grantmaker accountability effort "[**Building Strong and Ethical Foundations: Doing It Right.**](#)"

A joint working group of the Council and EFC has been formed and will hold its first meeting in May 2005. The initiative was discussed by the Council's International Committee at its recent meeting in March. A briefing and conversation with Council members interested in the initiative will take place on Saturday, April 9, from 4:00-5:00 p.m. in the Columbia I Room of the San Diego Marriott Hotel prior to the Council's Annual Conference.

A great deal of work has already been done to establish standards and principles for nonprofit accountability. This project will apply an international grantmaking lens to the progress that has already been done. Over the course of the next year, the working group will define its scope of work, conduct research and consult with a wide range of grantmakers, grant seekers, academics and others around the world. The working group's goal is to produce a useful set of principles for international grantmakers by early 2006.

Members of the working group include:

- Natalia Kanem, Co-chair (Ford Foundation, USA)
- Luc Tayart de Borms, Co-chair (King Baudouin Foundation, Belgium)
- Nicholas Borsinger (ProVictimis, Switzerland)
- David Carter (United Nations Foundation, USA)
- Boris Cornejo (Esquel Foundation, Ecuador)
- Kathleen Duncan (Lloyds TSB Foundation, UK)
- Elan Garonzik (Charles Stewart Mott Foundation, USA)
- Rien van Gendt (Van Leer Group Foundation, The Netherlands)
- Cornelia Higginson (American Express Foundation, USA)
- Ray Murphy (Charles Stewart Mott Foundation, USA)
- Cathrin Scupin (BBVA Foundation, Spain)
- Cole Wilbur (The David and Lucile Packard Foundation, USA)

Council Gives Distinguished Grantmaker and Paul Ylvisaker Awards for 2005 to International Recipients

The Council on Foundations 2005 Distinguished Grantmaker is **Rien van Gendt**, executive director of the **Van Leer Group Foundation** and former executive director of the **Bernard van Leer Foundation**, both in The Hague in the Netherlands. The award recognizes lifetime achievement in philanthropy. A board member of the Council and several foundations, first Chair of the European Foundation Centre's International Committee, Chair of the Council's International Committee, and Co-chair of the Council's Disaster Response Initiative, Rien van Gendt has been a bridge of understanding and cooperation between U.S. and European foundations.

The **Maytree Foundation** is the recipient of the 2005 Paul Ylvisaker Award for Public Policy Engagement. The award honors a foundation that demonstrates excellence in affecting public policy by using creative and effective strategies. The Maytree Foundation is being recognized for its efforts to reform immigration policy in Canada. As a result of its initiatives and public awareness campaign, legislation was enacted in Canada to allow refugees who had not yet received permanent resident status to apply for and receive student loans for post-secondary education.

Council Announces 2005 Wilmer Shields Rich Awards for Excellence in Communications

Several international members of the Council and U.S.-based members who make cross-border grants were named winners of the 2005 Wilmer Shields Rich Award. This award recognizes and encourages excellence in communications by grantmaking foundations and corporate giving programs.

Winners include:

- Atkinson Foundation
- Arcus Foundation
- Community Foundation of Ottawa (Canada)
- El Paso Community Foundation
- Firelight Foundation
- The Global Fund for Women
- Goldman Environmental Prize
- International Community Foundation
- International Youth Foundation
- The J.W. McConell Family Foundation (Canada)
- The Open Society Institute
- Peninsula Community Foundation
- Skoll Foundation
- The Walter and Duncan Gordon Foundation (Canada)
- The Winnipeg Foundation (Canada)

2004-2005 King Baudouin International Development Prize Goes to Pioneer and Advocate of Governance reforms in Africa

The **King Baudouin Foundation** awarded the King Baudouin International Development Prize to Ousmane Sy from Mali. Ousmane Sy is a key figure in decentralization and governance reforms in his country, Mali. He also plays an important role in local and national reforms in the sub-region of West Africa. The 150,000 euro prize goes beyond financial support—in the first half of 2005, the foundation will spotlight the winner and the topic "Governance in Africa" in a series of meetings with the United Nations, World Bank and the European Union, and a conference in Western Africa.

Call for Nominations

Nominations are currently being accepted for the 2006 **Reebok Human Rights Award**. The Award recognizes young people who are on the forefront of the fight for human rights in the U.S. and around the world. Candidates must be 30 years of age or younger, must not advocate violence or belong to an organization that advocates violence, and must be actively working on some aspect of human rights as defined by the United Nations Universal Declaration of Human Rights. The deadline for completed nomination forms is May 31, 2005. For more information and to access nomination forms, visit the award section of the [Reebok website](#).



Professional Development Opportunities

The **Center on Philanthropy and Civil Society** at **The City University of New York** is accepting applications for the **Senior International Fellows Program**. The fellowship provides professional development training for third sector practitioners from outside the United States who are at an advanced stage in their careers. The program is designed to help build third sector capacity in the fellows' home countries. The topic for 2005 will be community foundations. This program is made possible with the support of the **Charles Stewart Mott Foundation**.

Deadline: May 15, 2005 (Start Date: October 17, 2005)

Contact: cpcs@gc.cuny.edu

The **Terry Sanford Institute of Public Policy** at **Duke University** is accepting applications for the **Joel L. Fleishman Fellows in Civil Society** program. The Fellowship gives a select group of leaders in the United States and internationally a chance to spend four weeks at the Sanford Institute. Fellows conduct research and work with Institute faculty and other Duke affiliates on issues relating to the development of civil society.

Deadline: May 1, 2005 (Start Date: October 1, 2005)

Contact: Milissa Markiewicz, program director, at 919/613-7315



Save the Date

- April 10–12, 2005: **Council on Foundations** 56th Annual Conference, "Generosity and Integrity" (San Diego). Visit <http://int2.cof.org/conferences/AC2005/index.htm?orglink=13> for more information.
- April 10, 2005: **Asian Americans/Pacific Islanders in Philanthropy** (AAPIP) Annual Membership Meeting and 15th Anniversary Program (San Diego). Visit <http://www.aapip.org/news.asp> for more information.
- May 19–20, 2005: **International Funders for Indigenous Peoples** Annual Conference, "Linking Circles IV" (New York City). Visit <http://www.firstpeoples.org/> for more information.
- May 19–20, 2005: **U.S. Chamber of Commerce** 2005 Partnership Conference, "Corporate Citizenship and Globalization" (Washington, D.C.). Visit <http://www.uschamber.com/events/ViewEvent.htm?eventID=352> for more information.
- June 1–3, 2005: **InterAction** Forum 2005, "Charting a Course for Relief and Development: Advancing the Millennium Development Goals and Other Global Commitments" (Washington, DC). Visit http://www.interaction.org/files.cgi/3799_Forum_2005_REG_Final.pdf for more information.
- June 4–6, 2005: **European Foundation Centre**, "Foundations for Europe: Making the Union Work for All Citizens 16th Annual General Assembly and Conference" (Budapest, Hungary). Visit <http://www.efc.be/aga/aga2005/> for more information.
- June 8–10, 2005: **Council on Foundations** 2005 Corporate Grantmakers Summit, "Leverage and Leadership: Accountability in Action" (San Francisco). Visit <http://int2.cof.org/conferences/corp2005/> for more information.
- July 10–12, 2005: **Council on Foundations** Summer Institutes 2005 (Portland, OR) Visit <http://int2.cof.org/conferences/INGSummer2005/index.htm> for more information.
- July 11–12, 2005: **International Human Rights Funders Group** Semi-Annual Meeting, "Human Rights and Security" (New York City) <http://www.hrfunders.org/> for more information.



Equivalency or Expenditure Responsibility? A Guide in Plain English

By Betsy Buchalter Adler and Stephanie L. Petit
Silk, Adler & Colvin

A hypothetical private foundation wants to make a cross-border grant. The foundation has completed its program-specific due diligence and has also taken the steps it deems necessary in the circumstances to guard against diversion to non-charitable ends [\[1\]](#). The foundation must now consider the tax technicalities of making a grant to a non-U.S. organization.

Very few foreign organizations have obtained IRS rulings classifying them as the foreign equivalent of a public charity, partly because of the cost of seeking and obtaining an IRS determination and the ongoing obligations to file Form 990 if the organization has U.S.-source income over \$25,000 per year.

Since obtaining an IRS ruling in this matter is the exception rather than the rule, our hypothetical private foundation's proposed grantee does not have an IRS ruling. How can the private foundation legally make the grant and not be subject to IRS penalties? It has two choices. First, the private foundation can review its potential grantee to see if the grantee is the *foreign equivalent* of a U.S. public charity. Second, it can exercise the specific oversight and monitoring procedures known as *expenditure responsibility*. The private foundation may choose which technique to use, depending on the circumstances of the grant. In this article, we summarize the basic features of equivalency and expenditure responsibility and then suggest some factors which may lead a grantor to choose one approach or the other.

What is a public charity?

A public charity is an organization described in Internal Revenue Code Section 501(c)(3) (the statute that defines a charitable organization) and one of the subparts of Section 509(a) (the statute that divides charities into two categories known as private foundations and public charities).

Neither the Internal Revenue Code nor the accompanying Regulations use the term "public charity," but in practice the term refers to organizations that are described in Section 501(c)(3) and that fall in one of three categories: (1) a house of worship, school or college, hospital or medical research organization, or other enterprise that Congress has determined to be eligible for non-private foundation treatment due to the nature of its activities; (2) an organization whose base of support is diverse enough to satisfy one of three alternative mathematical tests of public support; or (3) an organization that is essentially a charitable subsidiary of one or more charities described in the previous two categories. See Internal Revenue Code Sections 170(b)(1)(A)(i)-(vi), 509(a)(1)-(3). Refer to *Rules of the Road: A Guide to the Law of Charities in the United States* (1999) by Betsy Buchalter Adler, for more information.

Foreign Public Charity Equivalency Determination. A private foundation grantmaker can make a grant to a foreign grantee with the same level of due diligence and oversight as it would use when making a grant to a domestic public charity if the grantmaker first makes a good faith determination that the grantee is the foreign equivalent of a public charity. In Revenue Procedure 92-94, the IRS clarified that there are two ways that the private foundation can make a good faith determination [2]. First, the private foundation can rely on a written opinion of counsel that the proposed grantee is a public charity equivalent. Second, without the assistance of counsel, the grantor itself can make the determination, based on information provided in an affidavit completed by the grantee.

In practice, whether the foundation relies on an opinion of counsel or whether it makes the determination itself, the affidavit is an essential element of the equivalency determination process. The Revenue Procedure sets out numerous specific requirements for the affidavit. A sample affidavit that complies with the Revenue Procedure is available at <http://www.usig.org/ER%20and%20ED.asp>. Unless the grantor foundation knows that the affidavit may not be reliable or current, the foundation may rely on the information in the affidavit to determine in good faith that the grantee is the foreign equivalent of a public charity. The private foundation must retain the original affidavit or a photocopy, in case the IRS requests it.

Expenditure Responsibility. Expenditure responsibility has five elements, described more fully in *Expenditure Responsibility Step by Step, 3rd Edition* (2002) by John A. Edie, available for purchase from the publications section of the Council website (www.cof.org).

1. The grantor must conduct a *pre-grant inquiry* to determine whether the proposed grantee is reasonably likely to use the grant for the specified purposes.
2. The grantor and grantee must sign a *written grant agreement* with specific terms required by law.
3. The grantee must maintain the grant funds in a *separate account* on the grantee's books.
4. The *grantee must report* to the grantor, in writing, not less than once a year during the term of the grant, explaining how it used the funds and describing its compliance with the grant terms and its progress toward the grant purposes.
5. The *grantor must report* each expenditure responsibility grant on Form 990-PF as long as the grantee reports are required.

Equivalency and Expenditure Responsibility. In 2001, the IRS made clear in a letter to the Council on Foundations that a private foundation wishing to make a grant to a foreign organization could choose between expenditure responsibility and equivalency determination, and that there was no obligation to rule out equivalency before turning to expenditure responsibility. Because private foundations may choose between these techniques, it is worth considering what factors may influence the decision and what circumstances lend themselves to one technique or the other. (For the full text of the letter, visit: <http://www.cof.org/Content/General/Display.cfm?contentID=139>.)

One major difference between equivalency and expenditure responsibility involves the timing of the grantor's effort. A grantmaker undertaking a foreign public charity equivalence determination often has a tremendous amount of work initially with its grantee. In many instances, obtaining translations and trying to fit another country's laws and customs into our own can be a difficult process for both grantor and grantee, requiring much work on the grantee's part to provide the required information and much work on the grantor's part in explaining what information is necessary. This is particularly true for

organizations hoping to qualify as a foreign public charity equivalent by virtue of their financial support. The required financial information is extremely detailed. Moreover, the public support calculation requires the grantee to present its financial information in a format not generally followed outside of the United States. (For organizations hoping to qualify because they are a church, a school, a hospital or a governmental organization, the process is often easier because no financial schedules are needed [\[3\]](#).) However, after the foundation or its counsel has made the equivalency determination, the foundation may administer the grant in the same manner as it would administer a grant to a domestic public charity. In other words, the bulk of the work comes at the beginning.

By contrast, expenditure responsibility requires ongoing effort and attention. The pre-grant inquiry is much less burdensome than the foreign public charity equivalence analysis, but the continuing oversight and follow-up are more intensive. The grantor must obtain the grantee reports on time and follow up on incomplete or missing reports, or reports that indicate that the grant is not being used for intended purposes. Communications and linguistic difficulties often complicate the reporting process. If the grantee is in a country or region that suffers from political instability or natural disasters, reporting may be disrupted by factors beyond the control of either grantor or grantee.

Apart from the kind and timing of effort required of the grantor and grantee, the grantor must consider other factors in determining which route to take. If the grantor wishes to make a general support grant, equivalency may be a better choice. Although a grantor can legally make a general support grant using expenditure responsibility, as a practical matter it may be more difficult under expenditure responsibility to ensure that such a broad grant is spent only for charitable purposes. Where the grantor expects a long-term relationship with the grantee, the time and effort investment for the foreign public charity equivalency determination may be well worth it. If the grantee plans to re-grant the funds to other organizations and individuals to accomplish the purposes of the grant, the grantor should consider equivalency because exercising expenditure responsibility over re-grants is still more complicated. Equivalency also offers the grantor the option of contracting to exactly the kind and frequency of reporting that it would like.

By contrast, if the grantee cannot provide its governing documents, then expenditure responsibility is the private foundation's only option. Similarly, if the grantee is not a church, school or hospital and cannot provide the financial data required for an equivalency determination, or if the grantee is not a charitable entity in the first place, the grantor must exercise expenditure responsibility if it wishes to make the grant at all.

Table 1: When There Is No Choice

Situation	Required Action
Grantee is a non-charitable enterprise that will use the grant for charitable purposes.	Expenditure responsibility is the only way to make this grant.
Grantee cannot supply the information required for an equivalency affidavit.	Grantor must use expenditure responsibility because it does not have enough information for an equivalency determination.
Grantor evaluates the affidavit and concludes that despite everyone's best efforts, the grantee is not the equivalent of a public charity.	Expenditure responsibility is the only way to make the grant.

Table 2: When the Grantor Can Choose

Circumstances that favor Equivalency	Circumstances that favor Expenditure Responsibility
Grantor expects long-term relationship.	Grantor plans a one-time grant.
Grantee can supply governing documents and no financial data is needed (i.e., grantee is a school, hospital or church).	Grantee may have considerable difficulty in supplying historical financial data or obtaining a certified copy of its governing documents.
Grantor wants flexible reporting procedures.	Grantor wants strict reporting provisions.
Grantor wants to make a general support grant.	
Grantee plans to re-grant funds received to accomplish its exempt purposes.	

¹For more information on the U.S. Government's anti-terrorism compliance measures, please refer to "A Compendium of Anti-terrorism Resources" on the U.S. International Grantmaking website at: <http://www.usig.org/treasuryregs.asp>.

²To be precise, Revenue Procedure 92-94 talks about equivalency to an organization described in Section 501(c) (3) and also described in Section 509(a)(1), (2) or (3) (what we commonly refer to as public charities) or 4942(j) (a private operating foundation).

³Schools must, however, clarify that they operate pursuant to a racially nondiscriminatory policy or explain their basis for not doing so. This requirement can create problems with equivalency determinations for foreign schools where compliance with such a policy may be impractical or illegal.

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