INSTITUTE FOR LOCAL GOVERNMENT℠

*Promoting Good Government at the Local Level*

# Pondering Public/Nonprofit Collaborations: What a Form 990 Says about a Nonprofit

To view this document online, visit www.ca-ilg.org/post/assessing-nonprofits-financial-health-understanding-form-990s.

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## Acknowledgments

Special thanks to the following individuals whose provided peer review for this publication:

- Karen Leland-Dolce, CPA
- Bill Chiat, Director, CSAC Institute

*All decisions about the final content and formatting of this publication were made by the Institute for Local Government.*

# **Where to** Find What

## Introduction

As local agencies look for ways to both engage with their communities and stretch limited taxpayer dollars, they sometimes explore collaborative relationships with nonprofit organizations (also known as community-based organizations).

There are many factors that will contribute to a successful collaboration. These include identifying potential partners with a genuine shared interest in accomplishing the purposes of the collaboration. Another factor is a potential collaborating organization's capacity and practices.

Form 990s can provide insights into a number of dimensions of a nonprofit organization, including its financial strength and governance practices. Of course it is not the only or even the best source of information, but it can be a good source of supplemental information.

After explaining what a Form 990 is, this whitepaper explains what kinds of information in the 990 might be of most interest in contemplating a possible collaboration with a nonprofit.


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The Institute welcomes feedback on this resource:

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# What is a Form 990?

A "Form 990" is a form that most kinds of tax exempt,[1] nonprofit entities must file with the Internal Revenue Service. Form 990 reflects the fact that these entities exist for the public benefit (which is why they enjoy a special tax status). Form 990s enable the public to receive an accounting of a nonprofit's activities throughout the year. They also represent a policy judgment that such organizations should be open and transparent in their activities.

Organizations' Form 990s are available online from National Center for Charitable Statistics and Guidestar (which are other good source of information on a non-profit organization's activities). As part of their commitment to transparency, some organizations either post their 990s on their websites or include a link to the above organizations' websites.

In addition, a nonprofit organization must provide copies of these forms to anyone who requests them.[2]

### What If There is No Form 990?

Filing a 990 annually is an important legal responsibility for a nonprofit. If there is no 990 available for a nonprofit, ask the nonprofit why. It may be a local agency would be well-advised to look elsewhere for collaborative partners.

The Internal Revenue Service has reportedly the IRS begun revoking tax-exempt status from nonprofits that failed to file three consecutive annual returns (Form 990-N, 990-EZ, 990, or 990-PF). This may have the effect of shrinking the nonprofit sector by 25 percent, according to GuideStar (which gathers and reports information about nonprofit organizations' activities-see www.guidestar.org).

## Content

Form 990s contain an almost overwhelming amount of information. As one contemplates the pages and pages of information that comprise an organization's Form 990 filing, it can be helpful to break the information in to conceptual parts. The parts of a Form 990 include:

- A **summary page** providing the organization's identifying information and a snapshot of the organization's key financial, compensation, governance, and operational information.

- **Governance information**, including the composition of the board, and certain other governance and financial statement practices. The reporting on governance deserves particular attention as there are a number of new questions requesting information on a variety of internal policies and procedures, which the IRS believes are indicative of a well-governed organization.

- **Supplemental information** in schedules that shares information on certain areas of interest to the public and the IRS: including but not limited to fundraising, compensation, fundraising activities, lobbying and political activities, tax exempt bonds and non-cash charitable contributions.

There is also a functional element of the Form 990. Part IV (page 4) asks a series of questions that enables the nonprofit organization to determine which of these supplemental schedules the organization needs to attach to the main form to make a complete filing.

## Audiences

There are three audiences for the information in an organization's annual Form 990 filing:

- **Internal Revenue Service**: The federal government uses the Form 990 to confirm that tax-exempt organizations comply with government guidelines for such organizations and have governance practices in place that will help the organizations avoid missteps.
- **State**: Form 990s help states determine whether tax-exempt organizations and charities are exempt from state income tax. Some states, including California, require nonprofits to make additional filings and disclosures.
- **Funders/Collaborators:** Funders and potential collaborators want to know that nonprofits spend money in a responsible manner, consistent with the organization's mission and using good governance practices.

## Areas for Local Agencies to Focus on

Given the complexity of the Form 990, what should local agencies focus on in order to understand more about a nonprofit organization? The following are some suggestions:

- ☐ Organization's identity and specific tax status (page 1)
- ☐ Identity of governing board and key staff (page 7, part VII, section A—see also schedule J)
- ☐ Compensation of board members and key staff ( page 7, part VII, section A—see also schedule J)
- ☐ Lobbying and political campaign contributions (page 3, part IV, section 3 and 4, and schedule C)
- ☐ Financial practices (page 12, part IX)
- ☐ Financial overview for current and prior years, including income levels and sources (page 1, part I)
- ☐ Program activities (page 2, Part III and may continue on to schedule O), including expenses and revenues
- ☐ Governance practices and ethics (page 4, Part VI and schedule L)

As much information as a Form 990 provides, this information is a snapshot of one year. A good practice is to look at multiple years of 990s for an organization (three years tends to yield a good picture).

## Other Sources of Information about a Nonprofit

**The Organization's Website:** Does the website provide meaningful information about the organization's leadership, governance and finances?

**GuideStar (www.guidestar.org).** This website offers information available on more than 1.8 million nonprofits, including organizations' 990 forms. In addition, GuideStar is encouraging greater information-sharing through its GuideStar Exchange program, which encourages nonprofits to share such information as audited financial statements, financial reports, governance and staffing information, and key areas of activities.

**National Center for Charitable Statistics (http://nccs.urban.org/index.cfm ).** This organization (NCCS) is a national repository of data on the nonprofit sector in the United States. Its mission is to develop and disseminate high quality data on nonprofit organizations and their activities for use in research on the relationships between the nonprofit sector, government, the commercial sector, and the broader civil society. Working closely with the IRS and other government agencies, private sector service organizations, and the scholarly community, NCCS builds compatible national, state, and regional databases and develops uniform standards for reporting on the activities of charitable organizations.

**State Agencies.** Make sure the nonprofit is in good standing with the state Attorney General's office (in California: http://rct.doj.ca.gov/MyLicenseVerification/Search.aspx?facility=Y ) and Secretary of State's/Office of Corporations offices.

# 1. Organization's Identity and Specific Tax Status

(Form 990 Page 1)

Perhaps the first place to look is the identifying information for the nonprofit (name, address and telephone numbers in sections C, D and E). Many nonprofits have similar names; make sure this is the actual nonprofit that the agency is interested in. The nonprofit's tax identification number (EIN) can be a useful way of specifically identifying a nonprofit.

Of course, the organization's website (section J) may also shed additional light on the nonprofit. The picture painted in the organization's Form 990 and the one painted by its website should look the same in terms of scope of activities.

This section also reveals the time period covered by the Form 990 (section A). Generally Form 990 must be filed five and a half months after the end of the filer's fiscal year (although many organizations get extensions). Do the math to determine whether the form is the most current and whether a newer one may also be in preparation or available that can provide more current information.

Section B reveals interesting information. If the return is an initial return, a local agency is on notice that the organization has a very short track record (see also section L, which shows how long a nonprofit has been operating). If the return is an initial return but the organization has been operating for some time, it may suggest an issue with attending to compliance requirements. If the box "final return" is checked, the agency is on notice that the nonprofit is terminating operations or going out of business. (see also Part I on page 1, section 2 which reveals whether the organization is closing down or disposed of more than a quarter of its assets). If indeed an organization is terminating operations, it probably is not a good candidate as a collaborative partner.

Item I shows what paragraph of section 501(c) the filer is exempt under. Section 501(c)(3) is the code section that exempts charitable, educational and religious organizations from taxation, but there are other types of exempt organizations as well. For example, section 501(c)(6) exempts trade associations. Similarly, understanding whether the nonprofit has relationships with affiliates (and who those affiliates are) may be helpful in terms of understanding the scope of the organization. See box on previous page for a list of typical kinds of 501(c) organizations.

### Types of Nonprofit Organizations

There are 27 kinds of 501(c) organizations under the federal tax laws. The following are some of the more common kinds.

- **501(c)(3):** Organizations organized and operated exclusively for charitable, religious, scientific, educational and other specified purposes
- **501(c)(4):** Social welfare organizations—includes organizations that lobby and local associations of employees
- **501(c)(5):** Labor, agricultural or horticultural organizations
- **501(c)(6):** Business leagues, chambers of commerce, real estate board, trade associations and professional football leagues
- **501(c)(7):** Social clubs
- **501(c)(10):** Fraternal societies that do not provide insurance to members

For more information about types of tax exempt organizations, see http://www.irs.gov/charities/content/0,,id=96931,00.html

## 2. Board and Staff Identity

(Page 7, part VII, section A—see also schedule J)

Examine these sections to determine if agency decision-makers or staff is involved in the organization (or people who are related to decision-makers or staff). If so, an agency will want to review "Commitment to Nonprofit Causes: Issues to Ponder" to determine whether there are any legal or ethical issues for the agency to sort through in contemplating a collaboration (available at www.ca-ilg.org/nonprofits). This is especially important if the collaboration will involve financial or other support to the nonprofit.

More generally, the identity of an organization's board members reflects on the nonprofit organization. A board comprised of elected officials and other high profile individuals can enhance the credibility of an organization, although it can also be wise to probe whether such individuals are indeed actively involved in the governance of the organization. For example, one can request board meeting minutes, which typically indicate who regularly attends the board meetings.

At the other end of the spectrum, sometimes one may discover that board members share the same last names—suggesting that the board members share family ties. This may suggest a different kind of organization than one that has broad public representation. Such boards may or may not be accustomed to the kinds of processes and transparency requirements that accompany working with public agencies. If staff and board members share family ties, this may raise questions about nepotism and whether the organization makes employment decisions based on merit.

Finally, the number of people on the board and on the staff of the may be of interest in terms of assessing the organization's capacity.

**Whose 990 Is It?**

It may be useful to look at how an organization answers questions 11 and 11A on page 6, Part VI, Section B (and supplemental information provided on Schedule O), which the review process the organization uses to complete the Form 990. Historically, the preparation of this form has been a staff responsibility. The emphasis on disclosing the process an organization uses to prepare the form 990 and the degree of board oversight signals a desire for the organization's leadership to be more accountable for the contents of the document.

# 3. Compensation of Board Members and Key Staff

(Page 7, part VII, section A—see also schedule J)

As a general rule, most nonprofit board members receive no compensation for their services from the nonprofit (although they may receive reimbursement of their expenses, for example, travel expenses to a board meeting). If board members do indeed receive compensation for their service, these sections require the nonprofit to disclose how much.

## Staff Compensation

Staff, of course, do typically receive compensation for their services, in the form of salary and benefits. One question is whether such compensation is reasonable in light of what other nonprofits pay for similar kinds of service.

- **Salaries Too Low?** This can reflect a deep and abiding commitment to the organization's mission. It also can reflect on the quality of the staff and the capacity of the organization (and by checking multiple Form 990 filings, one can get a sense of staff turnover, at least at the management level).

- **Salaries Too High?** Unduly high levels of compensation in comparison to the overall budget may mean that an organization is top heavy and may have less capacity and resources to pursue the organization's mission.

There are a number of ways to assess whether salaries and benefit packages are reasonable. One way is to see how the organization responded to question 15 on page 6, part VI. An organization in answering that question may reveal how compensation is set for the organization's top management, including whether it is based on comparable data from other organizations. One can also compare salaries being paid to similar sized and kinds of nonprofits by looking at other organizations' Form 990s.

### Whose Compensation Must Be Disclosed and How?

Nonprofits must report compensation from the organization and related organizations for the following:

- Current officers, directors, and trustees (no minimum compensation threshold).
- Current key employees (over $150,000 of reportable compensation).
- Current five highest compensated employees other than officers, directors, trustees, or listed key employees (over $100,000 of reportable compensation).
- Former officers, key employees, and highest compensated employees (over $100,000 of reportable compensation, with special rules for former highest compensated employees).
- Former directors and trustees (over $10,000 of reportable compensation in the capacity as a former director or trustee).

See the IRS instructions for Form 990 for more information: www.irs.gov/instructions/i990/ch02.html#d0e5369

Note that nonprofits report compensation information in multiple places on a Form 990. Part VII (pages 7 and 8) asks for the full salaries and benefits of officers, key employees, and highly compensated employees. A nonprofit reports aggregated salary information in Part IX (page 10—functional expenses) and provides additional information in Schedule J.

Another approach is dividing the organizations' personnel expenses by the number of employees to see how management staff's salaries compare to the average.

Note that federal tax laws impose penalties on excessive compensation or benefit packages for nonprofit leaders.[3]

Form 990 also probes for payments made to *former* officers, key employees and highly compensated trustees (see page 7, bullets 4 and 5). Schedule J (Part I) probes for unusual forms of benefits for nonprofits (for example, first class travel, companion travel, housing allowances, etc.). Another place to look for unusual practices is page 4, Part IV, questions 26, 27 and 28 (probing transactions with officers, directors, and employees). See also issue 8 on page 16 regarding issues relating to ethics and related party transactions.

## Independent Contractor Payments

Check whether the nonprofit made any relatively large payments to independent contractors who work with the organization, such as management companies, program service providers, accountants or lawyers. This information is disclosed in Part VII, section B on page 8.

An agency will want to determine if agency decision-makers or staff (or people who are related to decision-makers or staff) have an interest in these contracts (as well as any smaller contracts) so agency counsel can analyze whether there might be self-dealing issues to be alert to in connection with a collaboration.[4]

Large contracts for program services can suggest a need for further inquiry. If a nonprofit would be providing services largely through another entity, the public agency may want to evaluate whether it would be more efficient to contract directly with that entity. Similarly, it may also be prudent to explore how the nonprofit would meet its obligations under a contract if the relationship with a critical service provider to the nonprofit were to end.

### A Note about Grant- Making Activities

Nonprofits, particularly 501(c)(3) organizations, typically *receive* grants. Some organizations also *give* grants.

Form 990 part IV, lines 21 and 22 (page 4) asks whether the nonprofit made grants of $5,000 (this information is drawn from information reported in part IX, lines 1 and 2 on page 10). If so, the nonprofit must provide additional information about who received the grants on Schedule I and the amounts (for grants to organizations, the reporting threshold is $5,000).

This is another good place to check to make sure there is no financial relationship (grants given) to agency officials (or organizations with which officials are affiliated) or staff (or relatives of agency officials or staff).

In addition, some organizations may receive management services on a contract basis (see page 10, line 11a). A public agency may want to make further inquiry if these amounts appear to comprise a significant part of the nonprofit's expenses and/or the contract staffing arrangement makes it difficult for the local agency to determine what the key people who are staffing the nonprofit are paid.

# 4. Lobbying and Campaign Activities

(Page 3, part IV, sections 3 and 4, and schedule C)

## Campaign Activities

If a nonprofit engages in campaign activities, a public agency is well-advised to determine whether any of those campaign activities involved agency officials. The media and the public are alert to situations that may appear that agency officials who have benefitted from an organization's campaign support are rewarding that organization with financial support.

## Lobbying

As part of their missions, nonprofit groups sometimes advocate for changes in public policy. How significant such activities are tends to turn on what kind of nonprofit organization one is. For example, organizations exempt under section 501(c)(3) may engage in some lobbying, but if they do too much, they may jeopardize their tax-exemption.

The term "lobbying" refers to attempts to influence legislators (or those who work with them) to support or oppose the enactment of some legislation. It may be done by directly contacting legislators (direct lobbying) or by asking others to contact them (grass roots lobbying).

When a public agency contemplates a partnership with a nonprofit organization, these lobbying activities could create political or other kinds of issues (particularly if the organization is advocating positions that are dramatically different than the agency's). At the very least, public agencies will want to make sure that any collaboration agreements are limited to the costs of the services being provided and do not support or subsidize the nonprofit's lobbying activities.

## Gifts Issues

Note too that Part IX, section 18 requires the nonprofit to disclose payment for travel or entertainment expenses of federal, state or local public officials. If any payments are reported under this section, it may be wise to make further inquiry to determine the nature of such expenses—particularly if the nonprofit is a California-based or even more local nonprofit.

One will want to assure that such payments complied with gift and travel restrictions under the Political Reform Act[5] and any local gift restrictions. Gifts to local agency officials who will play a role in evaluating the wisdom of the public/private collaboration present special issues. Among other issues, the media or public may interpret a nonprofit's gifts to decision-makers as an effort to curry favor or worse.

## 5. Financial Practices

(Page 12, part IX)

For nonprofit organizations, observing proper accounting practices often requires more effort than simply purchasing the latest in book-keeping software. There are a number of standards promulgated by the Financial Accounting Board (FASB) that apply only to nonprofits.[6] Thus it can be a good indicator of solid financial practices if a nonprofit has its financial statements audited by an independent accountant (page 12, line 2a) and that the organization has a board committee that is responsible for oversight of the audit (page 12, line 2c).

Funders frequently ask nonprofits for one or more of the most recent audited financial statements. Another question to ask is whether the auditor made any recommendations concerning the nonprofit's financial practices, including its internal controls. Again, nonprofit accounting can be complicated; the goal is to determine whether the nonprofit is taking the requirements that apply to nonprofits seriously and is either in compliance or aggressively working towards compliance.

### A Note about Incomplete or Incorrect Information

As a general matter, there may be sections of a Form 990 that are left blank, filled out incompletely, or incorrectly completed. Some blank sections are completely appropriate. Many of the questions on the form are interrelated and an organization only needs to answer if it answered a previous question a certain way.

Other unanswered or incompletely answered questions may be a warning sign. There are a number of possibilities: the nonprofit may be trying to hide something, does not know how to complete the Form 990, or did not make the effort required to complete it accurately. A local agency may want to probe such issues further before deciding whether to collaborate with such an organization.

## 6. Financial Overview for Current and Prior Years

(Form 990 Page 1, Part I)

Part I is a handy overview of an organization that explains the organization's:

- Mission (section 1)
- Board and staff size (sections 3 through 6)
- Total revenue (section 12) including proportions by source (sections 8-11) for current and prior years
- Total expenses (sections13 through 19)
- Net assets or fund balances (sections 20-22)

**Mission.** From a local agency perspective, one wants the mission that the organization describes to the world to align with the work that would be performed through the collaboration. This prevents mission drift and maximizes the likelihood that the organization has the capacity to perform the work contemplated well.

**Board and Staff Size.** This can provide a macro sense of the organization's capacity.

**Total Revenues and Total Expenses.** Again, these provide a snapshot of the organization's finances for the year covered by the filing and the one preceding. Note that the Form 990 provides cross-references to the interior of the form where the organization provides additional detail on these numbers.

The first place a local agency should look for this information is the nonprofit's audited financial statements. The information on the 990 should be consistent with that in the audited financials statements of course.

The goal in studying both the financials and these sections of the 990 is to help the agency arrive at informed conclusions about the organization's overall financial health and hence ability to do the work contemplated in the proposed collaboration.

Also note that these numbers may need to be evaluated against the backdrop of whether an organization is on an accrual or cash system (see Part IX, section 1 on page 12). If the organization is on an accrual system, multi-year grants will be reflected in the organization's financial reports once the commitment is made. The organization will, in essence, draw down against those funds over the course of the grant. Note that a commitment to provide multi-year

### Cash versus Accrual Accounting Practices

Cash-basis and accrual-basis accounting use different criteria for determining when to recognize and record revenue and expenses.

**Cash Basis.** The organization recognizes revenues when cash is received and deposited. The organization recognizes expenses when it pays its bills.

**Accrual Basis.** The organization recognizes income in the accounting period in which it is earned. For example, the organization recognizes income once a service is provided and the organization becomes entitled to be paid for that service-- regardless of when the cash from these fees and donations is received. The organization records expenses as they become owed. For example, the organization recognizes a printing bill once it becomes due and payable instead of when the bill is actually paid.

funding typically comes with it an obligation for the organization to make periodic progress and financial reports in order for the funder to cut the next check.

Note that there is more detailed information about the organization's finances in the following sections of the 990.

a. Compensation practices and levels (page 7, part VII; see also schedule J)
b. Revenue mix (page 9, part VIII)
c. Expense mix (page 10, part IX)
d. Balance sheet (page 11, part X; see also schedule D parts XI, XII, XIII and XIV)

## *Expenses*

The expenses information in Part IX on page 10 enables an agency to determine how the nonprofit spends its resources as among program expenses (column B), management expenses (column C) and fundraising expenses (column D). Line 25 totals these numbers up. Agencies may want to assure themselves that an organization is spending most of its resources on program activities as opposed to management or fundraising.

However it is important to recognize that just as well-run public agencies spend resources on management, so do nonprofit organizations. Similarly, nonprofits do need to raise funds to continue their good work. A general rule is that 15 to 20 percent of total expenses for such management and fundraising activities is reasonable. Newer nonprofit organizations or organizations taking on new projects may need to spend more time on fundraising.

### Types of Expenses

**Program services** are those activities that further the organization's exempt purposes. This includes lobbying expenses if the lobbying is directly related to the organization's exempt purposes.

**Management expenses** are those activities that relate to the organization's overall operations and management. This typically includes the salaries and expenses of the organization's chief executive officer and his or her staff, unless a part of their time is spent directly supervising program services or fundraising activities. Lobbying expenses should be reported in this column if they do not directly relate to the organization's exempt purposes. Other management-related costs include the cost of board of directors meetings, committee meetings, and staff meetings (unless they involve specific program services or fundraising activities); general legal services; accounting, general liability insurance; office management; auditing, human resources, other centralized services, annual reports, and management of investments.

**Fundraising expenses** are the expenses incurred in soliciting contributions, gifts, and grants. This includes all expenses incurred in: (a) publicizing and conducting fundraising campaigns and events and (b) soliciting bequests and grants from foundations or other organizations, or government grants.

## Net Assets

This is the difference between the organization's total assets and its total liabilities. Net assets are the accumulation of the differences between the organization's income and expenses over the life of the organization. In the detail provided in Part IX, these assets are divided into three types:

1. **Unrestricted net assets** are those which can be used in any way by the organization consistent with the organization's mission.

2. **Temporarily-restricted net assets** represent resources that have been restricted by a donor for a specific purpose(s), time period(s) or event(s). An example is a grant that may only be used in the manner specified in the grant agreement; the amount of the grant the organization has not yet spent will show as a temporarily restricted net asset.

3. **Permanently-restricted net assets** are resources that have been restricted by the donor in perpetuity. The most common permanently-restricted net assets are endowments. Usually the organization may use the income, dividends and interest, and the capital gains on those investments for operations; however, the principal is restricted in perpetuity and may not be used to support operations unless permission is received from the donor.

## A Note about Financial Health and Cash Flow Issues

If a proposed collaboration with a nonprofit organization will involve a public agency paying the nonprofit for work performed, the agency should consider how long the agency's review and approval processes realistically will take and whether the nonprofit will have the capacity to carry those charges for such periods. Another issue to consider and perhaps explore with the nonprofit is whether the agency's revenue flows may be subject to disruption (for example, in the event of a state budget impasse) that will further extend the time between when the nonprofit incurs expenses and when the agency will reimburse for such expenses.

## 7. Program Activities, Including Expenses and Revenues

(Form 990 Page 2, Part III and May Continue On To Schedule O)

This section of the 990 explains what the organization's three largest programs' goals and achievements are. It also discloses how much in the filing year those programs cost the organization.

This section should provide a good picture of the organization's activities. By comparing the relative amounts spent on each program (and how those amounts relate to total program expenses as indicate in section 4e), an agency may discern a sense of the program's relative importance. This information can be helpful in putting the Form 990 numbers in context. This information does not indicate, however, whether the organization is doing its work effectively or achieving satisfactory outcomes.

Note that the organization has the option of providing information about its other programs in Schedule O. This information should synch with the information presented on the organization's website and other descriptive materials.

# 8. Governance Practices and Ethics

(Form 990 Part VI and Schedule L)

> **Also Check for State Filings**
>
> As part of the local agency's due diligence, check to make sure the nonprofit is in good standing with the state Attorney General's office: http://rct.doj.ca.gov/MyLicenseVerification/Search.aspx?facility=Y

## *Governance Practices*

Section C of Part VI generally probes a nonprofit's commitment to transparency by asking how it makes its 990s available to the public, as well as how it makes its governing documents, conflict of interest policy and financial statements publicly available (look for the organization's answer in Schedule O).

## *Ethics*

There are a number of ways a Form 990 will enable a local agency to determine whether a nonprofit's practices will hold up to the public scrutiny that comes with spending taxpayer dollars. These include:

- **Diversion of Assets:** Page 6, Part VI, Section A, question 5 asks whether the organization is aware of a material diversion of an organization's assets? A "yes" answer is not a good sign in terms of internal controls and other safeguards for the organization's resources.

- **Conflict of Interest Policies and Compliance:** Page 6, Part VI, Section B, questions 12a, b, c asks the organization to indicate whether it has a conflict of interest policy, whether such policy requires annual disclosure and how compliance is monitored.

- **Whistle-Blowing Processes in Place**: Page 6, Part VI, Section B, question 13 asks whether the organization has a whistleblowing policy.

- **Transparency**: Page 6, Part VI, Section B, questions17, 18, 19 and 20 indicate how the organization makes information about its finances, governing documents, and conflict of interest policies available to the public. Those that post such items on their websites demonstrate their commitment to transparency; such practices may also signal a level of comfort with the kinds of transparency requirements under which public agencies must operate.

In addition, Schedule L requires that the organization disclose:

- Excess benefits transactions (Part I)
- Loans to and from interested persons (Part II)
- Grants or assistance benefitting interested persons (Part III)
- Business transactions involving interested persons (Part IV)

As mentioned earlier, the basis for a nonprofit's tax exempt status is the work the organization does for the public good and the fact that the organization does not exist to create private profits.

These sections of the Form 990 shed light on this by requiring nonprofits to disclose transactions that may involve improper transfers of the organization's assets to private interests (as opposed to using those assets to further the exempt purposes of the organizations).

Of course, in some instances these transactions may benefit the organization and those the organizations serve. For example, a board member may sell property to the nonprofit at a price below its fair market value.

Thus, it is important to examine the information the organization supplies about the transaction. Conscientious organizations will explain the transaction in detail. The absence of an explanation (or a seemingly incomplete or evasive explanation) may, however, be a warning sign. The agency may wish to probe the issue further with the nonprofit.

**Resources for More Information on 990s**

IRS Instructions for Form 990: http://www.irs.gov/pub/irs-pdf/i990.pdf

The New 990 and Its Relationship to California Law Governing Charities: http://ag.ca.gov/charities/content/new_990.php.

# Endnotes

[1] *See* 26 USC § 501(c).

[2] The Internal Revenue Service has a helpful frequently asked questions guide on disclosure requirements. http://www.irs.gov/charities/article/0,,id=139231,00.html

[3] *See* 26 USC § 4958. There is a helpful summary regarding the notion of an "excess benefit transaction" at http://nonprofitmanagement.suite101.com/article.cfm/excess_benefit_transactions.

[4] *See* Cal. Gov't Code § 1090. Explanatory materials relating to section 1090's prohibition against self-dealing are available on the Institute's website. An example is www.ca-ilg.org/section1090.

[5] *See generally* Cal. Gov't Code § 89503. For more information on the gift rules for local officials, see *Understanding the Basics of Public Service Ethics Laws: Perk Issues, Including Compensation, Use of Public Resources and Gift Laws*, available in electronic form at http://www.ca-ilg.org/sites/ilgbackup.org/files/Basics_PerkIssues_watermark.pdf .

[6] See, for example, Statements of Financial Accounting Standards (SFAS) No. 116 (accounting for contributions received and contributions made), SFAS No. 117 (financial statements for not-for-profits), SFAS No. 124 (accounting for certain investments held for not-for-profit organizations), SFAS No. 133 (accounting for derivative instruments and hedging activities), SFAS No. 136 (transfers of assets to not-for-profits organizations or charitable trusts that raises or holds contributions for others), SFAS No. 153 (exchanges of nonmonetary assets), SFAS No. 157 (fair value measurements); there are also as number of FASB staff positions and interpretations.