

How to Fund a 501(c)(4):

What Nonprofits and Foundations Need to Know



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Introduction

Change is possible when policymakers are engaged and supportive. 501(c)(4) nonprofits are powerful agents to create social change and achieve policy goals because they can use a broader range of advocacy actions than can 501(c)(3) organizations. A 501(c)(4) can engage in unlimited amounts of lobbying activity and some partisan political activity — which gives them the ability to hold elected officials accountable in their legislative roles and at the ballot box. Put simply, a 501(c)(4)'s ability to engage in partisan work can help to put the right people in office and support them once they get there.

Of course, 501(c)(4)s are not without disadvantages, and a key one is that it is often harder to fundraise to support their activities. A 501(c)(4) cannot receive tax deductible charitable contributions which can make it more difficult to raise funds from individuals. Additionally, private foundations must follow a specific grant-making process called expenditure responsibility when providing grant funds to 501(c)(4)s because they are not public charities. For this reason, private foundations have historically preferred to limit their grantmaking to 501(c)(3) public charities to avoid navigating these more onerous rules.



It is permissible for foundations to give grants to 501(c)(4)s, and an increasing number of foundations are seeing them as an important way to leverage their grant-giving to achieve their goals and protect investments that have already been made.

Private foundations are often reluctant to publicize their expenditure responsibility grant-making, so many 501(c)(4)s are not aware that it is possible to receive a grant to fund some of their nonpartisan activities. This guide is designed to help 501(c)(4)s understand the expenditure responsibility rules so they can increase their chances of obtaining foundation grants. The following is an overview of the rules that apply to private foundations, which aspects of 501(c)(4) work can be funded with private foundation grants, and tips on what to say or not say in grant proposals and reports. A short section on the less restrictive rules that apply to grants from public (or community) foundations is also included.

A 501(c)(4) Overview

501(c)(4)s are social welfare organizations, meaning their primary purpose must be “social welfare.” Social welfare is a vague term that is defined as promoting in some way the common good and general welfare of the people of the community. A 501(c)(4) needs to ensure it is primarily engaged in social welfare activities. At least 51% of its activities must be aimed at ensuring the public is informed and participating in the public policy process. 501(c)(4)s can support the election or defeat of a candidate for public office as a secondary activity.



Primary purpose activities can include lobbying, education on public policy issues, and civic engagement work (essentially, anything a 501(c)(3) may do). In an election year, primary purpose activities also include voter registration, voter education, and get-out-the-vote activities, provided they are conducted in a nonpartisan manner.

This is where foundation funding can be vital. While private foundations may not fund partisan work, they can fund many, but not all, of the non-partisan, social welfare activities of 501(c)(4) organizations. Many of the activities that cannot be funded with private foundation grants, such as lobbying and voter registration drives, could be funded by a community foundation, provided the activities are nonpartisan. Funds raised from individual donors can be used for any activity, unless restricted to a specific purpose by the donor, including partisan activities.

While it is often harder for 501(c)(4)s to raise funds from individuals, they certainly should seek non-tax-deductible contributions from individuals who support their cause and want to contribute to organizations that are advocating for change. Other sources of funds that can fund a 501(c)(4)'s partisan work include funds from unions and other 501(c)(4) organizations.

Using a private foundation grant to fund nonpartisan social welfare activities has a dual purpose: It allows 501(c)(4)s to use more limited, non-restricted funds for partisan work while also engaging in important nonpartisan activities that are educational in nature or that help communities participate in democracy. Private foundations may find their funds are used in more impactful organizations when they use their funds to make expenditure responsibility grants to 501(c)(4) advocacy groups.



Obtaining Grants from Private Foundations

The expenditure responsibility rules for funding 501(c)(4)s are designed to ensure that charitable funds are only used for charitable purposes.

While a 501(c)(4) may do everything a 501(c)(3) may do, under the expenditure responsibility rules, private foundations may not fund the full range of social welfare activities that are permissible for 501(c)(4)s. Expenditure responsibility grants cannot be used for lobbying, voter registration, or partisan activities.

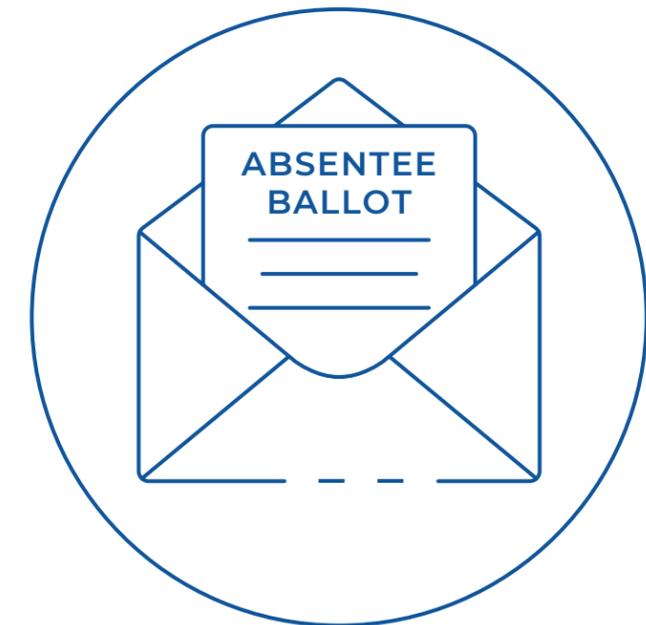
To apply the expenditure responsibility rules, a private foundation is usually required to conduct a pre-grant inquiry to ensure the grantee will use funds appropriately. After deciding to offer grant funding, the private foundation must enter into a written grant agreement and require reports from the grantee. Because expenditure responsibility grants may not be used for lobbying, voter registration, or partisan activities, the grant agreement will have language that restricts the funds from being used for these purposes.

Despite the limits on what may be funded there are many social welfare activities that private foundations may fund, including many nonpartisan election-year activities. Private foundations can provide grants for educating voters and candidates on issues that matter to the community, get-out-the-vote activities that ensure registered voters are able to cast their ballots, and education on voting processes and deadlines.



For example, the COVID-19 crisis led to an effort to create new voting processes, with a focus on mail-in ballots or in-home voting to reduce the health risk to voters and poll workers. Since the 2020 election, many states are passing new voting laws, some that are more restrictive, or could result in votes not counting if a voter does not precisely follow new rules.

Private foundations could play an important role in ensuring all eligible citizens are able to make their voices heard at the ballot box by funding 501(c)(4)s to educate voters about new voting processes, including how to obtain and return absentee ballots, or how to comply with new voter identification requirements.



Tips for Seeking Private Foundation Grants

How does a 501(c)(4) obtain a grant from a private foundation? The first step is to learn which foundations are willing to fund 501(c)(4)s. The next step is to ensure your grant application does not discuss lobbying or contain partisan terms or requests funds for partisan activities that are designed to influence the election or defeat of a candidate or political party. A 501(c)(4) should only seek funds for a non-lobbying primary purpose activity and should ensure the grant funds are requested for nonpartisan work. For example, a 501(c)(4) that works with immigrants in its community could request grant funds to educate its constituents on new vote by-mail-processes.



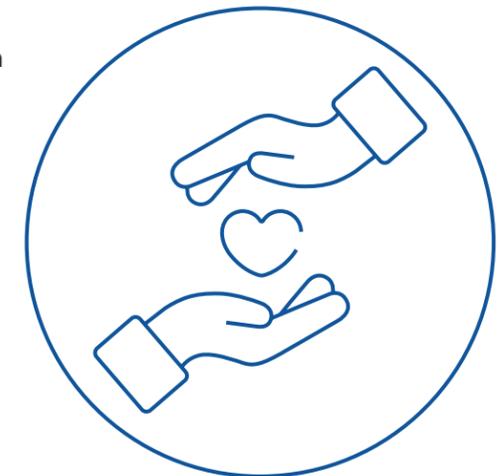
Similarly, an organization that encourages college students to vote could seek grant funding to help college students exercise their right to vote. However, a 501(c)(4) should not seek funding for a partisan activity, such as a project that is aimed at a region because it is a swing district or state, or for a project that targets voters for partisan purposes, such as turning out Democratic or Republican voters. This is particularly important for organizations based in “swing” states. You can target the communities you ordinarily serve and work with, even when you are located in a swing election state, but you should avoid using partisan language when describing where your organization will engage in its activities.

A 501(c)(4) could also seek grant funding for activities that are not election related. For example, an organization that advocates for affordable housing on the state and local level could seek funding to create a study of how gentrification has displaced long time community residents. Or an environmental group could seek funding to create new clean energy regulations. As long as the grant request is one that can be funded through the expenditure responsibility rules, the possibilities are endless.

Seeking Grants from Community Foundations

Community foundations (or other public foundations) are public charities, so they are not subject to the same expenditure responsibility rules as private foundations, meaning that public foundations have more flexibility in granting funds to a 501(c)(4) than a private foundation. One similarity is a community foundation cannot fund any partisan activity. Just like a private foundation, a community foundation may only fund charitable activities. A significant difference is a community foundation may grant funds to a 501(c)(4) for any activity that a 501(c)(3) is allowed to do, meaning they can fund any of a 501(c)(4)’s social welfare activities, including lobbying. Community foundations may also fund a wider range of election year activities, including ballot measure advocacy and voter registration in just one election cycle or one state.

When granting funds to a 501(c)(4), a community foundation will do so in a grant agreement (see sample in The Connection). The grant agreement will restrict funds from being used for partisan purposes and for 501(c)(4) fundraising. Any lobbying done with the funds will be counted toward the community foundation’s lobbying limit. If the foundation does not want the funds to be used for lobbying, the grant agreement may restrict the funds from being used for lobbying. If the public charity agrees that the funds may be used for lobbying, the agreement will generally specify the amount of funds that can be used for lobbying and what type of reporting the foundation wants the grantee to submit.



Grant Reports

Finally, when it is time to submit a report to a foundation that details how the grant was spent, 501(c)(4)s should keep in mind all the rules that apply to grant proposals. In grant reports to a private foundation, also factor in the expenditure responsibility rules that apply to the grant. Do not discuss lobbying and do not use partisan terms to describe the activities undertaken with the grant funds. Because an expenditure responsibility grant cannot be used to influence the outcome of an election, a report on an expenditure responsibility grant should not say the grant-funded activity resulted in an electoral win or loss. A report for a grant that funded get-out-the-vote work could claim credit for increased voter turnout, but should not claim credit for the election or defeat of a candidate.



Do's and Don'ts



Do:

- When engaging in social welfare work and seeking foundation funding to support it, have nonpartisan goals and activities.
- Use nonpartisan terms to describe where you will engage in your activities.
- Use permissible and nonpartisan terms to describe your activities.
- Seek funds for nonpartisan activities that will fulfill your primary purpose goals.

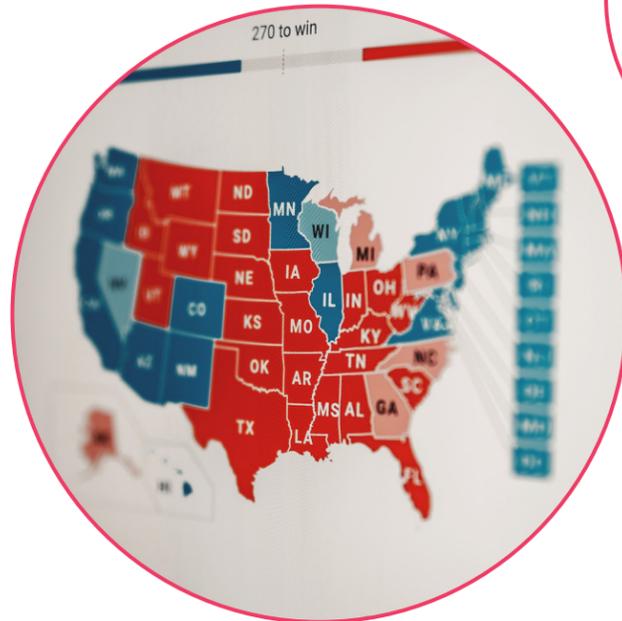


Don't:

- Don't seek funding for partisan activities designed to influence the outcome of an election.
- Don't use partisan terms such as "swing district" or "battleground state" to describe where you will conduct your activities.
- Don't use partisan terms to describe your nonpartisan activities.
- Don't seek private foundation funding for lobbying, ballot measure advocacy, voter registration, or partisan activities.

Words And Phrases That Tend To Be Partisan:

- Swing state or swing district
- Battleground
- Flip the Senate (or other legislative body)
- Turn the state blue (or red)
- Democratic or Republican voters
- Progressive or conservative
- Pro-choice or pro-life (and other phrases that differentiate candidates)



Words And Phrases That Tend To Be Nonpartisan:

- States (or districts) with high levels of voter suppression
- States (or districts) with high levels of voter interest
- Voters who are historically under-represented at the polls
- Voters who face high levels of voter suppression
- Candidate (without any qualifiers to signal issue position or party)
- States that have enacted new voting laws



Expenditure Responsibility Grant Rules

Private foundations must follow these expenditure responsibility rules when they give grants to 501(c)(4)s:

1. Conduct a pre-grant inquiry: A private foundation must make an assessment of the grantee organization to ensure funds will be used properly. The process could include reviewing the group's previous grant history, identifying the organization's other grants, and getting to know the organization's leadership. The scope of the inquiry will depend on the size of the grant and the foundation's previous experience with the organization and could be waived if the organization or an affiliated organization is an existing grantee.
2. Enter into a written grant agreement: The grant agreement must require the grantee to use the grant for specified purposes, and to refrain from using it for prohibited purposes, including lobbying and partisan activities. The agreement must also require the grantee to keep records of use of the funds and to repay the grant if it is not used for its intended purposes.
3. Grant report: The foundation must require a grant report from the grantee that describes how the grant was used. The foundation will need this report to comply with its own IRS reporting requirements.
4. Reporting to the IRS: The foundation must report expenditure responsibility grants to the IRS on its annual 990-PF.

Glossary Of Important Terms

Private Foundation:

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 foundations often have extensive resources but must follow restrictive rules when providing grant funds to 501(c)(4)s.

Public Foundation:

Public foundations (also referred to as community foundations) receive support from a wide range of sources, so follow the rules of public charities when funding 501(c)(4)s. Public foundations are public charities that make grants. They are often community-based and focus their funding on supporting charitable efforts in their local area.

Primary Purpose (also known as social welfare):

A 501(c)(4)'s primary purpose must be social welfare, which is defined as "promoting in some way the common good and general welfare of the community." Anything a 501(c)(3) may do is considered a social welfare activity. In order to engage in partisan activities, a 501(c)(4) must also ensure its primary purpose is social welfare. There is no definitive definition of "primary"—some say 51%, while others use 60% or even 70%.

Expenditure Responsibility:

When a private foundation makes a grant to an organization that is not a public charity, it must follow the expenditure responsibility rules to ensure its charitable funds are only used for charitable purposes. These rules contain procedures the foundation must follow when making a grant and require the foundation to restrict funds from being used for partisan and lobbying purposes.

Partisan:

Partisan is anything that tends to support or oppose the election or defeat of a candidate for elected office. Partisan activities are not considered primary purpose activities.

Nonpartisan:

When engaging in election year activities and advocacy, nonpartisan activities are ones that are designed to educate the public (including voters and candidates) about issues, the civic engagement process, or how to engage in the voting process. Nonpartisan means the activity does not tend to support the election or defeat of any candidate for elected office or political party.

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Please share this with your funders, and
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