



KORDANT PHILANTHROPY ADVISORS

Kordant Report Series



Grantmaking in China: Common Challenges to Giving for International Donors

INTRODUCTION

Many individual and corporate donors are interested in supporting charitable projects in China. Unfortunately, making grants to foreign organizations can be challenging, and China's unique legal environment adds an additional layer of complexity to the process. As it stands today, civil society there is underdeveloped and heightened governmental regulations can be difficult to navigate. Cultural misunderstandings and language barriers also routinely complicate relationships with local organizations. The philanthropic process is further convoluted by US

regulations governing international grants. This guide lays out some of the issues faced by donors in making grants to organizations in China.

HISTORY

Early grants to China were largely to universities, followed by grants to centers for Chinese studies and exchange programs. According to Peter Geithner, the Ford Foundation's first Representative in China, once the country began transitioning to a market-based economy after 1978, philanthropy to China began to focus on capacity building, poverty alleviation, education and health (Geithner

2009). In recent years, disaster giving has resulted in immense amounts of aid flowing into the country from the US. For example, the May 12, 2008 Sichuan earthquake brought over \$110 million from US corporations alone (White & Lang 2012). The disaster also put a spotlight on corporate citizenship and accountability, with many US corporations working in China reporting pressure from the Chinese government and public to contribute to recovery efforts. These issues continue to be lasting considerations for corporations and individual donors today.

MAIN CONCERNS WHEN GRANTING TO CHINA

Donors face many challenges when making grants to organizations in China. Some of the main issues to consider include: (1) registration and types of organizations; (2) SAFE regulations; (3) corruption and lack of transparency; (4) government control and direction; and (5) language and cultural issues.

Registration and Types of Organizations

Since 1994, civil society groups have been allowed to register and operate legally in China, provided they have a government sponsor. However, nearly 25% of non-profit organizations in China are registered as businesses and choose to pay taxes, as finding an official patron is not easy (Larson 2013). According to Shawn Shieh of the Chinese NGO Directory, there are over 450,000 registered non-governmental organizations in China and over a million or more unregistered groups (Larson 2013). When making grants to Chinese organizations, many US-based grantmakers would be wise to follow the procedures of US IRS expenditure responsibility guidelines to ensure the organization is doing charitable work and the funds are properly accounted for. Expenditure responsibility allows donors to support social enterprises, those not registered as non-profits, and organizations that will not be able to pass the equivalency determination requirements.

Over the years, the Chinese government has created many government-organized and -operated non-governmental organizations, or GONGOs as they are commonly known. These organizations exist at the national, provincial, and county levels and carry out their own programs. Examples include the China Red Cross Society, China Charity Federation, Soong Ching Ling Foundation, China Foundation for Poverty Alleviation, and the China Education Development Foundation. The status of these organizations is evolving and some are now gaining greater autonomy and becoming less dependent on state funding. Ties with the government are still strong and leaders are usually appointed by the government or are retired civil servants. GONGOs have been quite successful in accessing international financial support because of their influence, program and issue knowledge, ability to initiate regional or national programs, and ability to network with international groups (Wu 2009).

Many of these organizations might be able to fulfill the equivalency determination requirements as required by US law, if they are able to meet the IRS public support test. Resources such as NGO Source provide equivalency determination services to donors interested

in making international grants. Even so, most grantmakers decide to follow expenditure responsibility to ensure that the funds are properly accounted for and to obtain a specific report on the supported project. The grantmaker should also be aware that some organizations choose not to share sensitive documents such as financial statements. GONGOs, public universities and schools, and other government-related organizations are unable to share their financial documents because the Chinese government often will not allow the disclosure. Meanwhile, other organizations might simply decline to share their organizational documents due to privacy concerns. Thus, the grantmaker will need to differentiate between the various types of organizations and adjust their due diligence process. Helping the prospective grantee understand the need for the information is key to a successful due diligence process.

In 2004, the Ministry of Civil Affairs issued the first formal regulation on foundations, named the Regulation on Foundation Management. The Regulation categorized foundations into *gong mu ji jin hui*, which can raise funds publicly, and *fei gong mu ji jin hui*, which cannot raise funds publicly but may receive donations from businesses and wealthy individuals. A similar categorization or distinction in the US is public foundation (*gong mu*) and private foundation (*fei gong mu*). The Regulation requires *gong mu* foundations to spend no less than 70% of its previous year's income on program activities. *Fei gong mu* foundations must spend no less than 8% of the value of its previous year's assets. Both types of foundations are also burdened with the requirement to not exceed 10% of the total spending each year on administrative costs, including salaries, benefits, and office rental costs. Therefore, when a US donor supports these foundations and is reviewing their financial information, he or she should be aware of these requirements.

SAFE Regulations

In March 2010, the Chinese State Administration of Foreign Exchange (SAFE) issued a circular that required all local Chinese organizations receiving foreign contributions to open a special bank account authorized to receive overseas donations. The process varies according to how the recipient is registered with the government. An application; a copy of the organization's business license; a notarized, signed contract with the overseas donor explaining the purpose of the donation; documents proving that the overseas donor is legally registered in its own country; and "other required materials" are listed as requirements to open a bank account before the organization may accept foreign contributions. Though the requirements seem straight-forward, in practice, the process for opening this special account is

onerous and time consuming. Many banks and notary service providers still do not know the details of the regulation and banks are reluctant to help organizations set up the bank accounts, as it is too much work. For example, in order to get the contract notarized, the regulation requires that both the donor and the grantee representatives appear in person before the notarizing authority—and possibly multiple times. Because not all donors have offices in China, foreign donors may be able to get the contract notarized by a Chinese consulate overseas after paying a fee and sending it to the grantee to do the same at their end.

The process is even more complicated for religious organizations. In addition to the bank account, they also need approval from the State Religious Affairs Bureau and local government if the total donations are more than 1 million RMB. Banks are also required to report any “suspicious donations” to the government. As a result of this regulation, a large number of small, unregistered organizations (or those registered as businesses) are no longer able to receive foreign donations directly and may be forced to shut down (Davis 2010).

Corruption and Transparency

Distrust and suspicion, especially of state-run non-profit organizations, have grown among the general public. In 2011, a young woman posted on her microblog that she was affiliated with an organization under the Red Cross Society of China while openly flaunting her wealth and extravagance. The scandal triggered public concern that donations to the state-run organization—and China’s largest charity—were being embezzled (Wong 2011). The scandal brought philanthropy to the limelight once again and calls for transparency were raised across China’s social media sites. Following a recent earthquake in Sichuan in April 2013, most donors refused to give money to the Red Cross Society of China, choosing instead to support private non-profit organizations (Wong 2013).

Misuse of funds is a primary concern for many US grantmakers when giving to Chinese organizations. There is no widely recognized, central clearinghouse in China that grantmakers can turn to, such as Guidestar or Great Nonprofits in the US, that collects information or reviews about the work of a registered charitable organization. Advances are slowly being made in this area. For example, the China Foundation Center, a public charity registered with the Ministry of Civil Affairs, recently released a transparency index that rates more than 2,700 Chinese foundations against 60 comprehensive indicators, including activities, finances, and governance. Their methodology is not fool-proof, however; widespread online protests against the rankings flared when the scandal-ridden China Red

Cross Society, among other charities, received full scores in 2012 (Xinhua 2012).

The Foreign Corrupt Practices Act (FCPA) in the US puts the onus of due diligence and verification of the use of funds on the donor, and grants to GONGOs with government officials at the helm can be especially tricky.

Government Control and Direction

Since 1978, the state has gradually made space for non-governmental organizations but they have also put regulations and procedures in place to ensure state control and close scrutiny. For example, following the 2008 Sichuan earthquake (and all disasters thereafter), all reconstruction activity in the disaster-affected regions must await the government’s reconstruction plan. Only activities that are identified within the plan can be supported by non-profit organizations and thus all foreign donations are directed only to specific purposes as approved by the government. The government also identifies a few groups that are allowed to work in the disaster-affected areas, thus restricting others from participating in the relief work. As a result, when donors want to support disaster relief and recovery efforts, they should be aware that they must wait until the government shares the plan and list of approved groups before making a grant.

Language and Cultural Issues

In addition to regulatory issues, donors often face other obstacles in their pursuit of grantmaking opportunities to China. The language used to describe organizations in China can be complex and confusing. For example, there are no direct equivalents in Chinese for American terms such as NGO and foundation. In addition, the word philanthropy in China does not mean exactly the same as it does in the US due to historical, cultural, and linguistic differences. In Chinese, philanthropy is *gong yi* (公益), literally translated as public benefit.

Charity, or *ci shan* (慈善), is a part of *gong yi* and many see very little difference between the two. In the US, we describe philanthropy through grantmakers and foundations, while charities are not-for-profits that receive grants. In China, both the grantmakers and the grantees are called *gong yi* or *ci shan* organizations. Differences in regional languages may also compound the problem, with grantees sometimes unable to understand English and Chinese-American donors unable to understand local dialects.

Donors interacting with Chinese grantees should also take into consideration cultural issues, including protocols for meetings and events. Donor expectations around transparency, sharing of financial information, monitoring, and evaluation might be regarded as

unreasonable or unfeasible, and reflective of a lack of trust by the grantee. Terms can also be lost in translation. Questions in proposal and report forms to assess the project impact might not necessarily be clear or meaningful when translated to Chinese.

Furthermore, grant agreements should also be translated properly to ensure the terms and conditions are accurate. Grantmakers should work with local Chinese advisors who are familiar with both US and Chinese regulations and both languages to translate and protect the integrity of these documents. Local staff or advisors that can speak the local language will be helpful in explaining US regulations, the necessity of certain documentation, and the grantmaking process to prospective grantees. In addition, a local advisor will also enable the grantmaker to learn more about local issues and processes and set expectations.

CONCLUSION

The evolving legal and social philanthropic landscape has made it difficult for grantmakers to support charitable projects in China. Barriers include new and changing regulations; existence of various charitable government-related and non-related entities; and lack of understanding of culture, language, and local customs. Public misunderstanding of modern philanthropy practices has also created many misperceptions. For example, the public and government do not understand why non-profits should be allowed to engage in any revenue-generating business activities even when the profit is to be re-invested in the organization's charitable mission. Hence, organizations often struggle to be sustainable.

Supporting charitable projects in China, though complicated, is entirely feasible and fulfilling. Knowing the local challenges, having advisors on the ground, and recognizing that prospective grantees need assistance in understanding US regulations and grantmaking processes will help alleviate some of these challenges. Donors should recognize that giving overseas is a unique process that is different than making grants to US-based organizations. Additional time and expense, along with expertise and experience in navigating the process, may be necessary. By complying with regulations, following best practices,

and being sensitive to local processes, donors can ensure that their philanthropic contributions are invested properly in the vulnerable communities that need it most.

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