

# Responsive Philanthropy

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*Levi Strauss Foundation launches Pioneers in Justice, a new initiative to shape the next wave of social justice efforts. Photo by Steve Bott.*



## A User's Guide to NCRP's *Criteria for Philanthropy at Its Best*

Each year, the staff of the Levi Strauss Foundation convenes for one week in its San Francisco headquarters to examine trends in the field of philanthropy, ensure organizational alignment and promote team building. Our June 2009 global staff meeting served as an opportune moment to examine the

National Committee for Responsive Philanthropy's *Criteria for Philanthropy at Its Best: Benchmarks to Assess and Enhance Grantmaker Impact*, parse the issues in the heated public reaction following its publication and explore the relevance of *Criteria* to our institution.

The report proposed 10 benchmarks in four broad categories: values, effectiveness, ethics and commitment. The benchmarks were designed for foundations, in the words of the NCRP, to "maximize their impact and best serve nonprofits, vulnerable communities and the common good." NCRP's report also examines the philanthropic practices of 809 of the largest foundations in

the United States, whose combined three-year grants total almost \$15 billion, in light of these criteria.

No doubt, the maelstrom of controversy greeting the NCRP publication exposed major fault lines in the field. Fresh on the heels of the fears stoked by California Assembly Bill 624 in the preceding year—which called for data collection and public reporting on the diversity of the boards, staff and grantees of the state's largest foundations but did not see passage—critics latched on to (continued on page 12)

By Daniel  
Jae-Won Lee



challenging grantmakers  
to strengthen communities

# Accelerating the Movement to Transform Philanthropy

By Diane Feeney and Aaron Dorfman

Our members and allies tell us that they support and follow NCRP because they want to be part of a movement to transform philanthropy. Because 2011 marks the 35th anniversary of the founding of our organization, there is no better time than now for us to accelerate that transformation. This effort will require all who share NCRP's values to join us in making this vision for a more inclusive and responsive philanthropic sector a reality.

## JOIN OUR MOVEMENT – THE TIME TO ACT IS NOW!

It's been almost two years since we released our report *Criteria for Philanthropy at Its Best* in which we challenged foundations to do more to strengthen disadvantaged communities.

While the stock market has begun to recover, and foundation asset levels have started stabilizing, too many people in our nation still are struggling.

In New York City, for example, one out of every four young African American males was unemployed in 2009, a rate significantly higher than that of other New Yorkers in the same age brackets. In Washington, D.C., we see the highest infant mortality rate in the country putting the district just barely above Belarus. These persistent inequities undermine human dignity and diminish our nation's democracy. They also have far-reaching consequences for our nation's role in the interconnected global community and economy. Will we ever really be full participants in a globalized world if we



Aaron Dorfman, Executive Director, NCRP



Diane Feeney, Board Chair, NCRP

allow such disparities to persist? The answer is: most likely not.

Working together, grantmakers and their nonprofit partners can make a difference and be part of the solution. Philanthropy can and must do more to contribute to the creation of a fair and just society.

We recognize that philanthropic funds are dwarfed by government funding, and it is precisely because of this that it's incumbent on institutional philanthropy to be the highest performing supplement to the public and private sectors that it can be. In 2011, there are three simple things nonprofits and grantmakers can do to advance

this movement. If you work for a grant-making organization, we need you to lead by example, challenge your peers and invest in NCRP. If you work for a non-grantmaking nonprofit, we need you to strive to do your best work, be honest with your funders and move from alignment to active engagement in our efforts.

## GRANTMAKERS

### Lead by Example

Ralph Waldo Emerson once wrote, "Do not go where the path may lead, go instead where there is no path and leave a trail."

To transform how philanthropy is practiced, we need hundreds or even thousands of grantmakers to lead by example, to demonstrate their relevance and mettle of character by practicing exemplary philanthropy. Philanthropists consistently look to their peers for guidance. Leading by example not only makes your foundation more responsive to nonprofits that serve and represent underserved populations; it also convinces other grantmakers that exemplary philanthropy is achievable and sustainable. You can show that practicing *Philanthropy at Its Best* helps gets better results for your foundations.

Following some or all of NCRP's recommendations need not conflict with donor intent – in fact, it may help you achieve the changes your donor wanted to see happen in the world more effectively. We encourage you to reflect seriously on how each benchmark might be best suited to help you

advance your founder's vision and the common good, and then take action.

If you've considered increasing the percentage of your grant dollars devoted to advocacy, community organizing and civic engagement at some point, 2011 is the year to make that change. NCRP's Grantmaking for Community Impact Project has demonstrated that investments in this kind of work yield substantial returns on investment.

If you've wanted to do more to benefit underserved populations, this year is the time to act. When we published *Criteria*, only \$1 out of every \$3 was classified as intending to benefit vulnerable populations, broadly defined. We can and must do better. Leading grantmakers are practicing targeted universalism by focusing more explicitly on the particular circumstances of those who have been marginalized the most. We all benefit when none are left behind.

If you've thought that your institution should increase its multiyear general operating support funding, now is the time to do it. You can move in a positive direction with every grant cycle, leading the field each time.

If you've considered expanding and diversifying your board, do it in 2011.

As you do all these, be open about your mistakes and lessons learned so others can benefit from them.

### Challenge Your Peers

As you challenge yourself to improve your own institution, we also need you to challenge your peers.

There's a disturbing culture within organized philanthropy that avoids honest critique of oneself and other funders. Advocating for change within your institution might seem easy compared to challenging your peers to improve, and many leaders are reluctant to criticize their peers, even constructively. This might make our sector among the most polite of any in our society, but it

certainly doesn't make for better or more effective philanthropy.

For this movement to succeed, we need grantmakers – especially CEOs and trustees – to use their power to influence their peers.

If you think a peer foundation would achieve its own goals better by funding more social justice, or by adopting an equity lens, say something! You can challenge your peers publicly or privately, but our movement only will succeed if you are willing to step up to the plate in this way.

### Invest in NCRP

There's one more thing you can do to help, and that's to provide financial support for NCRP through a grant or membership. As the only independent watchdog of institutional philanthropy with a board of directors made up of both foundation and nonprofit professionals, NCRP has been a consistent advocate for grantees and has been "biting the hand that feeds us" for 35 years. We're still true to our founding vision and mission, but this sometimes has its costs. We've occasionally lost funding as a result of pushing philanthropy to be responsive to grantee and community needs. It's a price we're willing to pay because we know we're making a difference. Nearly 60 percent of surveyed grantmakers state that we've raised the level of discourse around exemplary grantmaking.

Despite being a small organization with human and fiscal resource constraints, we're adding value to our sector. For our small staff to continue carrying out the important work we do, providing meaningful tools for self-regulation and serving as the conduit for the grantee and community voice into important discussions about philanthropy, we need more funders like you to invest in us.

If you already provide support to NCRP, thank you. We urge you to con-

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sider increasing that support in 2011, or making a special gift in recognition of our 35th anniversary.

If you don't yet support NCRP, now's the time to start. We've brought on many new donors in the past few years, and we'd love to add you to that list.

We also hope you'll invest in other groups that are doing important work to transform philanthropy. It takes a diverse network of organizations working collaboratively to shift how philanthropy is practiced.

## NONPROFITS

### Strive to Do Your Best Work

If you run a nonprofit, the first thing we need you to do as part of this movement to transform philanthropy is to strive to work at the highest level of impact and integrity. Many of you are doing important and meaningful things that meet the needs voiced by your communities, and are doing it with serious budget constraints. Keep it up. If we want philanthropy to contribute in meaningful ways to the creation of a fair and just society, your part of the bargain is to be an exemplary organization.

If you know you need to make changes to your organization to improve your effectiveness and impact, now's the time

to act. Why settle for mediocrity when you can achieve greatness instead? Take the risks to dream big. Be disciplined enough to produce exceptional results.

### Be Honest with Your Funders

Philanthropy at Its Best is a true partnership between grantmakers and nonprofits, and honesty is essential to nurturing real partnership. We encourage you to nurture your relationships with funders and potential funders.

Too often, nonprofits don't tell funders the whole truth about what they need. If we're going to transform philanthropy, this must change.

Tell funders who support your direct service work why you need them to support your advocacy work, too.

Tell funders why general operating support will help you be more effective.

Tell them your true overhead costs for programs, and then challenge them to include that much in the grant.

Tell them if their applications or reports are too complicated, requiring more work than is justified by the size of the grants they offer.

Of course, this kind of truth-telling only works if you are in a partnership relationship with your funders, so take the time to build and nurture those connections. Keep your funders and potential funders updated about your work,

and make the effort to communicate your impact effectively. Seek to truly understand their goals, so you can see whether there are authentic connections to your work. Take time to listen hard, too.

If your program officers are aware that you're making a tangible difference in your constituents' lives, they'll be better equipped to push others in their institutions to see the benefits of investing in groups like yours. We realize that challenging funders can seem daunting, but it's imperative that you do so if we're ever going to change the presumed power differential between grantees and grantmakers. We've all got to challenge funders to be more responsive to the needs of our communities.

### Move from Alignment to Active Engagement

NCRP's membership has grown steadily over the last year, and is now more than twice the size it was in September 2009. The spike in membership is attributable in large part to a significant surge in nonprofit membership. This is really encouraging as we continue to build on our history of being a voice in the sector for grantees and nonprofits.

A recent survey shows that most nonprofits feel that NCRP is doing a good job being a voice for nonprofits in the philanthropic sector: Of the nonprofits surveyed, 73 percent believe the values NCRP advocates are appropriate and in the best interest of the sector, and 77 percent feel that we bring a unique value to the philanthropic field.

Now, in 2011, it is time to move from membership and alignment to active engagement. Membership is about more than cutting a check, and we need more than just one person at each member organization involved with NCRP.

The first step is to make sure that all senior leaders in your organization and all staff with fundraising responsibilities are subscribed to our electronic newsletter and are receiving *Responsive*



*Philanthropy*, our quarterly journal. This will help your leadership team think more strategically about philanthropy. If the only time your organization thinks about how to raise money from institutional grantmakers is the night before the next proposal is due, you're surely missing out on opportunities.

Then we need you to speak out on the issues. NCRP is happy to take most of the heat for voicing the needs and priorities of nonprofits, but we also need some of our members to speak out on their own behalf once in a while. For example, consider writing a letter to the editor or submitting op-eds to the *Chronicle of Philanthropy* or your local newspapers. Visit us on our blog, Facebook or Twitter and engage in discussions, or post something on your own social media sites. Join us in directly asking foundations in your community to improve their grantmaking practices. Doing these things need not take too much time away from your primary mission, and it's critically important for the long-term self interests we all share.

## CONCLUSION

Already, 17 percent of surveyed funders report that they have used NCRP's *Criteria* to guide changes in the allocation of their grant dollars.

If funders and nonprofits do the simple things in 2011 that we outlined above, we'll accelerate the transformation of our philanthropic sector, and philanthropy will have a much more meaningful role in bringing about a fair and just society.

We're looking forward to working with all our allies and supporters in this important effort. ■

*Diane Feeney is director of the French American Charitable Trust and board chair of NCRP. Aaron Dorfman is executive director of NCRP.*

# HELP IMPROVE PHILANTHROPY

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# Building Capacity of Nonprofits to Better Serve Older Adults

By Mary O'Donnell

Eleven years ago, The Retirement Research Foundation (RRF), a private foundation devoted to improving the quality of life for our nation's older population, heard from its nonprofit partners that they were facing enormous pressures. As the demands to serve a fast-growing senior population increased, public and private sources of funding were uncertain and shrinking. Organizations faced rapid technological change and heightened calls for accountability and efficiency. Nonprofits required bold and well-trained leaders.

Fast forward a decade and these pressures remain and are, in many cases, amplified. These concerns were the impetus for developing RRF's Organizational Capacity Building (OCB) Program in 1999 and remain the program's *raison d'être* today. The OCB program helps Chicago-area

nonprofits make long-term improvements in key management, governance and organizational development areas to build strong and sustainable organizations.

Eleven years, 93 grants and 5.4 million dollars later, RRF maintains its commitment to OCB. This conviction is even more relevant during these economic times. Now, pressures to navigate state payment delays, reductions in private funding and demands to "do more with less" echo loudly. These pressures are not unique to the field of aging; they cut across the nonprofit sector. Recognizing that a foundation's mission is only as strong as its grantees' ability to carry out *their* missions, RRF finds the need for capacity-building support more important than ever.

In the last decade, many funders have recognized the value of investing in organizational capacity building. What follows is a description of our foundation's capacity building program, some of the challenges and opportunities we face, and a few of our lessons learned.

## OUR APPROACH TO CAPACITY BUILDING

Grants awarded through RRF's OCB program have helped organizations tackle a wide-range of projects. They include strategic planning to prepare for future growth, succession planning to prepare for leadership transitions, resource development to cultivate a broader base of support, board development to strengthen governance and technology enhancements to maximize efficiency. For several capacity-build-



Mary O'Donnell, Program Officer  
Retirement Research Foundation

ing activities that foundations may support, see Box 1.

RRF's OCB funds generally support consulting and technical assistance fees, information technology management costs, and other expenses directly related to capacity-building activities. There is no minimum or maximum amount for an OCB grant; the amount fits the scope of the project and has ranged from \$5,000-\$75,000 per year. Box 2 provides a snapshot of one OCB grantee.

In addition to grant dollars, organizations benefit from special features offered by the OCB program. For example, all OCB grantees are eligible for additional funding to be used for technical assistance opportunities during the grant period (e.g. seminars, workshops, etc.). Another unique feature is the availability of organizational coaches. RRF recruited a team of professionals with broad organizational development experience to serve as coaches. The coach provides support and an objective point of view as unanticipated developments arise while the capacity-building work unfolds. The coach's fee is paid for by RRF and is over and above the grant. The coaching relationship is confidential; details are not discussed with the Foundation. Grantees often cite coaching as one of the most valuable aspects of the OCB experience.

## BOX 1: EXAMPLES OF CAPACITY-BUILDING ACTIVITIES A FOUNDATION MAY SUPPORT:

- Strategic, business or succession planning
- Program evaluation or quality improvement efforts
- Public relations, communications and marketing
- Financial management
- Resource development
- Human resources management
- Information systems management or technology enhancements
- Restructuring, mergers or strategic collaborations
- Board development

## MEETING THE CHALLENGES TO BUILDING NONPROFIT CAPACITY

Despite the value of capacity-building investments, RRF and other capacity-building funders face unique challenges in the current landscape of philanthropy. This is due largely to a “Catch 22” problem. That is, just when it is most critical for nonprofits to build capacity for long-term sustainability, they face immediate demands as they struggle to keep the lights on and meet payroll. And, just when it is most critical for foundations to bolster their support of nonprofits’ capacity-building needs, they face reduced assets as they struggle to support greater needs with fewer dollars.

RRF’s sphere of nonprofits serving older adults is not exempt from the challenges facing the nonprofit sector as a whole. For example, in a survey conducted in 2010, of nonprofits in RRF’s OCB target area, 84 percent of respondents reported receiving government funding; of these, 65 percent said it is their single biggest revenue source. This has significant implications in a state like Illinois, which now is ranked last in the nation for timely payments to nonprofit human service providers, according to a report released by The Urban Institute in October 2010.

Unfortunately, these struggles came at a time when RRF’s asset-base was dramatically reduced due to stock market plunges. In 2009, in an effort to navigate the unknown tides of the downturn, RRF Trustees decided to limit multi-year grants. This prompted questions about how its OCB program could remain strategic and responsive to nonprofits’ needs while working with reduced funds. RRF viewed this as an opportunity to refine the program and took the following steps:

**1) Continued awarding OCB grants, but encouraged organizations to focus on one specific area of capacity building in one-year increments.** For instance, we encouraged appli-

cants to propose realistic objectives for either resource development or board development, but not both at the same time. This is challenging since many capacity-building areas are closely related. However, this shift may prove beneficial overall, since previous evaluations by RRF have found that OCB projects with a targeted focus-area are often more successful.

- 2) Surveyed partners to learn how they are faring and how RRF investments could be most beneficial.** The results provided insight about organizational development gaps where RRF investments may have the most impact. For example, the aging services sub-sector is facing an imminent leadership gap, prompting staff to rank succession-planning proposals as high priority. The survey also indicated that some organizations are overwhelmed by the interconnections between capacity-building areas, and most prefer tailored technical assistance to group workshops on organizational development.
- 3) Established a Flexible Fund for short-term, low-cost capacity-building projects.** RRF established a new pool of OCB funds in 2010 that is available to help nonprofits determine their capacity-building priorities or receive tailored consultations for emerging needs. A fast-tracked application process responds quickly to help nonprofits weather tough times. Although this new initiative is just getting started, we are already seeing that it can “jump start” an organization’s experience with capacity-building work in exciting ways.

### THE LESSONS

Based on assessments of the OCB program, feedback from grantees and insight from other funders and key leaders in the field of organizational development, RRF has learned several lessons.

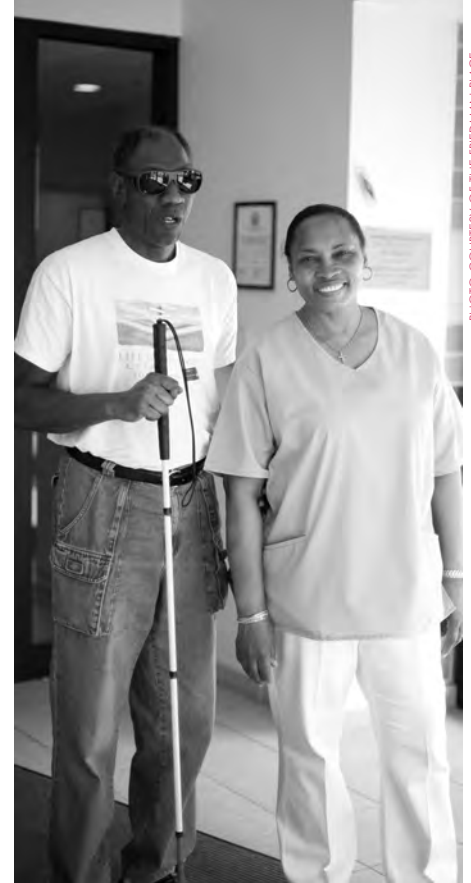


PHOTO COURTESY OF THE FRIEDMAN PLACE.

*A blind older adult man assisted by a staff member of the Friedman Place.*

Our experience with our coach was overwhelmingly positive. She helped us organize our thoughts, think strategically and take action. Capacity-building work is really hard, so it was so helpful to work with her, especially when we hit some bumps in the road.

—Ann Lagory, Executive Director of Friedman Place, OCB grantee

*(Friedman Place provides housing and support to adults with visual impairment in Chicago, Ill.)*

First, flexibility, realistic timelines and trust are especially important for capacity-building grantmaking. The ability of a grantmaker to adjust to the challenges that arise when an organization undergoes capacity-building work can be key to an initiative's success. Similarly, "one-size fits all" models have been problematic. Tailoring the grantmaking approach and expectations to the unique needs, resources and life cycle of the grantee are critical.

Consequently, building strong relationships and trust between grantmakers and grantees can be even more important with capacity-building grantmaking than with general grantmaking. The unique nature of OCB projects often require a grantee to divulge sensitive information about the organization's inner-workings. It must feel confident that such details will be received with discretion and respect, or barriers may arise limiting the project's ultimate success. This type of relationship can be difficult to achieve given the power

imbalance inherent in grantee/grantor exchanges. The onus must fall on the grantmaker to be attuned to this and work to achieve it.

Second, supplemental supports beyond grant dollars can be quite valuable, especially if they are uniquely tailored to the nonprofit. As mentioned above, organizational coaching is often reported as a valuable supplemental support to an OCB grant. Coaches with significant nonprofit experience help grantees problem-solve, think through ideas, reflect upon accomplishments, strategize next steps and provide guidance for unexpected issues that may arise. Other funders have found peer exchanges or learning circles to be beneficial for their grantees, especially when they are structured in a way that allows grantee ownership of the process and include skilled external facilitation.

Finally, capacity building is critically important, and may remain untended to without funding. Participation in the OCB program has awarded RRF

grantees the opportunity to do necessary work on their organizational development needs that might otherwise go unaddressed in the midst of other demands facing an organization. The opportunity to reflect upon and strategically act on capacity-building projects in an intensive way has been a successful vehicle for organizational growth and sustainability.

This last point may seem obvious but is easily overlooked. A marathoner who is too busy running to stop for water will not finish the race. Similarly, nonprofits that neglect their own infrastructure will not endure. This message is more important than ever in this difficult economy, when pressing, short-term demands crowd out the importance of longer-term planning and sustainability. The nonprofits that grasp this point—and the foundations that support them—will survive and thrive long after this economic storm has passed. ■

*Mary O'Donnell is a program officer at The Retirement Research Foundation.*

## BOX 2: SNAPSHOT OF A GRANTEE

National Able Network (ABLE), received a two-year \$80,575 grant to develop and begin implementing a strategic plan. ABLE is a nonprofit employment training and counseling service that supports the needs of job seekers and employers. Annually, ABLE serves more than 5,000 older workers age 55 and over.

This was ABLE's first formal strategic planning effort under its current executive director. Objectives of the strategic planning process included: 1) to establish criteria to evaluate and direct growth; 2) to develop a new business plan for select programs; and 3) to improve integration of programs to provide clients a seamless point of entry to appropriate services.

ABLE used OCB funds to retain a consultant to do an environmental scan of the workforce development arena and facilitate the strategic planning process. A part-time graduate intern was hired to coordinate internal activities and provide other support.

Many recommendations emerged from the strategic planning process. ABLE adopted three organizational priorities: 1) to expand services for older workers; 2) to focus on key sectors (such as health care); and 3) to improve training and education to help individuals enter, re-enter or advance in the workplace.

As a result of the process, ABLE established outcome measures for its senior services. It now tracks measures on a monthly and quarterly basis, benchmarks against U.S. Department of Labor negotiated levels and evaluates on a trend basis.

ABLE established criteria for planned growth. Criteria include risk management, contract terms, political exposure, cash management, and funding diversification. These were used to guide decisions about bidding on contract opportunities.

ABLE made considerable progress in achieving service integration. It created the Chicago Workforce Center, a high-tech center where private and government organizations are under one roof to serve employers, job seekers and adult learners. This one-stop shop has become a national model for public-private workforce partnerships.

During the two-year period, ABLE grew considerably. At the start of the grant, its budget was \$18 million. At the end of the grant, its budget had grown to \$23.5 million.

As a result of its intensive strategic planning process, the organization became more deliberate in its growth, while still remaining very entrepreneurial. ■



# Bringing Nonprofit Advocacy Rules and Culture into the 21st Century

By Larry Ottinger



In a 7 July 2010 message, Independent Sector President Diana Aviv described nonprofit advocacy as a “defining tenet of our work” and stated that “it is high time to update laws governing our advocacy...”<sup>1</sup> Philanthropies and charities will need to dramatically increase investments and involvement in organizing, policy and civic engagement to have a significant impact on today’s social and economic problems. Moreover, updating the nonprofit advocacy rules will play a strategic role in making this happen by helping to change the culture and behaviors that have held back far too many within the sector from meaningful participation in the democratic process.

## RULES MATTER

Rules matter and not only for what they may directly permit or restrict. Rules affect attitudes and action, power and possibility. Coordinated activity around rules builds awareness and partnerships, which have been part of every social justice movement throughout our history.

When women and blacks were prohibited from voting, not only was this a fundamental injustice, but the resulting decisions of elected officials were grossly distorted, too. As further, recently debated examples, United States House and Senate rules related to legislative amendments, the budget, “holds” and the filibuster significantly affect which public policies and nominations get considered and acted upon.

Moreover, rules are inextricably linked to culture and behavior. Thus, back in 1980 when Mothers Against

Drunk Driving (MADD) was founded, the dominant culture in American society did not take drinking and driving seriously. MADD engaged not just in service to victims’ families but also in advocacy to raise the legal drinking age, lower the amount of alcohol drivers can have in their bloodstream, increase punishments and get bars to require identification of underage patrons. Organizing around these rules helped to change attitudes and behaviors, saving hundreds of thousands of lives.

According to a 2008 survey report conducted by Johns Hopkins University’s Center for Civil Society Studies in coordination with the Center for Lobbying in the Public Interest, charities reported that foundations still too often discourage or even prevent grantees from engaging in advocacy through grant agreements, guidelines and statements by foundation staff. In response, CLPI, Council on Foundations, CFLeads and Rockefeller Brothers Fund recently released private and community foundation toolkits for foundation staff, boards and other stakeholders on how to communicate both internally and externally in a way that encourages, rather than inadvertently discourages, permissible advocacy and civic engagement.

In addition, books like *Change Philanthropy* and *Forces for Good*, and the state-based reports produced by the National Committee for Responsive Philanthropy as part of its Grantmaking for Community Impact Project, all demonstrate that organizing, advocacy and civic engagement yield a high

impact return on investment. Training, support and other efforts also are making a difference in changing the culture within the sector.

Now, the sector needs to accelerate this change, recognizing that one often-neglected aspect involves a focus on the rules of civic engagement.

## TIME IS RIPE FOR REVISITING CHARITABLE ADVOCACY RULES

The time is ripe for simplifying and updating the advocacy rules for charities and foundations.

First, the current advocacy rules are outdated, confusing and burdensome, discouraging critical civic participation and undermining compliance.

Second, the Supreme Court’s *Citizens United* decision has altered the legal and political landscape, providing a window of opportunity to rationalize the rules with broad, ideological support.

Third, the ongoing economic crisis and challenges facing underserved communities requires the policy expertise, partnership and critical perspective of our nation’s nonprofits and their constituents.

Fourth, philanthropy has even more limited resources to address even larger social problems these days. Thus, increased, effective advocacy will be needed to leverage scarce resources.

## SIMPLIFYING AND UPDATING THE IRS CHARITABLE LOBBYING RULES

The nonprofit sector should start by asking Congress to simplify and update the IRS charitable lobbying rules. There is



broad, ideological support for reducing unnecessary government burdens on the First Amendment activities of private nonprofits.

The current IRS charitable lobbying rules actually consist of two sets of alternative rules. The default rules date back to before World War II.

In 1934, Congress acted to include the restriction that “no substantial part” of a charity’s activities may involve influencing legislation. The vagueness and uncertainty surrounding the “substantial part” test, combined with the extreme sanction of revocation of exempt status, caused controversy and confusion that discouraged charitable lobbying and undermined effective tax compliance. In a famous late 1960s case, the Sierra Club lost its 501(c)(3) exemption for limited lobbying to prevent the flooding of the Grand Canyon.

In 1976, to provide more objective standards regarding a charity’s permissible participation in lobbying activities, Congress passed legislation allowing 501(c)(3) organizations (excluding churches, private foundations and certain other organizations) to elect a substitute for the “substantial part” test – the so-called 501(h) election for its place in the tax code. A charity making the 501(h) election may spend up to a specific percentage of its annual exempt-purpose

expenditures on lobbying. The sliding scale of percentages created by 501(h) begins at 20 percent of the first \$500,000 and has an overall cap of \$1 million.

Unfortunately, the much-improved 501(h) test was made an elective “opt-in” test and was never indexed for inflation, thus cutting away more than two-thirds of its value since 1976. Today, fewer than 5 percent of the nation’s more than one million charities are covered by the 501(h) test, and many larger charities are effectively precluded from participation by the static limits and cap.

#### LEGISLATIVE PROPOSAL TO UPDATE IRS CHARITABLE LOBBYING RULES

Under a proposal supported by several exempt-organization leaders, Congress would enact a single lobbying standard for most, if not all, public charities based on an updated version of the 501(h) reform standard that was adopted in 1976.<sup>2</sup>

The vague and burdensome 1934 “substantial part” test would be eliminated, and a modified 501(h) test would become the single standard. The modified 501(h) test would be updated and simplified by:

- a) Eliminating the separate grassroots and direct lobbying dollar and percentage limits, leaving grassroots lobbying subject to the same limits as direct lobbying;

- b) Increasing and indexing the current lobbying limits under section 501(h) for inflation since 1976 and moving forward; and
- c) Eliminating the \$1 million cap under section 501(h) leaving the upper limit at 5 percent or higher for larger public charities.

#### BROAD SUPPORT FOR UPDATING THE CHARITABLE LOBBYING REFORM

In 2005, a narrower version of lobby simplification (that would have eliminated the separate grassroots and direct lobbying limits) passed Congress as part of the CARE Act, which was not enacted. In addition to CLPI and Independent Sector, this effort included the following broad coalition of liberal, conservative and mainstream sector organizations: Alliance for Justice, American Cancer Society, American Heart Association, American Symphony Orchestra League, Concerned Women for America, Defenders of Wildlife, Focus on the Family, Girl Scouts of the USA, Goodwill Industries, National Council of La Raza, National Council of Nonprofits, Natural Resources Defense Council, United Way of America and YMCA of the USA.

#### PRIVATE FOUNDATIONS AND IRS LOBBYING RULES

It has been 40 years since Congress, in the aftermath of Treasury Department investigations and hearings by Representative Wilbur D. Mills, enacted the Tax Reform Act of 1969. This law prohibited private foundations from lobbying with important exceptions (such as self-defense) and from earmarking grants to charities for lobbying. CLPI founding board chair Thomas A. Troyer, as attorney for the Council of Foundations, along with others, did yeoman work that allowed private foundations to give general support and special project support grants (so long as the grants themselves are not earmarked for lobbying) to char-

ities and to engage directly in unlimited advocacy that does not constitute lobbying or partisan political activity.

After all these years, the trauma of the 1969 law and the fight over it continues to sow enormous confusion among funders and to perpetuate a culture of fear and skittishness.<sup>3</sup>

Independent Sector has proposed a legislative solution that would amend the tax code to treat private foundations like non-church, public charities when it comes to lobbying.<sup>4</sup> Thus, under the modified 501(h) proposal, private foundations would be able to engage directly in lobbying or to make direct grants to charities for lobbying up to certain limits depending on their annual expenditures for their charitable purposes.

If private foundations seek this reform, it would further simplify and update the IRS lobbying rules. It would eliminate much confusion and have an important impact on the culture of fear that still exists among many funders.

### IRS NEEDS TO CLARIFY ITS POLITICAL ACTIVITY RULES

The IRS will need to revisit its rules on political activities, which are regulated separately from lobbying. (Advocacy that is not lobbying and not partisan political activity is generally permissible and unlimited.) The IRS political activity rules prohibit partisan activities by charities and foundations for or against candidates or political parties. The IRS decides what is partisan versus nonpartisan based on all of the “facts and circumstances.”

While these rules should definitely continue to prohibit charities and foundations from engaging in partisan politics, they need to be far clearer so that charities and foundations can engage safely in nonpartisan voter activities without a regular need to hire lawyers. This is particularly important for small- to mid-sized charities, which comprise the vast majority of the sector.

The sector needs to reach some broad understanding on sensible rules. Admittedly, voter engagement is more complicated than lobbying, as the former involves everything from voter registration and get-out-the-vote to candidate pledges and forums. However, if the sector and IRS don't step up, the courts likely will step in. Given the Supreme Court ruling in *Citizens United v. FEC*, it is questionable whether a vague “facts and circumstances” test would survive a First Amendment challenge for restrictions on core political speech.

In addition, in light of *Citizens United*, 501(c)(4) nonprofits now can be expressly partisan, and the sector must confront a new level of potential partisan abuse of such exempt organizations. Moreover, donor disclosure for 501(c)(4) nonprofits has become a front-burner issue. The sometimes conflicting First Amendment rights of donors, nonprofits and voters in a new electoral context will need to be resolved.

### CONCLUSION

As described in The Foundation Center's *Social Justice Grantmaking II* report (2009), philanthropy has made important quantitative and qualitative progress in its support for advocacy, but the progress has been more a difference of degree than of kind. For example, private and community foundation giving for “structural change” that benefits underserved communities remained around 12 percent of overall giving between 1998 and 2006.

What is needed today is a paradigm shift, one that makes participation by

foundations, charities and their constituents in the democratic process an “ordinary, not extraordinary” part of the sector's identity and activities. Organizing to update the rules governing our advocacy will play an important part in hastening this transformation. ■

*Larry Ottinger is president of the Center for Lobbying in the Public Interest (CLPI).*

## Notes

1. <http://independentsector.org/blog/post.cfm/rubins-vase-and-the-role-of-advocacy>.
2. Some influential religious institutions did not want to be included in the 1976 law because they did not want to set a precedent for government regulation of religion. Depending on the religious community's current preferences, the legislative proposal could keep things the same, apply the updated standard to all public charities, or allow interested religious institutions to opt in.
3. See Bass, Arons, Guinane, & Carter, *Seen But Not Heard: Strengthening Nonprofit Advocacy* (The Aspen Institute, 2007), pp. 68-73.
4. [http://www.independentsector.org/uploads/Policy\\_PDFs/2009\\_Nonprofit\\_Platform.pdf](http://www.independentsector.org/uploads/Policy_PDFs/2009_Nonprofit_Platform.pdf).



PHOTO COURTESY OF CLPI.

the NCRP criteria as a harbinger for sweeping legislative mandates destined to crimp the self-determination of donors. The Council on Foundations distanced itself from the publication, claiming that it does not endorse “one-size-fits-all” measures. The Philanthropy Roundtable described it as “a serious threat to freedom, and to charitable giving as we know it.” Meanwhile, an editorial in the *Wall Street Journal* lambasted the report, claiming its intent was to “redistribute foundation wealth based on racial quotas” and to “push philanthropic institutions into ignoring donor intent.”

However, many others believed that NCRP’s *Criteria* provoked healthy public debate on the aims and responsibilities of philanthropy, echoing far beyond the traditional contours of the field. Given the considerable subsidy that foundations as tax-exempt organizations receive, proponents believe they carry the responsibility for transparency and service for “the public good.”

NCRP, in response to this criticism, clarified that the report was never designed as a blueprint for legislative mandates, but a tool to inform “meaningful self-regulation for foundations.” Moreover, the organization insisted that it is entirely possible to respect donor intent while striving to practice philanthropy in ways that are consistent with the NCRP’s *Criteria*.

It is in this spirit that the Levi Strauss Foundation encountered *Criteria for Philanthropy at Its Best*. It was neither a casual nor a *pro forma* process. At both the staff and board levels, grappling with the NCRP *Criteria* demanded rigorous (and, we believe, fruitful) reflection on donor intent, what it means to live our values and how we measure up *vis à vis* the broader field.

## APPLYING THE NCRP CRITERIA

At the Levi Strauss Foundation, we believe respecting donor intent means bringing to bear the pioneering spirit of

our namesake, as well as the values of the company he created in 1853, to push the frontiers of social change in our communities. Four institutional values—originality, integrity, empathy and courage—drive not only how the company does business but also how the Foundation supports social change in more than 30 countries around the world.

Donor intent is clearly inscribed in our mission: to advance the human rights and well-being of underserved people in places where Levi Strauss & Co. has a business presence by taking courageous risks and investing in innovative community partnerships. Our global grantmaking—annually averaging \$8 million in recent years—focuses on four priority areas, each a reflection of our values:

### COURAGE

**HIV/AIDS:** Fighting the stigma and discrimination associated with the global HIV/AIDS epidemic.

### EMPATHY

**Worker Rights:** Improving the lives of over 300,000 workers in the global apparel industry.

### ORIGINALITY

**Asset Building:** Working to end poverty through an innovative approach: helping low-income people save.

### INTEGRITY

**Social Justice & Human Rights:** Taking on the energy and events of our day and fostering access to justice.

In our 2009 global staff meeting, a full session was devoted to evaluate the Foundation’s FY2008 grant portfolio against four of the most relevant benchmarks of the NCRP’s criteria in the categories of values and effectiveness. These benchmarks are as follows:

- Provide at least 50 percent of its grant dollars to benefit lower-income communities, communities

of color and other marginalized groups, broadly defined;

- Provide at least 25 percent of grant dollars for advocacy, organizing and civic engagement to promote equity, justice and opportunity;
- Provide at least 50 percent of its grant dollars for general operating support; and
- Provide at least 50 percent of grants as multi-year grants.

Our Foundation has a tradition of applying what is affectionately termed the “So what?” test. Asking this question invites both the leader and group to probe to a deeper, more substantive layer of meaning. In many cases, it serves to keep in check a growing tendency in philanthropy (one that is perhaps even more pronounced in the field of corporate social responsibility) to value *innovation* of programmatic approaches over *impact* on individual lives and communities.

In discussion of the first criterion above, one staff member intervened with the “So what?” invocation. Since all of the beneficiaries in his grant portfolio—people living with and vulnerable to HIV/AIDS, low-income people and apparel workers in key sourcing countries of the company—fall within the NCRP’s broad conception of underserved groups, what was the purpose of this exercise? Moreover, what was the significance of giving, say, 25 percent versus 60 percent?

The importance resided in the broader context of the rest of the field; as the NCRP pointed out, only 13 percent of surveyed foundations met its suggested guideline of designating more than half of grant dollars for the widest umbrella of marginalized communities (including economically disadvantaged people, racial or ethnic minorities, women and girls, people living with HIV/AIDS, people with disabilities, elderly persons, immigrants and refugees, offend-

ers and ex-offenders, single parents and LGBTQ citizens). Through the “plumb line” of this particular criterion, we gained clarity about our foundation’s differentiation within the philanthropic field; that which is enshrined in our mission and instinctive in our grant-making practices is hardly *de rigueur* among other institutions.

Robert D. Haas, Levi Strauss Foundation president and CEO and chairman emeritus of Levi Strauss & Co., joined this session. Struck by the lively discussion, he suggested sharing the NCRP *Criteria* at the next board meeting. He cited the following rationale:

- NCRP, as an independent observer of philanthropy that seeks to bring the voices of nonprofits and marginalized communities into deliberations about foundation practices, provides an invaluable “outside-in perspective” to promote accountability;
- The benchmarks serve as a touchstone to compare where the Foundation sits relative to other U.S. foundations and reflect on the broader goals of philanthropy itself;
- *Criteria* serve as a prism to illuminate how the foundation is living up to its own aspirations and values.

We facilitated a discussion about the NCRP report, its repercussions in the field of philanthropy and its implications for the Levi Strauss Foundation at our

November 2009 board meeting. Widespread agreement emerged among the 11-member board, comprising shareholders of the company who are themselves descendents of Levi Strauss as well as business leaders representing each of our global regions, all expressing that the guidelines make sense for the foundation because they resonate closely with our vision and values.

Since then, staff has presented to the board the Foundation’s FY2009 and FY2010 grant portfolios specifically through the lens of these guidelines, institutionalizing this as an important annual practice.

**CRITERIA FOR PHILANTHROPY AT ITS BEST IN ACTION**

Analysis of the recent performance of the Levi Strauss Foundation against selected benchmarks from *Criteria* is provided below, along with “liner notes” offering insights from internal dialogues among the board and staff.

***Provides at least 50 percent of its grant dollars to benefit lower-income communities, communities of color and other marginalized groups, broadly defined (see figure 1).***

Given that empathy is one of its enshrined institutional values, the Levi Strauss Foundation focuses its investments on the following underserved target groups:

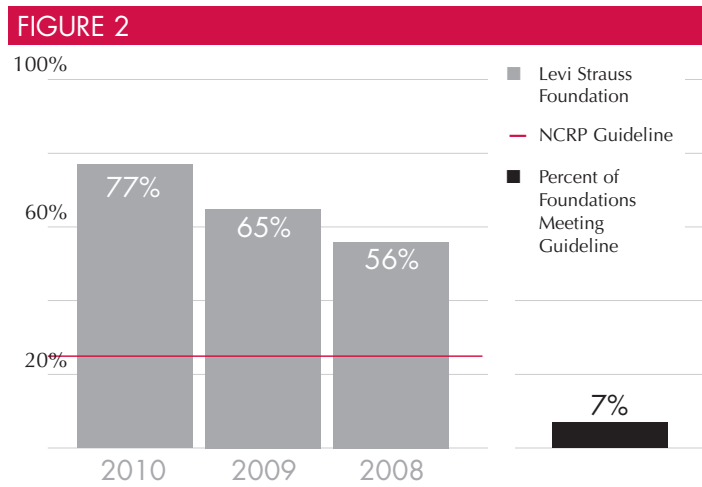
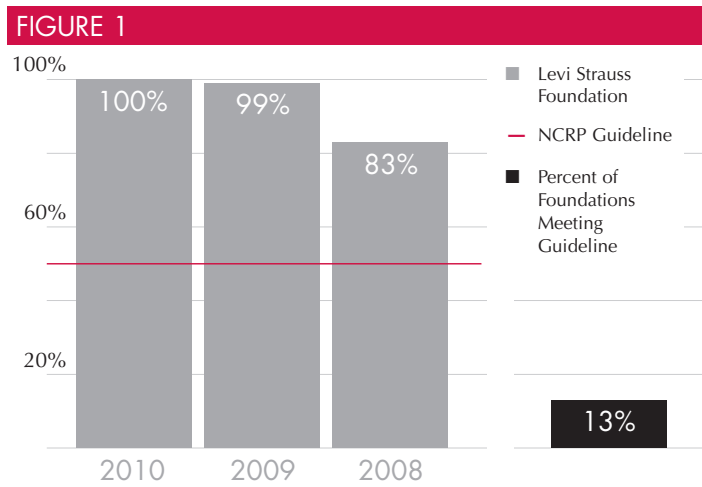
- Individuals and communities bearing the brunt of the stigma surrounding HIV/AIDS;
- Apparel workers, mostly young women entering the work force for the first time, in key sourcing countries like Bangladesh, Lesotho and China; and
- Low-income workers seeking opportunities to save and invest in long-term productive assets.

***Provides at least 25 percent of grant dollars for advocacy, organizing and civic engagement to promote equity, justice and opportunity (see figure 2).***

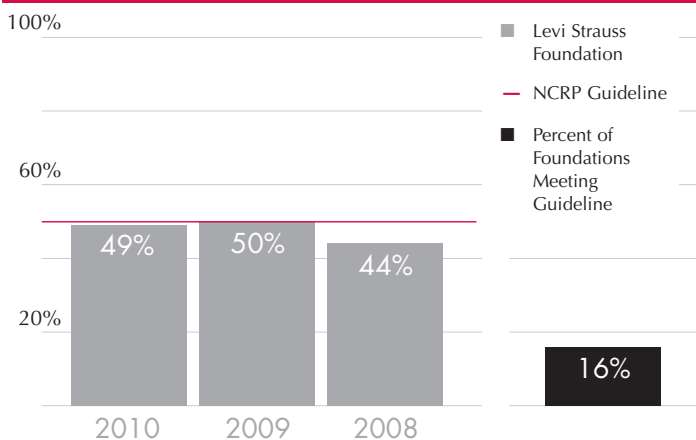
The foundation embraces three “levers” to advance pioneering social change: changing laws and policies, bringing innovative program models to scale and sustainability, and building a moral and political consensus for a change agenda. Advocacy, organizing and civic engagement are the handmaidens of these approaches. LSF supports the NCRP’s view that these strategies—which require courage, tenacity and persistence among grantee partners—are proven lynchpins to securing human rights and social justice.

***Provides at least 50 percent of its grant dollars for general operating support (See figure 3).***

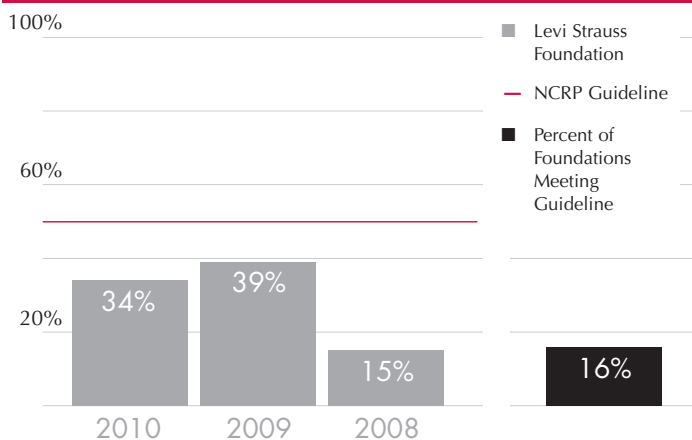
It is relevant to point out that some of the concepts LSF supports—including matched-saving programs for low-



**FIGURE 3**



**FIGURE 4**



income people and legal aid promoting redress for labor rights violations in the apparel sector—remain quite new in some parts of the globe. It often is necessary to seed these approaches through grants to larger organizations with broad mandates, necessitating project-specific support (including line items for capacity building) at the outset.

***Provides at least 50 percent of grants as multi-year grants (See figure 4).***

In 2008, our proportion of multi-year grants was unusually low. At that time, the foundation had recently completed a periodic strategic review of its grantmaking programs. With this came a preponderance of “tie-off” grants as well as new partnerships with initial one-year terms. Based on the understanding that continuity will best serve the foundation, the subsequent years will provide a valuable opportunity to “stay the course” and witness the impact of these strategies. We believe an increased proportion of multi-year grants will serve this end and also provide meaningful stability and capacity to grantee partners.

***Pays out at least 6 percent of its assets annually in grants.***

Unlike some corporate foundations, the Levi Strauss Foundation maintains a corpus, bolstering its ability to sustain

investments through the peaks and valleys of company performance—and, when possible, increase giving during hard times. In 2010, year-on-year grantmaking increased by 7 percent, while approximately 12 percent of the Foundation’s assets were disbursed.

**CONCLUSION**

Philanthropy should be not just a transactional exercise of giving away money, but a disciplined craft of investment in opportunity and change. Foundation leaders are charged with bringing the most cogent understanding of the external environment to bear in the shaping, execution and evaluation of grantmaking strategies. However, sifting through this body of work we call “foundation effectiveness”—with its parlance of performance metrics, outputs, outcomes, impact and so on—can prove dizzying, invigorating or downright somniferous.

Drawing from the insights of respected leaders from nonprofit institutions and marginalized communities, NCRP has developed a highly accessible, voluntary “plumb line” for funders seeking to challenge themselves to achieve the greatest impact in strengthening communities. In developing the *Criteria*, NCRP has made a tremendous contribution to the philanthropic sector and the field of foundation effectiveness, warranting

spirited dialogue and deep introspection rather than knee-jerk condemnation.

The board and staff of the Levi Strauss Foundation found significant value in engaging with the *Guidelines for Philanthropy at Its Best*. By applying NCRP’s “outside-in” perspective to our grantmaking, we have been able to validate and hone our approach toward increasing our community impact. This exercise forced us to look carefully at our values, legacy and guiding principles—a process that we like to call “owning our genes.” Whether or not a foundation’s objectives resonate with the NCRP’s *Criteria*, we believe that the rewards of periodically probing donor intent are considerable.

Bringing trustees and donors in conversation with external conceptions of serving the “common good” hardly constitutes a threat to charitable giving, but can only serve to strengthen our craft. Thankfully, the hoopla over the NCRP publication has died down. Fears that the criteria would serve crudely as a blueprint for legislative mandates have not come to fruition. Now, let’s get down to the real work of using them in our institutions and bring them into meaningful, inspired deliberations in our field. ■

*Daniel Lee is the executive director of the Levi Strauss Foundation.*

# The Mertz Gilmore Foundation

New York, N.Y.

<http://www.mertzgilmore.org>

Est. 1959



Joyce Mertz established the Mertz Foundation with her parents, LuEsther and Harold, in 1959 and began managing the foundation's affairs with her husband, Robert Wallace Gilmore. The Foundation was renamed The Joyce Mertz Gilmore Foundation shortly after Joyce's death in 1974. In 2002, the foundation adopted its current name, the Mertz Gilmore Foundation, to recognize the many contributions of Mr. Gilmore. The foundation uses a variety of philanthropic strategies to strengthen civic institutions and dance presenters throughout New York City, to support human rights work in the United States and to address the climate crisis.

Through the NYC Communities program, the foundation aids New York City's underserved communities with struggles such as homelessness, domestic violence, workplace violations and lack of safe housing. The program began in 2006 and supports "community-based organizations working on multiple fronts, technical assistance providers that help community organizations address organizational needs, and collaborative campaigns."

In 2010, four years after the current funding program began, the foundation decided to evaluate the program and determine how the landscape may have changed. Vice President Lukas Haynes said, "We consulted widely and reviewed recent studies, investigative reports, and news coverage of economic and social conditions in low-income communities. The heart of the review was a series of interviews with grantees, fellow funders of those grantees, and discussions with community leaders involved with organizations we support." The foundation also examined the financial health, management and internal governance practices of organizations.

"The No. 1 conclusion of the review was that we, as a foundation, continue to play an important role for a community of grantees that are struggling against great odds and often making great headway," said Haynes.

The NYC Communities program review also reminded the foundation of the importance of multi-year grant support for grantees. Haynes said, "The more we consulted and the more we

took stock of the financial health of organizations and their fundraising prospects, especially given the recession and cutbacks in grantmaking in the last few years, we felt that the responsible thing was to recommend at least a seven-year arc of funding for our core grantees. In the next couple of years, we also want to focus more attention and resources on this age-old conundrum of how grassroots groups working on tough issues in marginalized places can grow their fundraising and revenue-generating capacities."

The Mertz Gilmore Foundation is now making a more concerted effort to canvas the national landscape for best practices and new ideas around grassroots fundraising, and be as responsive to its grantees' needs as it can be. Haynes said, "All we can do is try—and to go about it in a collaborative and participatory way involving the foundation's grantees at every step." ■

*This Member Spotlight is written by Meredith Brodbeck, communications associate at the National Committee for Responsive Philanthropy (NCRP).*

## NEW AND RENEWING MEMBERS

Americans for the Arts  
Basic Rights Oregon  
Bay Area Blacks in Philanthropy  
Brett Family Foundation  
California Endowment  
Cricket Island Foundation  
Discount Foundation  
Environmental Support Center  
Equal Justice USA  
Got Green  
Highlander Research & Education Center  
Interfaith Worker Justice

John D. and Catherine T. MacArthur Foundation  
Justice Works  
King County Coalition Against Domestic Violence (KCCADV)  
Leadership Center for the Common Good  
Legal Voice  
Levi Strauss & Co.  
Mexican American Legal Defense & Educational Fund (MALDEF)  
Montana Human Rights Network (MHRN)  
Nashville Public Library  
National Center for Transgender Equality

National Coalition Against Domestic Violence (NCADV)  
National Council of La Raza  
National Institute on Money in State Politics  
Native American Rights Fund  
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***Seizing the Moment: Frank Advice for Community Organizers Who Want to Raise More Money*** November 2009  
Aaron Dorfman and Marjorie Fine offer useful and pragmatic tips that can help community organizers dramatically increase funding from institutional grantmakers and major individual donors.

***Confronting Systemic Inequity in Education: High Impact Strategies for Philanthropy*** October 2010  
Authors Kevin Welner and Amy Farley examine the cycle of unequal educational access and opportunities faced by students from marginalized communities. They recommend concrete strategies for philanthropy to help solve this education equity crisis.

***Strengthening Democracy, Increasing Opportunities: Impacts of Advocacy, Organizing and Civic Engagement in Pennsylvania*** February 2011  
NCRP looks at how 13 nonprofits and their allies helped improved their communities and amplified the voices of vulnerable residents in the democratic process through advocacy and community organizing efforts.

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