**Module 2**

**Federal Restrictions on 501(c)(3) Organizations**

**PowerPoint Script**

**Slide 1: Title Page**

This module will discuss federal restrictions placed on 501(c)(3) organizations.

**Slide 2: Learning Objectives**

The goal of this module is to discuss some of the activities the federal government has prohibited 501(c)(3) organizations from participating in. Among these are the use of grant funding for lobbying, political campaigning and financial contributions to political campaigns, and restrictions on the amount of lobbying that 501(c)(3) organizations can participate in.

**Slide 3: Lobbying and Federal Grants – Can I Lobby with Federal Grant Money?**

The short answer to this question is no. Most federal grants, and sometimes even grants from private sources, prohibit the extent to which a group can use those funds towards lobbying. Always check with your attorney to ensure that you are in compliance with the terms of your grants.

This sounds much more complicated than it really is. Don’t use grant money to lobby. You can, however, use that money to provide technical reports to members of congress on the status of a contract or grant. If you have received a grant or contract from the federal government, it is recommended that you consult legal counsel before replying to these forms of communications to make sure you are within the boundaries of legality. You don’t want to risk violating federal law and should consult an attorney.

**Slide 4: Can Non-profits Support Political Candidates and Retain their Exempt Status?**

Generally, no. Non-profits cannot support political candidates. IRS Code prohibits 501(c)(3) organizations from making campaign contributions, public statements, or directly or indirectly intervening in political campaigns. Doing so puts your organization at risk of losing its tax-exempt status. However, non-artisan advocacy does not qualify as political campaigning and can be done without risking an organizations tax-exempt status.

**Slide 5: How much Lobbying is Permissible under Federal Law?**

Federal tax laws allow every charitable nonprofit to engage in *some* lobbying activity. The question is how much they are allowed to engage in. Charitable nonprofit organizations may freely engage in lobbying as long as that activity amounts to only an insubstantial mount of the nonprofit’s activities. The IRS has not provided a definition of “insubstantial.” The line between “insubstantial” and “substantial” is hazy. The IRS retroactively weighs the facts and circumstances when it is forced to determine if a nonprofit has participated in too much, or “substantial,” lobbying.

Consequently, all nonprofits that engage in lobbying should consider taking the 501(h) election in order to opt out of the vague “substantial part” test and use the friendlier “expenditure” test.

**Slide 6: Determining what “Substantial” means.**

Before 1976 there was only one test that could be used to determine if a substantial part of a nonprofit’s activities constituted lobbying. This is called the “Substantial Part” test. This test is subjective and there is little guidance on what is considered a “substantial” part of the nonprofits activities for the purpose of evaluating lobbying expenditures. IRC § 501(c)(3) provides some guidance on what constitutes influencing legislation but provides little guidance on when lobbying surpasses the insubstantial threshold. The IRS now allows organizations to opt into the 501(h) expenditure test as an alternative means of determining whether they have engaged in a substantial amount of lobbying.

**Slide 7: End**