



**SOCIAL IMPACT  
COMMONS**

# Fiscal Sponsors as Partners in Advancing Mission: Lobbying and Advocacy



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## Agenda

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- Welcome
- Icebreaker
- Common Challenges
- Political Activity vs. Lobbying vs. General Advocacy
- Practical Considerations & Resources
- Discussion on Role of Fiscal Sponsors
- Wrap up



## Ice Breaker!

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If you could change any law or create a new law, what would it be and why? This law could be related to your work or not, far-reaching or targeted, realistic or fantastical, whatever you want!



# Fiscal Sponsors and Lobbying: A Balancing Act

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## Fiscal Sponsor:

- Charitable Purpose
- Restrictions
- Compliance (state/fed)
- Administrative burden
- 501(c)(4) Affiliation
- Optics



## Project/Program:

- Mission Critical
- Project Needs & Wants
- Systems Change
- Administrative burden
- Solidarity with community

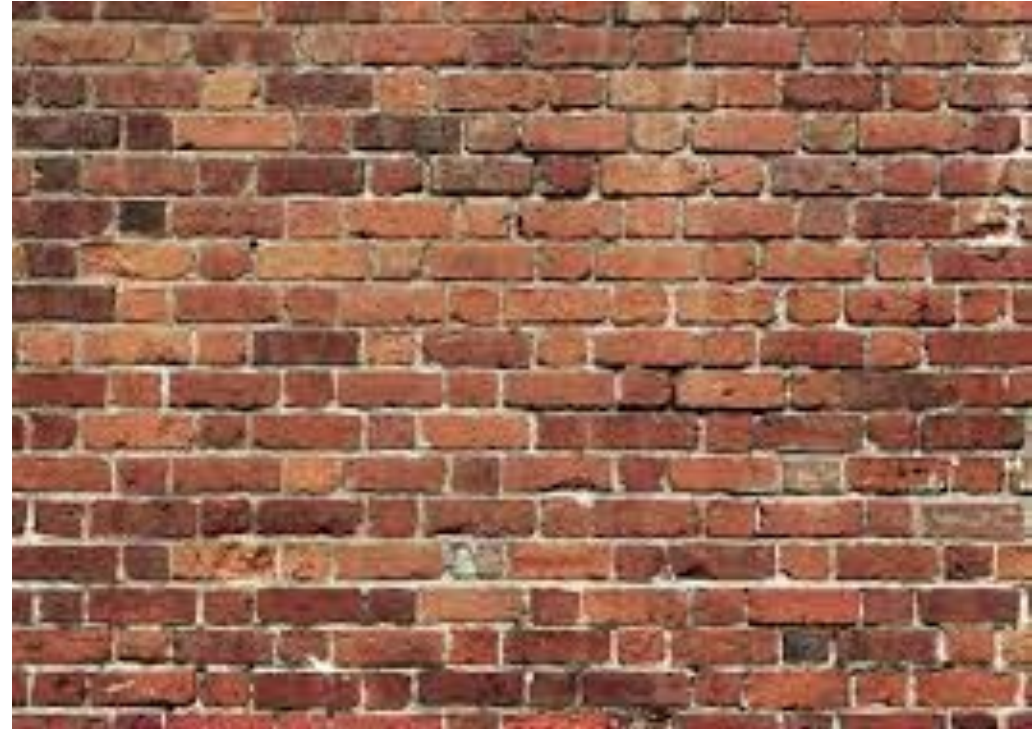
**Role of Fiscal Sponsor: help advance Projects' advocacy needs by being a good Communicator, Educator, & Solutions-oriented Partner**



## Some common barriers we see in engaging in Nonprofit Advocacy

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- Not clear understanding of how lobbying ties to mission
- Convoluted rules/distinctions
- Local/State/Federal agencies all do it differently!
- Overly conservative posture of funders
- Need for on-call guidance
- Lack of policies and standardized practices to administer/track
- Unclear communication between sponsors and projects (2 way street!)



## 2 Pieces of Good News!

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1. There are reasonable solutions to all of these challenges, which we'll discuss today.
2. If you make a good faith effort to do the right thing, you should be fine!



# Defining Basic Terms for 501(c)(3) Public Charities

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**Political Campaign Intervention:** Directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.

**Lobbying:** Trying to influence specific legislation, including ballot measures.

**Other Advocacy:** Education, nonpartisan voter drives, legislator/candidate panels, advocacy training, litigation, regulatory efforts, maintaining relationships with lawmakers.



# Reporting Lobbying to IRS: 2 Options

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## Option 1: Insubstantial Part Test

What it is. . .

- Default Method - (likely not for you!)
- Measured by paid & volunteer time & effort
- No bright line test: based on court decisions, 3-5% considered safe.
- Complicated to report on, especially for fiscal sponsors with multiple projects.

Consider this option if. . . .

- Consistently over \$17M in annual operating expenses; and
- Consistently would spend above 501(h) max lobbying allowance of \$1M; and
- you you are able to invest in costs to do it right (accounting, legal opinion, ect).





# Reporting Lobbying to IRS: 2 Options

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## Option 2: 501(h) Election

What it is. . .

- You have to elect to use (not automatic)
- Clear definition on lobbying
- Clear Limits based on your expenditures
- \$1M upper limit for lobbying expenditures

How you use it. . .

- Learn which method you currently use - check Schedule C on most recent 990.
- If not already using, file Form 5768. It's a simple form, and you can always go back to insubstantial test by filing an updated form down the road.



# Lobbying Limits\* Under 501(h) Election

Total Annual Exempt Purpose Expenditures	Percent that May be Spent on Lobbying	Maximum Lobbying Expense	Maximum Grassroots Lobbying Expense – Limited to 25% of Lobbying Expenses
\$500,000 or less	20%	\$100,000	\$25,000
\$500,000 to \$1 million	\$100,000 + 15% over \$500,000	\$100,000 to \$175,000	\$25,000 to \$43,750
\$1 million to \$1.5 million	\$175,000 + 10% over \$1 million	\$175,000 to \$225,000	\$43,750 to \$56,250
\$1.5 million and over	\$225,000 + 5% over \$1.5 million	\$225,000 to \$1,000,000	\$56,250 to \$250,000

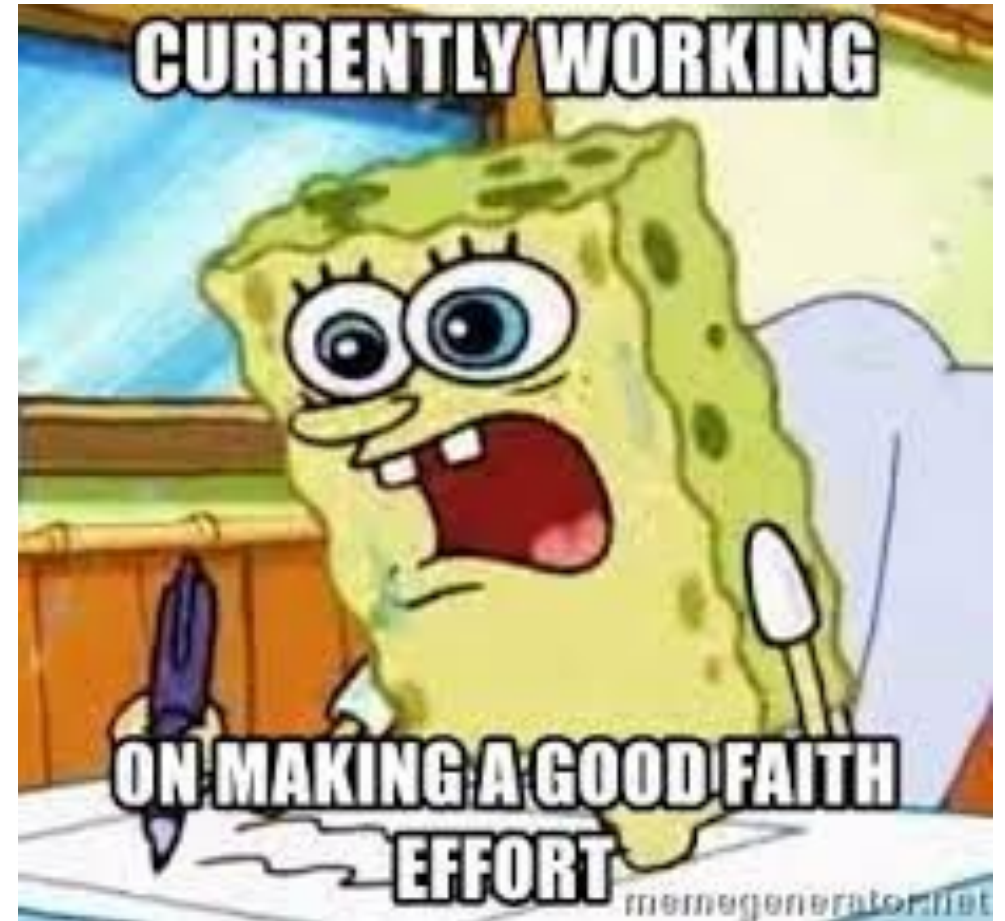
\* "Grassroots Lobbying" may be no more than 25% of total applicable limit. Per IRS "A grassroots lobbying communication is any attempt to influence any legislation through an attempt to affect the opinions of the general public or any part of the general public."



## Suggestions on how to make that “good faith” effort to do it right

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- Build capacity of internal & project staff through resources & trainings to understand full compliance landscape around lobbying (Fed, state, local, Lobbying Disclosure Act)
- Establish simple tracking/reporting systems & process
  - For 501(h) - staff time, direct costs, and overhead. More for insubstantial part test!
- Communicate non-compliance reasons Projects should track
- Maintain close relationship with projects
- Periodic monitoring of project websites/social media
- Know enough to issue spot and reach out to experts when useful!



## Key Resource

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Key resource to help you advocate in a compliant and impactful way.

Website: <https://bolderadvocacy.org/>

Free Technical Assistance Hotline: 1-866-NP-LOBBY



## 501(c)(4) Social Welfare Organization

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### Tax exempt org that can do what public charities can't:

- Unlimited lobbying
- Endorsing candidates or opposing candidates
- Partisan voter outreach
- Developing a pipeline of “good” candidates
- Polling based on swing states/districts/counties or voters
- Independent expenditures in support/opposition of candidates
- Establishing and/or managing connected political action committees
- Contributing directly or indirectly to state or local candidates that allow corporate contributions Conducting voter registration or get-out-the-vote (GOTV) drives aimed at supporting a candidate or party



# 501(c)(3) & (c)(4): Spot the Differences

501c3 vs 501c4

## Definition

1

A 501(c)(3) nonprofit organization is typically created for religious, charitable, educational, scientific, and/or educational intent.



A 501(c)(4) is a "social welfare group." These groups can advocate for causes and propositions, and can also endorse specific candidates.

1

## Charitable Status

2

Education-based nonprofits that directly impact the target population.



Promote causes for social welfare by advocacy and political lobbying.

2

## Tax-Exemption

3

Donations made to nonprofits are tax-deductible!



Donations made to nonprofits are not deductible for income tax!

3



# 501(c)(3) & (c)(4): Spot the Differences

## 501c3 vs 501c4

### Political Lobbying

4

Nonprofits cannot publicize endorsement in favor or opposition of a candidate.



Nonprofits can publicize their support or opposition toward a public candidate.

4

### Political Views

5

Nonprofits can't share post partisan political messages to the public



Nonprofits can share partisan political messages on online channels.

5

### Freedom to Influence

6

Nonprofit can't compare an organisation's issue position with that of a candidate.



Nonprofits can compare their issue position with that of a political candidate.

6

# 501(c)(4) Affiliate Considerations

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## Considerations:

- Are activities allowable under a 501(c)(4) but not a 501(c)(3) key to advancing your work/systems change?
- Do lobbying needs outstrip (c)(3) capacity?
- Are donors interested in supporting the (c)(4) side?
- Are you comfortable with the optics?

## Options:

- Partner with an existing 501(c)(4) [including those providing FS services].
- Create a new 501(c)(4).
- Either way, you're still bound by all applicable laws and regulations!





## Beyond Compliance: A Key Question

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How can fiscal sponsors and other multi-mission managers leverage their proximity to communities and resources to advance the advocacy efforts of their constituents?



# Thank You!



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