

Donor lists *continued from front*

Decide whether to telemarket or not

It is one thing to bolster income by selling your donor lists to other nonprofits, but beware of the growing trend of selling donor lists to for-profit telemarketing firms.

In fact, some nonprofits secretly hire telemarketers to raise funds on their behalf – a practice that is controversial because telemarketers often keep the lion's share of the money they raise in the name of the charity.



Use for-profit telemarketers cautiously, and ensure that they follow your privacy policy

Tips to help manage your donor lists

- ❑ Establish and publish your privacy policy. Will you sell or share your lists? If so, to whom?
- ❑ Establish an opt-in or opt-out option for your donors. Give them the choice to allow their name to be shared.
- ❑ View your donors not only as short-term contributors but also as long-term supporters of your organization.
- ❑ Use for-profit telemarketers cautiously, and ensure that they follow your privacy policy.
- ❑ Clearly disclose how much money will be held for contributions and how much goes to telemarketing and administration costs.

According to a recent Supreme Court case (*Madigan v. Telemarketing Associates*), it is legal for fund-raisers to retain nearly all the money raised as long as they don't falsely claim that a larger portion of contributions is going to the charity. Disreputable telemarketers avoid getting into trouble with the law by simply not stating what portion of a donor's money goes to the charity.

No one knows how many nonprofits use for-profit telemarketers. But the trend has many watchdogs calling for legislation to curb telemarketers or to demand that they disclose how much is actually going to the charity. ■

The technical information in this newsletter is necessarily brief. No final conclusion on these topics should be drawn without further review and consultation. Please be advised that, based on current IRS rules and standards, the advice contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty assessed by the IRS.



How to manage your donor lists wisely, ethically

Nonprofit organizations face the challenge of effectively promoting their mission and goals to the largest possible audience while managing ever-tightening budget constraints.

As a result, many organizations seek to raise additional funds by selling the names of donors to marketing organizations or by swapping mailing lists with other nonprofits.



Congress is considering a change in the federal do-not-call registry to include nonprofits.

Although it is legal for nonprofit organizations to share a donor's personal information with other groups, the lack of donor privacy is a growing concern.

Donors find that a small donation to one charity is often followed by solicitations from a host of similar charitable groups.

More than 58 million American households have joined the federal "Do Not Call Registry," and this has complicated matters for nonprofits – at least in terms of potential donor perception if not in terms of legal culpability. The First Amendment protects nonprofits with an exemption from do-not-call lists, but donors often fail to differentiate between commercial telemarketing and charitable solicitations.

As a result, Congress is considering a change in the

federal registry to include nonprofits. To date, telemarketers and nonprofits have largely succeeded in blocking the expansion, but time may be running out.

Establish a privacy policy

Charity Navigator, an organization that analyzes the financial soundness of nonprofit organizations, recently conducted a survey of 3,300 organizations and found that only 18 percent have a donor privacy policy in place.

Results showed that approximately 7 percent of the organizations surveyed reserved the right to sell or swap donor names, but this statistic may be appreciably understated since most respondents did not want the public to know they sell or swap donor information.

The key to credibility is to make a policy, publicize it and stick to it. A common practice for many nonprofits is to adopt a policy not to sell donor information and instead swap names with other like-minded organizations through mail-list brokers. This policy may allow you to identify potential new donors without the pitfalls and perception problems associated with selling your lists.

Another consumer-friendly approach is to have donors opt-in if they are willing to have their names and addresses shared with other groups. At the very least, nonprofits should consider a privacy policy that requires donors to opt-out if they don't want their personal information shared.

Your organization will benefit by implementing and promoting a specific privacy policy. After all, you are not merely looking to use your donor list for short-term gain but also to build long-term, mutually beneficial relationships with your donors and supporters.

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In This Issue

What are the top five challenges facing nonprofits today?



New IRS ruling guides charities political activities

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★ From the office of: ★

What are the top five challenges facing nonprofits today?

It's actually harder to run a nonprofit organization than it is to run a private company of the same size.

That statement by Thomas Tierney, chairman and co-founder of the Bridgespan Group, a Boston-based nonprofit consulting firm, may come as no surprise to the directors of nonprofit organizations.

While coping with many of the same ongoing operational concerns as their for-profit peers, nonprofit organizations must also contend with a host of challenges such as staffing and recruitment, leadership, technology solutions and donor retention.

1. Recruitment of staff

Staffing surveys show that a large number of young people currently involved in nonprofit work don't expect to remain in the field because of below-average compensation and long hours.

The good news is that many Baby Boomers who intend to remain active beyond retirement age have indicated a willingness to seek nonprofit employment. The trick, say experts, is getting nonprofits to develop the right strategies to take advantage of this opportunity. At present, nonprofits lag behind both government and private sectors in the effort to attract Baby Boomer candidates.

"Perhaps the greatest unrealized strategy is the reinvention of



the nonprofit workforce to accommodate a growing pool of older Americans who, by choice or necessity, will work well into their 60s, if not longer," says Kelvin Taketa, president and CEO of The Hawaii Community Foundation. "Though finished with their primary careers, most will want to remain active, and a growing number want their engagement to be around causes that matter."

To accommodate this group of workers, nonprofits will need to offer flexible work incentives such as job sharing and time sharing and liberal vacation benefits, Taketa says.

2. Leadership

With many top-level executives on the verge of retirement, another challenge, say observers, is overcoming a "leadership deficit" in the nonprofit sector.

To compensate, Tierney says that nonprofit groups need to cultivate previously untapped pools of talent, such as women returning to the workforce or mid-career executives looking for a change.

Additionally, nonprofits will have to work harder to retain their best leaders, providing them with opportunities for career development and advancement, both within individual organizations and across the sector.

"There are three elements that all organizations in all sectors need to produce results – strategy, capital and leadership," says Tierney. "And leadership matters the most."

3. Technology

Although budgetary challenges make it more difficult for nonprofit organizations to avail themselves of leading-edge solutions, investments in technology – from efficient networking systems to on-site and off-site data storage – are key to the successful operation of any nonprofit organization.

"Good technology infrastructure is very much like magic – it is completely invisible and most people can't explain how it works.



But it changes things in an amazing way," says Ann Wrixon, president and CEO of SeniorNet, a nonprofit organization that supports the use of computer technologies for older individuals.

"Well-designed

technology infrastructure would completely revolutionize most nonprofits, tremendously increasing their productivity and effectiveness," she said.

4. Communications

One might assume that nonprofits would be less inclined to suffer from the kind of communications redundancies that often plague the for-profit world. But that is often not the case.

"Nonprofits encounter as much duplication and turf issues as [for-profit] businesses," says J.C. Dwyer of HungerMaps.org, an informational exchange group.

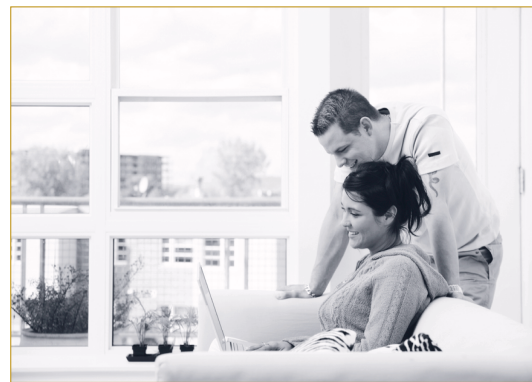
Here again is where technology can make a difference. Taking the time to research and identify which tools will benefit an organization the most – be it blog publishing or using HTML-enabled e-newsletters – will pay off in the long run.

5. Donor base development

In addition to maintaining their current base of support, a majority of nonprofits say that developing a newer, younger list of donors is one of the greatest challenges they face going forward.

Organizations are optimistic that the trend toward online giving – which has proven particularly effective in attracting donors in their 20s and 30s – will continue its present rate of growth. Nearly 8 percent

of all charitable donations this year will be made online, according to some estimates. ■



New IRS revenue ruling guides charities' political activities

With the presidential election campaign already heating up, organizations described in Section 501(c)(3) of the Internal Revenue Code should review their policies concerning political activities.

In extreme cases, these organizations can lose their tax-exempt status, resulting in tax liabilities to the organization and a loss of tax deductions to contributors.

Charities, churches, universities, hospitals and social service organizations, along with other tax-exempt entities, may not participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

However, such organizations are not required to stay totally clear of the political arena.

For example, your organization can engage in voter education activities, voter registration and get-out-the-vote drives, conducted in a nonpartisan manner.

There are two keys to successfully traversing the quagmire of permissible political activity:

- ✓ Conduct all political activities in a nonpartisan manner.
- ✓ If your organization allows itself to be associated with a particular candidate in any manner, provide equal association to all competing candidates.

Recently, the IRS issued Revenue Ruling 2007-41, which includes 21 examples of political activities, indicating which would be considered permissible for a section 501(c)(3) organization. The ruling divides the activities into seven categories.

1. Voter education, voter registration and get-out-the-vote drives.

2. Individual activity by organization leaders – Provides guidance to leaders who wish to express political views, without having their personal activities attributed to their organizations.

3. Candidate appearances – Indicates that all candidates must be provided equal opportunity, and the organization must not indicate support of or opposition to any candidate.

4. Candidate appearances where speaking or participating as a noncandidate – Provides guidance as to how your organization may publicly recognize a

candidate's presence at a sponsored gathering.

5. Issue advocacy vs. political campaign intervention – Your organization may take positions on public policy issues, including issues that divide candidates in an election. However, you must avoid issue advocacy that functions as political campaign intervention. The examples in this section show how dangerous it is to make reference to candidates or express a voting preference in a specific upcoming election.



There are two keys to successfully traversing the quagmire of permissible political activity:

- ✓ *Conduct all political activities in a nonpartisan manner.*
- ✓ *If your organization allows itself to be associated with a particular candidate in any manner, provide equal association to all competing candidates.*

6. Business activity – Provides guidance to organizations that sell or rent mailing lists, lease space, or accept paid advertising from political candidates.

7. Web sites – Postings are treated the same as printed material, oral statements or broadcasts, if they favor or oppose a candidate. When your organization establishes a link to another Web site, you are responsible for the consequences, even if you have no control over the linked site.

The IRS has previously provided guidance to section 501(c)(3) organizations in a number of earlier rulings, including:

- ✓ Revenue Ruling 78-248, which contrasts several situations illustrating when an organization that publishes a compilation of candidate positions or voting records has or has not engaged in prohibited political activities based on whether the questionnaire used to solicit candidate positions or the voters guide

itself shows a bias or preference in content or structure with respect to the views of a particular candidate.

- ✓ Revenue Ruling 80-282, which deals with the timing and distribution of voter education materials.
- ✓ Revenue Ruling 66-256, which concludes that a nonprofit organization formed to conduct public forums at which lectures and debates on social, political and international matters are presented qualifies for exemption under section 501(c)(3).
- ✓ Revenue Ruling 74-574, which concludes that an organization operating a broadcast station can provide air time equally to all candidates for election. However, a forum for candidates could be operated in a manner that would show a bias or preference for or against a candidate through biased questioning procedures.

- ✓ Revenue Ruling 86-95, which concludes that a forum for the purpose of educating voters, which provides impartial treatment of candidates and does not promote one candidate over another, does not constitute prohibited participation or intervention in a political campaign.

Whether an organization is considered to have intervened in a political campaign is a factual question. Most of the guidance offered to date by the IRS is presented as a single-issue fact situation. The reality for your section 501(c)(3) organization may be a more complex set of facts.

Consult with your tax and legal advisers if you have any questions about your organization's activities. ■

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