



The New IRS Form 990: Making it work for your United Way

United Way Southern Neighbors Conference (June 25, 2009)

Requirement A



Each member will be recognized as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as well as from corresponding provisions of other applicable state, local, or foreign laws or regulations.

Each member will file IRS Form 990 annually in a timely manner.

Annually, all Metro I and II members will submit their entire IRS Form 990 to United Way of America.

Implementation Standards for Membership Requirement A

(Tax Exempt Status & IRS Form 990 Reporting Requirements)



- Guidance for completion of a UW's Form 990, **not** line by line instructions
 - To assure consistency and transparency among local United Ways
 - To assure that local United Ways follow the IRS instructions for Form 990
 - To assure that the Form 990 is completed to best showcase the United Way's program service accomplishments.
- Members must use their best efforts to file Form 990 within the 135 days required by the IRS.
- Members must annually attest to UWA's Membership Department their current tax-exempt status and their compliance with all state and local registration requirements.

Scope of the IRS Form 990



- **Primary Purpose:** To provide the IRS with information as required by Section 6033 of the Internal Revenue Code
 - All organizations must complete Parts I – XI of the Form 990 and
 - Any schedules for which a “Yes” response is indicated in Part IV
 - Form 990 is not complete with a proper signature
 - All lines requiring an amount of other information must be completed, even if the entry is a zero or n/a
 - Penalties apply:
 - Late filing (gross receipts less than \$1 million) = \$20 a day, not to exceed the smaller of \$10,000 or 5% of the annual gross receipts.
 - Late filing (gross receipts more than \$1 million) = \$100 a day, not to exceed \$50,000.
 - Other penalties apply for filing incomplete returns and/or incorrect information
 - Using a paid preparer does not relieve the organization of its responsibility to file a complete return or its liability for payment of penalties.

Scope of the IRS Form 990



- **Secondary Purpose:** To provide the Public with information about the operation of a charity as required by Section 6104 of the Internal Revenue Code
 - In general, all information reported on or with Form 990 must be made available for public inspection
 - Including all attachment and schedules
 - Exception: donor names and addresses on Schedule B
 - Must be made available at your principle, regional, and district offices during regular business hours, at not charge
 - Must be made available for 3 years beginning on the date the return was originally due to be filed
 - Must provide a copy without charge, other than a reasonable fee for reproduction and actual postage costs, to anyone who makes a request in person or in writing on the day the request is made.

Scope of the IRS Form 990



- **Practical Purpose:** Form 990 serves as the primary (or sometimes sole) source of information about a particular organization:
 - Public perception of the organization is often determined by what they find, or do not find, on form 990
 - Therefore, it must be complete, accurate, and fully describe the organization’s programs and accomplishments
 - Redesigned Form 990 is a response to substantial public comment to IRS looking specifically for:
 - More emphasis on outcomes vs. outputs relative to organizational mission
 - More concise information about “Key Employee” compensation
 - A standard for determining independence of board members
 - A greater emphasis on organizational governance, policies, and procedures
 - Much, much more...

Completing “Core” Form 990

The Core Form



Part I (Summary) – Intended to highlight key information of interest to most users that can be found on other parts of the form:

- Line 1: UWs should describe what they believe to be their “most significant” activity, not the organization’s mission (*examples provided in the new document*)
- Line 3 vs 4: Note the difference between voting members and “independent” voting members of the Board
- Line 6: The number of volunteers should tie to the number reported on your Database II report
- Line 15: Notice that you report total compensation for the organization, not just the CEO’s compensation (*as IRS originally wanted here*)

NOTE: Part I should be filled out last because most info comes from other parts of the form

The Core Form



Part II (Signature Block)

- Don't forget to black out the paid preparer's Social Security number on copies released to the public
- Consider separate certification by CEO & CFO in addition to whomever signs the form (*example provided in the new document*)

The Core Form



Part III (Statement of Program Service Accomplishments)

MOST IMPORTANT PART of the form!

- Line 1: This needs to be the “Board approved” mission statement
 - Check your board minutes to be sure they have officially approved the mission
 - If your mission statement hasn’t been approved by the Board, the instructions say you must say “none”
- Line 2: Identify the “significant” new things you are doing
 - Significance is determined in both qualitative and quantitative terms
 - Quantitative = *“We invested \$25,000 in the creation of an Earned Income Tax Credit program”*
 - Qualitative = *“We have adopted a Community Impact approach to funding which has resulted in an overall increase in funding to programs aimed at helping people achieve financial independence”*

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Part III (Statement of Program Service Accomplishments)

- Line 3: Identify the things you have ceased doing
 - *“As a result of our shift to Community Impact funding, we no longer maintain an open donor choice option (e.g. one can designate to any 501(c)(3) organization). Rather we now limit donor designated contributions to agencies that operate in the Health and Human Services sector”*
- Line 4(a-c): Describe the exempt purpose achievements for each of the organization’s three largest program services, by expenses:
 - List in descending order of dollar amount of resources used
(e.g. “largest” defined in quantitative terms only)
 - Revenue listed is only that amount generated as a result of the program
 - Give an indication of “importance” to the execution of mission
(Include estimate of in-kind value in the narrative)

The Core Form



Part III (Statement of Program Service Accomplishments)

- Line 4(a-c): Describe the exempt purpose achievements
(continued)
 - Include your Community Impact Measures to bring out the impact of your work above and beyond the output

Example: *Success-by-Six is a coordinated program that significantly contributed to a reduction of 6% in the number of children entering kindergarten with untreated speech and language needs. It also contributed to an increase of 10% in the number of children able to remain in regular classroom settings.*
 - **Don't leave it to your auditor to write this up** and don't try to do it alone... engage your Community Impact, Resource Development, and Marketing teams in putting the descriptions together to be sure that they bring out the best of how you are "Advancing the Common Good"

The Core Form



Part III (Statement of Program Service Accomplishments)

- Line 4d:
 - List other significant programs on Schedule “O”, in order of dollar amount of resources used
 - Remember to provide both Quantitative and Qualitative information:
 - Quantitative = “Our funding of Meals on Wheels provided 10,000 meals to seniors”
 - Quantitative & Qualitative = *“Our funding of the Meals on Wheels program (which provided 10,000 nutritious meals this year to seniors who would otherwise not have a healthy diet) and other senior health programs has contributed to an overall improvement of 10% in our community’s senior health screening scores over the past three years”*
 - Separate Community Impact grants from Donor Designations
(Designations should be a single grouping)

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Part IV (Checklist of Required Schedules) – Intended to aid both the preparer and the user in determining which of the nineteen schedules should be included with the core form

- Lines 3 & 4: Lobbying is OK, supporting candidates is not...Appendix C in the document will tell you what you need to know to get this right.
- Line 6: Donor Advised Funds have the following characteristics:
 - Separately identified with reference to the contribution of a donor or donors. (*example: naming the fund after the donor or person(s) related to the donor.*)
 - Owned and controlled by a sponsoring organization (i.e., the LUW)
 - The donor or person appointed by the donor must have, or reasonably expect to have, the privilege of providing advice with respect to the fund's distributions.

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Part IV (Checklist of Required Schedules) – Continued

- Line 9: Custodial accounts (*including Fiscal Sponsorships*):
 - Fiscal Sponsorship is legally defined as:

“an affiliation between a 501(c)(3) tax exempt organization (LUW) and a non tax-exempt organization that allows a non tax-exempt organization to pursue grants from government agencies, private foundations, corporations, and individuals”.
 - Also providers of services such as accounting and administrative support, and usually charge an administrative fee for services.
 - An agreement outlining the basic relationship and scope of services to be provided, etc. usually in force, but not always so be carefull when answering this question.

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Part IV (Checklist of Required Schedules) – Continued

- Line 14: Agents outside the United States
 - IRS does not provide a definition of an “agent” for purposes of determining how to answer this question but if you are using an “offshore” service provider (e.g. pledge processor) it is recommended that you answer “YES”
 - Note that you will then need to outline your Patriot Act compliance measures on Schedule O

The Core Form



Part IV (Checklist of Required Schedules) – Continued

- Line 25: Excess Benefit Transactions
 - You need to know the Intermediate Sanction rules
 - If yes, then you must file Schedule L, Part I
 - Name of person
 - Description of the transaction
 - Corrected?
 - Tax penalties imposed on the person and organization's managers
 - Tax penalties reimbursed by the organization to the people involved

The Core Form



Part IV (Checklist of Required Schedules) – Continued

- Line 26: Outstanding Loans to Staff and others
 - Voluntary SOX compliance helps to avoid this
 - If yes, then you must file Schedule L, Part II
 - Name of the person
 - Original Amount
 - Balance Due
 - In Default?
 - Approved by the Board?
 - Written documentation?

The Core Form



Part IV (Checklist of Required Schedules) – Continued

- Line 27: Grants & Assistance Benefitting Interested Parties (*volunteers, staff, contributors, relatives, etc.*)
 - A good Conflict of Interest policy helps to avoid this
 - If yes, then you must file Schedule L, Part III
 - Name of the person
 - Relationship to the organization
 - Amount & Type of grant/assistance

The Core Form



Part IV (Checklist of Required Schedules) – Continued

- Line 28: Business Transaction Involving Interested Parties
(volunteers, staff, contributors, relatives, etc.)
 - A good Conflict of Interest policy helps to identify these
 - If yes, then you must file Schedule L, Part IV
 - Name of the person
 - Relationship to the organization
 - Amount of transaction
 - Description of transaction
 - Do they share in the organization's revenue?

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Part IV (Checklist of Required Schedules) – Continued

- As you can see, “Yes” answers to some of these questions may give rise to the “appearance of impropriety” so:
 - ✓ The Board needs to be well informed about compensation rules
 - ✓ The Board needs to establish good policies
 - ✓ The Board needs to regularly engage in “mutual censor” to identify potential conflicts of interest
 - ✓ The Board should give due consideration to how to avoid “headline risk”.
 - ✓ The Board should inform UWA of any answers that are likely to create regional/national “headline risk”
- But this is just the beginning...

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Part V (Statements regarding other IRS Filings and Tax Compliance)

– intended to provide the IRS with information that will help them cross reference information and aid them in compliance efforts overall

- Line 4: “Off-shore” bank accounts will require a “yes” but “off-shore” service providers will not... remember Patriot Act rules when describing
- Lines 6 & 7: United Ways should all answer “no” to #6 and answer all parts of #7 because contributions are tax deductible under Internal Revenue Code Section 170(c)

(NOTE: See IRS Publication 1771 for more information on issuing tax receipts)

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Part VI (Governance, Management, and Disclosure) – provides information to the public about organizational structures, policies, and procedures that demonstrate sound operational principles

- Not all questions have enforcement implications but all drive toward adoption of “best practices”
- Relates to UWA Membership Requirement C – Good Governance
(more help on this in tomorrow’s session)
- Three Parts:
 - Section A: Governing Body and Management
 - Section B: Policies
 - Section C: Disclosure

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Part VI (Governance, Management, and Disclosure) Section A: Governing Body and Management

- Line 1: Independent Voting Members:
 - ✓ Not a compensated employee,
 - ✓ Not compensated as an independent contractor in excess of \$10,000 annually, **and**
 - ✓ Not involved in a transaction considered a Related Party Transaction

- Lines 2 & 3: Relationships
 - ✓ Focus on “horizontal” business and family relationships that could create a bias in the decision making process rather than the more typical “vertical” conflicts of interest
 - ✓ Relationships that occur in the “normal course of business” are exempt
 - Utility Companies, FEDEX, Kinkos, etc.
 - Conducting business under ordinary terms (those generally offered to the public)
 - ✓ Specifically exempted relationships:
 - Attorney – Client
 - Doctor – Patient
 - Clergy - Communicant

The Core Form



Part VI (Governance, Management, and Disclosure) **Section A: Governing Body and Management (continued)**

- Line 4: Changes to Organizational Documents
 - Includes changes to policies that are addressed in organizational documents like mission statement, board composition, conflict of interest, board & officer compensation, etc.
 - Most now just described in Schedule O - Name Changes and Articled of Dissolution only are required to be filed separately with IRS
- Line 5: Material Diversion of Assets
 - Material = \$250k or 5% of gross annual receipts, whichever is less
 - Report on Form 990 “*when you become aware of*” the diversion... not necessarily when you can prove it
 - ✓ The nature of the diversion (not just embezzlements)
 - ✓ The amount or property involved
 - ✓ Corrective actions taken
 - ✓ Any other pertinent information (*be careful not to directly or indirectly identify the perpetrator*)

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Part VI (Governance, Management, and Disclosure)

Section A: Governing Body and Management (continued)

- Line 8: Contemporaneous documentation of Meetings and Actions
 - Not just your board meetings... includes board level committees and task forces
 - If you have to say “no”, then you need to explain how corporate records are maintained on Schedule O
- Line 10: Form 990 provided to Governing Body
 - May answer “yes” if all you do is provide board members with a copy before filing but, not a recommended procedure for United Ways
 - Regardless of answer, on Schedule O everyone must describe the process used by the organization’s Governing body to review the 990
 - If no review was performed, you must say so
- Line 11: Board Member addresses - Relates to how easy will be for anyone to reach out to Board members

The Core Form



Part VI (Governance, Management, and Disclosure) **Section B: Policies**

- Line 12: Conflicts of Interest Policy:
 - ✓ Is it written?
 - ✓ Must officers, directors, trustees, and key employees disclose any conflicts that do or may exist?
 - ✓ Is the policy “regularly and consistently” enforced?
 - ✓ If you do enforce, you must describe in Schedule O how you do it.
- Line 13: Whistleblower Protection Policy
 - ✓ Is it written?
 - ✓ Note: Sarbanes Oxley Legislation does not require a written policy but you can be prosecuted if you do not protect whistleblowers

The Core Form



Part VI (Governance, Management, and Disclosure)

Section B: Policies (continued)

- Line 14: Document Retention and Destruction Policy
 - ✓ Is it written?
 - ✓ Note: Sarbanes Oxley Legislation does require a written policy and you can be prosecuted for violating it
- Line 15: Establishing a rebuttable presumption of “reasonableness” in Determining Executive and Key Employee Compensation... does your process for setting compensation include:
 - ✓ Review and approval by “independent” persons?
 - ✓ Use of data as to comparable compensation?
 - ✓ Contemporaneous documentation of the deliberation and decision?

The Core Form



Part VI (Governance, Management, and Disclosure) Section C: Disclosure

- Line 18: Is Form 990, 990T, and 1023 “widely available” and if so, where? *(required under IRC Section 6104)*
- Line 19: Are other documents and policies made available to the public? *(not required under law but you must describe in Schedule O what and how)*
 - Audited Financial Statements?
 - Key Policies *(e.g. Conflict of Interest, Whistleblower protection, etc.)?*
 - Governing Documents *(e.g. articles of incorporation, bylaws, etc.)?*
 - Board Meeting Minutes?
 - Committee Meeting Minutes?

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Part VII (Compensation)

Requires details on total compensation provided to Directors, Officers, Key Employees, and Highest Compensated Employees

- Covers all Board members plus up to 27 staff members:
 - 2 Staff as Officers
 - 20 Staff as Key Employees
 - 5 Staff as Highly Compensated
- Board Members and Officers – always, no compensation limits
 - All Board members with voting rights during the course of the year are reported, even if no compensation
 - All Officers, as defined by the bylaws, are reported, even if no compensation
 - Regardless of how governing documents identify (or don't identify):
 - “Top Management Official” (CEO/Executive Director/President) is always considered an “officer”
 - “Top Financial Official” (CFO/ VP of Finance / Finance Director) is always considered an “officer”

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Part VII (Compensation) (Continued)

- Key Employees but only if they:
 - Receive more than \$150,000 in reportable compensation during the calendar year
 - Manage or have control over more than 10% of activities, assets, etc. of the organization
 - Are among the top 20 highest paid employees (not including the CEO & CFO)
- Highly Compensated Employees but only if they:
 - 5 highest compensated staff (not including the CEO, CFO, and Key Employees)
 - Receive more than \$100,000 in reportable compensation during the calendar year
- For anyone listed and paid more than \$150,000 in reportable compensation, you must provide additional detail on Schedule J

The Core Form



Part VII (Compensation) (Continued)

- **Former Directors, Officers, Key Employees, and Highest Compensated Employees:**
 - Reportable if compensation had been or should have been reportable in any of the five prior years
 - Were paid reportable compensation during the calendar year in excess of:
 - Directors = \$10,000 paid because of their status as a Director
(including amounts paid to them by “related” organizations)
 - Officers & Key Employees = \$100,000
 - Highest Compensated = \$100,000 and would have been on of the 5 highest if they were still an employee

The Core Form



Part VII (Compensation) (Continued)

- Reportable Compensation includes:
 - Pay, bonuses, incentive pay, etc. per the W-2
 - Deferred Compensation
 - Benefits including all payments for (or annual increase in value of):
 - Defined-contribution (or defined-benefit) retirement plans
 - Health benefits
 - Tax-deferred non-qualified plans (regardless if plan is funded, vested, or subject to substantial risk of forfeiture)
 - Payment toward or value of items not in the above (except if value of item is \$10,000 or less) such as:
 - ✓ Housing
 - ✓ Educational assistance
 - ✓ Life insurance
 - ✓ Disability benefits

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Part VIII (Statement of Revenue) – identifies the various types/sources of revenue generated by the organization

- **Line 1:**
 - a. Federated Campaigns – incoming designations only, not your campaign pledges
(note: must report at gross amount, not net of fees)
 - b. Membership Dues – State orgs and UWA only need deal with this one
 - c. Fundraising Events – those not reported on line 8 of this section
 - d. Related Organizations – not incoming designations from other UWs (you are not “related” to each other)
 - e. Government Grants – self explanatory
 - f. All other contributions, gifts, grants, etc. – This is where your campaign pledges are reported, including designated pledges *(whether processed in house or by a 3rd party, whether paid through your UW or paid directly to agencies).*

The Core Form



Part VIII (Statement of Revenue) – Line 1c vs. Line 8a (Fundraising events)

- Line 1c = events conducted for the sole or primary purpose of raising funds for the organization's exempt activities
- Line 8a = events not conducted with a primary purpose of raising funds for the organization's exempt activities, even if they happen to raise funds
- In a nutshell...
 - Use line 1c for events that have little or no direct cost associated with them or those from which the donor derives none or only nominal value in return
 - Use line 8a for all other events

The Core Form



Part VIII (Statement of Revenue) – Lines 2 thru 11

- Line 2: Program Service Revenue - Don't forget you'll need a "business code" for each type of revenue listed here to help establish that it is not subject to UBIT
- Lines 6 – 9: Pretty straight forward
- Line 11: Miscellaneous Revenue - Cost Recovery fees on designated pledges (*collected in accordance with membership requirement M*) go here:
 - Don't forget to include a business code
 - Just because it has a code doesn't necessarily mean it is exempt from UBIT so keep your old definitions from the old version of Form 990 handy

The Core Form



Part IX (Statement of Functional Expenses) – provides details on agency allocations and operating expenses

- Line 1: Column B – Program Service Expenses – be sure to include outgoing designations here (*since they are included in revenue on line 1 of part VIII*)
- Line 11: Notice the various new categories for different types of service fees you pay for services... *Cost Recovery Fees paid to other UWs under membership requirement M are recorded on Line 11e*
- Line 21: Payments to Affiliates – UWA dues now go on this line and according to the IRS are thus allocable across Program, M&G, and Fundraising
- Line 24: Other Expenses:
 - Note that any line that no one line can represent more than 5% of total expenses
 - Use this line to show allocation of indirect expenses to Program & Fundraising

The Core Form



Part X (Balance Sheet) – similar to the GAAP Statement of Financial Position, but will not align exactly.

- Won't match exactly with audited numbers so must be reconciled to audit on Schedule D (*more on that schedule next week...*)
- Lines 27-29: Net Assets - Must be completed and UWs must check that SFAS 117 applies
- Note that with the recent adoption by FASB of Staff Position 117-a, these lines may end up looking a bit different than we are used to... be sure to read up on the impact of Staff Position 117-a and talk to your Auditor

The Core Form



Part XI (Financial Statements and Reporting) – intended to tell readers about the basis and review of your financial statements

- Line 1: Accounting Method - UWs must all be checking the Accrual method
- Line 2b: Audited by and Independent Auditor - All UWs required to file Form 990, must also be able to check “yes” here.
- Line 2c: Committee responsible for oversight of the audit and selection of an independent accountant.
 - Looking for a separate and discrete Audit Committee (per SOX)
 - Schedule O should be used to describe the oversight process regardless of whether or not you have an Audit Committee

Completing Schedules for Form 990

Schedule A – Public Charity Status and Public Support



Purpose: Aids in understanding what type of not-for-profit organization you are and the composition of your annual support

- **Part I:** Reason for Public Charity Status

- All United Ways are Section 170(b)(1)(A)(vi) and 509(a)(1) publicly supported organizations so they must check Box 7
- Check your IRS determination letter to be sure you are properly classified

- **Part II:** Support Schedule

- You may now use the Accrual Basis of accounting for this schedule but remember to convert prior year numbers from Cash Basis to Accrual Basis
- Line 1: “Unusual Grants” are not reported here so that they don’t endanger your publicly supported status
- Line 15: Note that the first time you do this schedule the amount on this line will be a cash basis number, do not convert it to accrual for comparability

Schedule B – Schedule of Contributors



Purpose: Aids the IRS in understanding who your biggest supporters are and the public in determining if you are overly reliant on one, or a select group, of supporters

- No substantial change in this Schedule from prior years
- Only those who give an amount that is greater than \$5,000 or 2% of “Total Revenue” (Core form, Part VIII, line 1h) need be listed
- NOTE: This Schedule is to be made public but Donor names and addresses can, and should, be blacked out

Schedule C – Political Campaign and Lobbying Activities



Purpose: Provides information about the extent of resources dedicated to Political activities

- All United Ways should complete Parts I-A, I-B, and IV
 - Part I-A: Describe activities, give value of costs and volunteer hours
 - Part I-B: Excise taxes paid & forms filed
 - Part IV: Any supplemental info that doesn't fit elsewhere
- If you have elected to file Form 5768 under Code section 501(h) (*recommended*), you need to complete Part II-A
 - Provide breakdown of actual expenditures based on what type of lobbying you did
 - Demonstrate that expenditures fall under the code limits (*basically 20% or less of total expenditures of the organization*) and you are not subject to excise taxes
- See Appendix C of the UWA document for more information on lobbying

Schedule D – Supplemental Financial Statements



Purpose: Provides a more complete picture of the organization's activities by standardizing common supplemental information

- Part I – Donor Advised Funds or Other Similar Funds or Accounts:
 - Donor Designated Pledges are **not** “other similar funds and are not reported here
 - For more info on Donor Advised Funds, contact Ed John of UWA’s Resource Development team
- Part IV – Custodial Arrangements:
 - Fiscal Sponsorships are Custodial arrangements that should be reported here
 - The details are reported here because they are not included in Part X of the Core Form (e.g. the Balance Sheet section)
- Part V – Endowments:
 - Includes traditional Donor Restricted endowment and Quasi-endowment funds (board designated)
 - Only have to give current year numbers for 2008, will start to build historical information in on future returns

Schedule D – Supplemental Financial Statements *(Continued)*



- Parts VI thru VIII – Investments
 - Note that you will have to provide both Cost (tax basis) and current Book Value for Land, Buildings, and Equipment
 - Other investments you need to provide the book value and method of valuation used
- Parts XI thru XIII – Reconciliations with GAAP Financial Statements
 - All United Ways with over \$100,000 of revenue that are required to file Form 990 need to do these reconciliations
 - Since a review is allowed for United Ways with less than \$100,000 of revenue, such UWs don't need to do the reconciliations even if they are required to file Form 990 in stead of Form 990EZ.
 - Designations (*including 3rd party processed, directly paid*) will go on line 4b of Part VII and line 4b of Part VIII
 - See Appendix D of UWA document for more on reporting of designated pledges

Schedule E - Schools



Not Applicable to United Ways

Schedule F – Statement of Activities Outside the United States



Purpose: Provides information about the extent of activities outside the United States of America

- Not currently applicable to many United Ways but, if you are contracting for services like processing outside the US, you will need to complete this Schedule
- Primarily concerned with disclosure of revenue generated, grants made, and program expenditures outside the US borders
- Don't forget that if you make grants to organizations operating outside the US, you'll want to describe your Patriot Act Compliance activities in Supplemental Information section of this Schedules (Part IV)

Schedule G – Supplemental Information Regarding Fundraising or Gaming Activities



Purpose: Provide information on certain types of fundraising activities

- Looks at things like Mail, email, phone, in-person, etc. solicitations as well as grant requests and fundraising events... pretty much every way you raise money so most of us will have to do this Schedule
- Part I – Fundraising Activities:
 - If you use a paid fundraiser, you will have to provide cost/benefit info
 - Need to list all States you are registered to raise money in
- Part II – Events:
 - Provides more detail on events reported on line 8, part VIII of the Core Form
 - Don't include "prize drawings" if no contribution was necessary to win
- Part III – Gaming:
 - Don't forget to check State gaming laws if you are doing this type of activity, states may be cross-referencing to this for enforcement

Schedule H - Hospitals



Not Applicable to United Ways

Schedule I – Grants and Other Assistance to Organizations, Governments, and Individuals in the United States



Purpose: Provides information about who you support

- Part II: Grants to Organizations
 - Threshold: Organizations that received more than \$5,000 from you annually *(includes designated agencies)*
 - Column b: You will need to report the Employer Identification Number of all recipients *(including designated agencies)* so start gathering data now
 - Column h: Description of “Purpose” of grant must be concise, for example:
 - Program Operating Cost = A restricted grant made to an agency in support of the costs associated with a specific program that it operates
 - Community Collaboration = A restricted grant made to fund the costs associated with bringing organizations within the community together for the purpose of creating collaborative efforts that will address specific community issues
 - Donor Designated for General Support = An unrestricted grant made to an agency at the direction of the donor(s) in support of its general operating costs

(See Appendix E for recommended additional codes and descriptions for United Ways)

Schedule I – Grants and Other Assistance to Organizations, Governments, and Individuals in the United States *(continued)*



- Part III: Grants to Individuals
 - Threshold: Individuals that received more than \$5,000 from you annually
 - Should be a rare instance but be sure you have the records available
- Part IV: Supplemental Information
 - You will need to describe your policies for monitoring the use of the funds granted
 - Describe the difference between Allocated funding and Designations:
 - “Monitoring” policies for **allocated funding** may speak to the means in which program/agency outcomes and deliverables are communicated to your LUW as a result of the funding awarded to an agency by your LUW.
 - “Monitoring” policies for **designations** would likely address the research efforts (i.e. tax-exempt status, annual Patriot Act certification) conducted by a processing United Way in order to ensure proper distribution of collected funds to the designated recipient.

(UWA document includes examples of how to describe the difference)

Schedule J – Compensation Information



Purpose: Provides readers with greater detail on the components of compensation for Officers, Directors, Key and Highest Paid Employees

- This information is to be reported on a calendar year basis, even if the 990 is reporting on a different fiscal year
- Three Parts to the Form:
 - Part I – Questions Regarding Compensation
 - Part II – Compensation Details
 - Part III – Supplemental Information

Schedule J – Compensation Information *(continued)*



Part I – Questions Regarding Compensation

- Question 1 - Do you provide (and is it part of a written policy):
 - First Class or Charter Travel
 - Travel for Companions
 - Tax Indemnification or gross-up payments
 - Discretionary spending account
 - Housing allowance or personal use residence
 - Payments for business use of personal residence
 - Health or social club dues or initiation fees
 - Personal services (e.g. maid, chauffeur, chef, etc.)

Schedule J – Compensation Information *(continued)*



Part I – Questions Regarding Compensation *(continued)*

- Question 2 – Is yours an “accountable” plan? (e.g. do you require receipts)
- Question 3 – What do you use to determine Executive Compensation?
 - Compensation Committee
 - Independent Compensation Consultant
 - Form 990 of other organizations
 - Written employment contract
 - Compensation survey or study
 - Approval by the board or Compensation Committee

Schedule J – Compensation Information *(continued)*



Part I – Questions Regarding Compensation *(continued)*

- Question 4 – Did anyone receive a:
 - Severance?
 - Supplemental nonqualified retirement plan?
 - Equity-based compensation agreement?
- Question 5 – Do you pay based on revenues?
- Question 6 – Do you pay based on earnings?

Schedule J – Compensation Information *(continued)*



Part II: Compensation Details

- Data in Columns B-i, ii, and iii must match what was reported on the W-2 or 1099-MISC forms filed with the IRS *(they promise to be cross referencing, eventually)*
- Column C: Deferred compensation
 - Report both accrued and/or paid
 - Then report the previously reported (accrued but now paid) portion in Column F
 - Make a point to use Part III to point out that some of what is in Column C was previously reported as accrued deferred compensation so that it doesn't look like an excessive payment
- Column D: Non-taxable benefits
 - Include things like health insurance, 401(k) & 403(b) employer contributions, etc.
 - Do not include things like free upgrades or airline tickets earned with frequent flyer miles from business related travel
- Column F – Compensation listed as Deferred Compensation on prior 990s

Schedule J – Compensation Information *(continued)*



Part III – Supplemental Information

- Describe what you do have relative to Compensation
 - Do you have a Compensation Policy?
 - Who does it cover?
 - Do you benchmark?
 - What do you benchmark to?
 - Who and how are recommendations approved?
- Explain why you do it that way
 - For executive compensation (includes all “disqualified persons) you must establish the “rebuttable presumption of reasonableness”
 - For benefits you will want to show that you have an “accountable” policy and the benefits offered are within community norms

Schedule K – Supplemental Information on Tax Exempt Bonds



Not Applicable to most United Ways.
For those to whom it does apply,
see the IRS instructions

Schedule L – Transactions with Interested Parties



Purpose: Provides information on potential Conflicts of Interest

- Previously we simply answered a few questions and perhaps described in an attachment, now you must provide details so be sure to review all relationships carefully
- Be particularly careful with regard to business relationships with the companies that board members represent
- Be careful to consider other agency boards your board members serve on
- Part I: Excess Benefit Transaction – if you had one, you must report it here
- Part II: Loans with interested parties – anyone listed in Part VII of the Core form (e.g. Officers, Directors, Key employees, etc.)
- Part III: Grants or Assistance benefiting interested parties – big “headline risk” here so be sure to describe in Schedule O why it isn’t a conflict of interest
- Part IV: Business Transactions with interested parties - remember, not all related/interested party transactions are a conflict of interest but be sure to tell readers why it is OK on Schedule O

Schedule M – Non-Cash Contributions



Purpose: Provides information about the value and use of goods donated to the organization

- Only required if cumulative annual total of In-kind contributions exceeds \$25,000
- Much more detail than ever before, but it could have been worse...
- Will need to include a description of how value was determined
- Do not include Donated Services here (*but remember to give recognition to in-kind service value on Schedule O relative to Program Service Accomplishments*)
- Stock donations are reported by type (*publicly traded, closely held, etc.*) on lines 9 thru 12
- Don't gloss over the policy/best practice questions (31 & 32) which ask about a gift acceptance policy and use of 3rd parties to solicit, process, or sell in-kind contributions
- Note: if you are required to complete this schedule, you will also have to disclose in Part II those items received that were not recorded on your books (e.g. outdated computers passed on to another organization, etc.)

Schedule N – Liquidation, Termination, Dissolution or Significant Disposition of Assets



Not Applicable to most United Ways on a regular basis. For those to whom it does apply, see the IRS instructions

Schedule O – Supplemental Information to Form 990



Purpose: Provide space for any information that doesn't fit elsewhere in the forms and schedules

- Attachments are no longer allowed for Form 990:
 - Most commonly created “free form” schedules & attachments are now replaced by one of the new Schedules
 - Anything else that needs to be added or that the organization wants to add must be presented in this schedule
 - Keep in mind that IRS is working toward a “someday” goal of 100% electronic filing of 990 so it is important to them to limit data to a format they can manage
- The items presented in this Schedule must be in the same order as they are referenced in the Core Form and Schedules.

Schedule P & Q



Neither currently exists... don't look for them.

Schedule R – Related Organizations and Unrelated Partnerships



Purpose: Disclosure of relationships (legal or otherwise) between the filing organization and other organizations

- “Affiliate” relationships (*like the one between UWA and its members*) do not need to be disclosed here
- “Parent /Subsidiary” relationships (*like those that sometimes exist between local UW offices within a particular region*) may need to be reported... read the instructions to determine if the relationship qualifies for reporting
- IRS is primarily looking for info that will help them cross-reference returns for purposes of enforcement (e.g. excess compensation transactions, unrelated business income, etc.)

Preparing the Board for what lies ahead...

Where to begin...



- Review the new document titled *“Implementation Standards for Membership Requirement A – Form 990”* with your Audit and Finance Committees to be sure you have a plan for doing your next Form 990
- Review the new document titled *“Implementation Standards for Membership Requirement C - Governance”* your Board to be sure you can say yes to the “best practice” questions
(more on this document tomorrow)
- Lots of new information needs to be gathered so get your team together and start gathering it now
- Watch for new tools from UWA on Breakfast Online

Early Action Steps



1. Ensure composition of the board includes sufficient number of “independent” Directors/Trustees (*many state laws require at least three*)
2. Get rid of any loans (and outstanding advances) with officers, directors/trustees, and highly compensated employees
3. Memorialize and approve contemporaneous minutes for all Board and Committee meetings
4. Determine if there have been any failure to monitor and enforce compliance with your Conflict of Interest Policy and if so, how you will describe them on Form 990
5. Evaluate your Executive Compensation review and approval process to see if you have established a “rebuttable presumption” of reasonableness for the CEO, all Officers, and Key employees

Early Action Steps



6. Plan to provide the Form 990 to the Board (before it is filed), consider the review process used, and how you will explain it
7. Consider what is/must be made public and how you will explain it
8. Adopt or Refine your organization's policies & practices:
 - Conflict of Interest - addressing procedures to be followed when the transactions are (or appear to be) a conflict of interest for Board members or staff
 - Protecting Whistleblowers
 - Document Retention/Destruction
 - Executive Compensation
 - Review of Form 990, preferably before filing
 - Public Disclosure of Documents (Articles, Bylaws, Minutes, Audit, Form 990, etc.)

Any Questions?

Thank You

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