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Profitable Solutions for Nonprofits

Tainted donor, tainted money?
How to handle controversial contributions

Watching costs is always a smart investment

Board designations
3 questions to consider

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Tainted donor, tainted money?

How to handle controversial contributions

In 2019, as waves of lawsuits accused Purdue Pharma of knowingly contributing to the opioid crisis, numerous nonprofits announced they would no longer accept gifts from the Sackler family, several members of which owned the company. That same year, the Massachusetts Institute of Technology came under fire for accepting multiple donations from convicted sex offender Jeffrey Epstein.

Situations like these put nonprofits in a tough position. They may desperately need funds, but accepting such gifts may result in negative attention. So, what should you do if a donation turns out to be "tainted"?

The debate

Some say that in a time when socially conscious investors are trying to align their investments with their values, nonprofits should do the same. In other words, you should reject or return tainted contributions.

The risk of reputational damage — especially in a social media world where accusations quickly go viral and cause loud backlash — provides another solid rationale for turning down controversial contributions. You might find that some of your most loyal supporters are among the most vociferously opposed to such donations. Moreover, the uproar can divert attention from your positive accomplishments and alienate future donors.

Arguments can be made to hold on to controversial donations, though. After all, not every donor is an angel or operating from purely altruistic motives. Insisting otherwise could drastically reduce revenues. Even Mother Teresa allegedly accepted donations from dictators and crooks, arguing that the money's source didn't outweigh the good it could do.

She's not alone in believing that tainted money is better spent on charitable purposes than, say, another yacht or mansion for the donor. Money given to a nonprofit, goes the argument, generally benefits society as a whole, particularly when the recipient does social welfare work. And, if you turn away funds, you could have to cut programs, dip into your endowment or sell other assets.

Formal guidelines

These decisions are more easily rendered when you're working from a formalized framework. Rather than making decisions on the fly while in the glare of the public spotlight, follow a protocol that you can point to when pressed on your reasons. Begin by establishing a "Know Your Donor" process for prospective donations above a certain amount. Some preliminary due diligence (see "Donor due diligence isn't just for the big guys" on page 3) can help ensure your donor's past or current actions don't conflict with your mission.

Also develop a written gift acceptance policy with clear limitations. Take some time to think through potential scenarios. Most organizations refuse donations of stolen funds or funds generated by illegal means — but what about donations that are "clean" but obviously given as a means of furthering the donor's public relations? What about anonymous gifts? Some nonprofits find them too risky by nature.

Evaluate gifts through an ethical prism that takes into account your values and the perspectives of your various stakeholders.

Donor due diligence isn't just for the big guys

Most nonprofits can't afford to have full-time staff dedicated to performing due diligence on those offering substantial donations. But it makes sense for even small nonprofits to at least have a volunteer do some basic research before accepting a gift.

Often, simple online searches can uncover vital information on potentially troublesome areas, including:

- The source of a donor's wealth,
- The historical business practices of their companies or ancestors,
- Known investments,
- Other nonprofits and causes they support,
- Public statements (including social media posts),
- Pending or concluded litigation (both criminal and civil),
- Media reports, and
- Family members, friends and associates.

The larger the donation, the more intensive your due diligence should be. In some cases, it may prove worthwhile to make the upfront investment in a full professional background check. At the very least, search the donor's name with the following terms: allegation, bankruptcy, bribe, controversy, court, fraud, human rights, investigation, prosecution, unethical and scandal.

Next, identify a process for handling gifts that turn out to be controversial after receipt. Don't base your decision solely on gift size. Instead, evaluate gifts through an ethical prism that takes into account your values and the perspectives of your various stakeholders.

Looking at an example

Different organizations might make different decisions about the same donor. Consider a case where the donor's business actions directly harm a nonprofit's clients' interests. After so-called "Pharma Bro" Martin Shkreli made the news for purchasing a pharmaceutical company and dramatically hiking the cost of critical medications, some of his charitable contributions came to light. One recipient, an organization that assists homeless people, some of whom depend on such drugs, returned his donation. But the donor's alma mater didn't. The latter apparently decided that his history in the pharmaceutical world didn't undermine its educational mission.

If you accept a donation from a controversial donor, you'll likely need to explain your decision. So, develop communications guidelines, as well. Determine who will speak for your organization, which communication channels will be used and how much information will be shared, with a preference for transparency.

Be prepared to stop

There's no way to completely eliminate risk when raising and accepting funds — you can't run full background checks on every donor. You can, however, take some steps to mitigate the risk and save your organization a PR nightmare down the road. ■

Watching costs is always a smart investment

Both for-profit businesses and nonprofit organizations are looking for ways to conserve costs in the aftermath of the COVID-19 pandemic and resulting nationwide economic crisis. Many nonprofits looking for a path forward out of the pandemic have had to strategically cut costs to contain expenses. Here are some suggestions to help guide cost cutting for your organization.

Focus on staff

When COVID-19 was first making its presence felt in 2020, many nonprofits resisted laying off employees. Retention tax credits provided under the CARES Act gave some the breathing room they needed to retain employees.

Even with an economic recovery looking closer than before, organizations that were intent on preserving their staffs may now have no choice but to cut compensation costs. But alternatives to employee terminations may be available. Consider reducing hours or suspending employee benefits. You might trim wages or management-level salaries. And, allowing employees to work remotely may lead to lower overhead.

Consider your facilities

Facility costs often rank with staffing near the top of nonprofits' operational expenses. With stay-at-home orders, you may have had your first experience with remote work in 2020. If operations didn't suffer, you could reap significant savings by continuing in that mode and giving up, or at least shrinking, your office space, if possible.

If you have a lease, approach your landlord about renegotiating, especially if you're nearing the end of the term. The market for commercial real estate faltered in 2020 and early 2021 in the wake of the pandemic and recession, so landlords were generally more amenable than they normally would be to rent reductions, abatements or holidays. As the commercial real estate market starts to rebound, landlords are likely to continue to work with you.

If your organization has more than one site, you may consider consolidating in a single location and closing the others. You may not be able to escape the rent obligations for the shuttered space, but you could eliminate the associated overhead, including insurance. If your nonprofit owns its facilities, look into selling, downsizing or renting out unused space.

Renegotiate with vendors

Also explore renegotiation with vendors. If you shifted to greater remote work, for example, you'll have less need for property maintenance and food services. Check for penalty or fee provisions in your contracts before terminating agreements, though.

It also could pay to join forces with other organizations, nonprofit or not, to increase your buying power. Or you could consolidate more purchases of goods and services with fewer vendors to obtain discounts. Don't

hesitate to be assertive in the pursuit of lower prices. It can't hurt to ask your vendors to offer nonprofit discounts or contribute their services. Do your board members have any connections they can leverage to get you better rates?

Opt for virtual events

Many nonprofits have seen significant decreases in expenses for travel, meetings and events as gatherings were forced into virtual spaces. But, as with remote work, you may have been surprised at how well virtual meetings and fundraisers have worked. In fact, some report their virtual events have been more lucrative than past in-person events.

For example, one organization canceled its annual luncheon and instead simply requested donations from the usual attendees. It ended up with a substantially larger haul than a typical event would have. Other nonprofits have been able to attract higher numbers to virtual runs or walks, where participants do the activity on their own yet with far lower overall costs.

Time for cuts

The COVID-19 pandemic and its economic consequences have cut across a wide swath of nonprofits. Making cuts to survive may be an option. Consult with your CPA to review your specific situation. ■

Board designations
3 questions to consider

The COVID-19 pandemic and ensuing economic crisis have provided harsh reminders of how precarious a nonprofit's financial stability can be. Uncertainty about the future is prompting some organizations to consider the wisdom of making board designations of unrestricted assets. Here are a few questions your organization might want to consider.

1. Are assets unrestricted?

The term "board-designated assets" generally refers to funds that haven't been restricted by donors but are subject to self-imposed limits on their use. They're typically intended to ensure that funding is available when needed. Board-designated funds also can play a role in fundraising by demonstrating an organization's commitment to a specific plan or program.

They may be designated for a special, one-off purpose or set aside on an as-needed basis for a specified period of time (for example, covering contingent liabilities that may or may not arise). Unlike restricted funds, where only the original donor may remove the restrictions, designated funds can be undesignated at the discretion of the board of directors.

In most cases, funds are designated by the board, but, in some organizations, the board assigns the responsibility to management — ideally, to specific positions (such as chief financial officer) that possess the requisite knowledge and judgment, rather than to specific individuals. In such circumstances, these delegations should be formally recorded, and the board should regularly review the actual designations made by management. And, of course, every net asset designation should be properly documented.

2. What are the financial reporting implications?

One benefit of taking the time to properly document board designations is that the practice will make it easier to comply with the financial reporting requirements in Financial Accounting Standards Board Accounting Standards Update (ASU) 2016-14, *Not-for-Profit Entities (Topic 958): Presentation of Financial Statements of Not-for-Profit Entities*. ASU 2016-14 requires nonprofits that follow U.S. Generally Accepted Accounting Principles to disclose board-designated net assets on their financial statements or in the notes to those statements.

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Nonprofits should bear in mind, too, that designating assets can affect the amounts in the mandatory disclosures related to liquidity and the availability of financial assets. Designating a large chunk of cash for a capital project, for example, could reduce your liquidity.

3. How should you manage board-designated assets?

Best practices for organizations with board-designated assets include the adoption of formal policies and procedures related to their management. For example, the policy should require your board to establish objectives for designated assets. That might include:

- Providing an internal line of credit to better manage cash flow and allow some financial flexibility,
- Funding future programs or projects,
- Maintaining operational or liquidity reserves, or
- Funding an endowment.

The policy also should clearly delineate authority. Who can designate and undesignate funds — your board or management? Under what circumstances would exceptions be allowed?

In addition, describe procedures for monitoring designated assets, including stating whether funds will be segregated. Procedures are needed to track expenditures and collect data to comply with reporting requirements, too.

Cover your bases

Board-designated assets can prove critical to the survival of programs, projects — or your organization itself. They do come with certain obligations and responsibilities, though. Consult with your CPA to ensure you're going down a wise path and taking the necessary steps. ■

NEWSBYTES

States move to block donor disclosure requirements

In June 2021, the U.S. Supreme Court struck down a California law requiring nonprofits to file a list of their large donors with the state. But some states didn't wait to see how the Court would rule in the case. According to *The NonProfit Times*, at least 10 states have considered legislation that would limit donor disclosure requirements.

For example, South Dakota passed a law prohibiting the state's executive branch from requiring "any annual filing or reporting of a nonprofit corporation or charitable trust that is more stringent, restrictive, or expansive than that required by state or federal law." The state also banned requirements that nonprofits provide "personal affiliation information" on any supporter. Similarly, a North Carolina bill would declare the identity of nonprofit donors confidential. The provision would specifically apply to information in IRS filings, including Form 990. ■

How Amazon's expanding its nonprofit grant program

Amazon Web Services (AWS) has launched its 2021 AWS Imagine Grant program to help nonprofits access its tools. The program recognizes that nonprofits often lack funding for foundational IT projects that may be viewed as overhead or administrative expenses.

This year, the program is expanding to offer two new award categories so more nonprofits can receive support based on their organizational goals and the stages they're in on their "technology adoption journey." The Momentum to Modernize award provides resources, including up to $30,000 in unrestricted funding, for foundational technology projects, such as migrating servers to the cloud and expanding infrastructure.

The Go Further, Faster award provides support for large-scale projects that leverage the cloud, with the potential to impact an entire industry or field. They include projects incorporating artificial intelligence and machine learning. Awards include up to $150,000 in unrestricted cash support. ■

Need volunteers? Charity Navigator offers a new solution

The nonprofit evaluation website Charity Navigator has partnered with Golden, a volunteer management software company, to give site visitors a way to locate volunteer opportunities in their communities. Visitors can browse thousands of listings filtered by location, availability and targeted keywords, as well as view an organization's Charity Navigator ratings.

Nonprofits can register for free access to Golden to post their open volunteer positions, receive signups, schedule volunteers and track productivity through the automated data collection of volunteer hours. Paid and custom memberships come with enhanced features.

For example, one plan includes access to comprehensive volunteer profiles, the ability to export data and priority email support. Another plan includes integration with specific customer relationship management software and priority support. Custom plans provide dashboards, a signup window for an organization's own website and custom data points. ■

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LaPorte's Nonprofit Industry Group

The **LaPorte Nonprofit Industry Group** of over 35 professionals serves nonprofit clients in a variety of organizations. In addition to LaPorte's traditional audit and tax services, this multi-disciplinary group offers significant management consulting services relevant to our nonprofit clients. While many firms have industry concentrations, LaPorte's nonprofit group comprises professionals who meet regularly to cross-train, identify best practices, review industry trends, and work together to reach collective solutions for over 250 nonprofit clients.

We are proud that 12 members of the Nonprofit Industry Group have successfully completed the AICPA Not-for-Profit Certificate I Program and two members have successfully completed the AICPA Not-for-Profit Certificate II Program.

Commitment to the Nonprofit Industry

Members of our Nonprofit Industry Group attend the AICPA nonprofit annual conference and are involved in the Louisiana Association of Nonprofit Organizations (LANO).

Nonprofit audit updates are provided to all audit staff members, and we regularly send a nonprofit newsletter to clients and prospects. We also offer peer benchmarking reports to clients. Above all, we take great pride in the active volunteerism of our employees in Louisiana and Texas.

Nonprofit Client Base

The LaPorte Nonprofit Industry Group serves a variety of clients, including:

- Private foundations
- Public charities
- Social and country clubs
- Trade associations

Services to the Nonprofit Industry

In addition to our traditional audit, tax, and accounting services, we provide the following specialized consulting services.

- Organization formation and structure
  - Helping form nonprofit organizations and apply for tax-exempt status
  - Assisting nonprofits apply for tax-exempt status
- Governance
  - Evaluating executive and board compensation
  - Providing training to boards on a variety of topics
- Financial oversight
  - Assessing accounting systems, information systems, and recordkeeping requirements
  - Assessing controls and fraud prevention
  - Assessing nonprofit financials and evaluating performance
  - Doing performance and operational reviews
  - Helping develop strategic and business plans
  - Reviewing compliance and disclosure requirements

Established in 1946, LaPorte is one of the largest independent accounting and business consulting firms in the region, with over 190 personnel in New Orleans, Baton Rouge, Covington, and Houma, Louisiana and Houston, Texas. For more information on our Nonprofit Industry Group, contact Co-Leaders Dawn Laborie (dlaborie@laporte.com) or Jack Wiles (jwiles@laporte.com).