

Barbara Litrell 11/30/10

Below are my thoughts on the topics for today's meeting:

Identifying and describing evaluation criteria: Starting with the SCF criteria, I propose the following criteria for discussion:

Significance to the Sedona community and its quality of life

How much does this proposal make this a better community to live in? Or consider how much the Non-Profit itself benefits the community.

Impact on the Community

How much of the Sedona community benefits or is impacted by this program?
Quantitative/qualitative. Which segments benefit: residents, tourists, businesses, students, seniors, others?

Impact on the Economy of Sedona

Will this project increase business in Sedona and if so, how and how much?

Scope of the Project – how complete and detailed is the program description?

How well is the grant written and has the program been completely thought out and described.

Operations or Specific Project – Is the grant needed to sustain regular operations or is it for a specific program? How necessary is the grant to either?

Capacity – does the organization have the capacity to carry out the program. How healthy is the NPO and what is its ability to complete the project.

Cost – how accurate is the budget for the project. Does the return justify the cost?

Overall – How is this a good use of public funds?

**Definition of Public Purpose: some ideas below --
USE OF PUBLIC FUNDS:**

1- Arizona's Gift Clause is based on Montana's constitution gift clause which was defined to prevent the abuse of extravagant subsidizing of railroad builders and other private entities. Arizona legal opinion talks about how hard it is to define public purpose but rather seeks to do it by example and gives wide latitude to public bodies. Goal is to prevent abuse.

2- North Carolina:

The North Carolina Supreme Court has set forth two guiding principles to analyze whether a government activity satisfies the constitutional requirement of public purpose. First, the activity must involve a "reasonable connection with the convenience and necessity of the particular" unit of government. Second, the activity must benefit the public generally, as opposed to special interests or persons. The money must be expended for the benefit of the citizens of the city and not for the benefit of particular persons or interests.

3- South Carolina Municipal Assn :

In 1975, the State Supreme Court provided a general definition of "public purpose." A "public purpose" has for its objective "the promotion of the public health, safety, morals, general welfare, security, prosperity, and contentment of all the inhabitants or residents, or at least a substantial part thereof."

The court emphasized the need for a direct public benefit, rather than for a remote or indirect public benefit. In later cases, the court has stated that "all legislative action must serve a public rather than a private purpose" and that there must be "a reasonable relationship between the public purpose to be achieved and the means chosen to effectuate that purpose ..."

The court has used a four-part test to determine whether the public purpose doctrine was violated:

1. What is the intended ultimate goal or benefit to the public?
2. Are public parties or private parties the primary beneficiaries?
3. Is the benefit to the public speculative?
4. What is the probability that the public interest will be ultimately served and to what degree?

Municipal officials should use this four-part test when deciding if requested financial grants are for a true public purpose.

State Attorney General opinions, which have considered issues of government expenditures for nonprofits, have expressed a preference for contracts for specified services, rather than for outright grants. These opinions have also stressed "the importance of maintaining adequate controls to ensure a public purpose." In view of this legal background, municipalities should re-evaluate the "public purpose/public benefit" basis for expenditures to any outside organizations.

- Do not make grants just because you made them in the past.
- Avoid grants without restrictions (unrestricted grants).
- Use the four-part test discussed above to determine whether there is the required public interest and benefit, whether the expenditure merely or predominately benefits the membership of the private organization, and whether the means reasonably fulfill the desired public purpose.

- Consider performance-based contracts for specific services as the appropriate vehicle for any funding.
- Develop controls for any expenditures (such as specifications, conditions and contingencies).

Perhaps the above can help us define it --- or not – just leave it as Arizona does, with discretion given to government bodies to define it.

CATEGORIES FOR FUNDING:

1. Service Contracts- to organizations providing services that could/would otherwise be provided by the city: E.g. Chamber of Commerce, Library, Sedona Recycles, Meals on Wheels, etc.
2. Signature Cultural Events – those events which are or can be signature events in Sedona to attract residents and tourists and to fulfill the mission of a city animated by the arts and benefiting the economic engine of Sedona.
3. Community Building Projects – those projects or events that enhance the culture and quality of life, are mostly free, and seek to engage all residents in Sedona with special attention to students and seniors, –St. Patrick’s Day Parade, Community Fair, National Day of the Cowboy, Safe Halloween, etc.