

## Public Disclosure Requirements

A nonprofit is required to make certain types of information about the organization available to the public upon request. A nonprofit must make the information available during normal business hours. The information must be made available at the main office for the nonprofit, in addition to each office of the nonprofit with more than three paid employees on site, unless the nonprofit obtains an exemption from the IRS.

### Types of information that must be disclosed

- ◆ IRS Form 1023 (the application for tax exempt status filed by 501(c)(3) organizations), in addition to any correspondence between the organization and the IRS relating to the application;
- ◆ IRS determination letter;
- ◆ IRS Form 990 or 990-EZ (annual returns), including all attachments and supporting documents (except 990-T for unrelated business income), for the past **3 years**; and
- ◆ **Under Texas Law:** Nonprofits must also make available to the public all records, books, and annual reports of the financial activity of the corporation. **Exception:** the names and addresses of contributors.

### Methods of disclosure

- ◆ Allow public inspection in nonprofit's office; and
- ◆ Provide copies of documents upon request.

### Time for complying with the document request

- ◆ If request is made in person, the nonprofit must comply the same day.
- ◆ If request is made by mail, the nonprofit must comply within 30 days of receiving the request.
- ◆ If request is made by mail and nonprofit charges for copies, the nonprofit must comply within 30 days of receiving payment.

### Reasonable fee for copies

- ◆ A nonprofit may charge a reasonable fee for copies. The IRS considers reasonable to be:
  - \$1 for first page; and
  - \$.15 for each additional page.

### Federal exemptions to access requirements

The nonprofit does not need to make the information available for inspection if:

- ◆ The IRS application, IRS determination letter, and the past three years of 990s are widely accessible. To be considered "widely accessible" each of the following must be met:
  - Nonprofit publishes the materials on the internet;

- The information can be downloaded at no cost; and
- The requestor is told the web site address where the information is located.
- ◆ The requestor is engaged in a harassment campaign.
  - A nonprofit can ignore multiple requests for the same information from the same person or address.
  - A nonprofit can apply to the IRS to investigate whether a harassment campaign is going on.

### **Texas exemptions to access requirements**

The broader Texas law requiring disclosure of all the records, books, and annual reports of financial activity does not apply to:

- ◆ Nonprofits that:
  - solicit funds only from members; or
  - do not receive contributions outside of membership in excess of \$10,000 a year.
- ◆ Information regarding:
  - the names and addresses of contributors; or
  - the names and addresses of members.
- ◆ A few other exemptions may also be applicable which a nonprofit should confirm with legal counsel.

### **Penalties for failure to comply**

- ◆ Federal law: \$20 per day per Form 990 return.
- ◆ Federal law: \$5,000 for willful failure to allow inspection or copies.
- ◆ Texas law: Class B misdemeanor.

### **Free Internet Disclosure**

Guidestar offers free internet disclosure for charitable organizations to comply with the federal disclosure requirements. See [www.guidestar.org](http://www.guidestar.org).

### **Disclosure to Members**

Membership organizations must make books and records of account available to members of the organization. The member must make the demand in writing and state the purpose of the demand. The member has the right to examine and copy the books and records at any reasonable time at the expense of the member.