

IRS Compensation Guidance for Nonprofits

To avoid problems with executive compensation, the IRS advises nonprofits to:

- Set compensation in advance using appropriate comparability data.
- Make sure that no one involved in setting salaries has a conflict of interest.
- Document all decisions on compensation.
- Avoid penalties by reporting all economic benefits to officers, directors, and key employees on Form 990.

Having good compensation practices means having established policies and procedures, doing the homework of finding and assessing comparables, making decisions based upon them, and then recording the actions taken. You are not likely to get in trouble with the IRS if you develop and follow procedures for setting compensation and if you make an honest, responsible effort to determine appropriate compensation based on your size, revenues, organizational structure, and mission. Be sure to:

- Document the policies and procedures in advance and include them in board minutes.
- Collect comparable salaries (for like services, in like enterprises, in like circumstances). Surveys and databases of salary information as well as the Form 990 images on the Web make these data more easily available than ever before.

The IRS has actually provided a checklist for organizations that can be used to establish procedures that will help them avoid an IRS investigation.

To establish a rebuttable presumption of reasonableness (meaning the burden of proof that the compensation is unreasonable is on the IRS), nonprofits should use an independent survey of comparability data. Information and software that easily provide the necessary analyses can be obtained from GuideStar; ERI Economic Research Institute; SalariesReview; Abbott, Langer Association Surveys; and other salary survey sources that specialize in the nonprofit sector.

By obtaining and using appropriate data, nonprofits can set compensation that attracts and retains talented staff and is aligned with organizational missions and values. At the same time, they can ensure that charitable dollars are spent on achieving the mission, not answering questions from the IRS, state charity regulators, and Congress.