



California  
Association  
*of* Nonprofits

***Ensuring Nonprofit Integrity***  
**A Blueprint for Demonstrating Nonprofit Accountability**

**Accountability Assessment Tool**

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**PROJECT FUNDING PROVIDED BY**  
**Evelyn & Walter Haas, Jr. Foundation**  
**Pacific Gas and Electric**  
**Wallace Alexander Gerbode Foundation.**

**May 2007**

## **California Association of Nonprofits (CAN)**

The California Association of Nonprofits is dedicated to:

- Making the political and economic environment more supportive of nonprofit organizations and their constituencies.
- Developing tools, services and methods that save nonprofits time and money.
- Enhancing the public trust in nonprofits.

CAN regularly advocates for and speaks on behalf of the broad nonprofit sector. With more than 1,800 members representing all nonprofit sub-sectors, CAN's mission is to (a) expand and strengthen the influence, accountability and effectiveness of California nonprofits in a manner that builds their capacity to accomplish their mission, and (b) preserve and promote the idealism and value of nonprofits in society.

CAN is grateful to the foundations and corporations listed below for their generous financial support of, and creative contributions to, the *Ensuring Nonprofit Integrity Initiative*

### **Pacific Gas & Electric**

PG&E provides gas and electric service to more than 14 million people in northern and central California. As part of its commitment to strong corporate citizenship, PG&E provides cash grants, in-kind contributions, and other forms of support to nonprofit organizations and selected government programs. As communities grow and prosper, the businesses that serve them will grow and prosper as well. PG&E has supported more than 800 nonprofits annually through a grantmaking program that reached \$12 million in 2005 and administers a workplace giving program through which PG&E employees have donated more than \$2.5 million to over 2,000 nonprofit organizations. The company seeks to develop mutually supportive relationships with key nonprofit organizations that draw on its expertise and on its employees' enthusiasm to serve the needs of the communities where it does business.

## CALIFORNIA ASSOCIATION OF NONPROFFITS ENSURING NONPROFIT INTEGRITY

### ACCOUNTABILITY ASSESSMENT TOOL

“Regulation...does not equal accountability. In fact it almost always misses one of the most important elements of accountability – our responsibility to the cause we are established to benefit.”

Ruth McCambridge, “Is Accountability the Same as Regulations? Not Exactly” Third Sector New England, *Nonprofit Quarterly*, Special Issue 2005.

#### Overview of Assessment Tool

Beginning on page 8, we offer an accountability assessment tool that your organization can use to assess its own performance in ten areas of accountability:

1. Governance
2. Establishing an Ethical Tone and Culture of Integrity
3. Financial Practice and Disclosure
4. IRS Form 990 and Other Reporting
5. Internal Controls
6. Audit and/or Financial Review
7. Program Management
8. Fundraising Management and Reporting
9. Compensation and People Management
10. Public Trust

The tool is meant as a starting point for understanding what kinds of practices, principles and behaviors are already embedded in your organization – and which ones might require a more proactive effort to create and use.

As you go through the assessment tool, you will discover that your organization already engages in many of the practices listed. You may also decide that your organization does not want or need to engage in every activity listed. Just as your organization decides its own best mix of funding and program strategies, you will also need to select the mix of practices, principles and behaviors that will best demonstrate your accountability. How your organization chooses to be accountable is a unique decision that only your board of directors, in partnership with your management team, can make.

We strongly encourage you to include board, staff and other significant players in the discussion about which accountability practices are right for your organization. But

because there are so many aspects of accountability, it may be difficult to go through the entire assessment in one session. To help you with the process, we have divided the list into ten categories, each of which is preceded by some information about how to assess your organization in that area. Consider going through one category per session.

*Two caveats:* First, the practices, principles and behaviors listed in the assessment are meant to be aspirational, not mandatory. Second, because each organization operates in a different jurisdiction and under different licenses, laws and regulations, the assessment cannot be comprehensive for all nonprofits. It covers the major requirements of state and federal laws impacting nonprofit integrity, but it is certainly not a complete list of state and federal charitable trust laws and regulations. Therefore, it may not include all of the accountability requirements your organization needs to address. You can incorporate your own organization's requirements into the assessment to provide a fuller understanding of your own accountability.

If you want to learn more about the practices in the assessment tool, many of California's management support organizations (MSOs) can provide appropriate training and consulting. CAN also provides training, written materials and discussion forums throughout the state and will soon be publishing a series of accountability toolkits that nonprofits can use to further their knowledge and understanding of how to be accountable. You will also find multiple resources that provide information for improving accountability in the appendix section of this paper.

## How to Begin

1. **Identify your audiences.** Begin your assessment by identifying the multiple audiences to whom your organization is accountable. Possible audiences include government regulators, the board of directors, clients, members, donors (including individuals, foundations and corporations), employees, other nonprofits, associations or membership groups to which your organization belongs, your community and the public.
2. **What do your audiences expect, want or require of you?** Spend some time determining what your different audiences want or expect of you. It may be easy to define what regulators want but more difficult to figure out how to be accountable to the community, your clients and your constituencies. The best action may be to actually ask your many audiences what they want from you and how you can best be accountable to them.
3. **What kind of accountability will you provide to each audience?** The list of practices, principles, and behaviors below may be helpful. There might be accountability practices and principles that are not on the list that you decide to add. We have provided blank spaces at the end of each section where you can write in practices, principles, and behaviors that apply especially to your organization.

4. **Based on whom you are accountable to, which practices, behaviors or principles apply to your organization?** After each statement, there is an identification code that tells you why this practice is recommended. These codes might help you to determine how to be accountable to your many audiences. Categories and their correlating codes include:
- AG – California law regarding nonprofit charitable organizations and the state Attorney General’s supervision of charities.
  - NIA – California Nonprofit Integrity Act of 2004 (SB 1262). The financial requirements apply only to nonprofits with budgets over \$2 million a year. The fundraising requirements apply to nonprofits of all budget sizes.
  - IRS – Rules and regulations of the Internal Revenue Service.
  - LL – California Labor Law.
  - SO – Federal Sarbanes-Oxley Act requirements.
  - GP – Generally accepted good practice.
5. **Rate your current performance.** How well does your organization perform each practice or behavior? We suggest you use the following scale:
- 1 = always  
2 = usually  
3 = rarely  
4 = never  
5 = doesn’t apply to us or don’t know
6. **Based on your rating, is improvement needed? If so, what is the plan for improvement? Are there some red flags that indicate a need to build better understanding or better implementation of a specific practice or behavior? Are there potential areas of risk that need to be addressed immediately? Are there areas of broad or subtle disagreement between board and staff about the level of performance of a particular practice or behavior?** How can you do it better? Do you just need to be more transparent or visible in how you demonstrate your performance of this task? Is skill building or training needed?

**SIDEBAR 1****The Role of Government in Regulating Charities**

“Various government agencies take actions that affect the status and operations of charitable organizations. The IRS and the California Franchise Tax Board initially determine whether an organization qualifies for federal and state income tax-exempt status. At any time during the operating life of a charity, the IRS or the Franchise Tax Board may audit the organization to determine its liability for taxes, penalties or revocation of tax exempt status.

“The Attorney General represents the public beneficiaries of charities who cannot sue in their own right. The Attorney General investigates and audits charities to detect cases in which directors and trustees have mismanaged, diverted or defrauded the charity. If improper action has resulted in a loss of charitable assets, the Attorney General may sue the directors to recover from them the missing funds and return them to the charity.”

*Frequently Asked Questions*, Office of the Attorney General website,  
[www.ag.ca.gov/charities/faq:html#charities-nonprofitintegirtyact2004intip](http://www.ag.ca.gov/charities/faq:html#charities-nonprofitintegirtyact2004intip)

**SIDEBAR 2****The Types of Law Governing Charitable Organizations**

1. California case law
2. California statutes:
  - a. Supervision of Trustees and Fundraisers for Charitable Purposes Act. (Government Code SS 12580-12599.5). Applies to all charities and charitable trusts that do business or hold assets in California.
  - b. Nonprofit Public Benefit Corporation Law. (Corporate Code S 5110 et. Seq.). Applies to all California nonprofit public benefit corporations.
  - c. Probate Code 15000 et seq. Applies to all express trusts.
3. Federal statutes.
4. The Internal Revenue Code (treats public charities and private foundations differently).
5. Internal Revenue Service (provides *Lifecycle of a Public Charity* on its website, which outlines required interactions throughout the organization’s life cycle: [www.irs.gov/charities/charitable/article/0.id=122670.00.html](http://www.irs.gov/charities/charitable/article/0.id=122670.00.html)).

*Frequently Asked Questions*, Office of the Attorney General website,  
[www.ag.ca.gov/charities/](http://www.ag.ca.gov/charities/).

**SIDEBAR 3****The Sarbanes-Oxley Act of 2002 (SOX)**

The California Association of Nonprofits does not promote nonprofit compliance with the Sarbanes-Oxley Act. With the exception of two provisions that explicitly require compliance by nonprofit organizations – protection/no punishment of whistleblowers and destruction and retention of documents – Sarbanes-Oxley does not apply to nonprofit organizations but to publicly-traded companies that are regulated by the Securities and Exchange Commission.

The specific SOX requirements that apply to nonprofits are spelled out below. In CAN’s view diverting limited program resources to comply with the other Sarbanes-Oxley may not be

necessary. Your organization can certainly chose to follow all of the SOX requirements but do so because you think it is good for your organization, not because there is a mistaken belief that it is required.

**Whistle-blower protection:** SOX provides protection for whistle blowers and imposes criminal penalties for actions taken in retaliation against those who report suspected illegal activities in the organization. It is illegal for any entity – for profit or nonprofit – to punish the whistle blower in any manner. The nonprofit must have procedures for handling employee and volunteer complaints that include the establishment of a confidential and anonymous mechanism that encourages employees to report inappropriateness within financial management. There can be no punishment for reporting problems even if the report proves to be unfounded. The reporter does not have to prove there is misconduct. A reasonable belief or suspicion that fraud exists is enough to protect the status of the reporter.

Nonprofit must also develop, adopt and disclose a formal process for dealing with complaints and prevent retaliations. Reports must be taken seriously, the nonprofit must investigate the report, fix any problem that are found or justify why no correction is needed.

**Document destruction** With SOX it is a crime to alter, cover up, falsify or destroy and document (or persuade anyone else to do so) to prevent its use in an official proceeding (federal investigation or bankruptcy).

Nonprofits need to have a written, mandatory document retention and periodic destruction policy that limits accidental or purposeful destruction. The retention policy should also address electronic files and voicemail as it would any paper files in litigation-related cases. The policy should cover back-up procedures for archiving of documents, and regular checkups of the reliability of the system.

Adapted from *Sarbanes-Oxley Act and Implications for Nonprofit Organizations*, Board Source and Independent Sector, January 2006.

If your organization wants to adopt the practices recommended in Sarbanes-Oxley. Independent Sector and BoardSource have developed a very helpful paper that outlines how that can be done. It is available on their websites:

Independent Sector, [www.independentsector.org](http://www.independentsector.org)

BoardSource, [www.boardsource.org](http://www.boardsource.org)

**ACCOUNTABILITY ASSESSMENT TOOL**  
**Practices, principles and behaviors**

<b>Governance</b>						
<p>Under corporate law, nonprofit board members are required to meet certain standards of conduct:</p> <p>1. <b>Duties of care:</b> Board members exercise reasonable care in the decision-making process, know and comply with state laws, prepare for meeting by reading materials and reviewing finances, ask questions, and make appropriate decisions.</p> <p>2. <b>Duties of Loyalty:</b> Board members do not put personal interests above the interests of the organization, they disclose conflicts of interest, and do not disclosure confidential information about the organization. There are no special benefits to board members.</p> <p>3. <b>Duties of Obligation:</b> Actions are consistent with the mission of the organization, there is compliance with all reporting rules and procedures, documents that govern the organization are properly used and no self dealing.</p> <p>Ultimately, responsibility for meeting legal and management obligations of the nonprofit organization, even when these duties are delegated to staff, rests with the board of directors.</p>						
<i>Practice/Activity</i>	<b>How do we rate our performance?</b>					<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>
	1	2	3	4	5	
1. <i>Focus is on mission and purpose:</i> In a reasonable and accountable manner, the board makes sure the organization accomplishes the mission and central purpose for which it was established. (AG Duty of Obedience)						
2. <i>Governance is attentive:</i> Board members review and discuss relevant information before making decisions, provide appropriate oversight of activities (particularly those of senior management) and demonstrate independent judgment. (AG Duty of Care)						
3. <i>Board understands its role:</i> The board has defined (and periodically redefines) the roles and responsibilities it is to play and measures its performance at least annually. (GP)						
4. <i>There is a visible and consistent commitment to diversity.</i> Board membership reflects the diversity of the communities the organization serves. (GP)						
5. <i>Bylaws are followed:</i> Board members						



<p>act in accordance with and have copies of bylaws that spell out the ground rules for governance. (IRS and AG)</p>									
<p>6. <i>Board provides direction:</i> The board regularly frames overall policies, goals and objectives for the organization, usually in partnership with staff and other stakeholders. (GP)</p>									
<p>7. <i>Conflict of interest policy is rigorously enforced:</i> Board members avoid any personal or business relationships – real or perceived – that place them in a conflict of interest with the organization. A written procedure for disclosing such conflicts is rigorously followed. Board members excuse themselves from discussion and voting when they have a conflict. (GP and AG Duty of Loyalty)</p>									
<p>8. <i>Board members are independent:</i> Although the AG allows 49 percent of the board to be interested parties, the organization has a policy and practice that board members are independent and not compensated for common board services. (GP) There are circumstances when a good argument can be made about why board members should be paid for service. However, we feel payment for board service clouds motivation for being on the board, therefore, that practice is not recommended by CAN.</p>									
<p>9. <i>Out-of-pocket costs are reimbursed:</i> There is a reasonable reimbursement policy for out-of-pocket expenses related to the board role, by which board members are paid applicable United States government rates or an established and published nonprofit rate. (GP)</p>									
<p>10. <i>No loans, self-dealing or personal inurement:</i> There is an adopted policy and practice of no personal loans, no special access and no financial benefits given because of board membership. (GP and AG. Loans are generally prohibited by the AG except under very specific circumstances.)</p>									

<p>11. <i>Compliance and reporting requirements are known and regularly reviewed to identify possible threats to tax-exempt status:</i> The board requests and receives an annual internal review of the organization's compliance with legal, regulatory and financial reporting requirements in a timely and appropriate manner. Appropriate corrective action is taken as needed. (GP)</p>								
<p>12. <i>Minutes are done well, and copies of all minutes are stored indefinitely:</i> Board minutes are a complete, substantive and accurate story of all material subjects discussed as well as what transpired at each meeting, not a verbatim transcript of everything that was said. (Minutes are considered legal documents by auditors, IRS and the courts, and they represent the actions of the board. It is often assumed that if it is not in the minutes, it did not happen.)</p>								
<p>13. <i>Board evaluates itself:</i> The board engages in an annual self-assessment of individual board members, the board as a whole and board committees. The self-assessment is based on concrete results tied to the mission, not just the level of activity produced by the board. (GP)</p>								
<p>14. <i>Other governance requirements for our organization's accountability:</i></p>								
<p>15. <i>Other governance requirements for our organization's accountability:</i></p>								

<b>Establishing an Ethical Tone and Culture of Integrity</b>						
The organization takes all measures necessary to ensure that the conduct of its directors, officers and employees reflects the highest ethical standards.						
<i><b>Practice/Activity</b></i>	<b>How do we rate our performance?</b>					<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>
	1	2	3	4	5	
16. <i>Organization follows laws and regulations:</i> The organization complies with all applicable federal, state and local laws and reporting requirements. <i>It is registered with and regularly files its annual report with the state Attorney General's office. (AG Duty of Obedience)</i>						
17. <i>Principles guide decisions and behaviors:</i> With staff and other stakeholders, the board has adopted values or principles that guide individual and organizational ethical behavior, visioning, planning and budgeting. These values and principles are regularly reviewed and updated. (GP)						
18. <i>There is proactive commitment to increased visibility and transparency:</i> The organization does not “filter” program, financial or fundraising information, making information look more positive or attractive than it really is. (GP)						
19. <i>Whistle-blowing is encouraged:</i> Employees, board members and others know they can report any suspected or known ethical issue or potential violation of the law to a designated person without fear of retaliation or retribution. All complaints are investigated and any problems are corrected – or there is clear communication from the board or the executive director about why corrections are not necessary. (SO and GP)						
20. <i>Both board and staff declare conflicts of interest:</i> Board and staff affirm in						

writing that they have no conflicts of interest, or they declare any potential or existing conflict of interest openly and in writing. (GP)								
21. <i>No special influence exists:</i> There is no undue government, funder or donor influence over operations, program, board selection or mission. (GP)								
22. <i>Inappropriate behavior or practice is reported:</i> Any material breach of board fiduciary duty or similar violation is reported to the chief executive officer or to the board. Unethical or illegal behavior or practice observed in other nonprofits is reported to the chief executive officer or to the board of that organization. (GP)								
23. <i>Other tone and culture requirements for our organization's accountability:</i>								
24. <i>Other tone and culture requirements for our organization's accountability:</i>								

<b>Financial Practice and Disclosure</b>								
Organizational assets are used only for the charitable purpose specified in the articles of incorporation. Good, accurate, timely financial accounting and reporting is absolutely essential to your organization's health and well-being. Board and management staff be able to understand in a consistent, uniform and organized fashion how money comes into, goes out of and flows through the organization. The summarized data should be used to inform the board, staff and other interested parties about the overall financial picture of the organization as well as the specifics of each program and activity.								
<i>Practice/Activity</i>	<b>How do we rate our performance?</b>						<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>	
	1	2	3	4	5			
25. <i>Budget development includes broad staff input:</i> The budget development process includes fiscal, executive, program and development staff. (GP)								
26. <i>Board approves budget:</i> The board approves annual budgets that include anticipated expenditure and income pertaining to programs, management and fundraising. (GP)								
27. <i>Knowledgeable people do the accounting and prepare the financial</i>								

<p><i>reports:</i> The staff member or volunteer responsible for financial reporting and accounting has experience and expertise in nonprofit accounting. (GP)</p>										
<p>28. <i>Board tracks the organization's financial health:</i> The board receives and regularly reviews income and expenditure reports, balance sheets and cash flow reports (no less than quarterly and preferably monthly) and by comparing the current actual financial circumstances with projected budget, decides if corrective action is needed. . (Board Duty of Care and GP)</p>										
<p>29. <i>Board members understand the financial documents they read:</i> Board members ask for and receive ongoing training on how to read and understand financial reports. (GP)</p>										
<p>30. <i>Board regularly questions financial information:</i> Questions are answered fully and promptly,. (GP)</p>										
<p>31. <i>The board or finance committee monitors investment performance:</i> All income is invested to gain the highest possible return with the lowest possible risk. The board monitors investments and makes changes prudently. (GP)</p>										
<p>32. <i>Board understands their personal liability:</i> Payroll taxes (and sales taxes) are areas of personal liability to board members, Board members make sure all taxes are properly paid and understand that they could be personally held accountable for unpaid pay role and other taxes. (GP Board members private bank accounts can be attached by the IRS to pay for payroll taxes that have not been paid by the nonprofit corporation.</p>										
<p>33. <i>Grants and contributions are properly handled:</i> Donations are recorded accurately, restrictions on use of funds are followed, and reporting is done in an accurate and timely manner. (GP and Funder requirement)</p>										

34. <i>Financial summaries are available:</i> The organization provides a summary of financial reports to its many constituencies, even when it is not required to do so by law. (GP)								
35. <i>Other financial practice requirements for our organization's accountability:</i>								
36. <i>Other financial practice requirements for our organization's accountability:</i>								

**IRS Information Form 990**

As the only required financial reporting for virtually all nonprofits, Federal Tax Form 990 is the single most widely available source of information about nonprofit organizations in the United States. All nonprofits registered with the IRS must file the 990 return annually (exceptions include religious organizations and nonprofits with an annual income of less than \$25,000. Organizations with gross receipts of less than \$100,000 and total assets less than \$25,000 at the end of the year may file Form 990-EZ; private foundations file a Form 990-PF. Generally, churches are not required to file a Form 990 (although some do so voluntarily). Form 990 is also filed with the Charitable Trust Division, State of California, along with other forms. Groups with incomes under \$25,000 will be required to file an "e-postcard" in 2008.

<i>Practice/Activity</i>	<b>How do we rate our performance?</b>					<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>
	1	2	3	4	5	
37. <i>All required reporting is done on time:</i> Form 990 and other required state reports are current and regularly filed. (IRS)						
38. <i>Form 990 is electronically filed with the IRS (and with the state as soon as the state can accept electronic filing):</i> (GP) (The IRS is able to accept electronically filed Form 990s, however at this time the State is not able to accept electronic 990s. Electronic filing of Form 990 will dramatically reduce the type of errors and omissions commonly found in the Form 990.						
39. <i>Form 990 is reviewed by the audit and/or finance committee:</i> Following committee review, it is reviewed by the full board and executive staff prior to filing. (GP)						
40. <i>Top executive and financial officers</i>						

<p><i>sign off on all financial statements including Form 990: IRS Form 990, Form 990-PF and accompanying schedules are signed by an officer after being examined and found to be accurate, reasonable and complete. (IRS)</i></p>								
<p>41. <i>Form 990 is available to the public: The organization makes its Form 990, Form 990 EZ, 990-PF, and/or Form 1023 available to anyone who asks to see it. These forms are available in all headquarters and regional offices with three or more staff. (Public law, IRS)</i></p>								
<p>42. <i>Organization posts Form 990 on its website: Posting financial information on websites allows organizations to be more visible and transparent. (GP)</i></p>								
<p>43. <i>Other 990 and reporting requirements for our organization's accountability:</i></p>								
<p>44. <i>Other 990 and reporting requirements for our organization's accountability:</i></p>								

**Internal Controls**

Internal controls are systems of policies and procedures that protect the assets of the organization, promote compliance with laws and regulations and achieve effective operations. These systems are not only related to accounting and reporting but also relate to the organizations' communication processes, internally and externally including procedure for: handling funds, preparing reports, conducting audits, evaluating staff and programs, maintaining inventory and implementing personnel and conflict of interest policies. (*Internal Controls and Financial Accountability for Not-for-Profit Boards*,, Attorney General Andrew Cuomo, New York.

	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
<b>Practice/Activity</b>	1	2	3	4	5	
<p>45. The role and responsibilities of all who are involved in the organization – including the board of directors, officers, employees, volunteers and consultants – are clearly defined in a written format and known by all. (GP)</p>						
<p>46. <i>Fiscal policies are in place: The organization has written fiscal policies and procedures that cover accounting,</i></p>						

<p>financial procedures, reporting, investments and conflicts of interest. (GP)</p>										
<p>47. <i>Anti-fraud policies are in place:</i> The board has approved, and the organization follows, a comprehensive internal control policy that outlines all procedures to (a) prevent misappropriation of resources; (b) prevent material misstatement of financial status; and (c) determine how assets are received, held, monitored and expended. (GP)</p>										
<p>48. <i>Risk management policies are in place:</i> The organization has procedures to safeguard against loss – human, financial and reputational. (GP)</p>										
<p>49. <i>Board is protected:</i> Board indemnification is spelled out in the bylaws or articles of incorporation. (Indemnification does not extend to criminal acts but can protect the board from acts or omissions while serving the organization.) (GP)</p>										
<p>50. <i>The organization has Directors and Officers (D&amp;O) liability insurance.</i> Coverage includes employment practices, because wrongful dismissal is the most common lawsuit against nonprofits. (GP)</p>										
<p>51. <i>The organization has a document retention and periodic destruction policy:</i> There is a written policy that includes guidelines for determine how records will be retained included electronic files and voicemail. If an official investigation is underway or even expected, the organization stops any document purging in order to avoid criminal obstruction. (GP and SO)</p>										
<p>52. <i>Fraud prevention policies and procedures are in place:</i> The board has adopted and widely distributed policies and procedures for each significant area of fraud risk. Trust is not the basis for internal controls. (GP)</p>										



<p>53. <i>Checks and balances are in place for handling resources:</i> The tasks of receiving, recording and depositing funds and of writing and signing checks are distributed over two or three staff or volunteer positions. (GP)</p>							
<p>54. <i>Internal problems are addressed and resolved:</i> Internal procedures that spell out how complaints, conflicts or concerns about any aspect of the organization are to be received and investigated are in place. (GP and strongly advised by insurance carriers and defense attorneys) Again internal controls are not just about finance or personnel.</p>							
<p>55. <i>Other internal controls requirements for our organization's accountability</i></p>							
<p>56. <i>Other internal controls requirements for our organization's accountability:</i></p>							

<b>Audit and/or Financial Review</b>							
<p>The audit provides an independent evaluation of significant financial management areas including internal controls, accounting and reporting, compliance with tax and other laws and regulations, and information systems. In all matters related to the audit, the organization and the audit should be free – in fact and in appearance – from impairments to independence, whether personal, external or organizational.</p>							
	<b>How do we rate our performance?</b>					<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>	
<b>Practice/Activity</b>	1	2	3	4	5		
<p>57. <i>The annual audit or financial review is completed within three to five months of the end of the organization's fiscal year</i> (GP and NIA. According to the Nonprofit Integrity Act, nonprofits with gross revenues over \$2 million, not counting funds for which a governmental entity requires an independent audit, must conduct an independent audit that will be made available to the AG upon request.)</p>							
<p>58. <i>Board oversees the audit process:</i> The board or a board-sanctioned audit committee selects, meets with and</p>							

<p>oversees the auditor and the audit process. (GP and NIA for nonprofits with gross revenues over \$2 million.)</p>												
<p>59. <i>The audit committee is separate from the finance committee and includes at least one member who is financially literate.</i> The Finance Committee is part of the financial management process and, therefore, is not independent. A committee or the full board acting can act as the audit committee. (GP for all nonprofits. NIA requires separate committees for groups with annual budgets over \$2 million.)</p>												
<p>60. <i>The audit committee is independent and free of conflicts of interest:</i> No compensated members – board or staff – are part of the audit committee. Staff can advise but do not serve on the audit committee. (GP)</p>												
<p>61. <i>Critical accounting policies and practices are disclosed to the audit committee:</i> The committee asks the auditor to make it aware of any concerns or discoveries of fraud or inappropriate behavior. (GP)</p>												
<p>62. <i>The audit committee ensures that the auditor complies with new auditing standards</i> regarding fraud and OMB Circular A-133 changes if the organization has substantial federal funds. (<i>Auditing Standards No. 99 and SAS 99 and OMB Circular A-133</i>)</p>												
<p>63. <i>Auditor has nonprofit accounting experience:</i> The independent auditor selected by the board has demonstrated experience in auditing nonprofit organizations, asks tough questions about the organization’s finances and reports his or her findings to the board. (NIA and GP)</p>												
<p>64. <i>Board receives and approves the audit:</i> Board reviews and takes action as needed in response to the audit’s management letter. (GP)</p>												
<p>65. <i>Audit is made available to the public:</i> To improve visibility and transparency,</p>												

the annual audit or financial review is made available to the public in the same manner as the Form 990 and Form 1023. (GP)							
66. Other audit or review requirements for our organization's accountability:							
67. Other audit or review requirements for our organization's accountability:							

<b>Program Management</b>							
A program is a collection of organizational resources that are focused on accomplishing a major goal or set of goals. The single most important accountability activity that charities can undertake is to show how they are "producing real, tangible and measurable results with which the public can identify and connect."							
<b>Practice/Activity</b>	<b>How do we rate our performance?</b>						<b>Do we want to improve or enhance this practice or behavior? If so, what is our strategy?</b>
	1	2	3	4	5		
68. <i>Programs are tied to mission and purpose:</i> Each program is strongly associated with the organization's overall mission and major goals. (GP)							
69. <i>The organization does not promise outcomes it cannot deliver:</i> Contracts that do not adequately fund programs are carefully considered and may be rejected if the program cannot be delivered effectively because of inadequate funding. (GP)							
70. <i>New programs are carefully added:</i> When an idea for a program arises, board and executive leaders ask themselves if the program is appropriate to the purpose and mission of the organization and if resources are available to support the program before the program is implemented. Clients or customers are involved in developing the program. (GP)							
71. <i>Programs and services are periodically assessed, and the data used to inform decisions about whether or not programs are continued:</i> Evaluations, performance							

measures and/or client satisfaction surveys determine how well the program is doing and measure its progress toward key indicators. Evaluation results, both formative and summative methods, are consistently used for learning and organizational self-improvement. (GP)							
72. <i>Evaluation results are published:</i> Regular distribution of evaluation results to stakeholders interested in or impacted by the organization's work takes place. (GP)							
73. <i>Other program management requirements for our organization's accountability:</i>							
74. <i>Other program management requirements for our organization's accountability:</i>							

**Fundraising Management and Donor Relationships**

In order to receive donations that are deductible from federal income tax, the organization must be organized and operated exclusively for charitable purposes. State law is the primary regulatory authority of a nonprofit's fundraising activities. However, the IRS code also contains procedural and substantive provisions that affect a nonprofit's fundraising practices.

	How do we rate our performance?						Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
<b>Practice/Activity</b>	1	2	3	4	5		
75. <i>Fundraising is open and transparent:</i> The organization does not engage in deceptive fundraising practices of any kind. Board members engage in prudent judgments in their stewardship responsibilities. (AG and IRS)							
76. <i>Fundraising roles are understood and followed:</i> Board and staff responsibilities are clearly defined and separated and strategies for generating resources are clearly outlined and followed. (GP)							
77. <i>Donors are informed:</i> They have access to the names of governing board members and to the							

<p>organization's financial statements. (GP)</p>										
<p>78. <i>Donors know who is asking them for a gift and can ask questions that are answered honestly and promptly.</i> (GP)</p>										
<p>79. <i>Donor gifts are handled with confidentiality to the fullest extent of the law: All gifts are acknowledged and recognized. All relationships with donors are handled with respect and professionalism.</i> (GP)</p>										
<p>80. <i>Donations are used for the purpose for which they were solicited: Descriptions of program(s) for which contributions are being solicited are truthful and not misleading. Contributions are used in a manner consistent with the declared purpose for which they were raised.</i> (AG and NIA)</p>										
<p>81. <i>Fundraising costs are accurately reported: The organization honestly and accurately reports fundraising costs, particularly on the Form 990.</i> (IRS)</p>										
<p>82. <i>State and federal fundraising regulations, procedures and filing and disclosure requirements are followed: The organization complies with all federal and state laws and regulations regarding fundraising, charitable giving and unrelated business income, as well as with the annual reporting, registration and filing requirements for special purposes like raffles, in a timely and accurate manner. .</i> (AG and IRS)</p>										
<p>83. <i>If appropriate, the organization pays unrelated business income tax: The organization consistently pays federal income tax on applicable unrelated business income.</i> (Federal Tax Law)</p>										
<p>84. <i>Contracted commercial fundraising support or fundraising counsel complies with state and federal regulations: The organization ensures that fundraising counsel (an entity that advises on charitable solicitation but does not solicit or receive donations)</i></p>										

<p>and commercial fundraisers (an entity that receives donations on behalf of the organization) have complied with Charitable Trust requirements before a contract is signed and/or implemented. (NIA, AG and GP)</p>									
<p>85. <i>In accordance with federal and state law, the organization accurately reports to the donor the value and/or deductibility of the contribution:</i> The organization does <i>not</i> state in any printed materials that the donor's gift is tax-deductible when the donor is receiving something of value in exchange for the contributions (called a <i>quid pro quo</i> contribution). The nonprofit <i>does</i> inform the donor in writing of the dollar amount that is a charitable contribution for all <i>quid pro quo</i> gifts valued at more than \$75. (IRS)</p>									
<p>86. <i>Non-cash contributions rules are followed:</i> The organization provides substantiation in the form of a thank-you note to the donor for all gifts that are over \$250 and <i>does not</i> state the value of any non-cash gifts in the letter or in any other form. The nonprofit <i>does</i> place a value on donated non-cash gifts for its own financial records. (IRS)</p>									
<p>87. <i>Donors' requests to have their names removed from mailing lists or for their gifts to be anonymous are honored.</i> (GP and federal law)</p>									
<p>88. <i>Other fundraising and donor requirements for our organization's accountability:</i></p>									
<p>89. <i>Other fundraising and donor requirements for our organization's accountability:</i></p>									

**Compensation and Personnel Management**

Nonprofit compensation varies widely depending on location, organization type, budget size and number of employees. Nonprofits also must often justify to grantmakers, oversight agencies, individual donors and members that the salaries and benefits they offer are appropriate.

Practice/Activity	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
	1	2	3	4	5	
90. <i>The organization fully complies with all laws regarding employee rights, compensation and benefits: All salaries are reasonable in comparison to similar organizations in the region. (IRS, LL and GP)</i>						
91. <i>Compensation is neither excessively high nor excessively low: Just as staff are not paid excessively high salaries, they are also not paid too little. Both extremes are indicators of poor management practice. (GP)</i>						
92. <i>California labor laws are followed: Laws, particularly those regarding exempt and non-exempt employees, are complied with. The organization complies with internal compensation and benefits plans and with state wage, safety and non-discrimination laws. The organization understands that there are no special labor laws for nonprofits. (LL and GP)</i>						
93. <i>Organization tracks and reports employee and contractor compensation and benefits: The organization properly classifies independent contractors and employees and complies with requirements for periodic wage reports and payments for unemployment and workers' compensation insurance. The organization prepares proper documentation for independent contractor agreements and reports contractors on IRS Form 1099 MISC. (IRS and LL)</i>						
94. <i>Current personnel policies are in</i>						

<p><i>place:</i> Policies that inform employees about expectations, practices and entitlements with regard to their employment are distributed to each employee. A signed letter stating that he or she has read the policy is in each employee’s personnel file. (LL and GP)</p>								
<p>95. <i>Compensation plan approved by the board is in place:</i> The board sets and regularly reviews each component of the nonprofit’s compensation plan. The board consistently sets executive compensation and approves any changes, increases or hiring salaries. (IRS Intermediate Sanctions Act. NIA requires boards of organizations with annual budgets over \$2 million to determine compensation for both the top executive and the top finance person.)</p>								
<p>96. <i>Background checks are conducted on potential employees:</i> Potential employees who will be involved in financial activities (from receiving cash to developing financial reports), as well as people who will work with vulnerable populations, receive thorough criminal and personal reference checks. References, licenses and educational credentials are thoroughly checked and investigated before hiring. (GP)</p>								
<p>97. <i>Board hires the best executive for the stage of growth the organization is experiencing:</i> The board ensures that the executive has the qualities, skills and expertise the organization needs at each stage of its growth. (GP)</p>								
<p>98. <i>Hiring practices encourage diversity:</i> Both hiring and promotion encourage diversity among the workforce and organizational leadership. (GP)</p>								
<p>99. <i>Employees are not asked to volunteer:</i> Paid employees are not expected or permitted to volunteer their time on behalf of the organization. (LL. It is not uncommon for organizations to be sued by a former employee for pay for time they once volunteered.)</p>								



100. <i>The organization's policies and practices protect the rights of stakeholders: Confidentiality, privacy and other rights of clients, employees, volunteers and others are protected in a manner consistent with applicable law. (LL)</i>							
101. <i>The highest standards of fairness and equity are met in the organization's relationships with staff, clients, volunteers and donors. (GP)</i>							
102. <i>Other compensation and personnel management requirements for our organization's accountability:</i>							
103. <i>Other compensation and personnel management requirements for our organization's accountability:</i>							

**Public Trust**

Society allows [the nonprofit corporation] unique powers and prerogatives. In return, it expects these institutions to neither betray nor abuse the public's trust through actions that put the interests of a few ahead of those of the majority. When nonprofit leaders fail to be good stewards of the resources and privileges placed in their keeping, then the underpinnings of society are threatened. Clearly the danger is not as imminent or horrific as war or terrorism, but its potential to erode the rules and courtesies that define societal behavior may be just as damaging.<sup>1</sup>

	How do we rate our performance?					Do we want to improve or enhance this practice or behavior? If so, what is our strategy?
<b>Practice/Activity</b>	1	2	3	4	5	
104. <i>The organization exists solely to serve the public good and is operated exclusively for exempt purposes: The organization is not a mechanism for private interests masquerading as a public purpose. The board periodically reviews its exempt status to make sure its work still fits within the exempt categories. (GP)</i>						
105. <i>The nonprofit has filed a Form 1023 and has a federal identification number from the IRS. (IRS)</i>						
106. <i>Spending practices and policies are fair, reasonable and appropriate to fulfill the mission: Administrative</i>						

<sup>1</sup> *Public Trust and Good Governance*, by Howard Berman, Vice Chair, Lifetime Healthcare Companies

<p>expenses are adequate; staff are compensated reasonably and appropriately; fundraising costs are reasonable given the state of growth and purpose of the organization; a reasonable amount is spent on program in pursuit of the mission; and funds are used consistently with donor intent. (GP)</p>											
<p>107. <i>There is no private inurement:</i> No financial resources are transferred to an individual by virtue of that individual's relationship to the nonprofit without regard to accomplishment of the tax-exempt purpose. (IRS)</p>											
<p>108. <i>The organization releases information about its work on a regular basis:</i> The organization provides sufficient and relevant information about its programs, financial health and governance process so that the public can understand who and what the organization is. (GP)</p>											
<p>109. <i>The organization does not contact people who do not want to be contacted:</i> The organization complies with "do not bother" regulations by regularly communicating to donors and others how they can have their names removed from all solicitation and other materials including mail and electronic communications. (Federal Law and GP)</p>											
<p>110. <i>Change is properly reported:</i> Any substantial change in the organization's character, purpose or method of operation has been reported to the IRS and Secretary of State. (IRS and AG)</p>											
<p>111. <i>The nonprofit goes out of business when it no longer makes a difference:</i> The organization regularly reflects upon and continually evaluates its relevance in light of changing conditions – even when it means considering the option of going out of business. (GP)</p>											
<p>112. <i>Other public trust requirements for our organization's accountability:</i></p>											

113. <i>Other public trust requirements for our organization's accountability:</i>								

**Summary**

What we hope the accountability assessment shows is that a strong culture of accountability is worth pursuing. Many of the groups that have already completed the accountability assessment have found it to be an enlightening experience. In addition they report that building a culture of accountability is also a powerful motivational tool for building better day-to-day practice and more reliable and trustworthy systems of governance, management, program delivery and financial controls.

As your organization seeks to build a genuine culture of accountability there are some challenges you may need to address.

**1. Written policies are not enough.** Some of the compliance requirements and most promising practices described above seem to be achieved with written policies. But as we all know written policies do not automatically result in better practice or improved accountability. Many of the fraudulent corporate and nonprofit practices revealed in the press over the past few occurred despite the fact that written policies, audits and internal controls were in place. Written policies are useless unless they are coupled with constant follow-through, enforcement and scrupulous monitoring and evaluation.

**2. Someone has to be held responsible:** When accountability is everyone's job, it may end up being on one's job. Some of our team and group processes, particularly governance, can obscure accountability. Every accountability practice has to be tied to someone who will be held responsible for its achievement. A genuine culture of accountability should encourage responsibility. Unless lines of responsibility are worked out, important accountability practices and behaviors can be lost and/or compromised.

**3. Outside forces can cause harm and can make accountability difficult, but the practice of others cannot be the scapegoat for our accountability failure.** There are numerous external systems and practices that work against nonprofit accountability: CPAs that are inexperienced in nonprofit accounting; institutional funders that require different formats, definitions, time-lines, terminologies and procedures for financial reporting; popular perceptions that nonprofit staff are highly paid; government contracts that are paid several months late and the list goes on. These factors are inevitable and cannot be prevented. Yet, as difficult as these challenges may be, they cannot be used as an excuse for poor accountability. Don't let these factors obscure your commitment to a culture of accountability.

This discussion of accountability is certainly not all inclusive. It is a an introduction or, perhaps, a reminder of some of the basic practices, behaviors and principles that can make up a culture of accountability. Establishing a robust commitment to accountability begins with being accountable to ourselves. It begins with you and promises you make each day to be the best you can be. If you keep that promise, you can build a culture of increase visibility and transparency, you can build a culture of accountability,.