

THE JOHN R. OISHEI FOUNDATION

GRANTS TO ORGANIZATIONS THAT ARE NOT PUBLIC CHARITIES

The John R. Oishei Foundation (the "Foundation") may make grants to organizations that are not public charities. However, to do so, the Foundation must exercise expenditure responsibility, which exceeds the oversight typically employed with respect to grants to public charities.

Generally, the Foundation will be considered to be exercising expenditure responsibility as long as it exerts all reasonable efforts and establishes adequate procedures to (1) see that the grant is spent solely for the charitable purpose for which it was made, (2) obtain full and complete reports from the grantee on how the funds are spent, and (3) make full and detailed reports with respect to such expenditures on its 990-PF.

If the Foundation fails to exercise expenditure responsibility, the grant may be deemed a taxable expenditure. Where the Foundation makes a taxable expenditure, the Foundation may be liable for an excise tax equal to 20% of the expenditure. The officer, director, trustee or employee that agrees to the Foundation's making of the expenditure may be personally liable (if certain criteria involving knowledge and willfulness are met) for an excise tax equal to 5% of the expenditure.

POLICIES & PROCEDURE FOR MAKING EXPENDITURE RESPONSIBILITY GRANTS TO ORGANIZATIONS

The Foundation may make grants to organizations that are not public charities; however, the Foundation must comply with the following expenditure responsibility policies and procedures.

FIRST, the Foundation must determine whether the proposed grantee is a public charity. If the proposed grantee is a public charity, the Foundation should follow the policies and procedures applicable to public charities as such grant is not an expenditure responsibility grant. If the proposed grantee is not a public charity the policies and procedures set forth herein apply as the proposed grant is an expenditure responsibility grant. If Foundation learns that a public-charity grantee ceases to be a public charity, the Foundation should, among other necessary actions, follow the policies and procedures set forth herein.

SECOND, if these policies and procedures apply, the Foundation should conduct an inquiry extensive enough to give a reasonable man assurance that the grantee will use the grant for the proper charitable purposes. To fulfill this pre-grant inquiry requirement, the Foundation must complete the *Pre-Grant Inquiry for Expenditure Responsibility Grants* form attached hereto as Schedule A. Failure to make such an inquiry will, in and of itself, render the grant a taxable expenditure and thereby trigger the excise tax.

THIRD, upon completion of the *Pre-Grant Inquiry for Expenditure Responsibility Grants* and the Foundation's determination that the grantee will use the grant for the proper charitable purposes, the Foundation must enter into a written agreement with the grantee.

In the case of a conventional outright grant that requires expenditure responsibility, the written agreement must require the grantee to: (1) repay any portion of the grant not used for grant purposes; (2) submit full and complete annual reports on the manner in which the funds are spent and the progress made in accomplishing the purposes of the grant; (3) maintain records of

receipts and expenditures and make its books and records available to the Foundation at reasonable times; and (4) not use any of the funds to: (a) carry on propaganda, or otherwise to attempt to influence legislation; (b) influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; (c) make any grant that does not comply with the individual grant requirements of § 4945(d)(3) or the organization grant requirements of § 4945(d)(4); or (d) undertake any activity for any noncharitable purpose. A form *Grant Award and Agreement*, which addresses the above criteria, is attached hereto as Schedule B.

In the case of a program related investment that requires expenditure responsibility, the written agreement must specify the purpose of the investment and require the recipient to: (1) use all of the funds received from the Foundation only for the purposes of the investment and to repay any portion not used for such purposes, provided that with respect to equity investments, such repayment shall be made only to the extent permitted by applicable law concerning distributions to holders of equity interests; (2) at least once a year during the existence of the program-related investment, submit (a) full and complete financial reports of the type ordinarily required by commercial investors under similar circumstances and (b) a statement that the grantee has complied with the terms of the investment; (3) maintain books and records adequate to provide information ordinarily required by commercial investors under similar circumstances and to make such books and records available to the Foundation at reasonable times; and (4) not use any of the funds to: (a) carry on propaganda, or otherwise to attempt to influence legislation; (b) influence the outcome of any specific public election or to carry on, directly or indirectly, any voter registration drive; or (c) (in certain cases) make any grant that does not comply with the individual grant requirements of § 4945(d)(3) or the organization grant requirements of § 4945(d)(4).

Please note: if the grantee/recipient is not a 501(c)(3) organization, then the expenditure should be structured as (1) a direct charitable act or a program-related investment (i.e., a loan, equity investment, guarantee, etc.) or (2) such that the Foundation is reasonably assured that the grant is used exclusively for charitable purposes. To be reasonably assured that a grant will be used for exclusively charitable purposes, the written agreement should require the grantee to maintain the grant in a separate fund dedicated to the charitable purposes of the grant.

6. Summary of previous grants or other assistance (if any) made by the Foundation to the proposed grantee, including whether proper use of the grants was made and whether reports were filed with the Foundation [NOTE: if the proposed grantee has properly used all prior grants, filed the required reports and there has been no major change in the proposed grantee's character or personnel, no additional pre-grant inquiry is necessary and questions 7 through 10 may be omitted]:

7. Summary of grants awarded by other foundations to the proposed grantee including the amount of the grant, date awarded and purpose of the grant (comment on whether the proposed grantee has had a history of compliance or non-compliance with the terms of such grants):

8. Briefly describe the scope of your inquiry into the activities and practices of the proposed grantee and note any factors which you felt justified limited the scope:

9. Briefly summarize the Foundation's knowledge, based on prior experience or other information readily available, concerning the prior history and experience of the proposed grantee and its chief personnel including grantee's activities and practices (or reference to specific documents in the Foundation's files covering these points):

10. Briefly state the basis for the Foundation's conclusion that the proposed grantee will use the grant for the proper purposes (or reference to specific documents in the Foundation's files covering these points):

The undersigned has completed this Pre-Grant Inquiry for "Expenditure Responsibility" Grants as of the ___ day of ___, 20__.

By: _____

Name: _____

Title: _____

SCHEDULE B

GRANT AWARD AND AGREEMENT

September ___, 2012

[ADDRESS 1]
[ADDRESS 2]
[CITY, STATE ZIP]

Dear _____:

In response to your grant request dated the ___ day of _____, 20___, and after completion of the Foundation's pre-grant inquiry into your ability to utilize the grant for proper purposes, we are pleased to advise you that the Directors of the Foundation have acted favorably on your request and are of the belief that you are capable of using the grant for proper purposes. In light of the above, the Foundation has authorized a grant of up to \$_____ payable over four (4) years (the "Grant Period") to _____ (the "Grantee") for the following charitable purpose: _____.

The terms of the agreement are as follows: \$_____ will be awarded in 20___, \$_____ in 20___, \$_____ in 20___ and \$_____ in 20___. This grant is contingent on your meeting all of the requirements provided for on Schedule A attached hereto. Payments pursuant to the grant will be issued only upon satisfactory fulfillment of the requirements specified therein.

If you announce the grant publicly, we request that you use the enclosed language describing the Foundation and its activities and that you submit a draft of the press release to us prior to its official release.

Please sign and return one copy of this Grant Award and Agreement (via our online grant system) as evidence of your understanding and acceptance of its terms and conditions. Log into your account and click "Requirements"/ "Signed Contract" for the current application, upload a PDF of the signed agreement and submit. Upon receipt of the signed agreement, a check will issued in accordance with the payment schedule as set forth in this agreement.

The Board extends its best wishes for your efforts _____.

Sincerely,

THE JOHN R. OISHEI FOUNDATION

By: _____
Robert D. Gioia
President

ACCEPTED and AGREED to the ___ day of _____, 20 ___.

_____ [INSERT GRANTEE NAME]

By: _____
Name: _____
Title: _____

SCHEDULE A

GENERAL GRANT TERMS, CONDITIONS AND UNDERSTANDINGS FOR EXPENDITURE RESPONSIBILITY

In addition to the specific terms and conditions in the Grant Award and Agreement, to which these General Grant Terms, Conditions and Understandings are attached, The John R. Oishei Foundation (the "Foundation") is awarding this grant to Grantee contingent upon the following:

Expenditure Responsibility:

Because the Grantee is in the process of applying to the Internal Revenue Service to be recognized as a public charity under §§ 501(c)(3) and 509(a)(1) of the Internal Revenue Code and because the Grantee is not currently recognized by the Internal Revenue Service as a public charity as described in §§ 501(c)(3) and 509(a)(1) of the Internal Revenue Code of 1986, as amended (the "Code"), all grant funds must be kept segregated continuously in a separate fund dedicated to the charitable purpose of the grant. Such separate fund may be either (1) a physically separate bank account restricted to the described charitable purpose or (2) a separate bookkeeping account (limited to the described charitable purpose) maintained as part of your financial records.

This grant is an "expenditure responsibility" grant within the meaning of § 4945 of the Code. Thus, the Foundation must (1) see that the grant is spent solely for the charitable purpose for which it is made, (2) obtain full and complete reports on how the funds are spent and (3) make full and detailed reports with respect to such expenditures to the Internal Revenue Service. By accepting this grant, the Grantee agrees to fully cooperate with the Foundation to assure that the Foundation is able to satisfy all of the requirements of an "expenditure responsibility" grant in accordance with § 4945(h) of the Code and the regulations thereunder.

The grant funds shall be used by the Grantee solely for the charitable purpose provided in the Grant Award and Agreement and neither the grant funds nor the income therefrom may be used for purposes other than those described in § 170(c)(2)(B) of the Code.

Assignment or Delegation of Grant Funds or Obligations by the Grantee:

The Grantee may not assign, or otherwise transfer, its rights or delegate any of its obligations under this Grant Award and Agreement without prior written approval from the Foundation.

Expenditure of Funds by the Foundation / Use of Funds by the Grantee:

This grant (together with any income earned upon investment of grant funds) is made to the Grantee solely for the charitable purpose outlined in the Grant Award and Agreement. The Grantee may not expend grant funds for any other purpose without the Foundation's prior written consent.

If the grant is intended to support a specific project or to provide general support for a specific period, any portion of the grant unexpended by the Grantee at the completion of the project or the end of the period shall be returned to the Foundation unless the Foundation consents to an extension or modification of this Grant Award and Agreement and the Grantee otherwise follows the terms of this Grant Award and Agreement on a going forward basis.

No part of the grant funds may be used by the Grantee (1) to carry on propaganda or otherwise attempt to influence legislation, (2) to influence the outcome of any specific public election, (3) to carry on, directly or indirectly, any voter registration drive within the meaning of § 4945(d)(2) of the Code, (4) to make any grant which does not comply with the requirements of §§ 4945(d)(3) or (d)(4) of the Code or (5) to undertake any activity for any purpose other than one specified in § 170(c)(2)(B) of the Code.

The Grantee shall repay to the Foundation any portion of the grant that is not used for the charitable purpose of the grant.

The Grantee's Record and Reporting Requirements:

The Grantee **is required** to keep a record of all receipts and expenditures, such as salaries, travel, supplies and the like, relating to this grant. The Grantee shall permit the Foundation and its representatives, at its request, to have reasonable access during regular business hours to the Grantee's files, records, personnel and clients or other beneficiaries for the purpose of making financial audits, verifications or program evaluations as the Foundation deems necessary or appropriate concerning the grant.

In addition to the above recordkeeping requirements, the Grantee should follow the interim and final reporting guidelines set forth below, which reports shall generally detail the Grantee's use of the funds, the Grantee's compliance with the terms of the grant and the Grantee's progress toward achieving the charitable purpose for which the grant is made. Annual interim reports of the Grantee are required until all the grant funds are expended in full or the grant is otherwise terminated. A final report of the Grantee is required at the close of the Grant Period, which may be extended by the Foundation pursuant to this Grant Award and Agreement. Should the Foundation extend the Grant Period pursuant to the terms herein, the Grantee shall continue making interim reports consistent with such extension.

Final reports should include the following items and interim reports should address these items to the greatest extent possible at the time such report is submitted.

- (1) A cover letter verifying that all grant funds have been expended in accordance with the terms and charitable purpose of the Grant Award and Agreement, along with a statement of actual income and expenditures compared to the approved budget. For interim reports, please indicate the next amount payable to the Grantee with an accompanying budget.
- (2) A description of how the proposed program was implemented and who was served. If this was a collaborative effort, how did the partners work together and what were the benefits and costs?

- (3) An evaluation of the program's success. What challenges were encountered? How was the program evaluated? What were the anticipated outcomes or targets of performance, and were they met? How was the project adjusted in light of challenges?
- (4) A discussion of the future plans for the program, including fundraising. Did the Foundation grant leverage any additional funding for the program? Will the program continue as a regular part of the organization's work?
- (5) Information on whether and how the results of the program were disseminated to professional colleagues and/or the general public. Can the program be replicated? If available, please enclose newspaper articles, links to online information, or any other media coverage. (Please, no VCR format tapes.)
- (6) High quality visual materials (electronically submitted) that effectively tell the project story, for potential use by the Foundation in its external communications.
- (7) Any additional information concerning the program or the lessons learned from this grant that may be of interest to the Foundation's trustees and staff.

The Grantee may prepare and submit its interim and final reports via the Foundation's online grant system. To do so, the Grantee should log into its account, click on "Requirements" and then "Interim and Final Grant Reporting Form." Grantee should then follow the form's prompts to input its information and submit the report(s). If payments are due the Grantee under the Grant Award and Agreement, such payments will be issued by the Foundation only upon the Foundation's receipt of satisfactory interim reports.

All reports, interim and final, shall be furnished by the Grantee to the Foundation within a reasonable time after the close of the annual accounting period of the Grantee for which such reports are made.

Required Notifications:

The Grantee is required to provide immediate written notification to the Foundation of (1) any changes to the Grantee's tax-exempt status, including receipt of the Grantee's 501(c)(3) determination letter, (2) the Grantee's inability to expend the grant funds for the charitable purpose described in the Grant Award and Agreement or (3) any expenditure made by the Grantee for a purpose other than that which the Foundation made the grant. Upon receipt of its 501(c)(3) exemption letter, the Grantee should forward a copy of the same to the Foundation. Likewise, if the IRS denies or revokes the Grantee's 501(c)(3) status, the Grantee shall provide notice to the Foundation of such action and the reasons therefore.

Publicity:

If the Grantee announces the grant publicly, the Foundation requests that the Grantee use the language enclosed with the Grant Award and Agreement describing the Foundation and its activities. The Foundation also requests that the Grantee submit drafts of such press release to the Foundation for approval prior to its official release.

Right to Discontinue, Modify, Withhold or Revoke:

The Foundation reserves the right to discontinue, modify, withhold or revoke any payments to be made under this Grant Award and Agreement, the grant itself, or to require a total or partial refund of any grant funds if, in the Foundation's sole discretion, such action is necessary: (1) because the Grantee has not fully complied with the terms and conditions of the Grant Award and Agreement; (2) to protect the charitable purpose of the grant or any other charitable activities of the Foundation; or (3) to comply with the requirement of any law or regulation applicable to the Grantee, the Foundation or the grant.

GRANT AWARD AND AGREEMENT

AMENDMENT

September ____, 2012

«Letter_Address_Block»

Dear «Letter_Contact_Name»:

On _____, the Foundation approved a \$«Request_Grant_Amount» grant to «Org_Legal_Name» (the “Grantee”) to support the «Request_Project_Title». The Foundation made an initial \$_____ distribution (or total payments \$_____) of Grant Funds to Legal_Name» on _____ (date). The Foundation exercised expenditure responsibility over these Grant Funds.

On _____ (date), «Org_Legal_Name» received its 501(c)(3) tax exemption letter from the IRS. Due to the change in «Org_Legal_Name» exempt status, the Foundation’s obligation to exercise expenditure responsibility over «Org_Legal_Name» (the “Grantee”) use of the Grant Funds has ceased.

In compliance with the terms of the _____ (date) Grant Agreement, «Org_Legal_Name» submitted its final report detailing (a) «Org_Legal_Name» use of the \$_____ in Grant Funds, (b) «Org_Legal_Name» compliance with the _____ (date) Grant Agreement and (c) «Org_Legal_Name» progress towards achieving the charitable purpose for which the Grant was made.

This letter is an amendment to our previous award letter dated _____ and applies to the remaining Grant balance of \$_____ of Grant Funds not expended by «Org_Legal_Name» (the “Grantee”) prior to _____ (date). Please note that the General Grant Terms, Conditions And Understandings for Expenditure Responsibility Schedule that was attached to the _____ (date) Grant Award and Agreement no longer applies.

Please sign and return one copy of this Grant Agreement (*via our online grant system*) as evidence of your understanding and acceptance of its terms and conditions. Log into your account, click on “Requirements”/“Signed Contract” for the current application and upload a PDF of the signed agreement and submit. Also you agree to submit a final report, including a statement of income and expenditures at the conclusion of the grant period.

Sincerely,

President

The _____ Foundation

Page 2 – Grant Award and Agreement

«Org_Name» - «Request_Project_Title» - \$«Request_Grant_Amount» Grant

Start of Grant Period (month & year)

____/____/____

End of Grant Period (month & year)

____/____/____

ACCEPTED:

«Contact_Name_Ful», «Contact_Title»

Date

«Org_Legal_Name»