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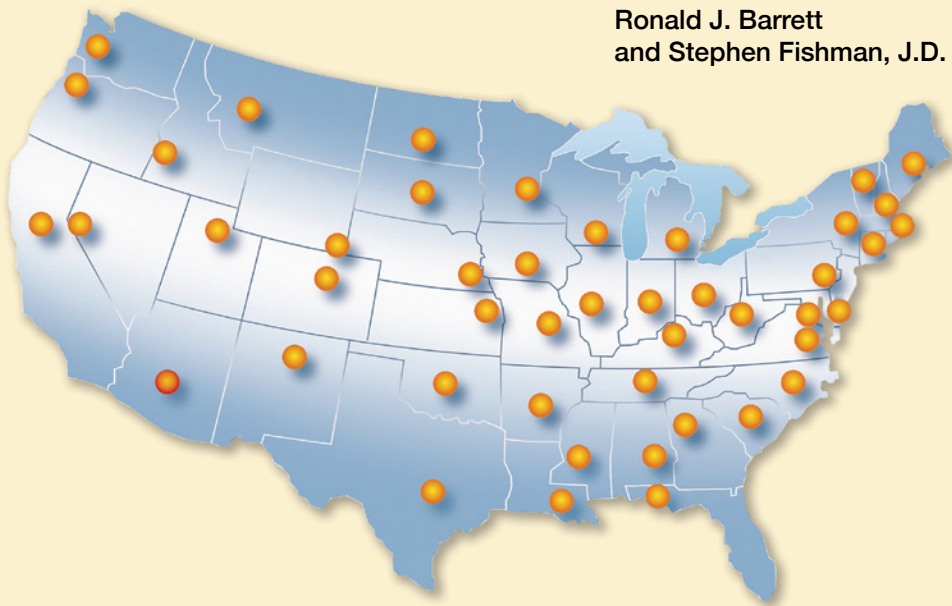
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# Nonprofit Fundraising Registration

## Nolo's 50-State Digital Guide

Ronald J. Barrett  
and Stephen Fishman, J.D.



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# Alabama

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## Initial Registration

### Registration Requirements

Unless exempt, a charitable organization must register with the Alabama Attorney General if it:

- is located in the state of Alabama;
- intends to solicit charitable contributions in Alabama; or
- intends to have charitable solicitations solicited on its behalf in Alabama by other charities, paid solicitors, or commercial coventurers.

### Foreign (Out-of-State) Nonprofits

Out-of-state (foreign) nonprofits that register under the state charitable solicitations law are not required to also register under the state corporations law to qualify to do business in the state. However, engaging in other business activities in the state (such as having an office or employees there) may require qualification. See Chapter 6 for details.

### Registration Effective Period

Remains in force until withdrawn or canceled by the state.

### Filing Procedures

File initial registration application by mail.

#### Filing Office

Office of Attorney General, Consumer Protection

Charitable Organization Registration

*By express delivery:*

501 Washington Ave.

Montgomery, AL 36104

*By mail:*

P.O. Box 300152

Montgomery, AL 36130

334-242-7335 (phone)

334-242-2433 (fax)

[consumerprotection@ago.state.al.us](mailto:consumerprotection@ago.state.al.us)

## STATE-BY-STATE RULES

### Forms

- *Charitable Organization Registration Statement*, or
- *URS*.

**Fees.** \$25. Make check payable to Alabama Attorney General's Office.

**Signatures.** Original, notarized signature by authorized representative of nonprofit required

### Supporting Documents

- Articles of incorporation or formation document
- Bylaws
- IRS determination letter
- List of officers, directors, trustees, and executive personnel
- List of states where charity is registered or exempt
- List of professional fundraisers and commercial coventurers.

**Registered Agent.** Not required

### Exemptions

The organizations and individuals listed below are exempt from registration. You must apply for an exemption by filing the Alabama *Charitable Organization Registration Exemption* form. Include a brief statement explaining why your organization qualifies for an exemption. Alabama exempts more types of nonprofits from registration than most states.

**\$25,000 exemption.** Any charitable organization that does not intend to solicit and receive nationwide contributions of over \$25,000 in one fiscal year is exempt, provided that all of its fundraising functions are carried on by unpaid volunteers. The nonprofit can have salaried staff and hire independent contractors as long as they don't perform fundraising-related functions. The nonprofit must register within 30 days if its gross contributions exceed \$25,000 during any fiscal year. Don't include membership dues and similar payments in the annual limit. However, if your nonprofit sells merchandise or services, you must include the amounts you receive from those sales in your total gross contributions.

**Religious organizations.** Any religious organization that qualifies as a Section 501(c)(3) nonprofit under federal tax law is exempt from registration in Alabama. This includes any religious society, sect,

## STATE-BY-STATE RULES

persuasion, mission, church, parish, congregation, temple, convention, diocese or presbytery, or other organization.

**Educational institutions.** Educational institutions are exempt. This includes schools, colleges, or other institutions that have a defined curriculum, student body, and faculty and conduct classes on a regular basis. There is no requirement that the school be officially accredited. Foundations related to exempt educational institutions are also exempt.

**Political organizations.** Section 527 groups are exempt. These are groups organized under Section 527 of the Internal Revenue Code to raise and spend money to elect candidates to office, and to engage in voter mobilization and issue advocacy.

**Fraternal organizations.** Alabama exempts fraternal, patriotic, benevolent, social, educational, alumni, health care foundations, historical, and civil rights organizations, and any auxiliaries associated with any such organization. This includes fraternities and sororities.

**Civic leagues and civic organizations.** Civic leagues and civic organizations that solicit solely from their own membership are exempt.

**Donations for single individuals.** It is not necessary to register if you are requesting contributions for the relief of any single individual, specified by name at the time of the solicitation. No more than \$10,000 may be collected and it all must be turned over to the named beneficiary.

**United Way and community chests.** Nonprofits that receive an allocation of funds from an incorporated community chest or united fund are exempt provided:

- the chest or fund has complied with the registration and reporting rules
- the nonprofit does not actually receive (in addition to the allocation) contributions over \$25,000 during the fiscal year, and
- all the nonprofit's fundraising is carried out by volunteers.

**Other exemptions.** Alabama also exempts:

- veterans organizations, including their local posts or chapters
- volunteer firefighters
- ambulance companies and rescue squads, and
- bona fide auxiliaries or affiliates of these organizations.

## STATE-BY-STATE RULES

To qualify for these exemptions, all of the organization's fundraising activities must be carried on by the organization's members, their family members, volunteers, or an affiliate of the organization. The nonprofit's members cannot receive any compensation for their fundraising efforts.

### Laws and Rules

Code of Alabama, §§ 13A-9-70–13-A-9-84

## Periodic Renewal and Reporting

### Renewal Requirements

Registration must be renewed each year. Registered nonprofits that discontinue their charitable activities in Alabama must file a *Notice of Non-Renewal for Charitable Organizations* with the Attorney General.

### Annual Financial Report

Financial report must be filed with renewal.

### Due Date

90 days after fiscal year end (FYE); March 31 for nonprofits with a calendar-year FYE

### Extension

Alabama will provide an extension of 180 days. Send an email ([consumerprotection@ago.state.al.us](mailto:consumerprotection@ago.state.al.us)) or letter by mail or fax (334-242-2433) requesting the extension prior to the annual renewal due date.

### Late Fees

None

### Renewal & Annual Financial Reporting Procedures

File annual financial report by mail.

#### Filing Office

Office of Attorney General, Consumer Protection

Charitable Organization Registration

*By express delivery:*

501 Washington Ave.

Montgomery, AL 36104



## STATE-BY-STATE RULES

*By mail:*

P.O. Box 300152

Montgomery, AL 36130

334-242-7335 (phone)

334-242-2433 (fax)

[consumerprotection@ago.state.al.us](mailto:consumerprotection@ago.state.al.us)

### Forms

- [Charitable Organization Renewal Statement](#), or
- [URS](#).

**Fees.** \$25. Make check payable to Alabama Attorney General's Office.

**Signatures.** Original, notarized signature by authorized representative of nonprofit required

### Supporting Documents

- IRS Form 990 (unless you complete and file your Form 990 early, you won't have a current Form 990 by the filing deadline; however, you may obtain an extension of up to 180 days to file the report), or
- self-created financial report containing your nonprofit's gross income, expenses, and net income; a balance sheet as of the close of the fiscal year; and a schedule of the activities you carried on in fulfilling your mission and the amounts you spent doing so, or
- audited financial statement prepared by an independent CPA.

**Registered Agent. Not required**

### Charitable Registration Search

Not available online; call state for registration status.

### Laws and Rules

Alabama Code §§ [13A-9-70–13-A-9-84](#)

## The Fundraising Registration Process

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## Who Needs to Register?

Thirty-nine states and the District of Columbia require nonprofits that are not exempt to register with a state agency before soliciting contributions from state residents. Basically, the rule is that any nonprofit that makes, or intends to make, a charitable solicitation within a state that requires registration must register with that state. “Charitable solicitation” is defined broadly to include any request for a contribution by a nonprofit or someone working on its behalf in which:

- an appeal is made for a charitable purpose
- the name of a charitable organization is used, or
- a statement is made that implies that all or part of the contribution will be applied to a charitable purpose or donated to a charitable organization.

The registration requirement is triggered by asking for donations—it is not necessary that your nonprofit actually receive a donation. That means you must register in any state before you actually solicit there (except for California where you have 30 days from the time you receive your first contribution to register). The only exception to this general rule is for nonprofits that fall within an exemption from registration.

In most cases, it will be pretty obvious when your nonprofit is making a charitable solicitation—you’ll be asking for money and a charity or charitable purpose will somehow be involved. For example, a nonprofit would have to register if it had a booth at a shopping center manned by volunteers asking for donations to help Haitian refugees. But registration would not be required if the volunteers were merely offering to register people to vote and not asking for contributions.

Charitable solicitations don’t always have to involve asking for a donation. Offering to sell a product or service that includes a representation that all or part of the money received will be devoted to a charitable organization or charitable purpose is considered a charitable solicitation and triggers the registration requirement. This includes cases where nonprofits sell merchandise or services themselves—for example, operating a nonprofit thrift shop. It also includes “commercial coventuring” or “cause marketing” where a nonprofit

teams up with a for-profit business to market an image, product, or service with the promise that part of the proceeds will go to the nonprofit.



### CAUTION

**Do you have a “Donate Now” button on your website?** Using the Internet and email to solicit contributions from a state’s residents can trigger registration requirements—it depends on the circumstances and the state’s rules. See Chapter 4 for more information on Internet Fundraising.

## Who Is Exempt From Registration?

All states exempt certain types of nonprofits from their registration requirements. In some cases, this is because they are already heavily regulated by other state agencies—nonprofit hospitals and educational institutions for example. In the case of religious institutions, states don’t want to interfere with the free exercise of religion. In the case of very small nonprofits, it’s because they are relatively harmless and it’s not worth the trouble.

If your nonprofit is fortunate enough to fall into one of the exempt categories, your registration burden will be greatly lessened or even eliminated. Unfortunately, determining whether your nonprofit is exempt can be difficult. The list of exempt nonprofits varies from state to state. Thus, a nonprofit that receives contributions under \$25,000 may be exempt in some states but not others. And the exempt categories are often defined differently in one state but not another. This means that you will have to look at the laws of each state to see if an exemption applies to your nonprofit.

In some states, exemptions are not automatic—a nonprofit must have its exemption confirmed by the state charity office. This involves filing an application and providing proof that your nonprofit qualifies for the exemption. This requirement is not always strictly enforced, but it is still the law. Some states also require nonprofits that are exempt to pay a fee. Be aware that even if your organization is exempt from registering with a state, the other portions of the state’s charitable solicitation laws usually still apply. Thus, for example, it’s still illegal to engage in fraud or misrepresentations when soliciting donations.

## Legal Definition of Charitable Solicitation

Most states have patterned their charitable solicitation laws on a model law developed by the National Association of Attorneys General in 1986. This model law defines solicitation as follows:

“Solicit” and “solicitation” mean the request directly or indirectly for money, credit, property, financial assistance, or other thing of any kind or value on the plea or representation that such money, credit, property, financial assistance, or other thing of any kind or value, or any portion thereof, will be used for a charitable purpose or benefit a charitable organization. Without limiting the scope of the foregoing, these words shall include the following methods of requesting or securing such money, credit, property, financial assistance, or other thing of value:

- (1) Any oral or written request;
- (2) The making of any announcement to the press, over the radio or television, or by telephone or telegraph concerning an appeal or campaign by or for any charitable organization or purpose;
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication which directly or by implication seeks to obtain public support;
- (4) The sale of, offer, or attempt to sell, any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose, or where the name of any charitable organization is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with any such sale, any statement is made that the whole or any part of the proceeds from any such sale will be used for any charitable purpose or benefit any charitable organization.

A solicitation shall be deemed to have taken place whether or not the person making the same receives any contribution.

**TIP**

**Ask for help.** If you're not sure whether your nonprofit qualifies for an exemption in a particular state, you may ask the state charity agency to confirm that your organization is exempt. Even if you are sure you're exempt, you may wish to have some form of official recognition of your exemption from the state. Most states will provide this. It may involve filing an optional exemption application along with proof showing why your nonprofit is exempt. For example, in New York, nonprofits may file Schedule E, *Request for Registration Exemption*, with the state Charities Bureau whose staff will determine whether New York Law requires registration and, if not, send a letter saying so. In other states, you'll need to submit a letter explaining why you think your nonprofit is exempt and proof that you qualify for the exemption. For example, if your nonprofit is a religious corporation, you should submit a copy of your articles of incorporation. If you're exempt because you are a small nonprofit, provide a copy of recent financial statements.

### Exempt Nonprofits May Still Want to Register

Even if your nonprofit is exempt from registering in a state, it may register anyway. Many otherwise exempt nonprofits go ahead and register because they feel it helps reassure donors that they are a reputable charity with nothing to hide. Also, being listed in a state's registered charity database may prove useful.

Common exemptions from registration include:

**Small nonprofits.** Many states exempt nonprofits that have annual gross revenues of less than a specified amount. The amount varies from as high as \$50,000 to as low as \$5,000, although the most common threshold amount is \$25,000. In most states, your nonprofit cannot qualify for this small nonprofit exemption if you use professional fundraisers. That is, all your fundraising must be done by unpaid volunteers. However, the rules vary on this as well. In some states, you can use salaried staff to do some fundraising whereas this would disqualify you from the exemption in

other states. In addition, in some states, only nonprofits that are totally unpaid volunteer organizations can qualify for the exemption.

It is important to take note of how the annual ceiling is calculated by the state in question. In most states, it works like this:

- the ceiling applies to the total annual contributions your nonprofit receives from residents of all states, not just the state in question
- you need not count government grants or contracts toward the ceiling, and
- bona fide membership dues, fees, and similar payments don't count because they aren't charitable contributions.

However, not all states follow this pattern. Again, you'll have to check each state's particular rules.

If your contributions go over the state's annual limit during the year, you'll need to register with the state—usually within 30 days.

A few states also exempt nonprofits that receive contributions from less than a specified number of state residents. For example, Michigan exempts nonprofits that receive contributions from ten or fewer people during the year.

Keep in mind that a number of states have no exemption for small nonprofits.

Thus, for example, no matter how small your nonprofit is, it will have to register to solicit donations in those states, unless it is exempt on some other basis.

**Religious organizations.** All states exempt tax-exempt religious organizations from their registration requirements. In some states, the charitable solicitations laws don't apply at all to religious organizations.

However, what constitutes a “religious organization” for these purposes varies from state to state. In some states, only churches, synagogues, mosques, and other houses of worship qualify for the religious exemption. In other states, the religious exemption is much more broadly construed to apply to other types of religious organizations as well—for example, charities operated by religious groups. Also, in some states, the exemption is not applicable if the religious organization is required to file a Form 990 with the IRS.

**National organizations with chapters or affiliates.** If a nonprofit is a national or regional 501(c)(3) organization with unincorporated chapters or affiliates in multiple states, the individual chapters may not need to register if they are covered by the national organization's group registration with the IRS. The parent organization must file a consolidated Form 990 for its subordinate organizations. In some states, however, group registration is available only when the parent nonprofit has its principal office in the state. Of course, the parent organization must register in all states where there are chapters and where money is raised.

**Hospitals.** Some states exempt nonprofit hospitals and other types of health organizations from registration. However, the list of health-related organizations that are exempt varies from state to state.

**Educational institutions.** Most (but not all) states exempt educational institutions. The definition of "educational institution" differs from state to state, but most states exempt any type of accredited educational institution. Additionally, many states exempt foundations and support groups established by exempt educational foundations. In some states, this exemption is limited to cases where the institution only solicits funds from its students and alumni, faculty, trustees, and their families.

**Membership nonprofits.** Some states exempt nonprofits that solicit funds only from their members. These may include fraternal, patriotic, social, or alumni organizations.

**Political groups.** Some states exempt political parties, candidates for federal or state office, and political action committees that are required to file financial information with federal or state elections commissions.

**Appeals for a specific person.** Some states exempt charitable appeals made on behalf of a specific person, provided that the fundraising is conducted by unpaid volunteers. Most states require that all the money collected be handed over to the person, but a few permit some deductions for expenses.

**EXAMPLE:** When a police officer in Boulder, Colorado, is killed in the line of duty, several residents of the town establish a fund in his name to collect money for his wife and children. They solicit donations door-to-door and during television interviews. These individuals are exempted from having to register under Colorado's charitable solicitations law.



**Other exemptions.** Depending on the state, various other types of organizations may be exempt—for example, nonprofit libraries, museums, historical societies, veterans groups, labor unions, trade associations, nonprofit credit-counseling agencies, volunteer firefighters, ambulance associations, rescue squad associations, and senior citizen centers. Some states even exempt certain named organizations such as the Red Cross, Boy Scouts, Girl Scouts, YMCA, and Junior League.

## Why Register?

If your nonprofit solicits charitable contributions in a state that requires registration, and is not exempt there, it is supposed to register. If you don't, you risk unwanted attention and scrutiny from the IRS and states, and potential problems with donors.

## It's the Law

If you don't register (or timely renew your registration) in a state where you are required to, you are breaking that state's law and you could be subject to fines and other penalties. These fines can be substantial, often in the thousands of dollars. In addition, the state may order your nonprofit to cease soliciting donations within the state until you have registered there.

There are a number of different ways that a state can find out that a nonprofit is not registered. A vast amount of information is readily available to state regulators through the Form 990 and 990-EZ that nonprofits are required to file, including information about what states they should be registered in. An inquiry about a nonprofit from a member of the public or someone seeking to file a complaint could also tip off state regulators about a nonprofit that isn't properly registered. And, a state could always decide to proactively determine which in-state or out-of-state nonprofits are soliciting within its borders without having properly registered.

## Funders, Donors, and Auditors May Ask

Foundations, government agencies, and other sophisticated funders know about state registration requirements. Any of them may ask you whether you have properly registered in the states where you are raising funds and may even want proof of it. Not complying with state registration laws may make your nonprofit look like an amateurish operation that doesn't deserve funding.

It also won't look good for less sophisticated donors if it gets out publicly that your organization has broken the law by failing to comply with state registration laws. Some states are posting the names of nonprofits that fail to register on the Internet.

Most donors are looking for organizations that they can trust—after all, they are turning over their money to you. Being a law-abiding citizen seems like a minimum threshold that most people would expect from a nonprofit that is asking them for their money and support.

Finally, financial auditors also are becoming increasingly aware of state registration requirements. They may require that your nonprofit register or mention that it has not done so in their audit reports.

## Professional Fundraisers May Require It

Professional fundraisers may refuse to work with your nonprofit unless it is properly registered in every state where you solicit donations. In most states it is illegal for a professional fundraiser to work on behalf of an unregistered charity, unless it is exempt from registration. (The opposite is also true—it is illegal for charities to hire unregistered professional fundraisers.)



### CAUTION

**Your board members can be held personally liable.** Unlike many other debts and liabilities of a nonprofit, if your organization is fined for failure to register with a state, your board of directors can be held personally liable for those fines. Many state solicitation laws provide that a nonprofit cannot reimburse its directors, officers, or employees for such fines. Don't put yourself in

the position of having your board members personally responsible for fines that you can avoid by registering.

## It's a Fundraising Tool

If failing to register looks bad, complying with your registration responsibilities looks good. Your nonprofit may never state or imply that registering with a state means that that state endorses your organization. However, many nonprofits list on their websites all the states in which they have registered. This helps show potential donors that your nonprofit is a responsible organization that operates in multiple states.

## Charitable Contributions May Be Jeopardized

Legally speaking, your nonprofit does not have the right to solicit contributions in any of the states that require registration until it has, in fact, registered. Any contribution you solicited and received while you were not registered is in legal jeopardy. If a court determines that your nonprofit failed to register, it can order that it make restitution—that is, give back any of the contributions it received during that time. If a donor—or, perhaps the heir of a donor who made a large gift by will—discovers that you failed to register, that person could bring a court action to get back or set aside the gift. This has actually happened.

## When Should You Register?

A nonprofit is legally required to register with a state *before* it solicits contributions there. Remember, the registration requirement is triggered by asking for donations; it is not necessary that your nonprofit actually receives a donation. (The only exception is California where you have 30 days from your first solicitation to register.) Ideally, you should start the registration process at least two or three months before your nonprofit starts to solicit donations in a state. You want to be sure to finish all your state registrations before your nonprofit has to file its Form 990 or

990-EZ with the IRS. These forms must be filed within 4½ months after the close of your nonprofit's fiscal year. If your nonprofit uses the calendar year, that means your fiscal year ends on December 31st and your 990 forms are due by May 15th of the following year.

## If You're Out of Compliance

What if your nonprofit has already solicited donations in one or more states where it should have registered but failed to do so? You should go ahead and register where you need to. Depending on the state, your nonprofit may have to pay a fine. The size of the fine usually depends on how long you've been soliciting in the state and how much you've collected from state residents. In New York, for example, the fine is up to six years of registration fees that should have been paid in prior years. So the sooner you register the better.

However, many states want to encourage nonprofits that are not in compliance to register. Thus, if your nonprofit acts in good faith and quickly registers after discovering registration is required, the state charity office may decide not to fine you or only impose a minimum fine. Some states even establish periodic amnesties in which all nonprofits are allowed to register late without having to pay a fine. In all cases, don't wait to register until your nonprofit gets caught by a state charity agency. You'll always be better off if you register voluntarily before you get caught, even if you should have registered years earlier.

## Newly Formed Nonprofits

If you're in the process of forming your nonprofit, don't wait until you receive your IRS determination letter to register. This can take some time to arrive. Instead, you should register in all states where you intend to solicit contributions and are not exempt right after you file your IRS Form 1023, Form 1023-EZ, or Form 1024. Most states will require you to submit a copy of the filed form with your application. Then, when you get your IRS determination letter recognizing your tax-exempt status, send a copy to the state charity registration agency.

## Where Must You Register?

Small nonprofits that only fundraise locally may only be required to register in one state (typically their home state). Larger nonprofits that fundraise on a national basis may have to register in many states—often in every state that requires registration.

### State of Domicile

Unless your nonprofit is exempt or located in one of the few states that doesn't require registration, you'll always need to register in your home state (also called the state of domicile). This is the state where your principal office is located. This should be the very first state you register in, and you should do so as soon as you can. As stated above, if your nonprofit is new, you need not wait until you receive your determination letter from the IRS—do it when you file your IRS Form 1023, Form 1023-EZ, or Form 1024.

### Any State Where You Fundraise

Your nonprofit will also have to register in any state with charitable solicitations laws if it solicits contributions there or intends to do so. This is true whether or not your nonprofit has a physical presence in the state, such as an office or volunteers working there. It doesn't matter whether your nonprofit solicits the donations itself, or you have volunteers, professional fundraisers, or others do so on your behalf—provided they do it with your knowledge and permission. Either way, your nonprofit will have to register before any solicitations are made.

Charitable solicitations don't need to be made in person—they can be made in writing or through other media forms that don't involve physical presence or contact. Examples of the type of contacts that would trigger a registration requirement include:

- direct postal mail to addresses within the state—for example, sending state residents fundraising letters, brochures, or newsletters soliciting donations

- telephoning people located in the state
- purchasing advertising in any newspaper or other publication that circulates in the state, or on any TV station or radio station that airs in the state
- advertising in national media, whether on radio, television, magazines, or other means that reaches state residents
- holding or publicizing fundraising events that occur in the state, such as dinners, dances, parties, raffles, auctions, concerts, walk-a-thons, or golf tournaments
- door-to-door solicitations or other person-to-person contacts in the state, or
- placing donation boxes in the state.

Using the Internet and email to solicit contributions from a state's residents may also require registration in that state, but not always.

### Is Applying for a Grant a Charitable Solicitation?

In almost all states, applying for a grant from a corporation, foundation, or other nongovernmental source, is a charitable solicitation. Your nonprofit should be registered before applying for such a grant. Applying for the grant triggers the registration requirement. You don't have to actually obtain the grant.

The laws differ in many states when it comes to applying for grants from the government—whether a federal, state, or local agency. In some states, requesting a government grant or contract is not considered to be a charitable solicitation. Among the places that do not exclude applications for government grants is the District of Columbia. Thus, a nonprofit that applies for a federal grant in Washington, DC, would have to register there to be in full compliance with the District's charitable solicitation law, unless the nonprofit is otherwise exempt.

In some states, requesting a grant from a tax-exempt nonprofit, including a family or community foundation, is not considered to be a charitable solicitation.

## How Do You Register?

There is no single national registration application that works in every state. Instead, your nonprofit must individually register with each state where it is required to do so, following that state's particular requirements. These requirements differ from state to state—sometimes dramatically—so the more states you fundraise in, the more work you will have. Even the name for registration varies depending on what state you're in—in some states, it's called a registration statement; in others, it's called a license, solicitation permit, or certificate.

Registration usually consists of two parts: an initial registration application and an annual renewal or financial reporting requirement.

### The Initial Registration

All states with solicitation laws require nonprofits that want to fundraise in their state to file an application with a state agency. Usually, you will need to file the application with the state attorney general's office or the secretary of state's office. This initial registration application asks for organizational and financial information about your nonprofit. The application must be signed under penalty of perjury by a principal officer of the nonprofit, such as the president or chief financial officer. Many states require two signatures. The registration is a public record, and in most states is made freely available to the public from a state-run website.

In most states, you will have a choice as to whether to use the multistate application form or the state's own application form.

**The multistate form (URS).** The National Association of State Charity Officials (“NASCO”) created a multistate registration form, called the Unified Registration Statement (“URS”). Although a lot of states accept the URS, many of those states require that you also file supplemental state forms with your URS.

**The individual state forms.** Almost all states with registration requirements have their own application form that is different from the URS. Your nonprofit can always choose to use a state's individual registration form instead of filing the URS. While it may seem like it would be

easier to use a single multistate form if you are registering in multiple states, the state forms are often shorter and simpler than the URS. So even if you are registering in more than one state, it may be easier to use the individual state forms.

**Contents of application.** The information required on the application varies depending on whether you use the URS or a state form, and whether a state that accepts the URS requires supplemental information. Typically, you'll have to provide the following information:

- contact information for the nonprofit
- the organization's legal status—corporation, trust, or unincorporated entity
- names and addresses of the nonprofit's officers and directors
- whether the nonprofit is tax exempt and the purpose for which it was formed
- the purpose or purposes for which the contributions to be solicited will be used
- how donations will be solicited—for example, whether a professional fundraiser will be used
- figures on fundraising costs
- a financial report for the prior fiscal year, if any
- whether the nonprofit has registered in other states and if so, which ones
- the names of the individuals who will be responsible for taking custody of the contributions and distributing them, and
- disclosure of any injunction, judgment, or administrative orders against the nonprofit because of its fundraising practices.

In addition, almost all states require nonprofits to submit copies of their articles of incorporation, bylaws, IRS determination letter, and most recently filed Form 990 or 990-EZ. Many require copies of fundraising contracts as well.

**Application fee.** Most states charge a registration fee, which varies from state to state. Some states charge on a sliding scale, based on the size of the nonprofit. The fees range from as little as \$10 to as high as \$425 or more.



## Renewal Registration

The initial registration is only the beginning of the state compliance process. In all but a handful of states, your registration will expire after a specified time. The expiration date varies from state to state. Typically, it is either one year after the registration is issued, at the close of the calendar or fiscal year, or a designated number of months thereafter. So you will need to periodically renew your registration within a certain time period before the existing registration expires.

Most states charge a fee for the renewal, which is often the same as the initial registration fee. If your renewal is filed late, you may be charged a late fee. The penalties can be harsh. In California, for example, failure to file a timely renewal can result in loss of your nonprofit's state tax-exempt status and an \$800 or more tax penalty, plus interest and late fees. Moreover, the nonprofit's directors, trustees, officers, and return preparers are personally liable for these fees and penalties. This means you cannot use charitable assets to pay them, they must be paid out of pocket.

**How to renew.** To renew, you'll need to complete a renewal application. Quite a few states accept the URS for renewals or annual reporting requirements. You'll also need to include copies of any changes to the documents you filed with your initial registration, such as amendments to your articles of incorporation or new contracts with fundraisers.

**Filing deadlines.** The filing deadline for renewals varies from state to state. Thus, if your nonprofit is registered in multiple states, you'll have to keep track of several different deadlines. Some states time their due dates for the renewal financial report to coincide with the deadline for filing Form 990 or 990-EZ with the IRS—4½ months after the end of your nonprofit's fiscal year. If your nonprofit uses the calendar year, this means it is due by May 15th. Almost all states will allow your nonprofit to obtain an extension of time to file the renewal. The procedure to do so differs from state to state. In several states, you must first file IRS Form 8868, *Application for Extension of Time to File an Exempt Organization Return*, to obtain an extension. In others, you'll have to fill out an extension request form; in some states, you can do it online.

## List of Donors on IRS Schedule B

When your nonprofit files IRS Form 990 or 990-EZ with the IRS it must include Schedule B, Schedule of Contributors, if it received contributions totaling \$5,000 or more (in money or property) from any one contributor. The names, addresses, and total contributions of such \$5,000+ contributors must be listed in the form. The IRS keeps the information on Schedule B (and all other tax forms) confidential—it is not available to the public or other government agencies. Your nonprofit can (and should) delete (redact) these names and addresses from any copies of Schedule B you post on the Internet or make available for public inspection and copying.

Some states require that Form 990 (or 990-EZ) and Schedule B be filed as part of the annual financial reporting process required of nonprofits that have registered with the state because they raise funds there. All states but two currently allow nonprofits that file Schedule B to redact the donors' names and addresses. However, two states—California and New York—require that unredacted Schedules B be filed. Failure to file an unredacted Schedule B can result in penalties, fees, and the state's refusal to approve or renew your registration.

California and New York do not make the unredacted Schedule Bs available to the public—they are purely for internal use. The California Attorney General says it uses the Schedule B donor information to help it determine whether a charity is actually engaged in a charitable purpose, or is instead engaging in self-dealing, improper loans, or other unfair business practices.

However, some nonprofits and donors fear that there is no guarantee that these states' disclosure policies will not change in the future. Moreover, it is unclear if the donor information, once in the possession of a state's Attorney General, would be subject to a request for disclosure under that state's public records act. At least two court challenges to the California and New York filing requirements have been brought. California's requirement has been recently upheld by the courts. As a result, it's possible that even more states may require that unredacted Schedule Bs be filed.

## Annual Financial Reporting

All states also require registered nonprofits to submit an annual financial report. However, in a few states very small nonprofits are exempted from this requirement.

Technically, under most state solicitation laws, annual financial reporting is separate from initial registration and renewal registration. However, in most states, the renewal and annual financial report are combined—that is, both are filed together at the same time—and the same deadline applies to each.

**Contents of report.** In most states, you can satisfy the annual financial reporting requirement by simply providing a copy of your organization's completed and filed IRS Form 990 or 990-EZ for the prior year. You submit it along with your renewal application. However, a few states won't accept the 990 Form and require that you restate the financial information on their state forms. In Colorado, for example, you must complete an online state form.

**Audited financial statements.** In most states, larger nonprofits (in terms of annual income) must prepare and submit annual financial statements audited by an independent certified public accountant (CPA). This requirement varies from state to state.

**Filing deadlines.** In almost all states, the deadline for filing the annual financial report is the same as the deadline for filing the renewal registration.

## Formulating a Registration Plan

Registration is time consuming and expensive and requires some careful planning. Obviously, because registration can be burdensome and expensive, you'll want to register in as few states as legally required. There are a number of strategies you can use to reduce the number of states where your nonprofit must register.

### Are You Exempt?

Your nonprofit could be exempt from registration in all or most states where it would otherwise be required to register. For example, if your nonprofit's annual revenue is less than \$25,000, it will be exempt in a lot

of states. Churches and other religious organizations are exempt in all states. Educational institutions are exempt in most (but not all) states.

## Register in Your Home State

Your nonprofit should always register in your home state, unless you are exempt or the state does not require registration. If your nonprofit is locally based, this might be the only state in which you have to register.

## Register Where You Solicit

You must register in any state with registration requirements where you solicit funds from residents of that state and are not exempt from registration. This includes any state where your nonprofit hires professional fundraisers. Some states do not have charitable solicitation laws and do not require nonprofits that engage in fundraising activities in their state to register there. For any state with charitable solicitation laws, though, you will need to determine whether your activity triggers registration requirements in that state. In most states, this will mean that your nonprofit is engaged in some type of charitable solicitation with residents of that state, whether it's through email or phone calls or a fundraising mailer. In some states, however, simply having a “donate now” button on your website, with no other solicitation activity in that state, can mean you are required to register there.

If you don't want to register in a state where you would otherwise be required to register then you must not solicit contributions from residents of that state.

This means you must not ask for donations from those state residents in writing, in person, or through the media (including the Internet). Moreover, you must not hire fundraisers to solicit on your behalf in the state. This can require a good deal of care and discipline. For example, if your nonprofit has a newsletter distributed by postal mail or email that contains an appeal for contributions, you have to make sure you don't send it to residents of states in which you do not want to register.

If, like most nonprofits, your nonprofit has an interactive website—that is, a website that contains a “donate now” button or other means of accepting online donations—you should place a disclaimer on it making

it clear that you do not accept donations from residents of the state or states in which you do not want to register.

Here’s an example of a disclaimer used by one charity on its website:

The following states have been identified as “no donations” states:

|          |                |                |
|----------|----------------|----------------|
| DC       | Maine          | North Dakota   |
| Florida  | Michigan       | Pennsylvania   |
| Georgia  | Mississippi    | Rhode Island   |
| Illinois | New York       | South Carolina |
| Kentucky | North Carolina | Tennessee      |

Donations from “no donations” states will be refused.

If your nonprofit accepts online donations, you should consider using donation software that permits you to block donations from residents of the states you select. This software can even eliminate selected states from the pull-down menus donors must use to make their contributions. Such software is available from [Blackbaud](#), [Click and Pledge](#), [Donor Perfect](#), and other vendors. You can find reviews of many donor management software packages at [techsoup.org](#).

Instead of accepting online donations through your own website, you could do so through a website operated by a donor-advised fund such as [Network for Good](#), or [justgive.org](#). Donations received through these sites may not give rise to a duty to register for your nonprofit.

## “Donate Now” Buttons and Internet Fundraising

Most states follow the rule that a nonprofit with a “donate now” button on its website (or other means of accepting online donations) does not need to register in that state, unless the nonprofit also directly solicits donations from people who live there. This means, for example, that in addition to having a “donate now” button on its website, the nonprofit also solicits donations from residents of that state by email or postal mail or some other means. However, not all states follow these rules (known as the Charleston Principles). In some states, simply having a

“donate now” button on your nonprofit’s website triggers registration requirements in that state. As a result, nonprofits with “donate now” buttons should either consider registering in those states or, alternatively, they could include a disclaimer on their website explicitly stating that they don’t accept donations from residents of those states.

The states where a “donate now” button, in and of itself, could trigger registration requirements include Alabama, the District of Columbia, Florida, Georgia, Illinois, Kansas, Louisiana, Maine, Nevada, New York, North Dakota, Ohio, Oklahoma, Rhode Island, and Utah. Some states (like Florida) have been more aggressive about enforcing the registration rules related to “donate now” buttons. To avoid problems, you could register in all of the larger states that follow this rule or those where you think you might get donations from residents. Then you could refuse to accept donations from residents of the smaller states or those where you think you won’t have enough of a donor base to make it worthwhile to register there. Of course, it’s up to you to make a judgment call based on the location and nature of your nonprofit and its donor base. See “Register Where You Solicit,” above, for strategies on how to block online donations from residents of certain states. For more on Internet fundraising, see Chapter 4.

## **Keep Track of Renewal and Financial Reporting Dates**

Your registration is only good if it’s current. All states require that registered nonprofits file annual financial statements, and most require that registrations be renewed, usually annually. Failure to timely renew and/or file the financial report will usually result in your registration no longer being considered legally valid by the state. If your nonprofit continues to fundraise despite its lapsed registration, it could be fined by the state or the state could even order it to stop fundraising until it renews its registration.

Unfortunately, the time to renew a state fundraising registration and/or file the financial report varies from state to state. Be sure to calendar all the dates when renewal registrations must be filed in the states where your nonprofit has registered. Most of these deadlines can be extended by asking for permission from the state agency involved.

## Minimizing Your Registration Requirements

Unless you receive at least \$250 in donations each year from a state's residents, it makes no sense to register there because the cost of registration will exceed the value of the donations your nonprofit receives from the state. Nevertheless, if you're not careful, your nonprofit will be legally required to do so anyway, and become subject to fines and penalties if you don't. Indeed, you may be legally required to register in states where you don't receive contributions from any residents at all. Remember, it's asking for contributions, not receiving them, that triggers the registration requirement.

### Where Is It Worthwhile to Register?

If your nonprofit has been in operation for a while, carefully examine your fundraising history to examine which states the bulk of your contributions come from. If, like most nonprofits, your nonprofit is a local or regional organization that only receives donations from residents of one or a small handful of states, it may only make sense to register in those few states. On the other hand, you may want to register in many states if your nonprofit actively fundraises nationally by sending email or other fundraising materials to residents of all or many states.

Almost half the population of the United States resides in just ten states that require registration: California, New York, Florida, Illinois, Pennsylvania, Ohio, Michigan, Georgia, North Carolina, and New Jersey. You might conclude that it's only worthwhile to register in these larger states. Your choice about which states to register in does not have to be permanent. You always have the option of deregistering—that is, withdrawing your registration with the state charity agency. You may wish to do this if the renewal fees and other costs of renewing your registration exceed the annual donations you receive from a state. Most states will require you to complete a final annual financial report for the last year you solicited contributions in the state before permitting your nonprofit to withdraw its registration. Of course, after you do this, you may no longer solicit any contributions from residents of the state.