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This Issue

Effective Executive Directors Need Strong Board Support

Running a not-for-profit can be difficult even in the best of times. But when times are tough, the stress of the executive director's job can be crushing. It's no wonder that idealism often gives way to burnout.

That's where the board comes in. It can be an important buffer against the pressures facing the chief executive. Here are some ways the board can underscore its commitment to supporting the executive director:

> "Not surprisingly, surveys have found that the board is a key factor in how satisfied executive directors are with their positions and also how long they stay in them."

Observe the rules of the relationship. Many problems between boards and executive directors stem from confusion about roles and responsibilities — confusion that can be avoided. The board has very specific duties that are distinct from the executive director's — in essence, the board governs and the director manages.

Still, every not-for-profit needs written guidelines defining the roles of both parties. Executive directors may also need to help board members, particularly new ones, understand ways in which they can be supportive.

Provide additional resources. Every executive director has a wish list, although it may be impossible to realize. But they also have relatively simple needs that boards can help them meet. For instance, they may want more management or administrative assistance, maybe to complete a short-term project or prepare for an event.

Offer to assist. Sometimes a board member can help out — perhaps by taking the initiative to contact a foundation about a grant application or organizing a fund-raiser such as a golf tournament.

Another way to provide assistance is to authorize a temporary worker for extra administrative support. When feasible, board members should go the extra mile to offer targeted resources that can help smooth over the rough patches.

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Introducing: Holtz Rubenstein Reminick

We are pleased to announce a merger of two vibrant, progressive accounting firms. Holtz Rubenstein & Co., LLP and Reminick, Aarons & Company, LLP have merged their practices. The merged firm is **Holtz Rubenstein Reminick LLP**.

Why a merger? We look forward to the opportunities available to a firm with a full office presence in New York City, as well as Long Island.

The merged firm has about 150 people, including 21 partners.

The firm expects to be included among the top 100 accounting firms in the country. As a larger firm, we can bring more value and service to our clients by increasing our depth of resources, adding additional services, and growing the knowledge base of our personnel. It accomplishes a goal, as part of the strategic plan, to grow our services through mergers, so that we can provide you with more resources and specialties.

What will not change is our commitment to continuing a strong, ongoing relationship with our clients.

In the meantime, we are comfortable in the knowledge that the level of professional skills of the people in our combined firm is second to none.

If you have any immediate questions, please contact Managing Partner Frank Candia at (631) 752-7400, *FCandia@hrrllp.com* or Andy Weiss, partner in charge of the New York City office, at (212) 697-6900, *AWeiss@hrrllp.com*. ■

Make Time for Risk Management

All organizations face risks, but when bad things happen to not-for-profits the consequences can be especially devastating — through the loss of public trust and goodwill, if not financially.

Because not-for-profits may have even more to lose than for-profit entities, their executive directors and boards must make risk management a priority. Good practices in this area signify an organization's commitment to responsible operation.

A risk can be anything that might occur that could jeopardize a not-for-profit's tangible or intangible assets and threaten its ability to achieve its mission. Risks usually fall into one of the following categories:

People—Will employees, volunteers or clientele be harmed or cause harm?

Property—What are the risks to facilities, equipment, proprietary information or intellectual property?

Income—What is the likelihood of losing significant revenue from grants, contributions or other income?

Reputation and stature—What might tarnish the organization's public image or endanger its tax-exempt status?

Some examples of misfortune that could befall a not-for-profit include:

• A volunteer bus driver under the influence of drugs has an accident while transporting children.

• A fire breaks out in an organization's office, destroying valuable equipment and records.

• Workers file a lawsuit alleging they were wrongly denied overtime pay.

Because risks can arise in so many areas and without warning, planning for them can be difficult. But in its simplest form, risk management revolves around three basic questions:

1- What can go wrong?

2- What can we do to lessen this possibility?

3- How can we protect ourselves legally and financially if something bad does happen?

Ranking risks

Effective risk management begins with recognizing that not all risks are equal. Some risks, such as employment-related claims or fraud committed by an employee, are always a possibility, but most organizations also have certain vulnerabilities related to the nature and scope of their work.

Identifying organizational risks requires input from staff, volunteers and outside advisors, such as lawyers and accountants. For instance, the volunteer coordinator could help identify volunteer-related risks, and an auditor might evaluate the adequacy of the organization's internal controls.

Not only is this approach logical – those working in the operational areas being reviewed have the best vantage point for spotting risks – but also it helps to build buy-in for any later recommendations.

Although many people contribute their insights, an individual or small group — often a risk management committee — should take the lead in developing a plan to manage risks. The committee might include volunteers, employees and possibly an outside advisor.

The process of evaluating and ranking risks then begins. The goal should be to focus first on probable risks with the potential for the greatest negative impact. For instance, an organization that relies heavily on volunteers to deliver services to children would concentrate much of its risk prevention efforts on properly screening volunteers.

As you evaluate risks, review your policies and procedures and develop or revise them to reduce high-priority risks. For instance, an organization might add an extra layer of protection to the process of screening volunteers or take steps to improve documentation in this area.

Documenting policies

During your review, document everything, such as policies pertaining to personnel, conflicts-of-interest, Internet usage, financial management and internal controls.

Many organizations make the mistake of assuming that having high ethical standards eliminates the need for written policies, but policies are the backbone of any compliance or risk management plan. They also play a role in training and educating staff members and volunteers.

Organizations should continually monitor their risk management practices to see how well they're working, with a comprehensive review annually, if possible. Key performance indicators can be established to function as an early warning system.

In the financial area, for instance, an indicator might be a budget overrun. To address this, review the monthly budget each time it is exceeded, to identify the reason for the overrun and evaluate the importance of the underlying problem. Another precaution might be to monitor volunteer and staff turnover quarterly, to detect personnel problems requiring attention.

Even with sound practices in place, not-for-profits should still prepare for worst-case scenarios. In addition to general liability insurance, directors' and officers' insurance is often used to enhance protection. *(See "D & O Insurance Helps Fill Liability Gaps" on this page.)*

Business continuity planning also plays an important role in preparing for unforeseen events that could jeopardize the ability to maintain normal operations.

D&O Insurance Helps Fill Liability Gaps

Even not-for-profits that practice sound risk management and carry general liability insurance can be harmed by lawsuits. Liability can also extend to staff members and volunteers who act on an organization's behalf.

Most not-for-profits have indemnification policies that protect board members by agreeing to cover legal or other expenses that could result from their service. In addition, state laws and the federal Volunteer Protection Act (VPA) shield volunteers to some degree for liability in cases of "simple negligence." But both of these mechanisms merely limit rather than eliminate volunteer liability.

For example, the VPA does not cover harm caused by willful, criminal or reckless conduct, gross negligence, or operation of a motor vehicle. Coverage also requires that volunteers act within the scope of their responsibilities, and discriminatory acts are not covered. Additional risks result from breaches of contract, copyright violations and financial failures or improprieties.

That's why most organizations will want coverage that extends beyond that offered by indemnification policies and existing laws. Many purchase a commercial general liability policy to supplement their protection and that of their directors, employees and volunteers. A general liability policy covers claims arising from bodily injury and property damage, even in cases of negligence.

Directors' and officers' (D&O) liability insurance is another key piece in a comprehensive effort to manage risk. D&O policies take up where general liability policies leave off. They generally insure against "wrongful acts" by the organization and its representatives, including breaches of duty. Some policies also cover "prior acts" by an organization or its representatives.

In addition, D&O insurance offers broad coverage for employment-related claims, something that most general liability policies do not cover. This is an important benefit since most claims against not-for-profits are employment-related, including discrimination, harassment or wrongful termination.

Even when not-for-profits employ multiple approaches to liability protection, they still face significant uninsurable risks, such as the loss of goodwill, donor support or tax-exempt status. Only a strong commitment to risk awareness and prevention can provide a hedge against these potentially devastating risks. ■

An effective program

A risk management program doesn't have to be elaborate to be effective. Its complexity should reflect a not-for-profit's specific risks and the resources available to minimize them. What's critical is that organizations make time to identify probable risks, use a system to evaluate and rank them, and put strategies in place to lessen them. ■

Charities Beware – Senate Hearing on Abusive Practices

The Senate Finance Committee is looking into abuses committed by charitable organizations and the ways to prevent these abuses from occurring in the future.

At a hearing this summer, witnesses cited various abusive practices by members and supporters of charitable organizations. These practices include participation in abusive tax shelters, insider dealings of assets by directors, the exploitation of charities by fundraisers, and the creation of phony charities to evade taxes.

IRS Commissioner Mark W. Everson was at the center of the hearing, providing the Committee with explanations of the role of the IRS in a number of issues pertaining to tax exempt organizations.

Nearly half of the 31 abusive tax-shelter transactions identified by the IRS involve exempt organizations. Everson pointed to significant failures in governance and outright abuse within the nonprofit sector as the causes. Because the IRS is tightening enforcement in other corporate and individual tax areas, money has flowed into the exempt community.

The IRS has targeted exempt organizations as one of its top enforcement priorities. It has only scratched the surface on the abuses involving tax exempt organizations, and Everson conceded that the Service's "response has lagged." The IRS does not often penalize public charities or their managers under the intermediate sanctions rules. This is the one area where the IRS has the authority to penalize organizations for abuses in inappropriate officers' compensation.

The IRS also has plans to intensify its review of Applications for Exemption to deter the formation of phony tax-exempt organizations. The IRS is stepping up its audits on exempt organizations whose major source of revenue is earned through credit counseling services. The new plan seeks to audit hundreds more exempt organizations to assess their compensation practices and to address issues such as insider loans and asset sales.

William Josephson, New York State Assistant Attorney General for Charities, stated at the hearing that proper management is crucial. He suggested that exempt status should not be permanent and should be subject to a periodic review.

The following are major reforms under consideration as a result of the hearing:

1. imposing liability on board members for responsible management;
2. IRS review of exempt status every five years;
3. greater financial disclosure;
4. loss of exempt status for up to a year for charities involved in abusive tax shelter practices.

The Senate, along with the IRS, has made a commitment to properly enforce the tax-exempt organization rules and is determined to prevent organizations from abusing the benefits of receiving their tax-exempt status.

For further information, contact HRR Not-for-Profit Partners Beatrix McKane, *BMcKane@hrrllp.com*, or Gordon Siess, *GSiess@hrrllp.com*, at (631) 752-7400. ■

Seizing the Spotlight: How to Garner Free Publicity

Not-for-profits don't just want publicity, they *need* it to further their missions. But first, they have to convince the news media that their programs have news value.

Here are some tips to help you seize the spotlight:

Weigh in. Release statements about issues of national importance that relate to your mission.

Be available. A few hours are an eternity for a reporter on deadline, so return calls from the media immediately. For greater availability, you might give out your cell phone number.

Be quotable. Keep your comments concise and jargon-free — and address the question you're asked. You can't always follow prepared talking points. And it never hurts to be pithy if the subject calls for it.

Serve up a local angle. If you can connect reporters with clients willing to discuss the impact of a national issue on them, you'll hit publicity pay dirt.

Keep your website interesting. Post position statements, newsy press releases and useful resources on your Web site and direct reporters to it.

Appeal to emotions. Any time you have a touching cause or a stirring success story, pitch it to the news media. A story that plays to the emotions has a good chance of winning coverage.

Media attention can raise your profile and help attract volunteers, funders and donors. So keep the information flowing. You never know when a press release or photo opportunity will strike a chord — or when a slow news day will work in your favor. ■

6 Signs of an Effective Strategic Plan

Many not-for-profits have lofty missions, but turning them into measurable results can be another matter. Yet this is becoming increasingly important in the not-for-profit sector, as funders, donors, watchdog groups and various other stakeholders demand greater accountability.

Although strategic planning originated in the for-profit sector, its practical value has earned it a prominent place in the not-for-profit world. But to effectively guide an organization, a strategic plan has to be treated as an indispensable reference, not simply stored on a shelf gathering dust.

These questions can help you gauge whether your plan is a beacon or a bust:

1. ***Is the mission clear?*** Your mission statement is your calling card — it may be the only thing people read about your organization. Though an inspiring statement is essential, it needs to be specific, suggesting a plan of action that points the not-for-profit in a clear direction.

2. ***Is it supported by specific goals?*** A good mission statement leads to goals that outline how the mission will be achieved. For instance, if the mission is to improve the lives of underprivileged children, the goals should define the children to be helped, the services to be offered and the improvements to be expected. In other words, how can you — and others — measure your success in achieving your mission?

3. ***Does it provide clarity?*** Good strategic planning helps a not-for-profit sharpen its focus and better allocate time, money and staff to support its mission. This may mean eliminating programs that, while worthwhile, may no longer be critical to its mission or that don't deliver the impact they should for the resources they consume.

4. ***Is there accountability?*** To bring a strategic plan to life, you must assign responsibility for pursuing specific goals to individuals or committees. If the goal is to increase the number of children participating in a reading program, for example, make an individual or committee responsible for making the goal a reality and measure progress at regular intervals.

5. ***Are daily operations consistent with goals?*** A not-for-profit's goals should be evident in how it uses its resources. Do the monthly and annual budgets support strategic goals? Are the daily activities performed by staff aligned with the goals? Are all programs consistent with the mission and goals?

6. ***Does the strategic plan guide decision making?*** Your strategic plan expresses your organization's priorities, so look to it for direction when questions arise about how the organization should proceed.

Evaluating your strategic plan - or developing one for the first time - can be an enlightening exercise that can help you meet expectations for greater accountability in your operation. But the real value comes in guiding your organization along the path to its mission. ■

(continued from page 1)

Effective Executive Directors Need Strong Board Support

Allow the executive director to shape — but not control — the agenda. Boards will want to give the executive director ample opportunity to guide the board to a true governance role by helping determine the issues the board should address.

Although boards want to guard against being just an audience or a rubber stamp, they should recognize that executive directors are close to the organization's needs and that most have its best interests at heart.

So while boards don't want to completely relinquish the agenda to their executive director, they do want to ensure that they get input from the executive. Otherwise, the relationship will seem more like a subordinate one than a partnership.

Help find solutions. Boards should create an environment that invites the executive director to seek the board's help when he or she doesn't have time to solve a problem or simply can't solve it alone. The executive director's satisfaction with the board will ultimately depend on whether he or she feels that its members willingly and effectively step up to the plate when needed.

Provide development opportunities. Although budgets are tight, try to offer your executive director formal and informal opportunities for professional development and networking. Activities such as attending conferences, participating in professional groups and taking courses all tend to have a revitalizing effect, enabling one to return to the job with fresh insights and renewed enthusiasm.

Not surprisingly, surveys have found that the board is a key factor in how satisfied executive directors are with their positions and also how long they stay in them. Boards will want to do their part, therefore, to be as supportive as possible, both personally and professionally. ■

NEWSBITS

October 1 DUNS Deadline

Since October 1, 2004, before applying for or renewing grants, all federal grant applicants must have a Dun & Bradstreet number (Data Universal Numbering System - "DUNS"). The Office of Management and Budget (OMB) says the DUNS number will be used for tracking purposes and to verify address and contact information. To get your DUNS number, call the toll-free request line - (866) 705-5711.

What's a volunteer worth?

A volunteer's time on an hourly basis was worth an estimated $17.19 in 2003, a 45-cent increase from 2002. That's according to an updated report from Independent Sector, an advocacy group for not-for-profits. The estimated value of volunteer time provides a uniform way for volunteer managers, not-for-profit executives, government agencies and others to quantify the budgetary significance of volunteer help.

The hourly value, updated annually by Independent Sector, is based on the average hourly earnings of all nonagricultural workers as determined by the U.S. Bureau of Labor Statistics. Independent Sector takes this figure and increases it by 12% to represent estimated fringe benefits.

For more statistics on the value of volunteerism, including a breakdown by state, visit the group's website, www.independentsector.org.

Automatic excess benefit transactions targeted in exams

According to the IRS, automatic excess benefit transactions are the biggest enforcement area for tax-exempt organizations. These transactions occur when an exempt organization provides an economic benefit to a disqualified person and the benefit is not treated as compensation under Internal Revenue Code Section 4958 because the written contemporaneous substantiation requirements are not met. Generally speaking, a disqualified person is someone who can exercise "substantial influence" over an organization's affairs, such as a board member or key employee.

The key to reducing penalties in this area is to disclose the transaction before an IRS examination, the agency says. It recommends contracts between exempt organizations and disqualified persons and says that all economic benefits given to these individuals should be specifically identified in the contract.

Taxpayers can request a technical advice memorandum (TAM) from the IRS as needed if questions pertaining to an audit in this area arise. The IRS will also publish several TAMs related to this issue by year end, and it plans to send more than 1,000 letters to taxpayers as part of a compliance initiative.

Small businesses give charities discounts, donations

Most U.S. small businesses give discounts and donations to not-for-profit customers and participate in annual charity fund-raisers, according to a recent Web survey.

But one means of charitable giving is disappearing. According to the survey, you're less likely to see a coin box near retail outlets' cash registers. Just 23% of small businesses reported helping charities raise funds in this way. Among the survey's other highlights:

- 60% of small businesses offer discounts to not-for-profit clients.
- 52% are involved in annual charitable fund-raisers.
- 63% of small business owners donate cash to not-for-profits, while 32% make in-kind contributions.
- 53% contribute $500 or more to charity annually.
- 77% make regularly timed charitable contributions.

Not-For-Profit Services at Holtz Rubenstein Reminick

As pioneers in this rapidly-growing financial service area, our comprehensive approach to the Not-For-Profit sector is virtually unmatched. In addition to the traditional CPA services of accounting, auditing and taxation, we provide data processing, rate reimbursement consulting, management consulting, and strategic planning.

Contact Us

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