

# What nonprofits need to know about Form 990

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# Contacts

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# Disclaimer

- This presentation is provided solely for the purpose of enhancing knowledge on tax matters. It does not provide tax advice to any taxpayer because it does not take into account any specific taxpayer's facts and circumstances.
- These slides are for educational purposes only and are not intended, and should not be relied upon, as tax, accounting or other professional advice.

# Objectives – to provide a basic understanding of:

- 1) The information required to be reported on the Form 990.
- 2) The public disclosure requirements.
- 3) How the 990 can help you report your organization's accomplishments.
- 4) How the 990 reflects the governance of your organization.
- 5) The amount of detail required on the 990, including compensation.
- 6) Common mistakes that are made.

# Purpose of the Form 990

- Filed by Organizations that are exempt from federal corporate income tax under a subsection of section 501(c) of the Internal Revenue Code of 1986 (the Code).
- The Form 990 is the primary “annual return” filed with the Internal Revenue Service (IRS)
- It is an “information return,” rather than a tax return, as it does not calculate liability for any income or excise tax.



# The Form 990 Series

- 1) Form 990,
- 2) Form 990-EZ; a substitute for Form 990 available to smaller organizations,
- 3) Form 990-PF, required instead of Form 990/990-EZ of 501(c)(3) organizations who are classified as private foundations under section 509(a) of the Code; and
- 4) Form 990-N for extremely small organizations (and only in place for reporting on tax years begun in 2007 and thereafter), an electronic registration referred to as postcard

# Public Disclosure and GuideStar

- Filed Forms 990 and 990-EZ are not required to be kept confidential by the IRS aside from information that would identify donors.
- Exact reproduction is required-other than Schedule B donor information
- Original as well as amended returns are subject to public disclosure requirements



# Public Disclosure and GuideStar

- Philanthropic Research, Inc., itself a 501(c)(3) entity, initiated the website <[www.guidestar.org](http://www.guidestar.org)>
- Urban Institute's National Center for Charitable Statistics, is the co-sponsor.
- GuideStar accesses digitized images provided to them by the IRS of these forms "as-filed"
- Many segments of the public are aware of the site and it is widely used to procure "as-filed" annual information returns of exempt entities.
- GuideStar reports between 21,000 and 23,000 daily users, the vast majority of whom download individual Forms 990/-EZ/-PF.



# Mission and Current Year Accomplishments

**Part III Statement of Program Service Accomplishments**

Check if Schedule O contains a response or note to any line in this Part III

**1** Briefly describe the organization's mission:

SEEKING TO PUT GOD'S LOVE INTO ACTION, HABITAT FOR HUMANITY BRINGS PEOPLE TOGETHER TO BUILD HOMES, COMMUNITIES AND HOPE

**2** Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?  Yes  No

If "Yes," describe these new services on Schedule O

**3** Did the organization cease conducting, or make significant changes in how it conducts, any program services?  Yes  No

If "Yes," describe these changes on Schedule O

**4** Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.

4a	(Code)	(Expenses \$	108,901,980	including grants of \$	76,264,277	(Revenue \$	14,632,221
		<p>In fiscal year 2016, Habitat improved the housing conditions of 3 million people through new home construction, rehabilitation, incremental improvements, repairs, or increased access to improved shelter through partnerships with the public and private sectors. In addition, nearly 2.1 million people now have the potential to improve their housing conditions as a result of Habitat's advocacy efforts that changed policies and systems to allow more access to shelter solutions, as well as Habitat's provision of information and training in construction, financial management and other housing-related topics. In the U.S. and Canada, Habitat for Humanity served roughly 30,000 people with construction interventions in the United States in FY16. In the true sense of community development, U.S. affiliates are partnering not only with Habitat families, but also with families within those communities. Through housing support services, (financial and literacy training, community-based programs, playgrounds, gardens, etc.) U.S. Habitat affiliates assisted more than twice as many people in FY16 as we did through direct partnerships. Affiliates participated in 12,045 community projects in FY16. For example: 1,260 clean up days; 673 community garden activities; 3,385 youth programs. Examples in the U.S. and Canada include: In the past year, Disaster Corps volunteers have contributed 4,940 hours of service over 43 deployments supporting affiliates responding to and preparing for disasters. Significant achievements in FY2016 included the culmination of the three-year Rebuild Colorado flood recovery effort, which repaired 39 homes and built 15 new homes. Additionally, Habitat supported response and recovery efforts throughout California, Washington, Wyoming, South Carolina, Texas, Oklahoma, Illinois, New York and New Jersey. Through the "Pathways to Permanence" framework, Habitat continues to develop new tools and partnerships to help communities rebuild and become more resilient against future threats. The ninth annual National Women Build Week challenged women to devote at least one day between April 30 and May 8 to help build affordable housing in their communities. More than 17,000 women volunteered at one of 300 host sites, which included Atlanta, Austin, Cincinnati, Dallas/Ft. Worth, Indianapolis, Miami-Ft. Lauderdale, Philadelphia, Fayetteville, San Diego and Seattle. Lowes, the sponsor of National Women Build Week, donated \$1.75 million to support the event. The Mortgage Procedures and Regulations team delivered 91 training sessions to more than 1,700 participants. Nearly 1,000 Habitat personnel are enrolled in the Loan Originator Curriculum, which is up 11% over the previous year. The curriculum satisfies the federal training requirement for the Truth In Lending Act's Loan Originator qualification. Also, as a result of the Prong and Alternative Financing Options project, the Expanded Third Party Loan Testing initiative was launched in January 2016. Affiliates have an opportunity to opt in and provide loan production information for loans originated by the affiliate and directly to Habitat homebuyers by a third party lending provider. This information will be collected over a two-year period and analyzed to inform guidelines and or a policy for third party direct lending. Nine more Habitat affiliates signed the Neighborhood Revitalization pledge in FY16, bringing the total to 246. Those affiliates served 6,245 families, or more than 60% of the total families served by US affiliates. The programs holistic approach continues to expand Habitat's traditional partnership with homeowners and volunteers, as the program creates buy-in from neighbors, community leaders and local organizations to achieve a broader impact. -Of the 175 Neighborhood Revitalization FY16 survey respondents, 84% reported their case for support is stronger because of their Neighborhood Revitalization work. -The 175 Neighborhood Revitalization FY16 survey respondents reported being able to raise more than \$54 million because their affiliate is doing Neighborhood Revitalization work. In Canada, Habitat for Humanity Canada's three-year partnership with HFH Haiti in Simon Pale funded by Global Affairs Canada Investing in People and Business - completed the multi-year project in April. The results included 3,200 participants trained and empowered with knowledge, skills and tools needed to secure work opportunities and 22 community infrastructure projects serving a community of 30,000 residents in Port-au-Prince. More than 5,000 community members reported an increase in well being, over 2,600 participants reported a reduction in vulnerability, and more than 1,200 people experienced an increase in work days.</p>					

# Governance, Management and Disclosure

Part VI of Form 990 asks:

- The number of independent voting members
- Relationships among the governing body
- Self-governed or controlled entity
- Changes to governing documents during the year
- Significant diversion of the organization assets
- Questions answered YES requires a description in Schedule O

# Governance, Management and Disclosure

- Part VI of Form 990 lists the IRS's idea of “good governance” policies.
- Policies referenced are not required under the Internal Revenue Code (IRC)
- Questions asked:
  - Form 990 provided to all members of governing body?
  - Written conflict of interest policy?
  - Written whistle blower policy?
  - Written document retention and destruction policy?
  - Process for determining compensation?
  - Participation in joint venture arrangements?

# Governance, Management and Disclosure

- List states with which a copy of the 990 is filed.
- Are Forms 1023, 990 and 990-T available for public inspection?
- Indicate how they are available.
- Are governing documents, conflict of interest policy and financial statements available to the public?

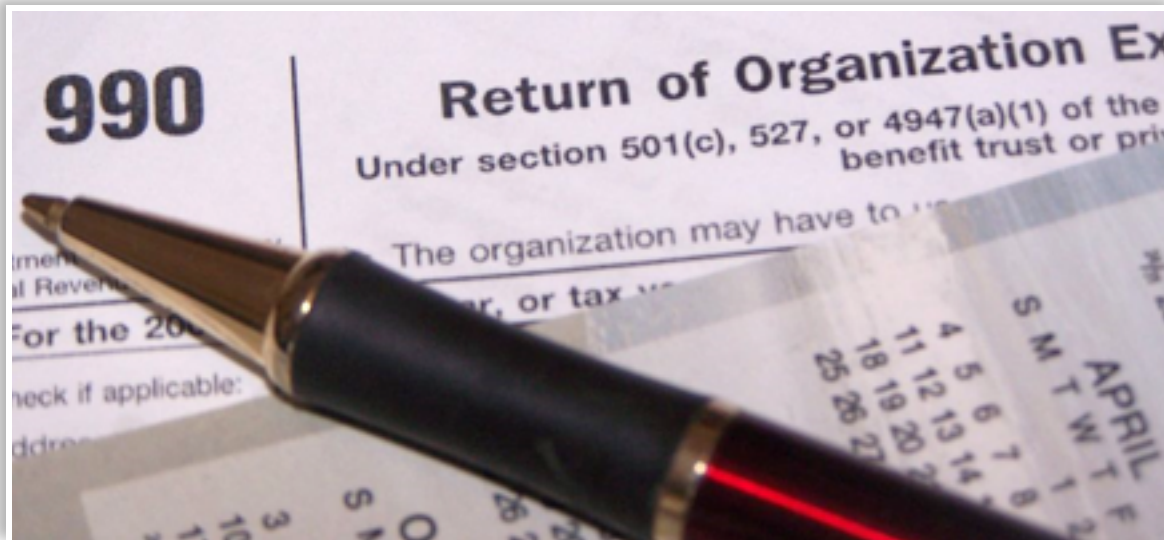
# Governance, Management and Disclosure

- These questions determine whether an organization has the policies in place that are PREFERRED by the IRS for nonprofit organizations.
- An organization can demonstrate that it is in high compliance with the “good governance” policies.



# ODTKE (Officer, Director, Trustee, Key Employee)

- What is the most scrutinized portion of a filed 990?
- ODTKE Listing and Compensation



# ODTKE (Officer, Director, Trustee, Key Employee)

- Officer-determined by reference to organizing documents, bylaws or resolutions, or by state law. In addition the organization's top management official and top financial official. In general, must be elected or appointed.
- Manage the organization's daily operations

# ODTKE (Officer, Director, Trustee, Key Employee)

- Director or Trustee: a member of the organization's governing body at any time during the tax year, but only if the member has any voting rights.





# ODTKE (Officer, Director, Trustee, Key Employee)

Key Employee: an employee of an organization (other than an officer, director or trustee) who meets all three of the following tests applied in the following order:

1. \$150,000 Test. Receives reportable compensation from the organization and all related organizations in excess of \$150,000 for the calendar year ending with or within the organization's tax year.
2. Responsibility Test. The employee:
  - has responsibilities, powers or influence over the organization as a whole similar to those of officers, directors, or trustees;
  - manages a discrete segment or activity of the organization that represents 10% or more of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or
  - has or shares authority to control or determine 10% or more of the organization's capital expenditures, operating budget, or compensation for employees.
3. Top 20 Test. Is one of the 20 employees (that satisfy the \$150,000 Test and Responsibility Test) with the highest reportable compensation from the organization and related organizations for the calendar year ending with or within the organization's tax year.



# Reportable Compensation

- Aggregate Compensation on W-2, box 1 or 5
- Form 1099-MISC, box 7
- Total value of the compensation paid in the form of cash or property during the calendar year ending with or within the organization's tax year.
- Where to find detail required: p. 32 of 990 instructions
- Where to put: Part VII, col (D) and (E)

# Fringe Benefits-Taxable

- Personal Use of Employer-provided vehicle
- Entertainment facilities and Club Dues
- Travel for Companions
- Housing Allowance



# Fringe Benefits-Nontaxable

- 1) Value of housing provided by the employer (except to the extent it is a working condition fringe benefit).
- 2) Educational assistance.
- 3) Health insurance.
- 4) Medical reimbursement programs.
- 5) Life insurance.
- 6) Disability benefits.
- 7) Long-term care insurance.
- 8) Dependent care assistance.
- 9) Adoption assistance.
- 10) Payment (or reimbursement) by the organization of certain penalties or liability insurance premiums.

# Fringe Benefits-Disregarded

- 1) any “no additional cost service,”
- 2) a qualified employee discount,
- 3) a de minimis fringe,
- 4) reimbursements pursuant to an accountable plan,
- 5) a working condition fringe,
- 6) a qualified transportation fringe,
- 7) a qualified moving expense reimbursement,
- 8) qualified retirement planning services,
- 9) qualified military base realignment and closure fringe

# Form 990, Part VII

## Compensation Reporting Thresholds for Form 990, Part VII

<b>Who Must Be Listed</b>	<b>If Reportable Compensation Is Greater Than</b>
Current officers, directors, or trustees	N/A
Current key employees	\$150,000
Current five highest compensated employees (HCEs)	\$100,000
Former officers, key employees, and HCEs	\$100,000
Former directors or trustees	\$10,000

# Compensation Thresholds

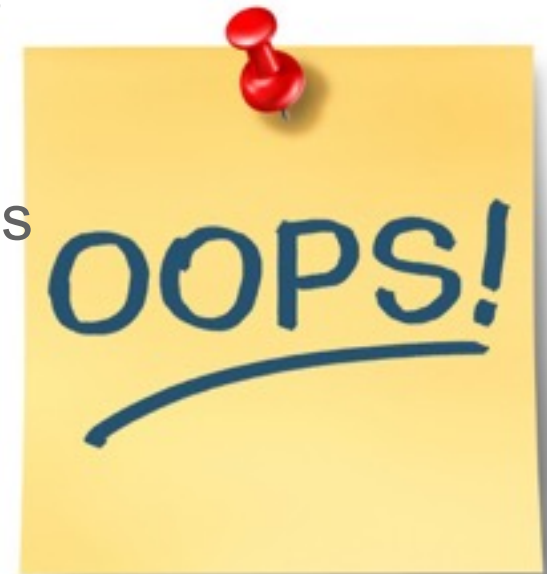
	Compensation from Filing and/or Related Organization(s)	List in Part VII If These Individuals Served at Any Time During the	Compensation Thresholds	
			Form 990, Part VII, Section A-	Schedule J-
<b>Directors and Trustees</b>				
Current	Both	TY	List All	\$150,000*
Former	Both	5 PYs	\$10,000 in that capacity	\$10,000**
<b>Officers</b>				
Current	Both	TY	List All	\$150,000*
Former	Both	5 PYs	\$100,000	\$100,000**
<b>Key Employees</b>				
Current	Both	CY	\$150,000	\$150,000*
Former	Both	5 PYs	\$100,000	\$100,000**
<b>Highly Compensated Employees</b>				
Current-5 Highest	Both	CY	\$100,000	\$150,000*
Former-5 Highest	Both	5 PYs	\$100,000	\$100,000**
<b>Independent Contractor</b>				
Current-5 Highest	Filing only	CY	\$100,000	

\* Reportable and other compensation

\*\* Reportable compensation

# Common Mistakes

- Number of independent voting members
- Business transactions with interested persons
- Former officers, directors, key employees
- Third-party compensation
- Identifying contribution revenue
- Donor disclosure
- Transactions with related organizations





# Number of independent voting members

- Timing for determining voting members
- Definition of “independent”
  - Is the director compensated?
  - Is the director involved in Schedule L transactions?
  - Is the director participating in transactions with related organizations that are or would be reportable on Form 990?
- Compensation of director by unrelated organization is not an issue, even if the payee contracts with the filing organization.

# Business transactions with interested persons

- Definition of “interested person”
  - Includes creator or founder and their family members
  - Includes substantial contributors and their family members
  - Does not include entities that have overlapping officers or directors with filing organization
    - Entities of which one or more interested persons own more than 35% in the aggregate (“35% controlled entities”) Entities that are owned 5% or more by interested persons are no longer “interested persons” unless they are 35% controlled entities
- Reasonable effort to determine is required

# Former Officers, Directors, Key Employees

- Definition of “former”
  - Current relationship to organization?
  - Timing
  - Calendar year compensation
  - Reporting thresholds
- Certain transactions with former officers, directors and key employees are reportable on Schedule L

# Third Party Compensation to be Reported

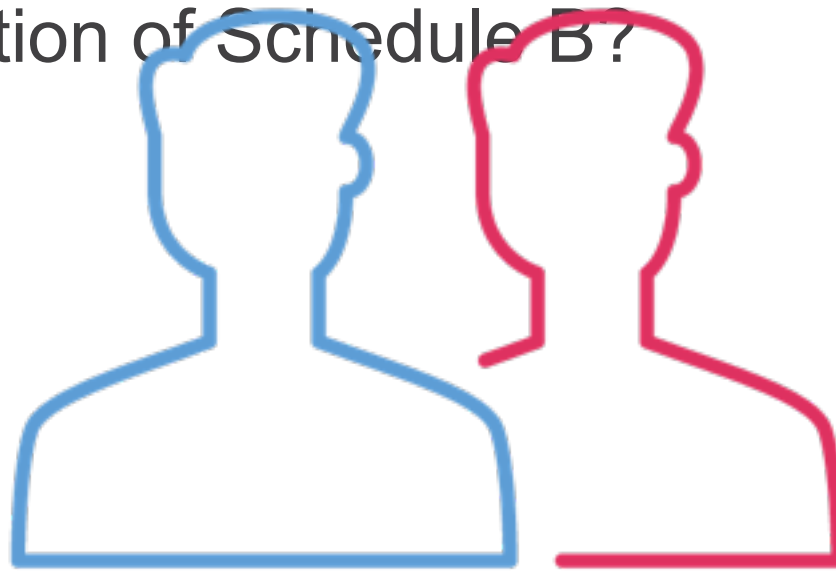
- Compensation by management companies controlled by officers, directors or key employees
- Compensation paid by payroll agents
  - Professional employer organizations?
- Compensation by “unrelated organizations” for services provided to filing organization (not to unrelated organization)

# Identifying Contribution Revenue

- Do not include:
  - Payments from a third-party payer (e.g., governmental unit) in exchange for services provided by filer to payer
- Portion of contributions representing payment for goods or services
- Donated (or discounted) services or use of materials, equipment or facilities
- Exempt function income from fundraising events, which should be reported on Part VIII, line 8a
- PILOT (payment in lieu of tax) payments to state or local governments
- Report all contribution revenue on Part VIII, line 1 (contributions), not line 11 (miscellaneous) Do not report a revenue item on line 11 unless it does not fit into any other line/category in Part VIII

# Donor Disclosure

- Determine if the organization is qualified to report fewer donors under greater-than-2%-or-\$5,000 threshold?
  - Must qualify under Section 170(b)(1)(A)(vi)
  - Must complete Schedule A, Part II
  - Look-alike/facsimile Schedule B filings?
  - Elimination of Schedule B?



# Transactions with Related Organizations, Sch R

- Do not report transfers to or from a disregarded entity of the filer
- Line 2 transactions (with controlled entities) are a subset of line 1 transactions (with all related organizations)
- Receipts or accruals of interest, annuities, royalties or rent from a controlled entity under IRC Section 512(b) (13), regardless of amount
- Any other type of transaction described on lines 1b-1s with controlled entities, if the amounts exceeded \$50,000 during the tax year for that type of transaction
- Reconcile tax classification of related organizations to their tax filings

# Questions?

