

NONPROFIT ORGANIZATIONS INSTITUTE

**Direct Charitable Activities, Recoverable Grants, and Funding Intermediaries and Fiscal Sponsors**



**Erica Guyer**  
The Rockefeller Foundation  
New York, NY



**Shea Loewen Lazarow**  
Humanity United  
San Francisco, CA

The University of Texas at Austin School of Law UT LAW | CLE

January 19, 2022

1

## Objective

---

Private foundations and other funders are empowered to maximize their programmatic impact with a range of tools and funding structures, while maintaining regulatory compliance

2

UT Law | Nonprofit Organizations Institute | January 2022

2

1

## Outline

---

### **Direct Charitable Activities**

- Definitions and use cases
- DCAs vs. Grants
- Traps for the unwary
- Reporting

### **Recoverable Grants**

- Definitions and use cases
- PF Investment Continuum
- RG Requirements
- Traps for the unwary
- Reporting

### **Fiscal Sponsors and Intermediaries**

- Earmarking overview
- Fiscal sponsorship:
  - Definitions inc. Models A & C
  - Use cases & choosing the right model
- Other intermediaries: Community Foundations, Donor Advised Funds, 'Friends Of' organizations, Pooled Funds
- Traps for the unwary

3

UT Law | Nonprofit Organizations Institute | January 2023

3

## What are Direct Charitable Activities (DCAs)?

---

Direct charitable activities exist when expenditures are made by a private foundation to conduct exempt activities by itself rather than by or through grantee organization(s).

4

UT Law | Nonprofit Organizations Institute | January 2023

4

## Why Use a DCA?

Direct charitable activities allow a private foundation to 'get its hands dirty' – participating in charitable work itself rather than exclusively making grants to other organizations.

A PF may choose to do this if, e.g.:

- PF wants to more efficiently and directly accomplish its goals
- PF has experts on staff
- PF wants to be more involved in implementation of work
- PF wants to host a convening of partners
- PF has expenditures related to developing its own programmatic strategies

5

UT Law | Nonprofit Organizations Institute | January 2023

5

### DCAs

vs.

### Grants

- |   |  |  |
|---|--|--|
| <ul style="list-style-type: none"><li>• Significant involvement by PF in direct conduct of charitable activities</li><li>• Specific benefit/value to PF</li><li>• PF-Led: significant involvement and management by PF staff</li><li>• Deliverables: specific work product; services provided to PF</li><li>• Ownership: outputs generally owned by PF</li><li>• Broad IRS guidelines</li></ul> |  | <ul style="list-style-type: none"><li>• Specifically excluded from DCAs</li><li>• Donative: No expected return to PF; focus on benefit to grantee org</li><li>• Grantee Led: management and direction by partner org</li><li>• Deliverables: primarily reporting and learning</li><li>• Ownership: outputs generally owned by grantee</li><li>• Specific IRS rules: ER, etc.</li></ul> |
|---|--|--|

6

UT Law | Nonprofit Organizations Institute | January 2023

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

## Title search: Direct Charitable Activities, Recoverable Grants, and Funding Intermediaries and Fiscal Sponsors

Also available as part of the eCourse

[2023 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the  
40<sup>th</sup> Annual Nonprofit Organizations Institute session

"Direct Charitable Activities, Recoverable Grants, and Funding Intermediaries and Fiscal Sponsors"