November 16, 2011

Dear Granting Agencies:

This letter offers clarification regarding the tax status of the Regents of the University of New Mexico (the “Regents”). Under the New Mexico Constitution and New Mexico statutes, the Regents are a body corporate with the power to manage and operate the University of New Mexico (“UNM”). UNM is recognized by the Internal Revenue Service (the “IRS”) as a political subdivision as defined in 26 U.S.C. § 115. Political subdivisions and 501(c)(3) corporations are generally on equal footing regarding charitable contributions. This is also referenced in 26 U.S.C. § 170(a) and 170(c)1 & 2 as contributions made for a public purpose. It has been the IRS’ position that income of governmental units is not generally subject to federal income taxation.

The IRS also has stated that private foundation grants to governmental units for public or charitable purposes are not taxable expenditures under § 4942 and 4945 of the Code, regardless of whether the gifting foundation exercises “expenditure responsibility.” In addition, most grants to non-profit governmental units like UNM will qualify as being for charitable, as well as public purposes. UNM has a long history and deeply rooted mission of community and public service and has over 100 years of experience in managing grants from foundations, community service organizations, private, public and federal agencies. The UNM grants office is set up to appropriately monitor funding agency grants to meet all your granting requirements, terms and conditions.

We sincerely appreciate your consideration of our grant application. Please feel free to call upon us if the UNM grants office or UNM’s University Counsel’s Office can be of any further assistance regarding our tax status.

Sincerely,

Scot Sauder
Senior Associate University Counsel
Health Law Section