

HELP THEM HELP YOU.

A RECOMMENDATION FOR THE ISRAELI CHARITY

An article from the Bank of Jerusalem website

<http://www.bankjerusalem.co.il/indexE.php?page=588>

INTRODUCTION

American and European charity has been and continues to be an integral and indispensable part of Israeli social welfare. Foreign foundations and individuals have been providing philanthropic assistance to combat poverty, advance medical and scientific research, promote education, and support religious institutions for over 60 years. While laws governing American contributions to foreign charities have always existed, they were vague and, consequently, rarely enforced. Contributions from individuals and American 501(c)(3) corporations to Israeli charities were unsupervised and their ultimate use was difficult to trace and determine. The possibility of misuse of charitable assets has been a concern for American authorities for a long time but it became a critical issue and a priority when authorities uncovered that charity funds were used to sponsor the September 11, 2001 attacks. To make matters worse, in 2002, investigations into U.S. corporate scandals revealed practices that were illegal or not in keeping with standards required in the charitable sector.

The Treasury Department and the IRS encouraged a dialogue with charity groups to assess what measures should be taken to ensure against the misuse of charity funds. Additionally, the Senate Finance Committee requested the Panel on the Nonprofit Sector to recommend ways to strengthen the governance and accountability of public charities and private foundations. In June 2005, the panel issued a comprehensive final report. Its goals were to strengthen the transparency, governance, and accountability of charitable organizations. The report recommended actions by the IRS, Congress, and the charitable foundations. Charitable organizations were recommended to perform internal audits and reviews, disclose progress and performance reports, strictly adhere to requirements concerning Board members, and monitor the compensation paid to the charity's executives and employees. Congress was recommended to strengthen and enforce Abusive Tax Shelter laws as well as laws governing misconduct and conflicts of interest. Finally, the IRS was recommended to closely scrutinize and investigate returns submitted by charitable organizations in order to detect inconsistencies and possible misconduct.

What followed was a sector-wide reexamination of procedures and practices of private and public charity donors. Significant structural changes were implemented to ensure against the misuse and misallocation of funds. The new procedures were designed to provide donors with the ability to determine where their funds go and how and when they are used. As a result of these changes, American donors are now required to obtain a significant amount of information - both financial and organizational - concerning their prospective foreign grantees and fund recipients.

These changes will have a profound impact on the manner in which American foundations and charitable organizations will provide philanthropic assistance to Israeli causes. To continue receiving American charity money, Israeli charities will have to implement procedures to correspond to the new American regulations and practices. It is therefore vital that Israeli charities gain a thorough understanding and appreciation of the new American practices and regulations.

More importantly, the new regulations and procedures affected a shift in the mentality and attitude of American donors. They no longer donate funds indiscriminately in the hope that it ends up contributing to a worthy cause. Realizing that they will be accountable for the ultimate use of the funds, they are taking a hands-on approach and closely monitoring the destination and use of their funds. Structuring your charity in a more efficient fashion will help you gain credibility with American donors and foster the long-term relationships that are essential to your cause.

American donors, however, continue to meet certain difficulties in attempting to manage their charity money. These difficulties are generally due to language barriers, physical distance, and cultural differences. Understanding what they are looking for and assisting them in obtaining it will make donating to your cause hassle-free and a more pleasant experience. The peace of mind you afford them will strengthen your relationship with the donors and prove to be very beneficial to your cause.

The following is a set of recommendations compiled to assist the Israeli charity in meeting these new realities and continuing to obtain their necessary funding.

FUNDAMENTAL PRINCIPLES

Mission statement- a charity organization, like other organizations, should be mission driven. An organization's mission defines its purpose, its program

activities, its values and operations, and the measure of its success. Your mission statement should answer the questions that are likely to form in the head of a prospective donor. "Why is this organization around?," "Who are they targeting?," and "What is their experience in this field?," are some of the questions that should be addressed in your mission statement. U.S. tax law requires an American charity donating to a foreign cause, to meet certain criteria designed to reduce the risk of the funds being expended on non-charitable purposes. Your mission statement will show the American donor who you are, why your cause is a charitable one, as required by U.S. tax law, and why you should be trusted to carry out your objective.

Fiscal reports- fiscal responsibility is fundamental to international charitable work. American charities are legally required to use due diligence in obtaining information about the financial needs of the foreign charity and the manner in which the funds are being used. To make their job easier, an Israeli charity should be ready to provide its donors with financial reports delineating how funds are allocated and used. While fiscal responsibilities may vary from organization to organization, depending on the services they render, the principle is the same - accountability for the use of charitable assets. The costs of various projects, overhead costs, salaries to executives and employees, and investments made by the charity are some of the elements typically found in such a report. Legalities aside, a comprehensive fiscal report will establish the credibility and legitimacy your charity needs. Such a report will give the donor confidence that his charity is needed, properly managed, and accounted for. Your charity will build its reputation as an organization that every dollar is well spent and accounted for.

Progress reports - demonstrating that their donated money is achieving its intended objective is vital for both the donor's self interest and the expenditure rules under U.S. tax law. After making a grant or donation, the American charity is expected to follow up on how the money is being used. Your progress reports should assist him in obtaining the information he needs. Again, the nature of the report and how frequent it should be prepared varies depending, largely, on the service the particular charity is providing. For instance, a progress report of funds given for the purpose of scientific research will differ from a progress report on funds used to build a hospital wing. The report should typically include what has been accomplished at the present time, what methods are used to determine the progress, and what is to be expected in the near future.

PRACTICAL PROCEDURES AND IMPLEMENTATIONS

Grant request- American tax law requires the foreign grantee to form a contract with the donor. The grantee has to request a grant and specify the reasons for requesting the money. An agreement is then formed regarding the amount of money to be granted and its terms. Do not be discouraged by a grantor who insists that you fill out a formal grant request. It is a formality and a rather simple one to fulfill; Grant requests are fairly uniform and you will become proficient at filling them out quickly and effectively.

Questions and Answers- an American grantor is required to conduct a pre-grant investigation. He is required to determine the validity of the grantee and investigate the nature of the organization. Do not be alarmed by questions about your board members, your executives' names and addresses, and the manner in which you select who receives the money. Though the questions may seem unnecessary and intrusive, they are nonetheless required to ask. Some highly formal American foundations may even want to check your charity against the SDN list. (Following the September 11 attacks, President Bush issued an executive order prohibiting transactions with any organization deemed to be associated with terrorist activity. This list is called the Specially Designated Nationals list). As your relationship strengthens, however, those questions are likely to stop. An American charity is legally permitted to rely, for the purpose of pre-grant investigation, on its ongoing relationship with a prospective recipient and his history of long-standing charitable achievements. Your understanding and compliance with the American charity's questions will enhance their confidence in your charity and your mission.

Control and discretion- under U.S. tax law an American charity, donating to a foreign cause, retains its tax-free status only if the American charity retains control and discretion of the dispensed funds. What does this mean? An American charity needs to maintain certain criteria in order that the people donating to it can receive a tax deduction for their contribution. To ensure that the charity money is being used for a proper cause, the law requires the American charity to determine where the money goes and how it is being used. This way the American charities can be held accountable for all moneys donated by them. So, an American friends corporation cannot serve merely as a conduit for receiving donations from the American public and channeling it to their Israeli affiliate. The American charity actually has to function as an independent charity and decide where that money goes and when. The American charity has to be ready to answer questions regarding how, why, and when the money was

spent. Answering that the Israeli headquarters requested the money and were given it, without determining how and why, can mean trouble for the American friends. Obviously a person donating to the American friends of ... wants the money to end up in the Israel headquarters for their purposes- and it will- nonetheless the American charity has to maintain discretion and control of the funds. Structure your relationship with your American affiliate or other donors in a way that it is clear that the American charity is deciding and controlling and not merely acquiescing to your demands.

Ready to provide – demonstrate to American charities that you are efficient and trustworthy by having answers to questions they may have as well as documents they may seek. For instance, the fiscal and progress reports should be available if needed. You should also have a general idea of how your projects are proceeding in case the donor asks. To do this, you may have to change some structural aspects of your charity but it will be beneficial in the long run. Another change to consider is switching from checks to wire transfers. Checks may get lost, forged, or mishandled and ruined. They are also harder to keep track of and produce upon demand. Granted, for individual donors the cost of transferring may be prohibitive but for a friends organization making a large contribution to its Israeli affiliate it may be well worth it. By switching to wire transfers you will have a secure and efficient way of keeping track of your donations and producing them when needed.

Conclusion

They want to help so help them in doing so. The amount of money contributed by Americans to Israeli causes increases every year. Their good intentions are not in doubt and neither is yours. Given the new realities, however, American charities are seeking assurances that their money is being well spent in accordance with the new regulations and the shift in attitudes towards charity giving. The changes recommended here are not meant to daunt you or hamper your productivity. On the contrary, they are intended to increase your effectiveness, strengthen your relationships with American charities, and build your reputation. The only challenging step in following these recommendations is really in setting up and getting used to the new procedures. The mission of your charity and its unique personality will remain unchanged and unhampered. The recommendations are not on one-size fits all basis and each recommendation should be evaluated and, if necessary, modified according to your organization's needs and structure.