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Nonprofit Insights

A Newsletter for Nonprofit Decision Makers

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Nonprofit Governance

Is Your Board an Accident Waiting to Happen?

Nonprofits have an incredible resource in their board of directors. These are the talented, energetic folks who believe in your mission — and have a passion for seeing you succeed.

That's the good part. The bad part is that passion and enthusiasm only go so far. Nonprofits are different — their finances, funding and compliance requirements are radically different than those of a for-profit business.

Four Ways Boards Get in Trouble

Even the best-intentioned board members can get your nonprofit in trouble if they don't receive at least some basic training in their roles and responsibilities. For example:

1. They don't play by the rules. Not understanding all the rules and regulations of the nonprofit world can trigger harsh penalties — possibly even revocation of the nonprofit's tax-exempt status. For example, if your fundraising committee launches a high-impact direct mail campaign but fails to follow registration requirements for charitable solicitation in your state, trouble can ensue. Ditto for a gung-ho board chair who sends out a personal letter on your organization's letterhead campaigning for a candidate in a local election in clear violation of lobbying limitations.

Likewise, without the requisite knowledge, your board may not follow proper procedures and best practices, such as maintaining accurate minutes, following the bylaws and properly documenting all board decisions.

Reality: The final responsibility for all legal and compliance matters rests with your board.

2. They don't understand the financials. Board members don't need to know everything the CFO does, but they do need to know something about the financials. In particular, they need to understand whether the organization is making (or losing) money and if its programs are sustainable. Yet, nonprofit financial statements can be a hard read even for otherwise financially savvy members.

Board member disconnect can occur around donor-imposed restrictions — which do not exist in a for-profit setting. For example, board members need to know that a nonprofit's *Statement of Activities* reflects the activities in both donor restricted funds and unrestricted or board designated funds. They should understand that donor restricted funds may be released from restriction by actions taken by the nonprofit or by the passage of time.

Reality: Nonprofit financial statements are unique in terminology and their underlying concepts, both of which should be reinforced whenever financial statement information is presented to the board.

3. They create conflicts of interest. Without proper training, a board member might urge the organization to purchase janitorial services through a firm owned by a family member. Or, maybe a major donor promises much-needed funds only if

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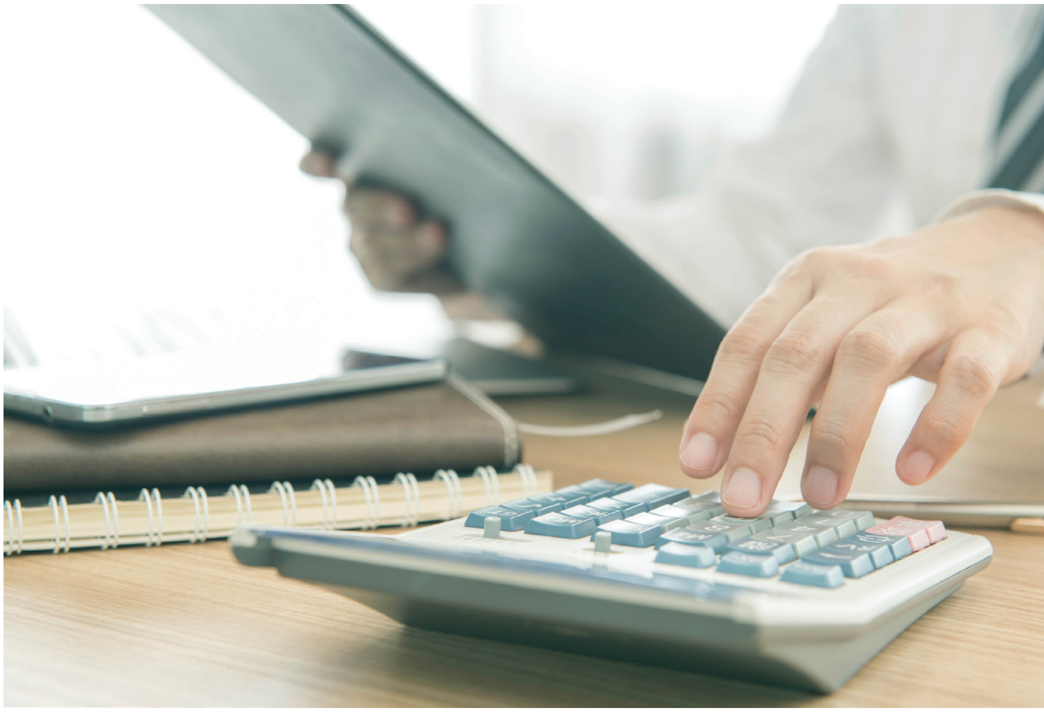
4 What Are 403(b) Plan Compliance Responsibilities?

Audit Q&A

What to Know When Taking Federal Money



The Office of Management and Budget (OMB) has streamlined its guidance on audit requirements for nonprofits that receive federal awards. Among other things, the new rules reduce the burden on smaller nonprofits by increasing the threshold that triggers compliance audits from $500,000 to $750,000. Thus, nonprofits will be required to undergo a single audit only if they spend $750,000 or more in federal awards in a fiscal year.

Prior to the issuance of the new Uniform Guidance, *OMB Circular A-133* governed the audit requirements under the Single Audit Act. Consider these answers provided by the National Council of Nonprofits to some of the most commonly asked questions by nonprofits that receive federal funding:

Q: What is a "Single Audit?"

A: The OMB explains it this way: "A Single Audit is intended to provide a cost-effective audit for non-federal entities in that one audit is conducted in lieu of multiple audits of individual programs."

Q: When is the audit requirement triggered?

A: The requirement for a nonprofit to conduct a Single Audit is triggered when a nonprofit receives federal funds from either one or several government funding sources *and* when that nonprofit expends $750,000 or more in federal funding in a single year.

Q: What is meant by "federal funding"?

A: Federal funding includes either money that originated directly from the federal government — whether in the form of a government contract or a grant — or funds that came to the nonprofit from a "pass-through entity," such as a state or local government agency.

Q: What if the nonprofit receives less than the threshold for federal funds?

A: Nonprofits that spend less are required only to make their records available for review or audit by the federal awarding agency, any pass-through agency and the U.S. Government Accountability Office.

Q: When do the new rules take effect?

A: These regulations became effective for new awards and/or new funding increments made on or after Dec. 26, 2014. However, standards set forth related to the audit requirements will be effective for audits of fiscal years beginning on or after Jan. 1, 2015 (i.e., the first single audits affected by this rule will be for the year ending Dec. 31, 2015).

Q: How is a Single Audit different from a regular independent audit?

A: A Single Audit of federal funds is much more detailed than a regular independent audit of your organization's financial statements. Substantially higher levels of testing are performed on expenses to verify that the federal funds have been properly used, and auditors are required to verify compliance with regulations specific to the program or grant for which funds were expended. It is important to note that auditors who perform Single Audits are required to receive a heightened level of professional education.

Q: Who covers the cost?

A: The costs of auditing the financial statements are allowable as in-direct costs for non-federal entities subject to the requirements of the Single Audit Act.

Q: When is the audit report due?

A: The Single Audit must be completed and submitted either 30 days after receiving the auditor's report or nine months after the end of the nonprofit's fiscal year, whichever comes earlier.

Q: Who receives the audit?

A: The Single Audit also must be submitted to any pass-through entity, if applicable, and copies of the audit report must be made available to the public. ■

Our firm has extensive experience working with nonprofits that require audits in accordance with Government Auditing Standards. Please contact us to learn more.

The Give and Get

How to Build a Fundraising-Friendly Board

Make no mistake: Your board is the single most powerful fundraising tool you have. Yet, the ability to be an eager and effective solicitor of gifts is not a given. Your board members may need some guidance to live up to their potential as fundraisers.

Give Them What They Need

The first step is to set expectations. It's tempting to gloss over the whole "give and get" conversation for fear of scaring off a good candidate. But board members need to know they are responsible for soliciting gifts in addition to supporting the organization with their own contributions.

Next, provide the tools and assistance board members need to overcome the natural reluctance to ask others for money. For example, send them to workshops and sign them up for webinars, and make fundraising a key topic at board retreats.

In the same vein, board members who understand the organization's vision, mission and values can more easily "tell the story" and make a passionate case for support. Encourage visits to your facilities, and invite board members to events where they can watch the organization at work and see how real people benefit from its work.

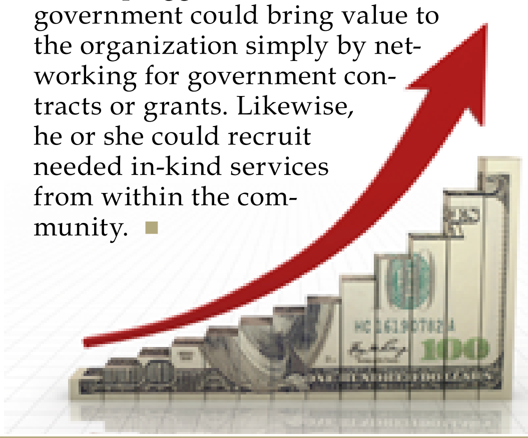
At the very least, make sure they know the facts, figures and superlatives for your organization. Board members who don't know your nonprofit well enough to answer detailed questions about it are not going to be confident (or effective) fundraisers.

Finally, partner new board members with a mentor who has been a successful fundraiser. By accompanying a mentor on a donor visit, a less-experienced fundraiser can see how it's done.

Not All Gifts Are Good

It is also critical for your board to understand that not all gifts are good. A well-thought-out gift acceptance policy will help weed out the rare gift that you would not want to accept — and ensure that the ones you do accept can be utilized in a way consistent with your mission.

Finally, remember that the "get" doesn't always have to be about board members hitting up their networks for money. A board member who is plugged in to state or local government could bring value to the organization simply by networking for government contracts or grants. Likewise, he or she could recruit needed in-kind services from within the community. ■



Nonprofit Governance and Your Board

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the organization conducts business with a particular company.

Reality: *IRS Form 990* asks very specifically whether the nonprofit has a written conflict of interest policy, as well as a description of the process used to manage such conflicts.

4. They overstep their authority. Problems occur when a board starts getting into the business of "doing" rather than "directing." A well-meaning board may start meddling in the organization's day-to day operations and micromanage staff.

Reality: A board's primary duty is to set policy and provide high-level leadership. Likewise, nonprofit board members are ultimately tasked with being the "vision keepers" of the organization. More than anyone, they need to have a clear understanding of the organization's mission and purpose — and a vision for where it is headed next.

There's No Replacement for Training

The knowledge that board members need to do their job doesn't come by accident. Nonprofit leadership must take the lead in providing ongoing training. This includes providing solid orientation that sets expectations and prepares new board members for their role. It also includes ongoing training, refreshers and updates as needed throughout the year.

Not sure where to start? Just ask. A good way to determine ongoing training needs is to conduct a board self-evaluation. For example, if your board is telling you that they really don't understand the budget and financial statements they are asked to review, you can create specific training that meets those needs. This training could be as simple as asking someone from your independent audit team to spend 15 minutes during a regular board meeting to bring everyone up to speed on an accounting change or new auditing requirement.

As the nonprofit world becomes increasingly more complex, it's imperative that board members know their duties and provide the high-level leadership needed for success. In the end, they may only be as good as their training. ■

Our professionals can provide fresh ideas for training and developing your board. Call us to learn more.

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403(b) Checkup

Four Things You Should Be Checking

With so many complex and ever-changing rules, nonprofits that provide a 403(b) plan for employees should regularly review their retirement plan compliance responsibilities, including these key areas:

1. Employee contributions — These must be remitted by the earliest date that is reasonably possible to segregate the contributions from the employer's general assets, but no later than the 15th business day of the following month. Compliance issues arise when plan administrators mistakenly treat the "15th business day" rule as a safe harbor and, in reality, contributions can reasonably be segregated in a shorter time period.

2. Compensation — Eligible compensation should be thoroughly defined and cover the entire range of compensation — from W-2 wages and overtime to bonuses and fringe benefits. Problems can occur when a third-party administrator or payroll processor is not up to speed on the plan's definition of compensation, or when the plan's definition of compensation is amended but the third-party administrator or payroll processor is not notified.

3. Eligibility — Plan sponsors are ultimately responsible for maintaining an accurate list of eligible participants. Be sure to document that employees have been notified of their eligibility to begin participating in the plan, as well as those who elect not to participate.

4. Fees — Plan sponsors must also determine the reasonableness of all fees paid to outside service providers (like a third-party administrator or investment advisor). This entails benchmarking or otherwise comparing those fees to industry norms.

Remember that the ultimate responsibility for the plan's operation rests with the plan sponsor, not the outside service providers you may hire to maintain your benefit plans. The IRS cuts nonprofits no slack for noncompliance — even unintentional errors. ■