MARKS PANETH

ACCOUNTANTS & ADVISORS

MARKS PANETH NONPROFIT AGENDAS FEBRUARY 2015: STRATEGIES AND SOLUTIONS FOR CONTINUING TO GROW YOUR NONPROFIT ORGANIZATION

KEEPING IT CURRENT: IS IT TIME TO UPDATE YOUR EMPLOYEE HANDBOOK?

New employees, in their first week on the job, typically page through their organization's employee handbook or "employee manual." What they see paints a picture of the nonprofit they'll be working for, how that organization treats employees, and what it expects from them.

Setting the stage

In the short run, an employee handbook sets the stage for many scenarios, from vacation requests and maternity leaves to performance reviews and termination procedures. Knowing the rules can prevent surprise, confusion and resentment on both sides of the table as certain situations and outcomes materialize.

In the long run, an employee handbook can help protect your nonprofit against a range of liabilities. Regardless of size, all nonprofits should offer employees a handbook that's clear, current and complete.

Complying with rules and regulations

To stay current, update your employee handbook once a year — more often, if needed. Look at changes to federal, state and municipal employment laws. Changes over the last few years are far too numerous to detail, and vary widely by state (and municipality). But policies in the following areas (and others not covered here) may need updating:

Health care and benefits**.** Revisions may be needed to keep your handbook in compliance with current requirements of the Affordable Care Act (ACA). For example, if "part-time" employees are excluded from the company health care plan, that should be noted. Also, if your nonprofit chooses to use the look-back periods allowed by the regulation, it also should be mentioned. And if the definition of "part-time" is different for health benefits than for other benefits, make that distinction.

Also examine your health care and benefits policies based on any changes in your state permitting same-sex marriage and partner relationships.

***Wellness programs*.** Wellness plans are becoming an increasingly popular staple in nonprofits' medical plans. If you have a plan, be sure to stay on top of ACA wellness program regulations. Also keep an eye on laws that may affect the design and administration of wellness programs, such as the Americans with Disabilities Act (ADA).

***Job protections for pregnant women*.** New legislation in some states, including New Jersey and Illinois, provides pregnant women with job protections. These can include, for example, limits on heavy lifting, assistance with manual labor and access to places to sit. As with other compliance areas, consult an attorney to see if you need to create any new policies or update ones you already have in place.

Keeping an eye on Congress

In addition to current laws and regulations, a prudent employer will keep an eye on legislative activities and trends. Here is a listing of key, currently proposed federal legislation that, if enacted, will affect employment law — and, hence, the policies in your employee handbook.

The Affordable Care Act. Some provisions of the Affordable Care Act apply only to large employers, generally those with 50 or more full-time equivalent employees. For example, in 2015, large employers will have annual reporting responsibilities concerning whether and what health insurance they offered to their full-time employees.

***The Equal Employment for All Act of 2013*.** Senate Bill 1837 would amend the Fair Credit Reporting Act and prohibit employers from using consumer credit reports to make hiring or job-related decisions. Employers wouldn't be allowed to obtain consumer or investigative reports for job candidates.

***The Family and Medical Leave Inclusion Act*.** House Rule (HR) 1751**,** expected to be considered for a second time by Congress, would allow employees to take leave for care of a same-sex spouse or partner, parent in-law, adult child sibling, grandchild or grandparent, son-in-law or daughter-in-law if that person has a serious medical condition.

***The Family and Medical Leave Enhancement Act (FMLA) of 2014*.** HR 3999 would amend the FMLA to cover employers with 25 or more employees rather than the current threshold of 50 or more employees, allowing employees to take "parental involvement" (including attendance at activities sponsored by a school or community) and "family wellness" leaves.

***The Employment Non-Discrimination Act*.** HR 1755 would add sexual orientation and gender identity to the list of protected classes where employment discrimination is prohibited, making it unlawful for an employer with 15 or more employees to discriminate based upon an individual's actual or perceived sexual orientation or gender identity.

A symbol of good intentions

A good employee handbook is a testament that your organization treats employees fairly and consistently, and complies with all relevant laws, rules and regulations. Be sure to have an employment attorney review your handbook annually.

Your handbook may even show that your nonprofit is ahead of the curve when it comes to employee rights and benefits. And that may make your nonprofit a stronger competitor in the job marketplace.

Minimum wage changes in your state?

In 2014, 17 states and some US cities raised the minimum wage for employees. Many have phase-in schedules that begin to kick in this year. Raising the minimum wage remains on the front burner in some other states.

The proposed federal Fair Minimum Wage Act, which would have increased the minimum wage from $7.25 to $10.10 over three years, and similar bills have been introduced in both houses of Congress in the past two years. None of these bills have made it out of committee, and there are few expectations that the issue will resurface in the Republican-led Congress this year. Nonetheless, if your employee handbook has minimum wage references, don't forget to review them.

MANAGE YOUR NONPROFIT'S FINANCIAL EBB AND FLOW

Cash flow is what makes the world of business — and nonprofit organizations — go round. Ensuring that your organization has adequate cash on hand to meet its operating needs requires cash management skills and accurate cash flow reports.

The ups and downs of cash

Cash flow management involves analyzing cash inflows and outflows based on the timing of receipts and payments. It's more than taking your annual budget figures and dividing by 12 to come up with a static, monthly amount — this won't give you an accurate snapshot of your cash flow. Consider an annual event. If it's a spring gala, costs rise in April and May as you plan, and pay for, the event.

Costs also may bump up noticeably in, say, December if you publish an annual report then. In fact, costs can vary significantly from month to month for a variety of reasons — for example, as staffing needs change and heating and cooling costs rise and fall.

Similarly, your influx of cash might vary dramatically throughout the year. For example, donations typically spike around the time of fundraising events and also at the end of the year, when donors are trying to get last-minute tax deductions. The timing of grant payments also can lead to significant income fluctuations from month to month.

Simple grid work

To begin managing your not-for-profit's cash flow, create a cash flow report using a simple grid. Along the top, list all 12 months and label them either "actual" or "projected." Going down the page, create rows for the following information:

- Beginning balance — this line shows the amount of cash you had at the start of the month.
- Cash coming in — line item entries display the largest income categories you'll have for each specific month; add up the individual entries to calculate your nonprofit's amount of incoming cash.
- Cash going out — make line item entries for the largest categories of expenses, combining as necessary, and total all individual entries to calculate the amount of outgoing cash.
- Net inflow or outflow — subtract your cash going out from your cash coming in to determine your net inflow or outflow.
- Ending balance — add the beginning balance to the net inflow or outflow number to give you an idea of your cash position at the end of each month.

Use historical data in addition to what's on your calendar for at least the next six months to create your projections. Remember, you're creating a time-based report, not simply averaging expenses and income over 12 months.

Be realistic about when cash will actually come in. If your big fundraiser is cash-based, you'll have the money in the month of the event. But if you're executing a fundraising campaign, donations can come in months after your initial mailings. Reflect that in your projections.

Final touches

To complete your cash flow report, compile a total of your cash on hand and estimates of cash receipts and their due dates. You'll also need to enter into the report payment amounts and schedules for personnel expenses including salaries, wage increases, taxes and benefits.

Other data you'll need includes consulting and professional service fees, occupancy charges (for instance, rent and insurance), and office charges (such as telephone service, equipment rental, service contracts and supplies). Last, be sure to include debt payments, financing costs and all other expense categories (for example, travel, postage and printing).

Uses for your report

Now that you've made the effort to collect information for your not-for-profit's cash flow report, you'll want to use that data to your organization's advantage. With your projected cash flow for the year in front of you, you can now make better decisions about how and when to spend money, when new sources of cash are needed (for instance, from contributions or a temporary draw on a line of credit), and how much of the surplus you can invest and for what period of time.

You also must evaluate your organization's excess revenue over expenses on an accrual basis to determine if the costs of certain activities are justifiable. Cash is important but, before spending any "excess," evaluate your nonprofit's full financial picture.

Thinking ahead

Cash flow reports will help you make sure that your organization always has adequate cash to meet its financial commitments. Savvy managers keep their eyes on the numbers and take steps to boost cash flow before a cash crunch can materialize.

SHOULD YOUR ORGANIZATION ACCEPT BITCOIN DONATIONS?

Nonprofits that have held off on accepting contributions in Bitcoin may have to rethink their stance following United Way's recent move to accept such donations. Yet reasons exist for caution in accepting Bitcoin and other "crypto" currencies.

In September, charity giant United Way Worldwide began allowing donors anywhere in the world to make Bitcoin donations to United Way's Innovation Fund. The fund is used to update the charity via "technology, relationships and efficiency." Donors can make contributions directly from digital Bitcoin wallets by using Coinbase, a Bitcoin payment platform.

Learn the Bitcoin basics

Bitcoin differs from traditional currencies because it's decentralized — the currency isn't printed or backed by a central government. And Bitcoin is sold on unregulated exchanges.

Additionally, the individuals and businesses that create Bitcoin are allowed to keep some of what they create as payment for the service.

Consider global access, possible tax benefits

Accepting Bitcoin or other crypto currencies may be attractive for some not-for-profits. Pluses include:

- The ability to accept donations of any size from people worldwide who don't have easy access to global financial systems,

- Low- or no-cost transactions — for example, the Coinbase platform used by United Way issues no charge for the first $1 million in transactions and a 1% fee for additional transactions, which is less than what most credit-card companies charge merchants, and

- The fact that the IRS considers Bitcoin contributions to be donations of property (not cash), which, as United Way's website points out, can allow donors to deduct appreciation that could otherwise be subject to capital gains tax.

Donors who use Bitcoin should consult their tax advisors about how to properly record the donation on their personal tax returns.

Using Bitcoin donations is becoming much easier. Bitcoin is accepted by many online retailers, such as Dell Computers, Newegg and Overstock.com. And the easiest way to convert Bitcoin into specific goods or services that your nonprofit needs is through a gift card company. The gift cards you purchase from companies such as eGifter, iTradeBTC and Giftcard Zen can be used at most major retailers.

Beware of the risks

Despite the possible benefits and increased popularity, all isn't silver with Bitcoin and other crypto currencies. For example, the Silk Road Internet marketplace, which used Bitcoin, was shut down by the FBI for illegal drug trafficking in 2013. Money laundering also has been linked to crypto currencies, because of greater anonymity in payment transactions.

Nonprofits also should think twice about holding Bitcoin as an *investment.* This can be risky due to huge fluctuations in value and its lack of liquidity.

Find out more

Other high-profile digital currencies — some claim more stability and efficiency than Bitcoin — include Namecoin, Litecoin, Peercoin and Quark. Quark has drawn publicity because of its intense security measures. It's important to do your research before deciding whether to accept crypto currencies and which one(s) to accept.

NEWS FOR NONPROFITS: VOTERS SUPPORT CLEAR RULES FOR POLITICAL ACTIVITIES

Voters overwhelmingly want clear rules defining allowable political activities for nonprofits, according to a survey of likely November 2014 voters. Respondents supported better-defined rules by a 2-1 margin, even when faced with the opposing argument that the rules would allow the IRS to limit free speech.

The results were based on a phone survey of 800 voters nationwide on behalf of Public Citizen, a consumer rights group, and Hudson Institute, a conservative think tank.

The desire to have clear rules about what nonprofits can and can't do regarding political activities crossed party lines: 88% of Republicans, 87% of Democrats and 84% of Independents surveyed said they feel strongly that clear rules are important. Moreover, 80% of respondents said that political operatives, organizations and wealthy donors taking advantage of *unclear* rules is a problem.

The IRS is redrafting proposed rules on political activities for 501(c)(4) groups — social welfare organizations that can expend a portion of their resources on political activities. The agency plans to release the new draft this year.

Gates Foundation helps GuideStar expand its database

An ambitious plan by GuideStar to update its database for broader use by not-for-profits recently got a boost from the Bill & Melinda Gates Foundation, which pledged $3 million over three years to the project.

As described in its new strategic plan, *GuideStar 2020*, GuideStar plans to develop and deploy a suite of new data-collection and data-presentation tools:

- The common profile would let nonprofits create and use a single profile across multiple online-giving platforms without building a unique user account for each.

- Another feature would allow users to search nonprofits and data by causes.

- Additional capabilities would allow organizations to report a variety of program outcomes via simplified input.

GuideStar still needs to raise additional funds to meet its $10 million goal for the project.

One city's pursuit of nonprofit contributions

It could happen anywhere, but in this case it happened in Pittsburgh. That city is pursuing a 10-year agreement with tax-exempt nongovernmental organizations that would add $16 million to $24 million annually to city coffers. Mayor Bill Peduto's initiative aims to secure donations from the city's biggest nonprofits, including the University of Pittsburgh Medical Center and Carnegie Mellon University.

According to the *Pittsburgh Post-Gazette*, the city has negotiated every few years with the Pittsburgh Foundation to set amounts the city's not-for-profits should voluntarily donate.

It behooves all nonprofits to keep an eye on any revenue-boosting initiatives affecting nonprofits that their area municipalities and state governments might devise.

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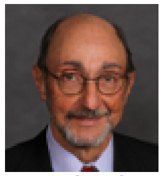

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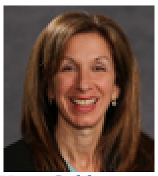

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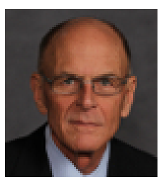

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