



## **CHAPTER 1: GOVERNING DOCUMENTS**

### **OVERVIEW**

**WHY ARE GOVERNING DOCUMENTS IMPORTANT?**

**WHAT GOVERNING DOCUMENTS DO YOU NEED?**

### **APPENDIX:**

- A. Articles of Incorporation
- B. Bylaws Sample
- C. Bylaws Checklist
- D. Sample Conflict of Interest Policy
- E. Sample Whistleblower Policy
- F. Sample Document Destruction Policy
- G. Sample Fiscal Management Policy
- H. Sample Confidentiality Policy
- I. Sample Media/Spokesperson Policy
- J. Sample Speaking/Sponsorship Policy
- K. Sample Gift Acceptance Policy

### **SUPPLEMENTAL GUIDANCE:**

- A. Fact Sheet 1.1: VOADS that have or are seeking Incorporation without 501(c)3 Status
- B. Fact Sheet 1.2: VOADS that have or are seeking Incorporation with 501(c)3 status (Appendix C)
- C. Fact Sheet 1.3: VOADs that have or are seeking Fiscal Sponsorship
- D. Fact Sheet 1.4: VOAD Policies (Appendix D – Appendix K)

## OVERVIEW

Many VOADs start out informally – with groups of people who come together to coordinate activities across the disaster cycle. For VOADs to grow and develop, it’s important to clarify your structure – and that means creating formal governing documents. The specific governing documents you need will vary depending on the legal structure of your VOAD – that is, whether you are informal, an incorporated organization without 501(c)(3) status, or an incorporated organization with 501(c)(3) status<sup>1</sup>.

However, these documents are very useful for your VOAD to develop – even if you don’t legally need them all yet! The purpose of this Chapter is to describe the governing documents your VOAD should have, explain why they are important, and provide tools and checklists that will help you develop them.

### Keep in Mind...

#### *All Three Types of VOADs Need Governing Documents:*

- Incorporated VOAD (Formal Association with a 501(c)(3) status) (**Fact Sheet 1.1**)
- Incorporated VOAD without 501(c)(3) Status (Formal Association with option to have a Fiscal Sponsor) (**Fact Sheet 1.2**)
- Unincorporated VOAD (Informal Association with option to have a Fiscal Sponsor) (**Fact Sheet 1.3**)

## WHY ARE GOVERNING DOCUMENTS IMPORTANT?

Governing documents clearly define the structure, and policies of your VOAD. They:

- Define the mission and purpose of the VOAD.
- Define the governing structure for the VOAD - Who is the leadership and how are they chosen or elected?
- Identify the powers and responsibilities of the VOAD Leadership and give your VOAD’s Board Members/Officers the authority to govern.
- Identify the rights and responsibilities of Members.
- Identify and define the authority of committees.
- Lay out the process for making decisions and setting priorities.

---

<sup>1</sup> See **Fact Sheets 1.1, 1.2, and 1.3** for more detailed information about each of these, including the advantages, disadvantages, legal and financial requirements, and key steps.

- Ensure your VOAD complies with relevant state statutes and federal regulations, and thus protects the leadership.

Above all, have written governing documents enhances your VOAD's transparency and accountability – they make it clear to everyone how you are governed and hold the leadership accountable.

### **Keep in Mind...**

#### ***Review the Documents You Have***

Your VOAD might already have governing documents. If you do, take time to review and revise them if needed. This module can help you ensure your documents meet best practices for VOADs and are legally compliant.

## **WHAT GOVERNING DOCUMENTS DO YOU NEED?**

As we noted above, the specific governing documents you are required to have by law depend on the legal structure of your VOAD. Regardless of your structure, your VOAD should have the following governing documents:

- Articles of Incorporation<sup>2</sup>
- Bylaws<sup>3</sup>
- Resolutions
- Policies<sup>4</sup>

**Articles of Incorporation:** A VOAD must prepare Articles of Incorporation when it decides to incorporate, thereby creating a legal entity in its state. If your VOAD is incorporated or has 501 (c)(3) status, you should already have Articles of Incorporation – if you do, make sure your leadership reviews and is familiar with them. If your VOAD is informal but you think you might want to incorporate, you should go ahead and prepare Articles of Incorporation.

Each state has its own requirements and format for Articles of Incorporation, but in most states, they must include:

- The name and purpose of the corporation.
- The name and contact information for the registered agent.
- The address of the registered office.

---

<sup>2</sup> See **Appendix A** for Articles of Incorporation Template

<sup>3</sup> See **Appendix B** for Bylaws Sample and **Appendix C** for Bylaws Checklist

<sup>4</sup> See **Appendix D – Appendix K** for Sample Governing Policies

- The names and street addresses of the incorporators and/or founding Board members (*Note: Most states require a minimum of three founding Board members*).
- A statement as to whether or not the corporation will have members.
- A statement regarding how assets will be distributed if the organization is dissolved.

### CAUTION...

In the Articles of Incorporation, your VOAD will need to state whether or not it will have members. If you incorporate as a membership-based organization, you will need to check the laws in your state regarding the voting rights of members and ensure you comply with these in your bylaws. For more information about the laws for nonprofits in your state, contact your state nonprofit association. You can locate your association through the website of the National Council of Nonprofits: <http://www.councilofnonprofits.org/about-us/our-network>

**Bylaws:** Bylaws are essentially the written rules for how your VOAD will be governed. They are your governance manual. You must develop and adopt bylaws once you incorporate and if you choose to seek 501 (c)(3) status. However, even if you are and choose to stay informal, having bylaws is essential to your VOAD's success. Bylaws typically include provisions for:

- Size of the board and how board members are elected and removed
- Powers and duties of the board
- Roles and duties of directors and officers
- Rules and procedures for holding meetings, electing directors, and appointing officers
- Fiduciary roles and responsibilities
- Other essential governance matters

### Keep in Mind...

#### ***Bylaws Should Be a Living Document.***

Once you develop or if you already have bylaws, your VOAD's leadership should review them regularly and update them periodically. Make sure everyone in your VOAD is familiar with them and that you follow them!

**Resolutions:** While a VOAD’s bylaws provide the overall rules for governance, all VOADs need to develop additional rules as they go along to address situations and needs as they arise. By adopting a “resolution,” a board formalizes a new rule to guide VOAD governance or operations or formalizes a Board decision. There are four (4) types of resolutions commonly adopted by VOAD boards:

- Policy resolution – affects member’s rights and obligations
- Administrative resolutions – address the internal operations of the VOAD
- Special resolutions record board decisions that apply a policy to an individual situation
- General resolution – record board decisions regarding routine events

**Keep in Mind...**

***Maintain Your Bylaws***

Making and enforcing rules are important responsibilities for boards that must be undertaken with care. Boards must ensure that resolutions are consistent with the by-laws, and state law. All resolutions adopted must be officially recorded in Board minutes. It is also helpful to keep all resolutions in one place, such as a separate section of your board binder.

Board members should familiarize themselves with all VOAD policies and resolutions along with the other governing documents.

**Policies:**

Policies are the additional rules – rules above and beyond your bylaws – that VOADs need to function efficiently and effectively. Boards adopt new policies by passing policy resolutions, as described above. There are many different kinds of policies VOADs can and should – at some point in their development – adopt. These are described in **Fact Sheet 1.4**. However, here, we want to highlight three specific policies it is important for your VOAD to have, especially if you are incorporated or have 501(c)(3) status. These are:

- Conflict of Interest Policy<sup>5</sup>
- Whistleblower Protection Policy<sup>6</sup>
- Document Retention and Destruction Policy<sup>7</sup>

<sup>5</sup> See **Appendix D** for *Conflict of Interest Policy*

<sup>6</sup> See **Appendix E** for *Whistleblower Protection Policy*

Why are these important? Because when Congress enacted the Sarbanes-Oxley Act, following the scandalous behavior of corporate America, it included provisions that also apply to nonprofits. As a result, VOADS that are legally incorporated and have received recognition from the IRS as tax-exempt organizations must have these written policies, officially adopted by the Board of Directors. Below, we briefly describe each one .

### **Conflict of Interest Policy**

A policy governing conflicts of interests is perhaps the most important policy a nonprofit board can adopt. To have the most impact, the policy should be in writing and the board and members should review the policy regularly. Often people are unaware that their activities are in conflict with the best interests of the nonprofit so a goal for many organizations is to simply raise awareness and cultivate a “culture of candor.” It is helpful to take time at a board meeting annually to discuss the types of situations that could result in a conflict between the best interests of the nonprofit – and the self-interest of a staff member or board member.

A conflict of interest policy should (a) require those with a conflict (or who think they may have a conflict) to disclose the conflict/potential conflict, and (b) prohibit interested board members from voting on any matter that gives rise to a conflict between their personal interests and the nonprofit’s interests. Beyond those two basics, it is helpful for each nonprofit to determine how conflicts at the board and member levels will be managed.

- Minutes of board meetings should reflect when a board member discloses that s/he has a conflict of interests
- How the conflict was managed, such as that there was a discussion on the matter without the board member in the room

#### **Keep in Mind...**

##### ***Managing Conflict Can Be Tricky***

The revised 990 asks not only about whether the nonprofit has a written **conflict of interest policy**, but also about the process that a nonprofit uses to manage conflicts as well as how the nonprofit determines whether board members have a conflict of interest. See more at:

<http://www.councilofnonprofits.org/conflict->

---

<sup>7</sup> See **Appendix F** for *Document Retention and Destruction Policy*

- That a vote was taken but that the “interested” board member abstained (board members with a conflict are “interested” – board members without a conflict are “disinterested”).
- A process used by many nonprofits to find out whether any board member (or member) has a conflict of interests, is to circulate an annual “conflict disclosure questionnaire” that asks board and members to disclose existing conflicts and reminds them to disclose any that may evolve in the future.

### **Whistleblower Protection Policy**

Federal law prohibits all corporations, including nonprofits, from retaliating against employees who “blow the whistle” on their employer’s accounting practices. Additionally, over 45 different states have enacted laws to protect whistleblowers from retaliation at the workplace. Consequently, having a good internal process for addressing complaints including a whistleblower protection/anti-retaliation policy can help your VOAD protect itself from the risk of violating state and federal laws that afford protections to whistleblowers, and can help ensure that if there is a problem it will be investigated and fixed.

VOADs should put a whistleblower protection policy in place to encourage people to bring their concerns forward without fear of retaliation. VOADs that encourage complaints by having an “open door” policy and have a standard of “no retaliation” for raising concerns are considered more transparent. These VOADs will be in a better position to address all concerns, whether they are about fraudulent accounting practices, unsafe conditions, or alleged discrimination. See more at:

<http://www.councilofnonprofits.org/resources/resources-topic/boards-governance/whistleblower-protection-policies#sthash.p5nNvWUA.dpuf>

### **Document Retention and Destruction Policy**

The Sarbanes-Oxley Act makes it a crime to alter, cover up, falsify, or destroy any document to prevent its use in an official proceeding (e.g., federal investigation or bankruptcy proceedings). Nonprofit organizations need to have a written, mandatory document retention and periodic destruction policy. The document retention policy should include guidelines for handling electronic files and voicemail. The policy should also cover back-up procedures, archiving of documents, and regular check-ups of the reliability of the system.

## Checklist for Basic Governance Practices

- Do you have an **Articles of Incorporation** Template? (See **Appendix A**)
- Do you have a **Bylaws** Template? (See **Appendix B**)
- Do you need help organizing your Bylaws and require a **Bylaws** Checklist? (See **Appendix C**)
- Have you adopted a **written conflict of interest policy**? (See **Appendix D**)
- Have you adopted a **written whistleblower protection policy**? (See **Appendix E**)
- Have you adopted a **written document retention/destruction policy**? (See **Appendix F**)
- Does your VOAD have a **fiscal management policy** to ensure ethical practices? (See **Appendix G**)
- Does your VOAD ensure that confidentiality is preserved through a **confidentiality policy**? (See **Appendix H**)
- Have you considered a **media/spokesperson** or **speaking/sponsorship policy**? (See **Appendix I**)
- Have you adopted a **written gift acceptance policy** to govern the receipt of "non-cash" gifts, such as gifts-in-kind, and unusual gifts? (See **Appendix J** and **Appendix K**)



## Appendix A

---

### ARTICLES OF INCORPORATION OF VOAD

#### I

The name of this corporation is \_\_\_\_\_.

#### II

- A. This organization is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for charitable purposes.
- B. The Specific purposes for which this corporation is organized include, but are not limited to: [the preservation and management of parkland and delivery of programs for scientific, historic, educational, ecological, recreational, agricultural, scenic or open space opportunities.]

#### III

The name and address in the State of [ eg. California ] of this Corporation's initial agent for service of process is:

Name \_\_\_\_\_

Address

\_\_\_\_\_  
\_\_\_\_\_

*COMMENT: Section III indicates to the Secretary of State and other interested parties the name of the person to whom legal documents must be sent. The initial agent is usually one of the initial directors of the corporation. If the corporation has established a principal office, this address should be listed as the agent's address. Otherwise, the agent's home address is acceptable.*

#### IV

- A. The corporation is organized and operated exclusively for charitable purposes within the meaning of Section 501(c)3 of the Internal Revenue Code.

- B. Notwithstanding any other provision of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (1) by a corporation exempt from federal income tax under Section 501 (c)3 of the Internal Revenue Code or (2) by a corporation contributions to which are deductible under Section 170(c)(2) of said Code, or the corresponding provisions of any future statute of the United States.
- C. No substantial part of the activities of this corporation shall consist of carrying on propaganda or otherwise attempting to influence legislation; nor shall the corporation participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

**V**

The names, addresses, and office held of the persons designated to act as the initial Board of Directors of this corporation are: [ List their names and addresses. Most states require a minimum of three Board Members/ Officers for incorporation purposes. ]

**VI**

- A. The property of this Corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of the corporation shall ever inure to the benefit of any director, trustee, member or officer of this corporation, or to any private person.
- B. Upon the dissolution or winding up of the corporation, any assets remaining after payment of, or provision for payment of, all debts and liabilities shall be distributed to a governmental entity described in Section 170(b)(1) (A)(v) of the Internal Revenue Code, or to a nonprofit fund, foundation, or corporation which is organized and operated exclusively for charitable purposes, which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code, and which is qualified to receive "qualified conservation contributions" within the meaning of Section 170(h) of said Code, or the corresponding provisions of any future statute of the United States.
- C. In the event of a liquidation of this corporation, all corporate assets shall be disposed of in such a manner as may be directed by decree of the superior court for the county in which the corporation has its principal office, on petition therefore by the Attorney General or by any person concerned in the dissolution, in a proceeding to which the Attorney General is a party.

IN WITNESS WHEREOF, the undersigned, being the Incorporators of [name of nonprofit] and the initial directors named in these Articles of Incorporation on \_\_\_\_\_, 20\_\_.

**INCORPORATORS**

[signature]

---

[typed name], Incorporator

[signature]

---

[typed name], Incorporator

### **DIRECTORS**

[signature]

---

[typed name], Director

[signature]

---

[typed name], Director

[signature]

---

[typed name], Director

*COMMENT: The minimum actual number of Incorporators and the number of Directors depends on your state's nonprofit incorporation requirements that can be obtained from the Secretary of State, known law offices or published in nonprofit guidebooks. It is advisable to have at least three directors.*

*Also note that if the initial directors are named in the Articles of Incorporation, it is not necessary to have incorporators. However, having both incorporators and initial directors may be advisable if the nonprofit wishes to demonstrate broad community support.*

*Remember that any incorporators and all named directors must sign the Articles of Incorporation, as provided for above, and must also acknowledge having signed the Articles. This acknowledgement must be a separate form from the body of the instrument (see sample declaration below).*

**DECLARATION**

We are the persons whose names are subscribed below. We collectively are all of the incorporators of \_\_\_\_\_ [name of nonprofit]\_\_\_\_\_ and all of the initial directors named in the Articles of Incorporation, and we have executed these Articles of Incorporation. The foregoing Articles of Incorporation are out act and deed, joint and severally.

Executed on \_\_\_\_\_, 20\_\_\_\_,

at \_\_\_\_\_, [city and state]

We, and each of us, declare that the foregoing is true and correct.

[signature]

\_\_\_\_\_

[typed name], Incorporator

[signature]

\_\_\_\_\_

[typed name], Incorporator

[signature]

\_\_\_\_\_

[typed name], Director

[signature]

\_\_\_\_\_

[typed name], Director

## STATE VOAD BYLAWS TEMPLATE

*August 1, 2013*

### SAMPLE BYLAWS FOR (INSERT STATE) NONPROFIT CORPORATION

#### I. Overview

These sample bylaws are meant to serve as a guideline for nonprofit corporations that are drafting or revising their bylaws. Bylaws govern the internal operations of a corporation. As a result, before drafting bylaws, you need to first consider how you want your corporation to operate. The important issues to consider are listed below and outline many of the most important issues you need to consider. After answering the questions below, you may then need to add, delete, or modify provisions in the sample bylaws to fit the needs of your organization.

**This document is not a substitute for the advice of an attorney.** The materials and information contained in this document may not reflect the most current legal developments. **Different groups will face different needs and issues resulting in different legal consequences. It is therefore highly recommended that any entity obtain the services of an attorney before drafting bylaws.** If you do not have an attorney representing you, you should at least have an attorney review the proposed bylaws before they are adopted by your corporation to ensure that they conform to state law.

For more information regarding bylaws or other legal issues related to forming a nonprofit corporation, contact Kevin Peach, Program Manager, National Voluntary Organizations Active in Disaster.

SEE NEXT PAGE

---

BYLAWS FOR \_\_\_\_\_, a (INSERT STATE VOAD) NONPROFIT CORPORATION

**ARTICLE I**

These bylaws constitute the code of rules adopted by the *[insert name of corporation here]* for the regulation and management of its affairs.

**ARTICLE II**

**Purpose**

*[Enter purpose here; can list purpose contained in certificate of formation, or list a more detailed purpose here.]*

*[Example:]* The ABC Corporation (the Corporation) shall exist for the purpose of *[Insert Purpose]*. Through related activities, the Corporation shall also seek to *[Insert social benefit]*. The Corporation shall be and is a non-profit corporation under the laws of the State of *[Insert State]*. The service area of the Corporation is the ABC *[community, county, state, etc...]*, which consists of *[enter geographic boundaries of corporation's service area here]*.

**ARTICLE III**

**Board of Directors**

**(1) Powers**

The Board of Directors (Directors) of this Corporation is vested with the management of the business and affairs of this Corporation, subject to these bylaws.

**(2) Qualifications**

Directorships shall not be denied to any person based on race, creed, sex, religion, or national origin. Employees of the Corporation are ineligible to serve on the Board of Directors.

**(3) Number of Directors**

The Board of Directors will consist of *[insert number of Directors here, cannot be less than three]* Directors. Upon majority resolution of the Board of Directors, the number of Directors may be increased or decreased from time to time, but in no event shall a decrease have the effect of shortening the term of an incumbent Director, or decreasing the total number of Directors to less than three Directors. Until the first meeting for electing the Directors occurs, the initial Board of Directors

shall consist of the persons listed in the Certificate of Formation as constituting the initial Board.

**(4) Term of Directors**

*[Insert terms of Directors here. The following two options clarify whether the directors have terms limits: one option provides for term limits and the option provides for no term limits]:*

*[Term limits:]* Directors shall serve terms of *[enter # here]* years. A Director may succeed himself for only one consecutive term. After serving two consecutive terms, a Director must vacate his position for at least one year before seeking re-election to another term.

*[No term limits:]* There are no term limits and, therefore, Directors may serve any number of consecutive terms.

**(5) Election of Directors**

Elections for Directors filling expired terms shall be held at the last meeting of the fiscal year. Any directorship to be filled due to an increase in the number of Directors shall be filled at the next regular meeting of the Board of Directors or at a special meeting called for that purpose. When a re-appointment or replacement is made, the re-appointment or replacement shall be considered effective on the date that the prior term expired (i.e., the new term does not begin on the date of the election). Board members whose terms have expired may continue serving either until they are re-appointed or until their successors are chosen.

**(6) Staggered Terms (optional)**

There shall be staggered terms of office for Directors so that one-third of the directorships shall be up for election each year (or if the number does not evenly divide by thirds, the board shall be divided as close to thirds as possible). The system for staggered terms of office shall be implemented as follows: At the meeting of the Board of Directors at which these bylaws are adopted there shall be a drawing in order to determine the initial terms of the Directors. *[The following clause is for boards with five original members, adjust accordingly for boards with more members]*. After the drawing, one board member shall have an initial term of one year, two board members shall have terms of two years, and two board members shall have terms of three years. The minutes of this board meeting shall show the results of the drawing. *[Add, if term limits]* Initial directors serving less than a full three-year term as their initial term (i.e., directors who draw a one-year term or two-year term), shall be considered to have served a full three-year term for purposes of the limits on more than two successive terms.

**(7) Resignation**

Any Director may resign at any time by delivering written notice to the Secretary or President of the Board of Directors. Such resignation shall take effect upon receipt or, if later, at the time specified in the notice.

**(8) Removal**

A majority of the entire Board of Directors, at a Regular or Special Meeting, may remove any Director without cause, at any time. Any Director under consideration of removal must first be notified about the consideration by written notice at least five days prior to the meeting at which the vote takes place.

**(9) Vacancies**

Vacancies shall be filled by majority vote of the remaining members of the Board of Directors, though less than a quorum and the Director filling the vacancy shall serve for the remainder of the term of the directorship that was vacated. Vacancies shall be filled as soon as practical. Any Director may make nominations to fill vacant directorships.

**(10) Compensation**

Directors shall not receive any salaries or other compensation for their services, but by resolution of the Board of Directors, may be reimbursed for any actual expenses incurred in the performance of their duties for the Corporation, as long as a majority of disinterested Board of Directors approves the reimbursement. The Corporation shall not loan money or property to, or guarantee the obligation of, any Director.



**ARTICLE IV**  
**Committees**

**(1) Executive Committee**

The President, Vice President, Treasurer, and Secretary and \_\_\_\_\_ of the Corporation shall constitute the executive committee. The executive committee shall have the authority to act on behalf of the Corporation in between Regular Meetings of the Board of Directors. The Board of Directors must validate the actions of the executive committee at its next Regular or Special Meeting. Any such action not so validated will not be legally binding on the Corporation. The President shall act as chairperson of the executive committee. A majority of the Executive Committee shall constitute a quorum for the transaction of business, and all decisions shall be by majority vote of those present.

**(2) Standing Committees [Optional]**

The Corporation shall have three standing committees that shall assist the Board of Directors in carrying out the management of the Corporation: The Finance and Resource Management Committee, the Development Committee, and the Program Committee. The Board of Directors shall appoint the members of each committee. Each standing committee shall have at least three Directors as members, and the Directors must comprise a majority of the committee membership. Employees of the Corporation and members of the community may also be appointed to serve as committee members. Committees shall meet upon call of the Board of Directors or the chair of the Committee, review the activities of the Corporation in the Committee's respective areas, and make recommendations to the Board of Directors for the Board's final approval. The Treasurer of the Corporation shall serve as the Chair of the Finance and Resource Management Committee. Other standing committees shall elect a Chair by a majority vote. The Chair of each committee shall ensure that minutes of the committee meetings are taken and present a copy of the minutes to the Secretary within the two weeks following the meeting. Committee meetings shall be open to all members of the Board of Directors.

(a) The Finance and Resource Management Committee shall assist the Executive Director in preparing and presenting the annual budget to the Board of Directors, make necessary investment choices, and generally protect the soundness of the corporation's finances and fiscal operations.

(b) The Development Committee shall be responsible for fundraising and capital campaigns, public relations, maintaining the visibility of the corporation, and governmental relations.

(c) The Program Committee shall be responsible for planning, developing, and evaluating the Corporation's programs.

**(3) Additional Committees**

The Board of Directors may from time to time designate and appoint additional standing or temporary committees by majority vote of the Board of Directors. Such committees shall have and exercise such prescribed authority as is designated by the Board of Directors. The Directors may authorize these committees to exercise any powers, responsibilities, and duties consistent with the Certificate of Formation and these bylaws.

**ARTICLE V**  
**Code of Ethics**

The corporation and its Directors and Employees will comply with the Corporation=s Code of Ethics, attached as Exhibit A.

**ARTICLE VI**  
**Board Meetings**

**(1) Place of Board Meetings**

Regular and Special Meetings of the Board of Directors will be held at *[enter location here]* or at any other place that the President may designate *[optional:]* within the city limits of *[enter city=s name here]*.

**(2) Regular and Special Meetings**

Regular meetings of the Board of Directors shall be held each month, or more frequently as deemed necessary by the Board of Directors. Special Meetings may be called by the President or any three Directors. An orientation meeting will be held each year for the new members of the Board of Directors.

**(3) Notice of Board Meetings**

Notice of the date, time, and place of Regular Meetings shall be given to each board member by regular mail, telephone (including voice mail), facsimile, or e-mail no less than *[enter # here]* days notice prior to the meeting. Notice of the date, time, and place of special meetings shall be given to each board member using the same methods, but with no less than *[enter # here]* days notice prior to the meeting, with the exception of special meetings held to amend the Certificate of Formation or bylaws, for which a *[enter # here]*-day written notice by mail or facsimile shall be required specifying the proposed amendment.

**(4) Waiver of Notice**

Attendance by a Director at any meeting of the Board of Directors for which the Director did not receive the required notice will constitute a waiver of notice of such meeting unless the Director objects at the beginning of the meeting to the

transaction of business on the grounds that the meeting was not lawfully called or convened.

**(5) Quorum**

A majority of the incumbent Directors (not counting vacancies) shall constitute a quorum for the purposes of convening a meeting or conducting business. At Board meetings where a quorum is present, a majority vote of the Directors attending shall constitute an act of the Board unless a greater number is required by the Certificate of Formation or by any provision of these bylaws.

**(6) Actions without a Meeting**

Any action required or permitted to be taken by the Board of Directors under the Texas Non-Profit Corporation Act, the Certificate of Formation, and these bylaws may be taken without a meeting, if *[enter either all@ or a majority of]* Directors individually and collectively consent in writing, setting forth the action to be taken. Such written consent shall have the same force and effect as a unanimous vote of the Board.

**(7) Open Meetings**

Meetings shall be open to the general public, except when personnel, real estate, or litigation matters are being discussed.

**(8) Proxy Voting Prohibited**

Proxy voting is not permitted.

**ARTICLE VII**

**Officers**

**(1) Roster of Officers**

The Corporation shall have a President, Vice President, Secretary, and Treasurer. The Corporation may have, at the discretion of the Board of Directors, such other officers as may be appointed by the Directors. One person may hold two or more offices, except those serving as President or Secretary.

**(2) Election and Removal of Officers**

All officers shall serve one-year terms. The election shall be conducted at the Board of Directors' first meeting of the fiscal year and following the election of the new Board of Directors filling expired terms, or as soon as practical thereafter. Officers shall remain in office until their successors have been selected. Officers may serve consecutive terms without limit. The election of officers shall be by majority vote of the Board of Directors attending the meeting.

**(3) Vacancies**

If a vacancy occurs during the term of office for any elected officer, the Board of Directors shall elect a new officer to fill the remainder of the term as soon as practical, by majority vote of Directors present.

**(4) President**

- \* The President will supervise and control the affairs of the Corporation and shall exercise such supervisory powers as may be given her by the Board of Directors.
- \* The President will perform all duties incident to such office and such other duties as may be provided in these bylaws or as may be prescribed from time to time by the Board of Directors. The President shall preside at all board meetings and shall exercise parliamentary control in accordance with Roberts Rules of Order.
- \* The President shall serve as an ex-officio member of all standing committees, unless otherwise provided by the Board of Directors or these bylaws.
- \* The President shall, with the advice of the Board of Directors and in accordance with the requirements of these bylaws, set the agenda for each meeting of the Board of Directors.

**(5) Vice President**

- \* The Vice President shall act in place of the President in the event of the President's absence, inability, or refusal to act, and shall exercise and discharge such other duties as may be required by the board.
- \* The Vice President shall serve as the parliamentarian and interpret any ambiguities of the bylaws.

**(6) Secretary**

- \* The Secretary will perform all duties incident to the office of Secretary and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws.
- \* The Secretary shall attest to and keep the bylaws and other legal records of the Corporation, or copies thereof, at the principal office of the Corporation.
- \* The Secretary shall take or ensure that someone takes minutes of all meetings of the committees and Board of Directors, and shall keep copies of all minutes at the principal office of the Corporation.
- \* The Secretary shall keep a record of the names and addresses of the Directors at the principal office of the Corporation.
- \* The Secretary shall, with the approval of the Board of Directors, set up procedures for any elections held by the Corporation. The Secretary shall keep a record of all votes cast in such elections.
- \* The Secretary shall ensure that all records of the Corporation, minutes of all official meetings, and records of all votes, are made available for inspection by any member of the Board of Directors at the principal office of the Corporation during regular business hours.

- \* The Secretary shall see that all notices are duly given in accordance with these bylaws or as required by law.
- \* The Secretary shall see that all books, reports, statements, certificates, and other documents and records of the Corporation are properly kept and filed.
- \* In the case of the absence or disability of the Secretary, or the Secretary's refusal or neglect to fulfill the duties of Secretary, the Vice President shall perform the functions of the Secretary.

**(7) Treasurer**

- \* The Treasurer will have charge and custody of all funds of the Corporation, will oversee and supervise the financial business of the Corporation, will render reports and accountings to the Directors as required by the Board of Directors, and will perform in general all duties incident to the office of Treasurer and such other duties as may be required by law, by the Certificate of Formation, or by these bylaws, or which may be assigned from time to time by the Board of Directors.
- \* The Treasurer shall give to the Corporation a bond with one or more sureties for the faithful performance of the duties of the office and for the restoration to the Corporation—in the case of his or her death, resignation, retirement, or removal from office—all books, papers, vouchers, money, and other property of whatever kind in his or her possession or under his control belonging to the Corporation. The amount of the bond shall be determined by the Board of Directors.
- \* The Treasurer and the staff of the Corporation shall devise a plan providing for the acceptance and disbursement of all funds of the Corporation which shall be approved by the Board of Directors.
- \* The Treasurer, with the approval of the Board of Directors, shall set up all checking, savings, and investment accounts of the Corporation and deposit all such funds in the name of the Corporation in such accounts.
- \* The Treasurer's signature shall be the authorized signature for all checking, savings, and investment accounts of the Corporation unless the Treasurer, with the approval of the Board of Directors, designates another member of the Board of Directors or employee of the Corporation as the authorized signatory for a particular type of disbursement.
- \* The Treasurer shall prepare a monthly report for the Board of Directors, providing an accounting of all transactions and of the financial conditions of the Corporation.
- \* The Treasurer shall keep all financing records, books, and annual reports of the financial activities of the Corporation at the principal office of the Corporation and make them available at the request of any Director or member of the public during regular business hours for inspection and copying.

**ARTICLE VIII**  
**Members**

*[The following is a form clause for a corporation with members. If the corporation does not have members, this clause should be deleted. This Article is for a corporation that has members with limited voting rights. A corporation may choose to provide its members with broader voting rights, in which case the following article needs to be redrafted accordingly. State law has very specific provisions regarding the rights of members. Before drafting or revising bylaws, a corporation with members should review these provisions to make sure it complies with the law].*

**(1) Eligibility**

*[Enter eligibility guidelines here]*

*[Example:] All residents of the ABC Neighborhood who are eighteen years of age or older are eligible for membership in the Corporation.*

**(2) Rights of Members**

Each member of the Corporation shall be entitled to one vote on each matter submitted by the Board of Directors to a vote at a Regular or Special Membership meeting, except to the extent that the voting rights are limited or denied by the Certificate of Formation. No member shall be entitled to any dividend or any part of the income of the Corporation or to share in the distribution of the corporate assets upon dissolution. The Board of Directors has the discretion to decide which, if any, matters shall be submitted to the members for a vote, except that the following decisions will always be submitted to the membership for a vote: dissolution of the corporation, merger or consolidation with another corporation, sale of substantially all the corporation=s assets, and most amendments to the corporation=s certificate of formation. *[Under Texas law, the above items must be submitted to members for a vote, except that some minor amendments to the certificate of formation do not require a vote by the members. See the Texas Business Organizations Code for more information].*

**(3) How the Membership can Legally Act**

The membership may act only at a properly called meeting of the membership where a quorum is present. At such a meeting, a vote of a majority of the members in attendance shall be an act of the membership, except that a two-thirds majority of the members in attendance shall be required for the following: dissolution of the corporation, merger or consolidation with another corporation, sale of substantially all the corporation=s assets, and most amendments to the corporation=s certificate of formation *[state law requires two-thirds vote for these items unless the percent is changed in the certificate of formation]*. The attendance of *[enter # or percent here]* members shall constitute a quorum for the conduct of business at either a Regular or Special Membership Meeting.

**(4) Regular Membership Meetings**

The Membership shall meet at least once a year during the month of *[insert month here]*, at a time designated by the Board of Directors, for the purpose of transacting any business that the Board of Directors may submit to the members. Regular Membership Meetings shall take place at *[enter location here; meetings must be held at the registered office of the corporation or the location listed in the bylaws]*.

**(5) Notice of Regular Membership Meetings**

Written notice of the Regular Membership Meeting shall be given not less than 10 calendar days nor more than 60 calendar days before the date that such a meeting is to be held *[can change the notice period, but under Texas law, notice cannot be less than 10 days nor more than 60 days]*. Such written notice shall be delivered by mail, in person, or by facsimile, and shall state the place, day, and time of the meeting. The Board of Directors, in the alternative, may provide notice through other means such as by posting notice in a conspicuous place at the principal office of the Corporation, newsletter, newspaper, church bulletins, or such additional means as the Board of Directors shall deem effective.

**(6) Special Membership Meetings**

Special Membership Meetings may be called at any time by the President, by a majority of the Board of Directors, or on written request of *[enter # or % here]* members.

**(7) Notice of Special Meetings**

Notice of Special Membership Meetings shall be given in the exact same manner as notice for the Annual Membership Meeting as provided for above, except that the notice shall contain the purpose for which the meeting is called.

**(8) Enrollment of Members**

The Board of Directors shall adopt a membership application form. The application form shall require the name, address, and telephone number of each applicant. There shall be a space for the secretary to sign certifying that the secretary believes the applicant to be eligible for membership. The applicant becomes a member upon the secretary's signature of the application form. The secretary shall keep an up-to-date membership list.

**ARTICLE IX**  
**Rules of Procedure**

The proceedings and business of the Board of Directors shall be governed by Robert's Rules of Parliamentary Procedure unless otherwise provided herein.

**ARTICLE X**  
**Executive Director**

The Board of Directors may, upon resolution, appoint an Executive Director to serve at the board's discretion and to carry out whatever tasks the board from time to time resolves. The Executive Director shall be paid an annual salary set by the Board of Directors. Subject to such supervisory powers as are vested in the Board of Directors, the Executive Director shall supervise, direct, and control the business of the Corporation and actively manage its business, and shall have such other powers and duties as may be prescribed by the Board of Directors or by these bylaws.

The Executive Director may engage in negotiations involving commitments of the resources of the Corporation or the acceptance of money or resources by the Corporation in furtherance of the purposes of the Corporation as set out in the Articles of Incorporation and these bylaws. The Executive Director shall generally be expected to attend all meetings of the Board of Directors and meetings of the general membership.

**ARTICLE XI**  
**Indemnification [Optional]**

**(1) Insurance**

The Corporation will provide indemnification insurance for its Board members, and the Board shall select the amount and limits of such insurance policy.

**(2) Indemnification**

To the extent permitted by law, any person (and the heirs, executors, and administrators of such person) made or threatened to be made a party to any action, suit, or proceeding by reason of the fact that he is or was a Director or Officer of the Corporation shall be indemnified by the Corporation against any and all liability and the reasonable expenses, including attorney's fees and disbursements, incurred by him (or by his heirs, executors or administrators) in connection with the defense or settlement of such action, suit, or proceeding, or in connection with any appearance therein.

**(3) Limits on Indemnification**

Notwithstanding the above, the corporation will indemnify a person only if he acted in good faith and reasonably believed that his conduct was in the corporation's best interests. In the case of a criminal proceeding, the person may be indemnified only if he had no reasonable cause to believe his conduct was unlawful.



## **ARTICLE XII**

### **Operations**

**(1) Execution of Documents**

Unless specifically authorized by the Board of Directors or as otherwise required by law, all final contracts, deeds, conveyances, leases, promissory notes, or legal written instruments executed in the name of and on behalf of the Corporation shall be signed and executed by the Executive Director and the President (or such other person designated by the Board of Directors), pursuant to the general authorization of the Board. All conveyances of land by deed shall be signed by the President or two other members of Executive Committee and must be approved by a resolution of the Board of Directors.

**(2) Disbursement of Funds**

Financial Transactions that have a value of *[insert value here]* or more shall require majority approval of the Board of Directors or Executive Committee if a majority of the Board of Directors is not immediately available to vote on the transaction. In all other transactions, the Executive Director may dispense with the funds of the Corporation in accordance with the annual budget approved by the Board of Directors and the purposes of the Corporation as set out in the Certificate of Formation and these bylaws. Notwithstanding the above, all checks of more than *[enter value here]* disbursing funds from any of the Corporation's accounts shall require the signatures of at least two of the following: the Executive Director, President, Vice President, Secretary, or Treasurer.

**(3) Procurement Policy**

The Corporation shall abide by its procurement policy, set forth in Exhibit \_\_\_\_.

**(4) Records**

The Corporation will keep correct and complete records of accounts and will keep minutes of the proceedings of the Board meetings and Committees. The Corporation will keep at its principal place of business the original or a copy of its bylaws, including amendments to date certified by the Secretary of the Corporation *[add if members: and a membership roster giving the names and addresses of members.]*.

(5) **Inspection of Books and Records**

All books and records of this Corporation may be inspected by any Director for any purpose at any reasonable time on written demand.

(6) **Loans to Management**

The Corporation will make no loans to any of its Directors or Officers.

(7) **Amendments**

The Board of Directors may adopt amendments to the Certificate of Formation by a vote of two-thirds of Directors present at a meeting where a quorum is present. *[If Members, Members must vote on most amendments to the Certificate of Formation]*. The bylaws may be amended at any time by a vote of the majority of Directors at a meeting where a quorum is present.

(8) **Fiscal Year**

The fiscal year for the Corporation will be *[enter fiscal year here, e.g., the calendar year, January 1 to December 31"*].

(9) **Audit**

The Corporation shall have an annual audit to be completed by *[enter date here]* of each year for the previous fiscal year.

**CERTIFICATION**

I hereby certify that these bylaws were adopted by the Board of Directors of the *[insert name of corporation here]* at its meeting held on *[enter date here]*.

---

Secretary

## Appendix C

---

### Bylaws Checklist

#### Board Members/Executive Committee

- What are the requirements to be a member of the board/executive committee?
- Is there a succession plan?
- How long is the term of a board member?
- How often can they repeat terms?
- What is the number of board members?
- How are board members selected?
- What are the responsibilities of the board?
- How is a vacancy in the middle of the year filled?
- How can a board member be removed?
- Size of board?
- Composition of board?

#### Elections

- How are the officers selected for example by election during a board meeting or from a nominating committee?
- How are elections conducted?
- When are elections conducted?

#### Meetings

- When and where are regular meetings held?
- Who attends the regular meetings?
- How many, in attendance, allows official business to occur?
- How and when is the meeting notice given to the board?
- How can business be conducted without a physical meeting?
  
- How can special meetings be called outside of the regular meeting time?
- What business can be conducted during the special meeting?
- When and where is the annual meeting?
- Who attends the annual meeting?
- What business is conducted during the annual meeting for example setting budget and elections)?
- How many, in attendance, allows official business to occur?
- How and when is the meeting notice given to the board?

## **Officers**

- What are the offices of the board?
- What are the responsibilities of each office?
- Is an office designated as the successor to the head officer?
- How are the officers selected?
- How long do the officers serve?
- Can they serve more than one term?
- How can an officer be removed?

## **Financials**

- Board members are not compensated.
- Audit requirements (If applicable)
- Who has fiscal oversight (if applicable)
- Is there an executive committee?
- Who is on the executive committee?

## **Committees**

- What are the standing committees and their responsibilities?
- How are the standing committee members appointed?
- How are special committees appointed?

## **Fiscal Agent (If applicable)**

- Who is your fiscal agent?
- What is the responsibility of the board to the fiscal agent?

## **Rules**

- What rules will conduct business during meetings (i.e.: Robert's Rules of Order?)
- Is the fiscal year designated?

## CONFLICT OF INTEREST POLICY AND CODE OF CONDUCT

Approved \_\_\_\_\_

Background \_\_\_\_\_

Philanthropic organizations such as \_\_\_\_\_ have a responsibility to conduct themselves in accordance with the highest principles to maintain the public's trust and to fulfill the mandate of their non-profit, tax-exempt status accorded by the U.S. government.

Furthermore the degree of trust of \_\_\_\_\_ constituents, donors, volunteers, and other supporters is vital to the well being of the organization. Any conflict of interest, or merely the appearance or suggestion of conflict can damage an organization's reputation and ability to carry out its mission. Therefore all those individuals having a relationship with \_\_\_\_\_ (board director, committee and/or working group member, employee, and consultant) shall disclose any possible or potential conflict of interest.

Since the board of directors has ultimate fiduciary responsibility for the organization it is imperative that the governing policies and practices pass the highest form of scrutiny in the public forum.

This Conflict of Interest Policy is designed for \_\_\_\_\_ Board of Directors as well as its committee and working group members, employees, and consultants, to help ensure the public's trust by avoiding and/or managing/minimizing conflicts that may present themselves in the daily organizational life of \_\_\_\_\_.

## Conflict of Interest Policy and Code of Conduct

Each director, volunteer, employee, or consultant, shall exercise an unbending **Duty of Loyalty** to exercise their powers in the sole interest of \_\_\_\_\_ and not in their own interest or the interest of another entity or person and a **Duty of Care** to participate in the decisions of the board and to be informed as to the data relevant to such decisions.

To this end, each director, volunteer, employee, or consultant shall:

1. Avoid any material conflict of interest that may be perceived as creating a potential conflict between the interests of \_\_\_\_\_ and the interests of the entity in question. (This includes but is not limited to employment, significant equity ownership--more than 10% of the equity in such company or concern and /or more than 5% of the net worth of the individual -- and/or activity which involves obligations to private or public entities that may compete with or be in conflict with the interests of \_\_\_\_\_.)
2. Exercise the utmost good faith, strict rule of honesty, best care, skill, and judgement in all transactions relating to his/her duties to \_\_\_\_\_.
3. Not use his/her position, or knowledge gained therefrom, in such a manner that a conflict might arise between the interest of \_\_\_\_\_-s/her personal interest.
4. Immediately disclose any potential conflict of interest. (If unsure as to whether a certain transaction, activity, or relationship, constitutes a conflict of interest, bring it to the attention of the Board Development Committee if it relates to a board member or volunteer or the Deputy Executive Director if it involves an employee or consultant, for clarification.)
5. Place the interest of \_\_\_\_\_ foremost in any dealings involving \_\_\_\_\_ and \_\_\_\_\_.
6. Avoid directly or indirectly participating in any discussion, decision, arrangement, investment, vote, or other activity that constitutes a conflict of interest or potential conflict of interest, or that could result in personal benefit to him/herself or others with whom s/he is associated, however, this prohibition does not prohibit any director, volunteer, employee, or consultant from availing him/herself (or member of his/her immediate family) of a healthcare treatment or provider in the same manner, cost, and availability as to the general public.
7. Not accept any favor that may be perceived to potentially influence his/her official act or that might reflect upon his/her business conduct.

8. Not conduct personal business with \_\_\_\_\_, nor use VOAD assets or labor for personal use, nor develop a relationship with employees of \_\_\_\_\_ that may interfere with the exercise of impartial judgment in decisions affecting \_\_\_\_\_.
9. Not obtain economic benefit for him/herself, his/her relatives, or friends from his/her association with \_\_\_\_\_.
10. Offer his/her resignation if her/his status changes so they can no longer comply with the requirements of this policy.

### **Procedures**

1. All prospective Board members and current board members seeking a second term will be asked to complete a Conflict of Interest disclosure form for review by the Board Development Committee prior to developing the nominations slate.
2. The disclosure form will be updated at the first board meeting of the calendar year and updated whenever any relevant change occurs in the director's situation.
3. Copies of the disclosure forms will be shared with members of the Board Development Committee and members of the Board of Directors upon request.
4. Any possible conflict of interest shall be disclosed to the Board of Directors in advance of any discussion or action by the board. (Directors should err on the side of prudence and declare actual as well as potential conflicts if in doubt as to the relationship or interest.)
5. The minutes of meetings will reflect any disclosures of conflicts of interest.
6. The Board Development Committee of the Board of Directors shall have the authority to administer and enforce all aspects of the Conflict of Interest Policy. In the absence of resolution of actual or potential conflicts of interest, the committee may refer the matter to the Board of Directors.
7. Decisions made by the Board Development Committee may be appealed to the Board of Directors, in writing within thirty (30) days of the committee's decision.

## Conflict of Interest Disclosure Form

Board of Directors, committee/working group members, employees, & serving .

Name (print): \_\_\_\_\_

I have reviewed and agree to abide by \_\_\_\_\_ Conflict of Interest Policy. Furthermore I hereby certify that the information set forth below is true and complete to the best of my knowledge. That neither I or any person with whom I am involved have any personal or business relationship, or circumstance I believe could contribute to a conflict of interest as defined in the \_\_\_\_\_ Conflict of Interest Policy and Code of Conduct except the following which might be questionable:

---

---

---

---

---

---

---

---

---

---

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_



## Appendix E

---

### **Sample Whistleblower Protection Policy**

VOAD requires directors and officers to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As representatives of VOAD, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

#### **1.) Reporting Responsibility**

This Whistleblower Policy is intended to encourage and enable all VOAD Members and others to raise serious concerns internally so that VOAD can address and correct inappropriate conduct and actions. It is the responsibility of all board members, officers, and volunteers to report concerns about violations of VOAD's code of ethics or suspected violations of law or regulations that govern VOAD's operations.

#### **2.) No Retaliation**

It is contrary to the values of VOAD for anyone to retaliate against any board member, officer, or volunteer who in good faith reports an ethics violation, or a suspected violation of law, such as a complaint of discrimination, or suspected fraud, or suspected violation of any regulation governing the operations of VOAD. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of his or her position.

#### **3.) Reporting Procedure**

VOAD has an open door policy and suggests that employees share their questions, concerns, suggestions or complaints. If you are not comfortable speaking with the Chair/President of the Board or you are not satisfied with the Chair/President's response, you are encouraged to speak with [insert here another title]. Board Chairs/Presidents are encouraged to report complaints or concerns about suspected ethical and legal violations in writing [designee or board member], who has the responsibility to investigate all reported complaints. Individuals with concerns or complaints may also submit their concerns in writing directly to the Board Chair.

#### **4.) Compliance Officer [or other title that is appropriate for your organization]**

The VOAD's [Compliance Officer] is responsible for ensuring that all complaints about unethical or illegal conduct are investigated and resolved. The Compliance Officer will advise the [the Board of Directors] of all complaints and their resolution and will report at least annually to the [Treasurer/Chair of the Finance Committee/Audit Committee] on compliance activity relating to accounting or alleged financial improprieties.

#### **5.) Accounting and Auditing Matters**

The VOAD's [designee or board member] shall immediately notify the Finance Committee or designated committee of any concerns or complaint regarding corporate accounting practices, internal controls or auditing and work with the committee until the matter is resolved.

#### **6.) Acting in Good Faith**

Anyone filing a written complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing the information disclosed indicates a violation. Any allegations that prove not to be substantiated and which prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

#### **7.) Confidentiality**

Violations or suspected violations may be submitted on a confidential basis by the complainant. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the need to conduct an adequate investigation.

#### **8.) Handling of Reported Violations**

VOAD's [designee or board member] will notify the person who submitted a complaint and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate corrective action will be taken if warranted by the investigation.

## Appendix F

---

### Document Destruction Policy

#### Requirements

The corporate records of VOADs are important assets. Corporate records include essentially all records you produce, whether paper or electronic. A record may be as obvious as a memorandum, an e-mail, a contract, or a case study, or, something not as obvious, such as a computerized desk calendar, an appointment book, or an expense record.

The law requires VOADs to maintain certain types of corporate records, usually for a specified period of time. Failure to retain those records for those minimum periods could subject you and VOAD to penalties and fines, cause the loss of rights, obstruct justice, spoil potential evidence in a lawsuit, place VOAD in contempt of court, or seriously disadvantage the organization in litigation.

VOAD will retain the following business records and documents for at least the time periods specified below. It is the responsibility of all board members to ensure that this policy is followed. The Vice Chair and Secretary will take primary responsibility for enforcement of this policy – ensuring that documents are retained and stored appropriately for the times specified. All board members will receive a copy of this policy. New board members will be informed about this policy as part of their orientation.

#### Compliance

VOAD expects the Board of Directors to fully comply with published records retention or destruction policies and schedules, with one importance exception. If you believe, or VOAD informs you, that organization records are relevant to litigation, or potential litigation (i.e., a dispute that could result in litigation), then you must preserve those records until our legal counsel determines the records are no longer needed. That exception supersedes any previously or subsequently established destruction schedule for those records. If you believe that exception may apply, or have any question regarding the possible applicability of that exception, please contact the legal counsel.

Failure on the part of the board to follow this policy can result in possible civil and criminal sanctions against VOAD and its employees and possible disciplinary action against responsible individuals. The Program Administrator, Finance Director, and Board Treasurer will periodically review these procedures with legal counsel or VOAD's certified public accountant to ensure that they are in compliance with new or revised regulations.

#### Document Retention Periods

From time to time VOAD establishes retention or destruction policies or schedules for specific categories of records in order to ensure legal compliance, and also to accomplish

other objectives, such as preserving intellectual property and cost management. Several categories of documents that bear special consideration are identified below. While minimum retention periods are provided, the retention of the documents identified below and of documents not included in the identified categories should be determined primarily by the application of the general guidelines affecting document retention identified above, as well as any other pertinent factors.

Type of Record	Minimum Retention Period
<b>Corporate Records</b>	
Annual Reports to Secretary of State/Attorney General	Permanent
Articles of Incorporation	Permanent
Board Meeting and Board Committee Minutes	Permanent
Board Policies/Resolutions	Permanent
Bylaws	Permanent
Fixed Asset Records	Permanent
IRS Application for Tax-Exempt Status (Form 1023)	Permanent
IRS Determination Letter	Permanent
State Sales Tax Exemption Letter	Permanent
Contracts (after expiration)	7 years
Correspondence (general)	3 years
<b>Accounting and Corporate Tax Records</b>	
Annual Audits and Financial Statements	Permanent
Depreciation Schedules	Permanent
IRS Form 990 Tax Returns	Permanent
General Ledgers	[7 years/Permanent]
Business Expense Records	7 years
IRS Form 1099	7 years
Journal Entries	7 years
Invoices	7 years
Sales Records (box office, concessions, gift shop)	5 years
Petty Cash Vouchers	3 years
Cash Receipts	3 years
Credit Card Receipts	3 years
<b>Bank Records</b>	
Check Registers	[7 years/Permanent]
Bank Deposit Slips	7 years
Bank Statement and Reconciliation	7 years
Electronic Fund Transfer Documents	7 years
<b>Donor and Grant Records</b>	

Type of Record	Minimum Retention Period
Donor Records and Acknowledgment Letters	7 years
Grant Applications and Contracts	7 years after completion
<b>Legal, Insurance, and Safety Records</b>	
Appraisals	Permanent
Copyright Registrations	Permanent
Environmental Studies	Permanent
Insurance Policies	Permanent
General Contracts	3 years after termination

**Electronic Documents and Records:** Electronic documents will be retained as if they were paper documents. Therefore, any electronic files, including records of donations made online, that fall into one of the document types on the above schedule will be maintained for the appropriate amount of time. If a user has sufficient reason to keep an e-mail message, the message should be printed in hard copy and kept in the appropriate file or moved to an “archive” computer file folder. Backup and recovery methods will be tested on a regular basis.

**Emergency Planning:** VOAD’s records will be stored in a safe, secure, and accessible manner. Documents and financial files that are essential to keeping VOAD operating in an emergency will be duplicated or backed up at least every week and maintained off-site. For electronic records, an Internet backup system will be used.

**Document Destruction:** VOAD’s Vice Chair, working closely with the Secretary, is responsible for the ongoing process of identifying its records, which have met the required retention period, and overseeing their destruction. Destruction of financial and personnel-related documents will be accomplished by shredding. Document destruction will be suspended immediately upon any indication of an official investigation or when a lawsuit is filed or appears imminent. Destruction will be reinstated upon conclusion of the investigation.

## Appendix G

---

### Sample Fiscal Management Policies for VOADs

This document, adopted by the Board of Directors of VOAD:

- Identifies and differentiates Board roles and responsibilities for fiscal management;
- Specifies fiscal policies for the VOAD;
- Identifies fiscal management procedures; and
- Describes the types of fiscal information the Board needs to carry out its fiscal oversight role.

#### Board and Staff Roles and Responsibilities

The Board of Directors is responsible for fiscal oversight, acting as trustees on behalf of its donors to ensure that:

- All funds are used for the purposes stated by donors;
- Taxes are paid and all public requirements related to fiscal management and reporting are met; and
- The organization's fiscal management meets accepted standards for U.S. tax-exempt organizations.

To meet these requirements, the Board has adopted and will periodically review and update fiscal policies for the VOAD. These policies are likely to address budgeting, authorization of expenditures, bank accounts and investments, capital expenditures, fiscal reporting, audits, and Board responsibilities with regard to fiscal management.

#### Fiscal Policies

Following are sample fiscal policies that the Board might review, revise, and approve to guide its fiscal stewardship and ensure appropriate financial controls.

1. The Board has specified the following requirements for Board approvals for payments:
  - The Executive Director may sign checks, and the Treasurer and the Board President/Chair are also authorized to sign checks (which means their signatures must be on file with the bank)
  - Checks require only one signature if they are below \$\_\_\_\_ (e.g., \$1,000) or if they are regularly issued checks (e.g., payroll, FICA or other taxes, rent, or other checks that are paid regularly). Above this amount, any non-standard check requires either [Agree on one of the two alternatives]:
    - i. A second signature from a Board member.

- ii. Written Board authorization before the check may be released. This authorization may come in the form of a faxed signature authorizing the expenditure on a Board Approval Form or Request for Payment Form. The Form will include the following: date of request for approval, date on which the payment is due, amount of payment, recipient, purpose of the check, and where (to what cost category or “line item”) within the approved budget the expenditure should be charged. If the budget does not currently include funds to cover the expenditure, this must be noted, along with information on how the cost is to be covered.
    - The Board must approve expenditures exceeding \$\_\_\_\_\_ [e.g., \$2,500] through a specific resolution requested by staff.
    - Non-standard expenditures for equipment or services exceeding \$\_\_\_\_\_ [e.g., \$5,000 or \$10,000] will be approved only after staff have obtained at least three bids or cost estimates, or provided a justification for not obtaining multiple bids.
3. Internal controls must ensure that the individual(s) who authorizes or signs checks shall not be responsible for doing the monthly bank reconciliation (review of the bank statement and canceled checks). If funding permits, a consultant accountant will be hired, and that individual will be responsible for doing the bank reconciliation.
4. Regarding what constitutes a “fixed asset,” the Board agrees that a purchase such as furniture or equipment will be considered a fixed asset if it costs at least \$\_\_\_\_ [e.g., \$500] and has a projected useful life of at least \_\_\_\_ [e.g., three] years. All such fixed assets will be listed in the financial records as assets unless a decision is made to “expense” the item (show it as an expense rather than an asset) when purchased.
5. The Board delegates to the Treasurer the responsibility to provide initial review of fiscal reports and keep the Board informed about fiscal management issues. The Board is responsible for ensuring that the Treasurer meets these responsibilities.
6. Each year the Board will review and approve an annual budget (prepared by the board) that includes projected revenues and expenses. The Board should receive the draft budget before the start of the new fiscal year. If the Board does not meet at a time that permits this requirement to be met, then the budget should be reviewed by the Treasurer and sent out for Board approval with the recommendation of the Treasurer attached.
7. Board members should receive monthly financial reports that enable the Board to meet its fiscal monitoring requirements and ensure that fiscal policies are met. All Board members are expected to review these reports.
8. Each Board member is responsible for helping to ensure appropriate fiscal management. Every member is expected to raise questions about any unclear or inadequately

documented aspect of fiscal management, and take special care to determine that federal taxes have been paid on time.

9. At each Board meeting where a financial report is presented, the Board will take formal action to approve the fiscal report, indicating any concerns or information gaps.
10. The Board, at the recommendation of the Treasurer (or the Finance and Administration Committee, if one exists), will select an auditor. The auditor must be an established Certified Public Accountant (CPA) firm that is not involved with the organization's monthly accounting. It will be hired to conduct an independent audit either annually or every two years, and to prepare the organization's annual 990 report to the Internal Revenue Service. The Board will request that the auditor prepare a management letter for Board and staff review if significant weaknesses in the fiscal system are identified during the audit.
11. The Treasurer will meet with the independent auditor in person or by telephone, and the full Board will review and approve the audit report.
12. The Treasurer will work cooperatively with the Resource Development Committee (if one exists) in reviewing the annual budget, to ensure that projected revenue sources and amounts are realistic and appropriate.
  - A Statement of Activities (previously called a Statement of Revenues and Expenses) that provides expenditures for the reporting period and the year to date, and compares actual with budgeted revenues and expenditures.
  - Separate reports on revenues and expenses for any project for which restricted funds have been received or will be sought (if any), for all projects or program operations, for general and administrative costs, and for fundraising costs.
13. An annual financial report for the fiscal year, received within 60 days after the end of the fiscal year, that includes:
  - An unaudited Statement of Financial Position for the year that meets FASB requirements.
  - A Statement of Activities that covers all revenues and expenses and that compares actual with budgeted revenues and expenditures.
  - Separate reports for individual projects with restricted funding (if any), for all projects or program operations, for general administrative costs, and for fundraising costs.
  - Audited financial statements for the organization, received within four months after the end of the fiscal year, that meet generally accepted practices for tax-exempt organizations and satisfy the requirements of the organization's funders.



## Appendix H

---

### **Sample Confidentiality Policy**

It is the policy of VOAD that Board members, officers, and volunteers of VOAD may not disclose, divulge, or make accessible confidential information belonging to, or obtained through their affiliation with VOAD to any person, including relatives, friends, and business and professional associates. Board members, officers, and volunteers may only make such information available to individuals who have a legitimate need for such information and to whom VOAD has authorized disclosure. Board members shall use confidential information solely for the purpose of performing services for VOAD. This policy is not intended to prevent disclosure where disclosure is required by law.

Board members, employees, volunteers and contractors must exercise good judgment and care at all times to avoid unauthorized or improper disclosures of confidential information. Conversations in public places, such as restaurants, elevators, and public transportation, should be limited to matters that do not pertain to information of a sensitive or confidential nature. In addition, trustees and employees should be sensitive to the risk of inadvertent disclosure and should for example, refrain from leaving confidential information on desks or otherwise in plain view and refrain from the use of speakerphones to discuss confidential information if the conversation could be heard by unauthorized persons.

At the end of a Board member's term in office or upon the termination of an employee's, volunteer's or contractor's relationship with VOAD, he or she shall return, at the request of VOAD all documents, papers, and other materials, regardless of medium, which may contain or be derived from confidential information, in his or her possession.

### **Sample Media Spokesperson Policy**

#### **From Nonprofit Risk Assessment Center**

If VOAD has a designated media spokesperson. Only authorized representatives may speak to the news media about VOAD business or issues relating to VOAD's programs and those served.

If someone from the media approaches you and asks you for a comment you should tell them that you are not authorized to speak for VOAD and instead you should direct them to the VOAD Chair who will respond or put them in touch with the designated spokesperson.



#### **Sample Media Spokesperson Policy**

To ensure consistent messaging and coordinate responses to media inquiries VOAD has a designated media spokesperson. If you are contacted by the media and are not the designated spokesperson, you should direct the media inquiry to [title of position at your nonprofit who will handle media inquiries.] Staff members should only speak with the media about VOAD including its activities, persons served, and fundraising practices, if you are the designated spokesperson for that inquiry. Board members also should refer the media to the designated spokesperson, or to the Chair of the Board.

Rationale: In this age of transparency, initially it might seem uncomfortable to send a reporter to someone else. However, there are too many examples of when a Board member or staff member did not have access to the full facts or latest developments to give a complete response on behalf of the organization and therefore embarrassed themselves and the VOAD by giving a statement that then seemed inconsistent with what is said by the designated media spokesperson.

*This information is for educational and informational purposes only and should not be considered legal or other professional advice for specific matters. Prior to adopting this sample document for their own use, nonprofits should seek the advice of their own professional advisors.*

## **National VOAD Branding Standards**

Per the National VOAD Branding Standards Policies and Procedures (Section 7.0 – Crisis Communication, Pages 13-14) all VOADs shall uphold the following.

- 7.1** The public image of National VOAD and its member organizations must be preserved and protected at all times and especially in the event of potentially damaging publicity.
- 7.2** A crisis is defined as anything that could be potentially damaging to the reputation of National VOAD or any of its member organizations including, but not limited to, an injury or accident at a site, a major operational change, or a major personnel change.
- 7.3** The National VOAD executive director or other designee must be alerted in the event of anything that may be defined as a crisis.
- 7.4** In the event of a crisis, media contact will be limited to appropriate communication officers or other employees designated by National VOAD. Volunteers must not speak on behalf of the organization in a crisis situation unless designated to do so by the executive director or the Board of Directors.

***National VOAD Communications Committee Branding Subcommittee (November, 2010)***

### Sample Speaking/Sponsorship Policy

In carrying out its mission, VOAD may organize workshops, forums, or other events designed to bring important information to the community we serve. In addition, because of our relationship to the community, we might also be approached by others – such as business owners, company representatives, or government agency staff – and asked for opportunities to speak to or make presentation to our community members.

1. In interviewing potential speakers, the organization will determine whether the individual has a product to market, will endorse someone else's products, or considers him/herself a neutral expert and will not recommend any specific product.
2. In seeking a speaker, the organization will always ask for a bio or resume and review it carefully.
3. The organization will "Google" potential speakers, to help in identifying any controversies related to their work.
4. If there is concern about the content or approach to presentation, the organization should ask to see an outline or a similar presentation, or have an in-depth discussion about the presentation during the planning phase.
5. If the organization has a "position" or specific viewpoint about an issue that it wishes to have presented, a potential speaker should be informed of that viewpoint and asked to respond to it.
6. In cases where the speaker has a product to sell or has a specific perspective or political viewpoint, consider inviting more than one speaker, so different perspectives can be obtained.
7. When talking to a potential speaker and checking references, the organization will be clear about the nature of the target participants – age, educational mix, race/ethnicity, level of knowledge of the topic, etc. This will help the speaker target the presentation appropriately, and determine whether the speaker is comfortable and effective with this target group.
8. In identifying speakers, care will be taken to get third-party assessments of the speaker's knowledge/expertise, speaking skills, and affiliations – including whether the speaker has a financial interest related to the topic that could constitute a conflict of interest. This includes asking a potential speaker to provide information on 2-3 other recent speaking engagements, with contact information for follow up.

9. At the beginning of the session, the speaker will be asked to state clearly his/her affiliations and any financial interests, so that participants will understand whether the speaker has a product to market, is endorsing someone else's products, or is speaking as a neutral expert and not recommending any specific product.
10. In introducing a speaker, the organization will be very clear about why the individual was invited, his/her expertise and experience, and any caveats around not endorsing any particular product. This last is essential if the speaker represents an entity with a product to sell.

### **Sample Gift Acceptance Policies** **(From *Nonprofit Risk Assessment Center*)**

#### **SAMPLE #1**

1. VOAD solicits and accepts gifts that are consistent with its mission and that support its core programs, as well as special projects.
2. Donations and other forms of support will generally be accepted from individuals, partnerships, corporations, foundations, government agencies, or other entities, subject to the following limitations:
  - a. [describe limitations here, such as delivered to the agency, new or nearly new condition, proof of ownership.]

#### **SAMPLE #2**

1. VOAD solicits and accepts gifts that are consistent with its mission.
2. Donations will generally be accepted from individuals, partnerships, corporations, foundations, government agencies, or other entities, without limitations.
3. In the course of its regular fundraising activities, VOAD will accept donations of money, real property, personal property, stock, and in-kind services.
4. Certain types of gifts must be reviewed prior to acceptance due to the special liabilities they may pose for VOAD. Examples of gifts, which will be subject to review include gifts of real property, gifts of personal property, and gifts of securities.

## Fact Sheet 1.1

### Independent 501(c)(3) Tax-Exempt Nonprofit Organization

#### What is it?

501(c)(3) refers to the section of the Internal Revenue Code that describes one category of organizations that are eligible for federal tax exemption. 501(c)(3) organizations must “*be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals.*” Just because you have incorporated as a nonprofit organization does not mean you are tax-exempt. You are not tax-exempt until you apply for and are granted tax-exemption from the Internal Revenue Service (IRS).

#### Legal and Financial Requirements

##### Legal:

- ✓ You must exist for the public good, which is for humanitarian, charitable, educational, or other purposes that can be described as contributing to the *public good*.
- ✓ You must have a volunteer Board of Directors that ensures the organization meets legal requirements, sets policies, provides oversight of all activities and funds, and ensures accountability to the *public good*.
- ✓ Your activities must be in alignment with your tax-exempt purposes. The one type of activity – in addition, of course, to illegal activities – that your organization cannot get involved in is partisan political activity. You cannot support or oppose candidates for office or political parties, but you can engage in advocacy!
- ✓ You must comply with all IRS filing requirements. This means filing a Form 990 (income tax return), as well as numerous other tax forms if you have staff or consultants. You also have to comply with state filing requirements.
- ✓ You must comply with the Sarbanes-Oxley Act, which requires that you have an independent audit committee, a whistleblower protection policy, a conflict of interest policy, and a document retention policy.
- ✓ You are required to keep certain documents on file and make them available for public inspection upon request. Failure to do so may result in fines. These documents are:

*Articles of Incorporation, your IRS Form 1023 and supporting documentation, your IRS Letter of Recognition of 501(c)(3) Status, and your three most recent Form 990s.*

## **Financial**

*[Note fees below are in addition to annual fees you pay at the state level to maintain your incorporation]*

- ✓ You must pay a fee when you submit your application for tax-exemption (Form 1023) to the IRS. The fee will vary from state to state.
- ✓ You will need to have insurance. There are different types of insurance that you will need to purchase. What you will need will depend on the size of your organization's budget, the types of activities you carry out, and whether or not you have paid staff. At a minimum – when you don't have paid staff – you will need General Liability and Director's and Officer's Insurance.
- ✓ You will need to raise funds to cover the costs of your programs and activities. Just because you become a 501(c)(3) organization does not mean you have to raise lots of money. You can still choose to continue as a volunteer organization and rely on in-kind contributions to run your programs.
- ✓ You must ensure that contributions and other funds received are used for tax-exempt purposes involving public benefit, not for the personal gain or benefit of specific individuals.
- ✓ You need policies, procedures, and systems for managing your money and your programs to meet requirements for fiscal and program oversight.
- ✓ You must keep good records – and likely pay a bookkeeper and/or accountant to help you do this – that support all of the income and expenses that you report on your tax return, or Form 990. You must keep your books using accepted accounting practices for nonprofits.
- ✓ Your finances must be open for public review. As noted above, you must keep on file and make available for public inspection your three most recent Form 990s.

## **Advantages and Challenges of This Option**

### **Advantages**

In addition to the advantages or benefits you receive from incorporating as a legal entity,



becoming a tax-exempt 501(c)(3) organization offers the following advantages:

- ✓ You are exempt from paying federal taxes on the organization's income and can apply for exemption from sales taxes in most states. Individuals who make a financial contribution to you can deduct the contribution on their tax return.
- ✓ You can raise money from public and private sources – as a 501(c)(3) you are eligible for grants from foundations and government.
- ✓ You have full control over the association's activities and management.
- ✓ You have a greater level of legitimacy and credibility in the eyes of the larger, mainstream community.
- ✓ As an independent nonprofit organization, you can provide a vehicle for your community to have an independent voice.

### **Challenges**

- ✓ Just because you obtain tax-exempt 501(c)(3) status, this does not mean you will get money. It gives you *the ability* to raise money, but there are many other things you need to do – such as have solid programs and a strong relationship with the community – to actually get funders to fund your work.
- ✓ You must keep very good records – especially of your financial transactions and Board decisions – to comply with IRS requirements.
- ✓ You must build and maintain an active Board of Directors.

### **When is this the Best Option?**

Applying to become a 501(c)(3) tax-exempt nonprofit organization is the best option if/when:

- ✓ You want the organization to eventually provide a variety of programs and services that will require both funding and possibly paid staff.
- ✓ You want to be able to raise more than \$25,000 per year and to raise money from government, private foundations, and individuals who may want a tax-deduction for their contribution.
- ✓ You plan to hire staff at some point.

- ✓ You want the independence and autonomy that you would not get with a fiscal sponsor.
- ✓ You are willing and committed to building an organization – and to focus some of your time and energy on putting policies, procedures, and systems in place.
- ✓ You are committed to building the team of people (skills and relationships) that will be needed to be successful.
- ✓ You want the organization to be around for many years to come.
- ✓ The legitimacy and credibility that being a formal 501(c)(3) nonprofit organization brings with it is important to the organization’s success.

Some of the *wrong* reasons for starting a nonprofit are:

- ✓ You think it will mean that you have your own organization *you can control as an individual*.
- ✓ You think there is a lot of money out there for refugees and starting an organization will mean you can get your share of the funding.
- ✓ You think it will mean you can immediately get a salary.
- ✓ You don’t get along with the leadership of an existing nonprofit that represents and serves your community so decide to start your own.
- ✓ You think it will enhance your own reputation and status in the community.

Above all, remember that starting a nonprofit for personal gain – whether for social, political, or financial gain – is never a good idea and may ultimately harm your community.

## Key Steps

This section describes the steps you need to follow to obtain 501(c)(3) Tax-exempt Status<sup>8</sup> at the federal level.

**Draft Bylaws.** Bylaws are the procedures that the Board of Directors – and your members if you choose to be a membership organization – will follow to make decisions about the

---

<sup>8</sup> See **Appendix C** to view the steps to incorporate as a 501(c)(3) Tax-exempt Nonprofit.

organization and its activities. Be sure to consider content seriously – don't just adopt generic bylaws. Your bylaws should guide your work, so they need to be appropriate for your organization.

1. **Hold Your First Board Meeting.** The organization's first official Board meeting is an important step in the legal formation of a nonprofit corporation.
2. **Apply for an Employer Identification Number (EIN).** You must have an EIN number to apply for tax-exemption. You can do this by filling out an IRS Form SS-4 [www.irs.gov/pub/irs-pdf/iss4.pdf](http://www.irs.gov/pub/irs-pdf/iss4.pdf). You can submit this form online, by fax, or by e-mail depending on how soon you need to use the EIN. You can receive your EIN by internet and use it immediately.
3. **File Application for Tax-Exemption with the Internal Revenue Service.** To apply for 501(c)(3) tax exemption, you must complete and file *Form 1023* with the IRS. *Form 1023* is a lengthy and somewhat complex form. It will take time and attention to detail to complete. If you choose to seek federal tax-exempt status, you must file *Form 1023* within 27 months of the date of incorporation of your nonprofit organization.

*Helpful Hint...*

**Do We Need an Attorney to Help Apply for 501(c)(3) Status?**

You do not have to have a lawyer to complete *Form 1023*. You can do it yourself, but it's important to make sure you fully understand the questions. You may want to find someone – either a pro bono attorney who understand nonprofits or an organization that helps nonprofits – who can help you understand the intent of the questions.

In addition, there are a number of places where you will need to attach a written explanation. These include:

- ✓ Written mission statement
- ✓ Narrative description of your programs and activities
- ✓ Written description of your existing or planned fundraising activities
- ✓ An organizational budget for the current and next two fiscal years

Other items you will need to attach:

- ✓ Your Articles of Incorporation
- ✓ Bylaws (Note: your bylaws should include a *conflict of interest* policy)
- ✓ Copies of Board Minutes showing that Board has approved applying for tax-exempt status
- ✓ A check for the filing fee

4. **File for Tax Exemption at the State Level.** Getting tax-exempt recognition from the IRS *does not automatically exempt your organization from state and local taxes*. You may need to file a separate application with your state department of taxation.

## Fact Sheet 1.2

### Incorporated Organizations without Tax-Exempt Status

#### What Is It?

When your association or organization *incorporates*, it becomes a legal entity. It gains a legal existence separate and apart from the people who formed it. When a VOAD not established for a business purpose incorporates, it incorporates as a *nonprofit corporation* – a corporation formed to carry out a charitable, educational, religious, literary, or scientific purpose. Therefore, even if your VOAD does not have federal tax-exempt status from the IRS, your VOAD can still be a *nonprofit organization*.

Remember Incorporating your VOAD as a nonprofit organization at the state level does not automatically grant the VOAD exemption from federal income tax. You must go through a separate process of applying for tax-exempt status at the federal level, from the Internal Revenue Service (IRS).

#### Legal and Financial Requirements

##### *Legal*

- ✓ When you incorporate, you create a legal entity. You must create Articles of Incorporation and file these with the agency that regulates nonprofits in your state. Articles of Incorporation are the legal document that defines your organization's basic purposes and structure. You must then follow these Articles of Incorporation.
- ✓ You must also form a Board of Directors to oversee the organization. In most states, the minimum number of Board members required is three.
- ✓ To remain a corporation *in good standing*, you must then file a report (every year or every two years depending on the state) with the agency that handles incorporation in your state (such as, the Office of the Secretary of State or a department of consumer and regulatory affairs or department of taxation).

##### *Financial*

- ✓ You pay an initial fee to incorporate. This fee ranges from about \$50 to \$150 depending on the state.

- ✓ You pay an additional fee – usually a little less – every year or two years when you file your annual report to remain *in good standing*.
- ✓ If your group does need some resources for your activities – such as money for gas or costumes for a dance troupe – you will have to pay for these yourself or get in-kind contributions.

## **Advantages and Challenges of This Option**

### **Advantages**

- ✓ As a legal entity, you can hold assets or liabilities – such as property, bank accounts, or loans – in the name of the association. As a legal entity, banks, vendors, property owners typically will extend credit to or enter into contracts with you.
- ✓ You limit the liability of individual founders, members, and directors. Once a VOAD incorporates, then the *organization* – rather than individual members – is usually held liable for any activity that results in injury or harm to someone, an unpaid debt, or some other potential cause for a legal suit.
- ✓ You gain public recognition and credibility.
- ✓ You clarify the mission and structure of the association or organization. The process of incorporating requires the individual or group starting the VOAD to think carefully through the mission, purpose, and structure of the VOAD.
- ✓ You create broader accountability. When a VOAD incorporates, then, legally, the activities must be driven by the bigger mission and purpose of the nonprofit corporation and not the personal interests of a few individuals.
- ✓ You take the first step toward applying for 501(c)(3) tax-exempt status. If your VOAD plans to apply for tax-exemption from the IRS, you should incorporate.
- ✓ You can raise limited amounts of money without having to pay taxes on that income. According to the IRS, nonprofit corporations whose gross revenues are normally under \$5,000 a year are considered tax-exempt under section 501(c)(3) exempt and do not have to apply for formal tax-exempt status.

### **Challenges**

- ✓ You lose some flexibility in determining what to do and how to do it. Once you are incorporated, you must follow your articles of incorporation and bylaws.

- ✓ You must comply with more regulations. Once you are incorporated, you must comply with some government regulations and file reports with a government agency.
- ✓ You must pay a filing fee to incorporate and keep your incorporation current. As noted above, you must pay an initial fee when you incorporate, then an annual fee when you file your annual report.
- ✓ You must spend time on tasks needed to manage a legal entity. For example, you must monitor compliance with your own articles of incorporation and bylaws, and keep minutes of your Board meetings.
- ✓ You lose some individual control. Once incorporated, major decisions need to be made by a Board of Directors.
- ✓ You can only raise small amounts of money – for example to pay for equipment, refreshments, or gas. You cannot obtain grants from government or foundations or offer tax deductions for contributions – unless you get a fiscal sponsor. You will have to pay taxes on any significant amounts of money raised – usually anything above \$5,000 a year.

### **When Is This The Best Option?**

Your VOAD should consider incorporating if:

- ✓ Your VOAD has come together to address an ongoing or long-term need and hopes to exist for many years.
- ✓ You want the name and the VOAD to continue beyond the founders' involvement with the organization.
- ✓ You will need to raise significant amounts of money – more than \$5,000 a year – to carry out the kinds of activities you plan to undertake.
- ✓ You may want to hire paid VOAD Coordinator in the future.
- ✓ You may want to apply for federal tax-exempt status because you want to raise funds from government, individuals, or others who want or require tax-exempt status so they can receive a tax deduction.
- ✓ You want the written rules and formal structure that you will be required to define in the Articles of Incorporation and Bylaws.

## Key Steps

1. Research the process for incorporation in your state.
2. Determine Your Purpose and Draft a Mission Statement. The first step is to identify a clear purpose and mission.
3. Identify the Founding Board of Directors. In most states, you only need three founding Board members to incorporate. You can always add more people later, once you have a clearer idea of the skills and experience the Board needs.
4. Choose a Name. An organization's name should be something people can remember, be unique to your organization, and say something about what you do and who you are. Call or visit the website of the Secretary of State to reserve a name.
5. Draft Articles of Incorporation and Apply for Incorporation. Remember that nonprofit organizations incorporate at the state level. The agency in your state that oversees nonprofit incorporation will have template Articles of Incorporation for you to use. Remember that in most states you will also have to register as a charitable organization.



## Fact Sheet 1.3

### Fiscal Sponsorship

#### What Is It?

Fiscal sponsorship means one organization accepting and managing funds for another organization. A fiscal sponsor is a 501(c)(3) tax-exempt organization that agrees to provide a tax-exempt home for another nonprofit group, usually one that is either unincorporated or incorporated but without its own 501(c)(3) status. Fiscal sponsorship provides a way for you to receive grants and donations to run programs without being an independent 501(c)(3) tax-exempt nonprofit organization. The work of the sponsored VOAD must be related to the fiscal sponsor's tax-exempt purposes.

#### Legal and Financial Requirements

##### Legal

- ✓ Your VOAD can enter into a fiscal sponsor arrangement without first becoming a legal entity. However, if you want to maintain some autonomy, it is best to first incorporate<sup>9</sup>.
- ✓ You should have a Memorandum of Understanding (MOU) with your fiscal sponsor. This is a legally binding document that clearly lays out the responsibilities of the fiscal sponsor or the sponsored organization.
- ✓ The sponsor has full legal oversight responsibility and complete liability if anything goes wrong. The sponsor's Board of Directors has ultimate authority over your work.

##### Financial

- ✓ Even with a fiscal sponsor, your VOAD will be responsible for raising the funds needed to support your programs and activities.
- ✓ The fiscal sponsor accepts and manages any funds you raise as the sponsored organization. The fiscal sponsor has *full discretion and control* over the use of funds raised by the sponsored organization.

---

<sup>9</sup> See **Fact Sheet 1.2** to incorporate without 501(c)(3) Tax-exempt status.

- ✓ Your VOAD's income and expenditures are included on the sponsor's tax return (Form 990) and audit.
- ✓ While the fiscal sponsor is responsible for financial management, you can negotiate an agreement where your VOAD takes on some of this responsibility as a way to build your capacity.
- ✓ The sponsor usually receives an agreed-upon percentage of grants/donations to cover administrative costs of fiscal sponsorship – typically between 5%-15% of funds raised.

## **Advantages and Challenges of This Option**

### ***Advantages***

- ✓ You can fundraise from public and private sources and offer donors tax-exemption through the fiscal sponsor without having to develop an organizational infrastructure or pay the fees required in applying for tax exemption.
- ✓ You can focus your energy on planning, raising money for, and delivering programs, and leave financial management, reporting and administration to the fiscal sponsor.
- ✓ The fiscal sponsor accepts and manages funds you raise for your association's activities – it does all necessary accounting, financial management, and financial reporting, to both funders and government agencies.
- ✓ The management experience and credibility of your fiscal sponsor can enhance your fundraising success.
- ✓ A good fiscal sponsor will provide mentoring for your VOAD, teaching you about program and organizational management, preparing you for eventual independence if you decide to become a 501(c)(3) organization.
- ✓ Your fiscal sponsor may offer other services, such as affordable office space, meeting space, access to technology such as high-speed Internet access, use of a bulk rate postal permit for low-cost mailings, and legal or other expert advice.
- ✓ You can have considerable program autonomy, so long as your activities are consistent with the fiscal sponsor's tax-exempt purposes and follow the sponsor's policies and procedures.

## Challenges

- ✓ The fiscal sponsor has full legal and fiscal responsibility for the funds you raise, and could limit your freedom to operate projects as you choose or even try to control your day-to-day project work, rather than just provide oversight.
- ✓ You may be prevented from approaching certain funders if the sponsor is already seeking or receiving funds from them.
- ✓ You must usually pay a fee to the sponsor, and sometimes that fee may seem high.
- ✓ You might not get the support and mentoring you need – perhaps because the staff of the fiscal sponsor gets too busy, the organization has an internal crisis or changes priorities, or the staff you knew and negotiated the relationship with leave.
- ✓ If you end up with a fiscal sponsor that is not a good fit – they don't share your values, do not understand the needs of VOAD communities and are not committed to VOAD's mission – you might not get attention, support and mentoring to help your VOAD gain valuable knowledge and skills to grow and develop your work.

## When Is This The Best Option?

Your VOAD should consider entering into a fiscal sponsorship arrangement with a tax-exempt organization if/when:

- ✓ You don't have tax-exempt status, but are ready to run programs or activities that needs grant funds – and the potential funding sources will give only to a tax-exempt entity.
- ✓ You expect to operate for a limited period of time – several years at most – and it does not make sense to get your own 501(c)(3) status.
- ✓ You don't yet know whether your work will have enough long-term support from the community or from funders to sustain it. Therefore, it does not seem worthwhile to spend the money and time becoming a 501(c)(3) organization.
- ✓ For now, you want to focus your energy on program activities rather than building an organization and doing fiscal management.
- ✓ You will soon file for 501(c)(3) tax-exempt status but want to start fundraising immediately.
- ✓ You need some incubation. Eventually you expect to become a 501(c)(3) tax-exempt organization, but you prefer to operate for a while under the umbrella of a larger and

more experienced nonprofit that can provide tax exemption as well as support and advice.

- ✓ You are a coalition including several groups and individuals, and you need one entity to receive grants and manage money for the coalition.

## Key Steps

Once you decide you want a fiscal sponsor, take the following steps:

1. **Make sure you full understand fiscal sponsorship.** While this fact sheet is a good start, make sure your group educates itself about all aspects of fiscal sponsorship. Talk to others who have a fiscal sponsor or have been a fiscal sponsor and get their advice.
2. **Identify potential fiscal sponsors.** Consider the characteristics that are most important to you in a fiscal sponsor and look for possible fiscal sponsors that meet these requirements. Ask for a meeting with the Executive Director of each organization to discuss who you are, what you want to accomplish, why you need a fiscal sponsor, and why you think that organization might be appropriate.
3. **Choose a fiscal sponsor.** Your group should discuss and decide which organization would make the best fiscal sponsor, based on what you learned from your meetings. Remember too that the fiscal sponsor will need to “choose” you group as well – their Board of Directors will need to approve becoming a fiscal sponsor.
4. **Negotiate a fiscal sponsorship agreement.** Do not enter into an agreement until you feel it provides a fair and supportive relationship for your organization. Consult with someone you trust at a nonprofit organization or funding source if you feel you need advice.

Once you have a good agreement in place, you should make a plan for your projects and activities and for raising funds to support them. If you already started some activities informally, you can now make them more formal, with support from your fiscal sponsor. Ask your fiscal sponsor for guidance in developing a fundraising plan.

## Fact Sheet 1.4

### Board Policies

#### What Is It?

Remember that one of the most important responsibilities for the Board of Director is to set policies to guide your VOAD. What is a policy? A policy is basically a set of rules – some rules are needed for the whole organization, some are needed to guide the Board in its work. Clear, written policies help VOAD Boards make better collective decisions and guide their individual actions and behaviors.

Some policies are required by the entity that regulates the nonprofit sector – the Internal Revenue Service. Others are good practices. Others still might need to be developed in response to situations that arise in your VOAD.

This document briefly describes the most important policies for VOADs to develop and adopt – all policies should be officially approved and adopted by the Board of Directors – along with templates you can adapt at the end.<sup>10</sup>

#### Policies Required by Federal Law

In 2002, the federal government enacted regulations that set new standards for all U.S. public company boards, management and public accounting firms. The law, known as the Sarbanes-Oxley Act, was passed in reaction to the numerous corporate and accounting firm scandals, including Enron. There are a few provisions of the law that apply to nonprofits. Sarbanes-Oxley requires that nonprofits have the following policies:

- ✓ Conflict of Interest Policy<sup>11</sup>
- ✓ Whistleblower Policy<sup>12</sup>
- ✓ Document Retention and Destruction Policy<sup>13</sup>

---

<sup>10</sup> Unless otherwise noted, templates and samples were developed by Mosaica and adapted by National Voluntary Organizations Active in Disaster.

<sup>11</sup> See **Appendix D** for Conflict of Interest Policy.

<sup>12</sup> See **Appendix E** for Whistleblower Policy.

### **Conflict of Interest Policy**

A conflict of interest arises when the personal or private interests of a Board member are at odds with the best interests of the VOAD. When a conflict of interests exists, a Board member might not be able to make an objective decision. Let's say the VOAD Board is reviewing three bids it received for a big printing job. The owner of one of the printing companies is the sister of a Board member. That Board member would have a *conflict of interest*. A conflict of interest policy should require any Board member with a conflict of interest to disclose the conflict and remove him or herself from the related discussion and decision.

Another type of conflict is a conflict of loyalties. This occurs when a Board member has a relationship with another entity and the decision the Board needs to make might go against the best interest of the other entity. Let's say the VOAD is considering an invitation to partner with a larger nonprofit that wants to build a relationship with the community the VOAD serves. The VOAD has some concerns about the proposed agreement that the Board needs to discuss and make a decision about whether to move forward. One of the Board members is also on the Board of the larger nonprofit. This Board member would have a *conflict of loyalties*.

### **Whistleblower Policy**

A whistleblower is someone in the organization – it could be a staff member, a volunteer, or a Board member – who becomes aware of and reports any inappropriate, unethical, or illegal behavior or actions on the part of any other staff or Board member. Such behavior or action could include sexual harassment, theft, fraud, and other misconduct. Nonprofits must develop and adopt a policy that sets out a formal process for handling employee and volunteer complaints, including the establishment of a confidential and anonymous mechanism to encourage reporting of misconduct. The policy must also state that the organization will not punish the whistleblower, for example through firing, demotion, suspension, harassment, failure to consider the employee for promotion, or any other kind of discrimination. Even if the claims are unfounded, the organization may not reprimand the

---

<sup>13</sup> See **Appendix F** for Document Retention and Destruction Policy.

employee. Nonprofit leaders must take any employee and volunteer complaints seriously, investigate the situation, and fix any problems or justify why corrections are not necessary.

### **Document Destruction Policy**

The Sarbanes-Oxley Act makes it a crime to alter, cover up, falsify, or destroy any document to prevent its use in an official proceeding (e.g., federal investigation or bankruptcy proceedings). Nonprofit organizations need to have a written, mandatory document retention and periodic destruction policy. The document retention policy should include guidelines for handling electronic files and voicemail. The policy should also cover back-up procedures, archiving of documents, and regular check-ups of the reliability of the system.

### **Other Policies for VOADs**

- ✓ Fiscal Policy<sup>14</sup>
- ✓ Confidentiality Policy<sup>15</sup>
- ✓ Media Relations Policy<sup>16</sup>
- ✓ Speaking Sponsorship Policy<sup>17</sup>
- ✓ Gift Acceptance Policy<sup>18</sup>

### **Fiscal Policy**

VOADs can develop and adopt written fiscal policies that define basic checks and balances for managing money. Even if your VOADs budget is \$500 for the year, you should have policies that guide how you track that money. Fiscal management policies should:

- ✓ Identify and differentiate Board roles and responsibilities for fiscal management;
- ✓ Specify fiscal policies for your VOAD;
- ✓ Identify fiscal management procedures that are to be implemented by the Treasurer or Finance Committee; and

---

<sup>14</sup> See **Appendix G** for Fiscal Policy.

<sup>15</sup> See **Appendix H** for Confidentiality Policy.

<sup>16</sup> See **Appendix I** for Media Relations/Communications Policy.

<sup>17</sup> See **Appendix J** for Speaker Sponsorship Policy.

<sup>18</sup> See **Appendix K** for Gift Acceptance Policy

### ***Confidentiality Policy***

While it is important for VOADs to be transparent in most aspects of their operations and decision-making, VOADs do have issues or gain access to information that be must be maintained in confidence. A confidentiality policy helps Board, staff, and volunteers understand what kinds of information must be kept confidential as well as the consequences if someone breaches confidentiality. Respecting the confidentiality of community members served is especially critical for VOADs to build and maintain trust and credibility.

### ***Media Relations/Communications Policy***

VOADs should develop and approve policies related to public relations. In particular, the policy should clearly spell out show speaks for the organization. Let's say the VOAD is contacted by the media, perhaps for more information about the community you serve or issues you address, you should decide who is authorized to provide that information. You should also make that the VOAD agrees on common messages and talking points for all those you designate as the official spokespeople for the media. In addition, some VOADs also adopt special policies and plans for crisis communications. For example, let's say there is a tragedy in the community and your VOAD is getting calls to discuss the situation. Alternatively, your VOAD might experience a scandal – an Executive Director is accused of stealing from the organization or a staff member assaults a community member. In these cases, you need clear policies for dealing with these situations as well as policies on what and how you will communicate what happened and the steps your VOAD took to address the problem.

### ***Speaking/Sponsorship Policy***

An important role of VOADs is to bring information to their community – information about issues, services, and other products from which they might benefit. At the same time, many different kinds of entities – businesses, companies, government agencies – might want to reach your community with information. Some might also want to reach your community to sell their products to them. Your VOAD should have a policy on speaking/sponsorship so that you can hold events and invite speakers to bring important information to your community, but also have guidelines that protect your community and your VOAD.



Local businesses might also provide VOADs with discounts on their goods and services, sponsorship of events, and even direct financial contributions. If they do, they might also expect your VOAD to promote their business in return. Acknowledging their support – for example, in your newsletter, on your website, or by thanking them publically at events – is appropriate. However, you need to be careful that you are not seen as endorsing the business or its products or, worse yet, that your NGO is promoting the business or its products to your community.

### ***Gift Acceptance Policy***

It is important to set up clear rules about accepting gifts. Some organizations make decisions who not to accept money from. For example, an organization that promotes workers' rights, might decide not to accept donations from a corporation that does not treat its employees well. Often, organizations take steps to make sure they recognize when a gift is really given to benefit the nonprofit and the community and when donors are acting in their own interest or try to manipulate the organization.

It is also very important to make sure the nonprofit and the donor are clear on the terms of the donation. Are you allowed to use the money as you see fit or is there a requirement to spend it over specific period of time or to implement a certain program or activity? Are there specific outcomes that the donor is expecting to see? Are you required to mention the donor's name in your materials produced using the donation?

Having a written gift acceptance policy helps for a number of reasons: a) if you have to reject a gift but want to keep the relationship with a donor, the policy makes handling the awkward situation easier; b) a written policy is a document staff, Board and volunteers can use; c) a clear written policy minimizes confusion and can be used across the board, and d) when new staff, Board, or volunteers come on board, a written policy can be very helpful in their learning of the organization.

A gift acceptance policy should include:

- ✓ Your organization's mission
- ✓ The purpose of the gift acceptance policy
- ✓ How you will handle gift restrictions

- ✓ Types of gifts and the forms of gifts that your organization will accept
- ✓ Reporting requirements to donors
- ✓ Your organization's adherence to ethical standards

