

Investing in Change

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Every good lawyer needs a disclaimer.....




Three-Part Workshop Series

1. Be Bold and Advocate! – Foundation Advocacy Engagement (May 26)
2. Investing in Change – Foundation Advocacy Funding (August 18)
3. Nonpartisan Advocacy in Partisan Times (September 20)

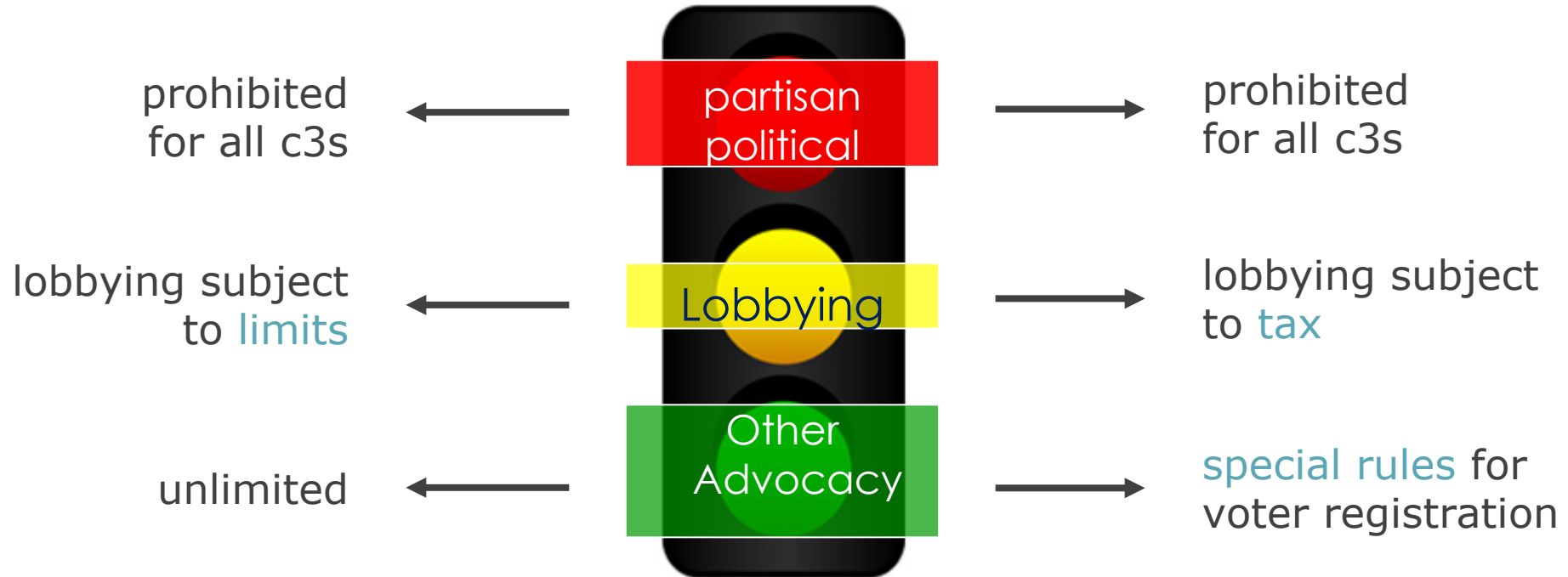
Agenda

1. Characteristics of Public and Private Foundations
2. Lobbying Refresher
3. Funding Advocacy
4. Tips for Grant Agreements

Characteristics of Public and Private Foundations

	501(c)(3) <i>Private Foundations</i>	501(c)(3) <i>Community Foundations & Public Charities</i>	501(c)(4) <i>Social Welfare Organizations</i>
Examples	 <p>The Meadows Foundation <i>Serving the People of Texas</i></p>	 <p>NORTH TEXAS COMMUNITY FOUNDATION</p>	 <p>AARP Real Possibilities</p>
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt Tax-deductible contributions	Tax-exempt
Lobbying Activities	Extremely Limited	Limited	Unlimited
Electoral Activities	Cannot support or oppose candidates	Cannot support or oppose candidates	Secondary Activity

Foundation Advocacy Stoplight



Community / Public Foundations

Private Foundations

What is Lobbying?

Tax Code Definitions

What is lobbying under the Insubstantial Part Test?

(default definition for community foundations and other public charities)

Contacting legislators to propose, support, or oppose legislation or the government's budget process.

Urging the public to contact legislators to propose, support, or oppose legislation or the government's budget process.

Advocating for the adoption or rejection of legislation.

What is lobbying under 501(h)?

(definitions for private foundations and public charities / community foundations making the 501(h) election)

DIRECT

Communication

Legislator

Expresses a view
about specific
legislation

GRASSROOTS

Communication

General public

Expresses a view
about specific
legislation

Call to action



Communication

DIRECT

communication

legislator

expresses a view
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legislation

GRASSROOTS

communication

general public

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call to action



Legislators (and staff)...

DIRECT LOBBYING

Communication

Legislator

Expresses a view
about specific
legislation



Any level of government (city council, state legislators, members of Congress, public when voting on ballot measure)

Also Legislators

President, governor, mayor, or other executive official who participates in the formulation of legislation.

DIRECT

Communication

Legislator

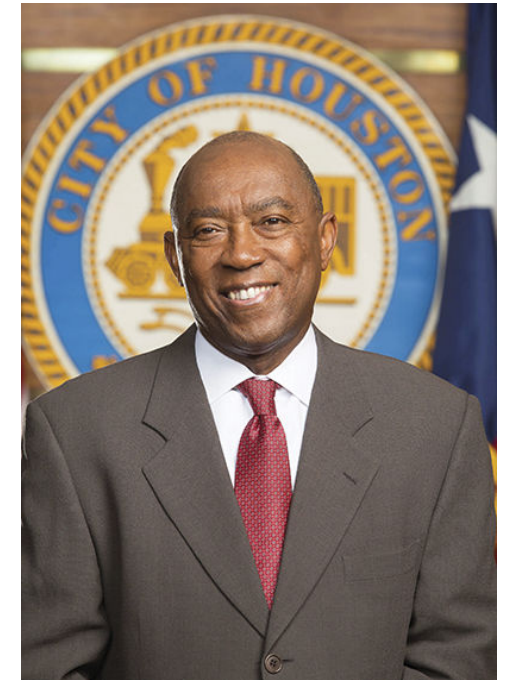
Expresses a view about specific legislation



GOVERNOR



POTUS



MAYOR

NOT Legislators

- School board
- Zoning boards
- Housing authorities
- Sewer and water districts
- Other “special purpose bodies” with limited authority



Specific Legislation

DIRECT

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**Expresses a view
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Call to action

EXAMPLES

- Budget
- Bills / Acts
- Nominations Requiring Legislative Confirmation
- Ballot Measures
- Asking Someone to Sponsor a Bill
- Proposed Ordinance

GET SCHOOLED!

The Facts about School Finance

Despite Value of Full-Day Pre-K, the State Only Funds Half-Day Programs

Research shows modest yet significantly improved short and long-term educational outcomes for students who attend public Pre-K.¹ The more exposure a child has to educational instruction, the greater the educational gains will be. For children who are significantly behind, exposure to high-quality Pre-K for extended periods is crucial for closing the achievement gap.

Despite the value of full-day Pre-K, the state only funds half-day programs.

Out of the 1,051 districts that offer public Pre-K, 72 percent subsidize the second half of the day on their own. As a result, 54 percent of children are enrolled in a full-day program.²

**72% OF TEXAS
SCHOOL DISTRICTS***
**SUBSIDIZE FULL-DAY
PRE-K FOR THEIR KIDS**

*Of the 1,051 Texas districts that offer Pre-K



In 2017, the state chose to eliminate the \$118 million grant for High Quality Pre-K and \$30 million in supplemental Pre-K funding from the two-year budget. With the funding cut, the Legislature also required all districts to implement the quality standards that were previously tied to grant funding. Schools are now left trying to meet higher Pre-K standards mandates with extra cost burdens and no additional state assistance.³

Investing in Pre-K sets young Texans up for higher graduation and college completion rates, and better academic performance all around.

¹ Texas Education Agency (2017). Prekindergarten Outcomes for Texas Public School Students.

² TPEIR Texas Public Prekindergarten Programs and Enrollment: Ages 3 and 4 2016-2017, Texas Education Agency.

³ Center for Public Policy Priorities. (2017). Chance for Pre-K in the Special Session.

See all the GET SCHOOLED! fact sheets and more at txedstrong.org

#TxEdStrong

The Center for Public Policy Priorities produced this analysis in 2018, with support from the Texas Education Grantmakers Advocacy Consortium (TEGAC).

Specific Policy Proposal

- Something counts as specific legislation if it is a “specific policy proposal”
- Not well defined, but essentially identifying a problem and a solution that can only be accomplished with new legislation
- May not be introduced, written or even fully fleshed out!



NOT Specific Legislation

- Regulations
- Executive orders
- Enforcement of existing laws
- Litigation



President Joe Biden signs his first executive orders Wednesday in the Oval Office of the White House. "I think some of the things we're going to be doing are going to be bold and vital," he said in brief remarks during the appearance. "And there's no time to start like today." (AP/Evan Vucci)

Calls to Action

DIRECT

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Call to action

ASKING TO CONTACT
legislators

PROVIDING ADDRESS,
telephone number, and/or other
contact information of legislators

PROVIDING MECHANISM
to enable communication
with legislators

IDENTIFYING
legislators

NOT Calls to Action

DIRECT

GRASSROOTS

Communication

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Legislator

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Expresses a view
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~~Call to action~~



“Learn more”

“Take action”

“Support our efforts”

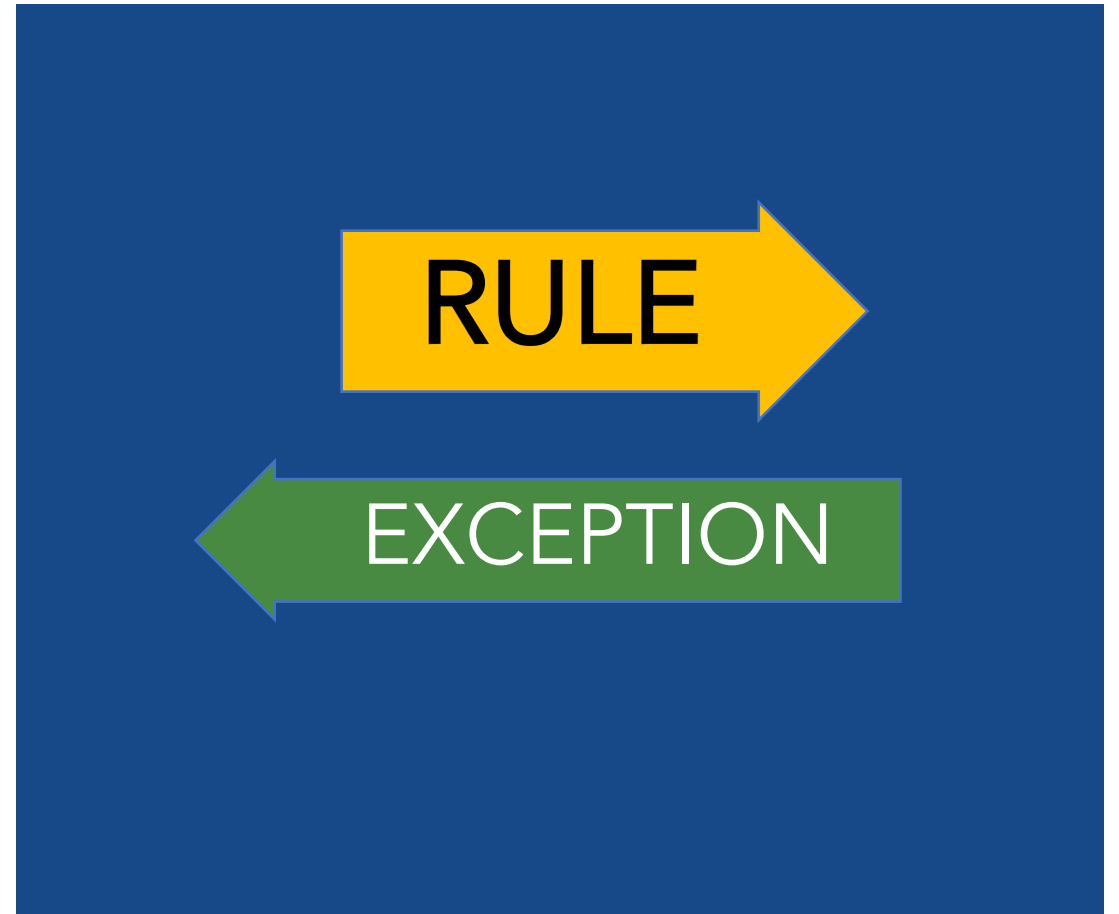
“Get involved”

“Join us”

NOT Lobbying

Lobbying Exceptions

- Nonpartisan analysis, study, or research
- Request for technical assistance
- Self-defense
- Examinations and discussions of broad social, economic, and similar problems



Jointly-funded Projects

- Special exception for private foundations
- It is not lobbying when a private foundation:
 - Makes a grant to an organization conditioned on the receipt of matching support from a governmental body; or
 - Discusses with government officials a jointly funded program or potential program (so long as discussion does not include an attempt to persuade officials on other legislative issues).

Funding Advocacy

When discussing how foundations can
FUND grantee advocacy, pay
attention to the **Tax Code's** definitions
of lobbying.

Make Lobbying Grants
public or community
foundations can fund
lobbying directly

General Support Grants
funding grantees that
advocate
through general support

Specific Project Grants
funding non-lobbying
portions of advocacy
projects

“A grant... is earmarked if the grant is given pursuant to an agreement, oral or written, that the grant will be used for specific purposes.”

A public charity or a community foundation may **earmark** a grant for lobbying, but it must count the grant against its own **lobbying limit** .



FUNDING PRIORITIES ^

Proposals that clearly articulate and demonstrate that women and girls who are recipients of the organization's/program's services are thriving.

Proposals that address operational effectiveness with the intention of strengthening an organization's ability to sustain their mission by implementing creative strategies; operating with nimbleness and resilience; and supporting staff recruitment and retention, all of which support positive outcomes for women and girls.

Proposals that promote innovative collaboration, community engagement, or movement building to create systemic change that break down barriers that result in positive outcomes for women and girls.

WHAT WE FUND ^

For the Community Grant Cycle 2022, Texas Women's Foundation is focused on the mid-term and long-term needs of women and girls in North Texas, particularly those facing multiple systems of oppression and disenfranchisement.

Texas Women's Foundation will consider proposals for general operating, program support, and capacity-building support for organizations serving women, girls and their families.

Private foundations should not **earmark** grants for lobbying, but private foundations may fund grantees that **lobby**.

\$\$\$

General
Support
Grants

Specific
Project
Grants

If a grant is not earmarked for lobbying or any other specific project, the foundation is not responsible for grantee lobbying.

If a foundation grant is less than or equal to a project's non-lobbying component, the grant is not a lobbying expenditure.

SPECIFIC PROJECT Grant Safe Harbor

Project Budget

Lobbying =
\$40,000

Non-Lobbying =
\$60,000

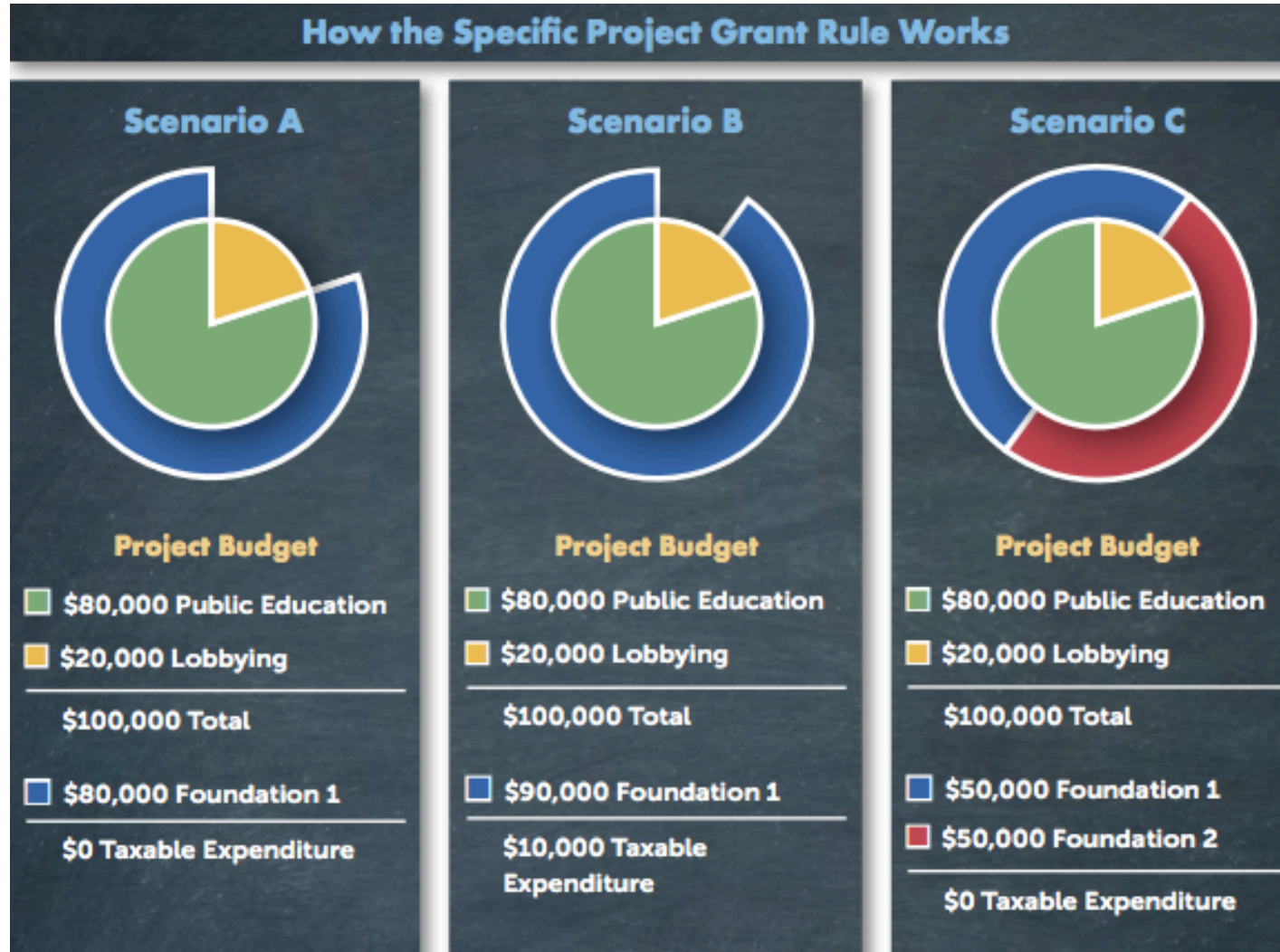
\$50,000 grant
from
Foundation 1

\$50,000 grant
from
Foundation 2

\$50,000 < \$60,000
No taxable/lobbying
expenditure

\$50,000 < \$60,000
No taxable/lobbying
expenditure

SPECIFIC PROJECT Grant Safe Harbor





Community Power-Building	Children's Defense Fund	(Operating) Toward advancing social justice for children and youth of color through advocacy, programs, and public engagement	\$25,000	12
Community Power-Building	Funders Together To End Homelessness	(Operating) Toward expanding philanthropy's impact and influence to advance the movement to prevent and end homelessness through racial and housing justice	\$25,000	12
Community Power-Building	Houston Organizing Movement for Equity (HOME)	(Program) Toward deepening COVID-19 response efforts and pivoting into long-term COVID-19 recovery that centers low-income communities of color	\$25,000	12
Community Power-Building	Texas Jail Project	(Operating) Toward assisting individuals and families in navigating the systems of county jails and public mental health services to improve care of people with mental disorders	\$30,000	12

PUBLIC FOUNDATIONS

may fund nonpartisan
voter registration
drives.

PRIVATE FOUNDATIONS

may not fund voter
registration drives
unless they do so on a
nonpartisan basis, in
five or more states,
and in multiple election
cycles.



VOTER REGISTRATION

GRANTS TO NON-PUBLIC CHARITIES

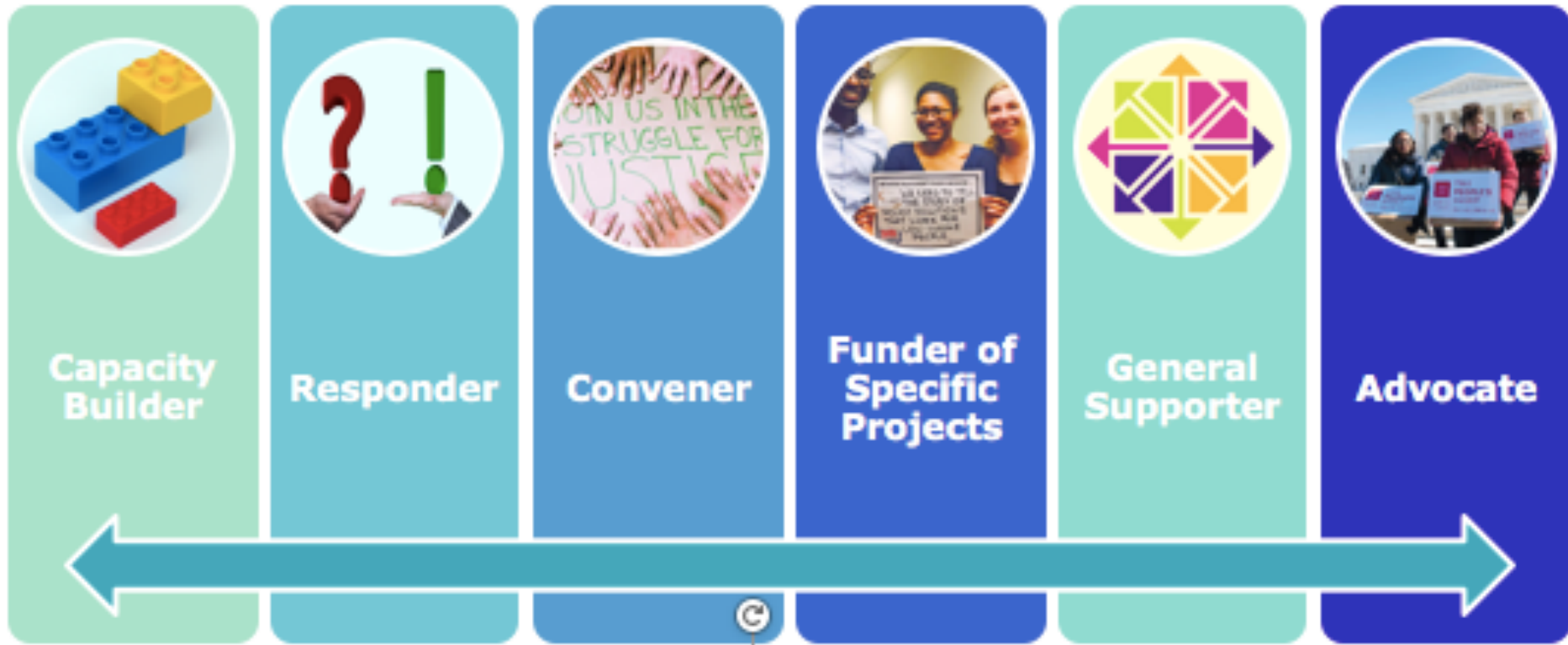
Pre-grant inquiry + written grant agreement must:

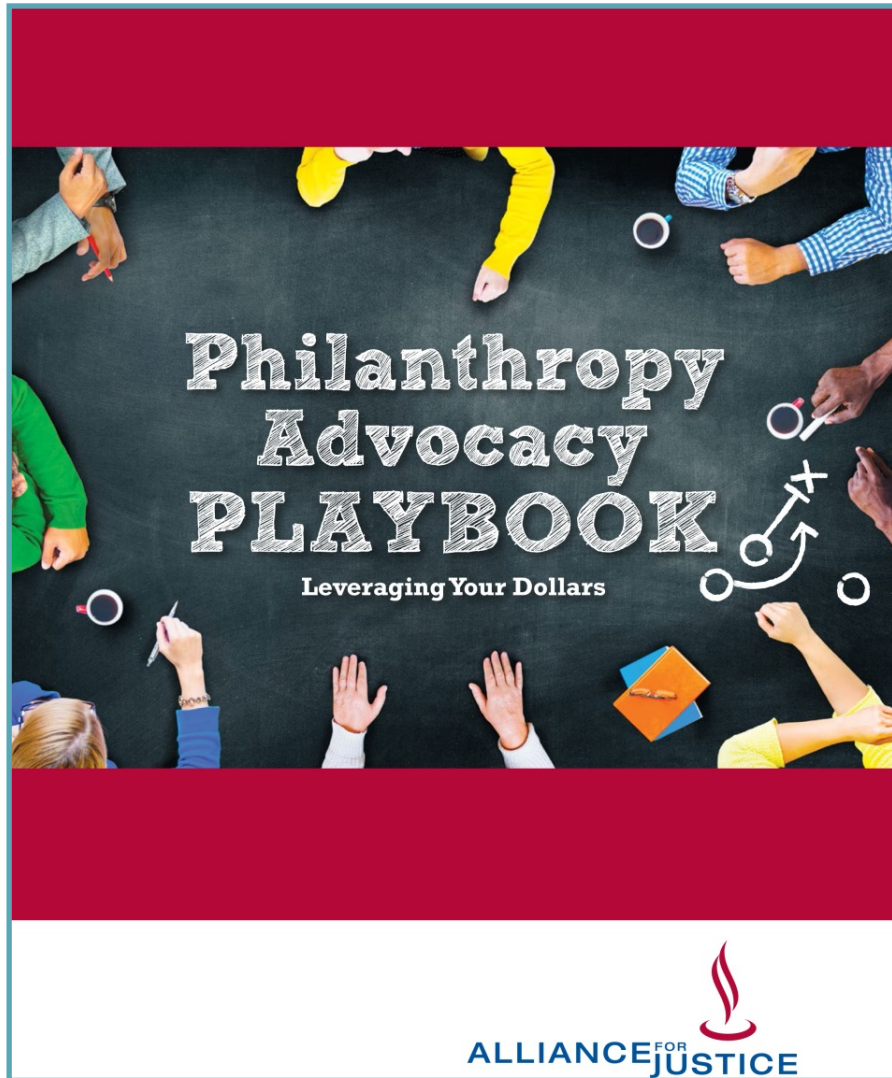
- State in specific terms how the grant will be used
- Explain that the grantee must repay any funds not used for the grant purpose
- State that the grantee is required to provide annual reports showing how the funds were spent
- Specify that the funds cannot be used to lobby

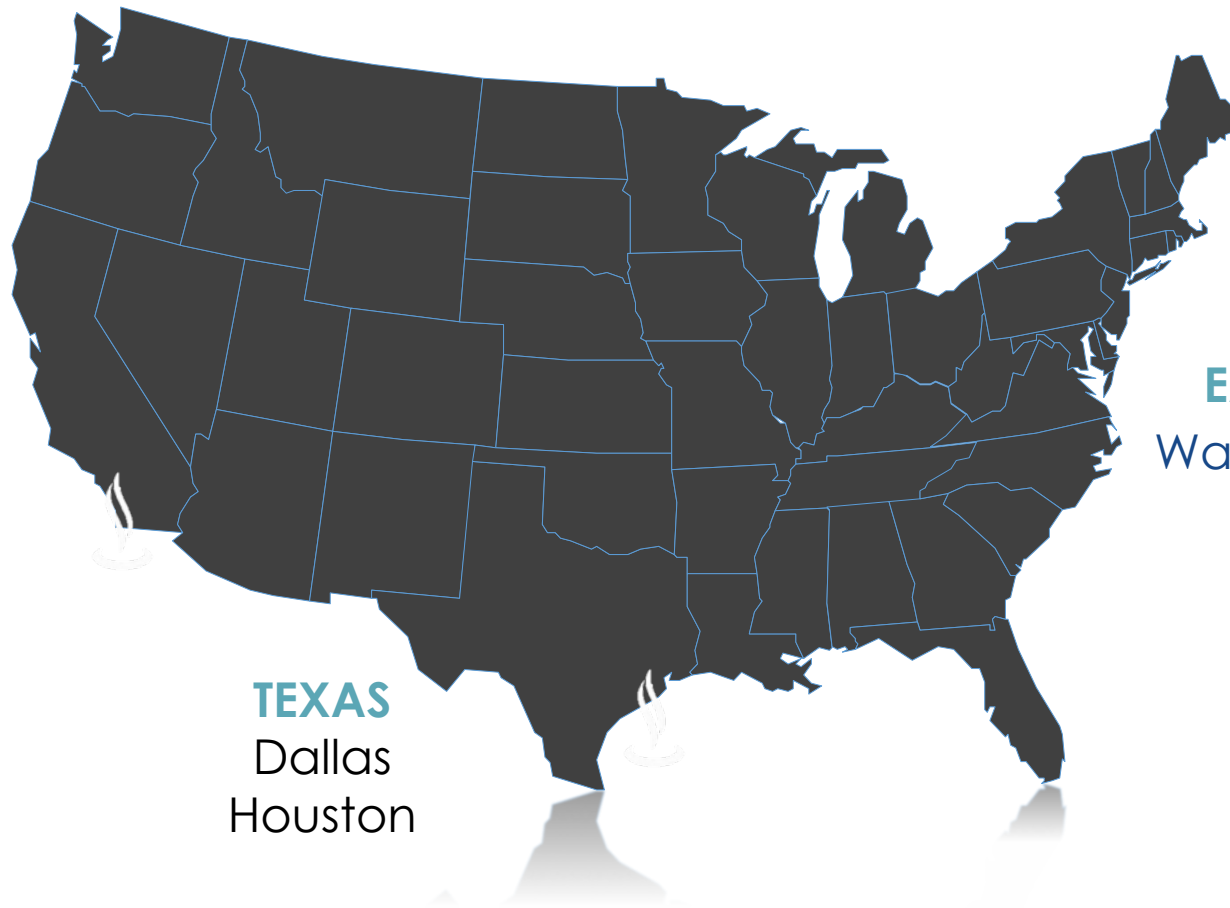
Expenditure
Responsibility Grants

Tips for Grant Agreements

- Restricting public charity grantees from lobbying is **not necessary**.
- Grant terms that say a grant is “**not earmarked for lobbying**” are not the same as terms that say lobbying is prohibited.
- Lobbying restrictions are only necessary when private foundations make grants to non-501 (c) (3) organizations.







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Houston

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