

FINANCIAL AFFAIRS

May the city donate money to private non-profit charitable organizations such as a senior citizen's center, or boys/girls clubs?

Recreational and youth programs are a public purpose and thus are a proper subject for municipal expenditures. See Ark. Code Ann. § 14-54-1301 (cities may operate recreational programs); Atty. Gen. Op. Nos. 96-358 (statute authorizing counties to operate recreational programs establishes them as a public purpose) and 2001-135 (providing youth recreational services is a laudable goal well within the city's discretion.)

However, the city may not donate or directly appropriate funds to a private organization, even one that is charitable or non-profit, without violating Article 12 sec. 5 of the Arkansas Constitution. That provision prohibits the appropriation of public funds to private individuals or corporations.

On the other hand, a city may enter into a contract with a private charitable organization to provide services that the city itself could provide. See Atty. Gen. Op. No. 2001-135 (Fayetteville could contract with Boy's and Girl's Club).

One factor a court might examine would be whether the city actually receives some consideration for its money. In other words, the nonprofit organization should in fact provide a service that would not exist (or would be less extensive) but for the funds received by the city. Consult with your city attorney about drafting a suitable contract.