

## IRS Form 990 Is Your Board Onboard?

**IRS Form 990 provides a very public** view of your nonprofit organization — everything from program accomplishments to executive salaries and fundraising costs. These are the in-depth details that the media, charity watchdog groups and the public at large want to see when evaluating a nonprofit's effectiveness.

Therefore, it only makes sense that your board knows what's in your Form 990 before it "goes live." In fact, you'll be asked very specifically whether your organization has provided a complete copy of the form to all members of its governing body before filing it. Schedule O of the form asks you to describe in detail the process by which the board reviewed the form.

### For the Record

To be clear, there is no legal requirement that a nonprofit's governing board be provided a copy of Form 990 before it is filed. But ask yourself this: Do you really want to go on record as saying that your board was kept in the dark — or did not care enough to review this critical document?

The bottom line is that your entire board — not just board chairs and executive directors — should be confident of what is in your organization's Form 990.

Start by educating board members about their fiduciary responsibilities, including specific training in how to interpret financial state-

ments and audit results, as well as education about Form 990 and its role as a public document. Have the board identify areas that deserve extra scrutiny, such as executive compensation, expense allocation and lobbying activities. Likewise, have critical narratives such as program service accomplishments and changes in activities reviewed by those individuals who are most familiar with them.

Next, create a manageable-sized board committee responsible for a thorough review of the form. Often, these duties are delegated to the audit committee, which then relays pertinent information back to the full board. Finally, have the entire board review the Form 990 before it is submitted. If necessary, designate a special session for this, such as an executive session or a board/staff retreat.

### Involve Everyone

In reality, your board, staff and executive leadership should all be involved in preparing and reviewing this important document. In particular, they can play a strong role in the reporting of such critical areas as:

- **Program accomplishments** — Form 990 asks you to describe your mission and most significant activities. These should include your three largest programs, how much you spent on each of them in the prior year, and whether you discon-



tinued any core programs since your last filing.

**Involve:** Your executive director and program heads can help in crafting how to best describe and measure program accomplishments. Don't leave this prime opportunity to tell your organization's story in the hands of your bookkeeper or auditor.

- **Compensation** — Full compensation for all key employees and board members must be disclosed, including a listing of the five high-

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# Is Your Disaster Recovery Plan on Track?

**I**t seems the world is an angrier place these days — from violent weather to violent people. Whether the havoc comes compliments of Mother Nature or a band of marauding hackers, it's critical for nonprofits to have a disaster recovery plan in place.

Following are some common questions nonprofits have about creating a strategy for getting up and running in the wake of a disaster.

### **“Where Do We Start?”**

The first step in creating a disaster recovery plan is to identify risks and their potential impact on your nonprofit's operations. If a major power outage struck your area, for example, would you be able to perform some functions manually for a limited time — or would loss of power bring things to a grinding halt?

By quantifying risks and their impact, you can determine which areas should receive the bulk of recovery resources and how quickly recovery needs to happen.

### **“Who's In Charge?”**

In the confusion of a crisis, nonprofit leadership can become paralyzed. As part of your planning, make sure that chains of command are established and key leaders are clearly identified. For example, identify who will notify

employees and volunteers not to report for work, or to report to another location. Designate someone to manage the retrieval of critical data from off-site storage locations. And assign a spokesperson to communicate with government officials and the media.

Ensure that an up-to-date call list is readily accessible and contains contact information for all staff, volunteers and key vendors. Add some redundancy by making the list accessible through multiple channels — a hard copy as well as a copy on your smartphone, website or other media.

### **“Where's the Data?”**

Obviously, you'll want to make sure you have your data backed up somewhere offsite. These days, that typically means some form of cloud storage. It could also be data stored on portable hard drives or flash media and then transported to a secure location, such as a safe deposit box. Or, it might be something as simple as backing up data on a second PC that is stored at an off-site location.

Depending on how urgent the data is, it may make sense to contract with firms that specialize in providing disaster recovery services. These services include disaster

recovery hot sites (physical locations where employees can come to work), redundant data storage, and secure hosting services for both web- and non-web-based applications.

### **“Will We Have Enough Money?”**

If ATMs and bricks-and-mortar bank locations are impacted, your organization may need to fend for itself financially. With this in mind, carefully consider your organization's liquidity.

Having access to a line of credit can help bridge the gap until everything is up and running again. As part of your planning, be sure to consult with an insurance professional to determine if your insurance coverage is adequate to help you get back in business following a disaster.

### **“How Do We Get the Word Out?”**

Demands for information about your recovery will probably persist for some time. Here, the goal is to get the word out that you are still in business and functioning. Set up a special post-disaster section on your website detailing your disaster recovery challenges and progress. This might also be a good time for emergency appeals via text, social and email — both for your nonprofit itself and the constituencies you serve.

### **After the Storm**

When disaster strikes, nonprofits that are able to reopen sooner help their communities recover more quickly. The good news is that creating a disaster recovery plan doesn't have to be an expensive or time-consuming process.

Many of the steps in your plan will involve simple, commonsense things that you and your employees should do, like making sure supervisors have current home phone numbers for all their reports.

Ultimately, disaster recovery planning is not a specific project with a beginning and an end. Nonprofits that regularly review their plan and “run the drill” are the ones best prepared to weather the storm. ■



# Understanding Excess Benefit Transactions

**W**hen someone in your organization receives far more benefit from a transaction than the non-profit does, it can result in an “excess benefit transaction.” These self-serving transactions are not taken lightly by the IRS.

Not only is the person who receives the excess benefit penalized, but the person or persons who authorized the transaction are also held liable. Here’s a scenario that shows just how serious this situation can be:

Acme Computers is owned by the sister of World Charity’s board chair. Acme contracts with World Charity for IT services. The contract is for \$200,000 a year, but the going rate for similar services is just \$100,000.

The IRS determines that the services contract provides unreasonable compensation to an “insider” or “interested person” — in this case, the sister of World Charity’s board



chair. Based on surveys of what similar organizations in the same geographic area pay for comparable services, the IRS rules that an excess benefit transaction has occurred. Acme Computers must now pay back the \$100,000 in excess benefit.

In addition, the IRS assesses Acme Computers a penalty of 25 percent of the excess benefit, or \$25,000. If Acme Computers doesn’t pay the full \$125,000 promptly, an additional penalty equal to 200 percent of the unpaid portion of the excess benefit — in this example, another \$200,000

— will be due for a total penalty of \$325,000 on a \$100,000 excess benefit. Interest would also apply.

But it gets even worse: Any of the World Charity managers who “knowingly approved” the transaction must pay a penalty tax equal to 10 percent of the excess benefit.

Avoiding such conflicts of interest begins with effective compliance policies and procedures. A good place to start is with a strong code of ethics and a conflict of interest policy that establish expectations of lawful conduct. ■

## Is Your Board Onboard With Form 990?

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est paid employees and independent contractors making more than \$100,000.

**Involve:** Your board’s compensation committee (or equivalent) can review compensation for the executive director and other key employees each year. This will ensure that compensation is supportable under the intermediate sanctions rules.

• **Governance** — The “Governance, Management, and Disclosure” sections of Form 990 ask probing questions about your organization’s board structure, policies and practices (for example, whether you have adopted conflict-of-interest, whistleblower and record retention policies).

**Involve:** Your board and executive director can review the governance

questions in Part VI of Form 990 to determine whether governance practices and policies should be implemented or changed.

• **Expenses** — Form 990 requires you to report expenses by their natural classification (such as wages, payroll taxes, occupancy) and then allocate the classifications to functional categories (such as Program Services, Fundraising or Management and General). You can be sure that this section will be scrutinized by readers to see how much your organization spent on fundraising and management versus actual program services.

**Involve:** Your executive director and accounting/bookkeeping staff can develop processes for classifying which expenses are legitimately

program expenses and which are support expenses. Once you have established these criteria, make sure your accounting system is capturing the financial information necessary to properly complete this section of the form.

### Ensure an Accurate Form 990

The information being provided about your nonprofit’s finances and governance practices on Form 990 underscores the importance of making sure your board members and executives review — and understand — the information that’s being submitted. ■

*Have more questions about this important document? Contact our office today for help in understanding and complying with IRS Form 990.*

## HOW CAN YOU BUILD YOUR ORGANIZATION FOR TOMORROW?



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## An Executive Compensation Checkup

**O**ne of the quickest ways for a non-profit to get in trouble is to pay officers and key employees excessive salaries. To keep on the straight and narrow, consider these five tips for making your compensation decisions:

**1. Establish a compensation committee.** Designate a group of board members to act as an independent compensation committee. Have the full board establish goals and objectives for the committee and outline a process for setting compensation levels. Spell out the board's duties in an official "committee charter."

**2. Mine comparables.** The trick with executive compensation is to pay comparable compensation for comparable work. So have the com-

penensation committee gather information about salaries at nonprofits of similar size, location and activity. Larger nonprofits may consider hiring a consultant that specializes in compensation issues.

**3. Set salaries at market level (or be prepared to justify the extra pay).** If the compensation committee sets salaries far above current market levels, you will need to provide specific reasons why your executives should be paid more.

**4. Consider perks.** Be aware that IRS Form 990 also asks very specific questions about things like spousal travel, first class travel, social club dues and other benefits that could contain a compensation element. You'll need to pay attention to all

elements of compensation and be sure that the total compensation paid does not exceed what is reasonable.

**5. Keep written records of all decisions.** Maintain detailed minutes of compensation committee meetings as well as meetings of the full board where salary is discussed. You'll want to document how compensation decisions were made and retain copies of the information used in making those decisions

Nonprofits that follow these basic steps should be able to pass muster with their compensation decisions. ■

*Our experienced professionals can offer valuable guidance, including providing comparable salary data. Call us to learn more.*



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