

**Virginia Department of Agriculture and Consumer Services**  
**Division of Consumer Protection - Office of Charitable and Regulatory Programs**  
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**GUIDANCE DOCUMENT**

**Document number:** 2010-01

**Subject:** Use of Proceeds (UOP)

**Issue date:** October 1, 2010  
Revised December 1, 2012

**Expiration date:** In effect until rescinded or amended

**Purpose:**

The purpose of this document is to assist charitable gaming organizations determine which expenditures may qualify as a Use of Proceeds (UOP) disbursement. This is just a guideline. If you have any questions, please contact the Auditing and Financial Reviews Unit in the Office of Charitable and Regulatory Programs (OCRP) at (804) 371-0495.

**Background:**

The regulations promulgated by the Charitable Gaming Board prescribe that as a condition of receiving a permit, charitable gaming organizations must use a minimum of ten percent (10%) of their charitable gaming gross receipts for (i) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, or (ii) those expenses relating to the acquisition, construction, maintenance or repair of any interest in real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes.

Generally, donations to 501(C)(3) tax-exempt charitable organizations or religious groups, as well as donations for educational purposes or for community activities sponsored by a non-profit organization, will qualify as a UOP disbursement. The charitable purpose for which expenditures would qualify as UOP disbursements is typically stated in an organization's charter or indicated by its Internal Revenue Service classification.

In order to count towards the minimum 10% UOP requirement for the gaming year, qualified expenditures must be made by December 31<sup>st</sup> of the gaming year.

### **UOP – Charitable Donations**

Organizations must maintain records to document all charitable donations. The records should include invoices or receipts, request-for-donation letters or thank-you-for-your-donation letters, and approval of the donation by the organization's Board if such approval was required by that Board. Disbursements for which no documentation can be provided may not be counted as a UOP disbursement.

All documentation must be retained for a period of three (3) years from the close of the calendar year and must be made available to OCRP upon request.

Examples of expenditures that may qualify as UOP-Charitable Donations include:

- Donations to other charitable or community organizations of money or goods purchased with charitable gaming funds.
- Assistance to persons in the community who are destitute or in financial need. Payments should be made directly to a landlord, mortgage company, electric company, grocery store, etc on behalf of the affected person or family. Documentation should include request for assistance, statement from the affected person or family regarding the reason assistance is needed, approval from the organization's Board or Committee who reports to the Board, invoices, receipts or documentation to support the check disbursed.
- Religious donations that relate to the understanding, practice, and appreciation of religious worship, philosophy, heritage, and history of any established religion. The donation may benefit/support the clergy, religious education programs for children and adults, repairs and improvements to church structures, assistance programs by houses of worship, and purchase supplies used in religious ceremonies.
- Community donations that relate to events or activities that benefit the general public, provide assistance to community residents, fund community-based youth athletic teams, assist in environmental conservation projects, and sponsor any other projects that aid the community at large. Community donations also include financial contributions to community playgrounds, parks, athletic fields, or other facilities used by the general public for recreation, meetings and social activities.
- Educational donations include purchasing textbooks; providing supplements to teacher salaries; establishing student scholarships; and purchasing pupil supplies, library books, band uniforms, band instruments, sports uniforms, sports equipment, or similar supplies for local schools.

### **UOP – Facility Disbursements**

In order for an organization to expend gaming funds for facility disbursements, their building must meet all of the following three criteria:

- The organization owns or has an exclusive long term lease on the real property;  
AND
- The real property is used in the operation of the organization such as the meeting place, business office, or headquarters;  
AND
- The real property is used for religious, charitable, community or educational purposes.

Any charitable gaming managed from or conducted on the real property must be secondary to the real property's primary use.

If the building meets all three of the criteria stated above, organizations may disburse gaming funds for UOP-Facility Disbursements indicated below:

- Mortgage payments, lease payments made directly to the note holder
- Real Estate taxes
- Costs for basic utilities such as electric, gas, water/sewer service, and fuel for heating. These basic utility expenses must be prorated as follows:  
If the facility is used for gaming 1 day per week, 85% of the utility is UOP-Facility and 15% is All Other Gaming Expense.  
If the facility is used for gaming 2 days per week, 70% is UOP-Facility and 30% is All Other Gaming Expense.  
Note: Only the basic utilities necessary for using the building can be considered. Costs for extra utilities such as telephone and trash removal are not considered Use of Proceeds-Facility Disbursements.
- Repairs made to the facility.  
    Exceptions: gaming funds cannot be used for repairs/renovations to the sections of the facility open to members only (social quarters); nor can gaming funds be used for repairs to the area used exclusively for gaming activities (Report this expense as All Other Gaming Expense.).
- Maintenance of the real property such as central alarm systems, pest control, HVAC contracts.
- Cost of remodeling the building so that it better facilitates or promotes religious, community, charitable or educational purposes.
- Costs associated with site improvement, including outside lighting, parking lot repairs, grounds keeping, and landscaping.
- Generally, janitorial expenses are not an allowable use of gaming funds. However, those janitorial expenses associated with the use of the facility for community, charitable,

religious or educational activities (such as clean up after a worship service or Boy Scout meeting) may be considered a UOP-Facility Disbursement.

**Organizations must obtain documentation to support all facility expenditures. The documentation must include contracts, invoices, receipts, or other documentation that supports the payment. All documentation must be retained for a period of three (3) years from the close of the calendar year, and must be made available to OCRP upon request. Disbursements made without documentation will not be counted as a UOP disbursement.**

**UOP – Restricted Account**

A restricted account is used to accumulate funds for an organization's long-term goal such as the anticipated purchase of a building, the establishment of a scholarship fund, or a major charitable expenditure that will benefit the organization. A restricted account and its purpose must be approved by OCRP prior to establishing the account. The restricted account must be a separate and secure account that is not tied to the stock market. Funds deposited into the restricted account are considered use of proceeds disbursements in the year of transfer. They are reported as Use of Proceeds – Transfers to Restricted Account on the financial reports. Once funds are transferred to the restricted account, they can only be used for the purpose for which the account was established.

For additional information, contact Kay Cholko at (804) 371-0511.

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