

## **APPENDIX M**

### **NON-PROFIT ORGANIZATIONS and the GOVERNING BOARD of DIRECTOR'S RESPONSIBILITIES**

The term nonprofit organization refers to those legally constituted, nongovernmental entities, incorporated under state law as charitable or not-for-profit corporations that have been set up to serve some public purpose and are tax-exempt according to the IRS.

A non-profit organization is defined as any corporation, trust, association, cooperative, or other organization which:

- (a) Operates primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Functions for purposes other than to gain profit;
- (c) Uses its net proceeds to maintain, improve, and/or expand its operations.

The governing board of non-profit organizations is the legal contracting entity and ultimately is responsible for its overall operation. It is the governing board's responsibility to act as stewards, accountable to the state's government that granted the organization their respective charters, accountable to the federal government that granted tax-exempt status, and ultimately accountable to the public itself.

#### **GOVERNING BOARD COMPOSITION**

It is important that a diversity of backgrounds be represented on the board. When all the segments of the community are represented, each group sees the organization as its own and this increases support in many ways.

The responsibilities of boards suggest those skills and areas of knowledge that a board must collectively possess:

- Nonprofit trusteeship
- Organizational planning
- Financial/accounting
- Fund raising
- Personnel management
- Legal matters especially relating to nonprofit corporations, contracts and personnel
- Public relations

The purpose of having board members with specific expertise is not to encourage encroachment on day-to-day activities that are the staff's responsibilities, but to provide an ongoing oversight capability for the agency, to lead the agency in formulating policy and to ensure that strategic planning is conducted.

All board members should also be familiar with the programs and activities that the organization sponsors, and all board members should support the organization's mission.

The Board should represent a variety of backgrounds that are reflective of the demographics of the community, including the different minority, ethnic and socio-economic groups. A board of directors comprised in this way will give the governing board a broad vision and understanding of their community.

## GOVERNING BOARD RESPONSIBILITY

In a non-profit agency, the governing board is a board of directors whose main function is to establish policies, regulations and bylaws consistent with the purposes of the agency. The board is responsible, also, for resolving management issues, selecting and evaluating the performance of the executive director, and functioning in an advisory capacity to the executive director. The board chairperson and members of the board should be residents of Tennessee.

Most nonprofit organization's By-Laws dictate that grant contracts and other legal documents are to be signed by the board chairperson or the chairperson's designee. In these cases, which are the norm, the **Board President may designate another board officer or the Executive Director to sign a contract in his/her absence. The designee is the person granted permission to sign the Board President's signature.**

The board of directors of a nonprofit organization is financially liable and ultimately responsible for the service program(s) described in grant contracts.

In summary, the board responsibilities of greatest concern to OCJP and its contractual relationship with a non-profit include, but are not limited to the following:

- ◆ Ensuring that all necessary requirements of OCJP relative to the grant are met
- ◆ Ensuring that the Board President or Chair serve as the Authorizing Official for OCJP Contracts and thereby sign or appoint a designee to sign OCJP/agency contracts
- ◆ Establishing policies, regulations, and by-laws consistent with the purpose of the agency
- ◆ Establishing accounting systems and fiscal controls consistent with generally accepted accounting principles and good business practice
- ◆ Establishing policies prohibiting nepotism whether between the board and the agency or within the agency itself
- ◆ Governing in a manner that would avoid even the appearance of any conflict of interest
- ◆ Being actively involved in directing the agency's operations through the process of conducting regular board meetings held in accordance with the agency's by-laws
- ◆ Ensuring board minutes are maintained and kept on file for review by OCJP Monitoring staff
- ◆ Accepting liability for and resolving any costs questioned resulting from OCJP monitoring
- ◆ Providing adequate resources for the activities of the organization through direct financial contributions and a commitment to fund raising
- ◆ Developing and maintaining communication with the community and promoting the mission and activities of the organization

Please note that the Secretary of State has a helpful Guidebook online entitled: "What Every Board Member and Officer Should Know: A Guidebook for Tennessee Non-profits." This booklet can be found at: <http://www.tn.gov/attorneygeneral/nonprofit/nonprofitguidebook.pdf>