

# Operating a Tribal Philanthropic Program

## Strengthening Native American Philanthropy Manual

Component Two

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## Strengthening Native American Philanthropy (SNAP)

First Nations Development Institute was founded in 1980 with the mission to assist Indigenous peoples to control and develop their assets and, through that control, build the capacity to direct their economic futures in ways that fit their cultures. Since 1995, through the Strengthening Native American Philanthropy (SNAP) program, First Nations has been working to enhance the role of Native Americans as participants in, and better recipients of, private philanthropy. This program evolved to respond to an increasing interest in formal giving in Indian Country, and to new strategies for creating philanthropic structures among tribes and inter-tribal associations. The goals of our SNAP program are to:

- Strengthen the climate for tribal participation in philanthropy.
- Increase social investment in tribes and the Native American nonprofit sector.
- Develop new mechanisms for enabling Native American tribes and organizations to be self-sustainable – to control financial assets, and to create new philanthropic funds and organizations.
- Create and strengthen autonomous grantmaking institutions that will support tribal and community-based organizations working to address critical community needs.
- Raise awareness and provide a forum for Native and non-Native donors to access and exchange information on effective grantmaking in Indian Country.

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## COMPONENT TWO: OPERATING A TRIBAL PHILANTHROPIC PROGRAM

This component of the Strengthening Native American Philanthropy series focuses on the best practices and general requirements for running a tribal philanthropic organization. Running a philanthropic organization properly is an important part of philanthropic work for a number of reasons. A poorly run philanthropic organization is susceptible to a host of problems that can damage its overall goals and jeopardize the impact it has on those it seeks to help. However, a well-run organization allows the goals of the organization to be more easily achieved and increases the reputation of the organization with the public, their donors, and other supporters.

Component Two covers many aspects of creating and running a philanthropic organization, though the precise legal guidelines for such organizations are state, tribe, and organization specific. A large part of Component Two is devoted to best practices such as developing a mission and vision statement for the organization and the creation of governing bodies. However, Component Two also covers other important operating topics, such as effective grantmaking.

Component Two's topics are discussed as they pertain both to 501(c)(3) organizations and 7871 tribal giving programs (the two primary philanthropic models available to Indian Country). We find this format helpful because, although both 7871 tribal giving programs and 501(c)(3) organizations have a set of best practices, the particulars will be different for each organization.

It is important to note that the laws governing nonprofit organizations are **different for each state** and the help of a specialist is necessary in the process of forming a philanthropic organization. The following material is not intended, nor should it be construed, as legal advice but simply as an introduction to the principles of effective philanthropic organizational management. The services and advice of a lawyer, especially within the areas of tax and tribal law, are **essential and highly recommended** if/when implementing any of the philanthropic initiatives mentioned in this booklet.

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# MISSION STATEMENT AND VISION STATEMENT

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Most philanthropic organizations, whether they are structured as a tribal giving program or a nonprofit organization, have a mission statement. A mission statement provides the goal or purpose for which a philanthropic organization is created. The mission statement includes the core organizational goal of the philanthropic organization, for example, “to provide grants to projects that enhance the preservation of the culture of the tribal nation.” Many organizations also have a vision statement. The vision statement outlines the ideal future of the philanthropic model, for example “to become the ‘expert’ organization in cataloguing the culture of the tribal nation.” Together, the mission and vision statement help focus an organization’s philanthropic efforts. These together provide guidance for the philanthropic organization, for the present and for the future. The mission and vision statements are discussed in further detail below.



## Cherokee Preservation Foundation Mission Statement

The mission of the Cherokee Preservation Foundation is to enhance the overall well-being of the Eastern Band of Cherokee Indians and strengthen the Western North Carolina region.

The Foundation exists for the purpose of:

- Protecting, preserving, and enhancing the natural resources, the environmental, and aesthetic appearance of Cherokee tribal lands against anticipated long-term degradation from increased traffic and growth in connection with gaming activities.
- Assisting in economic development for improved public services, recreation, entertainment, and community economic development.
- Fostering employment opportunities on or near Cherokee tribal lands.
- Providing funding for the preservation, research, restoration, and/or development of the history, tradition, culture, language, arts, crafts, heritage, and overall well-being of the Cherokee people.

Projects funded by the Cherokee Preservation Foundation may supplement and enhance, but *not replace*, existing tribal or other government programs. Projects shall be located on or near tribal lands in Haywood, Jackson, Swain, Macon, Clay, Graham and Cherokee counties, or any other county where tribal lands may be acquired.

## The Mission Statement

The mission statement is a concise description of the basic purpose of the philanthropic organization, and describes the nature of the activities to be conducted, the reason for existing, and the people it is set up to serve. Although the values that are to guide the philanthropic organization may be included within the mission statement, it is the norm to state these in a separate values/principles statement.

The mission statement serves a number of purposes:

- It guides the basic decision-making of the philanthropic model so that any action committed by the organization is in line with the mission statement.
- It provides current and future board and staff with a basic description of the philanthropic organization, thereby allowing all people who work within the organization a guide in carrying out its goals. This also allows for outside stakeholders to know with some certainty what they can expect from the philanthropic organization when conducting business with it.

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## MISSION STATEMENT AND VISION STATEMENT

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- It allows for resources to be focused on carrying out the goals of the philanthropic organization.

There are often two parts to a mission statement, yet the first part is also generally acceptable on its own. The first part is sometimes known as the “umbrella statement,” and contains a short overview of the purpose of the philanthropic organization. For example, the mission statement of The Cherokee Preservation Foundation is:

*[To] enhance the overall well-being of the Eastern Band of Cherokee Indians and strengthen the Western North Carolina region.*

This statement sets out the purpose of the philanthropic organization and can act as the focal point for actions of the philanthropic organization. This part of the statement may or may not be expanded upon by the second part of the mission statement. In some cases, a second part of the statement can provide more detail outlining how the philanthropic organization will accomplish the mission.

### **Black Mesa Trust Mission Statement**

The mission of Black Mesa Trust is to safeguard, preserve and honor the land and water of Black Mesa. At its essence, Black Mesa Trust is about harnessing the lessons of traditional knowledge with Western science and technology to secure permanently our homeland on Black Mesa for generations of children yet to come. It is our hope that our families will always enjoy the wide-open spaces, deep canyons, majestic mesas, and clean air and water that bless our sacred homeland.

For example, The Cherokee Preservation Foundation continues to clarify its umbrella statement:

*The mission of the Cherokee Preservation Foundation is to enhance the overall well-being of the Eastern Band of Cherokee Indians and strengthen the Western North Carolina region.*

*The Foundation exists for the purpose of:*

- *Protecting, preserving, and enhancing the natural resources, the environmental, and aesthetic appearance of Cherokee tribal lands against anticipated long-term degradation from increased traffic and growth in connection with gaming activities.*
- *Assisting in economic development for improved public services, recreation, entertainment, and community economic development.*
- *Fostering employment opportunities on or near Cherokee tribal lands.*
- *Providing funding for the preservation, research, restoration, and/or development of the history, tradition, culture, language, arts, crafts, heritage and overall well-being of the Cherokee people.*

### **The Hopi Education Endowment Fund Mission Statement**

*Cultivating and nurturing the future of our Hopi people through education by growing and safeguarding a perpetual source of funding*

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# MISSION STATEMENT AND VISION STATEMENT

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## The Vision Statement

The vision statement complements the mission statement. The purpose of the vision statement is to articulate the ideal future of the philanthropic model, what it hopes to become, and the ultimate goal that it strives toward. The vision statement is often a lofty statement that inspires the board and staff to achieve the organization's goals. Appropriate things to include in the vision statement are the philanthropic model's place in society, its place within Native communities nationwide, and how it intends to grow.



### **Salish Kootenai College Vision Statement**

The vision of Salish Kootenai College is to foster curricula and vocational certification, and associates and bachelors degree programs that meet the unique needs of the Native American population. While the college encourages diversity, its primary purpose is to serve the needs of Native American people.

### **Prairie Band Potawatomi Vision Statement**

As a sovereign Nation, we shall ensure self-sufficiency that respects diversity and equality while working within a spirit of cooperation and fairness for a high standard of living and quality of life.

As a sovereign Nation we shall strive to provide an environment of improved well-being for our people including education, health, safety, and welfare while valuing our culture, traditions, and all resources.

As a sovereign Nation we shall accomplish this for all generations with a system of value-based management to respect all views.



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# MISSION STATEMENT AND VISION STATEMENT

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## *Examples of Mission and Vision Statements for Native organizations.*

### **American Indian College Fund Mission Statement**

The mission of the American Indian College Fund is:

To raise funds for American Indian students at qualified tribal colleges and universities and to generate broad awareness of those institutions and the College Fund itself.

The organization also:

- Raises resources for other needs at the schools, including capital projects, operations, endowments, or programs initiatives.
- Conducts fund-raising and related activities for any other Board-directed initiatives.

### **Forest County Potawatomi Community Foundation Mission Statement**

Created by the Forest County Potawatomi Community, the Forest County Potawatomi Community Foundation exists to:

- Fight poverty.
- Promote economic opportunities.
- Strengthen communities.
- Provide examples of responsible citizenship.

The Foundation is a result of the rich history and beliefs of the Potawatomi Tribe. The cornerstone of those beliefs is the Circle of Life. Paralleling the seasons of nature, the Circle of Life is a demonstration of the Potawatomi reverence for all living things and nurtures the belief that they are a self-reliant and self-determined nation of people.

Difficult times have sometimes made that self-reliance seem impossible to achieve. The Potawatomi people have witnessed both young and old struggle against the oppression of poverty. They have learned much in their past struggles, and the Circle of Life guides them to use the fruits of these lessons to help others overcome their obstacles.

Therefore, a major effort of the Foundation and its funds is to assist charitable organizations that help those people who are faced with economic challenges. As a result, the Foundation targets its resources to those areas with a high percentage of individuals with low and very low incomes.

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## MISSION STATEMENT AND VISION STATEMENT

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### Conclusion

In order to ensure that a tribal philanthropic organization functions effectively, it is important to have a mission statement. This mission statement, in some cases in combination with a vision statement, will guide the work of the organization. As the Forest County Potawatomi demonstrate, a vision and mission statement do not necessarily need to be exactly titled as a “Mission and Vision Statement.” However, it is important an organization clearly describes its goals and general perspective on the need for philanthropy. It is also critical that its goals be clearly communicated to the public. A clear statement allows for the public to remember and discuss the organization, and understand its goals. Employees will also benefit from clearly articulated goals because they can more easily explain the general purpose of the organization to others.



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# BEST PRACTICES FOR STRUCTURING A PHILANTHROPIC ORGANIZATION

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In most states and for many tribes, there are laws and requirements that govern the structure of a 501(c)(3) nonprofit philanthropic organization. These laws may differ from state to state, but there are some common themes. In order to receive nonprofit status, most states require that an organization have corporate bylaws, a board of directors, and a consistent process for decision-making. Such requirements do not usually apply to tribal giving programs and 7871 organizations, but are often accepted as best practices to ensure the proper functioning of an organization. Many tribal giving programs and other 7871 organizations often have a similar set of structures in place to ensure the proper functioning of their organization.

## Corporate Bylaws

One reason it is important to have an organizational structure is because it is important for there to be a consistent process in place for decision-making.

The best way to ensure a good process is to require philanthropic organizations to have certain governing bodies that decisions have to “flow” through. Creating offices that have to work together in decision-making will better ensure those decisions are reasonable, fair, and in the best interest of the organization.

The rules that dictate how an organizational structure operates are called corporate *bylaws*. A corporation’s bylaws stipulate the relationship between the governing bodies, the limits of power, and details of how decisions are to be made within the corporation. Corporate bylaws differ in length but most bylaws provide guidelines for general operation. Below are some issues generally addressed in the bylaws:

- The offices present in the nonprofit and their powers (for example, President and Vice President).
- What should be done with the funds available.
- Objectives and purposes of the organization.
- Role of the Board of Directors.
- The composition of the Board of Directors.
- Meeting schedules of Board of Directors.
- Special meetings.
- Rules and procedures for meetings.
- Special committees.
- Personnel issues.

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# BEST PRACTICES FOR STRUCTURING A PHILANTHROPIC ORGANIZATION

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## Important Terms Usually Found in Corporate Bylaws

- *The Board of Directors* is a group of individuals selected to guide an organization. It is ideal if the members of the Board of Directors are from different professional backgrounds, yet, have experiences or expertise in the organization's field. This type of Board will render good advice for the organization. The composition of Boards varies depending upon the organization. There are usually guidelines for the length a board member's term, election, and registration, all of which can be covered in the bylaws. There are different positions within the Board of Directors including the *Chairman of the Board of Directors*, whose duties may include oversight of the meetings, *Vice-Chairman*, who may have his or her own duties, and *Secretary*, who may be responsible for minutes or the meetings.
- *Corporation Officers* generally are the upper-level staff of the organization. These titles include: President/Executive Director, Vice-President, Chief Operations Officer, and possibly Department Directors. Each corporate officer will have different responsibilities that need to be decided upon during the creation of the organization and easily identifiable in the bylaws.
- *Meeting Schedules* of the Board of Directors are generally state or tribe regulated because a Board is a requirement of incorporation, which is a state or tribal privilege. State law requires nonprofits to schedule meetings of the Board a certain number times of each year. The frequency of these meetings is dependent upon individual state or tribal law; however, meeting requirements should be fairly easy to find in state and tribal law codes governing corporations.
- *Personnel protocol* can be addressed in the corporate bylaws. The hiring of new management, electing of new Board Members, stipulation on who controls the salaries of executives, and resignation of employees or Board Members are, many times, subjects addressed in corporate bylaws. However, personnel protocol is a complicated subject which leads many organizations choose a personnel manual to address employment issues in more detail rather than trying to deal with those issues in bylaws.
- *Corporate Records* must be kept. These records help protect the liability of a nonprofit as well as the tax-exempt status of that nonprofit. Minutes from Board of Directors meetings and documents important to incorporation should always be kept in a secure place with abundant backup copies. Fiscal records should also be kept because they will ultimately help a nonprofit keep its tax-exempt status.



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## BEST PRACTICES FOR STRUCTURING A PHILANTHROPIC ORGANIZATION

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The types of nonprofit regulations depend upon the particular type of incorporation and tax status a nonprofit enjoys. Different types of nonprofits will have unique regulation and may even require a different organizational structure. The reason a state or tribe regulates nonprofits is not just to make sure they have a consistent decision-making process, but also because regulations help make the procedures, direction, and responsibilities of organizations clearer to regulators, funders, and the nonprofit itself. It is worth remembering that the state or tribe does not create bylaws, choose the meeting schedules, board members, or personnel protocol; those decisions are up to the individuals creating the organization. In essence, the state has guidelines in place to make sure nonprofits form their own guidelines that best suit the organization's needs.

It goes without saying that following the legal requirements for operating a charitable organization is critical to the success of such an organization. If a nonprofit's operation is not in accordance with state or tribal law – or federal law for that matter – it could face penalties and lose its nonprofit status and its incorporation, rendering the nonprofit unable to execute what it set out to do. The guide to organizational structure found above is only the beginning of a detailed list of procedures and requirements governing the structure and operation of nonprofits. The section above is intended as an introduction to the basic and often standard aspects necessary in most states. The creation of good nonprofits requires significant amount of time, planning, and discussion. It is recommended that you consult a specialist when setting up the bylaws for your organization. In addition, you may wish to consult the Resources section at the end of this booklet for useful resources to guide your decision-making.

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## BEST PRACTICES FOR STRUCTURING TRIBAL PHILANTHROPIC PROGRAMS

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Tribal giving programs and other tribal 7871 programs, unlike 501(c)(3) organizations, do not face as many legal requirements related to their organizational structure. For example, they do not have legal requirements for creating bylaws, as 501(c)(3) (nonprofit) corporations do. This gives tribal 7871 programs more organizational options than 501(c)(3) organizations. Potentially, 7871 programs could be run with a smaller staff than a 501(c)(3) and could be integrated into existing tribal programs. In addition, a tribal philanthropic program has a great deal of discretion over how funding decisions are made and who receives funding. However, there are many “best practices” that are recommended for the successful operation of a tribal philanthropic program. These best practices are important to follow to ensure public trust in the organization. They also are very important if the tribal 7871 organization is soliciting funds from outside donors, who often require that such programs generate detailed reports on their fiscal and grantmaking activities.



Some of the best practices that have been identified for tribal philanthropic programs are the following:

- **Clear roles and responsibilities for the program’s staff.** The staff operating the tribal philanthropic program should clearly understand their roles and responsibilities, and their relationship to the tribal government and tribal council. Such roles and responsibilities should be outlined in a document similar to organizational bylaws. This is especially important given the fact that the IRS requires 7871 organizations to meet certain requirements, the most important being that the 7871 organization must be operated exclusively for public purposes.
- **A clearly defined process for making grant decisions.** Staff at a tribal philanthropic program should have a clear understanding of how decisions are to be made regarding funding, and what is expected of grant recipients (for more information on effective grantmaking principles and practices, see below). This process should define the following:
  - *How an applicant submits a request for funding to the program.* Is a formal written proposal necessary? Or is a verbal request sufficient? The process for submitting proposals should be clearly outlined.
  - *How funding decisions are made.* Does the tribal council decide who to give funds to? Or is there a proposal review committee in place? Who sits on this proposal review committee? How often does it meet?
  - *What are the requirements of the grantees.* Are grantees required to submit written reports at the end of their grant? Can grantees provide oral reports? Are grantees required to conduct an evaluation of their project?

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## BEST PRACTICES FOR STRUCTURING TRIBAL PHILANTHROPIC PROGRAMS

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- **Clearly defined standards for reporting on fund administration (accounting) and grantmaking activities.** Will annual reports be generated for the tribal giving program? Who approves the final report? Will a report of grantmaking activities be generated, and if so, how often? This issue is especially important if the tribal philanthropic program is soliciting funds from outside donors. Many foundations and other donors require regular accounting and grantmaking reports to be generated.
- **Clearly defined policies on lobbying and use of funds.** 501(c)(3) organizations have limits on their political activities. Tribal philanthropic programs may wish to put similar restrictions in place, especially if the tribal council is responsible for making funding decisions. Such restrictions help deflect accusations of conflict of interest.

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## EFFECTIVE GRANTMAKING PRINCIPLES AND PRACTICES

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If your philanthropic organization provides grants, it is important to have well established grantmaking principles and practices, whether your organization is a 501(c)(3) nonprofit, a tribal giving program, or another form of a 7871 organization. Established grantmaking principles and practices provide an effective means for a philanthropic organization to accomplish the goals contained in its mission and vision statements. These principles and practices provide a guide or “best practices” for an organization to follow in developing a relationship with those parties wishing to obtain funding. Similar to the mission and vision statements, established grantmaking principles and practices set out clear guidelines as to how the philanthropic model will act in its relationships with those seeking grants, and what is expected from the organizations in return. These set out principles and practices and thus allow for each party to know its responsibilities and hopefully avoid confusion later in the grantmaking process.



Although there is no definite set of grantmaking principles and practices, there are many commonly accepted best practices. An excerpt is provided from the Council on Foundations' *Principles and Practices for Effective Grantmaking*,<sup>1</sup> which is one of the better sources for information on foundation regulations and procedures. This is provided as an example of how your organization may wish to write up the principles and practices that guide your grantmaking.

It is a good idea for all philanthropic organizations that have a grant making program to have a written statement on their grantmaking. This statement's structure should include a preamble and a description of a governing body, as well as the principles that guide grantmaking. These components are defined below:

- a) **Preamble:** generally, a preamble is included in a set of established guidelines for the purpose of clearly setting out the goals of the grantmaking, and general principles by which such grantmaking will be directed. The preamble may also set out the reasons for the philanthropic organization's grantmaking, and the type of relationship it wishes to establish with its grantees.
- b) **Governing Body:** this section of the grantmaking principles describes the decision-making body that will determine the allocation of grants. This board, committee, or other decision-making body should be identifiable, responsible for establishing and implementing policies and procedures, and reviewing and revising them on a regular basis.

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<sup>1</sup> Found at [www.cof.org/resources/princprac.htm](http://www.cof.org/resources/princprac.htm), current as of October 3, 2002.



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## EFFECTIVE GRANTMAKING PRINCIPLES AND PRACTICES

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Regardless of whether your organization is a tribal giving program, another form of a 7871 organization, or a 501(c)(3) nonprofit, it is a good idea to have a written statement on the organization's approach to grantmaking and the guiding principles and practices.

### **Council on Foundations' Principles and Practices for Effective Grantmaking**

**Grantmaking Procedures.** We establish and follow clear processes for receiving, reviewing and acting on grant applications that are consistent with our policies and purposes. We communicate openly with grantseekers about our grantmaking policies and procedures.

We make readily available a brief written statement about policies, program interests, grantmaking practices, geographic and policy restrictions and preferred ways of receiving applications. It is important that grantseekers whose proposals fall outside our interests are notified in a timely manner and that those whose proposals are still under consideration are informed of the steps and timing that will be taken in reaching the final decision.

**Informing the Public.** All forms required by government are completed accurately and filed in a timely manner. In addition, we inform the public about our activities through various means such as publication of periodic reports (including annual reports, newsletters and reports to national and local organizations that publish information on grantmaking) and through electronic and other communications channels.

#### **Legal Knowledge**

Complying with the law is essential and we recognize that inadvertent violations can occur if the basic legal rules are not understood. We provide for adequate training and ongoing legal advice to ensure that our governing board and staff are well informed.

**Diversity.** We affirm and value human diversity in its many forms. We seek diversity to ensure that a range of perspectives, opinions and experiences is recognized and acted upon to enhance our ability to contribute to the common good in our changing society. We reflect this diversity in multiple ways, such as through our grantmaking, through membership on our boards, committees, staffs and advisors, and through our business practices

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# EFFECTIVE GRANTMAKING PRINCIPLES AND PRACTICES

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## Council on Foundations' Principles and Practices for Effective Grantmaking (continued)

**Addressing Change.** We are alert and responsive to the changing conditions in society and to the evolving needs of grantseeking organizations. In responding to new challenges, we use the knowledge, experience and insight of other individuals and groups to complement the guidance of those persons, families or corporations from which our funds originally came.

### Accountability

**Ethical Behavior.** Accountability extends beyond the requirements of the law. We establish and carry out policies that recognize multiple obligations for accountability: to the charter provisions by which our donors defined basic expectations, to the charitable institutions we serve, to the general public and to appropriate national and local governmental agencies.

**Self-Evaluation.** We regularly review our program interests and operating policies, the composition of our boards and staffs and the overall effectiveness of our grantmaking.

**Conflicts of Interest.** Beyond the legal requirements that forbid staff, board members and their families from profiting financially from any philanthropic grant or activity, we weigh carefully all circumstances in which there exists the possibility or appearance of conflict of interest. Our policies require staff and board members to disclose to their governing bodies the nature of any personal or family affiliation or involvement with any organization for which a grant is considered, even though such affiliation may not give rise to any financial or other conflict of interest.

### Constructive Relationships

**Grantseekers.** The relationship between grantmaker and grantseeker is based on mutual respect, candor and understanding. We strive to ensure that each invests the necessary time and attention to define clearly the purposes of the grant, the expectations as to reports related to financial and other matters and the provisions for evaluating and publicizing results. Beyond providing financial support, many grantmakers offer guidance to grantseekers such as assistance in refining objectives, monitoring performance, evaluating outcomes, strengthening board governance and encouraging early planning for the future.

**Colleague Organizations.** We interact with others in the field of philanthropy to exchange information, further our missions and advance the role of philanthropy in society.

Source: The Council on Foundations' *Principles and Practices for Effective Grantmaking*.



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## LIMITS OF PHILANTHROPIC ORGANIZATIONS

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Philanthropic organizations, whether they are tribal giving programs, another form of a 7871 organization, or a 501(c)(3) nonprofit, have some legal limits on their activities. For tribal programs, these limits are related to the requirements of Section 7871 status. For 501(c)(3) nonprofit organizations, including private foundations, community foundations, and other charitable organizations, the state and federal governments require certain standards to be met to qualify for tax-exempt status. These limits to philanthropic organizations are discussed below.

### Limits to tribal philanthropic programs

While 7871 tribal philanthropic programs have fewer legal limits than 501(c)(3) organizations, there are still a few legal requirements for such programs. These relate directly to gaining 7871 status from the IRS, which is necessary to ensure that donations to the tribal program are tax-deductible to the donor. These limits associated with 7871 programs include the following:

- **7871 programs must be operated for “exclusively public purposes.”** Because the term “exclusively public purposes” has not yet been defined in tax law, the advice of a legal specialist is recommended to determine if your tribal program meets this test. However, such a term seems to clearly suggest that using a tribal philanthropic program to benefit a small number of individuals or for personal gain would be problematic.
- **Programs must have “fiscal transparency.”** Programs should be ready and willing to share information about their finances, including who the major donors are, names and organizations of grant recipients, and general operating budgets. This has not been established as a legal limit to 7871 organizations, but in order to cultivate a donor base and increase public trust, this is considered a necessary practice. 501(c)(3) organizations are all required to file forms with the IRS that disclose much of this financial information.
- **Programs must establish a system of accountability to their donors.** Again, this has not been established as a legal limit to 7871 organizations, but in order to cultivate a donor base and increase public trust, this is considered a necessary practice.

7871 programs are expected to regulate their own finances and be able to report on their spending. Despite having lesser requirements than 501(c)(3) organizations, 7871 programs must still please their donors which may entail following some of the same rules 501(c)(3) organizations do. This may include acknowledging each donation in writing, submitting of reports to funders and governments, and possibly steering clear of political donations.

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## LEGAL LIMITS TO 501(c)(3) ORGANIZATIONS

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Governments regulate not just the organizational structure of nonprofits but also their behavior. Below are a few examples of activities 501(c)(3) nonprofit organizations are not allowed to participate in without sanctions. This is not an exhaustive list of banned activities or meant as legal advice but rather to give the reader a clearer notion of some of the possible limits of nonprofit activity.

Nonprofits are restricted in ways for-profit corporations may not be. The limits of nonprofits can be categorized in two ways: the outward actions of a nonprofit in pursuit of its goals, and in the internal procedures of a nonprofit.

### Outward Actions

- **Contributing money to political campaigns.** Nonprofits with 501(c)(3) status are not allowed to donate money to political campaigns. If nonprofits do contribute to political campaigns, the IRS can revoke their tax status.
  - However, somewhat contrary to the point above, nonprofits can engage in a limited amount of **lobbying** as opposed to political campaigns. Tax-exempt nonprofits whose goal is to influence legislation can, to a certain degree, participate in lobbying but the money they can spend is limited. As one can easily see, nonprofit lobbying is a complicated and, many times, changing subject; thus before engaging in any lobbying activities, a nonprofit should further discuss these activities with a specialist in the field.
- A nonprofit cannot make a substantial amount of revenue from “**unrelated activities**.” A classic example of this is a museum store. If the Tamástsiht Cultural Center on the Confederated Tribes of Umatilla Indian Reservation (a 501(c)(3) organization) operates a gift shop that sells t-shirts and coffee mugs among other retail items, it may have to pay taxes on the income generated from this activity (if it exceeds a certain amount). The IRS refers to the tax levied on these activities as **unrelated business income tax**, or by its acronym **UBIT**. More information about nonprofit tax status can be found at [www.nptaxpolicy.org](http://www.nptaxpolicy.org).
- A nonprofit is required to file **IRS Form 990** (or if a foundation, **IRS Form 990-PF**) each year. The Form 990 is the annual financial report that all nonprofits are required to file with the IRS.



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## LEGAL LIMITS TO 501(c)(3) ORGANIZATIONS

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### Internal Procedures

- Nonprofits cannot **distribute profits** to members, employees, or Board Members. Nonprofits are allowed to pay reasonable salaries and reimburse their employees and Board Members for business expenses, but cannot distribute profits to “shareholders.”
- Nonprofits procedures cannot directly **create profit** for Board Members, staff, relatives of employees, or any other individuals. In contrast to for-profit businesses, shares of a nonprofit cannot be sold, nor can a nonprofit be owned. A nonprofit is designed to help groups of people through altruism and not financially benefit a few individuals.
- **Donations** are highly regulated activities. As mentioned in Component One, there are many different categories of nonprofits and each differs in what types of donations it can receive. Your nonprofit should be aware of what types of donations it can accept. For instance, *community foundations* cannot receive over a certain amount of funding from one source, whereas, *private foundations* can receive almost their entire budget from one source.

Nonprofits are regulated to a varying degree depending upon state laws, tribal laws, incorporation, tax status, and type of philanthropic model. Only a few of the nonprofit limits are mentioned above, which means those interested in creating a nonprofit will have to seek the help of a specialist.

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## CONCLUSION

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While the legal requirements and other guidelines for forming a successful philanthropic organization could be seen as challenging, they are intended to aid, not impede, the successful creation of tribal and other philanthropic organizations. Guidelines are necessary to confer legitimacy to philanthropic vehicles and to help them adopt the most appropriate structure for accomplishing these goals. *Organizational structures* help in making good decisions and adopting effective policies. *Corporate bylaws* promote the visibility of organizational structure while, at the same time, allow for an organization's structure to be unique and reflect the needs of that particular organization. The *Mission and Vision Statements* promote a unified approach to the goals of an organization. Because trying to create a philanthropic institution requires planning, foresight, and vision, it is important to follow these basic steps when setting up your philanthropic model.



### Books

Adler, Betsy Buchalter. *Rules of the Road: A Guide to the Law of Charities in the United States*. Washington, DC: Council On Foundations, 1999.

Edie, John A., *First Steps in Starting a Foundation*. Washington, DC: Council On Foundations, 1997.

Hoyt, Christopher R., *Legal Compendium for Community Foundations*. Washington, DC: Council On Foundations, 1996.

Wells, Ronald Austin, *The Honor of Giving: Philanthropy in Native America*. Indiana University Center on Philanthropy.