



BOLDERADVOCACY

An initiative of Alliance for Justice

Talking to Funders

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BolderAdvocacy

**501(c)(3)
Private Foundation**

**501(c)(3)
Charity/
Public Foundation**

**501(c)(4)
501(c)(5)
501(c)(6)**

Examples



Tax Treatment

tax-exempt
contributions
tax-deductible

tax-exempt
contributions
tax-deductible

tax-exempt

Lobbying Activities

extremely limited
tax on foundation
and managers

limited
Insubstantial Part
or 501 (h)

unlimited

Electoral Activities

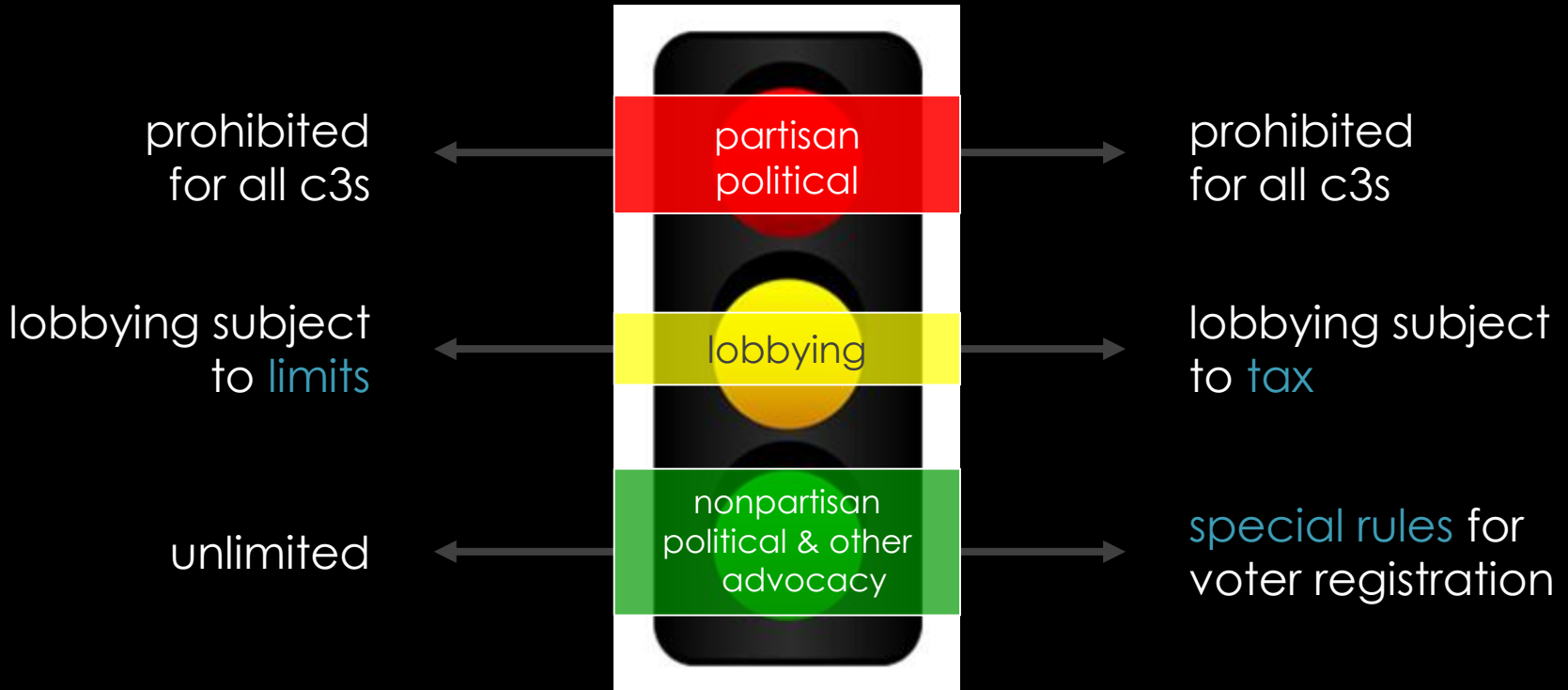
cannot support or
oppose a candidate
for office

cannot support or
oppose a candidate
for office

secondary activity
follow federal and
state election law

PUBLIC CHARITY OR COMMUNITY FOUNDATION

PRIVATE FOUNDATION



ADVOCACY **STOPLIGHT**

501(c)(3) Funding

A grant by a private foundation is **earmarked** if the grant is given according to a **oral or written** agreement that the grant will be used for specific purposes.

"EARMARKED" DEFINED

Public Foundation Funding for Advocacy and Lobbying:

- Public foundations **can** support public charities that engage in non-lobbying advocacy.
- Public foundations **can** support public charities that engage in lobbying with grants that **are** earmarked for lobbying.
- Public foundations **can** support public charities that engage in lobbying with grants that **are not** earmarked for lobbying.

Private Foundation Funding for Advocacy and Lobbying :

- Private foundations **can** support public charities that engage in non-lobbying advocacy*.
- Private foundations **can** support public charities that engage in lobbying with grants that **are not** earmarked for lobbying.
- Private foundations **cannot** support public charities with grants that **are** earmarked for lobbying.

*Private foundations have major limits on support for voter registration. We'll discuss this later!

Two completely legal avenues
private foundations to fund
grantees that lobby:



If a foundation
does not **earmark** a grant
for lobbying or any other
specific project

then...

the foundation is not legally
responsible for its grantee's lobbying.

GENERAL SUPPORT GRANT
"SAFE HARBOR"

This grant
is not
earmarked for
lobbying

This grant may
not be used
for lobbying

vs.

“You don’t
have to eat
dessert.”

“You can’t
eat dessert.”

Two completely legal avenues
private foundations to fund
grantees that lobby:



If a foundation grant is **less than or equal to** a project's non-lobbying component, the grant does not count as lobbying for the foundation.

foundation grant

≤

specific project's
non-lobbying
component

SPECIFIC PROJECT GRANT
“SAFE HARBOR”

Scenario A



Project Budget

■ \$80,000 Public Education

■ \$20,000 Lobbying

\$100,000 Total

■ \$80,000 Foundation 1

\$0 Taxable Expenditure

Scenario B



Project Budget

■ \$80,000 Public Education

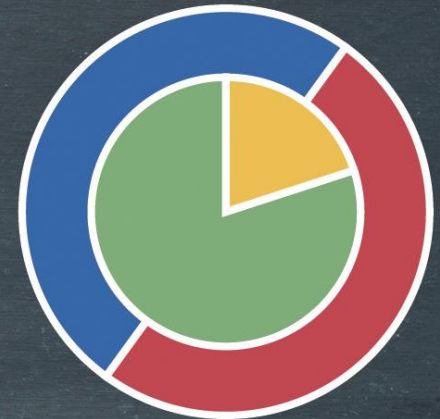
■ \$20,000 Lobbying

\$100,000 Total

■ \$90,000 Foundation 1

\$10,000 Taxable
Expenditure

Scenario C



Project Budget

■ \$80,000 Public Education

■ \$20,000 Lobbying

\$100,000 Total

■ \$50,000 Foundation 1

■ \$50,000 Foundation 2

\$0 Taxable Expenditure

HOW PROJECT GRANT RULE WORKS

Private foundation grants **earmarked** for voter registration drives must meet specific requirements:

- Sponsored by a 501(c)(3) organization
- Nonpartisan
- Conducted in 5 or more states
- Not confined to one specific election cycle
- Run by an organization that meets additional rules related to the **diversity of its funding**

**Special Rules:
Funding Voter Registration Drive**

GRANT APPLICATIONS AND AGREEMENTS

Understand whether the funder you are approaching is a **private** foundation or a **public** foundation.

Restricting public charity grantees from lobbying is **not necessary** – you may need to educate your funders.

Ask your funder if they have any specific rules or preferences you need to follow.

Be clear with the **language you use** to describe your activities.

MAKING GRANT **REQUESTS**

Understand whether **voter registration** is prohibited – read the grant agreement carefully.

If grant says it is not “**earmarked for lobbying**” that doesn’t mean you can’t spend it on lobbying – read grant language carefully.

GRANT **AGREEMENTS**

The IRS doesn't require that regular 501 (c) (3) public charity grantees submit a written report. But you'll want to anyway...

Your grant agreement is like a contract, so your "contract" probably requires a written report. (And the funder probably needs one from you so they can give you future grants.)

Ask your funder if they have any specific rules or preferences you need to follow.

MAKING GRANT REPORTS

If lobbying/voter registration is prohibited don't report (or engage in!) lobbying/voter registration activities in that grant.

If you report activities under a prohibitive grant that sound like lobbying such as an activity that falls under a lobbying exception, explain why the activity is not lobbying.

Don't mention (or engage in!) partisan political activities.

MAKING GRANT **REPORTS**

All activities by the grantee preparing this report were and are consistent with its status under IRC §§ 501(c)(3) and 509(a), which has not changed since grantee's last application to the foundation. If any lobbying was conducted by the grantee (whether or not discussed in this report), the grantee complied with the applicable limits of §§ 501(c)(3) and/or 501(h) and 4911. The grantee warrants that it is in full compliance with its grant agreement with the foundation and that, if the foundation's grant was subject to any restrictions, all such restrictions were observed.

Certification Sample
Language

QUESTIONS?



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