

May 29, 2026

Internal Revenue Service  
Attn: CC:PA:01:PR (Notice 2026-23)  
Room 5203 P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044

**RE: Recommendations for 2026-2027 Priority Guidance Plan Notice 2026-23**

Greetings:

On behalf of the Council on Foundations (the Council), we write to urge the Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) to include the items outlined below in the 2026-2027 Priority Guidance Plan.

The Council is a nonprofit membership association that serves as a guide for philanthropies as they advance the greater good. Building on our over 75-year history, the Council supports approximately 1,000 member organizations in the United States and around the world to build trust in philanthropy, expand pathways to giving, engage broader perspectives, and co-create solutions that will lead to a better future for all.

Our foundation members, and the organizations they help fund, would benefit significantly from further clarity on each regulatory issue outlined below.

- Guidance related to the One Big Beautiful Bill Act (OBBA)
  - Revision to section 4960 regulations to address impact on corporate foundations
  - Foundation Funding of Trump Accounts
- Burden Reduction
  - Donor Advised Funds: Final Regulations and Additional Proposed Regulations Addressing Certain Issues
  - Foundation-Sponsored Student Loan Forgiveness Programs
  - Guidance on Economic Development as a Charitable Activity
- Political Campaign Activity by Section 501(c)(3) Organizations

To assist Treasury in developing guidance, the Council has compiled information as well as examples of situations our members have encountered that illustrate the need for guidance in each area described above.

**Section 4960 and Changes to the Definition of Covered Employee**

Section 4960, enacted as part of the Tax Cuts and Jobs Act of 2017 (TCJA), imposed a 21 percent excise tax on applicable tax-exempt organizations that pay remuneration in excess of \$1,000,000 to a "covered employee" or that make excess parachute payments. In the TCJA a "covered employee" was defined as any individual who was one of the five highest-compensated employees of organization for a taxable year beginning after December 31, 2016, or who had qualified as a covered employee in any preceding taxable year beginning after that date.

To address the potential negative impact of this provision when employees of a related for-profit entity provide volunteer services to an organization, the final regulations created several exceptions designed to remove employees who were providing services without any compensation from the nonprofit organization. For example, the regulations allowed for the corporate executive of a for-profit corporation to serve as an officer of its corporate foundation without risking tax on the compensation of the executive. However, several of these exceptions were based on excluding the individuals from the list of the five highest compensated individuals and thus removing them as covered employees.

Section 70416 of the OBBB amended Section 4960(c)(2) of the Code to define "covered employee" as any employee or former employee of an organization, thus removing the five-employee limitation. Due to this change, exceptions provided in the regulations no longer remove volunteers from the analysis and potentially taxes the compensation of employees of a related for-profit entity solely because they serve as volunteer officers or provide volunteer services to a related nonprofit organization. This outcome is inconsistent with the policy objectives that motivated the exceptions in the first place.

The Council appreciates that guidance under section 4960 was included in the 2025-26 Priority Guidance Plan, and requests that it remain on the plan. We also request that this guidance address the concerns about the volunteer service exceptions. Taxing the compensation of employees of a for-profit organization that provides unreimbursed or uncompensated services to a nonprofit organization will undermine the charitable goals of corporate foundations and potentially reduce corporate philanthropy. The Council requests changes to the regulations to ensure that the negative consequences that were previously acknowledged and addressed in the current regulations are resolved.

### **Foundation Funding Relating to Trump Accounts**

Philanthropic organizations have a long history of partnering with government to direct charitable resources toward shared national goals, and Trump Accounts present a meaningful opportunity to extend that tradition. Foundations are prepared to invest in children's financial futures through this program, particularly in underserved communities, but need clear, practical guidance to do so. Without it, the philanthropic sector's ability to participate fully in this initiative will be unnecessarily limited.

To that end, the Council requests that initial guidance address the practical implications of how Trump Accounts may be used by foundations and be supported by the philanthropic sector. The Council provided [comments](#) to Notice 2025-68 regarding Section 530A Trump Accounts and guidance that will assist foundations in providing funding to these accounts.

### **Donor Advised Funds: Regulations Addressing Certain Issues**

The importance of donor advised funds ("DAFs") as a charitable giving tool has increased significantly over the last two decades, providing another option for individuals and organizations to support charitable organizations and communities. They also provide flexibility to quickly distribute resources in times of need and ensure that charitable dollars are available in the future, even when economic circumstances decrease other forms of charitable giving. We support the continuation of the work that Treasury and the IRS have done to provide guidance on DAFs and appreciate

that finalization of the regulations was included on the 2025-26 Priority Guidance Plan as a burden reduction item. The Council continues to believe that finalizing the regulations under section 4966, taking into consideration the [comments](#) provided by the Council and many of its members, should be a high priority.

The Council also requests that proposed regulations under section 4967 be a high priority. Because sections 4966 and 4967 work together, it is difficult to fully understand the impact and effect of the definitions provided in the regulations to section 4966 without knowing how the limitations in section 4967 will be interpreted. In addition, various new proposals regarding DAFs build on sections 4966 and 4967 and would result in additional confusion and uncertainty if there continues to be little guidance.

With respect to private foundation use of DAFs, we understand the concern about qualifying distributions to DAFs without a timeline for the subsequent distribution of those funds out of the DAF. Many private foundations use DAFs for various activities, including simplifying grantmaking activities, partnering with their local community foundation on grantmaking, or other reasons related to their strategic grantmaking. The Council is concerned that proposals to require distribution from a DAF in a year will significantly limit some of those legitimate uses as well as create undue burden on the different organizations. Therefore, we request that guidance allow private foundations five years to advise funds out of the DAF and be considered a qualifying distribution.

#### **Foundation-sponsored Post-Graduation Scholarships**

Communities across the country, particularly in rural areas, are suffering from aging populations, population decline, and reduced business growth, increasing their need for individuals equipped with specific skills even as available incentives for those individuals diminish. To address this, community foundations are exploring and implementing programs for funds that would offer post-graduation scholarships to individuals who agree to live and work in these left-behind communities.

We believe that foundation-sponsored post-graduation scholarships should be treated as a permissible form of individual grants, similar to scholarships and fellowships under 4945(g)(1) and that providing these funds to individuals is a charitable purpose within the meaning of section 170(c)(2)(B), similar to the qualification of scholarships.

Foundations view student loan forgiveness and post-graduation scholarships as one part of an overall economic development strategy. Treasury has a history of providing Revenue Rulings, Private Letter Rulings, and other guidance regarding economic development as a charitable purpose; and the Council is requesting specific guidance, such as a Revenue Ruling, related to these programs in an economic development context.

While these are not government-sponsored programs, guidance could resemble the structure of the National Health Services Corps Loan Repayment Program for medical professionals or the Teacher Loan Forgiveness program for teachers committing to serve a specific period in a high-need area. The program dollars are primarily intended to help workers pay off student debt. Foundations would work with donors to raise funding for the program and the foundations would manage the administration of the program. Award recipients are expected to live and work in their communities to be eligible for funding.

These programs are a response to foundations investing in students via scholarships only to see them use that investment to leave the community. Donors are excited by the idea of supporting the community by offering graduates an opportunity to return and to receive assistance. Our foundation members have an opportunity to bring young people back to regions experiencing outmigration; bring skilled, educated, and trained professionals to high-need

communities; increase entrepreneurship; fill skilled and educated job openings; and give farmers and small business owners hope that a family member or community member will take over their business. This could also reduce government spending in other loan forgiveness programs.

Guidance from Treasury including foundation-sponsored post-graduation scholarship programs would be a critical step facilitating an important tool for our communities to build resiliency and talent.

### **Provide Guidance on Economic Development as a Charitable Activity**

The Council seeks further clarification regarding when economic development activities will be considered a charitable activity and requests reliable guidance for foundations wishing to support such activity with charitable dollars.

The Council often fields questions from its members regarding economic development. Community foundations have been interested in creating funds and using charitable dollars to support activities such as redevelopment of city centers, small business incubation, job training programs, home purchase assistance, and promotion of local communities for new business relocation and tourism. As U.S. households continue to face economic pressures, including inflation and affordability challenges, the effects are rippling onto local businesses. Many Main Street communities are [struggling](#) to recover and grow as a result. As the Administration works to revitalize American manufacturing, expand infrastructure investment, and strengthen local economies, the philanthropic sector is uniquely positioned to enhance these efforts by filling in gaps that federal investment alone cannot address.

Foundations have been able to look at several rulings dating to the 1970s that provide guidance regarding the factors that will support a finding by the IRS that an activity is charitable. We also have several more recent rulings, whereby the IRS has determined that certain activities are not charitable. However, it can be particularly difficult to determine when and how organizations can support for-profit businesses or work with governmental entities. As the world of philanthropy has grown and developed over the past forty years, there is a consensus in the field that this type of guidance needs to be provided so there is a consistent test that can be applied by foundations and other organizations working in economic development.

The Council urges Treasury to consider updating previous guidance regarding economic development as a charitable activity, by providing a more definitive test and/or examples of acceptable charitable activities that reflect the current needs and economic climate in many communities. For reference, we are including examples involving fact patterns encountered by the Council's foundation members that Treasury could utilize in illustrative guidance.

- The Chamber of Commerce is sponsoring an initiative to encourage new small businesses to locate in a deteriorating section of downtown. They approach a community foundation about establishing a charitable fund to solicit and collect charitable contributions from individuals and businesses. The community foundation will then make grants to assist individuals with expenses associated with establishing new small businesses provided they agree to locate to this area. The grants will be awarded based on an objective and nondiscriminatory application process. No grants will be awarded to the Chamber of Commerce, but members of the Chamber may volunteer as part of the application review committee.
- A rural airport needs to build a new control tower. The airport is owned by a government entity (the airport authority) and is used by the public. The authority would like to accept charitable contributions for this purpose, or work with a community foundation to establish a temporary fund that would accept contributions and make grants to the authority to be used for the building expenses.

- A rural municipality desires to expand internet services to its citizens and wants to collect charitable donations to build infrastructure.
- The city government wants to promote the city as a location for filming television and movies and wants to establish a charitable fund to collect donations to be used to pay expenses of a promotional campaign.

### **Political Activity by Charitable Organizations**

The Council understands that Treasury and the IRS are planning on issuing guidance with respect to political campaign activity by religious organizations. The prohibition on political campaign activity is a critical protection that keeps charitable organizations nonpartisan, prevents organizations from taking sides in elections, and allows charities to maintain the trust of their communities even in times of political polarization. Changes that allow some charities to engage in partisan political activities are directly contrary to the statute. This would draw nonprofits into the political polarization facing our country and erode public confidence in charitable giving.

### **Conclusion**

Thank you for the opportunity to comment on priorities to include in the 2026-2027 Priority Guidance Plan. We would welcome the opportunity to discuss any of these matters with the IRS or with the Department of Treasury if it would be helpful. In particular, the Council offers its support for convening more informal discussions of the compliance issues faced by U.S. grantmakers. Please contact me for additional information or analysis on any of these topics at [govt@cof.org](mailto:govt@cof.org).

Sincerely,

Jenn Holcomb  
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Council on Foundations