Regulation of Charitable Solicitations in the United States of America

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This paper examines the characteristics and evolution of regulation of charitable solicitations in the United States. Before examining how the regulatory environment for charitable solicitations developed, a sense of the numerous actors and their varying degrees of official standing is helpful. The first section introduces the actors and the roles they play, with particular emphasis on state charities officials. The second part provides a history of how approaches to regulation have evolved since the 1890s. The relative importance of the various stakeholders in this work has changed in more than a century, of course, and some elements of the present landscape – notably, the part played by governments – became active more recently.

The principal actors affecting official, semi-official, and private regulation today are:

- **State government agencies.** Many, but not all, states and similar jurisdictions have enacted charitable solicitations statutes that vest authority in the Attorney General, the Secretary of State, or some combination of officials, to oversee charitable solicitations and provide information to the public on related topics. These officials participate in an association affiliated with the National Association of Attorneys General and known as the National Association of State Charities Officials.

- **Local government agencies.** To a lesser extent, but still commonly, especially among larger cities, there are local solicitations rules (that may also apply to door-to-door selling and other forms of commerce).

- **The Federal Trade Commission** has jurisdiction over deceptive trade practices and has taken an active role in pursuing fraudulent solicitations, especially those by commercial entities that extend across state lines.

- The (federal) **Internal Revenue Service** collects detailed financial information from tax-exempt charitable organizations. This information is disclosed to the public through online publication and by mandatory public access to the annual filings.
  - It is also true that taxpayers may be eligible to reduce their tax payments by a deduction from income that reflects charitable donations to organizations that have been “recognized” by the IRS as qualifying for such treatment. This status (referred to by reference to the relevant Internal Revenue Code section – “501(c)(3)”) may be

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1 I have been helped in the preparation of this paper, and in thinking about these topics, by Wilson (“Bill”) Levis, Robert S. Tigner, Steven Rathgeb Smith, Bill Huddleston, Evelyn Brody, Dave Horn, Carolyn Hojaboom, Lucy Grace Barber, Valerie Lynch and others. Any errors or omissions that remain are, of course, completely of my own making.
interpreted by some donors as providing reassurance about the bona fides of an organization.

- **Accounting standards bodies.** Two nongovernmental organizations influence fundraising behavior by regulating financial reporting. The Financial Accounting Standards Board sets standards for reporting financial information for both for-profit and nonprofit organizations. These standards are incorporated into audit and accounting guides promulgated by the American Institute of Certified Public Accountants and hence shape the presentation of fund-raising activities in audited (and other) financial statements and in governmentally required disclosure documents.

- **National organizations.** Many nonprofits, especially those with local chapters or affiliates require adherence to standards for administration and operations (including fundraising).

- **“Watchdogs.”** Several nonprofit organizations monitor charitable entities’ finances and issue public reports which highlight costs of fundraising among other factors more or less closely linked to the interests of prospective donors. Some of these organizations offer a “badge” that certifies compliance with standards that may include requirements affecting the conduct or reporting of fundraising activities. Others will not accept as “members” individuals or organizations that do not execute a pledge that sets standards affecting their fundraising or related activities.

- **Federated and combined fundraising groups.** Fundraising organizations, such as the United Way or the Combined Federal Campaign (often operating in cooperation with employers) accumulate large numbers of relatively small gifts and distribute the proceeds to community-service and other charitable groups. Some of these limit the portion of the grant recipients’ expenditures that can go toward fundraising (and other administrative expenses); others require disclosure of those ratios by participating recipients in the informative materials they distribute to prospective contributors.

A nonprofit organization operating in one community and supported by an active cadre of well-informed local donors might be forgiven for finding this array of requirements and overseers a bit daunting.² Many organizations, though, depend on communicating with widely scattered current and prospective donors for a significant portion of their support. Such organizations often find it convenient to secure specialized assistance in order to be confident that their operations and reporting are compliant with all relevant regulations and that they are presenting their operations both accurately and reassuringly in the various channels of communication that may influence donors’ decisions.³

**Theories of Regulation**

The foundations for the United States regulatory landscape divide into three broad areas: Protection of charitable assets; Consumer (or donor) protection; and Tax policy.

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² Attorney Bruce Hopkins puts it more forcefully: “One has to wonder how the philanthropic world manages to do what it does while laboring under the burden of these [charitable solicitations] laws.” Hopkins (1997) p. 212.
³ Consultants, often referred to as “fundraising counsel”, advise on the design and conduct of campaigns. There are also firms that undertake to maintain compliance with state and local regulators on behalf of organizations that fundraise broadly; some of these firms are listed in Appendix 1 on page 31.
Protection of charitable assets is the most venerable. Generally, these principles are an extension of trust law. Although many enabling statutes for the formation and operation of nonprofit corporations include brief recitals of the duties of nonprofits’ fiduciaries, these matters are most commonly addressed in common, not statutory, law and have only sporadic effects on fundraising practices.\(^4\)

The influence of trust doctrines can be seen, for example, in the decision of the American Red Cross to accede to widespread calls to “honor donor intent” in the handling of the unprecedented surge of small unsolicited donations received after the attacks of September 11, 2001. If it had continued with its announced plan of reserving some of these funds for use in responding to subsequent disasters it would have experienced an even more damaging erosion of its reputation and perhaps faced the necessity of defending against lawsuits based on the theory that the organization’s fiduciary duty to donors had been breached by misuse of the funds received.\(^5\)

Protections for donors have been the subject, since early in the 20th century, of attempts to limit “excessive” expenditures on fundraising campaigns and prevent outright fraud. From the 1890s, private-sector (nonprofit) organizations have monitored and reported on the activities of fund-seeking groups. More recently, governmental oversight has assumed a major role. “Popular philanthropy” — the technique of raising significant sums of money for charitable activities through large numbers of small gifts — is based on emotional appeals, sophisticated management, and techniques of large-scale communication.\(^6\) Even when scrupulously conducted, fundraising of this sort can lead to concerns by donors and observers about the cost of the campaign versus the needs of the intended beneficiaries. Sadly, of course, not every such fundraising project has been scrupulously conducted, and some have been conspicuous and outrageous frauds. The protection of donors’ interests as a form of “consumer protection” in statutes that regulate charitable solicitations will be the focus of much of this paper.\(^7\)

With the adoption of federal corporate and personal income taxes during the first half of the 20\(^{th}\) century, Congressional action was needed to address such questions as how to distinguish “charitable” corporations from others and about the tax consequences of making “charitable” donations. Though the federal tax code does not directly concern itself with the regulation of charitable solicitations, it does set requirements for recognition of organizations as “tax-exempt” and as eligible to confer deductibility on donations. Most importantly, the distinction between a “private foundation” — subject to the most stringent federal requirements — and the less demanding status of “public charity” hinges on the degree of concentration among supporters. For many organizations, maintaining the more favorable status requires broad public support through donations or earned income. The Internal Revenue Service (IRS) includes a “public support test”

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\(^4\) The law governing the creation, operation and dissolution of nonprofit organizations (including, generally, those that may be eligible to be recognized as tax-exempt by the federal government) is found in state, not federal, statutes.

\(^5\) There were several reports of significant declines in confidence in the Red Cross and in nonprofits in general following these controversies. See for example Licht (2003).

\(^6\) The title of chapter 6 of Cutlip (1965) is “The 1920’s: Exit Charity, Enter Popular Philanthropy”.

\(^7\) Steinberg (1997) describes a broader range of interests that might be protected by regulation of charitable solicitations, including preventing wasteful campaigns from reducing funds available to more worthy causes and avoiding erosion of general public confidence in nonprofits and their work.
applied to the organization’s finances in its required information return (Form 990). The test requires larger exempt organizations to document broad public support annually. In the final analysis, the federal tax code results in many influences, both overt and subtle, on the conduct of organizations that hope to receive contributions, on the activities of advisors and regulators who attend to their operations, and on the decisions of donors – prospective and committed – as well.

These three frameworks – loosely, trust law, donor protection, and tax – intersect, of course, in their effects on charitable solicitations. Further, these frameworks and their intersections are reflected in much of the related work by the less directly engaged actors listed at the start of this paper. The confluence of these legal and policy perspectives is also reflected in the charitable solicitations acts adopted and amended by state legislatures over the years since New York enacted the first in the 1950s.

From the point of view of an organization that seeks support from the public today, the protections for donors and other provisions in state charitable solicitations laws have the most immediate impact. It is true that not all states have adopted any version of a charitable solicitations statute. The 40 states with regulations accounted, though, for 90% of all recorded nonprofit revenues in the year preceding April of 2010—$1.7 trillion—in contrast to $173 billion for those where no charitable solicitations regulations were on the books. Further, the standards found in states where charitable solicitations statutes are in effect have a broader reach because these states maintain, with varying degrees of emphasis, that a charitable solicitation directed to any resident of the state is subject to its jurisdiction and must comply with its laws.

Charitable Solicitations Acts

The 40 charitable solicitation statutes (and associated implementing regulations) have a lot in common. Many of them were strongly influenced by a series of proposals for such legislation that began in 1973 and ended with A Model Act Concerning the Solicitation of Funds for Charitable Purposes adopted by the National Association of Attorneys General (NAAG) and the National Association of State Charities Officials (NASCO) in 1986. They have all also been affected to a greater or lesser extent by a trio of decisions of the United States Supreme Court – known collectively as the “Riley trilogy” – that established a firm principle prohibiting legislating any fixed limit on the ratio of fundraising expenses to other uses of the funds raised.

Common requirements of charitable solicitations regulations

Charitable solicitations regulations generally require that specified organizations (and individuals) that engage in certain kinds of acts comply with various conditions. Importantly, these

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9 Though the District of Columbia is not a “state” in the Constitutional sense of the term, its government has enacted charitable solicitations regulations, and it is, therefore, included in the discussion of these regulations here.

10 See Table 1, on page 32. Financial data from IRS Business Master File for April 2010, courtesy of the National Center for Charitable Statistics, The Urban Institute. Used by permission.

11 Emerson (2001) p. 163. Irvin (2005) offers a detailed analysis suggesting that there is little variation along dimensions of concern when practices are compared among regulating and non-regulating states.

12 Knowles (1996) p. 11. These cases are discussed in more detail below at page 18.
classifications of the organizations and of the activities do not generally parallel other administrative classifications relevant to the work of nonprofit organizations. Corporate status, for example, is not usually critical for determining whether or not a provision of the charitable solicitations statutes governs any actions or creates any obligation to perform in a certain way.

**Charities:** The organizations in whose name funds are raised commonly operate as nonprofit corporations. Unincorporated associations and government entities, such as state universities and public school districts, may also be subject to the same or similar requirements. Entities such as these are created under the laws of a single state (or other jurisdiction) but may provide services in several, or in all. They are occasionally charitable trusts, though this is a distinct legal status.

Standing as an organized nonprofit is not, however, necessary for charitable solicitations rules to apply. It is the act of making a request for money or other assistance that includes an appeal for a “charitable purpose” that may bring an entity (unless categorically excluded) within the scope of charitable solicitations rules. The concept of such a purpose is characteristically defined very broadly; here, for example, is the language from the Washington State statute:

"Charitable purpose" means any religious, charitable, scientific, testing for public safety, literary, or educational purpose or any other purpose that is beneficial to the community, including environmental, humanitarian, patriotic, or civic purposes, the support of national or international amateur sports competition, the prevention of cruelty to children or animals, the advancement of social welfare, or the benefit of law enforcement personnel, firefighters, and other persons who protect public safety. The term "charitable" is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency.\(^{13}\)

The implication that such a broad definition would extend to individuals acting alone is reinforced by the presence in several of the statutes of a specific exemption for funds raised on behalf of a named individual who receives all of the proceeds of the campaign. This provision is intended to remove from coverage by the law of the common practice of raising money for a family struck by a catastrophic disease, the loss of their home, or a similar disaster.

**Paid solicitors:** “Charities” may raise funds on their own behalf or they may contract with one or several “solicitors” to conduct campaigns in their name.\(^{14}\)

Paid solicitors are usually, though not always, for-profit firms. Many work for multiple clients at a single time. They often focus on a limited range of clients – art museums, for example, or police or veterans’ organizations. Services may include designing campaigns; producing solicitations materials; hiring, supervising and compensating staff to make direct appeals in person, by telephone or in other ways; assembling mailings and online campaigns, including securing and

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\(^{13}\) RCW 19.09.020(3). http://apps.leg.wa.gov/Rcw/default.aspx?cite=19.09.020 (accessed 5/18/10). Readers familiar with the provisions of the Internal Revenue Code will recognize many familiar phrases but will also note that this definition is designed to cast an even wider net than its standards and the related regulations.

\(^{14}\) This role is identified by several different labels; in Washington State such entities are known as “commercial fundraisers.” (RCW 19.09.020(2).)
screening lists of addressees; receiving and processing pledges and other responses (called “caging” when money is received and processed on behalf of clients); analyzing and evaluating the results; and many other services. Solicitors are usually required by the solicitations laws to pay higher registration fees than their clients, to offer more extensive reporting, and often to post a surety bond.

**Fundraising Counsel:** These consultants (individuals or firms) assist with the design and execution of fundraising campaigns but do not interact directly with potential donors or receive and process any of the proceeds. The regulations of some states specifically exclude fundraising counsel from the provisions of the law; others specifically include them for at least some requirements.

**Commercial Co-venturer:** When retailers or other merchants promote their products or services by promising that sales of a product or service will result in a contribution to a charitable purpose, they fall within the definition of a “commercial co-venturer.” In some jurisdictions, commercial co-venturing requires compliance with charitable solicitations rules either through specific provision for such promotions or as an instance of a charitable appeal.

The list of exemptions and exclusions from all or part of the requirements of charitable solicitations statutes varies widely from state to state, as reflected in the presentation in Table 2.15 In some jurisdictions, for example, the regulations specifically exempt appeals addressed to foundations or other potential donors who have a published procedure for accepting and processing requests for financial support. In others, such requests (even if addressed to a single foundation in response to a request for proposals) require the same registration and reporting as a widely distributed direct-mail campaign.

**Registration and reporting**

To aid in the enforcement of the laws and to provide information to donors, regulations typically require filing a registration statement with a state charities official prior to engaging in any solicitation addressed to a resident of the state. The registration statements for charities and commercial fundraisers are usually different, as are the associated filing fees.16

Following registration, annual reports are usually required. For the “charities”, these reports contain information confirming the location, leadership, financial data, and other details about the organizations benefiting from solicitations; they often require the attachment of the federal Form 990 and may also require attaching the report of an external audit or other materials. For the “paid solicitors,” the reports often require aggregate financial information on the amounts raised from residents of the state and the amounts paid to (or retained by) the fundraiser for expenses and fees, as well as lists of clients and other organizational details.

The registration and reporting materials filed with the regulators are typically considered public documents in the sense that they are available to the public on request. In addition, many regulators publish online lists of the charities and commercial fundraisers that have registered, sometimes including the information presented in the registration and reporting forms. Some regulators also compile annual reports that, to a greater or lesser extent, highlight the proportion of

15 See page 34.
16 The Unified Registration Form accepted by 37 states is available online at [http://www.multistatefiling.org/](http://www.multistatefiling.org/).
funds raised that has been expended on fundraising activities or retained by commercial fundraisers.\textsuperscript{17}

Many regulators also offer telephone access, sometimes with a toll-free number, which allows members of the public to discover whether a particular organization has registered and reported as required and may pass along summary information from the registration documents to callers.

**Performance**

The charitable solicitations rules typically set standards for how any fundraising appeal may be conducted.\textsuperscript{18} Such rules generally apply to anyone engaged in any sort of appeal – both charitable organizations and paid solicitors – to residents of the state. Even organizations that are exempted or excluded from the registration and reporting requirements generally have to follow these solicitation rules.

**Exceptions**

Each state’s charitable solicitations program contains some exceptions or exemptions. A telegraphic summary of these provisions is presented in Table 2. Most commonly, churches (including synagogues, temples, mosques, etc.) may conduct fundraising without registration or reporting. (This exclusion rests in part on the strict separation of church and state required by the First Amendment to the United States Constitution.\textsuperscript{19}) Other exclusions may designate colleges and universities, hospitals, political organizations, and other categories that are regulated by other agencies. The patterns of coverage vary widely from state to state, and there is no obviously discernible pattern that would allow predicting which types of organizations will, or will not, be touched by the regulations.

Commonly, organizations that do not rise to some financial threshold are excluded as well (Washington’s limit is $25,000), especially if the organization is operated entirely by volunteers. Fund-raising “guilds” associated with hospitals and other large-scale charitable institutions often qualify for this exclusion. There are also exclusions that simplify administration, such as the provision that exempts fund-raising on behalf of a named individual who will receive the gross proceeds of the campaign.\textsuperscript{20}

In some states, organizations such as those described above are simply excluded; nothing further is required of them. Some of these states permit the filing of an informational statement that will be available to prospective donors to indicate that the absence of a particular organization from the list of participants does not indicate a failure to comply with the law. In other states, an organization’s claim that it is not among the regulated statutory categories must be documented in a form supplied to the state charities office.

There are, though, lots of other subtleties in these exclusions. A couple of examples: Sometimes the financial threshold refers to the amount of money raised within the state in question; sometimes it is the total of contributions wherever raised; sometimes it is total revenue of all types. In some states, churches and similar organizations are excluded from the population of regulated

\textsuperscript{17} See, as an example, *Pennies for Charity*, New York State Department of Law (2009).

\textsuperscript{18} For an example, see the text of these rules from the Washington state statutes at RCW 19.09.100. [http://apps.leg.wa.gov/rcw/default.aspx?cite=19.09.100](http://apps.leg.wa.gov/rcw/default.aspx?cite=19.09.100)


\textsuperscript{20} Under the federal Internal Revenue Code, gifts made in such circumstances are not deductible when making the calculation of gross income used to determine the amount of personal income tax due.
organizations entirely; in others, the registration and reporting requirements do not apply but the prohibitions on certain forms of solicitation and other limits on operations must be observed. In the former case, a fundraising advisor or contractor would also be considered beyond the reach of the regulations entirely, while in the latter, whatever regulations apply to commercial fundraisers will apply to their work even when they work for religious organizations.

As might be expected in a regulatory environment of such complexity, there exist several firms that specialize in assisting organizations with completing the required registration and reporting in each state in accord with the characteristics of the organizations (and its plans for charitable solicitations) and the intricacies of the state’s regulations. There is also an online resource – the Multi-State Filing Project – that presents the requirements of each state and offers a “unified registration statement” accepted by nearly all the states where registration is required. As yet, there is no corresponding form for the required annual reports.

Functions of the regulators

Like the requirements for registration and reporting, the characteristics of the responsible regulatory offices vary widely. In some states, a single unit of government performs the full range of activities; in some, the responsibilities are divided so that registration and reporting are the responsibility of one official while enforcement is handled by another. And, in a few states some of the functions of the regulator are delegated to a nonprofit organization. With similar wide variation in the levels of commitment, though, the state charities regulators perform four principal functions: policy development, registration and reporting, investigation and prosecution of alleged or apparent wrongdoing, and public education and information.

Non-governmental oversight of charitable solicitations

Working alongside the government regulatory agencies, there are a variety of non-governmental organizations whose activities include attention to charitable solicitations. A brief recap will provide a sense of the character and the scope of these non-state actors:

- The BBB Wise Giving Alliance is a project of the Council of Better Business Bureaus. It was formed when the National Charities Information Bureau merged with the Philanthropic Advisory Service of the Council of Better Business Bureaus (CBBB) in 2001. The Alliance offers reports based on a published list of standards about major national fundraising organizations both online and through various publications. Some member BBBs also offer reports on charities that are active in their areas. Standards 8 and 9 pertain to the uses of funds. To be evaluated favorably, non-program expenses cannot

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21 See Appendix 1 on page 31 for a representative list. Robert Tigner of the Association of Direct Response Fundraising Counsel suggests that “a reasonable (and very conservative) estimate of the staff-time and out-of-pocket cost for registering nationally is $15,000 per year.” Communication to the author, June 4, 2010. This estimate does not include the further costs incurred by the regulators in receiving and processing the registration materials received.

22 http://www.multistatefiling.org. 37 states accept the Unified Registration Statement, though some require additional documentation. The website also offers summaries of state registration and reporting requirements and other background information of use to people and organizations involved with fundraising. The Association of Direct Response Fundraising Counsel and NASCO co-sponsor the project.

23 Independent Sector (2003) inventories these organizations.
exceed 35% of total expenses and fundraising expenses cannot be more than 35% of related contributions.24

- Several state associations of nonprofits offer certification through a program called “Standards for Excellence” (originally developed by Maryland Nonprofits). In the course of the review leading to certification, a nonprofit must show that it has “On average, over a five (5) year period... revenue from fundraising and other development activities that are [sic] at least three times the amount spent on conducting them... [or] is making steady progress” toward meeting that standard, or “should be able to justify why a 3:1 ratio is not appropriate.”25

- The State of Minnesota is home to two non-governmental organizations that offer analysis of nonprofits’ operations. The Minnesota Council of Nonprofits offers Principles and Practices for Nonprofit Excellence as an aid to the leadership of nonprofits in developing policies to assure “quality, responsibility and accountability.”26 The Charities Review Council hosts the Smart Givers Network to assist donors in assessing the programs of fundseekers in the state.27

- The Evangelical Council for Financial Accountability enlists as members churches and other “missions” (its term for social service agencies operating on a basis of religious conviction) from within the evangelical community that comply with its standards. The Council reserves the right to cancel membership and withdraw permission to display its seal from any organization found to have violated its standards. It employs auditors and other investigators to conduct examinations should any of its members provoke scrutiny, and it conducts active training and reflection sessions throughout the country to assist its members in understanding and complying with the standards.28

- Charity Navigator assigns scores (stars) to charitable organizations for organizational efficiency based on a numerical analysis of financial indicators derived from review of the Form 990. Both fundraising expenses (in proportion to total functional expenses) and the ratio between proceeds and fundraising expenses are factors in the calculation, with the note that “lower is generally better.”29

The National Council of Nonprofits and the National Human Services Assembly published in 2005 a review of these and other charity “watchdogs” under the title Rating the Raters. Among its cautions about the efficacy of these efforts to rate or grade charitable nonprofit organizations, this report includes the observation that “Evaluators tend to focus on financial measures but overlook

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24 http://www.bbb.org/us/Charity-Standards/ (Accessed 5/31/10). During the recent economic downturn the Wise Giving Alliance advised charities that the limits on fund-raising ratios might be relaxed due to the unusual economic circumstances. See BBB Wise Giving Alliance (2009).


27 http://smartgivers.org/


program effectiveness” and emphasize low overhead.\textsuperscript{30} Commenting on this approach to rating charitable activities, Ira Kaminow, the founder of Just Tzedakah, posed a thought experiment: “Would you feel comfortable about donating to an organization that honestly and completely reported that it had zero administrative expenses?”\textsuperscript{31}

Efforts to limit fundraising expenditures have appeared in other non-governmental and quasi-governmental contexts as well. Federated campaigns (such as the annual workplace giving campaigns of United Way and others) have set upper limits on the percentage that may go toward fundraising in determining eligibility for funding.\textsuperscript{32} Some other funders set such limits or restrict the use of grant funds in ways that bar expenditures for fundraising and more general forms of “overhead.” Until 2006, the Combined Federal Campaign (which facilitates contributions by payroll deduction from employees of the federal government) required documentation of efforts to reduce administrative expenses from organizations where the ratio to total expenses was more than 25%.\textsuperscript{33}

While these and other similar efforts to place limits on expenses may serve to reinforce the public’s concern about the topic, it is doubtful that they are effective in assuring “efficiency” among nonprofit organizations. Some observers report various forms of anecdotal and statistical evidence of “creative bookkeeping” and other distortions of administrative behavior occurring in organizations dependent on support from funders with standards of this sort.\textsuperscript{34} “When donors reward charities that report low overhead and fundraising costs, it encourages nonprofits to understate those costs and, worse, to underspend on those activities.”\textsuperscript{35}

\section*{Evolution of the regulatory environment}

The history of charitable solicitation and its regulation helps observers to understand why this complex array of actors exists in the United States. The next sections of this paper sketch developments in the 20\textsuperscript{th} century and on into the first years of the 21\textsuperscript{st}.

\textit{The first half century}\textsuperscript{36}

In the final years of the 19th century and the early years of the 20th, new techniques of fundraising demonstrated repeatedly that significant sums of money could be raised from the general public in the United States. During the First World War (1914-1918), these new approaches became nationally significant headline news as the United War Work Fund brought together (under pressure from President Woodrow Wilson) seven voluntary (non-governmental) agencies active in

\begin{thebibliography}{9}
\bibitem{30} http://www.councilofnonprofits.org/sites/default/files/Rating-the-Raters.pdf on page 2. (Accessed 5/31/10). Meek (1974) presents a detailed review of many self-regulation and watchdog programs, including sketches of the history up to the time of writing and the then-current operations of several organizations that continue to this day.
\bibitem{31} http://www.just-tzedakah.org
\bibitem{32} There have been efforts over the years to replace such a percentage limitation (sometimes referred to as the “cost of fundraising ratio) with other measures. See, for example, the various alternative methods of measuring fundraising described in Hopkins (1980) on pp. 113-26. Steinberg (1997) suggests alternative metrics that would be more precisely aligned with various possible policy goals for solicitations regulation.
\bibitem{33} Communication to the author from Bill Huddleston. June 9, 2010.
\bibitem{34} Keating et al. (2006), esp. p. 2.
\bibitem{35} Kaminow (2006) p. 4,
\end{thebibliography}
support of the war effort. This combined effort raised over $203 million, just as the war was coming to an end, that was to be divided among them on a negotiated schedule to support their work.\(^{37}\) A rough estimate using Bureau of Labor Statistics data converts the result of that successful 1918 campaign to the equivalent of slightly more than $3.2 billion in 2011 – this from a campaign whose public phase lasted a total of 15 days, in a nation of 103 million people, at war, and experiencing an influenza pandemic!\(^{38}\)

Earlier, though, the success of “whirlwind campaigns” to raise funds for community-based organizations had already begun to attract attention – both positive and negative.\(^{39}\) These campaigns were organized meticulously; recruited the support of the community’s business leaders, government officials, and newspapers; and characteristically lasted for a week or ten days. Often a significant initial gift would kick off the campaign and daily reports of progress would be front-page news and announced by a conspicuously displayed campaign “clock.” Each success led, of course, to another campaign. By the end of the first decade of the 20th century, efforts were being made to put in place some structure that could coordinate the demands on time and resources of community leaders and other contributors as well as assure that the resulting funds were put to good use. One early effort of this sort, perhaps the first, was the creation under the auspices of the Chamber of Commerce of the “Cleveland Federation for Charity and Philanthropy” in 1913.\(^{40}\)

The World War I United War Work was a particularly visible example that combined the federated approach with a whirlwind campaign. Its goals were to secure the funds necessary to support work with American soldiers and sailors and assist refugees, to assure the public that the funds were being collected efficiently and expended properly, and to distinguish the participating organizations from the rapidly increasing number of rivals whose appeals were often highly specific and whose activities, even when well-intentioned and well-managed, were comparatively costly. Similar “war chests” were organized at a local level as well in many cities across the country.\(^{41}\)

The existence of the national and local federated campaigns did not, however, prevent the emergence of a large number of other efforts to raise funds for a wide variety of purposes. The *New York Times* reported in 1917 that there were 14,855 “war relief organizations” raising money to support their work.\(^{42}\) One response, again with roots in Cleveland, Ohio, was the creation during 1918 of the National Investigation Bureau of War Charities with the mission of conducting research to arrive at a list of “approved war charities” to be published in January of 1919.\(^{43}\)

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\(^{37}\) Cutlip (1965) pp. 144-46.


\(^{39}\) The term is closely connected with the approach used by the Young Men’s Christian Association (YMCA) starting in the late 19th century to raise funds to retire debt or construct new facilities.

\(^{40}\) Cutlip (1965) pp. 64-6. An earlier effort, the Contributors’ Information Bureau, was established by the Charity Organization Society in New York City in 1882. Meek (1974) p. 2782.

\(^{41}\) Cutlip (1965) pp. 141-50.

\(^{42}\) Quoted in Cutlip (1965) p. 136.

\(^{43}\) New (1983) p. 9; Cutlip (1965) p. 143. The word “investigation” was later changed to “information” in the name of the organization and the reference to the war dropped; still later (in 1984) the name was revised to be the “National Charities Information Bureau”. For simplicity, the acronym “NIB” is used in most references to the
In the interval between the two World Wars, the techniques that make popular philanthropy possible continued to be refined and extended. Several of the pioneering organizers of “whirlwind campaigns” and other fundraisers moved from positions as employees of charitable organizations to found or work for commercial firms offering their services to local and national organizations seeking donations from the public. In the same interval, awareness of the opportunities for ill-gotten gains through well-managed (but dishonest) fundraising efforts spread as well.

Scott Cutlip’s chapter about the campaigns for research and treatment of infantile paralysis during the decade of the Great Depression and the presidency of Franklin D. Roosevelt describes in detail one of the most remarkable demonstrations of the success of the techniques of “high pressure fund raising.”

An initial phase involved the promotion, starting in 1934, of “Birthday Balls” throughout the country on January 30th, FDR’s birthday. These galas received the public support, though not the direct participation, of the President himself. Cutlip notes:

There is no sure count as to exactly how many events were held. The common estimate in the press was that some 6,000 events were staged in 3,600 communities. Birthday Ball attendance ranged from 10,000 persons crowding a mammoth hall in Philadelphia to one attracting fifteen couples in a small Illinois town.

The Birthday Balls were celebrated for several years, attracting broader participation and larger crowds, and grossing over $1 million each year. Like other projects involving fundraising by staging galas, though, these events were plagued by steadily expanding expenses and an increasing chorus of questions, some inspired by the unavoidable entanglement with partisan politics in an era of increasing political division. In 1937, a new organization, the National Foundation for Infantile Paralysis, was set up and the 1938 celebrations included a new element – a request to send dimes in support of the cause directly to the President at the White House as another form of celebrating his birthday. Thus was born “The March of Dimes.” The first appeal resulted in 2,680,000 dimes arriving in mail-sack after mail-sack at the White House!

The story of this remarkable institution has been more completely told elsewhere. It is enough to recall that the annual “march” continued for years raising millions of dollars for research, patient care, public education about the disease, and more fundraising, that it supported the discovery of vaccines that virtually eliminated the once-feARSome disease, and that its success both in capturing the public imagination and in managing the complicated affairs of a voluntary health agency of enormous scope inspired countless imitators with motivations across a broad moral spectrum. Its long-term director, Basil O’Connor, recruited against his will from Roosevelt’s law firm to head the project after the successful presidential campaign of 1932, led the National Foundation through the organization in this paper. As noted on page 8, a merger brought NIB into the CBBB, and it has ceased to exist as a separate organization.

46 Both the concept and the name are credited to Hollywood personality Eddie Cantor, who volunteered with the entertainment industry committee in support of the Birthday Balls and was successful in overcoming the reluctance of the White House staff to have the events so closely connected with the Presidential office itself. Cutlip (1965) p. 385.
47 Cutlip (1965) p. 386.
48 In chapter 9 of Cutlip (1965) and in the works cited there, especially David L. Sills, The Volunteers (Free Press, 1957).
Depression and the Second World War. In addition, his activities with the National Health Council allowed him to provide a strong political voice for the major voluntary organizations campaigning against other diseases.  

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From 1950 to the present day

In the half century since Fund Raising in the United States was published, the universe of fundraising for charitable causes has experienced continued growth, change, and occasional turmoil. The next few pages will sketch this history in broad outline. The author is currently engaged in further research efforts to document the events of these five decades in greater detail for future presentation.

Philanthropy was largely a private and voluntary phenomenon through the first half of the 20th century and on into the early years following the Second World War – “private” in the sense that there was little or no systematic involvement of government at any level and “voluntary” in the sense that the principal institutions that touched philanthropy were either organized as nonprofits, led by volunteer boards and hired professional staffers, or commercial firms that provided various services in support of the nonprofits in their work.

It is true that some municipalities attempted to regulate some forms of solicitation through licensing regulations or other local devices. Notably, however, these were often overturned by a court after a challenge from fundraising organizations whose activities were, or might have been, curtailed under the municipality’s rules. 50 It is also true that activities related to organized fundraising became increasingly the province of commercial firms during the interwar years. By the end of the 1950s, the fundraising industry offered a career path to energetic and entrepreneurial individuals, included a strong roster of well-known firms with proven records of success, and was beginning to develop the superstructure of associational bodies and other characteristics of a mature participant in the American economy.

These private and voluntary elements of the field continue to this day. During the second half of the 20th century, though, governmental attention to fundraising and related questions of nonprofit management rapidly increased. In the fourth quarter of the century, government – especially state – regulation became the dominant influence in the regulatory environment.

If the stunning success of the World War I campaign 51 had not been enough to attract the attention of ambitious fundraisers to the possibilities of “popular philanthropy,” the similar successes during the Second World War would certainly have made the lessons inescapable. The challenges that were seen, and met, during WWI were recognized and addressed more quickly and more forcefully during World War II. President Franklin D. Roosevelt appointed an official committee, which furthered the initial efforts of a voluntary group, to coordinate fundraising “to give aid and comfort to the fighting men and women, their families, and America’s allies and victims

49 The National Health Council was founded in the 1920s. Its membership includes the national voluntary health agencies such as the March of Dimes and the National Foundation for Infantile Paralysis, as well as major professional and nonprofit organizations related to health, and representatives of the health-care industry.

50 “Decisions against local restrictions in Alhambra, California, and Park Ridge, Illinois, reinforced the position of the so-called ‘independents’ that citizens had the right to make their own decisions as to which causes they would support.” Meek (1974) p. 2789. (Peter Meek was, until 1973, President of the National Health Council, whose members included many of the “independent” – i.e., not “federated” – national health campaigns.

51 Discussed on page 10 above.
of war abroad.” The committee organized the National War Fund. It, together with the related Community War Chests, raised a total of some $744 million dollars during the years of the war – an amount that would be approximately $9.25 billion in 2011 terms.\(^{52}\)

Two other developments during this stressful time are of note to the overall development of the field. First, the American Red Cross operated its own successful fundraising campaigns alongside the officially recognized National War Fund.\(^{53}\) In fact, President Roosevelt approved a resolution of the Red Cross Central Committee which required local ARC chapters to avoid participating in local war chest joint fundraising efforts. On its own, the Red Cross raised $667 million (about $8.29 billion in today’s funds) during the war years.\(^{54}\) Second, the long standoff between organized labor and both the federated campaign movement and the ARC was largely resolved in a way which led to public recognition of labor’s role in the success of both community chest and Red Cross fundraising efforts.\(^{55}\)

Another spectacular success during this period also had an obvious influence on post-War fundraising practices. On September 21, 1943, Kate Smith, a popular radio personality, conducted a sustained appeal for the purchase of war bonds through an 18-hour period on the CBS radio network. By the end of the day, pledges to purchase war bonds worth more than $39 million had been recorded.\(^{56}\) Like many other elements of successful “popular philanthropy,” the attention paid to this sort of activity has diminished with its increasing familiarity, but the tradition of telethons and other short-term fundraising events that got an enormous boost in 1943 continues actively to this day.

The years following the War saw widespread prosperity in the United States. One measure of the impact of this prosperity on charitable contributions can be found in the growth in the sums raised by the American Cancer Society after an energetic and well-connected volunteer, Mary Lasker, began a sustained effort to transform its commitment to fundraising with a focus on her ultimate cause, research into the causes and cure of cancer. As Cutlip notes, “In 1943, the American Society for the Control of Cancer [the organization’s original name] raised $350,000 in its annual fund drives; in 1961, the American Cancer Society raised $36,942,955—or more than a hundred times the sum raised before it turned to intensive promotion and high-pressure fund raising.”\(^{57}\) In addition to the striking increase in the success of the fundraising efforts following the recruitment of professional advisors to manage the campaigns, the Cancer Society’s approach also laid the groundwork for what was to become one of the enduring points of contention in the regulation of fundraising through much of the balance of the century. By linking the society’s campaign to the work of the Women’s Field Army – a “mobilization of American women to vanquish this disease” created by the General Federation of Women’s Clubs in the 1930s – the fundraising efforts also included a broad educational campaign that, with more than 2,000,000

\(^{52}\) Cutlip (1965) p. 410.

\(^{53}\) The American Red Cross is a federally chartered nonprofit organization, one of very few. Prior to the outbreak of WWII, the ARC had negotiated agreements with the armed services designating it as the only nonprofit group authorized to provide direct services to service personnel on active duty overseas, thus reducing the confusion and competition in both fundraising and service delivery that had been a complicating distraction during WWI.


\(^{55}\) Cutlip (1965) p. 418.

\(^{56}\) Cutlip (1965) p. 424.

\(^{57}\) Cutlip (1965) p. 427.
volunteers at work, reached far into the life of communities throughout the nation. By the 1970s, the question of how much of the expense of a fundraising campaign could be attributed to this sort of educational function became a major point of contention for regulators, professional fundraisers, and the accounting profession.

Scott Cutlip’s Fund Raising provides detailed narratives of a succession of “the cheats in fund raising” between 1953 and 1963. These were revealed by newspaper exposés, postal inspections, Congressional investigations, and, most notably, the hearings before a special joint committee of the Legislature of the State of New York chaired by Senator Bernard Tompkins. The Committee’s final report, published in 1954, summarized the situation in these words:

*The generosity of our citizens has been consistently and flagrantly abused by a small minority of frauds operating as ‘charities’ which have mulcted New Yorkers out of an annual amount probably in excess of $25,000,000.* In addition, an even vaster sum of dollars contributed by the public is cut down to pennies before reaching the intended beneficiaries by excessive fund raising and administrative costs of inefficient charities.

In response, New York’s Legislature passed a law to require registration by commercial fundraisers and reporting of the results they achieved for their clients.

Tompkins’s investigations flowed from the discoveries, in 1949, of an assistant attorney general. He investigated the then-current practice of soliciting change and small bills from the people waiting in queues to enter Broadway theaters. His discovery: the organizers undertook to provide a fixed amount each month to the named charitable organization while retaining for themselves (and the solicitors) whatever excess was received, often as much as 70% of the proceeds. Further investigation turned up “boiler room” operations where phone calls made on behalf of worthy causes led to as much as 96% being retained as expenses by the fundraising group. These revelations led to the appointment in 1953 of the Joint Legislative Committee on Charitable and Philanthropic Agencies, chaired by the Senator. The Committee’s shocking reports of abuse of public generosity and the estimate the residents of the state were making contributions of between $20 and $25 million dollars a year to “outright charity rackets” led to the passage of the New York act regulating charitable solicitations. By 1964, some 25 other states adopted statutes on the same subject. As noted above, the number of states with statutory regulation of charitable solicitations in some way has since grown to 40.

One sign that the growing interest in regulation of fundraising was having an effect is that the trade association of fund-raising consultants (AAFRC) opened an office in New York City and hired a full-time executive director from the staff of one of its member firms in 1954. From its formation by nine professional fundraising firms in 1935, the American Association of Fund-Raising Counsel had grown by then to include 26 participating organizations. The firm published a “Fair Practice Code” to guide its members and began, in 1956, issuing a comprehensive annual report on philanthropic support of all kinds called Giving USA. Another sign of growing interest in governments’ attention

59 Quoted in Cutlip (1965), pp. 443-4.
60 Cutlip (1965) p. 343, pp. 441-43. F. Emerson Andrews of the Russell Sage Foundation used the phrase “outright charity rackets” when testifying to the Tompkins committee.
62 Now called the Giving USA Foundation; the Foundation’s annual report is now compiled in association with the Center on Philanthropy at Indiana University. http:www.givingusa.org. (Accessed March 20, 2011.)
to fundraising was the National Health Council’s encouragement of more uniform state and municipal regulations with the goal of avoiding conflicting and inconsistent requirements that would affect fundraising by campaigns that spanned a region or the entire country.\footnote{Discussed below at page 17.}

The decades of the 1960s and 1970s saw intensive work by a variety of actors on two quite different, but nonetheless interrelated, projects. One was a search for consistent accounting rules that could be used for reliable reports of fundraising and other administrative expenses. The other involved efforts to establish more consistent regulations among the states with charitable solicitations statutes so as to reduce the administrative burdens on fundraising organizations and provide regulators and the public with more useful information.

Two themes dominated these developments. In accounting, the question was how to present information about multi-purpose activities in financial reports. In regulation, the question was whether to impose a fixed limit on fundraising costs or to require disclosure of such costs to prospective donors and the general public.

With support from the Rockefeller Foundation, Robert H. Hamlin directed “an exploratory study by an ad hoc citizens committee” of the relationship between governmental and voluntary financing and provision of services. The 1961 report of the study, titled *Voluntary Health and Welfare Agencies in the United States*, concluded “The second major recommendation of the Ad Hoc Committee for immediate action is the development of standardized accounting for voluntary agencies.” It notes that the American Institute of Certified Public Accountants (AICPA) had agreed to undertake the project, “subject to...adequate financing.”\footnote{Hamlin (1961) pp. 37-8.} The necessary financial support was not, however, found and the AICPA was not involved in the resulting project to develop uniform accounting standards.\footnote{Meek (1974) p. 2803.}

The Hamlin report prompted a period of intense discussion of accounting standards. Responding to the Hamlin report and other calls for more clarity in accounting and financial reporting, the National Health Council along with the National Social Welfare Assembly developed and published *Standards of Accounting and Financial Reporting for Voluntary Health and Social Welfare Organizations* (referred to as the “Black Book”) in 1964.\footnote{Like the work of the Hamlin Committee, the preparation and publication of the “Black Book” was supported by the Rockefeller Foundation.} A 32-member advisory committee for the project included the President of the National Charities Information Bureau (Paul Reed) and the President of the United Community Funds and Councils of America (later the United Way; Ralph Lazarus). Importantly, in terms of the developments to come in this area, the “Black Book” included the requirement that “the expenses of all activities that are an integral and inseparable part of an appeal for financial support” should be reported as fund raising.\footnote{National Health Council (1964) p. 62. Further discussion emphasizes that the expenses of any “informational material or activity...distributed or conducted primarily as part of an organized fund-raising effort or in preparation therefor, or primarily for individuals soliciting financial support for an agency or likely to contribute to it” are to be classified as fund raising. See p. 66.} Reed was the primary advocate for this standard which became known as the “Primary Purpose Rule” (PPR).\footnote{Communication from Wilson Levis, March 8, 2011.} By the end of the 1970s, though, the concept of “allocation of joint costs,” had gained increasing
favor among accountants, in spite of the objections of the NIB, the CBBB and the state charities regulators. This difference importantly affected efforts to establish a uniform reporting regime for charitable solicitations, since the method to be used to calculate the cost of fundraising activities was to be specified in the instructions for any proposed report.

For many organizations, applying the PPR results in higher reported fundraising expenses (and hence, proportionally, lower program expenses) than accounting methods based on allocating “joint costs” among the various purposes of an activity with multiple goals. Cost allocation would, for example, allow reporting some of the expenses of the March of Dimes as support for the educational activities of the volunteers of the Mothers March, i.e. “program,” and reporting as “fundraising” only the costs of preparing the direct appeals for donations and of processing the receipts.\(^{69}\)

In 1974, three important publications appeared which offered guidance in the development of financial reports by nonprofit organizations, including standards for the calculation of fundraising costs. The National Health Council issued the second edition of the “Black Book” and the United Way of American published its Accounting and Financial Reporting Guide for use throughout its affiliated organizations. Both included the PPR as the method for reporting fundraising costs. In the same year, the AICPA published its first Audits of Voluntary Health and Welfare Organizations which used language for guidance on fundraising costs that in the opinion of some accountants allowed the allocation of joint costs and thus “weakened” the PPR standard in the “Black Book.” At the time the PPR was considered by NIB, CBBB, state charity regulators and most nonprofit accountants to be the established standard for the preparation of financial reports. There was, however, a growing climate of resistance to the PPR as experience with the effect of the rule on charities’ financial reporting became more widespread.

The AICPA published a discussion draft for a new set of standards in January of 1977 which proposed the allocation of joint costs for any activity which included fundraising along with the pursuit of other goals. A year later, this AICPA guidance was promulgated as Statement of Position (SOP) 78-10. By 1986, this shift in accounting standards had led many to the conclusion that “The Primary Purpose Rule is Dead,” as documented in an article with that title in Philanthropy Monthly.\(^{70}\) Throughout the 1980s and ‘90s the debate over the proper method of accounting for fundraising costs continued, with a new SOP (87-2) that further developed the idea of cost allocation. In the third (1988) edition of the “Black Book” the PPR was explicitly replaced by a treatment of joint costs that aligned with SOP 87-2.\(^{71}\) In the opinion of NIB, CBBB, state charities officials and many others, this version of the approach to the allocation of joint costs offered too many opportunities for mis-identifying costs that properly should have been classified as fundraising.

After another decade of drafting, debate and consultation, AICPA issued, over the objections of many, SOP 98-2 in which the allocation (to other classes of expenditure) of any costs connected with a fundraising activity was permitted only under more limited circumstances.\(^{72}\) SOP 98-2 is the

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\(^{69}\) The March of Dimes approach is outlined above at page 12.

\(^{70}\) Robinson (1986) p. 19. “As a practical matter of fact, the primary purpose rule has been dead for a long time. What is needed now, right now, is a standard that can be implemented that all agree to.”


\(^{72}\) American Institute of Certified Public Accountants (1998). The key provision that encourages more frequent classification of expenses to fundraising is “A rebuttable presumption exists that the audience criterion [for
standard for allocation of joint costs that is in force today. When applied by a nonprofit organization, it is used to classify expenses for reporting to the IRS and to the interested public in Form 990 and when auditors review the financial statements of nonprofit and voluntary agencies.\textsuperscript{73} As such, it guides as well the financial reports made to many of the state charities regulators.

Meanwhile, on the legislative front, starting in the 1960s the National Health Council supported a campaign, carried out by local affiliates in many parts of the country, to enact laws or to revise existing laws regulating charitable solicitations. In 1973, its Ad Hoc Committee to Review State Legislation published a draft of “Model Legislation Regulating Charitable Organizations” with the goal of providing guidance to states where no charitable solicitations statutes had been enacted and offering suggestions to improve legislation that had not accomplished its purposes.\textsuperscript{74} The council’s rationale for such statutes was presented in several editions of a publication titled \textit{Viewpoints on State and Local Legislation Regulating Solicitation of Funds From the Public.}\textsuperscript{75} These proposals included uniform annual financial reporting based on the “Black Book” Standards and included guidance on the PPR. \textit{Viewpoints} also argued against limits on fundraising expenses based either on a percentage of contributions or on some other financial measure.

Several laws enacted during this period did, however, set such limits on the cost of fundraising. Public concern with the diversion of funds from the object of charity to the raising of funds was a recurrent theme of exposés of charities and “charities” in the press and occasional governmental investigations.\textsuperscript{76} By 1980, 15 states had adopted laws that set absolute percentage limitations on some component of fundraising expenses. In New Hampshire, the limit applied to the overall expense of fundraising as a proportion of the organization’s annual expenditures. Elsewhere, the limitation applied to the compensation paid to commercial entities or consultants assisting in fundraising activities.\textsuperscript{77}

This approach to state regulation was brought to a close, though, by decisions of the U.S. Supreme Court. Put simply, the Supreme Court ruled that fundraising activities are constitutionally protected speech and cannot be subject to prior constraints. In particular, it is unconstitutional to forbid fundraising activities with costs that exceed some specific proportion of the amounts raised or to require a fundraiser to advise prospective donors of the costs of fundraising activities.

Three decisions in the 1980s addressed the issue of statutory limits on fundraising. \textit{Village of Schaumburg v. Citizens for a Better Environment} (1980) struck down limits based on a fixed ratio imposed by an Illinois municipality. In this decision, the Court said:

Charitable appeals for funds, on the street or door to door, involve a variety of speech interests – communication of information, dissemination and propagation of views and ideas, and advocacy of causes – that are within the First Amendment’s protection. While soliciting financial

excluding costs from the fundraising classification] is not met if the audience includes prior donors or is otherwise selected based on its ability or likelihood to contribute to the entity” \cite{Paragraph .12}. See also Barber (1998).

\textsuperscript{73} Review of the database at Guidestar (\url{www.guidestar.org}) suggests that 1,297 of the 259,055 reporting nonprofits checked the box on their Form 990 for FY 2007 to indicate that some costs had been allocated as this standard permits. Communication from Chuck McLean, Vice President, Research, March 30, 2011.

\textsuperscript{74} This draft is described, and critiqued, in detail in Ohio, Office of the Attorney General (1974) pp. 2763 ff.

\textsuperscript{75} McMahon (1965). Subsequent editions were published in 1971 and 1976.

\textsuperscript{76} Tivnan (1983), generally. As an example: \textit{Hearing on Children’s Charities Before the Subcommittee on Children and Health of the Senate Committee on Labor and Public Welfare} (1974), chaired by then-Senator Walter Mondale.

\textsuperscript{77} Hopkins (1980) p. 147.
support is subject to reasonable regulation, such regulation must give due regard to the reality that solicitation is characteristically intertwined with informative and perhaps persuasive speech seeking support for particular causes or for particular views on economic, political, or social issues, and to the reality that without solicitation the flow of such information and advocacy would likely cease. Moreover, since charitable solicitation does more than inform private economic decisions and is not primarily concerned with providing information about the characteristics and costs of goods and services, it is not dealt with as a variety of purely commercial speech. 

Secretary of State v. Joseph H. Munson Co. (1984) rejected a Maryland statute that imposed more flexible limits. Riley v. National Federation of the Blind (1988) found that a North Carolina law requiring “point of solicitation” disclosure of fund-raising costs was unconstitutional as well. In its opinion in Riley, the Court explored some possible reasons for “high” fundraising costs that could not be considered “fraud”:

[T]here are several legitimate reasons why a charity might reject the State’s overarching measure of a fundraising drive’s legitimacy - the percentage of gross receipts remitted to the charity. For example, a charity might choose a particular type of fundraising drive, or a particular solicitor, expecting to receive a large sum as measured by total dollars rather than the percentage of dollars remitted. Or, a solicitation may be designed to sacrifice short-term gains in order to achieve long-term, collateral, or noncash benefits. To illustrate, a charity may choose to engage in the advocacy or dissemination of information during a solicitation, or may seek the introduction of the charity’s officers to the philanthropic community during a special event (e.g., an awards dinner). Consequently, even if the State had a valid interest in protecting charities from their own naiveté or economic weakness, the Act would not be narrowly tailored to achieve it.

As a result of these three cases, “the Riley trilogy,” charitable solicitations statutes cannot limit the ability to raise funds to organizations that promise to, or do, limit costs to a certain portion of the funds raised, and they cannot require a solicitation to contain a disclosure of the portion of any donation that will be consumed by costs. States (and other jurisdictions) are, though, not prevented from requiring reports on a consistent basis of the revenues and expenses of charitable organizations and publishing summaries of those reports for the information of prospective donors and, for that matter, anyone with an interest.

During the 1970s, several of the officials responsible for administering the state charitable solicitations laws took advantage of the meetings of the Trust Law Committee of the National Association of Attorneys General (NAAG) to begin the exchange of ideas and the sharing of information growing out of their work. This committee did not provide a completely appropriate setting for these discussions – not least because several of the active state charities officials were not housed in the office of their states’ attorneys general. Toward the end of the decade, an effort got underway to form a separate professional association to be called the National Association of

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79 These three cases are, of course, widely discussed and analyzed. This brief summary relies on Knowles (1996) pp. 11-12. See also Fremont-Smith (2004) pp. 370-71. Harris (1989) offers a detailed discussion.
81 Copilevitz (1997) provides a detailed summary of the precedents for and the effect of the cases in the Riley Trilogy.
State Charities Officials (NASCO).\(^82\) One of the top priorities for the formation of NASCO at the end of the decade was to campaign for the preservation of the primary purpose rule and the rejection of SOP 78-10’s allocation of joint costs.\(^83\) Eventually, NASCO was established as a program of NAAG, with the parent organization handling finances and logistics while the charities officials themselves organize the program of the annual meeting and arrange other activities such as a website and private online discussion forum.

In the mid-1970s, the National Health Council became less engaged in promoting consistency among state regulations and reliance on the “Black Book” as the accepted accounting standard. The promotion of consistent regulation by the states was in a way taken over by the American Association of Fund Raising Counsel (AAFRC) whose members included many firms engaged in fundraising campaigns in multiple states. Their interest in consistent regulations was, of course, directly related to their costs of administration wherever there were significant differences among the states. AAFRC, in fact, prepared another “model act” and commended it for consideration by NASCO but the proposal was never given detailed attention by the charities officials.

In 1984, a broader effort to develop such a model was organized by NASCO with staff support provided by the National Information Bureau. “A Model Act Concerning the Solicitation of Funds for Charitable Purposes” was published in 1986 and adopted by both NAAG and NASCO. This Model Act was, among other things, an attempt to reconstruct the state solicitations regulation regime in light of the limits on state action implied by the Riley trilogy. The NASCO Model Act proposed requiring disclosure to prospective donors when a solicitation is being made by a paid solicitor or fundraising firm. In addition, it proposed a requirement that solicitation messages advise prospective donors that financial statements are available from the organization in whose name the solicitation is made showing fundraising, management and general, and program costs in accordance with generally accepted accounting principles. Elements of this Model Act have since been incorporated into the statutes of many NASCO members.\(^84\)

The separate projects that focused on principles of accounting and regulation of solicitations during the 1960s and 1970s came together at the end of the period in an effort by NASCO and NIB to streamline the reporting requirements while simultaneously improving the quality of the data to charities officials and the general public.

At the end of the 1970s, the standards for preparing and reviewing financial information for nonprofit organizations – particularly financial information pertaining to fundraising – were in flux, and the subject of considerable disagreement among nonprofit executives, charities officials, accountants, and staff of oversight agencies such as NIB and the Philanthropic Advisory Service (PAS) of the CBBB. Though much progress had been made over the preceding years in standardizing accounting practices in the field, there remained several different audit guides applying to different segments of the field.

Accounting and reporting standards for fundraising costs were very contentious in the 1970s and 1980s and still are today. Beginning in 1976 a perception among some health agencies and others emerged that the accounting standard developed for reporting fundraising costs in the American Institute of Certified Public Accountants in its 1974 publication *Audits for Voluntary*...

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83 See discussion above at page 17.
84 Many of the elements of the 1984 Model Act can be seen in the summary of current charitable solicitations regulations beginning on page 4 above.
Health and Welfare Organizations differed materially from the PPR requirements of the “Black Book.” On this reading, the AICPA publication permitted the actual out-of-pocket costs of educational materials or activities, even when conducted along with fundraising campaigns, to be allocated to and reported in the program category. This perception was reinforced in 1978 when AICPA issued SOP 78-10 which explicitly permitted allocation of joint costs in fundraising activities among the categories fundraising, program, and management and general. On the other hand, NIB, PAS and the state charities officials saw in SOP 78-10 an opening through which organizations with high fundraising costs might return to the mid-century practices which had permitted, many thought, serious underreporting of the actual cost of some organizations’ fundraising costs. Proposals for resolving the resulting disputes among the accountants, regulators, watchdog agencies, and nonprofit executives took two forms. The regulators and watchdogs, in general, wanted to hold to a strict interpretation of the PPR in the “Black Book” while establishing uniform standards that would apply to all soliciting organizations. Others urged only that uniform standards were necessary in order to avoid unfair comparisons—and resulting pressure toward use of the most “favorable” methods of accounting—among organizations.

In 1979, NASCO formed a “State Data System Committee” of state charity officials with support from NIB in conjunction with its project to computerize annual charity reports filed with the states. The goal of the NIB project was to establish a National Center of Charitable Statistics in response to the widespread calls for more consistent and reliable reporting of information about nonprofits’ finances. In 1980, the NASCO Committee and NIB issued a draft of a “Uniform Annual Report.” By the end of the, it became apparent that expanding the project to involve the IRS and connections with its Form 990 would improve the result. NIB then worked with the IRS and NASCO to develop the “Uniform Federal/State Form 990” agreement of 1981.85

In 1982, NIB developed a PC-based software program titled “Charities Registration and Auditing System (CRAS),” which relied on data from the Form 990 to produce standardized reports. With CRAS, a state charities official could easily compare key data points drawn from the 990s of active fundraising organizations for use in considering investigations or for providing information to the public. Seven states used CRAS in the administration of their charitable solicitations programs.86

The value of Form 990 to the regulators was, though, diminished by frequent discovery by the CRAS system of incomplete or unreliable data in the submissions to the IRS. This frustration led to an effort by NASCO and others to support improvements in the completion of the form (the “Quality 990” project), and to advocacy with the state charities officials for more widespread reliance on the 990 as an incentive to more careful preparation of the form.87

NIB encouraged NASCO to include in its 1984 model act a requirement that reports to state charities officials be based on the Form 990. There was resistance from some states with concerns about the state not retaining its local authority for establishing reporting requirements. In the end,

85 This history was outlined in a communication from Bill Levis, March 30, 2011. At NIB, Levis staffed NASCO’s uniform federal/state Form 990 efforts from 1979 to 1984 and was Vice President for Administration and Special Projects at the NIB. He staffed the “Model Act” project during 1984-86.
86 Connecticut, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, and Pennsylvania. NIB also raised funds to provide technical assistance to NY, IL and CA for upgrading their mainframe computer programs to be consistent with the new Form 990. Personal communication from Bill Levis.
87 The much wider public access to the forms as filed, provided by Guidestar and encouraged by the Taxpayers Bill of Rights of 1996 along with more frequent use of preparation software have led to reports that the quality of data in the filings has improved significantly in recent years.
NASCO’s model act did, though, include a provision that states might “accept” a copy of the form in lieu of a state-specific financial report.  

Beginning in the 1990s and, of course, increasing since, various forms of fundraising on the Internet have become important as sources of support for nonprofits’ activities — Google returned “about 5,270,000” pages containing the phrase “donate now” on May 31, 2010. More recently still, the use of text messaging has produced dramatic levels of contributions in response to natural disasters — the American Red Cross is reported to have received $32,000,000 in such donations within a month of the catastrophic earthquake in Haiti in January 2010. These new technologies for fundraising pose significant new challenges to regulators — and, it is reasonable to fear, open significant new opportunities for diversion of charitable resources into unscrupulous hands.

In United States v. Thomas (1996), the Third Circuit Court of Appeals ruled that an online purveyor of pornography was liable for prosecution not only under the laws of the state where the publication of the web pages occurred (California) but also under the laws of another state (Tennessee) where the material violated local statutes. Thomas thus confirmed the principle that use of the World Wide Web for commercial transactions — including, presumably, charitable solicitations — can be regulated across state boundaries.

In an attempt to address the many questions about state-level charities enforcement that arise in connection with fundraising on the Internet, NASCO established a committee to explore the policy implications following its 1999 annual meeting in Charleston, South Carolina. NASCO published “The Charleston Principles” in 2001 to guide both fundraisers and regulators concerning the application of charitable solicitation statutes to online fundraising. This document re-affirms the requirement that solicitations addressed to the residents of a state, on the analogy of a direct-mail campaign, require prior registration with the charities regulator of that state and financial reporting in the usual way. Recognizing, though, that prospective donors may happen upon a solicitation as the result of an online search or by seeking out the organization’s website as a result of a mention in some other medium, the “Principles” suggest that registration and reporting should only be expected when the organization receives contributions from a given state “on a repeated and ongoing basis or a substantial basis through its Web site.” Importantly, the “Principles” also declare that registration and reporting requirements are not occasioned by simply providing related administrative services to an organization that receives contributions on the Internet.

Recently, the Supreme Court has ruled that calculated dishonesty in fundraising appeals can be prosecuted as fraud. In Madigan, Attorney General of Illinois v. Telemarketing Associates, however, a unanimous Court confirmed in 2003 that intentionally misleading prospective donors to believe that a significant portion of their contribution would be committed to the cause was not a

91 The author was the keynote speaker at this meeting offering a review of the challenges posed to regulation by online fundraising.
protected form of speech. As a result, the state could in fact prosecute a “boiler room” operation that used scripts for telephone solicitations that deceived donors about the uses of the proceeds of the appeal.\(^95\)

The Federal Trade Commission (FTC) has a long history of successfully prosecuting fundraising frauds committed by individuals and business corporations. These prosecutions document in revealing detail the techniques used in the unscrupulous campaigns and, in the form of the penalties imposed, the significant amounts of money that can be realized by such criminal activities. A 2009 example is the complicated multi-jurisdiction enforcement activity described by the Federal Trade Commission: “In a nationwide, federal-state crackdown on fraudulent telemarketers claiming to help police, firefighters, and veterans, the Federal Trade Commission, together with 61 Attorneys General, Secretaries of State, and other law enforcers of 49 states and the District of Columbia, today announced ‘Operation False Charity.’ Federal and state enforcers announced 76 law enforcement actions against 32 fundraising companies, 22 non-profits or purported non-profits on whose behalf funds were solicited, and 31 individuals.”\(^96\)

And in 2010, the FTC settled a complaint against the Civic Development Group, LLC, et al. The press announcement reported:

> Under the settlements, the defendants are permanently banned from telemarketing and soliciting charitable donations, and prohibited from making false claims about anything they sell. Defendants Pasch and Keezer are required to turn over numerous assets to a court-appointed liquidator. Pasch will turn over a $2 million home; paintings by Picasso and Van Gogh valued collectively at $1.4 million; a guitar collection valued at $800,000; $270,000 in proceeds from a recently sold wine collection; jewelry valued at $117,000; three Mercedes, a Bentley, and various other assets. Keezer will turn over a $2 million home, a Range Rover, a Cadillac Escalade, and a Bentley, among other assets.\(^97\)

**Concluding observations**

Abuse of people’s charitable impulses elicits, quite understandably, indignation of a special sort. Other sorts of fraud, while reprehensible, frequently rely on luring victims into unwise transactions by playing on their greed or a belief in the possibility of extraordinary good fortune. Charity fraud, in contrast, lures people by calling upon their sympathies, their values, their generosity.

Outright charity fraud exists. Hucksters promise that donors’ support will rescue orphans, cure diseases, prevent crimes, support veterans – address any and all perceived ills, the more heartrending the better – while actually having no intention and no capability to do anything except spend their victims’ money on themselves and on further appeals. Prosecution of this sort of behavior occurs and perpetrators are brought to justice.

The concerns reflected in the charitable solicitations statutes and other efforts to regulate fundraising and the uses of the resulting revenues are often more subtle. Which messages pass over the boundaries of candor and induce contributions through false pretenses? What requirements can be imposed on the communications between solicitors and potential donors? Which sorts of fundraising activities are too inefficient to be tolerated? What level of fundraising or administrative

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costs is “excessive”? How should the costs of fundraising or administration be measured? More generally, if often not explicitly, how to separate “legitimate” from “illegitimate” appeals, “legitimate” from “illegitimate” organizations. In other words, what can be done, within the limits imposed by the U.S. Constitution, the constraints on public and private resources for enforcement, and the subtleties of the questions themselves, to prevent abuses and maintain public confidence in voluntary charitable activities and public willingness to support this work?

Intertwined among the many challenges inherent in the regulation of fundraising is the question of how, in fact, fundraising costs might be measured, whether or not they could be constrained in any way by statutes. There is an apparent simplicity to the archetypal case: charity A hires fundraiser Z to conduct a fundraising campaign on its behalf with a specific goal. A undertakes to pay the fundraiser M dollars with the achievement of certain milestones or upon completion of specified efforts. Such a model is descriptive of the widely publicized “whirlwind campaigns” that characterized the professionalization of fundraising in the second quarter of the 20th century. That apparent simplicity fades rapidly in the light of the range and variety of fundraising activities conducted by nonprofits and their contractors. Today, large organizations dependent on a broad base of contributors engage in fundraising continuously using many methods, often employing many contractors as well as direct employees and volunteers. Fundraising is an integral part of many activities of such organizations whether or not they are conducted by personnel for whom fundraising is the principal or sole focus of their responsibilities. The results of fundraising efforts may not be realized for many years (if at all), while some elements of an organization’s work may not include any form of solicitation yet constitute an essential part of the organization’s communications with current and prospective donors.

The examination of questions of this sort over the half century since the Tomkins Committee’s report has involved the Supreme Court of the United States, the United States Congress, officials of several federal agencies, most states and many municipalities. Outside of government, the question of what works and does not work in charity regulation is taken up periodically by think tanks and specially assembled “blue ribbon” commissions and umbrella bodies representing such individuals or organizations as commercial fundraisers, federated appeals, health and welfare organizations, professional or consultant staff engaged in fundraising, and consumer protection groups. Add to the mix “charity watchdog” organizations, the news media, and academic researchers in a variety of fields. This array of interested parties suggests that a good deal about this range of questions remains unsettled.

It is, of course, impossible to know the extent of compliance with the registration and reporting requirements contained in state charitable solicitations statutes. Comparing the numbers of nonprofits that are apparently at work in the nation with the numbers that are registered suggests that there is still some way to go to assure that all nonprofits with significant fundraising activities are in fact included among those reporting to state charities programs. It also seems likely that there is less than full compliance with the accounting standards that have been adopted by the

98 The Model Act focused on campaigns; the word appears to this date in charitable solicitations statutes – see for example Revised Code of Washington 19.09.97(3).

99 A Washington State Senator proposed during the 2010 Session of the Legislature that proper registration with the state charities regulator should be required to establish eligibility for state or municipal contracts. In the end, this proposal was not included in legislation relating to the Charities Program enacted this year.
AICPA and incorporated to a greater or lesser extent in the requirements for federal and state financial reporting. One suggestive study found that “37 percent of nonprofit organizations with private contributions of $50,000 or more reported no fundraising or special event costs on their 2000 Internal Revenue Service (IRS) Form 990.”

Since the first stirrings of interest in “bringing system and value” to philanthropy more than a century ago until the present day, the challenges inherent in regulation of charitable solicitations have inspired research, prompted legislation and regulation, and been a continuous source of controversy. In spite of serious efforts by scholars, associations, government officials and legislatures, though, it cannot be said that the array of influences on the conduct of charitable solicitations in the United States rests securely on a coherent theoretical model of desired public policy. Broadly speaking over the century or so during which policy-oriented attention has been paid to these questions, three policy frameworks appear to have shaped, consciously and unconsciously, the developments that led to the present regulatory climate.

First in historical sequence was a framework that might be called “scientific social work” – using the last two words in the late 19th century sense of “work that affects society.” Philanthropists, agency executives and political reformers sought to mobilize private resources to address community ills. From their point of view, the overarching goals were to assure a disciplined effort to identify priorities alongside a system of mobilizing the generosity of the community at the least cost and with a minimum of claims on the time, attention, and generosity of community leaders. Many believed that a federation of service delivery agencies managing a focused fundraising campaign offered the best hope of achieving both goals. Various initiatives by groups of private citizens aimed at implementing such an approach have, however, never achieved the level of controls their proponents have sought.

As the voices of donors came to be heard more loudly and perhaps more clearly, a concern for protecting their interests provided quite a different framework for the development of policy initiatives. Taken to an extreme, this framework sees both fundraisers and nonprofit organizations as agents for donors, responsible primarily for executing to the maximum extent possible the program conceived and financed by the donors while subject to predictable temptations to drift from, or actively abuse, that objective. Charities regulation in the United States comes closest to implementing this framework through requirements for disclosure (“accountability” and “transparency”) in federal law, state regulations, accounting standards, and the recommendations of advocacy and umbrella groups. The “Taxpayers’ Bill of Rights” of 1996, for example, required prompt provision of a complete copy of an exempt organization’s Form 990 in response to almost any request and encouraged posting true copies of this form online. State charities regulators routinely post reports of fundraising “campaigns” and the finances of registered nonprofits on their websites. INDEPENDENT SECTOR strongly recommends accountability and transparency as ethical practices. And of course the watchdog groups mentioned earlier are unanimous in their preference for clear presentation of the details of program and finances by nonprofit organizations that seek or receive public support.

101 The quoted phrase is from John D. Rockefeller, Sr., in 1912. Cutlip (1965) p. 68.
103 Independent Sector (2007).
The application of the doctrine that fundraising is protected speech leads to the third frame of reference within which the regulation of fundraising has developed. In this “civil society” framework, the fundraiser and the nonprofit organization are exercising, as the Supreme Court observed in *Schaumburg*, a critical freedom grounded in the fundamental principles of a free society.\(^{104}\) Within the very broad limits marked by the legal definition of fraud and the practical risks of reputational embarrassment, these actors are encouraged to seek support wherever and however they can, both to increase their chances of accomplishing the goals they have set for themselves and to confer upon donors and other supporters the satisfactions of having made contributions toward those ends.\(^{105}\) From this perspective, an important element of the value of nonprofit organizations, and one that deserves to be supported and protected, is the role they play in effecting the visions of a good society held by citizens. This view offers little comfort to those who would control the use of nonprofits’ resources to achieve more focused and evaluated goals.

All three of these frameworks offer robust grounds for condemning outright fraud. None, though, convinces me that, with its cost, complexity, and arbitrary effects, the current regulatory environment is achieving a fully satisfactory result. The goal of guaranteeing honest, efficient and inspiring mobilization of resources to meet the needs and aspirations of diverse communities and their citizens remains to be met. The second century of development of fundraising regulation in the United States offers plenty of opportunities for creative exploration of new public policies and of new forms of voluntary action to place the important work of encouraging private support of action in pursuit of public good on a sound foundation.

\(^{104}\) Pratt (1997) advances several variations of this argument.

\(^{105}\) Economist Richard Steinberg has articulated this view in a several papers that ask the reader to consider, as an extreme example, the possibility that an organization might spend several multiples of the actual cash receipts on a fundraising campaign that produced the ultimate resource necessary to achieve some universally acclaimed result such as curing cancer or eliminating organized crime. Steinberg (1997; 2007). Tullock (1966) makes a discouragingly persuasive argument that overvaluing donor satisfactions can lead to the perverse result that the highest social utility comes from organizations that spent all their resources on pandering to the wishes of donors and none on program activities of any other sort.
Works Cited


Barber, Regulation of Charitable Solicitations – Page 28


Additional References


## Appendix 1: Firms Providing Registration Services

<table>
<thead>
<tr>
<th>Firms Providing Registration Services</th>
<th>Location</th>
<th>Contact Information</th>
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<tr>
<td><strong>Coates &amp; Hutchinson, P.C.</strong></td>
<td>Odenton, MD 21113-0561</td>
<td>(410) 672-6339, Theresa Hutchinson, <a href="mailto:info@awdc.org">info@awdc.org</a></td>
</tr>
<tr>
<td><strong>Corporation Service Company</strong></td>
<td>Wilmington, DE 19808</td>
<td>(800) 927-9800 or (302) 636-5400 x3314, Margaret Truluck, <a href="mailto:mtruluck@cscinfo.com">mtruluck@cscinfo.com</a></td>
</tr>
<tr>
<td><strong>Copilevitz &amp; Canter</strong></td>
<td>Kansas City, MO 64105</td>
<td>(816) 472-9000, Errol Copilevitz, <a href="mailto:ecopilevitz@copilevitz-canter.com">ecopilevitz@copilevitz-canter.com</a></td>
</tr>
<tr>
<td><strong>Labyrinth, Inc.</strong></td>
<td>Carlsbad, CA 92008</td>
<td>(760) 931-2620, Robert Urich, <a href="mailto:bob@labyrinthinc.com">bob@labyrinthinc.com</a></td>
</tr>
<tr>
<td><strong>Montgomery, McCracken, Walker &amp; Rhoads, LLP</strong></td>
<td>Philadelphia, PA 19109-1030</td>
<td>(215) 772-7314, Karl Emerson, <a href="mailto:kemerson@mmwr.com">kemerson@mmwr.com</a></td>
</tr>
<tr>
<td><strong>National Charitable Solicitations Registry, LLC</strong></td>
<td>Reisterstown, MD 21136</td>
<td>(410) 526-7301, Terri Ackerman, <a href="mailto:charitableregistry@comcast.net">charitableregistry@comcast.net</a></td>
</tr>
<tr>
<td><strong>Nonprofit Service Group</strong></td>
<td>Arlington, VA 22203-3755</td>
<td>(703) 528-7525, George Miller, <a href="mailto:gmiller@nonprofitserv.com">gmiller@nonprofitserv.com</a></td>
</tr>
<tr>
<td><strong>Perlman &amp; Perlman</strong></td>
<td>New York, NY 10001</td>
<td>(212) 889-0575, Seth Perlman, <a href="mailto:seth@perlmanandperlman.com">seth@perlmanandperlman.com</a></td>
</tr>
<tr>
<td><strong>Webster, Chamberlain &amp; Bean</strong></td>
<td>Washington, DC 20006-4604</td>
<td>(202) 785-9500, Chip Watkins, <a href="mailto:cwatkins@wc-b.com">cwatkins@wc-b.com</a></td>
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*Source: Association of Direct Response Fundraising Counsel. (03/09) Used by permission.*
## Table 1: Population (2009 est.) of States with and without Charitable Solicitations Regulation

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Table 2. Summary of State Charitable Solicitations Requirements and Exceptions or Exemptions

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<th>Nonprofit or religious hospitals, health care foundations</th>
<th>Fraternal social, educational, historical civil rights</th>
<th>Civic leagues/organizations (solicit only from members)</th>
<th>Named individual who receives all proceeds</th>
<th>Veterans organizations (* with all volunteer fundraising)</th>
<th>Parent-teachers associations</th>
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1 Requests for exemption must be filed in some states.
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3 American Red Cross
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<th>STATE</th>
<th>Financial report required annually</th>
<th>Religious organizations</th>
<th>Educational institutions (&quot;alumni and students only&quot;)</th>
<th>Fundraising or receipts less than $X per year (&quot;when all activities or fundraising done by volunteers&quot;)</th>
<th>Governments</th>
<th>Political organizations</th>
<th>Nonprofit or religious hospitals, health care foundations</th>
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4 Only requires registration from organizations that retain paid solicitors.
5 Unless a paid solicitor is employed.
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<th>Educational institutions (alumni and students only)</th>
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6 Requires electronic filing (an exemption may be requested).
7 Unless a paid solicitor is employed.
8 When soliciting for memberships.
9 Noncommercial broadcast stations, qualified community trusts; volunteer fire departments, rescue squads, emergency medical services; YMCAs or YWCAs; nonprofit continuing care facilities, and certain tax exempt nonprofit fire or emergency medical service organizations involved in the sale of goods or services that do not ask for donations.
10 Nonprofit status not specified.
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¹¹ All 501(c)(3), (7) or (8) organizations, i.e., public charities, private foundations, social clubs or fraternal beneficiary societies as defined in these Internal Revenue Code sections.

¹² Educational institutions that do not hold property in the state may solicit only from alumni without registration.

¹³ Nonprofit libraries filing an annual fiscal report with the state library system; senior citizen centers and nursing homes that are nonprofit, charitable and tax exempt, and have all fundraising activities carried out by volunteers.

¹⁴ Public libraries; public art museums.

¹⁵ Under $7K no registration required even with professional solicitation.

¹⁶ With a Congressional charter.

¹⁷ Volunteer fire departments, rescue squads or local civil defense organizations.
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18 Educational broadcast media
19 Civic organizations such as a local service club, volunteer fire or rescue group, or local civic league or association; trade associations, and labor organizations; nonprofit debt counseling agencies licensed by the Virginia State Corporation Commission; 501(c)(3) organizations that solicit solely through grant proposals.
20 Requests for support from organizations with a published procedure for applications are not consider solicitations.