

Investing in Change

How and Why Funders Can Engage in Public Policy

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Agenda

1. Characteristics of Public and Private Foundations
2. Lobbying Overview
3. Engaging in Advocacy
4. Funding Advocacy

Advocacy is not a
standalone effort.



“Is it something I said?”

“I wouldn’t have known about this particular problem...if Sarah had not gotten in touch with us.... I introduced legislation today that will fix the problems....”

10:03

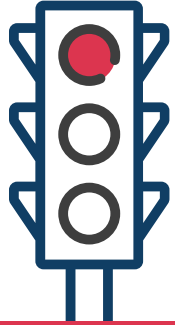


<  **Senator Mark Warner** ✓
Jun 20, 2017 · 🌐

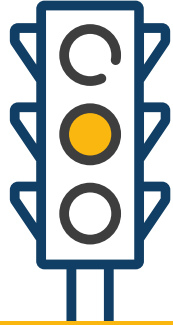


Today I called Sarah, a teacher from Northern Virginia, who had reached out to my office in frustration when she discovered she was legally obligated to continue paying her ex-husband’s student loan debts because they had consolidated their student debts during happier days. I wouldn’t have known about this particular problem with consolidated loans if Sarah had not gotten in touch with us. She must have been in class when I called her, but I left a voicemail letting her know I introduced legislation today that will fix the problems she and so many other borrowers are facing.

Advocacy for 501(c)(3)s



Partisan
Political



Lobbying



Organizing

Public
Education

Nonpartisan
Voter Ed.

Influencing
Corporations

Educating
Legislators

Educational
Conferences

Lobbying
Exceptions

Regulatory
Efforts



Get to Know
Legislators

Research

Training

Litigation

Characteristics of Public and Private Foundations

	501(c)(3) <i>Private Foundations</i>	501(c)(3) <i>Community Foundations & Public Charities</i>	501(c)(4) <i>Social Welfare Organizations</i>
Examples			
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt Tax-deductible contributions	Tax-exempt
Lobbying Activities	Extremely Limited	Limited	Unlimited
Electoral Activities	Cannot support or oppose candidates	Cannot support or oppose candidates	Secondary Activity

What is Lobbying?

How do Public Charities Measure Lobbying?

Two options

1. Insubstantial Part Test
 - Default test
 - Vague definitions & limits
2. 501(h) Expenditure Test
 - Need to “elect” (form 5768)
 - Clear definitions & limits
 - Only expenditures count



Calculating Lobbying Limits for 501(h) Electors

- Based on annual exempt purpose expenditures
- Most organizations can lobby up to 20% of their budget
- Lobbying cap limited: can only use up to ¼ for grassroots lobbying

ANNUAL EXPENDITURES	OVERALL LOBBYING LIMIT
\$500,000 or less	20%
\$500,000 to \$1 million	\$100,000 + 15% of excess over \$500,000
\$1 million to \$1.5 million	\$175,000 + 10% of excess over \$1 million
\$1.5 million to \$17 million	\$225,000 + 5% of excess over \$1.5 million
Over \$17 million	\$1,000,000

What is lobbying under 501(h)?

(definitions for private foundations and public charities / community foundations making the 501(h) election)

DIRECT

Communication

Legislator

Expresses a view
about specific
legislation

GRASSROOTS

Communication

General public

Expresses a view
about specific
legislation

Call to action



Specific Legislation

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Call to action

H. R. 3244

One Hundred Sixth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday,
the twenty-fourth day of January, two thousand*

An Act

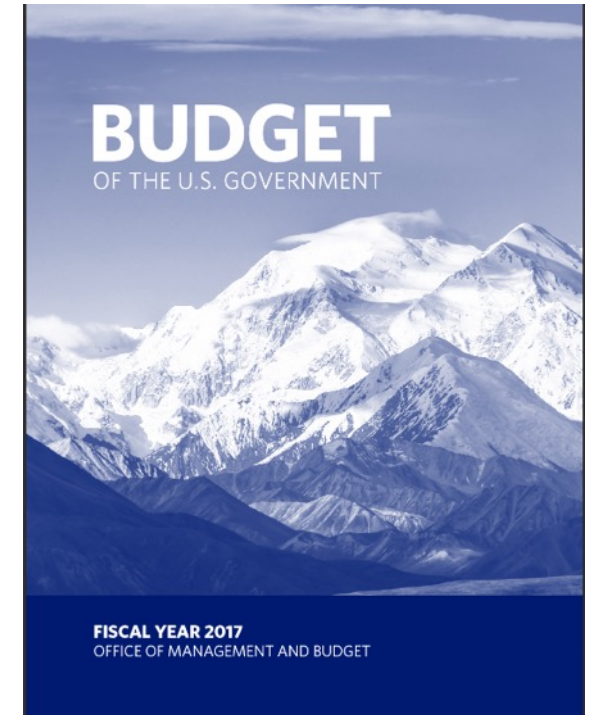
To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to reauthorize certain Federal programs to prevent violence against women, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*
SECTION 1. SHORT TITLE.

This Act may be cited as the "Victims of Trafficking and
Violence Protection Act of 2000".



SUPPORTING NOMINATION OF
NEERA TANDEN AS OMB DIRECTOR



Not Specific Legislation

Specific Legislation

NOT Specific Legislation

- Regulations
- Executive orders
- Enforcement of existing laws
- Litigation



Calls to Action

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ASKING TO CONTACT
legislators

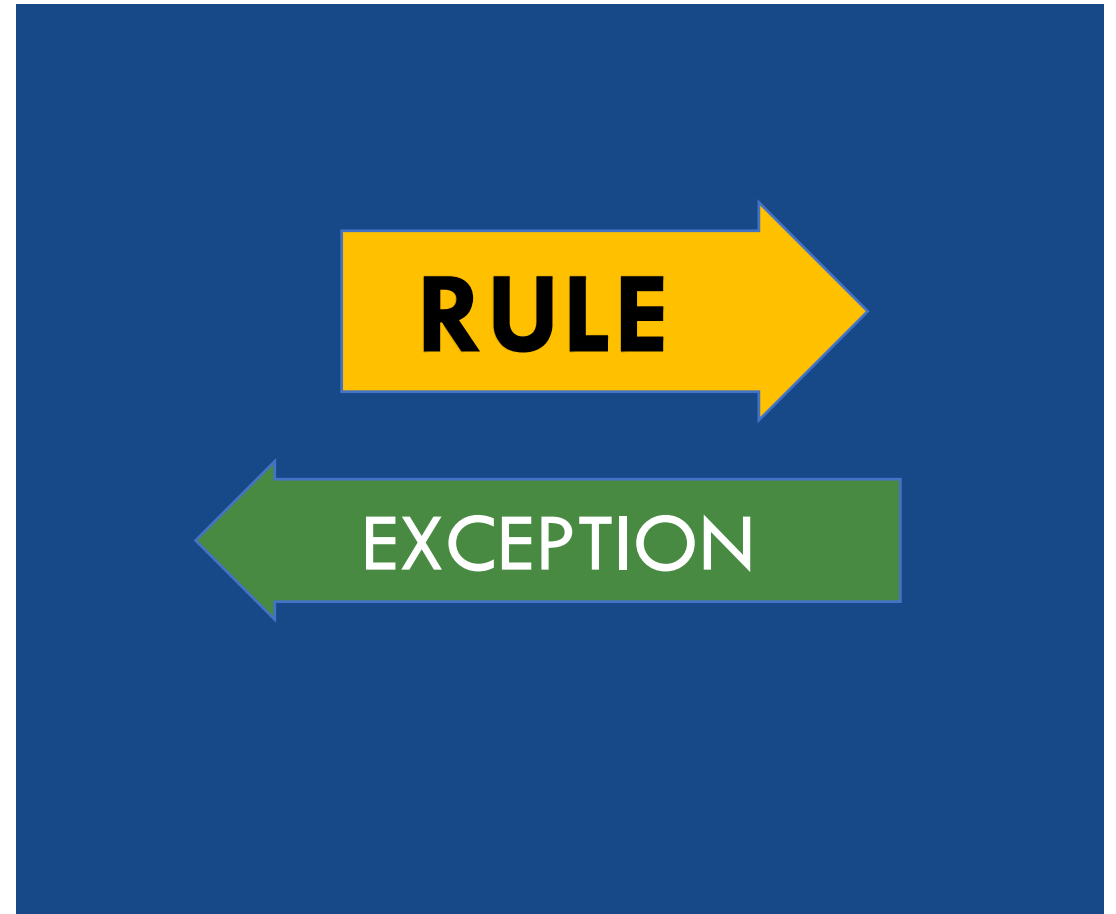
PROVIDING ADDRESS,
telephone number, and/or other
contact information of legislators

PROVIDING MECHANISM
to enable communication
with legislators

IDENTIFYING
legislators

Lobbying Exceptions

- Nonpartisan analysis, study, or research
- Request for technical assistance
- Self-defense
- Examinations and discussions of broad social, economic, and similar problems



Engaging in Advocacy

Community foundations **may lobby**, but they must count their lobbying activities against their own organizational lobbying limits.

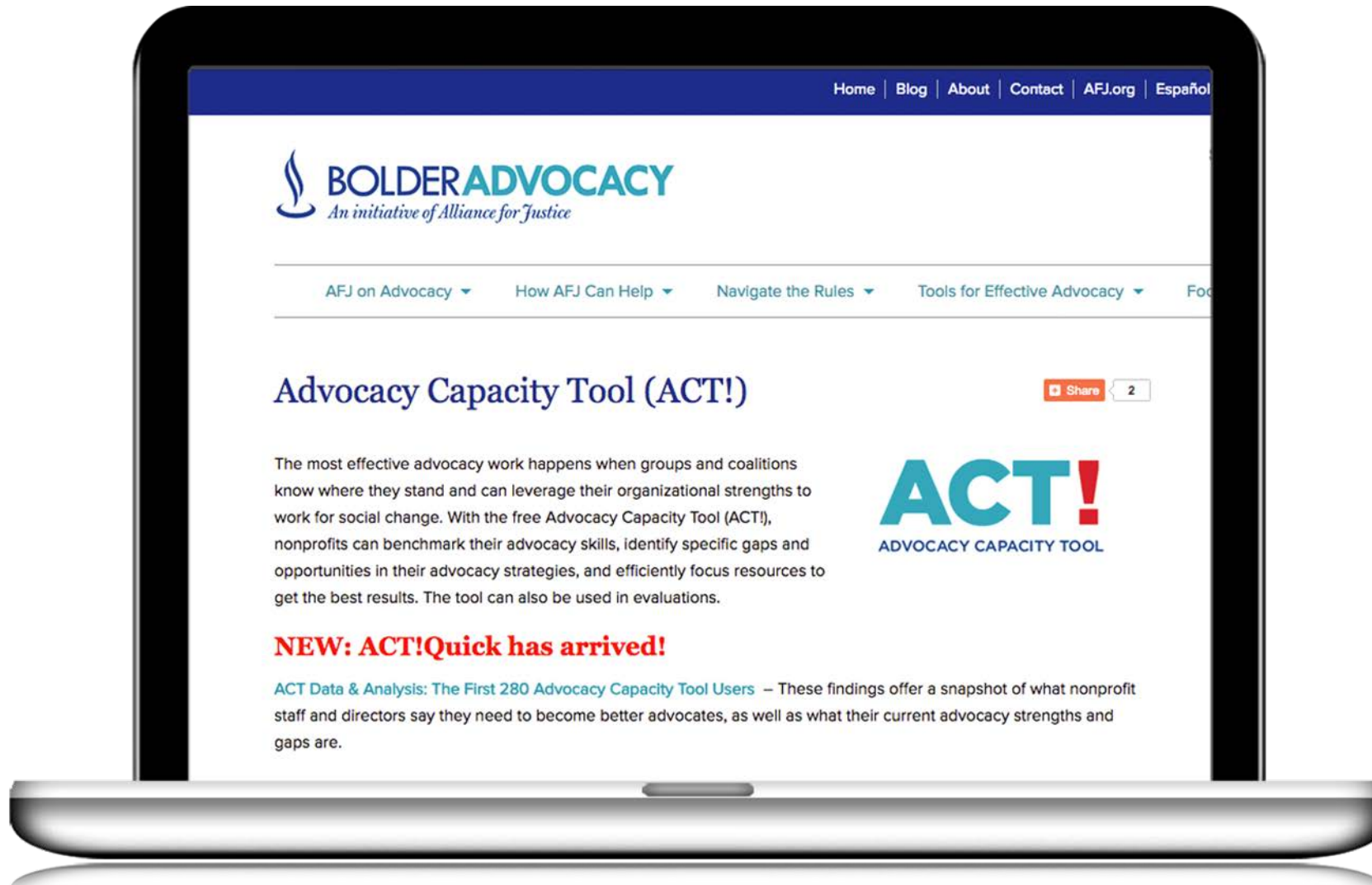
Private foundations **should not lobby**, but they can engage in other types of advocacy and take advantage of lobbying exceptions.

Private & Public Foundations May....

- Influence adoption of agency regulations
- Convene nonprofits & decision-makers to discuss broad topics
- Educate legislators about a broad range of issues, without expressing a view on specific legislation
- Meet with legislators to discuss the scope of foundation work
- Take a stand on an executive order
- Train grantees on advocacy rules & how to lobby
- Influence school boards or policies of other, non-legislative, special purpose bodies
- Sign on to an amicus brief or fund litigation to challenge a law



Build Advocacy Capacity



Funding Advocacy

Make Lobbying Grants
public or community
foundations can fund
lobbying directly

General Support Grants
funding grantees that
advocate
through general support

Specific Project Grants
funding non-lobbying
portions of advocacy
projects

“A grant... is **earmarked** if the grant is given pursuant to an agreement, **oral or written**, that the grant will be used for specific purposes.”

A public charity or a community foundation may earmark a grant for lobbying, but it must count the grant against its own lobbying limit.

Private foundations should not earmark grants for lobbying, but private foundations may fund grantees that lobby.

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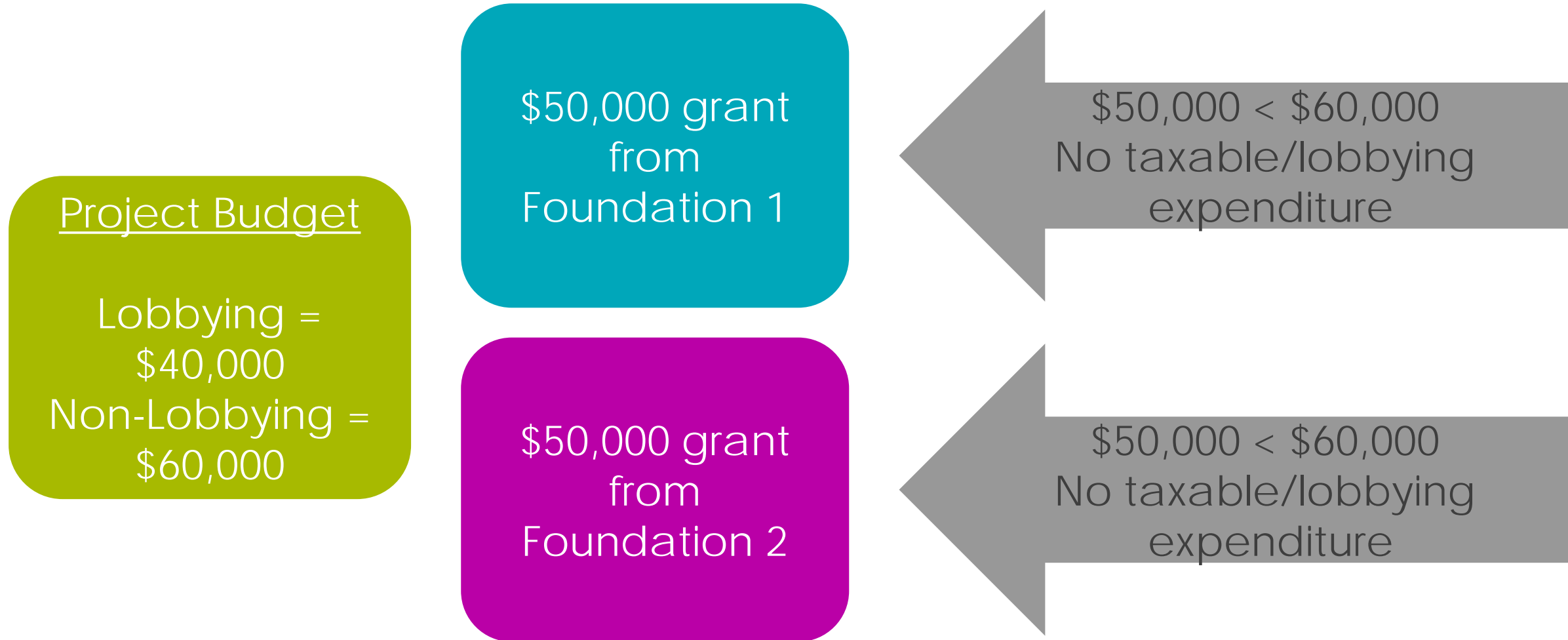
General
Support
Grants

Specific
Project
Grants

If a grant is not earmarked for lobbying or any other specific project, the foundation is not responsible for grantee lobbying.

If a foundation grant is less than or equal to a project's non-lobbying component, the grant is not a lobbying expenditure.

SPECIFIC PROJECT Grant Safe Harbor



- Restricting public charity grantees from lobbying is **not necessary**.
- Grant terms that say a grant is “**not earmarked for lobbying**” are not the same as terms that say lobbying is prohibited.
- Lobbying restrictions are only necessary when private foundations make grants to non-501(c)(3) organizations.

Take aways....

FUNDERS
Educate about and encourage grantees to make the 501(h) election
Review your grant agreements
Talk with your trustees about importance of advocacy
Participate in funder collaboratives

Resources



Free PDF guides on these rules



bolderadvocacy.org/podcast

Questions? Contact Us!

For free technical assistance about rules impacting your nonprofit advocacy

866-675-6229 (866-NP-LOBBY)
advocacy@afj.org | alevine@afj.org

For free tools, resources, and podcast



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Para apoyo técnico sobre los derechos y deberes de las organizaciones comunitarias de cambiar la comunidad

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