

Foundation Advocacy Grants

What Grantees
Need to Know



BOLDERADVOCACY

A program of Alliance for Justice

Foundation Advocacy Grants: What Grantees Need to Know

When a private foundation in Texas decided to support the advocacy efforts of its grantees, it did so in furtherance of its belief in the power of positive policy change. By working with Alliance for Justice's Bolder Advocacy team, the foundation discovered that it could fund grantees that lobby using general support and specific project grants, but it needed its grantees to have a common understanding of private foundation funding rules so that their grant applications reflected activities that the foundation could lawfully support. This prompted the foundation to convene several local funders and grantee partners for a day of networking and advocacy workshops.

The result: both the grantee and funding community participants walked away with a shared understanding of how they can legally and effectively advocate on behalf of important public policies and establish funding streams that allow them to stand up for the rights of Texas residents struggling to have their voices heard by local government officials. By fostering collaboration between funders and local nonprofits, the foundation boosted the capacity of its community partners to effectively speak out and be heard.

Advocacy efforts, including lobbying, are critically important to the success of many nonprofits. Advocacy by 501(c)(3) organizations is legal, as long as your organization follows the rules. Of course, like other work your organization does, advocacy requires financial support. There are many ways in which you can raise money for advocacy, including fundraising events, membership dues, individual donations, and grants from public or private foundations.

Your organization may choose one or all of these options. Chances are you will want to approach foundations to support your advocacy activities. When you do, there are a few things you should know about foundations and how to successfully obtain their funding for advocacy and lobbying. Sometimes the wording in your grant proposal or report can make all the difference, as in the example at the beginning of this section. This guide will focus on helping you understand foundations' capacity to fund advocacy and how you can maximize your opportunities to gain foundation support through careful proposal writing and reporting.

In the following sections, you will find information on the rules that govern advocacy funding by private and public foundations, the different kinds of advocacy that you can choose to engage in as a nonprofit, the types of grants you can seek to support this advocacy, and Do's and Don'ts for writing grant proposals and reports.

Yes, Foundations Can Fund Advocacy Efforts

There are two types of foundations—public and private. Just as most types of advocacy are fully legal for you to engage in as a grantee, most advocacy is also fully legal for foundations to support. But there are some key differences between public and private foundations when it comes to securing funding support for advocacy.

Public foundations (also referred to as “community foundations”) face the fewest restrictions when it comes to funding advocacy. Often these foundations are community-based and make grants to support charitable activities in their local areas. Public foundations are permitted to fund virtually all types of advocacy, including lobbying – although there are limits on how much lobbying they

can fund or engage in themselves.

Private foundations are supported by one or a few individuals or sources. Family foundations, such as the Bill and Melinda Gates Foundation or the Ford Foundation, are a common type of private foundation. These entities can have vast resources and may present excellent fundraising opportunities for your organization. At the same time, they must follow stricter rules when funding certain types of advocacy work. Private foundations are not allowed to earmark grants for lobbying, which means they can't provide money to you with the understanding that it will be dedicated to lobbying work. However, this does NOT mean that private foundations can't give money to organizations that lobby. In fact, the law outlines specific ways in which private foundations may fund organizations that lobby. You can find more details about the law in the section on "Grants for Advocacy and Lobbying Work" below.

Advocacy and Lobbying Defined

By now you're probably aware that while all lobbying is advocacy, not all advocacy is lobbying – far from it! Advocacy activities can include conducting policy research, meeting with reporters, educating the public about issues, community organizing, writing op-eds, and more. Your nonprofit has a wealth of non-lobbying advocacy opportunities available to support your cause.

501(c)(3) public charities may utilize one of two options for tracking their lobbying. One standard, called the insubstantial part test, requires that "no substantial part of a charity's activities ... be [used for] carrying on propaganda or otherwise attempting to influence legislation." This means that lobbying must be an "insubstantial" part of your organization's overall activities. The other standard, the 501(h) expenditure test, sets generous dollar limits on how much lobbying your organization can engage in, calculated as a percentage of your charity's total exempt purpose expenditures. Under this standard, lobbying comes in two varieties: direct lobbying and grassroots lobbying. Direct lobbying is a communication with a legislator that expresses a view about specific legislation¹, and grassroots lobbying is a communication with the public that expresses a view about specific legislation and includes a call to action, such as a directive to "Call your legislator now and tell her to vote yes on the Fair Pay Act!"

Alternatively, if you run a 501(c)(4) organization, your organization can engage in an unlimited amount of lobbying. Either way, if you are seeking foundation funding for advocacy work, you'll need to be able to distinguish between your lobbying and non-lobbying activities and the expenses incurred for each. Below are a few examples that may be helpful in guiding your own advocacy work:

LOBBYING

- Meetings with legislators to express a view about specific legislation: League of Women Voters of Washington published a guide for lobbying legislators with tips on how to plan for and facilitate a lobbying meeting. Lobbying expenditures would include travel costs such as transportation and hotel rooms for participants (if all travel costs are specifically for the lobby day), as well as staff time and materials for the meetings.
- Drafting a sign-on letter: Organizations signed on to a letter urging Congressional leadership to move S. 192, the Older Americans Act Reauthorization of 2015, to the Senate floor for passage. Lobbying expenditures included staff time at coalition meetings to discuss the content of the sign-on letter, draft the letter, and get internal organizational approval.
- Conducting a Capitol Hill Lobby Day: Clean Air Carolina and coalition partners organized a lobby day in North Carolina on the importance of energy efficiency. Lobbying expenditures included travel to Raleigh, lunch, creation of signs for lobby day, staff time, and proportionate

¹ Legislation is action by a legislative body including the introduction, amendment, enactment, defeat or repeal of Acts, bills, resolutions, or similar items. It also includes ballot initiatives, referenda, constitutional amendments, and bond measures.

overhead expenses related to preparation for the event.

- *Organizing an event asking the public to contact their legislators:* Mothers Against Drunk Driving staged an event to discuss Hawaii's drunk driving laws. A large sign was attached to the podium that listed the phone numbers of the President of the Senate and Governor of Hawaii and urged the public to contact these officials. Lobbying expenditures included equipment rented for the event, staff time for preparing and working the event, proportionate overhead costs, and the cost of signs.
- *Coordinating volunteers to go door-to-door to urge their neighbors to support a ballot measure:* The National Gay and Lesbian Task Force worked with local organizations in Cincinnati to pass a ballot measure that repealed a law that forbade the City Council from enacting anti-discrimination or relationship protections for LGBTQ people. Part of the strategy involved mobilizing volunteers for door-to-door canvassing. Lobbying expenditures included staff time organizing and educating volunteers, proportionate overhead, the production of materials for volunteers to hand out, and the creation of signs for volunteers to use. Fortunately, volunteer hours are not considered lobbying expenditures under the 501(h) expenditure test.
- *Writing talking points for volunteers to use when calling legislators about legislation:* Oregonians for Alternatives to the Death Penalty wrote talking points for volunteers to use in order to urge legislators to pass legislation that would repeal Oregon's death penalty. Lobbying expenditures included staff time and proportionate overhead to write the talking points.

NOT LOBBYING

- *Influencing regulations:* Consumer Action has pushed the U.S. Department of Labor to update a rule on fiduciary duty that would require investment brokers working with investment accounts to act in the best interest of their clients.
- *Educating legislators:* The Texas Education Grantmakers Advocacy Consortium supported research and advocacy to [educate legislators](#) on the negative impact of education cuts on students.
- *Litigating a case:* The Women's Law Project acted as co-counsel for Tara Brady, a student who was involuntarily dismissed from her university basketball team and then expelled because she was pregnant.
- *Organizing a rally:* The Center for Reproductive Rights and many allied organizations stood outside of the Supreme Court during the oral arguments for *Whole Woman's Health v. Hellerstedt* to [rally in support of abortion access](#).
- *Drafting a petition:* Alliance for Justice drafted a petition to [urge Spotify](#) to remove their forced arbitration clause and collected signatures from the public.
- *Inviting legislators to visit your facility:* The American Health Care Association encourages their members to invite legislators to visit their facilities because such visits play a critical role in informing legislative efforts. Do NOT discuss specific legislation at these visits, however, as this would constitute direct lobbying.
- *Writing an op-ed:* The National Employment Law Project wrote an op-ed on the importance of a living wage in Baltimore. This would not constitute lobbying as long as there is no legislative call to action or the op-ed is not about a ballot measure.
- *Conducting a voter registration or Get-Out-the-Vote drive:* Nonprofit Vote works with nonprofits across the country and provides resources on how to conduct nonpartisan voter outreach to increase voter participation.

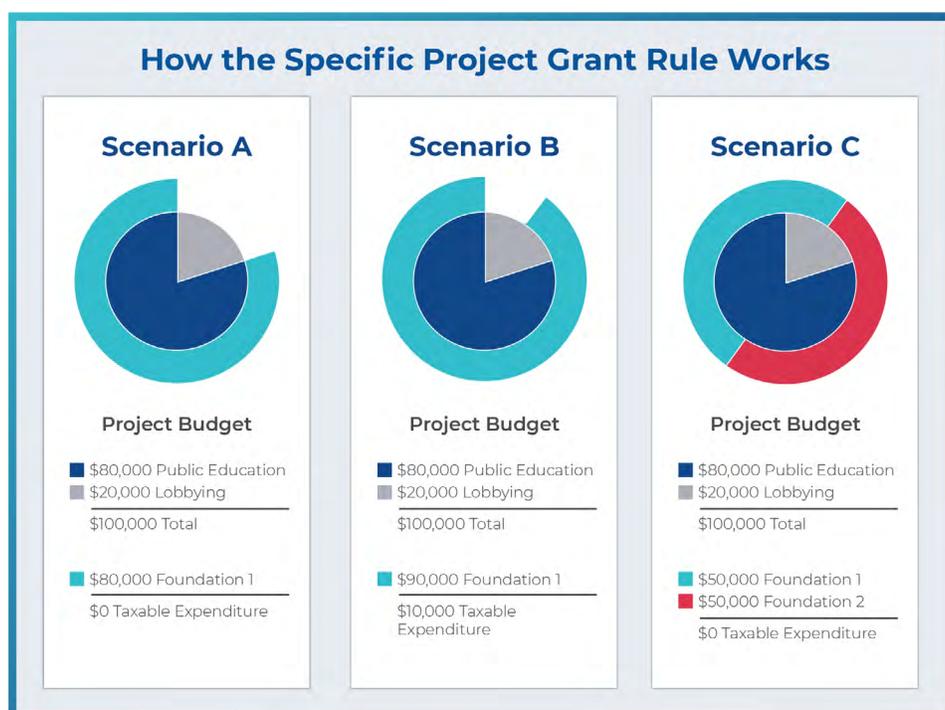
Private Foundation Grants for Advocacy and Lobbying Work

As discussed above, public foundations are able to fund lobbying work by grantees. However, grantees engaging in advocacy have a slightly trickier challenge when seeking funding from private foundations. The good news is that the law allows private foundations to fund public charities that lobby, as long as the money isn't earmarked for that purpose alone. Private foundations can fund organizations that lobby through two special types of grants that are considered "safe harbors." Note, however, that private foundations may not use these "safe harbor" grants to fund non-501(c)(3) charities (like 501(c)(4)s).

The first type of "safe harbor" grant is the general support grant. As its name suggests, it may be used for the general support of a nonprofit organization, rather than for one specific project or activity. General support grants are great because they give you maximum flexibility. Here's the good news: general support grants can be used for lobbying. That's true even if the grant contract comes with the written caveat that it is "not earmarked for lobbying." This wording often causes confusion, so it's worth stating again: general support grants may be used for lobbying and a "not earmarked for lobbying" designation means that use of the grant money for lobbying may be allowed. Counterintuitive? Yes, but tremendously helpful once you realize the possibilities.

The other type of "safe harbor" grant that private foundations may use is the specific project grant. Again, the purpose is evident in the name: the money is for a specific project carried out by one or more organizations. Moreover, the money can be used for projects that will include a lobbying element, although the rules governing this are quirky.

Here's how specific project grants can be used to pay for a project that includes lobbying. A specific project grant can be made for an amount that is equal to or less than the non-lobbying portion of the project budget. For example, if the entire project is budgeted at \$300,000 with \$100,000 anticipated for lobbying, a foundation can fund \$200,000 of the project without the funds being considered "earmarked" for lobbying. So how does the organization pay for the lobbying part of the project? You can either use other organization moneys to cover it – or you can use another specific project grant that also totals no more than \$200,000. In this way, you are legally able to piece together enough money for the project without violating the terms of your specific project grant(s).



As shown in the graphic above, Foundation 1 may give the 501(c)(3) public charity a \$50,000 specific project grant based on the grantee's project budget, ensuring that their grant is not earmarked for lobbying. Foundation 2 may also give the same 501(c)(3) public charity a \$50,000 specific project grant based on the grantee's project budget. Since neither grant individually exceeds the total non-lobbying portion of the project, neither grant creates a taxable expenditure for either foundation. This is the case even though the total amount of the combined grants—\$100,000—exceeds the total non-lobbying portion of the budget. Neither foundation is required to put a lobbying restriction in its grant award; each foundation is protected by the specific project grant rules. The grantee could then legally lobby with both or either grant, and neither foundation would incur a taxable expenditure, because neither foundation earmarked its grant for lobbying. For more details about the rules for specific project grants, see pages 13-16 of [Investing in Change: A Funder's Guide to Supporting Advocacy](#).

TIP: If a 501(c)(3) public charity wants to raise money specifically for a lobby day or another activity that is clearly lobbying, it should seek funding from a public foundation, not a private foundation. A private foundation should never make an earmarked lobbying grant.

Another type of grant that you may receive from a private foundation is a restricted (or controlled) grant. This type of grant falls outside the safe harbor zone. It is the only type of grant that a private foundation can give to a non-public charity, such as a 501(c)(4)², although 501(c)(3)s may receive them as well. Grant agreements for restricted grants include language that says the funds may not be used for lobbying. Though private foundations are not required to restrict grants to public charities, they may choose to do so. However, there are still many great and effective non-lobbying advocacy activities for which you may use restricted grants, so don't write them off as a possible funding source!

Do's and Don'ts for Writing Compliant Proposals and Reports

How you craft your written proposals and reports can have a big impact on your chances of successfully obtaining and maintaining foundation funding for your advocacy efforts. One of the most important things to remember in this context is that it is critical that you know and understand not only the law, but also your individual funder's preferences and culture. That's because there may be differences between what the law allows you to report to a foundation and what your funder wants to see.

Fundraising is always challenging and every funder has its own methods to select the organizations it will fund. For example, some funders do not take proposals at all, while others will ask for letters of intent and then invite only a select few organizations to submit funding requests. Within these parameters, it is critical that you describe your activities accurately and in ways that comply with the relevant laws for that funder. For example, you should not ask a private foundation for a grant that will be used solely for lobbying, because private foundations may not give grants that are earmarked for lobbying. In a general support grant application, *you can mention lobbying as an activity your organization engages in*, even though you cannot ask the funder to provide funds specifically for lobbying.

Similarly, with a specific project grant request, you should not ask a private foundation to fund the lobbying portion of the project. Rather, you should seek support for the proposed project, asking only for funding in an amount that is equal to or less than the non-lobbying portion of the project's total budget.

² For more information on how private foundations can fund nonpublic charities, such as 501(c)(4)s, see pages 19-21 of [Investing in Change: A Funder's Guide to Supporting Advocacy](#).

It's also a best practice for your organization to establish a good working relationship with funders and their program staff. If you have an established record with a foundation, you are more likely to receive funding for your organization's advocacy and the foundation may be more receptive to giving your organization a general support or specific project grant. In your conversations with foundation staff, ask about their priorities for funding, as well as their goals and concerns, to determine whether you want to seek new or increased funding. You can also ask for their advice on other funders you should approach.

Some Do's and Don'ts for proposal writing:

DO	DON'T
Read and follow foundation funding guidelines.	Don't seek funds for partisan political activities from any foundation.
Learn whether a foundation is private or public, and understand the rules that apply to foundations when they make grants.	Don't be afraid to tell a foundation you have made the 501(h) election.
Inquire about grants to support lobbying when seeking funding from a public foundation.	Don't seek funds solely for lobbying activities from a private foundation. You can seek a general support grant or a specific project grant that includes lobbying activities, but you should not tell a private foundation's program officer that you are seeking funding to support lobbying, as that could create an earmarked, taxable expenditure for the private foundation.
Describe all of your organization's activities, including your lobbying activities, when seeking a general support grant, although it is important to note that not every foundation will be comfortable with this approach.	Don't tell a private foundation that you will lobby only if you receive the general support grant from them. One note: there are not many "don'ts" regarding general support grants, because they are designed to support all the legally permissible activities of public charities.
When seeking specific project grant funding, do include a project budget that specifies which portion of the project's budget will go toward lobbying. Do seek funding from more than one foundation pursuant to specific project grant rules.	Don't ask a private foundation to fund more than the non-lobbying portion of a specific project grant.
Demonstrate that you understand the IRS lobbying rules and definitions. For example, you could state whether you have taken the 501(h) election and if not, why.	Don't describe all your advocacy as lobbying if it does not actually meet the definitions of lobbying. Lobbying is a very specific category of advocacy, and you should be careful not to describe non-lobbying advocacy as lobbying.

Demonstrate that you have the capacity to carry out your organization's advocacy goals. For example, identify one or more networks, organizations or key personnel who can help meet your goals.

Don't be unrealistic in your promises or goals. Set reasonable measures and achievable goals.

Say that your program is seeking funds to support your advocacy efforts. For example: "We aim to ensure that all women have access to affordable contraception. We will use these funds to educate the public and policy makers on the importance of access to affordable contraception. We will advocate with the state's insurance departments, health departments, and the governor's office to ensure all health plans cover a comprehensive range of contraceptives."

Don't make it seem like a grant is earmarked for lobbying when seeking funding from a private or public foundation that does not want to make grants that are earmarked for lobbying. For example, don't say "Our program is seeking funds to support our lobbying efforts to ensure all insurance plans cover contraception. We plan to lobby the legislature to pass comprehensive legislation and will also lobby the Governor to include funding for contraceptives in the state budget."

Describe your educational purpose. For instance: "Our program is seeking funds to conduct an in-depth analysis of the health impacts and educational outcomes at college campuses that provide contraception in student health centers. We will widely disseminate the report by placing it on our website, promoting it on social media, and sharing it with our supporters and policymakers."

Don't indicate that the general support or specific project grant will be used to fund lobbying by using language such as "Our program is seeking funds to pass a law that will require all public universities to provide contraception in student health centers."

Let's assume that your nonprofit has successfully submitted a grant proposal to a foundation and has received funding. Congratulations! You will most likely be required to provide regular reports to your funder on how you are using the money. When writing a grant report, always make sure you refer to the grant agreement and follow the foundation's reporting requirements. This seems elementary, but it's important, because you will need to comply with not only the law, but also the foundation's specifications.

If you have received a general support grant from a private foundation, you should report on all of your organization's activities, including lobbying efforts. For example, you can say, "Our organization engaged in many activities to support access to contraception, including educating the public and health care providers, writing comments on proposed regulations, and lobbying in support of the Comprehensive Contraceptive Act."

When writing reports for a specific project grant, if your organization received project funding from more than one foundation, you may discuss the entire project that was funded. In these reports, you can discuss the lobbying that was done, but you may want to avoid crediting a specific foundation with supporting your lobbying activity (e.g. "Foundation 1's funds were used to pay for communications encouraging the general public to contact Senator X about H.B. 123."). Furthermore, unless required by the grant agreement, you do not need to break down which aspects of the project were funded by specific funders.

Finally, if you are writing a report for a restricted grant, you should discuss only the activities that

the grant was made to support. However, since restricted grants cannot be used for lobbying, you should neither lobby with the money nor describe other types of advocacy efforts as “lobbying” in your report.

A few examples of Do’s and Don’ts for report writing:

DO	DON'T
<p>Use terms properly. If your activities do not meet the definition of lobbying, describe them as advocacy. For example, if you educated lawmakers about an issue without taking a position on specific legislation, do not say you lobbied.</p>	<p>Don't say you used grant funds for lobbying, unless the grant was from a public foundation and earmarked for lobbying.</p>
<p>Describe your entire project when you are reporting on a specific project grant, including any lobbying that was budgeted for the entire project. For example, you can say, “The Contraception in School Health Centers project studied the positive educational outcomes of making contraception available in school health centers. We built support for the initiative by sending it to supporters, the state school board association, and posting it on our website. Pursuant to the attached budget, the Project also lobbied to secure funding in the state budget.”</p>	<p>Don't say you used any specific funder's grant funds to conduct lobbying, unless the grant was from a public foundation and earmarked for lobbying.</p>
<p>Describe your organization's activities and accomplishments, including legislative victories, when reporting on a general support grant. For example, you can say, “With your support, our organization was able to advance the issue of comprehensive contraceptive coverage. Our research showed the importance of making contraception available in our state's public schools. We also educated the school board association about the importance of this issue and lobbied to secure funding in the state budget to make contraceptives available in school health clinics.”</p>	<p>Don't shy away from reporting your organization's activities and accomplishments if you are reporting on a general support grant. Note: There are not many 'don'ts' with general support grants because they are designed to support all the legally permissible activities of public charities. Depending on your funder's preferences, it may be acceptable to say that you used the foundation's funds to conduct lobbying.</p>
<p>Describe your nonpartisan civic engagement work, such as co-sponsoring candidate forums or providing issue briefing books to all candidates for a particular office.</p>	<p>Don't claim credit for an elected official's election or defeat or create a voter guide that indicates which candidates support the organization's priorities.</p>

Explain how you used the funds from a restricted grant. For example, you can say, “With the grant funds, we created an in-depth study on the positive educational outcomes of making contraception available in school health centers. We publicized this report by posting it on our website, sending it to the state school board association, and emailing it to our supporters. With these efforts, we raised awareness and built public support for implementing this program in all public schools in our state.”

Don't say you used restricted grant funds for activities that meet the definition of lobbying, such as sponsoring a lobby day, during which constituents visit their legislators to urge support for a bill.

A final note on election-related activities: like all other 501(c)(3)s, private foundations are prohibited from engaging in or supporting partisan political activities. They may fund 501(c)(3)-permissible election year activities such as voter engagement, candidate education, and Get-Out-the-Vote (GOTV) activities, but there are additional requirements for grants that are earmarked for voter registration drives. A private foundation may only earmark funds for a voter registration drive that is nonpartisan, conducted in five or more states over more than one election cycle, and sponsored by a public charity that meets certain spending and support tests. Voter registration efforts could also be conducted with a general support grant, which would not be earmarked for voter registration.

Key Takeaways

As a nonprofit organization with a vital mission to improve your community, you should make the most of your rights to advocate on behalf of your cause – including your right to lobby. You have many great opportunities to seek funding for your advocacy, including in the foundation world. Here are a few quick takeaways to keep in mind:

- **Most efforts to change public policy are not lobbying.** Lobbying is an effort to influence specific legislation (including a ballot measure), either through communicating with legislators or with the general public. In many instances, efforts to influence executive branch (presidential, gubernatorial, or government agency) decisions will not constitute lobbying. Generally, analyzing broad issues and educating the public about those issues also do not count as lobbying.
- **There are no limits on most advocacy activities.** The law gives nonprofits, including foundations, substantial room for supporting or conducting almost every type of advocacy. Lobbying and election-related activities face some legal restrictions, however. In addition, 501(c)(3) organizations are not allowed to support or oppose candidates for public office.
- **Private and public foundations may support 501(c)(3) public charities that lobby.** Private foundations can do this by taking advantage of the general support grant or specific project grant “safe harbors.”
- **Public foundations can earmark funds for lobbying.** Public foundations are permitted to conduct lobbying activities themselves, and may fund lobbying activities within the generous limits allowed by law.
- **In most cases, private foundations are not required to prohibit the use of grants for lobbying.** The only time private foundations must prohibit the use of grant funds for lobbying is when they are making grants to non-501(c)(3) organizations.

Need More Guidance?

Bolder Advocacy is here to help! Just call our Technical Assistance line at 1-866-NP-LOBBY, email us at advocacy@afj.org, or visit our website at bolderadvocacy.org.



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