



# International Grantmaking – Perils and Promise

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## Key Issues in Today's Session

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- Cultivate an environment of biblically-based accountability
- Approve and maintain records regarding transfers to others
- Monitor the use of funds and document outcomes of the use of funds
- Understand and follow legal compliance requirements
- Provide appropriate and accurate reporting on the work conducted

3

## Big Picture – International Activity

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The U.S. exempt organization (church or non-church) must:

**retain control and discretion** as to the use of funds

**maintain records** establishing that the funds were used for the organization's exempt purpose

limit distributions to specific projects that are **in furtherance of the organization's exempt purposes** (Rev. Rul. 68-489)

4

# Expenditure Responsibility – Technical Requirements

We can draw inspiration from the private foundation expenditure responsibility regulations at Treas. Reg. § 53.4945-5(b)(1), which require the exertion of all reasonable efforts and establishment of adequate procedures:



See also the Treasury [Department's Anti-Terrorist Financing Guidelines: Voluntary Best Practices For U.S.-Based Charities, Section V: Programmatic Verification](#), which mirrors expenditure responsibility.

5

# Expenditure Responsibility – Three Elements

1. A **pre-grant inquiry** sufficiently complete to give a reasonable person assurance that the grantee will use the grant for the proper purposes
2. Written **grant agreement**
  - Specific content required
3. **Post-grant reporting** that describes
  - The use of the funds (including salaries, travel, and supplies);
  - Compliance with the terms of the grant; and
  - The progress made by the grantee toward achieving the purposes for which the grant was made

6

## Expenditure Responsibility – Pre-Grant Inquiry

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- Pre-grant inquiry should consider:
  - The identity, prior history, and experience (if any) of the grantee organization and its managers; and
  - Any knowledge or other information (from prior experience or otherwise) concerning the management, activities, and practices of the grantee organization
- The scope of the inquiry will vary based on the size and purpose of the grant, the period over which it is to be paid, and the grantor's prior experience with the grantee
- The pre-grant inquiry may be waived if there is a prior history of compliance
- Don't forget OFAC screening

7

## Expenditure Responsibility – Grant Agreement

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- For grants to external organizations, enter into a **written grant agreement**
  - Details what is to be accomplished
  - Requires accountability

8

## Expenditure Responsibility – Grant Agreement, continued

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- Written grant agreement should include:
  - Condition that remaining funds be returned
  - Reporting requirements
  - Maintaining records of receipts and expenditures
  - Not using funds to influence legislation or political outcomes
  - Using the funds only for the exempt purpose of the ministry
- Sample grant agreement: [ecfa.org/Content/Sample-Grant-Agreement](http://ecfa.org/Content/Sample-Grant-Agreement)

9

## Expenditure Responsibility – Post-Grant Reporting

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- Emphasizes control and accountability
- May take different forms
  - Internal – This may take the form of field or project reports
  - External – May need to devise a standard reporting methodology and work with the recipient to capture necessary information
- Other things to consider:
  - Risk
  - Size
  - Timing

10

## Grants to Individuals – What to Consider

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A section 501(c)(3) organization may make grants to individuals, provided the distributions are made to a member/members of a charitable class on a true charitable basis in furtherance of its exempt purposes. (Rev. Rule 56-304)

11

## Grants to Individuals – Recordkeeping

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- The organization should keep adequate records and case histories to show:
  - The **name and address** of the recipients;
  - The **amount distributed** to each;
  - The **purpose** for which the aid was given;
  - The **manner** in which the recipient was **selected**; and
  - The **relationship**, if any, between the recipient and
    - Members, officers, or trustees of the organization;
    - A grantor or substantial contributor to the organization or a member of the family of either; and
    - A corporation controlled by a grantor or substantial contributor.

(Rev. Rul. 56-304)

12

## Grants to Individuals – Tax Reporting

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- What are the requirements in the country?
  - Are we violating any in-country laws?
  - Are there any reporting requirements in-country?
- Does this put the individual at risk?
- Considerations when we know we are violating... but choose to move forward.

13

## Reflection: Cross-Cultural Sensitivity

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- Among the principles woven through the expenditure responsibility procedures is **accountability**.
  - What is your experience with leaders in other countries (cultures) complying (graciously) with the type of accountability grant monitoring procedures require?



14

## Screening and Vetting – Basics

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- Post-9/11, the Patriot Act imposed significant requirements on organizations operating internationally — including nonprofit organizations
- The Treasury Department’s Office of Foreign Asset Control (OFAC) is the principal agency that enforces these rules
- Screen names of top leaders, board members, and other key individuals for international grants

15

## Screening and Vetting - Tools

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- Office of Foreign Asset Control
  - [U.S. Department of the Treasury Anti-Terrorist Financing Guidelines: Voluntary Best Practices for U.S.-Based Charities](#)
    - Includes robust recommended practices around governance, financial accountability, programmatic verification, and anti-terrorist financing
  - [Specially Designated Nationals and Blocked Persons List](#)
  - [Risk Matrix for the Charitable Sector](#) (tailored vetting process)
- Commercial tools

16

## Screening and Vetting – Positive Hit?

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- Potential false “positive” due to similar names and translations
  - Identify any other characteristics that may be helpful in reviewing
  - Request additional personally identifying information
  - Obtain testimonies from other people
  - Visit U.S. Department of Treasury [FAQ page](#)

17

## Screening and Vetting – Sanctions Licenses

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- OFAC provides licenses for organizations to engage in a transaction in a sanctioned country that would otherwise be prohibited
- Two types of licenses:
  - General license – authorizes a particular type of transaction for a class of persons without the need to apply for a license
  - Specific license – requires submission of a [written license application](#)

18

## Reporting Requirements – IRS Form 990

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Are you required to file the Form 990?

Understand some of the key questions and what might need to be collected for Form 990 reporting.

Balance providing adequate disclosure with the need for sensitivity of some data relating to international operations. (Important to understand the history in Schedule F.)

19

## Reporting Requirements – IRS Form 990

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- Part IV Questions 14a, 14b, 15, 16:
  - These questions trigger the need to complete Schedule F
  - Careful attention should be paid to these questions and the underlying definitions in the instructions, as these questions apply quite broadly
- Part IX: Funds sent to international recipients generally should be reported in line 3, not line 24

20

## Reporting Requirements – IRS Form 990 Schedule F

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- Part I:
  - Check “Yes” or “No” to maintaining records
  - Grantmakers provide a description of their procedures for monitoring the use of grants and other assistance outside the U.S.
  - Classify activities by region
- Part II: List assistance to organizations

21

## Reporting Requirements – IRS Form 990 Schedule F, continued

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- Part III: List assistance to individuals
- Part IV: Asks all filers to self-report if they are required to file certain forms related to foreign transaction or entities
- Part V: Organizations should report a high-level overview of approving and monitoring the use of funds under Part I

22

## Reporting Requirements: FBAR

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- The form is due on April 15 of each year
- There is an automatic 6-month extension with no requirement to file an extension form
- The form may only be filed electronically
  - Go to [bsaefiling.fincen.treas.gov/main.html](https://bsaefiling.fincen.treas.gov/main.html) to file
  - A third-party, such as an accountant or attorney, may prepare and file the form

23

## Reporting Requirements: FINCEN 105

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- Considerations
  - Ask first: Is this absolutely necessary?
  - Are we placing people at an elevated security risk?
  - Are there appropriate internal controls to protect both the organization and the individuals involved?

24

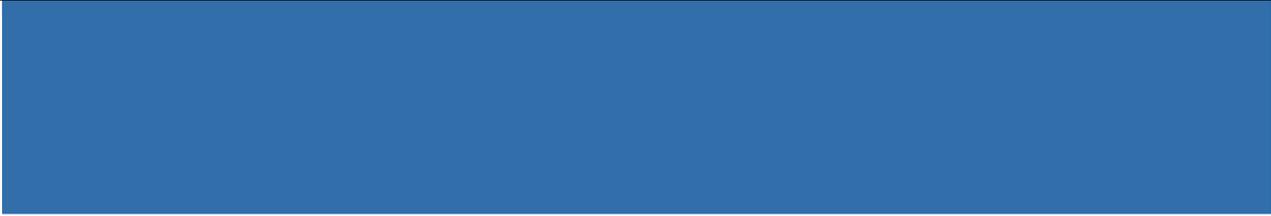
## Reporting Requirements: FINCEN 105, continued

- Reporting requirements
  - Generally, required when carrying more than \$10K cash in or out of U.S.
  - This applies to either a single individual or an entity transporting an aggregate of more than \$10K cash (think groups as well)
  - Possible destination country disclosures

25

Questions?





# Thank you!

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