**Grants to Individuals: An Underused Grantmaking Technique**

**By Jason Kohout and Emmaline Jurgena**

Many grantmakers are unaware, but private foundations can make direct grants to individuals to further the private foundation’s exempt purpose. Private foundations often focus their grantmaking programs on making grants to other charitable organizations. Sometimes, private foundations will venture into making scholarships or awarding fellowships. A private foundation can make these types of grants, so long as the foundation obtains IRS pre-approval and adopts policies and procedures to prohibit self-dealing. But, beyond grants for scholarships and travel, foundations can provide direct assistance to individuals in need of assistance—including those hit by a natural disaster or the Covid-19 pandemic. This is usually, but not always, support for individuals who need emergency assistance and disaster relief. Examples include grants to individuals in need of food or shelter because of a natural disaster, grants to individuals who need short-term emergency assistance (like blankets, clothing, or food), or grants to individuals experiencing hardship caused by job loss, family illness, violent crime, or physical abuse.

A private foundation can engage in direct grantmaking to individuals so long as the payments constitute a charitable purpose, are permitted by the foundation’s governing documents, and do not implicate a self-dealing or private benefit rule (by providing a direct or indirect benefit to the foundation’s disqualified persons). The IRS has published guidelines for payments made directly to individuals in IRS Publication 3833. The payments to individuals must benefit a “charitable class” meaning a group that is sufficiently large or indefinite that it benefits a community, rather than a single person or small group of pre-selected people.

The charitable recipients must be objectively needy or distressed. There is no requirement that a recipient must be totally destitute (and in fact, a recipient’s needs may not be financial, but instead it may be that they are physically distressed, ill, or have recently suffered trauma), but they must be in genuine need of charitable assistance. To make this determination, the organization should consider its own charitable purposes (whether it be providing mental or physical health assistance, housing assistance, etc.) and develop a standard by which it determines someone is needy or distressed (an example would approving aid recipients who are referred by a homeless shelter, or by a school that can confirm their need). Charities may also have individuals submit applications for relief, and ask for proof of income status and expenses as a result of the disaster or other documentation showing need. If continuous assistance is being offered (such as rent payments over time), the charity should monitor the recipient’s circumstances to ensure that the recipient continues to be in need of assistance while payments are being made.

The IRS recognizes that in the immediate aftermath of a disaster, it would be too burdensome to require detailed records for emergency aid. Because of this, a foundation is only required to maintain limited records of assistance provided and general information about how it was provided (date, location, approximate number of recipients, criteria to determine who may benefit, etc.) when providing short-term emergency aid (such as hot meals, blankets, or warm clothing). The foundation is not required to make individual need assessments for each recipient.

The IRS says that charities providing longer-term assistance should maintain more detailed records, such as the names and addresses of the recipients, selection criteria, and a complete description of the aid provided. The organization may be required to report emergency individual grantmaking in filing its annual return.

Employers who maintain an affiliated private foundation or a donor advised fund may also provide direct support to employees. Like other grants to individuals, these grants must be made to a sufficiently large charitable class and the charity must make an objective determination of the recipient’s charitable need, but additionally the grant decisions must be made using a selection committee (independent from the employer), and cannot benefit the employer. Importantly, for employer-sponsored private foundations, grants may only be made to employees in the case of a “qualified disaster” (meaning a disaster that results from terrorist or military actions, is a federally declared disaster under the Stafford Act, results from an accident involving a common carrier, or is an event that the Secretary of the Treasury determines is catastrophic). If the private foundation is making a payment a non-employee, there is no requirement that an individual grant is related to a qualified disaster (it can be for a neighborhood fire or a cancer diagnosis). More information on employer-sponsored disaster relief during the Covid-19 pandemic can be found [here](https://www.foley.com/en/insights/publications/2020/03/employer-sponsored-foundation-coronavirus-relief).

Direct aid to individuals may be an efficient and impactful way to fulfill an organization’s charitable purposes and directly help individuals and families.