Compliance:
Nonprofit Taxes, Audits, and Reporting

Dr. Alicia Schatteman
DCNP – October 2017
Disclaimer!

• Not a lawyer or accountant, always consult with these professionals

• Purpose of today is become familiar with concepts

Your Future, Our Focus
Government Involvement in Charities

- Prior to 1900s, most giving was private, neighbor to neighbor, religious organizations or the very wealthy
Nonprofit Accountability Climate Today

- Government: more regulation
- Self-regulation: accountability clubs, standards and codes within the sector and within sub-sectors
- Public: call for transparency, accountability, effectiveness
- “Fuzzy” definitions of nonprofits; partnerships, contractual relationships, social-entrepreneurs, quasi-public, quasi-nonprofits
Why Confidence in the Nonprofit Sector Has Decreased

<table>
<thead>
<tr>
<th>Factor</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Scandals in the sector</td>
<td>73%</td>
</tr>
<tr>
<td>People don’t understand the complexity of the sector</td>
<td>48%</td>
</tr>
<tr>
<td>Nonprofit executives’ salaries</td>
<td>45%</td>
</tr>
<tr>
<td>Low program ratios</td>
<td>12%</td>
</tr>
<tr>
<td>It's much easier to get information on nonprofits today</td>
<td>9%</td>
</tr>
</tbody>
</table>

Source: Coffman (2006)
Where is your bar?

VALUES

People First
Donor-Centered
Environmental Impact
Financial Transparency

ETHICS

Don’t steal $

Ethics Test

Narrow Application
Broad Application

Your Future, Our Focus
Scandal for United Way

- William Aramony was President of United Way of American from 1970-1992
- He was jailed in 1995 for defrauding the organization of more than $1 million
- Convicted in 1995 on 23 counts of felony charges, including conspiracy, fraud and filing false tax returns
The Tribune took pay data from IRS 990s and analyzed it for executives of nonprofit organizations with budgets greater than $10 million, with at least 75 percent of their funding coming from the state.

The newspaper focused on 18 organizations whose top executive remained the same in 2009 through 2010 — enough time to look at two typical cycles of raises during the heart of the recession.

Among the 18 nonprofits the Tribune studied, 14 executives made more in 2010 than the $150,000 threshold for state Cabinet-level officials who oversee the contracts given to the organizations.
## In the News

### Executive raises and compensation for Illinois nonprofit CEOs

A Tribune analysis of financial filings of 18 nonprofits found that their executives received an average of 4.3 percent in pay raises in 2009 and 2010. These nonprofits also rely significantly on money drawn from the state.

#### HIGHEST AVERAGE ANNUAL RAISES

<table>
<thead>
<tr>
<th>Name, organization</th>
<th>Organization's mission</th>
<th>2010 compensation</th>
<th>Average annual raise</th>
<th>Organization revenue, pct. from state, FY 2010</th>
<th>Organization's rationale for executive pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>James Hogan</td>
<td>Provides services for people with disabilities</td>
<td>$244,450</td>
<td>12.7%</td>
<td>$23 million, 77% from state</td>
<td>Cornerstone said pay was based on performance and the market.</td>
</tr>
<tr>
<td>Robert Wharton</td>
<td>Oversees multiple programs to aid the poor and children</td>
<td>$275,107</td>
<td>12.3%</td>
<td>$223 million, 92% from state</td>
<td>Did not offer a reason. Wharton was later fired on allegations he bilked a former employee.</td>
</tr>
</tbody>
</table>

#### HIGHEST COMPENSATION

<table>
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<tr>
<th>Name, organization</th>
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<th>Organization's rationale for executive pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Diane Williams</td>
<td>Helps people with criminal records get and keep jobs</td>
<td>$352,075</td>
<td>-1.3%</td>
<td>$27 million, 75% from state</td>
<td>Safer said pay is set based on performance and comparable CEOs' compensation.</td>
</tr>
<tr>
<td>Maria Whelan</td>
<td>Help working poor and others with child care and education assistance</td>
<td>$339,765</td>
<td>3.5%</td>
<td>$36 million, 89% from state</td>
<td>Pay is set based on comparable nonprofit CEOs' compensation.</td>
</tr>
</tbody>
</table>

**SOURCES:** The Tribune analyzed state payment data from the comptroller's office, and Internal Revenue Service filings from the Illinois attorney general and nonprofit groups. Reporters focused on 18 nonprofits that had the same CEOs from 2008 through 2010 and had revenue of $10 million or more with at least 75 percent of it coming from the state.
Nonprofit Salary Caps?

• The Massachusetts Senate has twice passed a bill that set caps on executive pay at all nonprofits, not just those receiving public money, and not just large ones.

• In Florida, reports of exorbitant pay for some nonprofit executives sparked a proposal to limit the pay of those whose agencies rely on public funding.

• But only New York has set caps, after Gov. Andrew Cuomo this spring ordered state agencies to limit pay at nonprofit vendors to $199,000, although nonprofits can raise private money to boost the pay or seek special permission from the state.

• In Illinois, no caps have been imposed.
The Nonprofit Sector

• 1.4 million nonprofit organizations registered with the IRS, estimated another 600,000 not registered (churches)
• About $350 billion donated annually
• $3 trillion of the nation’s total assets
• $1.4 trillion in annual revenues more than 11 percent of the nation’s gross domestic product
Federal Regulation: 19th century

- Before the IRS, it was left up to the probate courts, the main regulators of charity in the 19th century, to determine charitable worthiness of donations
- Most giving done at the end of one’s life
Turn of the 20th century

- Federal tax policy towards charity began with the federal income tax introduced as part of the Wilson-Gorman Tariff Act of 1894
- Income taxes designed to make up for loss of tariff revenue, included exemptions for charitable organizations
To Create a Nonprofit

• **State law** governs nonprofit status, which is determined by an organization’s articles of incorporation or trust documents.

• **Federal law** governs tax-exempt status. IRS specifically refers to exemption from federal income tax.
Before Applying to IRS

• Determine if your organization is one of the following:
  • Trust
  • Corporation
  • Association

• Gather your organization documents.
• Determine your state’s registration requirements.
• Obtain an employer ID number (EIN) for your new organization.
Government Regulation

Federal
- IRS determination and annual filing
- Employment tax
- Funding requirements

State
- Statutes: income tax, sales tax, solicitation
- Funding requirements

Local
- Ordinances
- Property tax
- Utility charges
- Funding requirements
The Federal Agency: Internal Revenue Service (IRS)

– Internal Revenue Service (IRS): The IRS is a bureau of the Department of the Treasury.
– The 16th Amendment of the US Constitution gave Congress the authority to enact an income tax
– All revenue (excluding non-mission revenue) of nonprofit organizations is not subject to income tax by the federal, state or local governments at this time
October 3, 1917

- US Congress passed legislation that all gifts to charities would be exempt from taxes from the federal government.
- About 30% of all filers itemize their taxes and can take that deduction.
• https://www.irs.gov/charities-non-profits
• Getting Tax Exempt Status
• Annual Reporting & Filing
• Revoked? Reinstated?
• How to Stay Exempt
• How to Close Your Nonprofit
Applying for Tax Exempt Status

• IRS Form 1023 or IRS Form 1023 EZ used to apply for recognition as a tax-exempt organization under Section 501(c)(3)
• The IRS divide 501(c)(3) organizations into two classes: private foundations and *public charities*.
• Generally, organizations that are classified as public charities are those that:
  – Are churches, hospitals, qualified medical research organizations affiliated with hospitals, schools, colleges and universities,
  – Have an active program of fundraising and receive contributions from many sources, including the general public, governmental agencies, corporations, private foundations or other public charities,
  – Receive income from the conduct of activities in furtherance of the organization’s exempt purposes, or
  – Actively function in a supporting relationship to one or more existing public charities.
US Nonprofit Organizations: IRS Classifications

501(c)(3) Public Charities
998,758 organizations

Large orgs
(Form 990 filers)
• Hospitals
• Colleges
• Human services
• Museums
• Community foundations
• Many others

Small orgs
(Below revenue/asset threshold to file 990)
• Community theaters
• Neighborhood orgs
• New organizations
• Many others

Congregations
(Registration optional)

501(c)(4) Social Welfare Orgs
111,561 organizations

• Civic associations
• Service clubs
• Advocacy orgs
• HMOs & managed care plans
• Many others

501(c)(3) Private Foundations
118,368 organizations

Grantmaking foundations
Family, corporate, & individual foundations

Operating foundations

501(c)(6) Business Leagues
72,682 organizations

• Chambers of commerce
• Business associations
• Boards of trade
• Professional sports leagues

501(c)(7) Social & Recreation Clubs
57,030 organizations

• Country & golf clubs
• Fraternities & sororities
• Athletic clubs
• Alumni clubs
• Many others

501(c)(9) Fraternal Beneficiary Societies & Associations
58,166 organizations

• Fraternal organizations
• Lodges
• Benefit providers
• Insurers
• Many others

501(c)(5) Agricultural, Horticultural & Labor Orgs
58,299 organizations

• Farm bureaus
• Labor unions
• Labor organizations
• Many others
Definitions

- Nonprofit “is a designation given by the IRS to describe organizations that are allowed to make a profit but that are prohibited from distributing their profits or earnings to those in control of the organizations”
L3Cs

• Low-profit limited liability companies, or L3Cs, a form of social enterprise that puts mission first and profits second.

• L3C is a for-profit organization, so it would have to pay taxes on its profits, and it can't receive traditional grants or tax-deductible charitable contributions, like 501(c)(3) public charities can.

• Effective as of January 1, 2010, the Illinois Limited Liability Company Act authorizes the formation of L3Cs governed by Business legislation
Characteristics of NPs

1. Public service mission
2. Organizational structure of a nonprofit or charitable organization
3. Governance structure that preclude self-interest and personal financial gain
4. Exemption from paying federal taxes
5. Special legal status stipulating that gifts made to the organization are tax-deductible
Legal/Regulation Changes

• The **Johnson Amendment** is a provision in the U.S. tax code, since 1954, that prohibits all 501(c)(3) non-profit organizations from endorsing or opposing political candidates. ...

• The **amendment** is named for then-Senator Lyndon B. **Johnson** of Texas, who introduced it in a preliminary draft of the law in July 1954.

• National Council of Nonprofits: [https://www.councilofnonprofits.org/](https://www.councilofnonprofits.org/)

• State Nonprofit Association: Forefront [https://myforefront.org/](https://myforefront.org/)
Operation rules

- absolutely refrain from participating in the political campaigns of candidates for local, state, or federal office;
- must restrict its lobbying activities to an insubstantial part of its total activities;
- must ensure that its earnings do not inure to the benefit of any private shareholder or individual;
- must not operate for the benefit of private interests such as those of its founder, the founder’s family, its shareholders or persons controlled by such interests;
- must not operate for the primary purpose of conducting a trade or business that is not related to its exempt purpose, such as a school’s operation of a factory;
- and may not have purposes or activities that are illegal or violate fundamental public policy.
Unique to 501 c 3 Organizations

• Eligible to receive tax-deductible charitable contributions
• Exempt from income and sales tax
• May be exempt from property tax
• Cannot endorse a political candidate or party
**IRS 990 Forms for Nonprofits**

- **Form 990.** Nonprofit organizations with at least $200,000 in annual gross receipts or at least $500,000 in total assets are required to file Form 990 with the IRS.

- **Form 990-EZ.** Organizations that have gross receipts between $50,000 and $199,999 and total assets of less than $500,000 at the end of the year must either file Form 990-EZ or file the full Form 990.

- **Form 990-PF.** This form is filed by private foundations of any size. However, since some funders require Form 990, some smaller nonprofit organizations file Form 990 even though the IRS does not require them to do so.

- **Form 990-N** (also known as the e-Postcard). Small tax-exempt organizations whose annual gross receipts are normally $50,000 or less may choose to submit Form 990-N instead of completing Form 990 or Form 990-EZ.
Audits

• The IRS does mandate audited financials for those nonprofits that receive more than $500,000 in grants or awards from federal agencies in a given fiscal year.

• Audits are only required for that year.
View 990 Data

- IRS 990 Information Return: self-reported financial data available to the public through Guidestar.org and to researchers through the National Center for Charitable Statistics.
Digital Data Access

• June 2016: IRS announced that the publicly available data on electronically filed Forms 990 will now be available for the first time in a machine-readable format through Amazon Web Services (AWS). Previously, this Form 990 data was only available in image files.

• Electronic filers: IRS regulations only require organizations with $10 million or more in assets and at least 245 employees to file their tax returns electronically, meaning that most organizations are not subject to this law.
IRS Stay Exempt

• Worker Classifications:
  – Employee or independent contractor tests
    • Behavioral (time, place and manner)
    • Financial (worker directs financial aspects of the work)
    • Relationship (termination and employee benefits)
    • Statutory workers: officers are employees, directors are nonemployees
Employment Issues Facing the Sector

- Aging workforce, retirements of baby boomers
- Becoming more professionalized, meaning more workers have bachelor’s and graduate degrees, growing number of college programs
- Challenging competition for top talent
- Perception of the public around nonprofit employee compensation
- Trust in the sector at risk due to mismanagement or criminal activity by nonprofits, transparency issues
- Growing demand for services, threat of burnout
• Pressure for financial sustainability
• Increasing accountability and data analytics to report on impact
• Attracting younger and qualified individuals into leadership positions
• Supporting professional development for nonprofit employees to develop leadership
• Potential repeal of Johnson Amendment
Nonprofit Staff Compensation

- Workers are either volunteers, employees, or independent contractors. Only non-exempt employees are entitled to be paid for overtime. So each position needs to be evaluated.
- Overtime law: On November 22, 2016, a Federal District Court judge in Texas granted a preliminary injunction to delay the December 1st implementation of the Obama Administration's proposed changes to the Fair Labor Standards Act.
- On August 31, 2017 U.S. District Judge Amos Mazzant officially concluded that the FLSA overtime rule is invalid.
- The overtime exemption level would have been raised from $23,660 ($455 per week) to $47,476 ($913 per week), covering many nonprofit workers.
- New regulations could be proposed in 2018.
- Department of Labor: https://www.dol.gov/general/topic/wages/overtimepay
Employment Tax and Volunteers

• Normally present no employment tax issues
• If the organization gives volunteers cash items including gift certificates or any other taxable fringe benefit, it must include these items in the volunteers’ taxable wages
• Nonprofits must collect federal employment taxes on wages
• Withhold and pay federal income tax and social security and medicare (FICA) together
• Nonprofits must issue Form W-2 Wage and Tax Statement for all employees
• All nonprofits must have employees submit the Form I-9 employment eligibility and verification
Use of Consultants

• For contract workers (like consultants) nonprofits must issue Form 1099 to the independent contractor
What’s NOT on the 990

• Donor information
• Government grants versus other types of grants
• Break out of Government grants (sometimes program revenue, sometimes contribution) and the source not identified
• Contributions for operating budget or capital campaigns
Changes to Government Funding

- Declining federal, state and local financial support for nonprofit organizations
- Lack of IL state budget for 2 years
- Pressure on municipalities to seek property taxes
- Changing federal administration to shift funds out of domestic programs
- Grants shifting to performance contracts
Online Fundraising

• If you start an online fundraising campaign by selling a good service in your name and it receives more than $20,000 in contributions from at least 200 transactions, the processor may send you and the IRS a Form 1099-K showing what was collected meaning it is taxable income.

• Donors typically don’t receive anything in exchange for their contributions, thus the proceeds received are not considered taxable income.

• Put the crowdfunding account in the recipient’s name and tax identification number.
JJ Watt’s Relief Fund: You Caring

• $37 million raised for Houston Hurricane relief
• Jimmy Fallon’s Tonight Show donates $1M
• http://jjw.foundation.org/
• Watt Foundation headquarters in Wisconsin
• Mission: TO PROVIDE AFTER-SCHOOL OPPORTUNITIES FOR CHILDREN IN THE COMMUNITY TO BECOME INVOLVED IN ATHLETICS SO THAT THEY MAY LEARN THE BASIC CHARACTER TRAITS OF ACCOUNTABILITY, TEAMWORK, LEADERSHIP, WORK ETHIC, AND PERSEVERANCE WHILE IN A SAFE AND SUPERVISED ENVIRONMENT WITH THEIR PEERS.
• Founded in 2011
### Revenue

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2014</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contributions</td>
<td>$1,426,776</td>
<td>$710,678</td>
<td>$609,999</td>
</tr>
<tr>
<td>Investments</td>
<td>$4,092</td>
<td>$483</td>
<td>$256</td>
</tr>
<tr>
<td>Special Events</td>
<td>($236,160)</td>
<td>($98,989)</td>
<td>($10,956)</td>
</tr>
<tr>
<td>Sales</td>
<td>$37,864</td>
<td>$73,641</td>
<td>$63,178</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$1,232,572</td>
<td>$685,813</td>
<td>$662,477</td>
</tr>
</tbody>
</table>

### Expenses

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2014</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Program Services</td>
<td>$850,576</td>
<td>$327,276</td>
<td>$277,993</td>
</tr>
<tr>
<td>Administration</td>
<td>$53,470</td>
<td>$13,002</td>
<td>$7,706</td>
</tr>
<tr>
<td>Fundraising/Other</td>
<td>$19,145</td>
<td>$37,967</td>
<td>$25,370</td>
</tr>
<tr>
<td><strong>Total Expenses</strong></td>
<td>$923,191</td>
<td>$378,245</td>
<td>$311,069</td>
</tr>
</tbody>
</table>

**Net Gain/Loss**

<table>
<thead>
<tr>
<th></th>
<th>2015</th>
<th>2014</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$309,381</td>
<td>$307,568</td>
<td>$351,408</td>
</tr>
</tbody>
</table>
• Now needs a plan to distribute $37 million for Hurricane Relief
• Foundation has no staff
• Five board members including JJ and his mother
Internal Revenue Service

- **Free E-Newsletter:** The EO (exempt organizations) Update is a periodic newsletter with information for tax-exempt organizations and tax practitioners who represent them
## Government Regulation Today

<table>
<thead>
<tr>
<th>Federal</th>
<th>State</th>
<th>Local</th>
</tr>
</thead>
</table>
| • IRS determination and annual filing
• Employment tax | • Statutes: income tax, sales tax, solicitation | • Ordinances
• Property tax |
Charitable Organization Laws

2. The Illinois Charitable Trust Act
3. Solicitation for Charity Act
4. Illinois Criminal Code

http://www.ILLINOISattorneygeneral.gov/charities
summary of all three laws
Illinois State Constitution

- State governments first to define their own tax-exemption policy, through their state constitutions
- Constitution of the State of Illinois adopted at special election on December 15, 1970
General Not For Profit Corporation Act of 1986

• Gives power to the Secretary of State
• Incorporation process and requirements
• Articles of incorporation, bylaws, board members etc.
• Mergers
• Dissolution
• Reports
• Fees
Illinois Charitable Trust Act

- Of the Attorney General’s office that maintains the principal register of charitable trusts
- Property of a value of more than $4,000
Solicitation for Charity Act

• Under the Attorney General’s office
• Maintain a file of all charitable organizations, professional fund raisers, professional fundraising consultants and professional solicitors
• Initial registration (trust documents, articles of incorporation, constitution, bylaws)
• If operating before registration, include three past years of financial statements, filing fees and late fees accounting for all past years of operation prior to registration
• Religious exemption
• Annual reports due within 6 months after the close of the organization’s fiscal year, may request extension
  – $300,000 in revenue or used professional fund raisers who raised more than $25,000 need independent certified public accountant’s opinion
  – $25,000 but less than $300,000 no accountant opinion
Illinois Criminal Code

• False personation of a veterans or public safety personnel
Use of Professional Fundraisers

Specific rules and regulations around the use of professional fundraisers on behalf of your organization.
VietNow, Rockford IL

• 501(c)(19) Post or Organizations of War Veterans
• IRC 501(c)(19) exempts from federal income tax a post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for any such post or organization.
• Started in 1990
Donations to Illinois veterans charity mostly go to pay telemarketers

• Chicago Tribune, August 30, 2015
• Last year people donated $1.4 million to a Rockford charity called VietNow National Headquarters. But most of the money — about 85 percent — went to for profit phone solicitors, and most of the rest was spent on VietNow's own administrative costs and a convention, public tax filings show.
## Revenue & Expense Data for VIETNOW NATIONAL HEADQUARTERS

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</tr>
</thead>
<tbody>
<tr>
<td><strong>Revenue</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contributions</td>
<td>$979,556</td>
<td>$1,288,187</td>
<td>$1,442,813</td>
<td>$1,770,895</td>
<td>$1,346,112</td>
</tr>
<tr>
<td>Program Services</td>
<td>$8,037</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Investments</td>
<td>$18,668</td>
<td>$13,024</td>
<td>$17,543</td>
<td>$8,587</td>
<td>($17,057)</td>
</tr>
<tr>
<td>Special Events</td>
<td>$8,406</td>
<td>$15,543</td>
<td>$9,438</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>Other</td>
<td>$7,285</td>
<td>$2,355</td>
<td>$4,970</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td><strong>Total Revenue</strong></td>
<td>$1,021,952</td>
<td>$1,319,109</td>
<td>$1,474,764</td>
<td>$1,779,482</td>
<td>$1,329,055</td>
</tr>
</tbody>
</table>

| **Expenses**         |          |          |          |          |          |
| Program Services     | $117,732 | $125,308 | $174,191 | $152,285 | $165,861 |
| Administration       | $127,392 | $90,585  | $80,810  | $101,936 | $88,404  |
| Fundraising/Other    | $869,411 | $1,155,519| $1,301,921| $1,560,707| $1,152,600|
| **Total Expenses**   | $1,114,535| $1,371,412| $1,556,922| $1,814,928| $1,406,865|

| **Net Gain/Loss**    | ($92,583) | ($52,303) | ($82,158) | ($35,446) | ($77,810) |
2009 Expenses for VietNow

- Program Services: 12%
- Administration: 6%
- Fundraising/Other: 82%

Your Future, Our Focus
"I wish (critics) could show me another avenue or how to raise money that we could embrace that would provide us with the funds we need for our organization," Lewis said. "I understand from the public's perception how it seems like so little of it comes to us. Do I wish we could get more? Pardon the language but, hell yes."

Your Future, Our Focus
State Sales Tax Exemption

• Separate application to Illinois Department of Revenue

• Once such organizations have been granted their “E” numbers, they may purchase items tax free to further their organizational purposes.

• Will still have to collect and remit sales tax for items purchased for resale and then sold by the organization (i.e. gift shop)
Property Taxes and Nonprofits

- Full or partial property tax exemptions
- Section 15-65(a) of the Property Tax Code, 35 ILCS 200/1-3
- File an Application for Property Tax Exemption with the DeKalb County Board of Review (hereinafter the “Board”) on February 16, 1999. The Board reviewed the Application and recommended to the Illinois Department of Revenue 2 (hereinafter the "Department") that the requested exemption be granted.
- Property may be exempt under this section if it is owned by an entity that is an institution of public charity; actually and exclusively used for charitable purposes; and not used with a view to profit.
- Incidental acts of charity by an organization are not enough to establish that the use of the property is charitable.
• Illinois Attorney General Office searchable database of IL nonprofits
  
  "http://www.illinoisattorneygeneral.gov/charities/search/index.jsp"

  – Charitable Organization Annual Report Form AG 990-IL:
    • how much money the charitable organization received
    • how the charitable organization spent the donations, including money paid to professional fund-raisers
    • how much the charitable organization paid their three highest paid employees
    • the value of the charitable organization’s assets and liabilities as of the end of the year
Grant Spending Case

- Sept. 1, 2017, Chicago Tribune:
- Mother founded nonprofit Divine Praise
- Daughter took over management from her mother after she passed away
• Divine Praise Inc. (“DPI”). DPI was an Illinois registered NOT-FOR-PROFIT formed on March 21, 2000.

• Ms. Myles was the President, Secretary, Director and sole agent for the nonprofit.

• DPI was involuntarily dissolved on August 9, 2013 by the State of Illinois.
• Divine Praise received a $60,000 Illinois Youth Recreation Corps grant to employ 20 youth over the summer.

• Ms. Myles signed the Grant Agreement and Certification on July 8, 2011, and acknowledged that the funds were to be used only for the “payment of wages for eligible youths hired pursuant to the grant program” and must occur during the months of June, July and August 2011. Ms. Myles was expected to pay all of the $60,000 to the youths.

• Ms. Myles was asked to provide a detailed Grant Report on the use of the funds and the project accomplishments.

• Ms. Myles reported that she paid the youth $51,000 and $13,000 in taxes. Ms. Myles certified under oath that her Grant Report was accurate.
• Her lawyer argued “sloppy bookkeeping”, the state argued “straight up fraud”

• Criminal case: fraud is a criminal offense and potentially in the amount of $60,000, investigated by the FBI

• Guidestar: record but no information
  – Most small tax-exempt organizations whose annual gross receipts are normally $50,000 or less can satisfy their annual reporting requirement by electronically submitting Form 990-N

• IL Charity Registration, Attorney General – no record
“The former owner of a small nonprofit on Chicago’s West Side was sentenced to 21 days in jail Thursday for spending thousands of dollars in state grant money on herself of instead of giving jobs to teenagers”.

“Any corruption is not OK”, said the judge.

Nonprofit “Divine Praise”, good intentions but got in over her head.

Plus ordered to pay back $19,000 to the state and perform 250 hours of community service.
# Government Regulation Today

<table>
<thead>
<tr>
<th>Federal</th>
<th>State</th>
<th>Local</th>
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<tr>
<td>• IRS determination and annual filing</td>
<td>• Statutes: income tax, sales tax, solicitation, property tax</td>
<td>• Gaming</td>
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<td>• Employment tax</td>
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<td>• Property tax</td>
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*Your Future, Our Focus*
Charity Gaming Law

- Morris VFW pot at $1.6 million, with the winter taking home 70%
- Game was temporarily shut down last month after state regulators told VFW and the city they needed a local raffle license
- No more tickets have been sold
- Winner announced: Kevin Repsel said he bought 30 tickets, $10 for each number
PILOTS

- Payments in lieu of taxes
- Collected by municipal governments to offset property tax exemptions
- Typically for large nonprofits (universities and hospitals) in large metro areas
- The Northeast accounts for roughly 75 to 80 percent of PILOT activity, with the largest share in Massachusetts and Pennsylvania.
Municipal Water Charges in Chicago

• December 7, 2012, Chicago Tribune, “Churches protest rising water fee”
• “We’re not asking for charity. We’re just looking for reasonable accommodation”.
• Issue: cost of providing free water and discounted sewer services to Chicago churches went from $19.5 million in 2010 to $20.3 million in 2011
• December 2012: About 4,000 eligible nonprofits began receiving bills for 40% of their water use
• January 2013: start receiving bills for 60% of their water use
• 2014: bills for 80% of their water use
• Other exemptions remain like property taxes and garbage pick up
• Churches responded by asking the University of Pennsylvania to quantify the economic impact of churches and what a city would stand to lose by charging for water
  – Gang intervention programs
  – Food pantries
  – Poverty programs
  – Meeting spaces
  – Gyms and recreational facilities
Resolution?

- Group 1: NFPs with net assets < $1M will be eligible for a 100% water exemption.
- Group 2: NFPs with net assets between $1M and less than $10M will be eligible for a 60% water exemption.
- Group 3: NFPs with net assets between $10M and less than $250M will be eligible for a 25% water exemption.
- No exemption from water payments for those NFPs with net assets equal to or greater than $250M.
- No relief to museums, which would continue to receive a 20 percent exemption regardless of their net assets.
- Hospitals' exemptions would be based on their net assets, with a minimum exemption of 25 percent, according to the compromise.
• The water exemption for the City, National Guard, Chicago Public Schools, City Colleges and Cook County Hospitals will remain the same.

• All organizations must provide a water conservation plan.

• All organizations must provide charitable services that benefit the public within Chicago.

• All water accounts must be controlled by a meter to be eligible for an exemption.
When a Nonprofit Chooses to Close

• Indicate on final IRS 990
• The state must be notified that the organization plans to dissolve
• All charitable assets have to be given to another nonprofit organization (or returned to the donor if alive)
• The board has the responsibility for all finances during their tenure on the Board and in the case of dissolving that nonprofit
Where is your bar?

VALUES

Level of Compliance

High

People First

Donor-Centered

Environmental Impact

Financial Transparency

ETHICS

Low

Don’t steal $

Ethics Test

Narrow Application

Broad Application

Your Future, Our Focus
Practices that Demonstrate Accountability and Transparency

- Code of ethics
- Conflict of interest policy
- Document retention policies
- Ethical fundraising practices
- Ethical leadership
- Financial transparency
- Internal controls
- Public disclosure policy
- Whistleblower protection policies
Donor Bill of Rights

I. To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

II. To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

III. To have access to the organization's most recent financial statements.

IV. To be assured their gifts will be used for the purposes for which they were given.

V. To receive appropriate acknowledgement and recognition.

VI. To be assured that information about their donation is handled with respect and with confidentiality to the extent provided by law.

VII. To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

VIII. To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

IX. To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

X. To feel free to ask questions when making a donation and to receive prompt, truthful and forthright answers.

Source: Association of Fundraising Professionals (2010)
Types of Reporting

- **Mandatory**
  - IRS 990
  - Audited Financial Statements
  - Board Minutes

- **Voluntary**
  - Annual Report
  - Website
  - Audited Financial Statements
  - Strategic Plans
  - Meetings
  - Budgets
  - Performance Data Reports

- **External**
  - Ads
  - Website

- **Internal**
  - Audited Financial Statements
  - Strategic Plans
  - Meetings
  - Budgets
  - Performance Data Reports
IRS Form 990

The Form 990 is an annual information return that the Museum is required to file with the Internal Revenue Service (IRS). It provides information on the Museum's programs and finances. The Form 990 covers the period from July 1 of each year through June 30 of the following year, coinciding with the Museum's fiscal year. The Form 990 is filed with the IRS in February.

IRS Form 990 for the Year 2015–16 (PDF)

IRS Form 990 for the Year 2014–15 (PDF)

IRS Form 990 for the Year 2013–14 (PDF)

IRS Form 990 for the Year 2012–13 (PDF)

IRS Form 990 for the Year 2011–12 (PDF)
The Four Pillars

- Disclosure
- Avoiding Conflicts of Interest
- Transparency
- Oversight

Good Governance
Podcast Recommendations

- Doing Good Podcast
- Social Good Instigators
- Nonprofits are Messy: Joan Garry
- Nonprofit Hub Radio
Book Recommendation

• [https://happyhealthynonprofit.wordpress.com/](https://happyhealthynonprofit.wordpress.com/)
Joan Garry

- http://www.joangarry.com/
- https://nonprofitleadershiplab.com/
- For small nonprofits
More resources

- National Council of Nonprofits
  https://www.councilofnonprofits.org/
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