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Technical Bulletins: Some Guidelines for Charitable Appropriations

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SOME GUIDELINES FOR CHARITABLE APPROPRIATIONS

Since the passage of a charitable appropriations act by the state legislature two years ago, Tennessee municipalities have been facing requests for aid from charitable organizations that are increasing in number and in dollar amount. This raises questions both of the financial ability of the city to make these contributions and of the appropriateness of such use of public funds. There are no hard and fast rules to follow in deciding which requests to honor and which to refuse, but the experience of MTAS consultants working with a number of cities has resulted in some information that might be helpful.

The 1978 General Assembly adopted Public Chapter 838, which has been codified as Section 6-662, Tennessee Code Annotated (copy attached). There are several important limitations in this law.

First, appropriations are authorized for financial aid of non-profit charitable organizations. Second, in such a non-profit charitable organization no part of the net earnings shall benefit any private shareholder or individual, and such an organization must provide "year-round services benefiting the general welfare of the residents of the municipalities." Third, Subsection (c) of Section 6-662 TCA requires filing with the city clerk an annual report, to include at least an annual audit, the organization's program, and the proposed use of the municipal assistance (this might be in the form of the charity's budget or a statement of intent). Subsection (b) of Section 6-662 requires the State Comptroller to devise standard procedures "to assist a municipality in the disposition of funds which are appropriated" under this act. The legislative body of a municipality shall devise guidelines "directing for what purpose the appropriated money may be spent."

The Comptroller's Office has developed standard procedures, and by memorandum of Jan. 10, 1979, from Dennis Dycus, assistant director, Division of Municipal Audit, distributed copies to "all municipal financial administrators." Attached are a copy of the standard procedures, and a sample of a memorandum used by the City of Lewisburg. The procedures reiterate some of the requirements of the act, and in addition prescribe adoption of a special resolution, budget requirements, and direct that payments be limited to the appropriated amount. Also attached is a sample resolution drafted by Dennis Huffer, MTAS ordinance codification consultant.

Up to this point, if a city has followed the requirements of the act and the Comptroller's standard procedures, it probably has been able to weed out marginal agencies that do not really benefit the general welfare of the residents of the municipality. But the city may still be faced with a multiplicity of requests from charitable agencies that can make fairly strong arguments that they benefit the general welfare.
Here is where a closer look at programs and financial statements should be taken. MTAS suggests inserting into your policy an examination of how well the charitable agency is performing its function and the relative proportion of municipal support to the agency's total budget.

Another aspect that might be considered in attempting to select only the best candidates would be to identify those charities that are performing services that are traditionally municipal in nature, such as recreation facilities or programs, and those which perform services that customarily have been county or state activities, such as health and correctional functions. In the latter case, the city perhaps is being asked to commit sizeable sums for services being performed for large populations not living in the city.

Third, you might eliminate agencies like united funds, which, though meritorious in concept and in practice, embrace a wide variety of functions and enjoy strong public support.

A fourth technique in policy development might take a cue from organizations of professional fund-raisers and Better Business Bureaus that have established standards by which they compare and judge charitable organizations and fund appeals. For example, an article, "Give to Charities, But Check Them Out First," from the December 1973 issue of Changing Times, lists these five standards for well-operated charities:

1. Reasonable fund-raising and administrative costs.
2. Full and truthful financial disclosure.
3. Active governing board serving without pay.
4. Effective work toward a legitimate goal, with no duplication of effort.
5. Reputable promotion and fund-raising practices.

The Philanthropic Advisory Service of the Council of Better Business Bureaus, Inc., has similar standards. In a brochure, "Give But Give Wisely," dated May 1, 1979, the Service lists charities that meet the BBB standards for charitable solicitations and those that do not. (Copies are available on request from the Service, 1150 Seventeenth St., NW, Washington, DC 20036.)

The National Information Bureau is another organization making evaluations of charitable agencies. A private, non-profit group, its standards may be even stricter than those of the BBB. NIB issues a free monthly newsletter, "Wise Giving Guide," which you can obtain by writing NIB at 419 Park Ave., South, New York 10016. You also may request free, in-depth reports on particular charities.

To find out more about local charities, the nearest Better Business Bureau would be one of the best resources.
Finally, MTAS suggests that when a city prepares its guidelines, it develop and use a checklist for each charitable request, spelling out the purposes for which the appropriation is sought, whether all requirements of the act and of the Comptroller's standard procedures are met and containing some of the other ideas mentioned in this bulletin.

For further assistance, contact the MTAS district consultant serving your city.
Extract from Tennessee Code Annotated

6-662. Appropriation of funds for financial aid of nonprofit charitable organization. -- (a) The legislative body of each municipality may appropriate funds for the financial aid of any nonprofit charitable organization in accordance with the guidelines required by subsection (b) of this section. For the purposes of this section, a nonprofit charitable organization is one in which no part of the net earnings inures or may lawfully inure to the benefit of any private shareholder or individual and which provides year-round services benefiting the general welfare of the residents of the municipalities.

(b) The comptroller of the treasury shall devise standard procedures to assist a municipality in the disposition of funds which are appropriated under the provisions of this section. Each legislative body of a municipality shall devise guidelines directing for what purpose the appropriated money may be spent. These guidelines shall provide generally that any funds appropriated shall be used to promote the general welfare of the residents of the municipality. Any funds appropriated under the provisions of this section shall be used and expended under the direction and control of the legislative body of a municipality in conjunction with the guidelines and procedures of the comptroller.

(c) Any nonprofit organization which desires financial assistance from a municipality shall file with the city clerk a copy of an annual report of its business affairs and transactions which includes, but is not limited to, a copy of an annual audit, its program which serves the residents of the municipality and the proposed use of the municipal assistance. Such report will be open for public inspection during regular business hours of the city clerk's office.
STANDARD PROCEDURES FOR APPROPRIATING
AND DISBURSING MUNICIPAL FUNDS TO
NON-PROFIT CHARITABLE ORGANIZATIONS

APPROPRIATIONS BE LIMITED TO ELIGIBLE NON-PROFIT ORGANIZATIONS.
That funds be appropriated only for non-profit charitable organizations
which provide services benefiting the general welfare of the residents
of the municipality as provided for in Subsection (a) of Chapter 838.

SPECIAL RESOLUTION ADOPTED FOR EACH NON-PROFIT ORGANIZATION.
That special resolutions be adopted by the municipal governing body
for each non-profit charitable organization that is to receive municipal
funds and that the resolution state the purpose for which the funds are
being appropriated.

BUDGET REQUIREMENTS. That the budget document specify in detail
each non-profit charitable organization by name and the specific amount
that is appropriated for each non-profit charitable organization.

PAYMENTS LIMITED TO APPROPRIATED AMOUNT. That payments to non-
profit charitable organizations be limited to the amounts appropriated
for such purposes and in keeping with guidelines directing for what
purposes the appropriated funds may be spent.

ANNUAL REPORT FILED WITH DISBURSING OFFICIAL. That each appropriate
official require each non-profit organization receiving financial
assistance from the municipality to file with the disbursing official
a copy of an annual report of its business affairs and transactions and
the proposed use of the contributed funds. This information would be
in addition to the information required to Subsection (c) of the
aforementioned public chapter.

NOTE: City officials with questions about these standard procedures
should contact Assistant Director Dennis Dycus, Division of Municipal
Audit, Comptroller of the Treasury, State of Tennessee, 1535 Andrew
Jackson State Office Building, Nashville, TN 37219, phone 615/741-1871.
RESOLUTION NO. ________

A RESOLUTION pursuant to authority granted by section 6-662 of the Tennessee Code Annotated and in accordance with section 0380-3-7-.02 of the Official Compilation Rules and Regulations of the State of Tennessee authorizing appropriations for financial aid of __________________________, (Name of Charitable Organization) a nonprofit charitable organization whose services benefit the general welfare of the residents of this municipality.

WHEREAS, __________________________, (Name of Charitable Organization) is a nonprofit charitable organization whose services benefit the general welfare of the residents of this municipality, and

WHEREAS, section 6-662 of the Tennessee Code Annotated authorizes appropriation of funds for financial aid of such nonprofit charitable organizations, and

WHEREAS, section 0380-3-7-.02 of the Official Compilation Rules and Regulations of the State of Tennessee requires that a special resolution be adopted for each such nonprofit organization which is to receive such funds,

NOW, THEREFORE, BE IT RESOLVED BY THE __________________________ (Governing Body) OF THE __________________________ OF __________________________ AS FOLLOWS:

Section 1. The __________________________ (Governing Body) may appropriate funds from time to time, in such amounts as it deems proper, for the financial aid of __________________________, (Name of Charitable Organization) a nonprofit charitable organization whose year-round services benefit the general welfare of the residents of this municipality.
Section 2. Such funds appropriated by the municipality for use by ______________________ shall be spent for the following purpose(s):

(Name of Charitable Organization)

1. __________________________________________

2. __________________________________________

All such funds shall be used to promote the general welfare of residents of this municipality.

Section 3. ______________________ shall comply with all requirements of section 6-662 of the Tennessee Code Annotated and chapter 0380-3-7 of the Official Compilation Rules and Regulations of the State of Tennessee, particularly with regard to submission of an annual report of its business affairs and transactions and the proposed use of the municipal assistance.

Section 4. This resolution shall take effect upon its passage, the public welfare requiring it.

PASSED: ______________________

____________________
MAYOR

____________________
RECORDER
To: All non-profit organizations applying for municipal funds

From: J. L. Moss, Jr., City Manager

Subject: State requirements for municipal contributions to non-profit organizations.

In 1978 the state legislature enacted Chapter 838 of the Public Acts of 1978 amending Chapter 6 of Title 6 which placed certain requirements upon the cities and non-profit organizations in connection with appropriations by the cities to non-profit organizations. This law also granted the Comptroller of the Treasury to set standard procedures in connection with these disbursements.

We are enclosing copies of the Act together with the procedures set by the Comptroller of the Treasury. Before an appropriation can be approved and before it can be paid, all of the requirements set forth in the act and in the procedures must be complied with.

If you have not furnished the city with the items required, you should do so immediately.

If you should need any further information, please contact this office.

J. L. Moss, Jr.
City Manager

Enclosures

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Knoxville, TN 37916