

Due Diligence and Expenditure Responsibility

1. GENERAL DUE DILIGENCE PROCESS FOR GRANTS FROM ALL FUND TYPES

Staff reviews the following for all grant requests:

A. Grantee Organization's Tax Status

- i. IRS Determination Letter; or
- ii. Review the IRS Business Master File ("BMF") on the IRS website; or
- iii. Review of an IRS approved online repository of nonprofit information, such as GuideStar; or
- iv. A report from a third party that includes the grantee's name, EIN, and public charity classification; a statement that the information is from the most currently available IRS monthly update to the BMF, along with the IRS BMF revision date; the date and time of the grantmaker's search.
- v. Foundation will retain the IRS Determination Letter or any online or third party search results. The information may be retained as either a paper or electronic format.

B. Grantee's Organization Information

- i. If the grantee organization has submitted a grant application, the materials are reviewed for completeness and compliance with the grant guidelines.

Depending on the grant program, the materials reviewed may include:

1. An description of the mission, vision and services provided;
 2. Financial information, such as budget, tax form and financial audit or review;
 3. A project budget, narrative and timeline; and,
 4. Authorized signatures.
- ii. If the grant is being made outside of a formal grant program, the information evaluated may include a review of the grantee organization's:
 1. Mission, vision and services provided; and

2. Financial information, such as budget, tax form and financial audit or review.

After general due diligence Item 1.A and 1.B.i are completed, applications are evaluated by the Grants Review Committee in accordance with the committee charter.

After general due diligence Item 1.A and 1.B.ii are completed, the Board delegate's authority to the CEO and Program Officer to evaluate and approve grants made from Agency Funds, Designated Funds, and Donor Advised Funds.

In all cases, staff verifies that grants are made in accordance with the terms of the fund agreement and, when necessary, documents the Foundations application of variance power.

2. ADDITIONAL DUE DILIGENCE PROCESS FOR DONOR ADVISED FUNDS GRANT APPLICATIONS

- A. Under the Pension Reform Act of 2006, community foundations are required to determine the tax status of organizations named to receive grants from donor advised funds. Organizations listed in Section 170(b)(1)(A) of the IRS Code do not require any further investigation.
- B. Certain types of grants are prohibited under Pension Protection Act of 2006. They include:
 - i. Grants to individuals, including grants made directly to an organization for the benefit of a specific individual (ex: grant to a school);
 - ii. Grants to donors, advisors or related parties; and,
 - iii. Grants for non-charitable purposes.
- C. Expenditure responsibility exists as required by law or policy. The following types of organizations require "expenditure responsibility" for grants made to them from donor advised funds:
 - i. Organizations other than those listed in Section §170(b)(1)(A);
 - ii. Type III organizations that are not functionally integrated;
 - iii. Any type of supporting organization if the donor advisor (or related parties) of a donor advised fund controls the supporting organization or an organization that the supporting organization supports.

3. DETERMINING WHETHER A GRANT RECOMMENDATION FROM A DONOR ADVISED FUND REQUIRES EXPENDITURE RESPONSIBILITY:

If the Foundation has determined that the grantee organization’s tax status is (I) not a 501(c)(3), (II) not listed in Section 170(b)(1)(A) of the IRS Code, and (III) is not in conflict with section 2.b above, the following steps will be taken:

- A. If the grantee organization is a §509(a)(3) supporting organization (code 17), determine if it is a Type I, Type II or Type III (functionally integrated) organization in one of the following ways:
 - 1) Review documentation provided by the grantee organization:
 - a) Describing the selection process of its officers and directors; and
 - b) Referencing the pertinent provisions of their organizing documents that establishes the relationship to its supported organizations.
 - 2) Collect and review copies of the grantee organization’s governing documents. If they are not sufficient to establish the relationship, collect organizing documents from the supported organization.

Type Determination

Type I	“operated, supervised, or controlled by” the supported organization
Type II	“supervised or controlled in connection with” the supported organization. These are the rarest types of organizations.
Type III	“Operated in connection with” the supported organization. These will most commonly be organizations that were NOT established by the supported organization, but rather by private individual.

- B. If it is determined that the grant organization is a Type III, collect the following to determine if the organization is functionally integrated:
 - (i) Letter from the grantee identifying the organizations it supports
 - (ii) Grantee organization’s documents (and those of the supported organizations, if necessary)
 - (i) Letter signed by an officer, director, or trustee of each supported organization that the supporting organization is functionally integrated and that but for the involvement of the supporting organization, the supported organization normally would engage in those activities itself.
- C. If a Type III supporting organization is NOT functionally integrated, expenditure responsibility is required for grants from donor advised funds.
- D. Expenditure responsibility is also required for grants to any type of supporting organization if the donor advisor (or related parties) of a donor advised fund controls

the supporting organization or an organization that the supporting organization supports.

- E. The Foundation will also reference the Council on Foundations expenditure responsibility decision making tree titled “Grants to Organizations from Donor Advised Funds: Is Expenditure Responsibility Required?” (Exhibit A)

4. EXPENDITURE RESPONSIBILITY REQUIRES:

If it has been determined that expenditure responsibility exists, the following steps will be taken:

- A. Conduct a pre-grant inquiry including a reasonable investigation of the grantee organization to ensure that the proposed activity is charitable and that the grantee is able to perform the proposed activity.
- B. Execute a written agreement with the grantee organization that specifies the charitable purposes of the grant and includes provisions that prohibit use of the funds for lobbying activities and requires the grantee to return any funds not used for the designated purposes.
- C. Require the grantee organization to maintain the grant funds in a separate fund so that charitable funds are segregated from non-charitable funds.
- D. Require the grantee organization to provide regular reports on the use of the funds and the charitable activity supported by the grant.
- E. Include a report on the Foundation’s Form 990 about the grant including a brief description of the grant, the amount, the charitable purpose and the current status of the grant.