Expenditure Responsibility (ER) Fact Sheet

What is Expenditure Responsibility (ER)?

ER refers to compliance regulations that require stringent oversight and monitoring procedures for grants to organizations that are not public charities under Section 501(c)(3) of the Internal Revenue Code. ER ensures the grant funds are spent solely for the charitable purposes for which they are awarded.

When is ER Required?*

ER is required for grants to the following types of entities:

- For-profit companies
- Private Foundations
- Foreign organizations without an Equivalency Determination
- New organizations pending their 501(c)(3) public charity status
- 501(c)(4), 501(c)(6) and all other section US tax-exempt organizations that are not 501(c)(3) public charities

* *Donor Advised Funds and private foundations are strictly held to ER regulations. RPA observes ER as a best practice for sponsored project grantmaking and has some room for flexibility.*

How often is ER conducted on a grantee organization?

The Grants Management (GM) team will follow RPA's ER policy when conducting due diligence on an existing grantee or prospective grantee. Under the policy, RPA can rely on financial information for up to two fiscal years after the period covered by a particular document. After that period, more current financial documents will be required. For example:

- If an organization with a fiscal year-end date of December 31 provides financials through December 31, 2023, the verification period would extend to December 31, 2025; or
- If an organization with a fiscal year-end date of June 30 provides financials through June 30, 2022, the verification period would extend to June 30, 2024.

Special considerations that will require legal review:

- **Capital Expenditure** - an expenditure to purchase or improve an asset (e.g., major office equipment or real estate) that is used exclusively for the grantee's charitable purpose. RPA does not generally make capital expenditure grants because extensive reporting may be required depending on the useful life of the asset.
- **Diversion of Grant Funds** - If grant funds are used for any purpose other than the charitable purpose agreed to in the grant agreement, the IRS considers it a "diversion" of grant funds, and RPA is required to take all reasonable and appropriate steps to ensure the recovery and restoration of the funds. Subsequent payments are prohibited until adequate assurances that no future diversions will occur have been established.
- **Lobbying** – As a default, RPA ER grant agreements prohibit the use of funds for lobbying. ER grants that would include lobbying as part of the proposed grant activities require legal review.
- **Subgranting/Regranting** – If the funds are subgranted/regranted by the primary grantee to a secondary grantee where ER is required, the primary grantee must exercise ER over the subgrant to make sure the grant funds are still used for a charitable purpose.

IRS Requirements Include:

1. A pre-grant inquiry to ensure that the grant funds would be used for charitable purposes.
2. A signed written grant agreement between RPA and the grantee.
3. The grantee must account for the expenditure of the grant funds separately.
4. The grantee must provide annual progress reports on the use of the funds.
5. RPA must report to the IRS all ER grants on Form 990 until funds are fully spent.

Pre-Grant Inquiry Requirements:

Requirements
✓ Evidence of Legal Status
✓ Current Financial Statements
✓ Annual Report or Organizational Summary
✓ List of Governing Board & Key Leadership
✓ Evidence of other grants made to the organization

Rockefeller Philanthropy Advisors