

Private Foundations Bulletin

Key Considerations for Grantmaking to 501(c)(4) Organizations

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While private foundations often award grants to Internal Revenue Code (IRC) 501(c)(3) public charities, we're seeing a growing interest in donating to 501(c)(4) organizations. The Internal Revenue Service (IRS) defines 501(c)(4)s as entities engaged in promoting the common good and general welfare of the community. If your foundation is considering a grant to one of these organizations, we have good news for you. With proper due diligence and alignment with your foundation's values, these grants can be both permissible and impactful. In this article, we clarify the key compliance steps and considerations for entering into a grant agreement with a 501(c)(4) entity.

Ensure Alignment

When considering a grant to an IRC 501(c)(4) organization, conduct your own research to ensure that the organization's mission, values, programs and activities align with the objectives of your foundation. Certain activities conducted by 501(c)(4) organizations may be prohibited from funding by foundations due to IRS guidelines. Examples include influencing legislation, participating in political campaigns, influencing the general public with respect to elections and communicating with executive branch officials. You should be aware of prohibited activities.

Confirm Willingness to Comply

Prior to drafting an initial grant agreement, it's important to inquire directly with the 501(c)(4) organization to ensure it is willing to comply with the proposed restrictions and subsequent reporting requirements of your grant.

Execute a Grant Agreement Detailing Allowable/Unallowable Activities

Once you both verbally agree with the proposed requirements, your foundation should then work closely with legal counsel to ensure the grant agreement stipulates actions necessary for compliance. The agreement should explicitly state the charitable activities that the grant funds must be used for, along with all restrictions of fund use. This will help avoid any unintended use of funds or issues of IRS compliance. Detailing these allowable and unallowable activities will provide proper guidance for the recipient to utilize over the term of the agreement. Your foundation must also ensure that the grant agreement stipulates the requirement for subsequent expenditure responsibility reporting.

Establish Expenditure Responsibility

The IRS requires expenditure responsibility for grants made from a foundation to a 501(c)(4) organization, due to the potentially unallowable activities that the recipient may conduct. Without expenditure responsibility, grants made to a 501(c)(4) organization would be considered a taxable expenditure.

For organizations subject to expenditure responsibility, IRC §4945(h) states that a foundation is responsible to exert all reasonable efforts to establish adequate procedures in order to:

- See that the grant is spent solely for the purpose for which it was made.
- Obtain full and complete reports from the grantee on how the funds are spent.
- Make full and detailed reports [to the IRS via federal Form 990-PF].

As a reminder, as with any expenditure responsibility grant, the IRS has specific requirements to be followed. Your private foundation must:

- Conduct a pre-grant inquiry.
- Receive a written agreement that contains certain terms.
- Obtain certain reports from the grantee.
- Properly report the expenditure responsibility grants to the IRS.
- Take appropriate action if the grantee fails to comply in some way.

Each of the above requirements must be met for the grant to qualify as a charitable distribution. You should maintain a grant file with all relevant documents, reports and evidentiary support of your foundation's due diligence.

Report Expenditure Responsibility on Federal Form 990-PF

The last requirement is for your foundation to disclose the information related to expenditure responsibility on the federal [Form 990-PF](#), just as you would with any other expenditure responsibility grant. This information should include:

- Name and address of grantee.
- Date and amount of grant.
- Purpose of the grant.
- Amounts expended by the grantee.
- Whether the grantee has diverted any portion of the funds from the purpose of the grant.
- Date(s) of any report(s) received from the grantee.
- Date and results of any verification of the grantee's reports undertaken pursuant to and to the extent required under IRC §52.4945-5(c)(1) by the grantor or by others at the direction of the grantor.

In addition, 501(c)(4) organizations are considered *noncharitable exempt organizations*. As a result, disclosures describing the type of transaction(s), amount(s) involved, name of the organization(s) and a description of the transfer(s), transaction(s) or sharing agreement(s), if applicable, are required in federal Form 990-PF, Part XVI: Information Regarding Transfers to and Transactions and Relationships With Noncharitable Exempt Organizations.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the [Private Foundation Services](#) team members below:

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