

APDU Event / Product Sponsorship and Gifts Guidelinesⁱ

Application

The policy statement outlined here applies to the Association of Public Data Users' (APDU) solicitation and acceptance of unrestricted gifts and of sponsorships for events and activities conducted or products produced under its auspices.

Definitions

For purposes of this policy:

“Association” means Association of Public Data Users or APDU.

“*Gift*,” means any monetary or in-kind donation from an organization or individual to another organization. It does not mean membership dues, conference or other event registration fees, or direct purchases of products or services. It may be “unrestricted” or “restricted” in purpose. Restricted gifts will fall under the category of “sponsorship” defined below.

“*Sponsorship*” means affording either the name of an organization or a gift in the form of a monetary or in-kind donation in formal and direct support of a specific event, activity or product.

“*Donor*” means the organization or individual making the gift. In the case of an unrestricted gift, the donor will be referred to as such. In the case of a gift in the form of a sponsorship, the donor shall be referred to as a “sponsor.”

“*Board*” means the APDU Board of Directors.

Background

APDU, through its Board and administrative office, has conducted Association activities using two primary sources of income: membership dues and conference registration fees. Income derived from publication sales and interest paid on organizational investments has been minor. Income derived from contractual agreements has been used to conduct special projects and offset administrative costs of doing business.

The Board has begun exploring other sources of income and in-kind donations in order for the organization to improve its level of programming and membership and information services without creating undue or excessive burden on its members. Moreover, the Board is mindful that beyond the potential for financial support, sponsorship opportunities could result in other positive outcomes, such as engaging additional organizational partners in APDU activities, allowing APDU to reach out to more segments of the data community, and even building operational and strategic capacity for the Association over the long-term.

There already is policy guidance in place regarding the review of projects and working groups that might create partnerships, generate income and incur expenses (APDU Policy/Procedures #11951); however, while there have been inquiries from members regarding the potential sponsorship of activities such as conference meal events, the Board — having no policy guidance in the area of gifts and sponsorships — has not

been able to act. This policy statement is intended to provide guidance to the Board and administrative office in such cases.

Statement of Policy

Tax treatment of gifts and sponsorships.

In accordance with the Internal Revenue Service guidelines as stated in IRS Publication 557, revised 7/2001, gifts, sponsorships or other contributions to APDU as a 501(c)(6) organization are not deductible as charitable contributions on the donor/sponsor's federal income tax return. However, they may be deductible as trade or business expenses if ordinary and necessary in the conduct of the taxpayer's business.ⁱⁱ

As a result, in APDU's solicitations for gifts or sponsorships and in its formal acceptance and recognition of such donations it must disclose this non-deductibility for charitable purposes in "an express statement (in a conspicuous and easily recognizable format)," per IRS policy.ⁱⁱⁱ

Gifts to the Association.

APDU may accept gifts from any organization or individual who indicates understanding of the Association's mission and goals. Such gifts may be used to supplement or improve Association activities already supported by income derived from membership dues, conference registration fees, and product sales. However, no donor will be permitted to advertise any monetary or in-kind donation as if to imply that APDU endorses that organization, even if the organization is a member of the Association. APDU will return a gift to any donor who does so.

The APDU Board will determine the acceptance and use of gifts as part of its ongoing fiscal oversight functions. Acceptance or rejection of any gift will be by motion passed by a simple majority of the sitting Board. All gifts must be accepted in accord with IRS guidelines.

Sponsorships in support of APDU activities.

An organization or individual may become a sponsor in support of specific APDU events, activities or products, including but not limited to conference meal or program events, Association publications, and Internet web-based products.

Such sponsorships may consist of monetary or in-kind donations, but in any case, will be restricted to use in the specific activity for which the sponsorship was sought and received.

The APDU Board will determine which activities will be eligible for sponsorship as part of its ongoing fiscal oversight functions. Such determinations will be made by motion passed by a simple majority of the sitting Board. All sponsorships must be solicited and accepted in accord with IRS guidelines.

For each activity in which the APDU Board has determined it will seek and advertise sponsorships, a subcommittee consisting of the Board Treasurer, Board Past President, one at-large Board member and the APDU Administrator will develop specific financial or in-kind donation levels. These levels will be stated to prospective sponsors through announcement on the Association website and in written letters inviting

sponsorship. All sponsors will be asked to complete and submit a form to the APDU administrative office.

Preference for sponsorships.

Sponsorships for APDU activities will be advertised first to APDU member organizations (and representatives), individual members of the Association, and friends of the Association. In the event that other organizations or individuals express an interest in sponsoring an activity, the Board will decide whether to accept their sponsorship based on the compatibility of that organization's mission, values, and goals with those of APDU (or in the case of an individual, the intent of the sponsorship), and whether or not the offer is in accordance with APDU's bylaws and ethical standards of conduct and IRS guidelines.

While it might not be possible to achieve in all cases, APDU will seek multiple sponsors for events or products, both to keep levels of sponsorship achievable for its member organizations and as a precaution against undue influence by any single sponsor.

Sponsor recognition.

At minimum, the sponsor organization or individual will be named in print or on the Association website or will be named on signage and program materials in the case of a conference event. Other recognition or perquisites will be in accord with and appropriate to the activity sponsored and the level of sponsorship and will be stated in any solicitation for sponsors.

Sponsorship restrictions.

The Board's acceptance of a sponsorship will not imply endorsement of the organization or individual or their products or viewpoints.

Unless the sponsor is a partner in creating and implementing an APDU product or event by virtue of mutual, written agreement at the outset, a financial or in-kind sponsorship will not afford the sponsor influence over or input to the content of the activity.

Gifts from or sponsorships by the Association.

APDU also can make gifts to or participate in sponsorships for any organization or fund that is supportive of and adheres to similar values and goals as the Association. The APDU Board will determine the amount and type of gift or the level of sponsorship by motion passed by a simple majority of the sitting Board, and all such gifts and sponsorships will be in accord with IRS guidelines.^{iv}

ⁱ These APDU Event / Product Sponsorship and Gifts Guidelines were approved by the APDU Board of Directors on July 15, 2003.

ⁱⁱ As an Association organized under section 501(c)(6), APDU may work for the enactment of laws to advance the common interests of its members. However, a taxpayer cannot deduct the part of membership dues or other payments to a 501(c)(6) that are used for any of the following activities: 1) Influencing legislation; 2) Participating or intervening in a political campaign for, or against, any candidate for public office; 3) Trying to influence the general public, or part of the general public, with respect to elections, legislative matters, or referendums; 4) Communicating directly with certain executive branch officials to

try to influence their official actions or positions. In-house expenditures of \$2,000 or less for the year for activities (1) - (4) listed does not prevent a deduction, if the dues or other payments meet all other tests to be deductible as a business expense. Note too, that a tax-exempt 501(c)(6) is considered to be engaging in grassroots lobbying if it contacts prospective members or calls upon its own members to contact their employees and customers for the purpose of urging such persons to communicate with their elected state or Congressional representatives to support the promotion, defeat, or repeal of legislation that is of direct interest to the organization. Any dues or assessments directly related to such activities are not deductible by the taxpayer, since the individuals being contacted, who are not members of the organization, are a segment of the general public.

Finally, while contributions to APDU are not deductible as charitable contributions, the Association could establish a charitable fund, contributions to which would be tax deductible under current IRS provisions. Such a fund would have to meet the requirements of section 501(c)(3) and the related requirements of 501(c)(8).

ⁱⁱⁱ Section 6113 of the IRS code provides that tax-exempt organizations ineligible to receive tax-deductible charitable contributions must disclose in "an express statement (in a conspicuous and easily recognizable format)" that contributions to the organization are not deductible for Federal income tax purposes as charitable contributions. The IRS has issued [Notice 88-120](#) to provide safe harbors for meeting the requirements of § 6113. A fundraising solicitation will be considered to include "an express statement (in a conspicuous and easily recognizable format) that contributions or gifts to such organization are not deductible as charitable contributions for Federal income tax purposes" if it satisfies the following requirements:

In the case of a solicitation by mail, leaflet, or advertisement in a newspaper, magazine or other print medium, the following four requirements are met:

1. The solicitation includes whichever of the following statements the organization deems appropriate: "Contributions or gifts to [name of organization] are not deductible as charitable contributions for Federal income tax purposes," "Contributions or gifts to [name of organization] are not tax deductible," or "Contributions or gifts to [name of organization] are not tax deductible as charitable contributions;"
2. The statement is in at least the same size type as the primary message stated in the body of the letter, leaflet or ad;
3. The statement is included on the message side of any card or tear off section that the contributor returns with the contribution; and
4. The statement is either the first sentence in a paragraph or itself constitutes a paragraph.

As an additional "safe harbor" for membership dues of Section 501(c)(6) organizations such as APDU, any of the following language may be substituted:

1. "Contributions or gifts to [name of organization] are not tax deductible as charitable contributions. However, they may be tax deductible as ordinary and necessary business expenses."
2. "Contributions or gifts to [name of organization] are not tax deductible as charitable contributions for Federal income tax purposes. However, they may be tax deductible under other provisions of the Internal Revenue Code."
3. "While contributions or gifts to [name of organization] are not tax deductible as charitable contributions for Federal income tax purposes, they may be tax deductible under other provisions of the Internal Revenue Code."

^{iv} An example of a fund to which APDU might wish to contribute is a scholarship fund established in memoriam in the name of an individual who was a member of the Association or otherwise held a valued place in its history or in the data community.