

ARTICLE 11

# Local Government and Nonprofit Organizations

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LOCAL GOVERNMENTS WORK with nonprofit organizations to accomplish many public purposes. North Carolina cities help fund nonprofits' programs to revitalize neighborhoods, encourage the arts, provide afterschool activities, feed and shelter the homeless, and support economic development. In addition to supporting similar activities, North Carolina counties use nonprofits to deliver a wide variety of human services, to fight fires, and to provide emergency medical assistance. Instead of setting up government departments and hiring personnel to carry out these programs, governments often choose to support nonprofits to do so.

Governments have good reasons for working with nonprofits. Unfortunately, some of the very attributes that make nonprofits attractive partners for government can also present challenges to their successful operation. Government officials can and do work with nonprofit leaders to address those challenges. Having good relationships with strong nonprofit partners increases governments' ability to accomplish community goals.

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After reviewing various ways local governments work with nonprofits, this article describes nonprofit organizations and identifies how nonprofits differ from local government. The article then reviews both the benefits local governments receive from working with nonprofits and the challenges those relationships may present. The article ends with some suggestions for how government leaders can maximize the benefits and minimize the problems of working with nonprofits.

## How Do Local Governments Work with Nonprofits?

In recent years, local governments all across the United States have increased their involvement with nonprofit organizations. As municipal and county governments deal with public service devolution from state and federal governments, they face the challenge of providing more and better service while facing tighter fiscal limits. To help meet this challenge many have involved nonprofit organizations in service delivery, drawing on nonprofits' volunteers and private financial resources, as well as their greater flexibility of action. Some nonprofit organizations have also become very skilled as advocates for the clients they serve, making persuasive appeals for public funding of their work or otherwise helping shape governments' priorities. In some cases, nonprofits and local governments have partnered to develop and/or implement public service programs jointly.<sup>1</sup>

Local governments work with nonprofit organizations in various ways. They partner to plan ways to address community needs, to coordinate delivery of their services, and to operate programs together. Local governments purchase some public services from nonprofits, rather than organizing government departments to produce those services. Local governments also provide both in-kind and financial grants to help nonprofits produce public services.

### Partnering

Partnering with nonprofits is common, but far from universal among North Carolina local governments. Partnering can involve cooperating to plan services each produces, coordinating the actual delivery of services, or collaborating in joint service programs. In a 1999 Institute of Government survey, about a third of the responding cities and almost half of counties reported planning service delivery together with nonprofit organizations.<sup>2</sup> In some communities, for example, interagency councils including representatives from local governments and nonprofit organizations meet to discuss their services. Economic development is another community concern that often joins local governments with chambers of commerce and other nonprofits in finding ways to work together.

Similar percentages of local governments reported coordinating service delivery. This occurs, for example, when a local government's dispatchers serve volunteer fire or emergency medical squads, or when county social workers refer clients to a mix of nonprofit and government services. Participating government departments and nonprofit organizations each carry out their own activities in ways that fit with or depend upon the work of the others.

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1. See, for example, Evan M. Berman and Jonathan P. West, "Public-Private Leadership and the Role of Nonprofit Organizations in Local Government: The Case of Social Services," *Policy Studies Review* (Spring/Summer 1995): 235–46; Wolfgang Bielefeld, Richard K. Scotch, and G. S. Theilemann, "National Mandates and Local Nonprofits: Shaping a Local Delivery System of HIV/AIDS Services," *Policy Studies Review* (Spring/Summer 1995): 127–36; Carol J. De Vita, "Nonprofits and Devolution: What Do We Know?," Chapter 6 in Elizabeth Boris and C. Eugene Steuerle, *Nonprofits and Government* (Washington, D.C.: Urban Institute Press, 1999); Richard P. Nathan and Associates, "The 'Nonprofitization Movement' as a Form of Devolution," in *Capacity for Change? The Nonprofit World in the Age of Devolution*, edited by Dwight F. Burlingame, William A. Diaz, Warren F. Ilchman and Associates (Indianapolis: Indiana University Center on Philanthropy, 1996), 23–56; and Mildred Warner and Amir Hefetz, "Pragmatism over Politics: Alternative Service Delivery in Local Government, 1992–2002," *Municipal Yearbook 2004* (Washington, D.C.: ICMA, 2004).

2. Gordon P. Whitaker and Rosalind Day, "How Local Governments Work with Nonprofit Organizations in North Carolina," *Popular Government* 66 (Winter 2001): 25–32.

About a third of the cities and a third of the counties also reported developing programs with nonprofits. Local governments collaborate with nonprofits to create new public service programs in such diverse areas as economic development, parks and recreation, and social services. For example, some local governments join forces with chambers of commerce and other nonprofit economic development organizations to create and market industrial sites or business incubators.

## Purchasing Services

Local governments buy some public services from outside vendors, rather than produce them with government employees in municipal or county departments. Governments typically purchase services in order to save money or to obtain higher quality than would be possible with in-house production. When there is an active market for the service, with a variety of potential vendors, competition among the vendors for a government purchase contract can drive down costs and encourage better quality of service. Cost savings are also possible because of economies of scale. For example, by producing more, an organization can spread fixed costs of capital and expertise over a larger number of units of service and thereby reduce per unit costs.

Service purchase contracts typically specify what activities the vendor will provide, how many clients will be served, or other measures of service process or output. Articles 10 and 20 in this volume discuss local governments' service purchases from other local governments and for-profit businesses.

In this article we focus on service purchases from nonprofit organizations. While some nonprofits are large-scale producers—Duke Hospitals, for example—most are small producers. Many nonprofits achieve cost savings by relying on volunteer labor or use private donations to subsidize the services governments buy. Many of the services governments buy from nonprofits do not attract competition from businesses because there is too little margin for profit. Nonprofits are often willing and able to produce services like substance abuse counseling, recreation, homeless shelters, programs for the elderly, and low-income housing for local governments at below market rates.

## Providing Grants to Nonprofits

Local governments also fund nonprofits through grants. Grants are typically less specific than purchase contracts about the activities the nonprofit is going to conduct or the amount of service to be produced. Rather than specifying certain activities or products, grants are usually for support of programs with more broadly defined outcomes or impacts. Rather than buying meals for fifty clients per day (as with a service purchase), a government may use a grant to support a program for feeding the elderly, for example.

In addition to providing grants of money, many local governments support nonprofits by providing them staff assistance, office space, or equipment. As with financial grants, these in-kind grants must be for public purposes that the local government has authority to address.<sup>3</sup>

Most North Carolina local governments provide grants to nonprofits: 95 percent of the counties and almost 80 percent of the cities reported including funds for nonprofits in their annual budgets, the typical method local governments use to award grants to nonprofits.<sup>4</sup> Altogether, cities and counties responding to the Institute of Government survey reported budgeting nearly \$75 million for nonprofits in fiscal year 1998. The 127 cities reported budgeting more than \$26 million for nonprofits (just less than 1 percent of their total expenditures). The 53 counties reported budgeting more than \$48 million for nonprofits (about 1.5 percent of their total expenditures).

*Counties are likely to budget funds for nonprofits regardless of the county's size.* Size of county is related to the number of nonprofits funded and the level of that support, however. On average, each of the smallest responding counties budgeted support for 11 nonprofit organizations during 1998 and allocated about \$300,000 for support of nonprofits. Larger counties allocated more to a larger number of nonprofits. The states' 5 largest counties budgeted funds for an average of 37 nonprofits each at an average cost of almost \$3 million per county.

*Cities fund fewer nonprofit organizations than do counties.* Responding cities funded an average of 8 nonprofits, at an average of \$208,395 per city in 1998. The smallest cities were least likely to budget funds for nonprofits, and, if they did, to fund only a very few and at low levels. However, cities of at least 5,000 people were almost as likely as

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3. The relevant North Carolina General Statutes are Section 160A-20.1 for municipalities and Section 153A-449 for counties.

4. Whitaker and Day, "How Local Governments Work with Nonprofits."

counties to budget for nonprofits, although funding fewer nonprofits and at lower levels than counties. Thus, cities with populations between 10,000 and 25,000 funded an average of 9 nonprofit organizations and averaged about \$110,000 in nonprofit funding, compared to 11 organizations and \$300,000 in funding for all counties under 25,000. In the 25,000 to 50,000 range, cities averaged 15 nonprofits funded and \$300,000 in funding, while counties of that size averaged 18 funded and nearly \$500,000 in funding. The gap narrows only for the largest cities. On average, they budgeted funds for 33 organizations and allocated on average nearly \$2,600,000 per city—figures quite close to those for the largest counties.

## What Kinds of Services Are Funded?

Local governments help fund a variety of public services that nonprofits produce. North Carolina counties have primary responsibility for delivery of human services, and this has also been a major area of service devolution from federal and state governments. Many nonprofit organizations also deliver human services, so it is not surprising that county governments frequently choose to support human services for their residents by funding nonprofit delivery of those services. Forty percent of the nonprofits counties included in their fiscal year 1998 budgets were human service organizations. These include those providing social services, mental health services, substance abuse services, and public health services. Those same county agencies also typically purchase services from nonprofits, as well. Counties also often support *public safety nonprofits*: volunteer fire departments and emergency rescue squads, animal shelters, dispute settlement centers, and so on. Over a quarter of the nonprofits included in county budgets produce public safety services.

Human service nonprofits were also the largest category funded by city governments. But cities tended to award grants to different human service agencies than counties. Although there was some overlap with counties, the human service nonprofits budgeted by cities were more likely related to housing, to homelessness, or to crisis intervention. *Public safety programs* (including volunteer fire departments and delinquency prevention organizations) received considerably less support from cities. Overall, only 12 percent of the nonprofits cities funded provided public safety services. As with counties, however, public safety organizations made up a larger share of the nonprofits funded by smaller jurisdictions. Almost a third of the nonprofits funded by cities under 1,000 provided public safety services.

Recreation, arts, and cultural nonprofits were frequently included in city budgets, comprising 31 percent of all nonprofits funded by cities. Many cities have traditionally supported programs in these areas to enhance the quality of life for their own residents, to attract new residents, and to encourage visits from tourists. In the smallest cities about 40 percent of the nonprofits funded were in recreation, arts, or culture.

*Economic development organizations* (chambers of commerce, business incubators, and site development preparers, for example) were also among the nonprofits commonly supported by cities, overall accounting for 18 percent of city-funded nonprofits.

## What Are Nonprofit Organizations and How Are They Different from Local Government?

*Nonprofit organizations* are defined by their legal status. In this section, we describe the laws relating to nonprofit corporations. We discuss how their legal status differs from that of local government in ways that affect their relationships. Then we describe important mission, staffing, and resource differences between local governments and the community nonprofits with which they most often work.

### Legal Characteristics

Nonprofit organizations are either corporations or unincorporated associations. If the organization is a corporation, it is governed by Chapter 55A of the North Carolina General Statutes. If it is an unincorporated association, it is governed by North Carolina common law and by Chapter 59B of the General Statutes.<sup>5</sup> *Common law* is judge-made

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5. For example, many churches are unincorporated associations, as are many neighborhood associations or other similar groups. Chapter 59A of the General Statutes becomes effective January 1, 2007.

law that evolves on a case-by-case basis and is found in the written opinions that accompany the decisions in cases appealed to the North Carolina Supreme Court and the North Carolina Court of Appeals. Because the legal principles are not codified in a single place like the statutes, the legal status of unincorporated associations with respect to a particular matter is often more difficult to determine. The newly enacted Chapter 59A will answer some basic questions about the powers of unincorporated associations, such as the power to hold real estate, to sue or be sued, and to dispose of property of the association if it disbands. But, it is not as complete a statutory regulation as the nonprofit corporation statute. Based on that historical lack of statutory guidance and other reasons, governments are much more likely to partner with or fund nonprofit corporations than unincorporated associations. This discussion on legal characteristics focuses on nonprofit corporations, and will use the term *nonprofit* in that discussion.

### ***Nonprofit Definition***

G.S. 55A-1-40 (17) defines a nonprofit corporation as one “intended to have no income or intended to have income none of which is distributed to its members, directors or officers.” That definition illustrates two important points about nonprofits. First, a nonprofit is permitted to generate income, and to do so in amounts that exceed its expenses. Indeed, if it does not do so, its long-term viability may be in doubt. Second, the use of that surplus income is limited; it may not benefit people who govern the organization, but must be used to benefit the purposes the organization was created to serve.

### ***Governance Documents***

It is relatively simple to organize a nonprofit organization. The group forming the organization must file articles of incorporation with the Secretary of State’s office.<sup>6</sup> Those articles must list the corporate name, the purpose for which the nonprofit is being established, mailing address, the names and addresses of the persons incorporating the nonprofit, and may include any other governing rules the organization finds appropriate. Typically, articles of incorporation are broadly written and do not contain detailed governance provisions. Those governing principles are left to the corporate by-laws.<sup>7</sup> Unlike articles of incorporation, by-laws are not filed with the secretary of state, which, among other things, makes amendments simpler. When articles of incorporation are amended, the amendments have to be submitted to the secretary of state.

As this discussion shows, the governance provisions of a nonprofit corporation come from several sources. First are the relevant state or federal (primarily tax) statutes. Any mandatory provisions of those statutes control over any conflicting provisions in the articles of incorporation.<sup>8</sup> The articles of incorporation, if they are consistent with the statutes, control over the by-laws in case of a conflict. Policies adopted by the board or other governing entity may be applicable, but they must be consistent with statutes, articles, and by-laws.

### ***Tax Status***

One common way of classifying nonprofits is by their tax status under the federal Internal Revenue Service (IRS) code. That code confers special tax status on more than a dozen types of nonprofit organizations, for purposes ranging from labor unions, political parties, or chambers of commerce to country clubs or other social clubs. The section of the code most commonly associated with nonprofit organizations is Section 501(c)(3) (defined below). Other examples of nonprofits that have an IRS status are 501(c)(4) [employee associations] or 501(c)(6) [chambers of commerce and business leagues]. Other categories are provided for social clubs (like country clubs), various political organizations, and labor unions. Nonprofits are generally exempt from paying income taxes on the revenues the organization generates, but the exceptions to that rule are complex and beyond the scope of this publication.

Section 501(c)(3) is the section that establishes the tax status for most nonprofit corporations established to engage in “charitable” activities.<sup>9</sup> These nonprofits have a substantial tax advantage not conferred on other nonprofits—donations to them may be taken as a charitable deduction in determining the donor’s federal income tax liability.

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6. G.S. 55A-2-01.

7. G.S. 55A-2-06 provides that “the bylaws may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with law or the articles of incorporation.”

8. The federal tax statutes are not mandatory. Their violation can alter the organization’s tax status, but not its status as a state-chartered nonprofit organization.

9. 26 U.S. Code Sec. 501 (c)(3). The kinds of organizations included in this section must be for charitable, religious, scientific, public safety testing, educational, or literary purposes, or to foster amateur sports competition, or for the prevention



North Carolina's income tax contains a similar deduction from state income tax.<sup>10</sup> Many of these nonprofits are also given some special treatment in the administration of the sales-tax law. Some activities in which these nonprofits sell goods are exempt from collecting sales taxes, and some of them are entitled to a refund of the sales taxes they pay on goods and services they purchase.<sup>11</sup> In addition, many activities of nonprofits exempt the corporation from paying property taxes on property they own to support those activities.<sup>12</sup> These state tax laws do not apply to all 501(c)(3) nonprofits, but most, if not all, of the organizations covered by the exemptions are 501(c)(3) organizations.

### ***Limits on Liability***

In general, corporations are liable for harm they cause to others, in the same way that individuals or for-profit corporations are liable. Nonprofit organizations do not enjoy immunity from such liability; in 1967 the General Assembly abolished the common law defense of charitable immunity.<sup>13</sup> But they do have the basic protection that comes from having a corporate status. That status generally means that only corporate assets may be used to satisfy the corporation's liability and the assets of members, officers or directors are not reachable for that purpose. In limited circumstances, this "corporate veil" may be pierced and individuals associated with a corporation may be liable for a corporation's liabilities, but that is an exceptional circumstance.

Often, however, the volunteers who manage a nonprofit are concerned that they will be sued as individuals for actions taken while in their capacity as an officer or director of a nonprofit. Both state and federal law, in recognition of the need to encourage volunteers to work in nonprofits, provide some immunity to such liability.

One important protection, *immunity for service as member of a board of directors*, comes from state law and it applies to all nonprofits. Directors and officers (if they are not compensated for their service, beyond reimbursement for expenses) are immune from civil liability for money damages for any actions they take in their official capacities.<sup>14</sup> In addition, nonprofit corporations may indemnify (reimburse) directors and officers for their expenses in defending lawsuits, subject to certain limits and exclusions.<sup>15</sup> Specific nonprofit activities may also have special rules limiting their liability or the liability of their volunteers.<sup>16</sup>

Section 501(c)(3) nonprofits have even greater protection. Their volunteers (not just the officers and directors) are immunized from liability for their acts of negligence in some circumstances. There are both state and federal statutes on this subject, and in cases of conflict the federal law controls.<sup>17</sup> The federal law protects volunteers from liability for harm caused by negligent acts or omissions during volunteer service for a governmental agency or 501(c)(3) nonprofit. That law does not protect volunteers from liability for criminal, intentional, or reckless conduct, nor does it protect

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of cruelty to children or animals. Churches qualify as 501(c) organizations without filing with the Internal Revenue Service (although they may do so) and are so treated even if they are not incorporated.

10. G.S. 105-134.5 provides that one's taxable income for state income tax purposes is the same as it is for federal income tax purposes, subject to certain exceptions not relevant to this issue. In addition, G.S. 105-151.26 allows a tax credit against the personal income tax of certain taxpayers who elect not to itemize their deductions.

11. See, e.g., G.S. 105-164-13 (34) and (35) for examples of nonprofits' exemptions from collecting the taxes, and G.S. 105-164.14(b) for the list of nonprofits entitled to refunds.

12. See G.S. 105-275 for a list of the categories of exempt property.

13. G.S. 1-539.9

14. G.S. 55A-8-60. The immunity does not apply if the person was acting beyond the scope of his or her official duties or was not acting in good faith, or if the action in question constituted gross negligence or intentional misconduct, or the action involves the operation of a motor vehicle (for which the law requires liability insurance). This immunity can be limited by the articles of incorporation.

15. G.S. 55A-8-50 *et seq.*

16. For example, G.S. 58-82-5 limits liability for volunteer fire departments and their volunteers for damages caused by their simple negligence in fighting a fire; either the organization or its volunteers can still be liable for gross negligence or intentional misconduct.

17. The state statute is G.S. 1-539.10 and the federal statute is the Volunteer Protection Act of 1997, 42 U.S.C.A. 14501-14505.

them from simple negligence when the action was not in the scope of the volunteer's duties, involved activity for which a license is required, or involved conduct when the volunteer was under the influence of alcohol or drugs. State law contains a similar rule, but with fewer exceptions. The state statute also provides that the nonprofit is not liable for the acts of the volunteer, but if the nonprofit has insurance, that immunity does not apply for the amount of coverage provided by the insurance policy.<sup>18</sup>

### ***Legal Rules Applicable to Nonprofits***

Nonprofits who deal with governments often have to answer questions about the extent to which they are subject to laws that regulate the governments themselves. In most of these questions, the nongovernmental status means that it is not subject to rules applicable only to government. There are some exceptions to that general rule, and there are some laws applicable only to nonprofits (*charitable solicitation rules*). But the general rule of thumb is that a nonprofit is not subject to a statute that regulates solely governmental activity (most typically "open-government"-type rules), absent some unusual circumstances. Simply receiving governmental funds, through grants or contracts, will not subject a nonprofit to statutes applicable to governments.

Some examples illustrate the point. Governments are subject to public records and open meetings laws. Nonprofits are not. There are statutory exceptions. "Smart Start" nonprofits (early childhood organizations, created and primarily funded by the state) are subject to both sets of laws.<sup>19</sup> Similarly, the nonprofit corporation act makes corporations organized upon request of the state for the sole purpose of financing projects for public use subject to the same rules.<sup>20</sup> In some very limited instances a nonprofit may be so closely aligned with a governmental unit that it becomes subject to the same disclosure rules, for example when the organization is organized by a unit of government, operated by a governmental unit, or is performing a function so closely associated with the government that it is viewed as part of the government.<sup>21</sup>

Except for these specific situations, nonprofit organizations do not have to open their records to the public. They do have to provide access to their records for members of the organization,<sup>22</sup> but most Section 501(c)(3) nonprofits do not have members. Federal tax laws do require some disclosures of basic informational documents for most nonprofits (churches and those with small gross revenues are exempt).<sup>23</sup> It is common for governments dealing with nonprofits in a formal way to specify in the legal documents defining the relationship (i.e., contracts or grants) the kinds of disclosures and access to records required of the nonprofit.

Charities that solicit funds, unless exempted by law, need to comply with the state's rules on charitable solicitations. There is an extensive set of statutes that regulate solicitations by many nonprofits.<sup>24</sup> For other statutes, like civil rights laws, there are generally no exemptions specifically for nonprofits, but each set of laws should be analyzed on a case-by-case basis.

### ***Lobbying***

As noted earlier, contributions to Section 501(c)(3) nonprofits are tax deductible for their donors. That gives those nonprofits an advantage in raising funds. That special status is based on their special mission to benefit the community as a whole. But with that advantage come special responsibilities. One of them is a limited ability to engage in "lobbying," and a prohibition on using the nonprofit's resources for "political expenditures." Both those terms have specific

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18. G.S. 1-539.10(b). See Daye and Morris, *North Carolina Law of Torts*, 1999, Lexis Law Publishing, 406–7; Brown-Graham, *A Practical Guide to the Liability of North Carolina Cities and Towns* (Chapel Hill, N.C.: Institute of Government, University of North Carolina at Chapel Hill, 1999), 13–14.

19. G.S. 143B-168.129(a)(2).

20. G.S. 55A-3-07.

21. For a more extensive discussion of this issue, see Frayda Bluestein, "Privatization: Legal Issues for North Carolina Local Governments," *Popular Government* 72 (Winter 1997): 28–40.

22. G.S. 55A-16-02.

23. The annual disclosure form is IRS Form 990; a discussion of the required disclosures is included in IRS publication 557, *Tax Exempt Status for Your Organization* (March 2005), available at the Internal Revenue website, [www.irs.gov](http://www.irs.gov).

24. G.S. 131F-1 through G.S. 131F-33.

meaning in the IRS Code. *Lobbying* in this context means any effort aimed at influencing legislation, at any level of government. Thus it does not include advocacy aimed at executive actions, but it does include grassroots and direct lobbying aimed at influencing legislative actions.<sup>25</sup> *Political expenditures*, in contrast, are aimed at helping specific candidates or political parties in elections.

For 501(c)(3) organizations, some limited lobbying is allowed. The amount of resources spent on lobbying may not be a “substantial part” of the organization’s activities. Since this is a subjective term, the IRS Code also establishes a “safe harbor” with specified amounts of money that may be spent on lobbying activities. It is a formula based on the amount of money an organization spends, but for most organizations, the amount allowed is 20 percent of an organization’s expenditures to accomplish its stated purposes, plus depreciation.<sup>26</sup> For larger organizations, the percentages go down from 20 percent.<sup>27</sup> Organizations that devote more than a “substantial part” of their activities to lobbying can lose their Section 501(c)(3) status. Organizations that elect to use the safe harbor provision can be assessed an excise tax if their level of expenditures exceed the allowed amounts.

Lobbying for this purpose does not include an organization’s responses to questions posed by legislative bodies, making available results of any nonpartisan studies or research, examinations of broad social or economic problems, or testimony about legislation that directly affects the organization’s status or its powers and duties.<sup>28</sup> It also does not include communications by the organization to its members about specific legislation, unless the communication asks the members to take a specific action with respect to the legislation. Similarly communications with government officials are affected by these rules only when they involve legislative advocacy.

In contrast to the rules that allow lobbying on a limited basis, the rules on partisan or candidate-specific political expenditures are simple. They are flatly prohibited and can result in both loss of tax exempt status and excise taxes on the expenditures. Individuals associated with nonprofits may participate as citizens in the political process, but may not do so on behalf of the nonprofit organization.

Other organizations that are tax exempt are not regulated as closely as Section 501(c)(3) organizations. Many of those organizations could have elected to organize under Section 501(c)(4), which grants exempt status for civic leagues and social welfare organizations. The rules on lobbying and political expenditures are not as strict for Section 501(c)(4), and for that reason, some organizations elect not to seek Section 501(c)(3) status. Similarly, chambers of commerce and other business leagues organize under Section 501(c)(6). They may engage in lobbying to promote their members’ interests, subject to certain rules affecting the member’s ability to deduct his or her dues as business expenses. Each type of organization has rules applicable to that kind of nonprofit and it is important to consult the rules applicable to the kind of organization one is dealing with.

## Organizational Characteristics

*Each nonprofit organization is driven by its own specific mission.* That mission or purpose is stated in the organization’s charter and provides the basis for its legal status, including its tax classification. The nonprofit’s mission also typically attracts and motivates those who support the organization: its board members, employees and volunteers, and donors are people who are drawn to that mission and want to work toward achieving it.

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25. *Grassroots lobbying* is “any attempt to influence any legislation through an effort to affect the opinions of the general public or any segment thereof” and *direct lobbying* is “any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any governmental official or employee who may participate in the formulation of legislation.” “Tax-Exempt Status For Your Organization,” *Publication 557* (Rev. March 2005), Internal Revenue Service, Department of the United States Treasury, 45.

26. The amount spent on lobbying is included in the organization’s expenditures in making this calculation.

27. For a more detailed explanation of these regulations, see “Tax-Exempt Status for Your Organization,” *Publication 557* (Rev. March 2005), Internal Revenue Service, Department of the United States Treasury, 45–46.

28. It is not clear whether an organization’s lobbying for its own funding from a legislative body would be included in the exception for activities related to legislative matters that affect an organization’s status (commonly known as the “self-defense” exception). If it is not, there is no other exception that would exclude lobbying for funding from these rules—which means that an organization can engage in that activity, but the funds used in the activity would be considered in determining if an organization had exceeded its limits.



Because of their dedication to the mission of the organization, those who work for it often develop considerable knowledge about the subject and a strong emotional attachment to the work. Volunteer firefighters learn a lot about fighting fires, for example, and care deeply about their work. So do those who work in nonprofits helping people with mental disabilities, those who volunteer at animal shelters, those who are docents at museums or historical sites, and so on.

*Nonprofits attract volunteers and donations.* With a compelling mission, a nonprofit organization has the basis for recruiting volunteers and soliciting contributions. Offering time, money, and other support for causes people believe in has been a distinguishing feature of our culture since before U.S. independence. Indeed, even many of the paid employees of nonprofit organizations work at below market rates because of their commitment to the cause the nonprofit seeks to serve.

*Nonprofits are often closely connected to the communities they serve.* A nonprofit's mission attracts those who need its services, as well as those who support its purposes. This shared sense of purpose helps many nonprofits build strong relationships with clients and potential clients. Nonprofit board members, employees, and volunteers are often members of the client community themselves, so a shared identity serves as another tie to the community being served. These communities may be geographic areas such as neighborhoods; ethnic or social groups such as immigrants from Latin America; particular age cohorts such as the elderly; or people who share a common interest or experience. Of course, some communities are comprised of people who share several of these attributes.

*Most nonprofits are small organizations.* North Carolina has about 30,000 nonprofit organizations.<sup>29</sup> Some 60 percent of these have 501(c)3 tax status. Although some nonprofits in North Carolina have multimillion dollar budgets and thousands of employees, most are quite small. Only 20 percent of the 501(c)(3) organizations in the state have annual budgets greater than \$100,000 while two-thirds have budgets of less than \$25,000 a year. Most nonprofits thus rely on volunteers, part-time employees, or no more than a single full-time employee.

*Nonprofits have fewer procedural restrictions than local governments.* Nonprofits can act more quickly and more flexibly than governments to adopt and implement new programs, to hire and fire employees, and to buy and sell property. When they approve new programs, a nonprofit's board of directors must ensure that the new venture is consistent with the organization's mission and charter, or risk losing their special tax status. All personnel actions and property transactions of the corporation are subject to laws that regulate businesses, as well. As explained in the previous section, nonprofits are private corporations and usually not subject to requirements for public notice, public hearings, open meetings, or public access to records that apply to governments.

Some special regulations apply only to nonprofits, however. Nonprofit accounting practices and standards differ from both those for business and those for government. Nonprofits with receipts of more than \$25,000 are required to file Form 990 with the United States Internal Revenue Service. Any North Carolina nonprofit soliciting contributions is required to get a Charitable Solicitation License from the North Carolina Secretary of State.

## What Are the Advantages and Challenges for Local Government in Working with Nonprofits?

Each of the ways in which nonprofits differ from local government can offer advantages to the governments that work with them. But each difference can also produce challenges for governments, as well.

### Focus on a Narrow Mission

Nonprofits typically focus on some particular client group and/or cause: the health and well-being of young children, downtown economic development, or animal protection, for example. This strong commitment to a specific mission means that people who work in nonprofit organizations often bring considerable dedication and expertise to the services they produce. They care about the cause that mission represents. They devote time and attention to learning about the issues involved and techniques for addressing them. They may be more willing and able to specialize than government staff who have a broader range of responsibilities. Having staff with greater expertise and commitment is often one of the benefits of using nonprofit organizations to deliver service.

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29. Gita Gulati-Partee, "A Primer on Nonprofit Organizations," *Popular Government* 66 (Summer 2001): 32–33.

The related challenge for local governments is that people devoted to the mission of a particular nonprofit may have difficulty seeing that nonprofit's work in a broader context. Local government officials are responsible to the entire community for a broad variety of public services. They must balance competing demands and multiple missions. Even "expertise" can become a challenge when people begin to think they have complete knowledge about a particular service and are unwilling to listen and learn from alternative perspectives or approaches. Partnering can be difficult if the partners are unable or unwilling to listen to each other's views.

## **Volunteers and Donations**

One of the major advantages nonprofits offer local government is the lower cost to government of nonprofit service production. In effect, the labor contributed by volunteers, the lower salaries nonprofit staffs often accept, and the private donations of money and materials subsidize nonprofit service delivery, reducing the costs to local government. Indeed, many nonprofits can only afford employees who are willing to work for less than businesses or governments will pay for comparable work.<sup>30</sup>

To develop, deliver, and maintain effective programs, every organization needs skilled workers who reliably carry out their responsibilities. Using volunteers to do much of their work presents special challenges for many nonprofits. Recruitment, training, and timing are critical for productive volunteer involvement. Financial incentives of employment do not apply to volunteers. People volunteer to work for nonprofit organizations because they want to advance a particular cause or for the benefits associated with participation. In many communities, the volunteer labor pool may be limited and may not offer nonprofit managers a great deal of choice in selecting workers. Volunteers—even if willing and able to participate—do not necessarily come prepared with the skills nonprofits need and may not be available to work when the nonprofit most needs their efforts. Volunteers may be more willing to develop skills directly related to the organization's services or programs, but less likely to devote time and attention to administrative work.

Because paid staff members in many nonprofits are underpaid relative to comparable jobs they might hold in business or government, they may also resemble volunteers in terms of their incentives and the suitability of their training. In many nonprofits, the particular mission of the organization is the primary motivation of both volunteer and paid staff members. Their interest and attention is likely to be on the organization's programming, rather than on its administration. Having too few people with the requisite administrative skills and interest can be a major challenge to sustaining a nonprofit. Providing effective programs and services over time depends largely on effective management of the organization's operations, finances, and legal responsibilities. If nonprofits do not maintain good records, do not reflect on their work, and do not report in a clear and timely way, accountability suffers. Local governments have difficulty knowing what they are getting for their support when nonprofits lack basic administrative capacity.

Uncertain revenues are another challenge nonprofits confront. Depending on donors for much of their funding leaves many nonprofits guessing about revenue projections and scrambling for funds. Leaders of nonprofits must focus on maximizing current funding streams and looking for new ones. Nonprofit funding is often unstable because few individual or organizational funders commit to continuing financial support far into the future. For example, most local governments fund nonprofits for only a year at a time, even if the tradition of support goes back for decades. Federal funding streams might allow several years of funding but require reapplication each calendar year. Philanthropies typically make funding commitments for one to three years as well. Some nonprofits have developed fees for service or product sales to help stabilize their funding, but those options are not viable for many nonprofits that specialize in public goods.

Managing these funding streams and the programs they fund demands constant attention from nonprofit staff and volunteers. It can be challenging to get past these daily tasks to focus on organizational sustainability. Without adequate administration, subsidies nonprofits provide for government-supported programs can disappear. If they do, government may be left facing the prospect of increasing its own funding for the nonprofit, producing the service some other way, or eliminating that service entirely.

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30. In North Carolina in 1997, nonprofit employees with college degrees earned on average 35 percent less than the national average earned by business employees and 15 percent less than the national average for government employees. *Ibid.*, 33.

Finally, governments and philanthropies often favor funding new initiatives or specific program activities rather than administrative capacity. These funder preferences sometimes result in an overemphasis on program expenditures to the neglect of administrative services and equipment. By inadequately funding such activities as record keeping and reporting, or training staff and board, funders threaten an organization's ability to continue operating its programs and responding to government requirements for accountability.

### **Strong Community Connections**

Many of the services nonprofits deliver depend on active community participation. Clients must be willing to report problems and request services. They must be willing to participate in program activities and, sometimes, to change their own behavior in order to achieve the outcomes both the local government and the nonprofit seek. Organizations as diverse as community development corporations, youth centers, arts societies, and victim assistance centers seek to create and sustain strong relationships with the communities they serve. Encouraging home ownership and neighborhood improvement, engaging young people in sports, building an audience, and helping victims deal with domestic violence all depend on active involvement of those being served.

Clients—especially when they are from small or disadvantaged groups—may be more likely to identify with a nonprofit whose mission is to support them than with a government agency. Identification with the nonprofit may be even stronger if people from the clients' community (however defined) are on the nonprofit's board or staff. In such cases, the nonprofit is apt to be more effective than government at engaging clients and achieving the desired results in serving them.

Nonprofits can be more effective than government agencies if they have greater credibility than government with the client population and if program success depends on public involvement. Lacking governmental authority to legislate change or regulate behavior, nonprofits rely heavily on persuasive public appeals and strong personal commitments to advance their causes. In recruiting and training volunteers and in organizing their work, nonprofit organizations increase people's awareness of and concern for addressing public needs. In addition to engaging volunteers, many nonprofits also publicize their concerns widely to inform broader communities, encourage changes in behavior, or raise funds.

Strong community connections can also create challenges for local government, however. A nonprofit organization sometimes becomes a forceful advocate for its mission and can mobilize its community backers in support of its proposals. This advocacy may be perceived as a threat by local government officials. Sometimes it is difficult for officials to manage the tensions of partnering with a nonprofit while that same nonprofit is publicly advocating changes in government policies.

### **Small Size**

Having small nonprofits as partners, vendors, or grant recipients can be beneficial for local governments. Smaller organizations may be more dependent on the government for funding or other support and therefore less likely to resist government direction and control. They may also be more nimble, able to react quickly with changes to their programs and procedures.

On the other hand, working with small organizations can pose considerable problems for a local government. Smaller nonprofit organizations are less likely to have staff who specialize in administration given the propensity of nonprofit employees and volunteers to emphasize mission-focused work over administrative responsibilities. Smaller nonprofits are more likely to be disrupted by staff turnover because there are fewer potential replacements already in the organization and ready to fill vacancies. Thus, local governments are apt to encounter greater reporting and accountability problems with smaller nonprofit organizations.

### **Operating Flexibility**

Another reason nonprofits can change more quickly than government departments is that they have fewer procedural hurdles. As private corporations, nonprofits do not face the restrictions governments often have in creating, revising, and eliminating positions; in hiring and firing staff; in buying and selling property; and in establishing, changing, and ending programs. Thus, nonprofits can often respond more quickly to new opportunities, develop and pilot new programs, or react to emergencies. For example, many local governments work with nonprofits to negotiate, buy, prepare, and sell land to encourage economic development.

Nonprofits also often have greater policy flexibility than local governments. Because local governments have responsibility for providing a wide variety of services to the entire community, focusing on innovative programs can sometimes be difficult for a government. Nonprofits typically have a much narrower program focus and may be more able to experiment with a new approach to address a public problem. Because of their openness and ability to change, nonprofits originate many public programs or develop new ways to deliver them.

“Nonprofits are used to solving problems with limited funds, which forces them to be resourceful and entrepreneurial. Their creativity often forms the basis of public policy. Name a well-run government program, and you’ll usually find that it was modeled after something started in the nonprofit sector,” says Jane Kendall, president of the North Carolina Center for Nonprofits, which helps nonprofit organizations across the state use effective management and leadership practices in order to improve their communities.<sup>31</sup>

The operating flexibility that makes nonprofits valuable partners for government can also be a challenge. Instead of having the guidance of statutory provisions and state agencies like the Local Government Commission, nonprofits—like private businesses—depend primarily on the judgment and self-regulation of their own managers and board for guidance. Nonprofit executives, as well as the boards that hire and direct them, need the knowledge and the interest to develop and use effective, honest management practices. Otherwise, the organization cannot sustain its programs and meet the needs of its government partners and funders.

### Local Economic Impact

The nonprofit sector can also have a substantial impact on a local economy. When a nonprofit is as large as Duke University in Durham or Wake Forest University in Winston-Salem, it is easy to see how the overall health of that nonprofit affects nearly every corner of the local community. Smaller nonprofits are often overlooked as an important part of the local economy. But community nonprofits are like small businesses. Their collective impact can be diverse and significant, especially to the employees, clients, and residents they touch. Yet because each is small, their individual contributions are often overlooked or undervalued.

Nationally, the nonprofit sector is expanding faster than either business or government. “Employment in the Nonprofit Sector,” a study undertaken by *The Independent Sector* reports “the average annual growth rate in employment for nonprofits (2.5 percent) was significantly higher than for business (1.8 percent) or government (1.6 percent). The number of Americans employed in the nonprofit sector has doubled in the last 25 years. Nonprofit employment represents 9.5 percent of total employment in the United States, with total employees numbering 12.5 million.”<sup>32</sup>

According to a recent study commissioned by the N.C. Arts Council, the economic impact of just the nonprofit creative sector in North Carolina is \$723 million annually. This represents 6,669 direct full-time jobs.<sup>33</sup>

“Nonprofits improve the quality of life by creating programs for the arts, health, recreation, education, youth, and seniors—all essential for economic development,” says Jane Kendall, “and they put funds back into the local economy by spending \$19.8 billion a year.”<sup>34</sup>

Nonprofit organizations’ payrolls and purchases contribute to the local economy, sometimes quite substantially. Kendall continues, “In addition to serving as an economic development engine, nonprofits themselves are a major employer. In 2002, nonprofits provided 224,393 jobs across the state.”<sup>35</sup>

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31. Quoted in Lydian Altman-Sauer, Margaret Henderson, and Gordon Whitaker, “Building Community Capacity to Meet Public Needs,” *Popular Government* 70 (Winter 2005): 29.

32. “Employment in the Nonprofit Sector,” *The New Nonprofit Almanac & Desk Reference*, Independent Sector, 2004, accessed at <http://www.independentsector.org/PDFs/npemployment.pdf>.

33. “Just the Ticket: The Arts Make Money in North Carolina,” a report from the John Walker College of Business, Appalachian State University, for the North Carolina Arts Council, accessed online at [http://www.ncarts.org/pdf/Just\\_the\\_Ticket.pdf](http://www.ncarts.org/pdf/Just_the_Ticket.pdf).

34. Quoted in Altman-Sauer et al., “Building Community Capacity.” This figure comes from the N.C. Center for Nonprofits in collaboration with the National Center for Charitable Statistics, 2004, using data Form 990s filed with the IRS for FY 2002.

35. *Ibid.* These figures are from the N.C. Center for Nonprofits, in collaboration with the N.C. Employment Security Commission and are from the second quarter of 2002.

A related challenge for local government, however, is the tax exempt status of much nonprofit-owned property. In municipalities where a nonprofit organization owns large amounts of property, the nonprofit may agree to contribute funds or services to the city to help cover the costs of fire protection and other city services.

## Working Effectively with Nonprofits

Effective working relationships between local government and nonprofit organizations can bring important benefits to the communities they serve. As discussed above, nonprofits can help government serve the public by providing new perspectives and information, additional resources, relevant expertise and access to clients, greater flexibility of operation, and increased economic activity. Nonprofits can complement and support government services.

However, government-nonprofit relationships are not always as effective as they could be. In the previous section, we reviewed some common challenges nonprofits pose for government partners. Governments pose challenges to nonprofits, as well. These challenges include governments' broad responsibilities for and to the entire community in contrast to a nonprofit's more focused concerns, the many competing demands for government funds, the many diverse groups seeking public policy support, governments' frequently much larger size and bureaucracy, and governments' procedural requirements for accountability. Being aware of those challenges is also important for government officials who seek to work more effectively with nonprofits.

Many nonprofit organizations share with local governments a commitment to serving the public and improving the community. Their overlapping interests and concerns provide governments and nonprofits opportunities to work together—each can learn from and support the other.

Different constituencies and independence of operations can also lead to misunderstanding and distrust, however. Governments have broad responsibility for public well-being. Government officials represent all the people and are accountable to the entire community. People in nonprofit organizations typically focus their attention on the specific issues, clients, or services that are the particular focus of that organization. Because they are independent corporations, nonprofits set their own agendas and determine their own activities, including advocating with governments on behalf of the nonprofit's clients or issues. While conflicting perspectives and different resources can contribute to complementary partnerships, they can also lead to disengagement or stalemate.

### Communication Is Key

How governments and nonprofits relate to each other depends in large measure on how their leaders communicate with each other. A study of relationships between North Carolina county governments and nonprofits in 1999 found four obstacles to effective relationships:

- different perceptions about the same situation,
- lack of understanding of each other's work,
- differences in style of communication and sharing information, and
- imbalance of power in the relationship.<sup>36</sup>

Many nonprofits are concerned about issues of interest to municipal or county government. The members, directors, and staff of nonprofits typically have a strong interest in the goals of the organization: fighting fires, promoting literacy, encouraging recycling, building low-income housing, and so forth. Often they also are concerned about how services relating to those goals are carried out. Thus, they have concerns both about the results they would like to see and the processes that are used to produce those results. Nonprofit leaders sometimes identify strongly with the needs of the clients their organization serves. Like all people, nonprofit leaders may often have personal interests as well, relating to their own habits and values.

Municipal or county officials may be unable or unwilling to meet all of the concerns presented to them by nonprofit representatives. Before deciding, however, government officials need to hear what those issues are. Otherwise, they may miss opportunities to work together with nonprofits to meet important public needs.

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36. Lydian Altman-Sauer, Margaret Henderson, and Gordon P. Whitaker, "Strengthening Relationships between Local Governments and Nonprofits," *Popular Government* 66 (Winter 2001): 35.



Sometimes opportunities for partnership are missed because relations between nonprofits and government become adversarial rather than collaborative. Each side starts pushing its own view of a situation without listening to the other's concerns. People get locked into positions about who should do what before they have a chance to explore ways they might work together on interests they really share.

### **Deciding to Partner**

Partnering is usually a mutual decision and can be initiated by either party.<sup>37</sup> Regardless of who initiates the partnership, however, government officials and nonprofit leaders must each see that they can meet their own organizational goals better by working together than by working alone. Partnering is more successful when local government staff meet with the relevant nonprofits to discuss an issue *before* the problem is fully defined or responses are designed. Of course, different nonprofit organizations may each have differing views, too. Bringing all likely partners to the table (and keeping the door open to others who also express interest) creates a joint planning process and can foster partnership. Either government or nonprofit representatives can initiate such discussions. Partnerships depend on a willingness to discuss issues and seek ways to work together.

By working together to identify problems that require public attention and to develop ways to address those problems, local governments and nonprofits can share expertise and information, gain the insights of diverse perspectives, and explore new ways of solving problems. Discussions among government officials and staff, nonprofit leaders, and other concerned citizens can produce both a fuller understanding of public problems and more creative and effective ways to deal with them.

The choice to seek effective partnerships can be made by anyone in government or nonprofit organizations who feels responsible for working to improve his or her community. Even one person can make a difference and improve communications, but it usually takes active participation from people in both government and nonprofits to build effective partnerships. Being willing to listen is the first step.

### **Deciding to Purchase Services**

The decision to purchase services rather than produce them through government departments is typically initiated by government.<sup>38</sup> Government officials decide they want to provide a service, but then choose to contract with an outside supplier rather than assign the service to government employees. A first step is for government officials to “evaluate their goals, the resources (personnel and funds) required, their in-house capacity vs. that of contractors, a cost analysis (in-house vs. contractor), timing, and legal parameters.”<sup>39</sup>

Government officials typically draw up specifications for the service they want to buy. These specifications sometimes provide considerable detail about the qualities and quantity of service being sought. A local government may decide to advertise for bids. Competitive bidding for services is not required by state law, however, and for many services there may be only one potential vendor.

If there are several bidders, government officials must assess them in light of the criteria provided in the solicitation, as well as in terms of price. Which bid will best provide the service being sought for the lowest cost to government? Price is only one consideration, so usually officials with expertise in the service area help select the winning bid.

After a service vendor is selected, negotiations are often required to work out the details of the relationship. Being clear about what government and nonprofits expect from each other will help guide those who carry out the work and provide criteria for evaluating the success of the work.

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37. For additional discussion of practices that contribute to effective partnering, see *ibid*.

38. A fuller discussion of service purchasing is provided in Ruth Hoogland DeHoog and Lester Salamon, “Purchase of Service Contracting,” in *The Tools of Government*, edited by Lester Salamon (New York: Oxford University Press, 2002), 319–39. See also Phillip J. Cooper, *Governing by Contract* (Washington, D.C.: CQ Press, 2003), and Frayda Bluestein, “Contracts, Competitive Bidding, and Conflicts of Interest,” Article 20 in this volume.

39. M. Collett, “The Federal Contracting Process,” *Bureaucrat* 10(2) (1981): 18–19, cited in DeHoog and Salamon, “Purchase of Service Contracting,” 324.

Both the nonprofit organization and the government benefit when they jointly clarify mutual expectations, especially when successful outcomes for the work being undertaken are broad, difficult to define, and require a multi-pronged approach—such as ending gang violence. Before discussing contracting and other ways to make expectations explicit, we next consider government decisions to fund nonprofits through grants.

### Deciding to Fund Nonprofits through Grants

Local governments offer grants to support nonprofits' work toward broad public purposes. Grants are particularly useful to government officials when they want to support a public policy goal without designing specific programs. For instance, some cities provide grants to the local chamber of commerce to support economic development in the community, rather than buying specific economic development activities from the chamber. In comparison to a purchase of services, a grant typically leaves more details of the work up to the nonprofit grant recipient, although many local governments also seek to clarify the grant relationship by entering into a contract with the nonprofit that receives the grant.

Government officials may choose to award grants when a nonprofit can

- supplement public funds with contributions of time, expertise, and money from volunteers and other donors.
- move more flexibly or quickly than government to address a pressing public need.
- build a sense of community or encourage civic participation by involving volunteers, neighbors, or others who are known and trusted by a particular community.
- bring specialized expertise on community issues or on a specific population because of their mission and experience.
- augment, complement, or fill in gaps in government services.<sup>40</sup>

Those officials may choose not to award grants if they want to have more control over the nonprofit's activities by purchasing services from the nonprofit or if they

- decide that government can provide the same services better or at a lower cost than nonprofits.
- prefer to put resources into government departments, even if services are not as effective or efficient.
- do not want to devote staff time and attention to oversight of partnerships with nonprofits.
- fear making nonprofits dependent on government funding.
- want to cut spending instead of providing the service.<sup>41</sup>

Many North Carolina local governments grant funds to nonprofits through appropriations in their annual budgets. In addition to granting funds to nonprofits, local governments can also make in-kind grants of equipment, facilities, or staff support for a nonprofit organization's community service work.<sup>42</sup>

Local government officials are increasingly looking on grants to nonprofits not as "donations" or "charity," but as a useful alternative for government to address community needs. They are developing procedures for soliciting grant applications from nonprofits, reviewing those applications systematically, and making funding decisions that reflect the elected board's policy priorities.<sup>43</sup>

### Building Accountable Relationships

Both government and nonprofit leaders need to be quite clear about what each organization is contributing and what each expects in return. Many local governments, especially the larger ones, use contracts for grants, as well as for purchasing services. A contract should detail the resources to be provided and the results anticipated by each party.

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40. Margaret Henderson, Lydian Altman-Sauer, and Gordon Whitaker, "Deciding to Fund Nonprofits: Key Questions," *Popular Government* 67 (Summer 2002): 34–35.

41. *Ibid.*

42. Whitaker and Day, "How Local Governments Work with Nonprofits."

43. For a set of guidelines for developing nonprofit funding procedures, see Henderson, Altman-Sauer and Whitaker, "Deciding to Fund Nonprofits."

Alternatively, a project budget can show the in-kind and financial contributions of each partner and can be included with a grant proposal that describes the anticipated products or outcomes. The level of detail about expectations can be quite broad or very fine, depending on the needs and desires of both partners, but each party should seek clarity about those issues that are of particular concern. For example, nonprofits may have low cash reserves and so be concerned about payment schedules and promptness of reimbursements. Governments have fiscal accountability concerns and so may want assurances about financial reporting procedures. Accountability is about more than just money, of course. Government and nonprofit organizations alike are expected by their constituents (voters, taxpayers, citizens, clients, donors) to be effective and fair, as well as efficient.

*Focusing on outcomes promotes flexibility.* While clarity about expected results and resources is important for building trust between partners, openness to exploring new ways to deliver services can make use of nonprofits' flexibility and innovation. Local governments often can take best advantage of the expertise of nonprofits by setting out clear expectations about nonprofits' activities or even outcomes and leaving the details of how to organize and accomplish them to the nonprofit.

Below are four questions whose answers shape the accountability relationship:<sup>44</sup>

- Who is responsible for doing what for whom?
- Who has discretion in carrying out those responsibilities?
- Who should report what to whom?
- Who can review and revise the relationship?

Effective partnering between government and nonprofits rarely occurs by chance. Instead, partnerships that help both government and nonprofits improve the quality of public life are built through leaders listening to each other, looking for opportunities to work together, clarifying expectations, staying flexible about processes, and understanding the particular restrictions and limitations of both government and nonprofit organizations.

### **Monitoring and Evaluating Relationships and Services**

Simply specifying what kinds of reports a nonprofit must provide does not assure accountability. The nonprofit needs to have the resources to produce the reports accurately and on time. The government needs to have staff who review those reports. The staff should compare these reports to each other and to other data, and include observations of the nonprofit's program operations or discussions with nonprofit clients or staff.

Many nonprofit organizations have few of the formal requirements for controlling and reporting financial transactions, managing staff, or governing program operations that are so common in government. If government requires nonprofits to comply with any of these, nonprofit leaders may need careful explanations of the laws and regulations under which governments operate and the reasons for those accountability requirements.<sup>45</sup> Complex procedures for handling cash or accounting for funds, for example, may also be very difficult or even impossible for them to accomplish if the nonprofit is quite small. Recognizing this, some local governments have developed simplified reporting requirements for very small nonprofits. Others provide accounting and check writing services for the funds they make available to nonprofits. Instead of asking for extensive reports from nonprofits on their program operations, some local governments send staff to observe those program operations or to talk with staff or clients about the programs.

### **Effective Relationships**

No single practice, process, or documentation in isolation can adequately ensure good government-nonprofit relationships. Having good practices and clear documents is important, but not sufficient for effective working relationships. Straightforward communication and mutual trust are also necessary.

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44. Adapted from Margaret Henderson, Gordon P. Whitaker, and Lydian Altman-Sauer, "Establishing Mutual Accountability in Nonprofit-Government Relationships," *Popular Government* 69 (Fall 2003): 18–29.

45. To help introduce nonprofit leaders to North Carolina local government organization and procedures, the School of Government has published *20 Questions Nonprofits Often Ask About Working with Local Government* by Lydian Altman-Sauer, Margaret Henderson, and Gordon P. Whitaker. Copies are available from the School's publications division at <http://www.sog.unc.edu>. Of course, local public officials will still need to describe and explain local arrangements and practices to nonprofit leaders in their own communities.

Governments sometimes give nonprofits conflicting messages when they talk about the importance of building mutual trust but offer no acknowledgment for living up to or surpassing expectations. Instead, governments may require one-size-fits-all accountability practices that convey the unspoken expectation to nonprofits that they must continually prove they are not doing wrong, no matter how stellar their performance might be. For their part, nonprofit leaders may resent government's greater financial resources and legal authority.

Oftentimes, negative behavior and outcomes by nonprofits can stimulate extremely negative reactions by government. While it is important to hold any organization that receives public funds fully accountable for using those funds appropriately, simply implementing new reporting requirements doesn't necessarily prevent future abuses. For example, requiring additional paperwork from the funded organizations may not result in greater accountability if the government does not have staff to review the documents.

Alternatively, government officials could choose to reward positive behaviors and outcomes by offering high-performing nonprofits expanded opportunities to work together, longer contracts, increased amount or stability of support, celebration of mutual success, and simple acknowledgment of work well done.

No local government has all the power, resources, or authority it takes to solve many common community problems, such as environmental protection, community development, or family violence. Chances are, though, that every government has within its borders nonprofits that can put additional resources, expertise, and energy into addressing those problems. The challenge lies in working across organizational boundaries to identify shared concerns while negotiating differences, all the while keeping in mind accountability to the public.

## Additional Resources

Altman-Sauer, Lydian, Margaret Henderson, and Gordon Whitaker, "Building Community Capacity to Meet Public Needs," *Popular Government* 70, no. 2 (Winter 2005). Available at <http://sog.unc.edu/pubs/electronicversions/pg/pgwin05/article4.pdf>.

Altman-Sauer, Lydian, Margaret Henderson, and Gordon P. Whitaker, "Strengthening Relationships between Local Governments and Nonprofits," *Popular Government* 66, no. 2 (Winter 2001). Available online at <http://sog.unc.edu/pubs/electronicversions/pg/pgwin01/article4.pdf>.

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Whitaker, Gordon P., and Rosalind Day, "How Local Governments Work with Nonprofit Organizations in North Carolina," *Popular Government* 66, no. 2 (Winter 2001). Available online at <http://sog.unc.edu/pubs/electronicversions/pg/pgwin01/article3.pdf>.

See also [www.publicintersection.unc.edu](http://www.publicintersection.unc.edu).

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