Implementation Standards for Membership Requirement “A”
Tax Exempt Status & IRS Form 990 Reporting Requirements

Revised 9/30/08
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EXECUTIVE SUMMARY & ACKNOWLEDGEMENTS

This document sets forth standards and detailed guidelines that will enable United Ways to comply with United Way of America Membership Requirement A, which was approved in January, 2003.

MEMBERSHIP CRITERION 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 and files IRS Form 990 annually in a timely manner.

Annually, all Metro 1 and 2 members will submit entire IRS Form 990 to United Way of America membership.

Keeping in mind that the main objective of the membership criteria is to allow for transparency of United Way operating and financial performance, the two overarching considerations used in the development of these implementation standards are that all United Ways needs to:

- Fully comply with Internal Revenue Service regulations
- Help the public understand the United Way’s performance

These considerations resulted in a requirement for:

- Accuracy, since incorrect or incomplete information is in direct violation of regulations
- Clearly demonstrating the United Way’s performance to the reader of the form
- Effective communication of the United Way’s program service accomplishments

The resulting Form 990 will be an accurate representation of the United Way’s performance to the IRS and the donor public and, because of the increased accuracy and resulting standardization, allow for comparison of results from United Way to United Way.

United Way of America membership requires, at a minimum, compliance with the following under Requirement A:

Be a 501(c)3 tax-exempt organization

- Compliance testing will be performed by United Way of America’s Membership Accountability team at least annually, using current IRS database of tax-exempt organizations.
- Members will attest annually to their current 501(c)3 status.
- Members will certify annually that they are in compliance with all state and local registration requirements and list these requirements along with the fees paid and forms filed.
File Internal Revenue Service (IRS) Form 990 in a timely manner

- Members will read and follow current IRS instructions so as to be in full compliance with current reporting requirements.
- Designated pledges will be included as revenue and expense as outlined in this document.
- United Way Chief Professional Officers will insure that Form 990 is completed to best showcase their organization’s program service accomplishments.
- Form 990 expense allocations will reconcile to the expense allocations found in members’ audited financial statements.
- Members will use their best efforts to file Form 990 within the prescribed 135 days.

More detailed instructions follow this executive summary. They are intended to assist the preparer of the local United Way’s Form 990 to effectively comply with these requirements.

United Way of America wishes to acknowledge the contributions of the following United Way staff members who have volunteered their time and energy to helping develop these detailed instructions.

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  - United Way of the Greater Lehigh Valley
  - Bethlehem, Pennsylvania

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The United Way of America Financial Issues Committee members were the final reviewers for this document and we are grateful for their contribution.

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A. OVERVIEW

The purpose of this document is to provide a tool to assist local United Ways specifically and not-for-profit organizations generally, to understand the Internal Revenue Service (IRS) rules for preparation of the IRS Form 990 and supporting Schedules.

This document calls attention to areas that are most commonly misunderstood or overlooked in order to ensure that United Ways will file accurate and complete forms. Where multiple interpretations of the instructions and regulations exist, we have outlined the interpretation to be used by our members based on what will most clearly represent the activities of a Federated Fundraising Organization, like a United Way. For example:

- Reporting of campaign contributions as “revenue” on the Form 990 is done differently than on the GAAP Financial statements due to a different definition established by the IRS.
- Reporting of grants and assistance to organizations as “expense” on Form 990 is done differently than on GAAP Financial statements due to a different definition established by the IRS.
- The Statement of Functional Expenses (Part IX) and Balance Sheet section (Part X) will not exactly match up with the GAAP Statement of Financial Position due to differences in reporting on Form 990 of things like In-Kind Services, Unrealized Gains, etc.

Where interpretations have been made, we have endeavored to include in the Basis for Conclusions section of this document an explanation of why the position was taken.

B. SCOPE

This guide is limited to issues directly related to the IRS Form 990. It does not purport to have definitive answers to each and every question concerning every aspect of the Form 990, and it is not the intention of this document to constitute a step-by-step guide to preparation of the forms. Rather, this document is intended to provide guidance and information on commonly encountered issues that are of particular interest to local United Way organizations. We have set forth to point out various key elements of the forms that United Ways should be careful to note such that consistency in reporting among United Ways will be achieved.

Where we do not address specific aspects of the Form 990, one should assume that definitive guidance can be obtained from Internal Revenue Service publications (which are available from your local IRS office, or via the internet at http://www.irs.gov/eo). These documents served as the primary resource in developing this document and should always be used in concert with this document when preparing Form 990.

We encourage all users of Form 990 to make themselves familiar with both this document and the official IRS Instructions for Preparation of Form 990 in order to ensure a full understanding of the Forms.
C. SIGNIFICANT CHANGES

It should be noted first that attachment of additional documents to the Form 990 (as were allowed previously) is no longer allowed. Rather, Schedule O is to be used for all other narrative information that the filing organization wishes to provide.

Because there are a wide variety of Schedules that may be required depending on the organization’s circumstances, directions must be followed to ensure utilization of the appropriate ones.

Below is a cross reference to several important issues to note that are reported in various sections of the Form 990:

1. Independent voting members: 990 Part I line 4; Part VI line 1b (see glossary for official definition)
2. Donor advised funds: 990 Part IV line 6; Part V lines 8 and 9; Schedule D Part I
3. Fiscal sponsorships: 990 Part IV line 9; Schedule D Part IV
4. Fundraising event revenue: 990 Part VIII lines 1c and/or 8; Part IV, line 18; Schedule G Part II
5. Gaming activity revenue: 990 Part VIII line 9; Part IV line 19; Schedule G Part III
6. Program funding and designations: 990 Part IX line 1; Part IV line 21; Schedule I Parts I and II
7. Designation fee expense (paid to other organizations including other LUW’s): Part IX line 11e; Part IV line 17; Schedule G Part I
8. Compensation: 990 Part VII lines 3, 4, or 5; Part IV line 23; Schedule J
9. Key Employee: 990 Part VI lines 2 and 3, Part VII line (all); Schedule J (see glossary for official definition).

Several other important changes to note are as follows:

1. The Program Service Accomplishments section (Part II) is a pivotal section of the Core Form 990. It is now the second page and more than ever before provides an opportunity for the organization to showcase the best of what it does before the reader gets into how the organization accomplishes it (e.g. governance, revenue and cost information, etc.). This section should be considered THE MOST IMPORTANT PART OF THE FORM in terms of taking measures to insure that input is obtained from various departments of the organization for its completion.
2. Donor Advised Funds: If you sponsor donor advised funds you must file Form 990 even if you would otherwise qualify to use Form 990-EZ.
3. The CEO & CFO are classified as Officers of the organization for purposes of reporting compensation
4. Form 990-T (Unrelated Business Income): If you are required to file this form, you are also required to make it available for public inspection.
5. Schedule B (Schedule of Contributors): Is required to be made available for public inspection however, the names and addresses of contributors are not subject to public inspection so they can and should be blacked out on copies provided to the public.

6. Board member addresses – if you have been giving your organization’s address as your board members addresses in Part V-A of the old 990, you now must give either their work or home addresses if they cannot be contacted directly at your LUW’s address (see 990 Part VI line 11; Schedule O)

7. UWA Dues. Where previously it was reported on line 16, it is now reportable in Part IX line 21 and allocable across all functional areas in the same manner that you currently allocate indirect expenses on your audited financial statements.

8. Overhead Calculation: Effective January 1, 2009, the “Functional Expenses and Overhead Reporting Standards for United Ways (Revised 2004)” document guidance for calculating the overhead rate is superseded by the new formula (below) due to the change in format of the forms. The new standard formula for calculating the Overhead ratio among United Ways is as follows:

\[
\text{Core Form, Part IX, line25, Column C (M&G Exp.) + Column D (Fundraising Exp.)} \\
\text{Core Form, Part VIII, Line 12, Column A (Total Revenue)}
\]

(Note: In order to assist in promoting transparent financial costs, a separate schedule is strongly recommended to be provided in Schedule O showing the overhead rate calculation. An additional explanation should be given if the overhead rate has shown a significant change from the previous year.)

9. The new Form 990 series returns will be effective for 2008 tax years (returns filed beginning in 2009). To allow organizations time to adjust to the new forms, the IRS is phasing in the new returns during a three-year transition period. During the transition, an organization’s annual filing requirement will depend on its financial activity. The charts below indicate annual exempt organization filing requirements during the transition period.

<table>
<thead>
<tr>
<th>2007 Tax Year (Filed in 2008 or 2009)</th>
<th>Form to File</th>
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</thead>
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<tr>
<td>Gross receipts normally &lt;$25,000</td>
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</tr>
<tr>
<td>Gross receipts &gt;$25,000 and &lt;$100,000, and Total assets &lt;$250,000</td>
<td>990-EZ or 990</td>
</tr>
<tr>
<td>Gross receipts &gt;$100,000, and/or Total assets &gt;$250,000</td>
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</table>

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</tr>
<tr>
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<td>990-EZ or 990</td>
</tr>
<tr>
<td>Gross receipts &gt;$1 million, and/or Total assets &gt;$2.5 million</td>
<td>990</td>
</tr>
</tbody>
</table>
### D. RECOMMENDATIONS – CORE FORM 990

#### Part I – Summary
This part is intended to highlight key information of interest to most users

- **TIP:** Because Part I generally reports information reported elsewhere on the form, completion of part I should be deferred until after the other parts of the form are completed.
- **Line 1:** This section should be used by United Ways to describe what they consider as their most significant “activity” rather than listing the mission statement (because the mission statement goes in Part III). Note however that determination of “most significant” need not be based on amount spent, rather you may base it on what you believe is your most important program, regardless of amount spent (see Appendix A for sample wording to use in this section).
- **Line 4:** Note that there is a difference between an independent voting member and a regular voting member of the board as noted above (see glossary for official definitions).
- **Line 6:** Calculate your number of volunteers from the number of volunteers as reported in the Database II Report.
- **Lines 8-19:** Note that for 2008 filing only, you will need to look in the instructions for guidance on where to find the prior year information because the 2007 Form 990 is different.

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### 2009 Tax Year (Filed in 2010 or 2011) Form to File

<table>
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<th>Gross receipts normally $&lt;25,000</th>
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</thead>
<tbody>
<tr>
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<td>990-EZ or 990</td>
</tr>
<tr>
<td>Gross receipts &gt;$500,000, and/or Total assets &gt;$1.25 million</td>
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</tr>
</tbody>
</table>

### 2010 Tax Year and later (Filed in 2011 and later) Form to File

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</thead>
<tbody>
<tr>
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<td>990-EZ or 990</td>
</tr>
<tr>
<td>Gross receipts &gt;$200,000, and/or Total assets &gt;$500,000</td>
<td>990</td>
</tr>
</tbody>
</table>

For all years above, sponsoring organizations of donor-advised funds and controlling organizations described in section 512(b)(13) must file Form 990 regardless of the amount of their gross receipts or assets.
Part II – Signature Block

- Note: If using a paid preparer and that person does not have a PTIN, steps should be taken to black out the preparer’s social security number on public copies of Form 990.
- While not required by the IRS, United Way of America highly recommends that the organization prepare a separate certification that will accompany public copies of the Form 990 that includes the signatures of the CEO and CFO (see Appendix B for a sample certification).

Part III – Statement of Program Service Accomplishments

This part requires the organization to describe its program service accomplishments as they relate to the organization’s mission.

- General Note: It is of the utmost importance in preparing this section of Form 990 to enlist the aid of a cross-functional group in crafting descriptions that will clearly present the highlights of your organization’s accomplishments. This is the pivotal section of the form because what you describe here will be the lens through which all the following information in the form will be viewed. (See Appendix A for example descriptions.)
- Line 1: This is where the organization’s most recent Board approved Mission Statement should go, exactly as stated in the Financial Statements and other literature. If the organization does not have a mission that has been adopted by its governing body, it must state “None”.
- Line 2: Note that the instructions do not define what a “significant program service activity” is for purposes of determining if you should mark “yes” here and describe it on Schedule O. It is recommended therefore that significance be judged in both quantitative and qualitative terms.
- Line 4: This part requires the organization to describe its three largest program service accomplishments as they relate to the organization’s mission as measured by total expenses incurred.
  1. Needs to be considered as a valuable public relations tool and filled out in the IRS-required detail by the UW’s communications team with consideration for its potential impact on the reader.
  2. Funds distribution expenses and program allocations should be identified here, breaking out community impact (allocations & grants) and designated payments on separate lines as separate and distinct program activities.
  3. Revenue reported here must include revenue generated as a result of the program activities (“fee for service”) but should not include the revenue provided by others to fund the program itself. (e.g. grants or allocations received for the program)
  4. You should report in the narrative the estimated value of donated services or use of materials, equipment, or facilities in connection with the program activity. While those values cannot be included in the revenue and expense
on Form 990, recognizing them here will help readers gain a greater understanding of how the program operates and its full value.

5. You should also report on Schedule O additional program service accomplishments for activities that are deemed to be of comparable or greater importance, although smaller in terms of expenses incurred. For example:
   - Many United Ways have begun to institute programs to assist people in filing for the Earn Income Tax Credit.
   - Such a program generally is not high cost in terms of the money invested but engages many volunteers whose services are not reported on Form 990.
   - These programs can be of great significance to the community because they generate millions of dollars for individuals which are then spent locally.
   - If the measure of significance is based solely on quantitative measures like organizational expenditures, such programs may never be made public through Form 990 but if qualitative measures are also used, it may prove to be the most significant program the organization engages in and therefore should be reported.

6. Included here should be examples of your program service accomplishments that emphasize to any extent possible qualitative results, not just quantitative. Specific measurements should be included (see instructions).

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.

**Part IV - Checklist of Required Schedules**

This section is intended to aid both the preparer and user in determining which of the nineteen schedules should be included with the core form.

- **Line 3:** All United Way should take steps to assure that they can answer “NO” to this question as engaging in Political Campaign Activities (e.g. supporting a specific candidate) will jeopardize your exempt status.
- **Line 4:** It is appropriate for a United Way to engage in lobbying activities (issue oriented) so answering “Yes” is appropriate in many cases. Note that doing so will require additional information on Schedule C. (See Appendix C for more information on lobbying)
- **Line 6:** A donor-advised fund must possess three characteristics to be considered a DAF. If any of the characteristics is absent, the fund is not a DAF:
  1. It must be separately identified with reference to the contribution of a donor or donors. An example includes naming the fund after the donor or person(s) related to the donor.
  2. It must be owned and controlled by a sponsoring organization (i.e., a LUW)
3. 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.

- A DAF does not include any fund or account:
  1. That makes distributions only to a single identified organization or governmental entity, or
  2. In which a donor or donor advisor gives advice about which individuals receive grants for travel, study, or other similar purposes, or
  3. That the Secretary of the Treasury exempts from being treated as a DAF.

- Line 9: Serving as a custodian “includes “Fiscal Sponsorship” activities.
  1. 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.
  2. Fiscal sponsors may also provide services such as accounting and administrative support, and usually charge an administrative fee for services.
  3. An agreement outlining the basic relationship (e.g. grantor-grantee, employer-employee, or independent contractor project), the scope of services to be provided, roles and responsibilities is usually in force, but not always so be sure to carefully consider all your organization’s relationship when answering this question.

If the non tax-exempt organization is taxed as a partnership and the LUW conducts more than 5 percent of its exempt activities through this affiliation, answer yes on Line 37, Form 990, Part IV and complete Schedule R, Related Organizations and Unrelated Partnerships, Part VI.

- Line 9: If your organization is involved in Credit Counseling programs (as defined in the instructions for Schedule D), be sure to report appropriately.

- Line 12: Since all United Ways with $100,000 or more of revenue will answer “yes” to this question (per UWA Membership Requirement H all members with $100,000 or more of revenue must complete an Annual Audit, below that level may have a review), it is important to note that there are significant differences between the 990 accounting and GAAP accounting (e.g. accounting for in-kind activities and unrealized gain/losses) thus, you will be required to complete Schedule D, Parts XI-XIII.

- Line 14a: The instructions do 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, and be mindful of Patriot Act compliance issues.

- Line 14b: If your organizations answers “yes” to this question, note that you will need to report on your Patriot Act compliance measures for any grants made to organizations outside the United States.

- Line 25: TIP – An excess benefit transaction may have serious implications for the disqualified person that entered into the transaction with the organization, any organizations managers that knowingly approved the transaction, and the organization itself. A United Way that becomes aware that it may have engaged in an
excess benefit transaction should obtain competent advice regarding section 4958, consider pursuing correction of any excess benefit transaction, and take other appropriate steps to protect its interests with regard to such a transaction and the potential impact it could have on the organization’s continued exempt status.

- Line 26: In as much as this question could give rise to the “appearance of impropriety” (given that the Sarbanes Oxley Legislation prohibits such loans in for-profit entities), if loans exist the organization will need to give due consideration to how they are to be disclosed on Schedule L and further described on Schedule O. Also be mindful of their potential impact on the excess benefit transaction rules.

- Lines 27 & 28: In as much as this question relates to disclosure of potential conflicts of interest, the organization as a “good system citizen” must give due consideration to how it will be disclosed on Schedule L and further described on Schedule O. Also be mindful of the potential impact on the excess benefit transaction rules.

Part V – Statements Regarding Other IRS Filings and Tax Compliance

This section is intended to provide the IRS with information that will help them cross-reference information and aid them in compliance efforts overall.

- Line 4: If the organization has “offshore” accounts, you will need to answer yes to these questions, file Form TD F 90-22.1, and be mindful of Patriot Act compliance issues. However if you are only using an “offshore” service provider (e.g. pledge processor) you would answer no, but still want to be mindful of Patriot Act compliance issues.

- Line 6a: All LUW’s qualify under IRC Section 170(c) to receive contributions that are deductible as charitable contributions for federal income tax purposes and should report “no” on this line.

- Line 7a-h: All LUW’s should answer these questions and note that payments received partly as a contribution and partly for goods or services (i.e. quid pro quo contributions) should also be reported here.

- Line 7b: Be sure your organization has established policies and procedures such that you can answer “yes” to this question. The IRS requires written disclosure statements be provided to donors for payments received in excess of $75 (see example in instructions). Per IRS regulations, this disclosure statement must:

  1. Inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of any money (and the value of any property other than money) contributed by the donor over the fair market value of goods or services provided by the charity, and

  2. Provide the donor with a good faith estimate of the fair market value of the goods or services that the donor received.

The charity must furnish the statement in connection with either the solicitation or the receipt of the quid pro quo contribution. If the disclosure statement is furnished in connection with a particular solicitation, it is not necessary for the organization to provide another statement when it actually receives the contribution.
TIP: See IRS Publication 1771 – Charitable Contributions: substantiation and Disclosure Requirements for more information on proper issuance of documentation for tax deductible contributions.

Part VI – Governance, Management, and Disclosure
This section is intended to provide information to the public about organizational policies

Note: Even though governance, management, and disclosure of policies and procedures generally are not required under the Internal Revenue Code, the IRS (and UWA) considers such policies and procedures generally to improve tax compliance. The absence of appropriate policies and procedures may lead to opportunities for excess benefit transactions, inurnment, operation for non-exempt purposes, or other activities inconsistent with exempt status. Whether a particular policy, procedure, or practice should be adopted by an organization may depend upon the organization’s size, type, and culture. Accordingly, it is important that each organization consider the governance policies and practices that are most appropriate for that organization in assuring sound operations and compliance with the law.

Line 4: If you made changes to your organizing documents (articles of incorporation) or to the rules governing the organizations affairs (bylaws), you must mark “Yes” to this question and report those changes on Schedule O.

Line 5: For purposes of answering this question, the diversion of assets is considered “material” if the gross dollar amount (not taking into account restitution, insurance, or similar recoveries) exceed the lesser of (1) $250,000 or (2) 5% of the lesser of the organization’s gross receipts for the year or total assets at the end of the year. What is not clear from the instructions is what constitutes “becoming aware” of a material diversion. UWA advises that disclosure should be made in the year management has a reasonable belief that a diversion has occurred, even if the fact of diversion has not yet been proved. It is important to note however that in making disclosure, care must be taken not to directly or indirectly identify the suspected perpetrator of the diversion.

Line 10: This is in alignment with a question on the UWA membership certification form as a reminder of how important it is for the board to see the 990 before it goes out. You may answer “Yes” if you provided the final version of the Form 990 to each board member before it was filed with the IRS, even if you can not substantiate that any board member reviewed the form before it was filed. NOTE: you are required to describe the process used by the organization to review the Form 990 on Schedule O.

Line 11: Note that this is the exception to listing the organization address for all board members... need to consider carefully circumstances to be sure you answer truthfully and be mindful of the fact that if you answer “yes” you will be required to include personal contact information on Schedule O, which is open to public inspection.

Line 12 – 14: This section is all about compliance with the Sarbanes-Oxley legislation, some of which has enforcement implications, and with which all UWs
should be in compliance. These policies are all required by UWA membership standards and these blocks should be checked off as “yes” (For more information on Sarbanes-Oxley compliance, see A United Way Guide to Sarbanes-Oxley in the United Way CFO Deskbook)

- Lines 15-16: If you have a process for determining compensation for your CPO, officers and key employees that includes the following elements, check “yes” and describe the process in Schedule O.
  1. Review and approval by a governing body or compensation committee, provided that persons with a conflict of interest with respect to the compensation arrangement at issue were not involved. For purposes of this question, use the definition of “conflict of interest” set forth in Regulations section 53.4958-6(c)(1)(iii).
  2. Use of data as to comparable compensation for similarly qualified persons in functionally comparable positions at similarly situated organizations.
  3. Contemporaneous documentation and recordkeeping with respect to the deliberations and decisions regarding the compensation arrangement.

Part VII – Compensation
This section requires the organization to provide details on total compensation provided to its Directors, Officers, Key Employees, and Highest Compensated Employees

- Include in Section A:
  - Board members (regardless of compensation),
  - Officers (regardless of compensation, see definitions below),
  - Key Employees (if they meet all three tests, see definitions below),
  - The 5 Highest Compensated Employees (HCE) other than officers and key employees (if they make more than $100,000 per year, see definitions below),
  - Any former board member, officer, key employee or HCE who was compensated more than $100,000 in the reporting year ($10,000 for board member).

- Key Definitions:
  - Top Management Official - A person who has ultimate responsibility for implementing the decisions of the organization’s governing body or for supervising the management, administration, or operation of the organization; for example, the organization’s CEO or executive director.
  - Top Financial Official - The person who has ultimate responsibility for managing the organization’s finances; for example, the organization’s CFO or finance director.
    Note: the above two staff members are considered officers and must have compensation reported, regardless of amount paid to them.
  - Any other employee assigned by the board to carry out officer responsibilities (e.g. Treasurer, Secretary, etc.) is also considered to be an officer for 990 reporting purposes.
A Key Employee is any employee, other than an officer, who is:
- Compensated more than $150,000 as reported on the W-2 and
- Managing (individually or jointly with another person) or has authority/control over more than 10% of the activities, assets, income, capital expenditures, operating budget, or compensation for employees of the organization or any related organization, and
- Among the top 20 highest paid persons in the organization.

The Highest Compensated Employees are any employees who are compensated more than $100,000 as reported on the W-2, other than an officer or key employee.

- Schedule J must be completed for any employee listed in Section A, who was compensated more than $150,000.
- The compensation column should include all forms of cash and non-cash payments as defined under “compensation” in the glossary.
- Note: The instructions include a detailed schedule to aid in determining what types of compensation must be reported where in this part of Form 990 and Schedule J.

Part VIII – Statement of Revenue
This section is used to identify the various types/sources of “revenue” (as defined by the IRS) generated by the organization

- Line 1a: United Ways should report on this line only those contributions that represent incoming designations from a campaign conducted in another United Way’s service area (or from another federated fundraising organization’s campaign efforts)...DO NOT REPORT CONTRIBUTIONS FROM YOUR ORGANIZATION’S CAMPAIGN ON THIS LINE.
- Incoming designations reported on line 1a must be reported at the gross amount of the contribution collected in the organizations name by the other organization and the expenses of raising the contribution assessed by the other organization must be reported in line 11e and fees for professional fundraising services.
- Line 1f: The instructions make it clear that United Ways must include the proceeds from their campaigns in revenue on lines 1a through 1g but they are not clear on where to report direct contributions from the campaign itself (note that line 1a is for incoming funding from another federated campaign, not our own).
  o Therefore, all United Ways should report unrestricted contributions received as part of their own fundraising efforts on line 1f (including those processed by 3rd party processors).
  o Designated pledges (including 3rd party processed, direct paid) are included in IRS definition of revenue because they represent “activity” of the organization and should be reported on line 1f,
    1. See instructions for Part IX line 21 (Federated Fundraising Organizations) and Appendix D of this document for a further explanation.
    2. Since designations are not included in “revenue” on GAAP financial statements, this will be a reconciling item in Schedule D
    3. Also include designations in Part IX line 1.
Lines 1c vs. 8a: It can be difficult to discern from the instructions what the difference is between fundraising event revenue reported on these two lines:
1. Line 1c includes revenue from fundraising events conducted for the sole or primary purpose of raising funds for the organization’s exempt activities.
2. Line 8a does not include revenue from fundraising events or activities that substantially further the organization’s exempt purpose even if they also raise funds.
3. To help determine what type of fundraising event revenue belongs on which line, the instructions for line 8a include this set of examples:
   Fundraising events include:
   • dinners/dances
   • door-to-door sales of merchandise
   • concerts
   • carnivals
   • sports events
   • auctions
   Fundraising events do not include:
   • sales or gifts of goods or services of only nominal value
   • raffles or lotteries in which prizes have only nominal value
   • solicitation campaigns that generate only contributions
   • Proceeds from these activities are considered contributions and should be reported on Line 1c.
In the interest of consistency among United Ways, all United Ways should report on line 1c the proceeds from those fundraising events that have little or no direct cost associated with the solicitation or from which the contributor derives no more than nominal values. All other types of fundraising event revenue should be reporting on line 8a.

Line 2: A business code is needed for all types of Program Service revenue reported here. Codes can be found in the instructions for Form 99-1 (Codes for Unrelated Business Activity). Keep in mind that the use of any particular code from this list does not necessarily imply that the business activity is unrelated to your exempt purpose.

Line 11a: Cost Recovery fees on designated pledges should go here, in column B. Keep in mind that the use of any particular code from this list does not necessarily imply that the business activity is unrelated to your exempt purpose.

Part IX – Statement of Functional Expenses
This part requires details on agency allocations and operating expenses. Supplemental information on some items is generally needed on Schedule O.

Line 1: United Ways are specifically directed to “report grants to members or participating agencies” on this line. The instructions for line 21 (Federated Fundraising agencies) further states that “the full amount of contributions received in connection with a solicitation campaign they (Federated Fundraising Agencies,
emphasis added) conduct, even though donors designate specific agencies to received part or all of their individual contributions. These fundraising agencies must report the allocations to participating agencies as grants and allocations on line 1”. Therefore, designations (including 3rd party processed, direct paid) are included on this line because the recipient agencies are considered “participating agencies” of the United Way’s federated fundraising campaign. (See Appendix D of this document for a further explanation)

- Line 21: UWA dues now go on this line and they are eligible to be spread as indirect expenses across program & fundraising columns
- Line 24: This line is to be used to show allocation of indirect expenses among columns A through D. The instructions contain specific instructions for display of the allocations on this line. The method used to determine the actual allocation should be the same as that use to allocate indirect expenses on your audited financial statements. (For additional guidance on allocation of indirect expenses, see the document titled Functional Expense and Overhead Reporting Standards for United Ways found in the United Way CFO Deskbook)

Part X – Balance Sheet
This part is similar to your audited Statement of Financial Position but will not align exactly.

- Lines 27-29: All UWs should be checking the box indicating that they follow SFAS 117 for Audited Financial statements and reporting on these lines accordingly.
- Since GAAP financial statements include things like Unrealized Gains and In-Kind Service revenue, there will be reconciling items in Schedule D
- Note: FASB released Staff Position 117-1 which addresses reporting of endowments as permanently restricted or temporarily restricted assets. Depending on whether or not your organization is subject to the Uniform Prudent Management of Institutional Funds Act (UPMIFA), and the particular state your organization operates in, amounts reported on lines 27-29 may be required to be reported differently.

Part XI – Financial Statements and Reporting
This section is intended to tell readers about the basis and review of your financial statements

- Line 1: All United Ways should be checking the “accrual” basis box
- Line 2: All United Ways should be able to say “yes” to either 2a or 2b and “yes” to 2c because UWA Membership Requirements make this mandatory for members.
E. RECOMMENDATIONS – SCHEDULES

Schedule A – Public Charity Status and Public Support
This schedule aids the reader in understanding what type of organization it is and shows the composition of the organization’s support

- Part I - Reason for Public Charity Status: All United Ways should check Box 7 because they are Public Charities as defined by IRS code Sections 170(b)(1)(A)(vi) and 509(a)(1) rather than:
  - Community trusts (box 8)
  - Section 509(a)(2) private foundations (box 9)
  - Section 509(a)(3) supporting organizations (box 11)

- Part II – Support Schedule: This section is now reported on the same basis as the books are kept (which is the accrual basis for United Way organizations) as opposed to the cash basis which was used through 2007.
  - Lines 1-12: When preparing the form, care must be used to be certain that the numbers reported for 2007 and earlier years are recalculated on an accrual basis, DO NOT USE THE CASH BASIS NUMBERS REPORTED IN PREVIOUS FILINGS
  - Line 1: Unusual Grants (not included in line 1 but rather reported in Part IV) are defined as substantial contributions and bequests from disinterested persons and are:
    1. Attracted because of the organization’s publicly supported nature,
    2. Unusual and unexpected because of the amount, and
    3. Large enough to endanger the organization’s status as normally meeting either the 33-1/3% public support test or the 10% facts and circumstances test.

For more information about unusual grants, see the instructions for Schedule A

- Line 15: Although prior year numbers for lines 1-12 are stated on the accrual basis, this percentage is lifted from the Form 990 in prior years so for 2008 filing, care must be exercised to assure that the amount reported on this line comes directly from the 2007 form. This will result in an “apples to oranges” comparison to line 14 but that is what IRS wants. In future years, both numbers will be reported on the accrual basis so the comparison will be more accurate.

Schedule B – Schedule of Contributors
This schedule aids the IRS in understanding who your largest supporters are and other readers in determining if someone may be exerting undue influence over the organization by nature of the organization’s dependence on one or a small group of supporters

- There is no substantial change in this schedule from previous years.
- Only those contributors who gave the greater of either $5,000 or 2% of the amount on line1h of Part VIII of Form 990 (or line 1 of Form 990-EZ) are to be listed.
• Contrary to popular belief, this schedule is open to public inspection, with the exception of the names and addresses of contributors. Names and addresses must be provided to IRS but, for copies of Form 990 released to the public, it is appropriate to “black out” the names and addresses of donors to protect their identities. (State requirements vary so check with your state attorney general to determine if any part of Schedule B is required to be made public)

Schedule C – Political Campaign and Lobbying Activities
This schedule gives the reader information about the extent to which organizational resources are used to influence public policy and political campaigns

• All United Ways should complete Parts I-A, I-B, and IV
• If your United Way has filed form 5768 (election under section 501(h)) you will complete Part II-A. Such an election is highly recommended for local United Way organizations due to the fact that it makes reporting much easier and disclosure much simpler. If no such election has been made you will complete Part II-B.
• United Way State associations who do extensive Public Policy work should seek legal advice before making a section 501(h) election.
• For more information on Lobbying activities, see Appendix C

Schedule D – Supplemental Financial Statements
This section aids the reader in seeing a more complete picture of the organization’s activities by standardizing a variety of supplemental information

• Of particular interest to most United Ways are the following parts:
  o Part I: Donor Advised Funds or Other Similar Funds or Accounts
    ▪ Note: Donor Designated Pledges are not considered “Other Similar Funds or Accounts” and are not to be reported in Part I because:
      1. The UW owns the DAF and the donor only makes a recommendation as to how it’s spent, as opposed to Donor Designated Pledges where the UW act as an agent for the donor who designates. The UW has no control over the money as defined in SFAS 116.
      2. Contributions to a DAF are included as revenue in the audited financial statements and the From 990. In contrast, Donor Designated Pledges are strictly pass-through items which, because they are grossed-up in the 990, become reconciling items in the 990.
    ▪ For more information on Donor Advised Funds, contact United Way of America’s Resource Development team
  o Part IV: Fiscal Sponsorship arrangements are considered Custodial Arrangements for purposes of this schedule. Details of such activities should be reported here if:
    ▪ You entered yes to the checklist in the core 990 Part IV, Line 9 and
    ▪ These custodial accounts were not included in the core Form 990, Part X (Balance Sheet)
Part V: Endowments - Note that you are required to report here not only donor restricted endowment funds but also amounts that are Board Designated for specific purposes, including Quasi-Endowment.

Parts XI – XIII: Reconciliation of Change in Net Assets, Revenues, and Expenses

- All United Ways with annual revenue in excess of $100,000 will be required to complete these reconciliations between Audit and Form 990 numbers because UWA Membership Requirement H requires an audit in accordance with GAAP.
- UWA Membership Requirement H allows members with annual revenue less than $100,000 to conduct a Review rather than an Audit and the instructions specify that even if the review is performed in accordance with SFAS 117, these reconciliations are not required.

Schedule E – Schools
This schedule is not applicable to United Ways

Schedule F – Statement of Activities Outside the United States
This schedule provides the reader with information about the extent of the organization’s activities outside the country
- Not Applicable to most United Ways
- If applicable to your UW, then be mindful of your Patriot Act compliance measures and consider including a summary in Part IV – Supplemental Information.

Schedule G – Supplemental Information Regarding Fundraising or Gaming Activities
This schedule provides the reader with information on certain types of fundraising activities
- Will be applicable to many United Ways so Finance and Resource Development teams will need to work together to complete this schedule accurately.
- Be mindful of state laws with regard to gaming activities, states may be cross referencing to this schedule to determine if proper licenses and permits were issued.
- Part II: do not include information about campaign “prize drawings” if the names of contributors or individuals who completed a free raffle form are entered

Schedule H – Hospitals
This schedule is not applicable to United Ways
Schedule I - Grants and Other Assistance to Organizations, Governments and Individuals in the United States

This schedule provides readers with information about the organizations you support:

- Record the details of your program funding and agency designations.
- Part II: Include only distributions to all organizations who received more than $5,000 during the year covered by the Form 990.
- Part II, Column b: You must include the Employer Identification Number of all grant recipients. Make sure you have collected this information from all grant recipients and designated agencies.
- While not required, in the interest of transparency it is recommended that you note in Part IV the aggregate total dollar value of distributions to organizations that received less than $5,000 and are therefore not reported separately in Part II (also include the number of organizations represented in that aggregate value).
- Part II, Column h: See Appendix E for suggested “Purpose of Grant or Assistance” terminology to use. Also note that if an organization received more than $5,000 total but it represents grants for multiple purposes, you will need to include more than one purpose statement in Column h.
- Part III: In the rare situation where your United Way makes grants or give direct assistance to individuals, and the aggregate total of that assistance exceeds $5,000 during the year, you must complete this part of the form.
- Part IV: Supplemental Information:
  - You must include in this section a description of your policies and procedures for monitoring how agencies use the funding you provide, both allocated and designated.
  - It is recommended that you use care in this section to describe the difference between Allocated funding and Designated funding so that readers understand why monitoring policies are different:
    - “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 from 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.
  - Examples:
    - Allocations: Organizations receiving “discretionary” funding from United Way (i.e. Community Care/Impact/Investment)
      - Undergo intensive pre-screening before being awarded funding. Such screening includes:
        - An application process that includes explanation of the proposed use and results from use of the funding
Financial review of the organization to gain a level of assurance that the organization follows sound fiscal policies
- Verification of compliance with the provisions of the Patriot Act
- Verification of current status as an IRS Code Section 501(c)(3) nonprofit organization

- Are required to provide United Way with quarterly progress reports that show how the funding has been utilized to day and the results achieved against mission as a result.
- Are required to provide United Way with a final report at the end of the allocation period that verifies that all funding has been used for the purposes intended and what the results were compared to the proposed results from the original application.

Donor Designations: Organizations receiving donor designated contributions through United Way:
- Undergo screening prior to distribution of funding. Such screening includes:
  - Verification of compliance with the provisions of the Patriot Act
  - Verification of current status as an IRS Code Section 501(c)(3) nonprofit organization

Schedule J – Compensation Information
This schedule provides readers with detailed compensation information for your Officers, Directors, Key Employees and Highest Paid Employees

- See information relative to the Core Form, Part VII for more information on whose compensation is to be reported on this schedule
- Note that this information is to be reported on a calendar year basis so that it aligns with Form W-2 and Form 941 data reported to IRS separately. As a result, data in this schedule will not reconcile to Part IX of the core form if the organization is on a fiscal year.
- If you had any new hires during the past or current year, a note in Part III should state the reasons for the resulting differences consequently reported in Part II columns (E) and (F).
- Part I - Questions Regarding Compensation:
  - Most questions do not have direct enforcement implications but they do create a more transparent environment regarding compensation. Care should be used to describe in detail (in Part III) anything that may appear to be inequitable or inappropriate, to minimize “headline risk” to the organization.
  - Note that you are required to provide details in Part III about policies and procedures relative to many of the items marked as applicable in Part I
  - Note that free upgrades on things like travel, do not have to be reported, only the cases in which the organization paid for the benefit.
• Part II, Column F: Note that this column is intended to help you identify for readers what portion of current compensation was previously reported as deferred compensation. It is recommended that you use Part III to also reiterate that some numbers are duplicated from prior years so as to avoid the perception that compensation is higher than it really is.

Schedule K – Supplemental Information on Tax Exempt Bonds
This schedule is not applicable to most United Ways (for those to whom it applies, the instructions are clear, no need for additional guidance)

Schedule L – Transactions with Interested Parties
This schedule provides the reader with information about potential Conflicts of Interest

• This is the first time this level of information is being asked on Form 990 so care must be used to assure that all relationship are considered in determining who an “interested party” is.
• LUWs should be particularly cognizant of the relationships they have with board members relative to purchasing services from the companies they represent.
• LUW’s should also be cognizant of relationships where board members have a relationship with a funded agency (e.g. Board member, Staff member, etc.)
• Not all conflicts are inappropriate. Use this Schedule to disclose the person(s) involved and Schedule O to explain why it is an appropriate relationship for the organization to maintain.
• Part I – Excess Benefit Transactions: there are legal and tax implications for what is reported here so be sure to follow the instructions carefully.
• Part II – Loans to and from Interested Persons: Interested parties include everyone listed in the Core Form, Part VII, Section A and several others, be sure you report for everyone.

Schedule M – Non-Cash Contributions
This schedule provides the reader with information about the value and use of goods donated to the organization

• This schedule is only required if the cumulative total of in-kind contributions for the year exceeds $25,000.
• Do not include donated services that were included in GAAP Financial Statements, IRS does not recognize donated services as revenue and expense.
• Record stock donations in payments of pledges on Lines 9-12 according to type.
• One of the more common non-cash items are donated office supplies which should go on line 25
• Note that even if you do not record a contribution as revenue and expense on your books (e.g. item received has no value to the organization (e.g. out-dated computer equipment that you will pass on to someone else), you must still report it in Part II if required to complete Schedule M.
Schedule N – Liquidation, Termination, Dissolution or Significant Disposition of Assets
This schedule is not applicable to most United Ways
(for those to whom it applies, the instructions are clear, no need for additional guidance)

Schedule O – Supplemental Information to Form 990
This schedule is used to provide any information the organization wishes to include for the benefit of IRS and other readers for which space is not afforded elsewhere

- Note that IRS no longer will allow “free-form” attachments and schedules to be filed with Form 990. Any additional information must be provided on Schedule O.
- Schedule O should be organized so that it follows the progression of references to it in the Core Form and the other Schedules.

Schedules P & Q – Do not currently exist, don’t look for them!

Schedule R – Related Organizations and Unrelated Partnerships
This schedule is used to disclose relationships (legal and otherwise) between the filing organization and other organizations

- Affiliate relationships, like that between the local United Way and United Way of America, do not need to be reported here.
- Parent-Subsidiary relationships, like those that sometimes exist between local United Way offices within a particular region, may need to be reported here. See the instruction to determine if the relationship qualifies for reporting.
- IRS is primarily looking for information that they can use to cross reference organizations for purposes of enforcing regulations like excess compensation transactions and unrelated business income taxable transactions.
Third Party Processors (TPP)

What amount to record as grossed-up designations, and on what line

Simplified Example:
- $10,000 raised (net of uncollectible)
- $8,000 paid out by TPP to other recipient agencies
- $2,000 paid to local UW (may include further monies to be designated to member agencies)

CFC Campaign

Funds raised outside of your solicitation area:
- Local UW does not do any fundraising
- TPP performs all processing and distributions
- UW receives $2,000 from TPP
- $2,000

Funds raised in your solicitation area:
- Local UW does the fundraising; only the processing done by TPP
- Local UW does the fundraising; only the processing done by TPP
- UW receives $2,000 from TPP
- $2,000

Funds raised in your solicitation area:
- Local UW does the fundraising; only the processing done by TPP
- TPP performs all processing & distributions; shares documentation with local UW
- $10,000

Funds raised in your solicitation area:
- Local UW does the fundraising; only the processing done by TPP
- TPP performs all processing & distributions; does not share documentation
- $2,000 of the $10,000 is the UW portion

Funds raised in your solicitation area; UW is PCFO:
- Local UW, as the PCFO, is the fundraiser

Funds raised in your solicitation area; UW not PCFO:
- Local UW does not do any fundraising
- $2,000 of the $10,000 is the UW portion

1a  2000  $10,000  $2,000  $10,000  $2,000

1f  1f  1f  1f  1a
F. Basis for Conclusions

Introduction: This section summarizes considerations that the United Way of America Financial Issues Committee (FIC) deemed significant in reaching the conclusions in this standard implementation document. It includes reasons for accepting certain views and rejecting others. Individual FIC members gave greater weight to some factors than to others.

Objectives: To accomplish its mission, the FIC strives to improve the usefulness of financial reporting by focusing on the primary characteristics of relevance and reliability and on the qualities of comparability, consistency and transparency. In return for some sacrifice of freedom of choice, the FIC believes that adherence to externally imposed standards brings a gain in credibility.

Benefits and Costs: A major benefit of adherence to this document is the increased comparability, consistency and transparency of United Way financial reporting that naturally results from eliminating some of the inconsistencies in current practices and varying interpretation of IRS guidance. The FIC believes that consistent standards for recognition of contributions and costs are needed. However the value of incremental improvement to the financial reporting is impossible to qualify. Therefore, the FIC’s assessment of the costs and benefits is unavoidably subjective. Moreover, since the cost of implementing a new standard is not necessarily borne by those who derive the benefits (e.g. preparers, donors, creditors, etc.) the FIC has attempted to strike a balance between the diverse and often conflicting needs of these groups. The FIC believes that the incremental costs of the requirements of this document have been reduced in various ways and in the final analysis, the FIC concluded that the overall benefits to the United Way system from implementation of this document justifies the costs of complying.

Recording incoming designations and the entire CFC campaign in “revenue”:
Respondents to the exposure draft of the first edition of this document (2004) properly pointed out that doing so creates a double counting of revenue between United Ways. The FIC sought guidance from the IRS on that point and were told that this is not of concern to the IRS since the form 990 seeks to capture the total “activity” of each non-profit organization. The FIC considered arguing the point further with the IRS because of the expectation that uninformed users of the 990 may criticize the UW system for this double counting. However, in the end FIC let the matter drop because it was noted that if the organization was the PCFO, they would be recording the entire campaign as Direct Revenue and if not the PCFO, the contributions would be recorded as Indirect Revenue which should be an indication to the reader that duplication may exist.

When IRS issued the redesigned Form 990 in 2008, the instructions were clear in stating that line 1a is to be used incoming designations (Federated Campaigns) rather than line 1f (Other Contributions). In doing so, IRS has once again separated Direct and Indirect contributions into two separate and distinct lines of the form. Thus it should continue to be relatively simple to differentiate the double counted
funds in a supplemental calculation and mitigate potential criticism from users other than the IRS.

The FIC also noted that this treatment is no different than that of an agency or federation when they report incoming designation funds and thus when we report this way we are consistent with other nonprofits.

Recording designations from local UW campaign efforts in “revenue”: The FIC sought guidance from the IRS on that point when it drafted the first edition of this document (2004) and were told verbally that the IRS defines “revenue” in terms of the “activity” of the organization. Specifically they indicated that because they arise during the normal course of the UW’s campaign efforts (for which expenses are incurred), they represent an activity of the organization and thus must be reported as revenue on Form 990; to do otherwise would lessen the transparency of the report. For more detail on this point, see Appendix D.

Including CFC results in revenue given different accounting cycles: Some respondents requested guidance on how to align CFC campaign reporting with the reporting periods established for the 990 (given that the 990 reports a specific 12 month period while the CFC maintains an 18 month cycle). The FIC concluded that even though the OPM mandates separate auditing of each CFC campaign over its complete 18 month cycle, United Ways should still be recording CFC activity in the same general manner as their other campaigns on an ongoing basis. However, since this may not necessarily be standard operating procedure for all United Ways, the FIC provides the following example as guidance for merging the two cycles:

Example: Local United Way (LUW) serves as the PCFO of the 2008 CFC campaign in November:
- The campaign raised a gross total of $1,000,000 in pledges,
- Incurred $100,000 in campaign expenses which will be recovered from collected pledges,
- Estimates uncollectible pledges of $80,000
- Of the remaining CFC distributable funds of $820,000:
  - $120,000 is designated to Local United Way
  - $700,000 is designated to other organizations

Reporting on the 990 would be as follows:
- Part VIII, line 1f, record the net campaign result of $920,000 ($1,000,000 of pledges less $80,000 of expected uncollectible pledges)
- Part IX, record $100,000 of campaign expense on the related line items
- Part IX, line 1, record the $700,000 designated to other organizations
G. RESOURCES

1. Internal Revenue Service  www.irs.gov
2. United Way of America  www.unitedway.org
3. Other local United Ways  http://online.unitedway.org
6. Independent Sector  www.independentsector.org
7. Search the internet/web  www.google.com
Appendix A
Example United Way Program Service Accomplishment Statements

The IRS intended to include in the instructions for Form 990 examples of accomplishments to be reported by organizations in particular sub-sectors, but at the time of publication of this document, no examples were yet included. The following are examples submitted by the UWA Financial Issues Committee to the IRS and are provided for reference:

Example #1
Funding to local impact partners as part of the organization’s multi-year Community Plan focused on achieving outcomes in the four specific areas determined to be essential in improving people’s lives and strengthening our community:
1) Helping kids and families lead successful lives;
2) Improving health and independence;
3) Responding to emergency and basic needs; and
4) Encouraging civic and neighborhood involvement.

Example #2
Expenses incurred by the organization to assess community needs; provide outcome measurement training to various entities in the community; provide program assessment, review and selection; administer grants; provide financial and stewardship oversight of grant recipients; and participate in community partnerships to advance common goals in the four focused areas.

Example #3
Community Goal: Older adults age successfully, remain in their homes and communities, and stay connected with family, friends, and neighbors.
Specific Goal #1: To improve the overall health of our senior population by 10% over a five year period as measured by annual community health index. The organization has funded a number of programs such as Meals on Wheels, the Community Senior Center’s daily water aerobics program, etc. (see detailed list in Schedule O) which have contributed to an increase of 7.8% in the health index over the past three years.
Specific Goal #2: The organization...

Example #4
The organization’s Center for Excellence in Early Education is an innovative learning, teaching, research, and training facility dedicated to elevating the quality of early care and education in our local community and nationally. Expenses provide comprehensive high quality early care and education to 130 children from a variety of backgrounds as well as training in early childhood development proven best practices for adult learners—educators, academics and parents. The organization’s vision is that all children will have access to high quality early care and education, so they can get the best possible start in school and in life.
Example #5
All the children in our community should be born healthy and enter school ready to learn. Currently in our community, 1 in 12 children are born at low birth weight, 1 in 6 have a mother without a HS diploma, & 28% of 3rd graders are not reading on grade level. Therefore, we fund programs that we believe will have the most impact in improving these community conditions and consider those investments successful if after three years at least 19 of 20 infants weigh 5.5 lbs or more at birth, 75% or more of 3rd graders are reading at grade level, and 9 of 10 parents have at least a HS education.
Appendix B
Sample Audit & Form 990 Certifications

CEO/ CFO Financial Statement Certification

CERTIFICATIONS

I hereby certify that:

1. I have read the audited financial statements and related IRS Form 990 of United Way of Any County for the year ended _______ ___, 20___.

2. Based on my knowledge, these financial statements do not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading.

3. Based on my knowledge, the financial statements and other financial information included in this report, fairly present, in all material respects, the financial condition, results of operations and cash flows of United Way of Any County as of and for the period ended _______ ___, 20___.

_______________________ ______________
President and Chief Executive Officer
Date________

____________________________________
VP of Finance and Chief Financial Officer
Date ________

Note: if timing precludes simultaneous certification of the audit and 990, separate certifications should be made.
Sub-Certification of Financial Statements

CERTIFICATIONS

I hereby certify that:

1. I have read the audited financial statements and related IRS Form 990 of United Way of Any County for the year ended _______ ___, 20___.
2. I have disclosed to our organization’s auditors all relevant controls and procedures established to assure the accuracy and integrity of information provided by my team;
3. I have reported to the Audit committee any known or observed deficiencies in internal controls or fraud involving management;
4. Based on my knowledge, the portions of the financial statements that are based on information originating from my team do not contain any untrue statement of a material fact or omit to state a material fact necessary to ensure that the statements made, in light of the circumstances under which such statements were made, are not misleading;
5. Based on my knowledge, the financial statements and other financial information included in this report that pertain to information originating from my team, fairly present, in all material respects, the financial condition, results of operations and cash flows of United Way of Any County as of and for the period ended _______ ___, 20___.

_______________________     ______________
Name       Date
_______________________
Title
Not only are nonprofits legally entitled to lobby, they are expected to do so. Congress has been very clear that nonprofits have a role in society that includes being a voice on issues that matter to people, communities, and the nation. So lobby, and do it legally. Follow the laws that govern the ways in which nonprofits must report and limit their lobbying expenditures.

This chapter explains the laws that govern how much you are allowed to spend on lobbying, how to track your lobbying activities for reporting purposes, and how to report your lobbying to the internal revenue service as part of your organization’s annual filing of IRS Form 990.

Note: The material in this chapter describes federal and state law governing tax-exempt charitable, educational, scientific, and literary organizations under section 501(c)(3) of the Internal Revenue Code. Private foundations are subject to more stringent rules on lobbying than other organizations with 501(c)(3) statuses. Detailed information about the unique rules governing private foundation lobbying is available from the Alliance for Justice.

The 1976 Lobby Law

Before 1976, there was enormous ambiguity over the amount of lobbying that non-profits could do. The IRS rules required that tax-exempt nonprofits, 501(c)(3) organizations, could lose their tax-exempt status if they did more than an “insubstantial” amount of lobbying. This “insubstantial-lobbying test” was never specifically defined in IRS rules, and individual IRS agents had no guidance in what constituted “too much lobbying”. The vague guidelines were confusing to regulators and left nonprofits with great uncertainty about how much lobbying was legal.

This early ambiguity in nonprofit lobbying law still causes some non-profits to fear that lobbying will make them vulnerable to losing their tax-exempt status. A law passed in 1976 has clarified that nonprofits can lobby. Be sure that your nonprofit’s and staff understand that nonprofits fall under the “insubstantial test” if they take steps to be covered by the “lobbying-expenditure test” established in the 1976 Lobby Law. The expenditure test is preferable for charities because it creates a clear and measurable set of guidelines for lobbying activity. Directions for how to be covered by the 1976 Lobby Law option follow.

Consult an attorney:
Laws change and vary from state to state. Use the information in this guide as a general guideline, but seek legal advice as well.
What the Lobby Law Allows

The 1976 Lobby law establishes clear guidelines for lobbying expenditures. These guidelines are called the “lobbying-expenditure test” and were passed under Sections 501(h) and 4911 of the Tax Reform Act of 1976. This law clarifies that 501(C)(3) nonprofits that elect to fall under these rules can spend up to a defined percentage of their budget for lobbying without threatening their tax-exempt status. In 1990 the IRS published final rules on implementing the Lobby Law. Those rules make it quite clear that nonprofits should elect to be covered by the lobbying-expenditure test and not fall under the vague insubstantial-lobbying test. It is important to note that private foundations and churches, which are 501(c)(3) organizations treated in specific ways by the IRS tax code, cannot file IRS Form 5768, the form used to file for coverage under the 1976 Lobby Law.

Be sure that your nonprofit knows that it can choose whether or not to fall under the 1976 Lobby Law. If you elect to be covered by the Lobby Law, you need to do two things:

1. Take formal steps to elect to fall under the 1976 guidelines
2. Know the lobbying limits

1. Take formal steps to elect to fall under the 1976 guidelines

To elect to be covered by the rules, your organization must file IRS Form 5768 with the IRS. This is sometimes called the “(h) form” because it refers to Section 501(h) of the Internal Revenue Code. To obtain the form, download it from the IRS web site, www.irs.gov, or call the IRS and ask for Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation. Despite the overwhelming title, it is a simple one-page form that can be filed at any time. The IRS has provided clear documentation to nonprofit organizations that filing this form is favored by the IRS and will not trigger an audit or any other activity that should concern you. Organizations that elect to fall under the rules have an easy way to account for their lobbying expenditures and provide clear information to the IRS. Everyone appreciates clarity on the issue.

Note that federal grants and some foundation grants place restrictions on lobbying. Review foundation grant agreements closely and be sure that you understand the specific activities for which funds can be used. Federal grants are covered by rules in OMB Circular A-122, which is available from the federal Office of Management and Budgets, and other acts. These rules are explained fully in materials available from Charity Lobbying in the Public Interest and OMB Watch.

2. Know the lobbying limits

The 1976 Tax Reform Act divides lobbying into direct lobbying and grassroots lobbying.

Direct lobbying occurs when an organization communicates its position with regard to legislation or legislative proposal directly with legislators, legislative staff, executive branch officials, and executive staff. An example: the executive director of ABC Nonprofit informs Representative Smith about the organization’s support for universal child care and
urges Smith to cosponsor proposed universal child care legislation.

Grassroots lobbying occurs when an organization asks the public to support, oppose, or otherwise influence legislation by contacting elected and appointed officials. A grassroots lobbying effort is most frequently triggered by a “call-to-action” phrase such as “call your congressperson today to ask them to vote YES on HF 123”. Call-to-action phrases are commonly used in action alerts and press releases. An example: the executive director of ABC Nonprofit sends out an action alert to the media, public, donors, and other nonprofits asking them to write letters to their state representatives and the governor in which they urge support of the universal child care legislation recently proposed.

Note: IN some state, nonprofit organizations become involved in ballot initiatives and referenda. The 1976 Lobby Law does apply to ballot initiatives and referenda, Charities that have elected the lobbying-expenditure test may count their work on ballot initiatives and referenda as direct lobbying. This is an interesting detail in the tax law. Work on ballot initiatives and referenda is considered direct lobbying because with these measures the “people” become the “legislature”, that is, the decision-making body. Therefore, in lobbying people to vote for or against such a measure, nonprofits engage in direct lobbying.

Figure 1: Lobbying Limits under the Expenditure Test shows the guidelines for lobbying expenditures.

<table>
<thead>
<tr>
<th>Exempt Purpose Expenditures*</th>
<th>Total Lobbying</th>
<th>Grassroots Lobbying</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $500,000</td>
<td>20%</td>
<td>5%</td>
</tr>
<tr>
<td>$500,000 to $1,000,000</td>
<td>$100,000 + 15% of excess over $500,000</td>
<td>$25,000 + 3.75% of excess over $500,000</td>
</tr>
<tr>
<td>$1 million to $1.5 million</td>
<td>$175,000 + 10% of excess over $1 million</td>
<td>$43,750 + 2.5% of excess over $1 million</td>
</tr>
<tr>
<td>$1.5 million to $17 million</td>
<td>$225,000 + 5% of excess over $1.5 million</td>
<td>$56,250 + 1.25% of excess over $1.5 million</td>
</tr>
<tr>
<td>Over $17 million</td>
<td>$1 million</td>
<td>$250,000</td>
</tr>
</tbody>
</table>

* In reviewing this chart, note that your organization’s “exempt purpose expenditures” are all payments that you make in a year except investment management, unrelated business, and certain fundraising costs.

Figure 1 makes it clear that nonprofits that elect to fall under the guidelines may comfortably expend a significant amount on lobbying, with more spending allowed on
direct lobbying that on grassroots lobbying. For example, an organization that made exempt expenditures of $1.2 million could spend up to $195,000 on all lobbying ($175,000 plus 10% of $200,000). Of that $195,000, a maximum of $48,750 could be spent on grassroots lobbying ($43,750 plus 2.5% of $200,000). Take a moment to calculate your own organization’s lobbying limits under these guidelines.

Exempt purpose expenditures: __________________
Total lobbying as allowed in Figure 1: __________________
Grass lobbying allowed: __________________

Why Your Organization Should Elect to Fall under the 1976 Lobby Law

The guidelines offer clear benefits to nonprofits that lobby. Consider the following:

1. Lobbying is measured by expenditures. This sets clear, specific, measurable guidelines for lobbying
2. There are specific definitions of what activities related to legislation do not count as lobbying. For nonprofits that elect coverage under the 1976 Lobby Law, activities that do not count toward lobbying limits include
   • Contracts with elected officials or executive branch representatives about proposed regulations (as opposed to legislation)
   • Lobbying by volunteers. (No monetary value is assigned to time volunteered)
   • Communication with the organization’s members on legislation as long as there is no call to action.
   • A nonprofit’s response to written requests from a legislative body for technical advice on pending legislation.
   • Self-defense lobbying, such as lobbying on issues that affect the organization’s existence relative to tax status, powers, or lobbying rights. (Lobbying for program funding does count as lobbying; lobbying to protect your right to lobby does not)
   • Disseminating the results of nonprofit research and analysis if presented in a fair and full way so that the audience could form an independent opinion.

If You Choose Not to Fall under the Law...

If you take no action, your organization will be covered by the vague IRS assessment of whether or not your organization does any substantial lobbying. When the IRS applies the insubstantial-lobbying test, it decides which activities related to legislation count as lobbying and how much lobbying is acceptable. Cases are decided on an individual basis and leave nonprofits struggling with uncertainty. In addition, under the insubstantial-lobbying test, which addresses all nonprofit lobbying activity, the penalties are quite severe. Under that test, a nonprofit can lose tax-exempt status and the right to receive tax-exempt charitable donations.

If you elect to fall under the expenditure test and file IRS Form 5768, clear guidelines govern what you can expend on lobbying. In addition, only your organization’s lobbying expenditures will be counted, not all lobbying activity. And the penalties for exceeding the
lobbying-expenditure limits are much less severe than the failure to meet the insubstantial-lobbying test. Violations of the expenditure limits usually result in tax penalties, and a nonprofit would only lose its tax-exempt status under extraordinary circumstances.

Clearly, it is in your best interest to elect to fall under the law, and to file the proper paperwork immediately.

For your information...
You can contact the following national organizations for more detailed explanations on nonprofit lobbying and the law.

Charity Lobbying in the Public Interest
2040 S Street NW
Washington, DC 20009
Phone: 202-387-5048
Web site: www.clpi.org

Alliance for Justice
11 Dupont Circle NW, 2nd Floor
Washington, DC 20036
Phone: 202-822-6070
Web site: www.afj.org

Reporting Lobbying Expenditures
All 501(c)(3) organizations (except churches, associations of churches, and integrated auxiliaries) must report lobbying expenditures to the IRS. For those nonprofits that do not elect to fall under the 1976 Lobby Law, the IRS requires detailed descriptions of a wide range of activities related to lobbying. For organizations that elect, the only requirement is to report how much was spent on lobbying and how much of the total amount for the year was spent on grassroots lobbying.

Keeping Track of Lobbying Expenditures
Whether or not you elect to fall under the 1976 Lobby Law guidelines, you’ll need records to back up your claims for lobbying expenditures or activity for purposes of reporting to the IRS on Form 990. One way to keep track of activity and expenses is to use a chart. This allows for ongoing assessment of whether or not your organization is coming close to the lobbying limits. Note that there are distinct advantages to involving volunteers and board members in lobbying in that unpaid time does not count toward your lobbying limits. Totals are aggregated for annual reports to the IRS.

Create a system to keep track of your expenditures on direct and grassroots lobbying by compiling the individual employee expenditures and tallying them along with additional administrative overhead. Keep a reminder of the maximum you can spend under the 1976 Lobby Law, so you know when you’re approaching the limit. Figure 2. Lobbying Limits helps
you calculate your organization’s maximum expenditures.

Figure 2. Lobbying Limits

<table>
<thead>
<tr>
<th>Direct Lobbying</th>
<th>Grassroots Lobbying</th>
</tr>
</thead>
<tbody>
<tr>
<td>Our annual maximum direct lobbying expenditures</td>
<td>Our annual maximum grassroots lobbying expenditures</td>
</tr>
<tr>
<td>Total staff costs:</td>
<td>Total staff costs:</td>
</tr>
<tr>
<td>+ Total expenses:</td>
<td>+ Total expenses:</td>
</tr>
<tr>
<td>+ Administrative overhead:</td>
<td>+ Administrative overhead:</td>
</tr>
<tr>
<td>Total:</td>
<td>Total:</td>
</tr>
</tbody>
</table>

State Lobbying Laws

Be sure that you contact the office of the attorney general and the office of the secretary of state to learn about lobbyist registration and reporting requirements in your state. Most states require all lobbyists, including nonprofit lobbyists, to report lobbying expenditures and often to identify the issue on which they are active. The guidelines vary greatly from state to state.

Some states have very strict laws. They may require advance registration, as does New York State, and impose significant penalties for failure to register and comply with reporting requirements. States also may have different definition of who is considered an official. In Michigan, nonprofits have to count interactions with appointed officials and department and agency heads to comply with the Michigan Lobbying Registration Act.

Moreover, some local governments have laws governing the lobbying activity of charities. This is true in New York City and in Suffolk County, New York, for example.

Some states and municipalities have enacted “gift bans” that govern lobbyists’ ability to provide meals or gifts to legislators. Such ethical practices rules also govern the limits on political contributions that lobbyists can make to elected officials. Nonprofits need to be particularly attentive to these constraints. Most states have an entity, called an “ethical practices board” or “campaign finance board”, which can provide you with your state’s rules.

Remember that 501(c)(3) nonprofits cannot engage in electioneering. Nonprofits may lobby. Nonprofits may not work to influence the outcome of an election.

Work with the regulators in your state to ensure that your nonprofit is providing information
on a timely basis and meeting accountability expectations. Consider inviting a representative of the office of the attorney general, the office of the secretary of state, and even your state’s entity responsible for oversight of ethical practices to meet with your organization to explain state requirements for registration and reporting of lobbying activity. Provide key staff and board members with the opportunity to attend training that covers lobbying activities and state requirements. These are sometimes provided by state associations of nonprofits or by state bar associations.

The checklist at the end of this section will help you keep track of your activities to meet IRS reporting requirements. Create a similar checklist that will allow you to comply with state and local requirements as well. Make a copy to keep in your policy guide.

Summary: It’s Your Legal Right

This chapter emphasized that nonprofits are legally entitled to lobby. Moreover, you learned that nonprofits are expected to lobby in the best interests of the people they serve. You learned that the 1976 Lobby Law clarified many ambiguities about nonprofit lobbying. You may now elect to fall under that law; and, if you stay within well-established guidelines, you should have no difficulties.

You also learned what forms to file with the IRS, and how to set up a tracking system for direct and grassroots lobbying costs.

Too often board members or organizational consultants who don’t know about the 1976 Lobby Law believe that when nonprofits lobby, they place their tax-exempt status at risk. Nothing could be further from the truth. The IRS has been clear about reporting requirements and has stated that the organizations that have elected to fall under the 1976 law have a long history of compliance. It has documented in letters to national nonprofit organizations that filing IRS for 5768 in no way triggers an audit.

Be sure that your board knows and understands this.

Checklist of Activities

Inform your board, staff, and professional consultants of the provisions of the 1976 Lobby Law
(Date accomplished: ___________)

35
Propose board and executive director action to elect to file under the provisions of the law.
(Date accomplished: ___________)

File Form 5768 with the IRS if your organization has chosen to fall under the guidelines.
(Date accomplished: ___________)

Keep track of lobbying activities and expenditures
(Date system started: ___________)

Report lobbying activity to the on your Form 990, Schedule C
(Date accomplished: ___________)

File lobbyist registration forms and reports with your state and local governments if required.
(Date accomplished: ___________)

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1 Note that 501(c)(3) organizations may lobby, but they are prohibited from activities that influence the outcome of elections of public officials. For information about the law prohibiting partisan activities and governing nonpartisan voter education activities during an election campaign, contact the Alliance for Justice or Charity Lobbying in the Public Interest.

2 Efforts are under way in Congress to eliminate the distinction between direct lobbying and grassroots lobbying. Track changes with the Alliance for Justice and Charity Lobbying in the Public Interest.

3 “Certain fundraising costs” includes the cost of external fundraising consultants, an in-house fundraising department of to or more people who spend the majority of their time on fundraising, or any separate accounting unit that is designated as a fundraising department. (See the IRS regulations for a full description of the excluded expenditures)

*The Lobbying and Advocacy Handbook for Nonprofit Organizations, Chapter 4
Author: Marcia Avner, Minnesota Council of Nonprofits,
Forward by Bob Smucker
Published by: Fieldstone Alliance
60 Plato BLVD E, STE 150
St. Paul, MN 55107
1-800-274-6024
www.FieldstoneAlliance.org
(To obtain this publication in its entirety, please contact Fieldstone Alliance at the above website or telephone number)

Appendix D
Inclusion of Designated Pledges in Revenue on Form 990

Introduction
From time to time, a challenge is made to the United Way interpretation of the instructions for IRS Form 990 relative to the appropriateness of reporting designated contributions (called Agency Transactions under GAAP) as revenue on the Form 990. The challenge generally arises out of the apparent conflict that doing so represents when GAAP rules (under SFAS 116) specifically prohibit agency transactions from being reported as revenue on GAAP Financial Statements. The case is usually based on the idea that reporting of revenue should be consistent between the two financial reports and thus local UWs ought to exclude designated contributions from revenue on line 1f of Part VIII on the core Form 990. However, doing so puts the local UW in violation of the Implementation Standards for Membership Requirement A and leaves them caught between the proverbial “rock and a hard place”.

Because a United Way’s mission generally includes working to increase the general philanthropy of donors in their solicitation area and designated pledges represent the result of that effort, it is vital to transparency overall that designated pledges be included in “revenue” on the Form 990. This is a position upon which we believe the Internal Revenue Service concurs with us but one can not find a specific reference to this issue anywhere in the Form 990 instructions or the Tax Code.

Therefore, to address this challenge, we have developed this appendix to set forth the evidence, both written and verbal, that led the UWA Financial Issues Committee (FIC) to make it a requirement for members UWs to include designations as revenue on Form 990. It is our hope that this appendix will set forth a strong enough argument in favor of the inclusion to alleviate any concerns you may have about this position and bring consistency to the UW system.

If at any time new evidence, verbal or written, is issued by the IRS that refutes the conclusions drawn by FIC in this document, FIC will examine that evidence and if warranted, amend its position to assure system wide compliance with IRS regulations.

Selected excerpts from the Instructions for Form 990 published by the IRS in 2008

General Instructions - Accounting Methods: Unless instructed otherwise, the organization should generally use the same accounting method on the return to report revenue and expenses that it regularly uses to keep its books and records. To be acceptable for Form 990 reporting purposes, however, the method of accounting used must clearly reflect income... An organization should keep a reconciliation of any differences between its books of account and the Form 990 that is filed. Organizations with audited financial statements are required to provide such reconciliations in Schedule D, Parts XI through XIII.

Appendix of Special Instructions to Form 990, Use of Audit Guides may be required: To ensure that all organizations report similar transactions uniformly, many states require that contributions, gifts, grants, etc., and functional expenses be reported according to the AICPA industry audit and accounting guide, Not-for-Profit Organizations (New York, NY, AICPA, 2003), supplemented by Standards of Accounting and Financial Reporting for

Core Form, Part VIII, Line 1. In General - Contributions, Gifts, Grants, and Similar Amounts Received: Reporting line 1, in accordance with SFAS 116, is acceptable for Form 990 purposes, but not required by the IRS... It is the opinion of the United Way Financial Issues committee that this gives us the opportunity to report outside of SFAS 116 on Form 990 such that reporting is more transparent relative to the actual activities of a Federated Fundraising organization. To report the expenses associated with raising designated pledges (agent transactions per SFAS 116) and not report the related “revenue” does not adequately present the “activity” of the organization.

Line 1. In General - Contributions, gifts, grants and similar amounts received: On lines 1a through 1f report cash and non-cash amounts received as voluntary contributions, gifts, grants, or other similar amounts from the general public, governmental units, foundations, and other exempt organizations.

Line 1a. Federated Campaigns: Enter on line 1a the total contributions received indirectly from the public through solicitations campaigns conducted by federated fundraising agencies and similar fundraising organizations (such as from a United Way organization). Federated fundraising organizations normally conduct fundraising campaigns within a single metropolitan area or some part of a particular state and allocate part of the net proceed to each participating organization on the basis of the donors’ individual designations or other factors. TIP: Federated fundraising agencies must, like all other filers, identify the sources of contributions made to them on lines 1a through 1g.

Line 1f. All Other Contributions, Gifts, and Similar Amounts: Enter all other contributions, gifts, and similar amounts the organization received from sources not reported separately on lines 1(a) through 1(e). This amount includes contributions from donor advised funds.

The Case for inclusion in line 1f

General Instructions – Accounting method: Clearly indicates that it is important for the reader of the form 990 to understand the basis of accounting used on the form. One would naturally ask, why would this be so important that it be indicated on the form itself? The answer, logically, is that different methods of accounting will produce different numbers for the same organization so understanding the method will help the reader to decipher what the form is and is not reporting.

This instruction opens the door to the possibility that while most should use the same accounting methods on the GAAP audited financial statements and the Form 990, there are circumstances where a different method is not only acceptable but required by the IRS. The question that arises from this instruction is, why would the IRS prefer a different method be used? The UWA Financial Issues Committee posed this very question to the IRS while researching and drafting its original guide for form 990 in 2003 and the verbal response we received was that while GAAP methods are primarily concerned with reporting revenue
based on the accounting principle that no one dollar should be reported as revenue to two organizations, the Form 990 is concerned with reporting based on transparency and thus if two organizations have an active part in the disposition of the same dollar, both should report the full extent of their “activity” relative to that dollar. This principle of reporting on the 990 based on the “activity” of the organization is key to understanding the basis for inclusion of designated gifts as revenue for the UW’s 990 as will be addressed later.

Core Form, Part VIII, Line 1. In General: In this instruction, the IRS specifically indicates that reporting on Form 990 need not follow the principles of GAAP found in SFAS 116. Why would the IRS specifically call out that portion of GAAP? The answer lies in the point made about “activity” of the organization above. SFAS 116 is the portion of GAAP that would preclude an organization from including in revenue a donor designated gift (called an “agency transaction” in GAAP).

IRS officials are on the record publicly, on numerous occasions, as indicating that they do not agree with FASB on its interpretation of what contribution revenue is as defined in SFAS 116. As recently as the public hearings on the Draft Revised IRS Form 990 held in September of 2007 in Washington, DC, IRS personnel reiterated that one of the reasons that they will never have a Form 990 that fully conforms with GAAP is because portions of GAAP like SFAS 116 would prevent the Form from fulfilling one of its core purposes, that of making public all the “activity” of the organization.

UWA representatives at that meeting specifically pointed out that were GAAP followed on Form 990, it would force the exclusion of billions of dollars that are raised, collected, and distributed by Federated Fundraising Agencies like UW from the face of the Form. Readers would be led to believe that the organization’s fundraising expense relates solely to those contributions that fall under the discretion of the organization and that their administrative expenses relate solely to the collection and distribution of unrestricted contributions. Aside from the fact that the resulting operating and fundraising ratios would appear to be higher than they would if the designated contributions are included in “revenue”, showing the costs and not the revenue they generated does not offer the reader of Form 990 a transparent picture of the activity of the organization. The IRS staff present concurred with that assessment and indicated that such a change to Form 990 would severely diminish its value as a tool for public transparency.

Appendix of Special Instructions to Form 990, Use of Audit Guides: The inclusion of this reference might at first seem to indicate that GAAP should indeed be followed, despite the previous indications but one must note that in this section the IRS is simply noting that while the Form 990 does not require following other guidance, some “states” will require it so you could consider following the GAAP rules, provided they do not conflict with the IRS rules for 990. Again, the IRS is opening the door for reporting on form 990 using methods that are divergent from other reporting. This is consistent with the IRS principle of reporting on form 990 based on “activity” first and then on other principles like GAAP or State tax filing requirements.

It is also important to note that the IRS has been very clear in public statements over the years that while they are in favor of consistency among the various reporting standards,
they will not surrender their authority to set rules under the Internal Revenue Code to the authority of another standard setting body (like the Financial Accounting Standards Board or the National Association of State Charity Officers). In as much as this instruction relates specifically to State reporting it is our understanding that in it the IRS is simply pointing out that while “many states require” the following of specific guides, the IRS allows, but does not require that they be followed for form 990.

**Line 1a:** This instruction mentions United Ways specifically and instructs those organizations that receive funding from a UW to report those contributions as on this line. If the eventual recipient is reporting the contribution on this line and the “TIP” says Federated fundraising agencies must, like all other filers, identify the sources of contributions made to them on lines 1a through 1g, then it stands to reason that we must report the pledges somewhere too, and we contend that line 1f is the most appropriate place to do so. The IRS, as recently as its testimony to the Senate Finance Committee in early 2006, has indicated concern that contributions were being “passed around” by related organizations and that more than one organization was reporting the contribution as “direct” revenue, thus inflating direct revenue on a consolidated basis and hampering transparency of the activity among various the organizations that each handled the same contribution. In that testimony, the IRS indicated that there should only be one organization that reports a contribution as direct revenue and all subsequent organizations that handle the contribution should report it as indirect revenue. This testimony clearly indicated that the IRS is not concerned about “duplicate” reporting of a gift as revenue because it will always be differentiated as either direct (line 1f) or indirect revenue (line 1a). Thus the reader of the various Forms 990 will be able to determine if the revenue is duplicated or not and will be able to tell what the individual organization’s activity relative to the contribution was.

Additionally, and probably more importantly, in the instruction for this line, the IRS defines the role of a Federated Fundraising organization and specifically mentions the fact that some of the contributions they dispense are allocated to other organizations on the basis of the donors’ individual designations. In giving specific recognition to donor designated pledges in this way, we believe that the IRS is giving a clear indication that they consider donor designated pledges to be contributions to the Federated Fundraising organization that must be reported on the Form 990.

**Line 1f:** This instruction seems very clear, report all other contributions that are not reported elsewhere. It does not differentiate whether or not the organization is entitled to keep the donation (e.g. undesignated) or pass it on (e.g. designated), it simply says, report everything donated that isn’t specifically reported elsewhere. One could still argue that since they don’t specifically indicate that designated gifts are included on this line, that there is still question about the validity of reporting them here. However, the reference to the instructions for line 1a takes that argument away because a United Way’s mission generally includes working to increase the general philanthropy of donors in their solicitation area and designated pledges represent the result of that effort. Thus, it is inappropriate to exclude designated pledges from revenue on the Form 990 and since they don’t fit with the descriptions of what belongs on lines 1a through 1e, they must go on line 1f.
Conclusion

While the IRS has to date not provided UWA with a specific, written determination on how to properly report designated contributions on the Form 990, there is sufficient evidence, both verbal and written, to conclude that designated contributions made to a local United Way organization are properly reported on Form 990 as direct revenue on line 1f. The FIC examined evidence similar to that outlined above in making its decision to direct the UWA members to include designations in both revenue and expense on the form 990 when it drafted the Implementation Requirements for Membership Standard A - IRS Form 990 in 2003 and again in drafting this updated document. To date, there has been no evidence, written or verbal, originating from the IRS that contradicts the conclusion drawn by FIC on this issue and all UWA members are required to report accordingly.

Appendix E
Suggested Terminology for Use on Schedule I

Introduction
Schedule I of Form 990 requires organizations to report specific information about Grants and Assistance provided to other organizations in excess of $5,000 during the year. While the direct granting (commonly called an allocation) done by United Ways to other agencies from their Unrestricted contributions are generally quite clear in purpose, some may be difficult to describe in the small space provided on the Schedule. In addition, since donor designated contributions must also be described here, their various nuances can create an even bigger challenge to define in a transparent manner.

For this reason, we recommend that United Ways create a standard set of “codes” that can be used on Schedule I but will then tie to longer descriptions that can be included on Schedule O. These codes should remain relatively consistent from year to year so as not to hamper year over year comparison by the reader.

Further, to promote greater consistency within the United Way System, it is recommended that each United Way adopt the following codes and definitions as the core around which your specific set of codes is built.

### Core Codes and Definitions

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Operating Cost</td>
<td>An unrestricted grant made to an agency in support of its general operating costs.</td>
</tr>
<tr>
<td>Program Operating Cost</td>
<td>A restricted grant made to an agency in support of the costs associated with a specific program that it operates</td>
</tr>
<tr>
<td>Matching Funds for Operating Costs</td>
<td>A restricted grant made to match a grant made by another body in support of the agency’s general operating costs.</td>
</tr>
<tr>
<td>Program “Seed” Funding</td>
<td>A restricted grant made to a start-up agency to support its initial organizational costs</td>
</tr>
<tr>
<td>Program Research</td>
<td>A restricted grant made to an agency in support the costs associated with research vital to its successful operation</td>
</tr>
<tr>
<td>Community Collaboration</td>
<td>A restricted grant made to a fund the costs associated with bringing organizations within the community together for the purpose of creating collaborative efforts that will address specific community issues</td>
</tr>
<tr>
<td>Donor Designated for General Support</td>
<td>An unrestricted grant made to an agency at the direction of the donor(s) in support of its general operating costs</td>
</tr>
<tr>
<td>Donor Designated for Program Costs</td>
<td>An unrestricted grant made to an agency at the direction of the donor(s) in support of the costs associated with a specific program that it operates</td>
</tr>
<tr>
<td>Donor Designated for Disaster/Emergency Relief</td>
<td>An unrestricted grant made to an agency at the direction of the donor(s) in support of the costs associated with providing disaster/emergency relief efforts to victims</td>
</tr>
<tr>
<td>Donor Designated, 3rd Party Processed, for General Support</td>
<td>An unrestricted grant made to an agency, at the direction of the donor(s), collected and paid directly to the agency by a 3rd party, in support of its general operating costs</td>
</tr>
</tbody>
</table>