

Expenditure Responsibility

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The
Commonwealth
Fund

Affordable, quality health care. For everyone.

Private foundations' assets must be used exclusively for charitable purposes under U.S. law. Expenditure Responsibility (ER) refers to the required oversight and monitoring procedures that a private foundation must follow for any grant made to an organization that is not 501(c)(3) public charity. To satisfy the requirements for ER with respect to a grant, a private foundation must:

1. Conduct a pre-grant inquiry including a reasonable investigation of the grantee to ensure that the proposed activity is charitable, and that the grantee is able to perform the proposed activity.
2. Execute a written agreement with the grantee that specifies the charitable purposes of the grant (it should not be a grant for general operating purposes) and includes certain required terms and conditions, including a prohibition on using the funds for lobbying or political campaign activities, a requirement that the grantee return any funds not used for the designated purposes, and a budget for the charitable project being conducted¹
3. Require the grantee to maintain the grant funds in a separate fund so that charitable funds are segregated from non-charitable funds.
4. Require the grantee to provide regular reports on the use of the funds and the charitable activity supported by the grant.
5. Include a report on its Form 990-PF about the grant including a brief description of the grant, the amount, the charitable purpose, and the current status of the grant.

Pre-Grant Inquiry Document List

Before a grant is awarded, Commonwealth Fund staff will engage in due diligence to ensure that the applicant is capable of carrying out the project, safeguarding grant funds, and providing accurate financial and project reports. ER grant applicants will receive an invitation to upload the following documents via the Commonwealth Fund Grants Portal in the Due Diligence Section. These documents are submitted in addition to the grant proposal and project budget.

1. Most recent audited financial statements
If audited financial statements are not available, please provide a balance sheet or other summary financial information.
2. Current organizational budget
3. Evidence of legal status of organization
Such as organizing documents, articles of incorporation, trust agreements, charter, tax classification or certification from appropriate authorities.
4. Overall organization chart
5. List of governing board and officers
6. Annual report (if available)
7. List of grants made by any other organizations or units of government to the applicant organization
8. For law and consulting firms: list of current health industry clients. Please disclose whether the firm provides lobbying services for any of the clients listed.

¹ If the ER grant is made to another 501(c)(3) such as a private foundation, it can be for general support and a budget is not required.

Special Considerations

In addition to exercising ER with any grants made to non-charity organizations in the U.S., the Commonwealth Fund will exercise ER with respect to grants to organizations formed outside of the U.S., grants to certain types of supporting organizations, grants to most private foundations, and grants for program-related investments (PRIs).

In summary, ER is not required for grants or PRIs to the following types of organizations:

1. 501(c)(3) public charities
2. Units of government (domestic and foreign)
3. International organizations designated by executive order
4. Exempt operating foundations
5. Foreign organizations with an “equivalency determination”

ER is required for grants and PRIs to any entity that is not listed above, including:

1. For-profit companies
2. Private Operating and Non-operating Foundations
3. Foreign organizations without an “equivalency determination”
4. New organizations waiting for the IRS “determination letter,” recognizing their Section 501(c)(3) public charity status
5. Section 501(c)(4), section 501(c)(6), and all other section 501(c) tax-exempt organizations that are not section 501(c)(3) public charities
6. A certain type of supporting organizations²

Failure to exercise expenditure responsibility when making a grant to a non-charity (or any other grant-requiring expenditure responsibility) could result in the imposition of taxes on the foundation and any foundation manager who knowingly approved the grant.

Expenditure Responsibility grant applicants should contact their program officer, or the Commonwealth Fund Grants Management Office (grants@cmwf.org) with any questions.

² ER is required for: Type III supporting organizations that are not functionally integrated with their supported organizations (but the grant still will not be a qualifying distribution); and any type of supporting organization described in Section 509(a)(3) if it is controlled by the private foundation’s disqualified persons, or if it supports any entity controlled by the private foundation’s disqualified persons (but the grant still will not be a qualifying distribution).

The content in this resource is informed by the IRS rules for private foundations, and by the Learn Foundation Law website, © Gordon and Betty Moore Foundation and the Learn Foundation Law Contributors.