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August 2013

Accounting Newsletter for Non-Profit Organizations

Adopting a Whistleblower Policy

by Megan Lausten, CPA, Senior Associate

If there were fraud occurring in your organization, how would it be discovered? It is common to assume that the best way to discover fraud is through an independent audit. Surprisingly, only 3% of workplace fraud is detected during an independent audit, according to the Association of Certified Fraud Examiners' (ACFE) 2012 Report to the Nations. Instead, most instances of fraud (34%) are exposed by tips from employees, directors, members and volunteers.

This statistic emphasizes the importance of having a policy that encourages people to report their concerns without fear of retaliation. Such a policy is referred to as a whistleblower policy. Adoption of a whistleblower policy is a good governance practice which can be reported on

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Update to Employer Shared Responsibility Provisions of the Affordable Care Plan

On July 2, 2013, the U.S. Department of the Treasury announced that the delayed implementation of certain provisions of the Afffordable Care Plan, in particular those impacting the shared responsibility penalty for employers and the employer and plan reporting requirement. These will both be delayed for one year (until 2015). You can read the Treasury's announcement online here. The IRS has also removed their Q&A and they are expected to provided updated information soon. ■

Refresher on Good Nonprofit Governance Practices

by Jill A. Shaw, CPA, Partner

The IRS believes well-governed nonprofit organizations are likely to be more compliant with tax laws, safeguard charitable assets, and serve charitable interests. As nonprofit organizations come under increased scrutiny by the public and the IRS, governance practices and policies are under the microscope.

In December 2009, the IRS issued Form 14114, a Governance Check Sheet, which is utilized by IRS field audit staff during audits of tax-exempt organizations. The Form can be found at http://www.irs.gov/pub/irs-tege/governance_check_sheet.pdf. Many of the questions on this Form are also questions on the Form 990.

The check sheet indicates that the IRS will be examining six areas related to governance:

1. **Governing Body and Management** – Nonprofit organizations should review their written mission statement periodically to ensure it clearly states their exempt purpose. The

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Also in This Issue

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Whistleblower Policy

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Form 990. There are several factors to consider in the adoption of a whistleblower policy for your organization.

Implement a fraud hotline. According to the ACFE's 2012 Report to the Nations, organizations that had an anonymous fraud hotline suffered significantly less losses from fraud than those who did not. Employees and volunteers are more likely to report a concern in a timely manner if it is easy to report. Organizations can create an anonymous submission form on their website or outsource the hotline services.

Develop a chain of command. A whistle-blower policy should designate responsible individuals within the organization to receive and respond to tips. Response to fraud tips should involve both members of management and the governing body. A common practice is to designate a compliance officer, such as the Executive Director or Human Resources Director. The compliance officer would be responsible for receiving fraud tips and reporting them in a timely manner to the appropriate members of the governing board. If the organization has an audit committee, the chair of the committee would be an appropriate governing board designee.

Investigate tips. Have a plan of action for how to respond to tips. The compliance officer and governing board designee should be tasked with investigating tips in a timely manner. The investigation should ensure the fair treatment and anonymity of the whistleblower during the investigation. If necessary, hire an external investigator such as a Certified Fraud Examiner or any other resource deemed necessary to conduct a full and complete investigation of the allegations.

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Are You Keeping Track of Your Subrecipients?

by Neil S. Galassi, CPA, Audit Manager

If your organization is the recipient of Federal grants that you in turn provide to another not-for-profit or governmental entity, you may have a subrecipient relationship as defined by the Office of Management and Budget (OMB) Circular A-133. Federal guidelines impose various requirements of the entity providing the grant funds, otherwise known as the pass-through entity. These responsibilities for your organization include:

- Determine the subrecipient's eligibility to receive the funds and its ability to comply with Federal laws and regulations.
- Identify and inform the subrecipient of any requirements of the American Recovery and Reinvestment Act (ARRA).
- Conduct monitoring activities during the subrecipient's use of the Federal funds to provide reasonable assurance that the Federal awards are administered in accordance with the established laws, regulations, provisions, and performance goals of the grant agreements or contracts.
- Ensure that subrecipients who expend $500,000 or more in Federal awards during the fiscal year met the requirements of OMB Circular A-133 and obtained the required audit.

After a grant agreement is executed with a subrecipient, the following should be considered:

- The complexity of the program: The existence of numerous compliance requirements will lead to a higher risk of non-compliance.
- Amount passed through to the subrecipient: The larger the award, the greater the need for monitoring.
- The organization's ability to administer the award: New subrecipients generally require closer monitoring. Closer monitoring may also

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Good Nonprofit Governance

(cont'd from P.1)

organization's adherence to this purpose protects its tax-exempt status. In addition, the organization's bylaws should address the composition, duties, qualifications and voting rights of the governing body and the organization should have policies in place to make such governing documents available to federal and state authorities, the governing body and the public upon request.

2. **Compensation** – Nonprofits should ensure that compensation to its officers, directors, trustees, key employees and other executives is reasonable. Some organizations accomplish this by engaging a third party to perform a compensation study. Another option is to conduct an in-house comparability study utilizing free guidance that can be found on websites like Guidestar (www.guidestar.org) or studies such as the Nonprofit Compensation and Benefits Report published by the ASU Lodestar Center (https://lodestar.asu.edu/research/nonprofit-compensation-and-benefits-report) which can be obtained for a small fee. Compensation arrangements should be approved by the governing body and documented in the meeting minutes.

3. **Organizational Control** – Organizations should have a balanced board that includes independent members to demonstrate that the organization is not overly influenced by individuals who are not independent due to family or business relationships. A diversified board will help ensure that the organization is a proper steward of charitable assets and decisions are made in the best interest of furthering the organization's mission.

4. **Conflict of Interest** – Organizations should have a written conflict of interest policy that addresses recusals and requires annual written

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Monitoring Your Subrecipients

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be warranted for existing subrecipients who have a history of non-compliance, turnover in key program staff, or a significant change in systems.

Some of the activities that the organization providing the funds may employ to comply with Federal guidelines over subrecipient monitoring involve:

- Execution of agreements that identify the award information (i.e., program title, amount provided, Federal oversight agency, and award number as dictated by the Catalog of Federal Domestic Assistance, or CFDA).
- Develop clear expectations for the frequency, format, and content for reporting performance and financial information to be submitted by the subrecipient.
- Consider need for site visits to review underlying financial or program records and directly observe operations.
- Keep regular and consistent contact with the subrecipient entity to identify any concerns, inconsistencies, or identify achievement of grant objectives in a timely manner.
- A pass-through entity may arrange for an agreed-upon procedures engagement for certain aspects of the subrecipient's activities.

Best practices for an effective monitoring relationship involve the execution of a clear under-standing at the inception of the relationship. In cases when the subrecipient is unable or unwilling to comply with the agreement, appropriate sanctions should be imposed by the organization providing the funds.

Good Nonprofit Governance

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disclosures of conflicts. The organization should also regularly and consistently monitor and enforce compliance with the policy. The Form 1023, Application for Recognition of Exemption Under 501(c)(3) of the Internal Revenue Code, contains a sample conflict of interest policy.

5. **Financial Oversight** – Nonprofits should provide the governing body with reports of the organization's financial activities so that they may carry out their duty of ensuring financial resources are used to further the exempt purpose. The Form 990 should be reviewed by the full board and/or a designated committee prior to filing with federal and state authorities. In addition, the independent accountant's report and management letter should be reviewed by the board and/or a designated committee so that recommendations can be implemented as appropriate.

6. **Document Retention** – Organizations should have a written policy for document retention and destruction. In addition, organizations should maintain written minutes of governing body meetings as well as board-authorized committees. These minutes should document when the meeting occurred, who attended the meeting, when a quorum was not available, and decisions made.

The impact of governance is pervasive. It affects an organization's success in furthering its mission, its exposure to scrutiny by state and federal regulators, and the public perception of its worthiness. These guidelines provide a helpful tool for nonprofit organizations to evaluate their own governance policies and their effectiveness. ■

Whistleblower Policy

(cont'd from P.2)

Respond to fraud. If a fraud tip is verified via an investigation, the organization should take timely action. Put the responsible individual(s) on leave or terminate them, based on consultation with your attorney. File a report with the local law enforcement agency. Inform oversight agencies for funding sources affected by the fraud.

Protect the whistleblower. Federal law prohibits all corporations, including nonprofits, from retaliating against employees who "blow the whistle" on their employer's accounting practices. Additionally, over 45 different states have enacted laws to protect whistleblowers from retaliation at the workplace. Have a policy that clearly communicates that retaliation taken against a whistleblower is not acceptable. The policy should include actions that will be taken in case of retaliatory action against a whistleblower, including termination of the offending employee.

Require tips to be in good faith. The whistleblower policy should discourage false reporting. A whistleblower policy should require that tips are made in good faith and have reasonable grounds for the accusation. The act of making allegations that prove to be unsubstantiated or are made maliciously should result in disciplinary action up to and including termination of employment.

Inform stakeholders of the policy. Because the policy is intended to encourage whistleblowing by anyone who may have relevant information, the policy should include and be disseminated to all affected stakeholders such as employees,

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HMU Events

Details and links to online registration can be found at www.heinfeldmeech.com/hmu. For more help, contact Susan at 520-742-2611, x107 or hmu@heinfeldmeech.com.

Learn over Lunch Workshop - Elements of Fraud...and the Psychology of a Fraudster

Location: Phoenix, AZ (Central/Thomas)

Date: Friday, August 16

Registration Ends: 8/7/13

The Ins and Outs of the FLSA - How to Keep Your Organization Out of Trouble

Location: Mesa, AZ (Mesa Convention Center)

Date: Tuesday, August 20

Registration Ends: 8/12/13

Learn over Lunch Workshop - NPO Accounting: What Board Members Need to Know and How Management Can Help

Location: Tucson, AZ (H&M office)

Date: Monday, September 9

Registration Ends: 9/3/13

About H&M

Heinfeld, Meech & Co., P.C., CPAs and Business Consultants, has offices in Tucson, Phoenix and Flagstaff, Arizona. We are dedicated to serving the non-profit industry and we offer this free newsletter as part of our commitment to providing resources and training to non-profit business personnel.

For more about our firm, please visit our web site at www.heinfeldmeech.com.

Whistleblower Policy

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directors, members and volunteers. While the employee manual is an appropriate method to communicate the policy to employees, ensure other stakeholders are made aware of the policy as well.

Further information and sample whistleblower policies are available from the American Institute of Certified Public Accountants (www.aicpa.org), the National Council of Nonprofits (www.councilofnonprofits.org), and Public Counsel (www.publiccounsel.org). However nonprofit organizations should also be sure to seek legal advice specific to their organization prior to adopting a whistleblower policy. ■

H&M News

Michael A. Hoerig, CPA, was recently promoted to Partner. Michael has been with our firm since 2001 and specializes in providing auditing services to governmental and non-profit clients from our Tucson office.

We are also happy to announce the following recent staff promotions: *Eugene Park, CPA*, to Audit Manager; *Michael Paul Rohr, CPA,* to Senior Associate; & *Anthony St. George* to Staff Associate II.

Brittney Williams Spross, Audit Manager, has joined the Financial Management Standards Board of the Association of Government Accountants.

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