National Society of Fund Raising Executives
1101 King Street, Suite 700 Alexandria, Virginia 22314-2967

NSFRE

*Advancing Philanthropy through
Education, Training and Advocacy*

NSFRE

Advancing Philanthropy through Education, Training and Advocacy

July 21, 1995

The Honorable David McIntosh, Chairman
Subcommittee on Economic Growth, Natural Resources, & Regulatory Affairs
House of Representatives
B-377 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

On behalf of the more than 16,000 fund raising professionals who are members of the National Society of Fund Raising Executives, I am writing to express our most profound concern with your proposal to bar those tax-exempt organizations that engage in advocacy from receiving federal funds.

Very strict federal laws govern the public policy advocacy activities of all types of tax-exempt organizations. At the heart of this regulatory regime lies the fundamental rule that no federal funds can be used to finance an organization's lobbying activities. You have stated that "Tax dollars fund special-interest groups that engage in political activity to lobby Congress...." That is flatly incorrect. You have also stated that "...taxpayers are paying special interests to lobby the government." That, too, is flatly incorrect. Other members of your Subcommittee have referred to "rampant abuse" of the grant system by not-for-profits and the alleged "violation of taxpayer rights" by using federal funds for political advocacy. Should you or any member of the Subcommittee know of any instance in which you suspect that federal funds are being used by a recipient -- whether not-for-profit or for-profit -- I urge you to report your information to the Internal Revenue Service or to the appropriate agency Inspector General for investigation immediately.

It is the constitutionally-protected right of any entity -- including those which receive tax deductible charitable contributions -- to engage in advocacy activities. The fact that an organization receives federal funds does not, nor should it, bar that organization from exercising its right to engage in advocacy. What should be, and already is, proscribed by law is the use of federal money to fund any part of those advocacy activities.

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The not-for-profit sector has been a vital part of American society since colonial times. It has been the bridge between the for-profit sector and the governmental sector, helping to provide programs and services which have met a variety of needs that could not be satisfied by the other two sectors. It has also been a partner with government and for-profits to expand their ability to provided needed services and programs.

Our country is facing difficult times in which the needs of our population are growing while the fiscal ability of government to meet those needs is declining. The leaders of Congress have called for a simultaneous reduction in government activities and an increase in the "privatization" of government services. Not-for-profit organizations are doing all they can to meet the challenges caused by cutbacks in federal spending, but this legislation will dramatically impede their ability to provide critical services to those in need.

We are equally troubled by the implication of your proposal that some not-for-profits are "good" while others are "bad." Under your proposal, those not-for-profits which receive federal funds and remain silent are placed in the "good" category. Those receiving federal funds who use other sources of funds to participate in our representative form of government are deemed somehow to be "bad." There are many not-for-profit agencies, for example, which serve as the congressionally authorized means of delivering services funded by the federal government. Your proposal would bar them from helping Congress and the Executive Branch improve those programs by recommending changes in statutes and regulations. Any effort to categorize some not-for-profits as "good" and others as "bad" smacks of a political agenda that is both inappropriate and unwarranted.

Mr. Chairman, the charitable, educational, religious, and other organizations which comprise the community served by the members of NSFRE both need and deserve assistance from Congress to expand their activities. At the very least, our elected officials need to use their position of high public office to support the private not-for-profit sector through their words and the policies they enact into law.

Sincerely,

Patricia F. Lewis, CFRE
President & CEO

cc: Members of the Committee on Government Reform and Oversight

NSFRE GOVERNMENT RELATIONS UPDATE -August 5, 1995

This Update includes information about each of NSFRE's major federal issues from July 1, 1995 to July 30, 1995.

ISTOOK AMENDMENT PASSES THE HOUSE: ***A measure that would drastically limit the ability of any group which receives federal funds to lobby the government has passed the House as part of the Labor-Health and Human Services Appropriations bill.*** During debate, Rep. Skaggs (D-CO) offered an amendment which would have stricken the provision (known as the "Istook Amendment") from the Labor-HHS bill. Passions were high and debate frequently broke down into shouting matches. At one point, Rep. Miller (D-CA) was so incensed that he kept speaking for several minutes while Republicans tried to drown him out in a chorus of boos. The House Chairman at the time, Rep. Walker (R-PA), tried to keep order and banged the gavel down so hard that its head flew off. The amendment failed on a vote of 182 - 237, mostly along party lines, and the whole bill passed several hours later.

The Istook Amendment (formerly known as the McIntosh Amendment) limits how much money a group that receives federal funds can spend on lobbying activities. Under the bill, how much an organization can spend is dependent upon its private funding (i.e. the money it gets from sources other than federal grants). Any group with private funding under $20 million can spend 5% of that amount on lobbying. If that same organization's private funds exceed $20 million, 1% of any money over that amount could also be spent. No grantee could use funds from any federal grant to buy goods or services from any individual or group whose expenditures for political advocacy in the previous fiscal year exceeded 15%. In addition, ***each group will have to provide an annual audit of not only how it spent its federal funds, but its private funds as well.*** Although a technical amendment was agreed to by voice vote that would exempt individuals from the Istook Amendment, persons who receive federal grants are still subject to many of its provisions, including (1) not being able to buy goods or services from a group which has spent 15% of its budget on political advocacy and (2) being subject to an audit.

NSFRE has been in the forefront of the battle to defeat the Istook Amendment because it will harm the not-for-profit sector as a whole. Under the amendment, advocacy is defined so broadly as to include participating in judicial litigation or agency proceedings at any level of government. ***Essentially, an organization would not be able to contact a federal, state, or local official's office once it exceeded the 5% threshold unless it was contacted first.*** The amendment also creates additional paperwork, requiring federal grantees to keep two sets of books -- one for the IRS's definition of lobbying and one for this bill's version. Those who receive federal funds through state and local governments, or other entities are subject to the restrictions. Finally, the restrictions apply only to not-for-profit federal grantees, not to federal contractors who receive large sums of money from the government. Even if a corporation receives a federal grant, its private budget will be so large that the 5% threshold becomes meaningless.

NSFRE faxed out Alerts to many of its members nationwide, urging them to contact their Congressional offices. NSFRE members met with several Representatives and sent letters of support to key members of Congress. NSFRE also responded to editorials in major newspapers, including the Washington Post and Wall Street Journal. **Included with this update is a form to provide NSFRE with your fax number if you did not receive the updates and fact sheets.** Such information is critical if NSFRE is to be able to contact you in time for an effective response to future Congressional initiatives like the Istook Amendment.

Although the Labor-HHS bill passed with the Istook Amendment, the battle is not over. The Senate must now consider the Labor-HHS funding bill. Several Senators already have expressed their displeasure with the Istook Amendment. However, a similar, if more limited, proposal has already passed the Senate. Sponsored by Sen. Alan Simpson (R-WY), this measure would prevent all 501(c)4 organizations from lobbying if they receive any federal funds. Whether the Senate is ready to accept such a broad, sweeping provision like the Istook Amendment is unknown. ***The best piece of news for not-for-profits is that President Clinton has indicated he will veto the Labor-HHS Appropriations bill unless provisions he opposes, including the Istook Amendment, are removed.*** NSFRE will be watching the Senate very closely on this issue and will mobilize its members if the need arises again.

SENATOR COATS INTRODUCES CHARITY TAX CREDIT BILL: Senator Dan Coats (R-IN) has introduced a bill (S. 1079) which would replace a portion of direct federal welfare spending with a $500 charity tax credit. The $500 tax credit ($1,000 for joint returns) would be available for taxpayers who donate to qualified charities which focus on poverty prevention and relief. Taxpayers could also donate to groups -- such as the United Way -- that solicit funds on behalf of other qualified organizations. Under the bill, a "qualified organization" is one that dedicates at least 70 percent of its time and resources to fighting poverty. In addition, S. 1079 allows nonitemizers to deduct their charitable contributions and eliminates the 3% floor on charitable donations for those who itemize their taxes. The deadline for charitable giving would be extended until April 15 to further encourage contributions.

Sen. Coats has stated that one of his main reasons for introducing this legislation is to redistribute taxpayer money to government welfare programs. With the deductions in the bill, he hopes to redirect money from the government to private and religious groups which provide poverty assistance. To this end, he has included in the bill provisions that require any U.S. government poverty assistance program to disclose the percentage of funds it spends on the poor as opposed to its administrative costs. The bill also directs the General Accounting Office to establish standards to know the cost effectiveness as well as success rates of every federal government welfare program.

S. 1079 is very similar to other bills that allow nonitemizers to deduct their charitable contributions and remove the 3% limitation for itemizers, except in one respect: ***only certain organizations would qualify for the contributor to receive a tax credit.*** In this case, only groups which fight poverty with at least 70% of their resources and are certified by the IRS would qualify. Legislation with similar provisions has been introduced by Rep. Joe Knollenberg (R-MI) and Sen. Rick Santorum (R-PA) -- H.R. 1768 and S. 893, respectively.

While on the surface these bills appear attractive, they would set a dangerous precedent of having the federal government favor one type of charity over another. This type of legislation continues the GOP's attempt to label certain charities as "good" and "bad." Under the Istook Amendment (discussed above), groups which receive federal funds and lobby are "bad," while organizations which do not are "good." Now, organizations which fight poverty are "good," while groups which do not are "bad," or perhaps "not as good." The bill's arbitrary threshold of 70% is also questionable. While nothing may ultimately come of this legislation, NSFRE will continue to watch closely these kinds of bills.

VARIOUS TAX PROPOSALS DEBATED IN CONGRESS: ***While consensus grows in Congress that the present income tax system must be overhauled, lawmakers are at odds over what kind of new tax regime should be implemented.*** Over the past two months, five different proposals to replace the current federal tax system have been introduced. Ranging from a flat tax to a sales tax to a consumed-income tax, the only area of agreement is that serious work probably will not start until the next Congress (1997). However, the issue may well become pivotal in the upcoming presidential election. A brief description of each proposal is listed below:

House Majority Leader Richard Armey (R-TX) and Sen. Richard Shelby (R-AL) have formally introduced their recommendations as H.R. 2060/S. 1050, the Freedom and Fairness Restoration Act. Their bill replaces the current system with a 20% flat tax for individuals and corporations that falls to 17% in the third taxable year. It provides a family allowance that would enable a family of four earning up to $36,000 to pay no tax and ***eliminate all current deductions, including home mortgage interest and charitable deductions.***

House Ways and Means Chairman Bill Archer (R-TX) advocates a broad-based tax on goods and services. He has not settled on what particular form the tax would take: a value-added tax, a unified business tax, a subtraction-method tax, or a national retail sales tax (the most likely). Mr. Archer has stated that whichever form is chosen, the new system should resolve the problem of unreported income. As Chairman of Ways and Means, his views will carry a lot of weight, and he has indicated he will have a completed proposal by the end of the year.

House Minority Leader Richard Gephardt (D-MI) has recently unveiled his own reform of the tax system, which he calls a "flatter" tax proposal. Under his plan, 75% of all taxpayers would pay at the 10% rate while the remaining taxpayers would pay on a progressive rate scale of 20%, 26%, 32%, and 34%, based on income and indexed for inflation. The standard deduction and personal exemption would be set so that a family of four would pay no more than 10% tax on up to $60,000 of income. ***All deductions, credits, and exclusions are eliminated except for home mortgage interest.***

Sen. Richard Luger (R-IN.) supports a retail sales tax, a 17% levy imposed on all individual and business retail purchases. The tax would be removed from exports and imposed on imports. To account for the regressive nature of a sales tax, Mr. Luger has suggested a $5,000 exemption in retail purchases for every citizen with a Social Security number. Thus, a family of four would be exempt from their first $20,000 worth of purchases. Housing and medicine might also be exempt from the tax. ***Like Majority Leader Armey's plan, Sen. Luger's proposal would eliminate all present deductions.***

Finally, Sen. Sam Nunn (D-GA) has introduced a consumed-income tax plan. Under his proposal, supported by Sen. Pete Domenici (R-NM), a tax would be imposed on all income that is consumed, while all savings would be exempt. Individuals would be taxed on a progressive rate schedule that would maintain the relative level of tax burden borne by each income group under the present system. Unlike most of the other initiatives, ***the Nunn-Domenici proposal preserve all present deductions and incentives.***

While Senate Majority Leader Dole, (R-KS) has stated that he favors the flat tax concept, he has not formally endorsed any plan or introduced one of his own. Although Congress is not expected to consider any of these proposals this term, NSFRE will keep you abreast of any new developments.

LOBBYING BILLS PASS THE SENATE: After several years of fruitless debate and partisan bickering, the Senate finally passed S.1061, the Lobbying Disclosure Act. S. 1061 was just the latest in a series of bills that were designed to ameliorate the lobbying registration laws which were full of loopholes. Similar legislation was almost passed last year, but arguments over certain parts of the bill (especially their impact on grass roots lobbying) prevented their final passage. In an impressive show of bipartisan support, S. 1061 was approved 98 - 0. Prospects of the Senate bill becoming law look dim, however, as House Majority Leader Armey has not expressed any interest in taking up the legislation in the near future, citing the number of other items still on the House docket.

The measure would require most paid lobbyists to register with the House and Senate; it is estimated that only half are required to do so under current law. Any lobbyist who spends at least 20% of his or her time on lobbying activities must register, as does any firm which accumulates $5,000 in billings for a client over six months. Organizations with their own lobbyists must register when expenditures reach $20,000. Filing would be done on one form, sent to one location, and reported semi-annually as opposed to the current quarterly requirement, vastly improving efficiency and reducing the amount of paperwork. In addition, each organization would only have to register once, further streamlining the system. ***A non-binding "sense of the Senate" amendment was added later to the bill which stated that lobbying expenses should remain non-deductible.*** The Senate-passed bill contains many improvements over last year's measure which had been sought by NSFRE.

Another bill aimed at lobbyists that just passed the Senate is the gift ban. However, these measures were not passed as legislation, but as a Senate rule (S. Res. 158). Hence, they will only apply to the Senate and do not have to be sent to the House for approval. The Senate Ethics Committee will have jurisdiction to enforce these rules for members and their staffs. S. Res. 158, which goes into effect January 1, 1996, will prohibit Senators and their staffs from accepting free gifts or vacations with a value of $50 or more. The maximum annual gift allowance from any one source will be $100, with every gift of $10 or more counting towards that limit. An even stricter version has been introduced in the House by Rep. John Bryant (D-TX), but its prospects for passage are not bright.

REP. PORTMAN OFFERS PENSION SIMPLIFICATION PLAN: Rep. Rob Portman (R-OH) has introduced legislation, H.R. 2037, that would simplify the administration and funding of pension plans by mandating certain tax and regulatory changes. The Pension Simplification Act would also streamline paperwork burdens required of employers and of the sponsors of certain preapproved plans. ***Under the bill, certain 501(c)3 organizations would be eligible for section 401(k) tax treatment.*** H.R. 2037 was sent to the Ways and Means Committee in mid-July and no action has been scheduled for it yet. NSFRE will monitor any new developments on the bill.

TAX CREDIT FOR COMMUNITY REVITALIZATION: Legislation offered by Rep. Jose Serrano (D-NY) would provide a tax credit for investments necessary to revitalize communities within the United States. H.R. 2097, the Commercial Revitalization Tax Act, would provide credits designed specifically to revitalize buildings in certain commercial areas. These areas would include empowerment zones, enterprise communities, or any other similar areas designated by the Department of Housing and Urban Development, or State or local authorities. Filers could get credit equal to 20% of their expenditures on a qualified investment. Another option would be to credit five percent of their investments over a period of 10 taxable years, beginning in the year the buildings are placed in service. The bill has been referred to the Ways and Means Committee and NSFRE will be keeping track of any progress.

BILL TO INCREASE ROLE OF NOT-FOR-PROFITS IN COMMUNITY PLANNING: H.R. 2086, the Local Empowerment and Flexibility Act, introduced by Rep. Christopher Shays (R-CT), addresses the problems and inefficiencies faced by State and local governments when implementing programs with specific Federal requirements. These requirements, Mr. Shays maintains, often impede the effective delivery of services by stifling creativity and flexibility. H.R. 2086 enables States and local communities to adapt federal assistance programs to their differing needs. ***The measure also permits State and local governments as well as not-for-profit organizations to cooperatively address critical problems by allowing these private organizations an official role in the plans.*** Specifically, the legislation creates a Flexibility Council, composed of cabinet departments and other agencies, which would approve each local plan based on general criteria and the particular community's needs. NSFRE will follow H.R. 2086's progress as it moves through Congress.

--UPDATES ON ISSUES COVERED BY NSFRE--

COMBINED FEDERAL CAMPAIGN (CFC): Congressman Mica (R-FL) has stopped work on the Combined Federal Campaign as other issues, particularly Appropriations bills, slow down Congress. Conversations with Hill staff indicate that the halt may only be temporary. ***With the Republican leadership lined up strongly behind the Istook amendment, Rep. Mica may feel emboldened to begin his work again.*** While he might try to attach his measure to an appropriations bill again (he has tried once before unsuccessfully), it is more likely that he will attempt to move the bill through the committee process and on to the floor after the August recess. NSFRE continues to monitor this issue closely and will take action when necessary.

STATUS OF OTHER BILLS: ***H.R. 1493***, the bill introduced by Reps. Crane (R-IL) and Rangel (D-NY) which would permit nonitemizers to deduct part of their charitable contributions, has picked up seven more co-sponsors, bringing the total to 28. Two other bills that concern credits for charitable contributions, ***H.R. 1768 and S. 893*** -- introduced by Reps. Joe Knollenberg (R-MI) and Sen. Rick Santorum (R-PA), respectively -- have not gained any more cosponsors and appear to be languishing in committee. No action has been taken yet on ***S. 978***, Sen. Hutchison's Charitable Giving Protection Act, but conversations with Hill staff indicate that work might begin later this term.

WAYS AND MEANS HEARING COVERS MISCELLANEOUS TAX ITEMS: On July 11 and 12, the Ways and Means Committee held hearings to discuss a number of minor tax proposals designed to simplify the current laws. Over 230 proposals were included in the committee language, although only approximately 30 were actually discussed. Several were of interest to NSFRE, ***including measures on charitable deductions and tax-exempt organizations.*** However, Chairman Archer has cautioned that the Ways and Means Committee will consider only a few, if any, of the provisions. NSFRE will be paying close attention to see if any of these provisions move forward in the committee.

NSFRE

Advancing Philanthropy through
Education, Training and Advocacy

June 30, 1995

The Washington Post
Letters to the Editor
1150 15th Street, N.W.
Washington, DC 20071

Dear Sir or Madam:

Your editorial, "Charities and Lobbying," (June 30th) in which you portray tax-exempt groups that lobby as corrupt, greedy organizations no longer interested in their charitable efforts is way off base. It is totally incorrect to leave readers with the impression that charities are spending millions of dollars on lobbying. In addition, your explanation of the laws that regulate how much charities can spend on advocacy activities is erroneous. What is even more harmful, however, is your conclusion that charities ought to refrain from advocacy.

Even worse is your statement that there has been a recent decline in contributions, for this assertion is just not true. Giving USA, the respected annual report on giving by the AAFRC Trust, reports that contributing in America in 1995 increased by 3.6% to an all-time high of $129.88 billion. Generous citizens, corporations, and foundations have, in the aggregate, increased the level of charitable giving *every* year for over 50 years. And individual citizens contribute 88% of that total.

You have created a distinction without a difference when you speak of "traditional nonpolitical charities." Charities that lobby are not by definition "bad," just as not-for-profits which refrain from political advocacy are neither intrinsically "traditional" nor "good." Labeling charities in such a way serves only one purpose: to separate not-for-profits into groups based on personal, political, or philosophical preference. All charities, whether they are finding cures for deadly diseases, protecting natural resources, teaching firearm safety procedures, or serving the elderly, should have the same rights, regardless of whether they lobby their government or not.

In fact, one of the most important benefits a not-for-profit group conveys is an opportunity for the average person to be heard by our government. The First Amendment grants every citizen the right to petition their government. Corporations and their trade associations spend millions of dollars on lobbying a year. Charities are the mechanisms through which Americans can voluntarily associate with one another and engage in community and public life. Much like electing a Senator or other official, getting involved with a charity sends a message to Congress and the government: I support what this organization stands for! This involvement is the very essence of our democratic system.

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Lobbying is only a small percentage of what not-for-profits and other organizations do. Yes, tax-exempt charities can spend up to $1 million a year, but only a few ever do so. Most are far more concerned with filling all the voids left by the deep cuts in federal spending by the 104th Congress. And when a tax-exempt charity does lobby, it brings to the table an unsurpassed knowledge of their issue and expertise born of direct engagement with America's problems and in government programs. Its understanding encompasses all views and perspectives, which policy makers can use to create the best possible legislation.

Contrary to what your editorial implied, there are a number of rules and regulations that guide and limit lobbying by not-for-profits. The Byrd Amendment forbids the use of any federal funds for lobbying purposes, while government has long prohibited charities from engaging in partisan and electoral politics. Tax-exempt charities agree with these laws; they are clear, reasonable, and allow us to be accountable. Congressman McIntosh recently held a hearing on this issue, and not a single case of wrongdoing or unethical use of funds was uncovered.

America has a long and storied tradition of picking up the slack where government cannot or will not go. Charities provide some of the most cost-effective services using personal contributions, volunteer labor and governmental/taxpayer support while allowing persons the chance to let their voices be heard. Should there be limits on lobbying? Yes, but we already have very strong laws that are currently working effectively. Prohibiting tax-exempt charities from lobbying will accomplish nothing except silencing the voice of everyday Americans in an increasingly noisy political system.

Sincerely,

Patricia F. Lewis, CFRE
President & CEO
National Society of Fund Raising Executives

pfl/man

N S. F R E

Advancing Philanthropy through Education, Training and Advocacy

April 17, 1995

The Honorable John Mica
Chairman, House Civil Service Subcommittee
336 Cannon House Office Building
Washington, DC 20515

Dear Chairman Mica:

It is with a great deal of concern that I write and ask you to reconsider your position on restricting access to the Combined Federal Campaign.

Thousands of small, not-for-profit organizations depend upon the annual combined workplace campaign for funds to carry out their programs. Also, many workers rely upon the payroll deduction option as a means to be able to give more generously. It is much more affordable to be able to give $5 per week than to have to write a $260 check. Many would not be able to write a check for that amount at any given time.

The purpose of the combined campaign is to allow 501(c)3 organizations an opportunity to solicit, in a very cost effective manner, the large numbers of people who are gathered in various workplaces around the country--in fact, around the world, given the multi-national presence of many large American corporations and military and government operations.
The cost of soliciting these people individually in their homes would be staggering.

Your proposals, while well-intentioned, pose threats to the integrity of America's voluntary philanthropic tradition and run the real risk of setting the stage for real but unintended consequences. For a donor to an organization to be able to take a deduction for that contribution, the organization must be designated 501(c)3 by the Internal Revenue Service. The IRS has an established process for allotting these determinations. Once that determination has been made, it is the role of the administrator of the fund-raising process to ensure the legality and ethicality of the campaign, not the worthiness of the organization doing the soliciting. That is a decision which individual donors make. Several organizations which may have seemed marginal at best ten years ago are now major forces in our society, because times change, needs change and the focus of various groups within our society changes. The same process works in the opposite direction also.

The threat of unintended consequences also causes concern. To structure restrictions in such a way that specific national organizations are prohibited from participation in the CFC could easily lead to eliminating the opportunity for participation for many local groups who serve important roles in their communities. The cost of including organizations such as this in the CFC

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is one line of print. The cost of excluding them is much higher, both for the organization, the individuals who must take the time to write out separate checks and mail them, and for the constituents of the organizations, who must suffer the consequences of reduced funds.

The whole premise of America's philanthropic tradition is that giving is voluntary, in accordance with one's own beliefs. If one does not care for the activities or agenda of a particular 501(c)3 organization, one need not contribute. If one feels that contributions to certain types of organizations should not be tax deductible, that is an argument which should be waged with the Internal Revenue Service, not by trying to manipulate the fund -raising process and access to it.

On behalf of our over 16,000 members, who work with thousands of organizations who are dependent upon access to donors in the combined campaigns, as well as for the millions of people who use these campaigns as an opportunity to support 501(c)3 organizations of their choice through payroll deduction, I ask that you reconsider your proposal, and work with us to keep the fund-raising process ethical, honorable, and open to all.

Sincerely,

Pat Lewis

Patricia F. Lewis, CFRE
President and CEO

cc: Sandra A. Adams, ACFRE
Virgil E. Ecton, CFRE
Stanley Weinstein, CFRE

enclosures

PFL/mss

April 17, 1995

Gerri Mason Hall
Counsel for Extragovernmental Affairs
U.S. Office of Personnel Management
1900 E Street NW., Room 6H28
Washington, DC 20415

RE: **Proposed rules, Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations**

Dear Ms. Hall:

The National Society of Fund Raising Executives (NSFRE) represents over 16,000 professionals working to raise money for not-for-profit organizations. In November, 1993, NSFRE, along with the American Association of Fund Raising Counsel (AAFRC), the Association for Healthcare Philanthropy (AHP), and the Council for Advancement and Support of Education (CASE) developed the Donor Bill of Rights, a document establishing ten basic obligations that not-for-profit organizations have towards their donors. By operating in a manner that protects these ten basic rights, not-for-profit organizations will earn and maintain the respect and trust of the general public. A copy of the Donor Bill of Rights is included with these comments. I commend your office for incorporating appropriate behavior into the Combined Federal Campaign.

I do, however, have concerns about some aspects of the proposed regulations. The first of these is the proposal that the Principal Combined Fund Organization (PCFO) would receive a fee of 15% **in addition to** recovering all campaign expenses. The National Society of Fund Raising Executives considers any compensation based upon a percentage of funds raised to be unethical and a violation of public trust. The PCFO is performing a service, and receiving a fee in return: reimbursement of all expenses. Tying compensation to the amount of money raised opens the door for coercion of donors, misrepresentation, etc. These are the very behaviors which the proposed rules claim to be designed to eliminate.

Another concern is the proposed 25% ceiling on administrative and fund-raising expenses. Responsible fund raisers are in the midst of a serious effort to educate the public about realistic costs of fund raising. At the same time, organizations such as the Internal Revenue Service, the Philanthropic Advisory Service of the Council of Better Business Bureaus, NSFRE and AAFRC are urging 501(c)3 organizations to accurately account for fund-raising costs. The proposed 25% ceiling would have the opposite effect.

"Ceilings" would penalize those organizations which are young and do not have well-established fund-raising programs. They also would hurt grass-roots groups with no significant major donor base, and well as those which accurately place all expenses related to raising money in the cost-of-fund-raising column. The rising costs of postage, labor, insurance, etc. also make imposition of a ceiling inappropriate. Further, the "Failure to reduce the expenses to the 25% level

within one year will render the organization ineligible for the succeeding campaign" requirement would force many organizations into the very "creative accounting" mode we are all working to eliminate. Do not underestimate the number of 501 (c)3 organizations which depend upon access to federal civil and military donors during the CFC for necessary operating funds.
The CFC is a very low-cost, effective way for many local organizations to solicit contributions in their own communities.

NSFRE is also concerned about the proposed restriction on the ability of CFC campaign participants to designate to the 501© 3 organization of their choice. While it is understandable that the CFC needs to design parameters for the distribution of UNDESIGNATED funds, restricting those to whom one may designate funds is a serious barrier to access to the thousands and thousands of workers solicited through the CFC. Private sector employees are allowed to designate to any 501(c)3 organization, in any geographic region of the country, not just one's campaign territory. Should not federal workers have the same right? Payroll deduction is a tool used by many to increase the capacity for charitable donations--two dollars per pay period for many is more affordable than having to write a $104 dollar check at any given time. That tool is available only through workplace solicitations.

The philanthropic tradition is one of America's greatest strengths. Throughout our history we have supported diverse philanthropic endeavors. Some are national in scope, others are of significance only in a local area. However, if an organization has been determined by the Internal Revenue Service to be a valid 501© 3 group, then they have as equal a right to receive designated funds as any other 501(c)3 group. The argument about eligibility should be waged with the Internal Revenue Service, not by trying to manipulate the fund-raising process and access to it.

We appreciate the opportunity to share these concerns with you. NSFRE continues to strive to "Advance Philanthropy through Education, Training and Advocacy."

Please feel free to contact this office if you have questions or need additional information.

Sincerely,

Patricia F. Lewis, CFRE
President and CEO

N S F R E

Advancing Philanthropy through Education, Training and Advocacy

National Society of Fund Raising Executives

Code of Ethical Principles and Standards of Professional Practice

Statements of Ethical Principles
Adopted November 1991

The National Society of Fund Raising Executives exists to foster the development and growth of fund-raising professionals and the profession, to preserve and enhance philanthropy and volunteerism, and to promote high ethical standards in the fund-raising profession.

To these ends, this code declares the ethical values and standards of professional practice which NSFRE members embrace and which they strive to uphold in their responsibilities for generating philanthropic support.

Members of the National Society of Fund Raising Executives are motivated by an inner drive to improve the quality of life through the causes they serve. They seek to inspire others through their own sense of dedication and high purpose. They are committed to the improvement of their professional knowledge and skills in order that their performance will better serve others. They recognize their stewardship responsibility to ensure that needed resources are vigorously and ethically sought and that the intent of the donor is honestly fulfilled. Such individuals practice their profession with integrity, honesty, truthfulness and adherence to the absolute obligation to safeguard the public trust.

***Furthermore,* NSFRE members**

- serve the ideal of philanthropy, are committed to the preservation and enhancement of volunteerism, and hold stewardship of these concepts as the overriding principle of professional life;
- put charitable mission above personal gain, accepting compensation by salary or set fee only;
- foster cultural diversity and pluralistic values and treat all people with dignity and respect;
- affirm, through personal giving, a commitment to philanthropy and its role in society;
- adhere to the spirit as well as the letter of all applicable laws and regulations;
- bring credit to the fund-raising profession by their public demeanor;
- recognize their individual boundaries of competence and are forthcoming about their professional qualifications and credentials;
- value the privacy, freedom of choice, and interests of all those affected by their actions;
- disclose all relationships which might constitute, or appear to constitute, conflicts of interest;
- actively encourage all their colleagues to embrace and practice these ethical principles;
- adhere to the following standards of professional practice in their responsibilities for generating philanthropic support.

National Society of Fund Raising Executives

1101 King Street, Suite 700 Alexandria, Virginia 22314-2967
703/684-0410 Fax: 703/684-0540 Toll-Free: 800/666-FUND
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Standards of Professional Practice

Adopted and incorporated into the NSFRE Code of Ethical Principles November 1992

1. Members shall act according to the highest standards and visions of their institution, profession, and conscience.

2. Members shall avoid even the appearance of any criminal offense or professional misconduct.

3. Members shall be responsible for advocating, within their own organizations, adherence to all applicable laws and regulations.

4. Members shall work for a salary or fee, not percentage-based compensation or a commission.

5. Members may accept performance-based compensation such as bonuses provided that such bonuses are in accord with prevailing practices within the members' own organizations and are not based on a percentage of philanthropic funds raised.

6. Members shall neither seek nor accept finder's fees and shall, to the best of their ability, discourage their organizations from paying such fees.

7. Members shall effectively disclose all conflicts of interest; such disclosure does not preclude or imply ethical impropriety.

8. Members shall accurately state their professional experience, qualifications, and expertise.

9. Members shall adhere to the principle that all donor and prospect information created by, or on behalf of, an institution is the property of that institution and shall not be transferred or utilized except on behalf of that institution.

10. Members shall, on a scheduled basis, give donors the opportunity to have their names removed from lists which are sold to, rented to, or exchanged with other organizations.

11. Members shall not disclose privileged information to unauthorized parties.

12. Members shall keep constituent information confidential.

13. Members shall take care to ensure that all solicitation materials are accurate and correctly reflect the organization's mission and use of solicited funds.

14. Members shall, to the best of their ability, ensure that contributions are used in accordance with donors' intentions.

15. Members shall ensure, to the best of their ability, proper stewardship of charitable contributions, including timely reporting on the use and management of funds and explicit consent by the donor before altering the conditions of a gift.

16. Members shall ensure, to the best of their ability, that donors receive informed and ethical advice about the value and tax implications of potential gifts.

17. Member's actions shall reflect concern for the interests and well-being of individuals affected by those actions. Members shall not exploit any relationship with a donor, prospect, volunteer, or employee to the benefit of the member or the member's organization.

18. In stating fund-raising results, members shall use accurate and consistent accounting methods that conform to the appropriate guidelines adopted by the American Institute of Certified Public Accountants (AICPA)* for the type of institution involved. *(* In countries outside of the United States, comparable authority should be utilized.)*

19. All of the above notwithstanding, members shall comply with all applicable local, state, provincial, and federal civil and criminal law.

NSFRE in Review: 1994

A Preliminary Annual Report Summary

Growth

- Membership grew to 16,191 in 1994.
- The number of chapters rose to 136.

Standards

- 218 were approved as Certified Fund Raising Executives (CFRE), and approximately 335 were recertified, bringing the total number of CFREs to 3,395.
- In the third year of implementation of the Advanced Certified Fund Raising Executive program, four individuals earned the ACFRE designation, bringing the total number to 24.
- Strengthened the Code of Ethical Principles and Standards of Professional Practice with new revisions.

Professional Advancement

- The most successful NSFRE International Conference on Fund Raising to date attracted more than 2,700 fund-raising executives to Boston, MA; 55 scholarships were awarded.
- NSFRE chapters provided educational services to more than 134,000 participants, a 66% increase from that reported in 1993.
- 19 Survey Course on Fund Raising and 12 First Course in Fund Raising programs were offered across the country. A total of 930 individuals participated as instructors or registrants.
- Executive Leadership Institute (ELI) attracted 29 invited participants from the ranks of NSFRE's advanced fund-raising executives.
- Advanced Management course was held with 37 senior executives participating.
- The third annual Fund Raising and the Law Conference attracted 78 registrants.
- Revision of the Survey Course on Fund Raising was completed.
- Work began on developing the CEU system.

Advocacy

- NSFRE worked closely with both the House Ways and Means Committee and the Senate Finance Committee to push for greater disclosure and accountability ("intermediate sanctions").
- Virgil Ecton, CFRE, NSFRE Government Relations Committee Chair, testified before a combined Treasury/IRS panel stating NSFRE's position on the valuation of intangible items used to motivate charitable contributions.
- The Activist and Key Contact network expanded to 427 members, an increase of 51% from 1993.
- NSFRE's Key Contact system was called into action several times on postal rate issues and on the effort to extend the sunset of deductability of gifts of appreciated stock to private foundations.
- Ten NSFRE chapters in Texas worked with the state Attorney General to produce and distribute *A Guide to Informed Giving in Texas*.

Outreach/Communications

- NSFRE's professional journal, *Advancing Philanthropy*, received the "Award of Merit" from the Chicago Chapter of International Association of Business Communicators (IABC).
- National Philanthropy Day was celebrated by more than 100 chapters, involving over 36,000 individuals.
- NSFRE received a grant from the Prego Division of the Campbell Soup Company to support the "Youth in Philanthropy" project.
- The NSFRE Award Committee established new criteria and set new deadlines for all awards.
- Introduced Chapter Leadership Workshops.
- Involved more than 325 members in volunteer leadership activities.

Research/Body of Knowledge

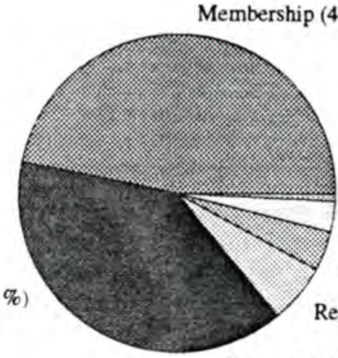
- The NSFRE Fund-Raising Resource Center (Library) continued to expand services, assisting more than 6,550 individuals in 1994. This represents an 81% increase over 1993.
- The Dictionary Task Force continued its work on revising and expanding NSFRE's *Glossary of Fund-Raising Terms*.
- NSFRE's three-year research project, *Professionals in Philanthropy: Fund Raisers at Work*, was completed.
- The task force to study and recommend action on evaluation of fund-raising costs developed a study paper for the National Assembly and guidelines for members' use.
- In partnership with the Council for the Advancement and Support of Education (CASE), NSFRE began the development of a minority database of culturally and ethnically diverse backgrounds.

(over, please)

NSFRE in Review: 1994

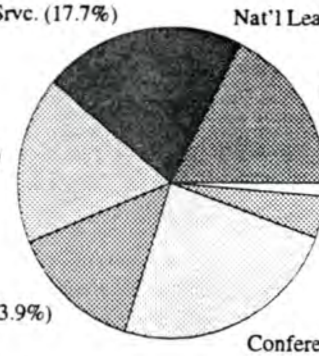
1994 Financial Summary *

Income



TOTAL INCOME = $4,859,223

Expenses



TOTAL EXPENSES = $4,795,492   RESERVES/EXCESS = $63,731

** Pre-Audit*

NSFRE Foundation in Review: 1994

The NSFRE Foundation's 1994 Advancement Fund Campaign raised $524,400 from 2,879 donors to strengthen the fund-raising profession and to advance philanthropy.

ANNUAL FUND	**$407,837**
Every Member Campaign	122,692
Chapter Treasury Gifts	67,165
Foundation Board	61,987
Society Board	25,200
National Assembly	24,110
Staff	5,732
Firms	45,625
Friends	55,326
SPECIAL PROJECTS	**$85,930**
ENDOWMENTS	**$30,633**

The Annual Funds raised in 1993 through the NSFRE Foundation were used in 1994 for:

Public Service/FRIENDS	14%
Diversity Programs	9%
National Philanthropy Day	2%
Resource Center/Research Programs	17%
Scholarships	16%
Professional Advancement	42%

(over, please)

1994

Annual

Report

National Society of Fund Raising Executives
1101 King Street, Suite 700
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A Donor Bill of Rights

PHILANTHROPY is based on voluntary action for the common good. It is a tradition of giving and sharing that is primary to the quality of life. To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the not-for-profit organizations and causes they are asked to support, we declare that all donors have these rights:

I.

To be informed of the organization's mission, of the way the organization intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

II.

To be informed of the identity of those serving on the organization's governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

III.

To have access to the organization's most recent financial statements.

IV.

To be assured their gifts will be used for the purposes for which they were given.

V.

To receive appropriate acknowledgment and recognition.

VI.

To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.

VII.

To expect that all relationships with individuals representing organizations of interest to the donor will be professional in nature.

VIII.

To be informed whether those seeking donations are volunteers, employees of the organization or hired solicitors.

IX.

To have the opportunity for their names to be deleted from mailing lists that an organization may intend to share.

X.

To feel free to ask questions when making a donation and to receive prompt, truthful and fortbright answers.

DEVELOPED BY

American Association of Fund Raising Counsel (AAFRC)
Association for Healthcare Philanthropy (AHP)
Council for Advancement and Support of Education (CASE)
National Society of Fund Raising Executives (NSFRE)

ENDORSED BY

(IN FORMATION)

Independent Sector
National Catholic Development Conference (NCDC)
National Committee on Planned Giving (NCPG)
National Council for Resource Development (NCRD)
United Way of America

Design: Lipman Hearne/Chicago

Please help us distribute this widely

N S F R E

Advancing Philanthropy through Education, Training and Advocacy

ABOUT NSFRE

Founded in 1960 to advance philanthropy, The National Society of Fund Raising Executives (NSFRE) is an association of over 16,000 individuals who raise money for not-for-profits nationwide. A strong local chapter framework is employed by NSFRE; its 135 chapters are located in almost all states and metropolitan areas. The National Service Office (Headquarters) is located in Alexandria, Virginia.

NSFRE provides educational opportunities for professional fundraisers; promotes consistent, high standards of professional practice; and assists in the exchange of ideas, information and research.

The National Service Office receives its revenue from membership dues, publication advertising and subscriptions, certification of fund raising executives, and its annual Washington conference.

In addition, NSFRE maintains a National Fund Raising resource center, hosts an Annual International Fund Raising Conference, and offers educational seminars throughout the United States. NSFRE's publications include: a Membership Directory; Journal (quarterly); Newsletter (8 times per year); and Executive Search Newsletter (12 times per year).

NSFRE actively monitors legislative and regulatory developments of interest to the not-for-profit fundraising community, and provides regular updates to its membership through Legislative Alerts and background briefings.

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N S F R E

Advancing Philanthropy through Education, Training and Advocacy

June 17, 1994

Janice Mays, Esq.
Chief Counsel and Staff Director
Committee on Ways and Means
U.S. House of Representatives
Room 1102
Longworth House Office Building
Washington, D.C. 20515

Dear Ms. Mays:

On behalf of the National Society of Fund Raising Executives ("NSFRE")[1], I am presenting comments on the report of the Subcommittee on Oversight to the Ways and Means Committee on reforms to improve the tax rules governing public charities. This report was issued May 5, 1994.

NSFRE commends the Subcommittee on Oversight (the "Subcommittee") for focusing attention on the important issue of financial disclosure and accountability of not-for-profit organizations. We believe that the vast majority of tax-exempt organizations recognize the public trust that has been placed in them, and do their best to comply with the myriad of federal, state and local laws that regulate their operations. At the same time, we recognize that there are a small minority of organizations in which an individual associated with the organization takes advantage of its tax-exempt status. We believe that the Internal Revenue Service (the "IRS") must have the tools necessary to prevent abuses, and thereby protect the public trust that permits the not-for-profit sector to raise the funds needed to carry out its purposes.

While not in full agreement with all of the Subcommittee's recommendations, NSFRE

[1]Created in 1960 to advance philanthropy, NSFRE is an association of over 15,000 individuals who raise private voluntary contributions and other funds for not-for-profits nationwide. Its members include development officers and other fundraisers who are employees of not-for-profit organizations, as well as independent fundraising specialists.

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agrees with the general thrust of the recommendations. NSFRE's comments on those areas in which it has a particular interest follow.

INTERMEDIATE SANCTIONS

Under the Subcommittee's recommendation, a two-tiered excise tax would apply to three types of "excess benefits": (1) the excess of the value of any benefit provided by an organization to an "insider" over the value of any consideration received by the organization in exchange for such benefit, (2) the excess amount of compensation over the amount of reasonable compensation, and (3) any loan to an officer or board member of an organization.

While NSFRE generally supports the Subcommittee's recommendation, we have a number of suggestions intended to ensure that the proposed sanctions serve the purpose for which they are designed, without needlessly disrupting the ability of affected organizations to carry on their tax-exempt purposes.

1. With respect to unreasonable compensation, NSFRE is concerned that the current-law standards for determining whether compensation is reasonable are overly vague. While we support a facts and circumstances approach, and strongly oppose the application of any type of "bright line" standard to compensation, we suggest that Congress develop safe harbors under which compensation would be deemed reasonable. Such safe harbors would reduce the likelihood that tax-exempt organizations will find themselves in lengthy, costly, and unnecessary disputes with the IRS, as well as providing not-for-profit boards and managers with certainty that the compensation being paid by their organizations is within the law.[2]

   For example, approval of a compensation package by an independent board of directors, board of trustees, or other governing body should be considered sufficient evidence that a compensation package is reasonable.[3] A favorable opinion of a qualified compensation specialist or a major certified public accounting firm should also be considered sufficient evidence that a compensation package is reasonable.

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[2]While Treasury's proposal provides that normal review procedures would apply in cases where taxpayers disagree with the Internal Revenue Service, safe harbors would allow both tax-exempt organizations and the IRS to avoid lengthy and costly administrative and judicial controversies.

[3]Treasury proposes that the approval of compensation by an independent governing body would be a factor in determining whether compensation is reasonable. NSFRE suggests that such approval should constitute a definitive safe harbor.

2. NSFRE also suggests the use of safe harbors for transfers involving insiders. For example, de minimis rules could be enacted to ensure that the sanctions are targeted at major abuses, and not at minor, inadvertent violations.

3. The Subcommittee's recommendation provides for a two-part excise tax whereby an excise tax would apply both to an "insider" receiving "excess benefits", and to an "organization manager" who approves a transaction "knowing" that it results in an excess benefit.

   NSFRE is profoundly concerned that the tax on organization managers could have a chilling effect on the willingness of individuals to act as directors, trustees or managers of not-for-profit organizations. At the same time, we recognize the need to hold organization managers responsible for their actions and for fulfilling their duties and obligations. To balance these two needs, we suggest that any proposal developed by Congress contain language, applying to both insiders and organization managers, similar to that contained in section 4941 with respect to foundation managers. In other words, the excise tax on excess benefits should only apply to an insider or organization manager when the insider or organization manager participates in the transaction knowing that it results in an excess benefit and his or her participation is willful and is not due to reasonable cause. NSFRE would also suggest that the burden of proof in such cases be placed on the IRS, as is the case under section 7454 (relating to the section 4941 excise tax on foundation managers).

4. NSFRE opposes the per se application of intermediate sanctions to loans to officers or board members. Any loan to an officer or board member should be taken into account in determining whether that person's compensation is reasonable. If the compensation is not reasonable, then that person should be subject to the intermediate sanction on unreasonable compensation. However, there is no rationale for a blanket prohibition on loans, vis-a-vis other types of compensation. There are many valid reasons for making loans to officers, directors, and other employees, as part of a reasonable compensation package. For example, many organizations offer loans to new employees who must relocate to enable the employees to purchase a home.

PUBLIC ACCESS TO THE ANNUAL INFORMATION RETURN AND APPLICATION FOR TAX EXEMPTION

NSFRE generally agrees with the Subcommittee's recommendation that tax-exempt organizations be required to provide to the public, upon request, copies of their most recent annual information returns, Forms 990, and applications for tax exemption (and supporting documents). Under the Subcommittee's recommendation, which follows Treasury's proposal, such documents would be provided to any person who requests them, without charge other than payment of a reasonable fee to cover the organization's copying and mailing costs.

Nature of Requests

NSFRE recommends that any proposal adopted by Congress specifically provide that requests for copies of Forms 990 or exemption applications must be made in person or in writing. This would eliminate any misunderstandings or uncertainties that could arise from telephone requests for such documents.

Charges

NSFRE agrees with the Subcommittee recommendation that persons requesting copies of Forms 990 or an exemption application from an organization be required to pay reasonable fees to cover the organization's copying and mailing costs. In addition, NSFRE believes that organizations should be entitled to receive reasonable fees to cover the costs of the personnel that will be required to fulfill these requests. Such a fee could be set at a flat rate.

Attachments and Related Materials

Many Forms 990 have lengthy attachments providing detail on the information provided in the forms. We believe that reasonable copying and mailing charges for such attachments could be quite high, and the usefulness of the attachments to the public rather low. Similarly, the "related materials" that accompany a determination letter request can be voluminous and, again, of limited use to the public. We suggest that any proposal adopted by Congress contain rules allowing organizations to limit the attachments and related materials that must routinely be copied and/or sent by mail to each person requesting Forms 990 or exemption applications. Such rules could provide that the organization be required to list any attachments or related materials not provided, and allow anyone specifically wanting such information to request it.

For example, with respect to Form 990, it should not be necessary to provide copies of attachments showing detailed information on gains or losses from the sale of assets (e.g., securities transactions) or schedules of fixed assets and depreciation (e.g., land, buildings, and equipment), as this information is summarized on the face of the Form 990. With respect to the Form 1023, "Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code", it should not be necessary to routinely provide copies of lengthy attachments such as the organization's articles of incorporation, bylaws, management contracts, leases, etc. Anyone specifically interested in any of this information could, however, request copies.

NSFRE urges that any proposal adopted by Congress should be clear in stating that, as under current law, there is no requirement that donor information be provided to those requesting copies of Forms 990.

<u>Time for Fulfilling Requests</u>

The Subcommittee recommends that an organization be required to fulfill a request for copies immediately, when the request is made in person, and within 30 days, when the request is made in writing. In the event of an organized harassment campaign, the IRS would be permitted to grant an extended period of time for compliance. This would require a showing by the organization that it is the subject of an organized harassment campaign and that a waiver would be in the public's best interest.

A specific requirement that a request for copies be fulfilled "immediately", if the request is made in person, or within 30 days, if made in writing, could, in many cases, prove unreasonable. For example, many smaller organizations simply do not have the staff necessary to fulfill numerous requests for copies in a single day. NSFRE suggests that any proposal adopted by Congress utilize a facts and circumstances approach under which requests must be fulfilled within a reasonable period of time. Such a rule could include a rebuttable presumption that 30 days is a reasonable period of time. For example, if an individual requested a copy of a Form 990 in person, and no one was available to make the required copy, the organization could permit the individual to complete a written request which would generally need to be fulfilled within 30 days.

With respect to organized harassment campaigns, NSFRE disagrees with the Subcommittee's characterization of such a campaign as "unlikely". We also believe that it would be difficult, if not impossible, to develop an administrative procedure whereby the IRS could evaluate and approve or disapprove a request for a waiver to the 30 day compliance period prior to the end of such period.

NSFRE therefore opposes the Subcommittee recommendation that an organization must seek advance approval from the IRS before refusing to fulfill a request for a copy of a Form 990 or exemption application. Instead, NSFRE recommends the adoption of a facts and circumstances approach, perhaps combined with an optional IRS advance approval procedure. Under this approach, an organization could itself determine whether it is the subject of an organized harassment campaign. The IRS could impose the appropriate penalties if the organization fails to provide copies of documents and the IRS determines that the organization was not in fact the subject of an organized harassment campaign. Any such proposal should provide that certain facts and circumstances, such as a large number of similarly worded letters or postcards mailed within a short time frame, should be treated by the IRS as evidence of an organized harassment campaign.

In some cases an organization no longer has a copy of its exemption application. This is a particular problem with older organizations. To make matters worse, in such cases the IRS often also has no copy of the exemption application. NSFRE recommends that an exception to the disclosure rule be provided, through effective dates or otherwise, for organizations that do not have a copy of their exemption applications where the IRS also has no copy. While we can see the potential for abuse in this area, there is simply no way an organization can produce a document that no longer exists.

SUFFICIENCY OF INFORMATION ON THE ANNUAL INFORMATION RETURN

NSFRE agrees with the Subcommittee recommendation that the IRS undertake a comprehensive review of the annual information return, Form 990, and the instructions thereto. As part of this review, NSFRE suggests that the IRS investigate the discrepancies that exist in some areas between the financial accounting standards that apply to not-for-profits, and the Form 990 requirements. NSFRE supports consistency in this area to the greatest extent possible.

NSFRE also recommends that the IRS examine some of the more detailed reporting requirements of the Form 990, and the implications of these requirements with respect to the privacy rights of individuals. For example, the instructions to Part II, Line 22 of the 1993 Form 990 "Grants and allocations", require the attachment of a schedule showing, among other items, each grantee's name and address and the amount given. NSFRE believes that, while it is in the public's interest to know, for example, the classes of activities for which the organization makes grants, it is a breach of an individual grantee's privacy rights to require that his or her name and address be subject to public disclosure. At the same time, we acknowledge that the IRS has an interest in this information. NSFRE therefore suggests that the schedule required for Part II, Line 22 be made not subject to public disclosure, as is the case for the list of donors required with respect to Part I, Line 1 of the Form 990.

With respect to other areas where the Form 990 could be improved, NSFRE has particular expertise in the area of fund raising and fund raising fees and expenses. We would be pleased to work with Congress, Treasury and the IRS in developing standards in this area.

PENALTIES FOR FAILURE TO FILE A CORRECT ANNUAL INFORMATION RETURN AND TO ALLOW FOR PUBLIC INSPECTION

Annual Information Return

While NSFRE does not oppose the Subcommittee's recommendation to increase the penalty for failure to file a timely, complete and accurate information return, we feel that additional thought should be given to what is meant by "a complete and accurate return". Tax-exempt organizations vary widely in the amount of detail that they provide on the Form 990. In many cases, this is due to lack of guidance, through instructions or otherwise, on how to properly complete the form. In other cases organizations, particularly small organizations, do not have the resources to learn about and properly prepare their Forms 990, which are quite complex, or to hire outside advisers to help them.

NSFRE also suggests that Congress consider whether different sanctions should apply depending on the severity of the failure to file a "complete and accurate return". The need for this might be mitigated, to some extent, by the adoption of a simpler Form 990, together with clearer instructions.

* * *

NSFRE hopes that its comments in this important area have been helpful. We would be pleased to provide whatever additional information or assistance that you require. I look forward to discussing our comments in more detail with you and your staff. Please feel free to call me at (703) 684-0410 at any time.

Sincerely,

Patricia F. Lewis, CFRE
President and CEO

cc: Beth K. Vance, Esq.
Kathleen M. Nilles, Esq.

NSFRE

Advancing Philanthropy through Education, Training and Advocacy

February 22, 1995

The Honorable Newt Gingrich
Speaker
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Speaker:

The National Society of Fund Raising Executives is the association representing more than 16,000 professional fund raisers for charitable, educational, health, the arts, environmental and religious organizations throughout the country. Recently at one of your daily news conferences, you were quoted as saying:

> *"I think it's better to have public leaders who are actively trying to help non-profit . . .private sector activities to do good things than it is to raise taxes to have the federal government write a check to the same degree. So I think you've got to decide. Do you want a country with non-profits?"*

NSFRE clearly believes the answer to this question must be a resounding "Yes." As you have noted on several occasions, not-for-profits have been an essential part of the fabric of American society since the creation of our nation. We also believe that there is a role for both government and the private, not-for-profit sector in meeting the diverse human needs of our society. As Congress redefines the role of the federal government, we are greatly concerned that there is an implicit expectation that not-for-profits will raise enough private, voluntary funds to make up for the reduced check that will be written by the federal government.

Equally important is the fact that Congress appears to be embarking upon a refocusing of the federal role without an adequate understanding of the strengths and limitations of the private, not-for-profit sector. The institutions which are served by our members form a significant portion of our national economy measured by revenues and employment. By any economic standard, we are among the five largest sectors of the American economy.

Private, not-for-profit organizations exist to give a helping hand to individuals and families in need, educate and enrich the lives of Americans, promote research in new fields, heal the sick, foster such basic values as hope, love, and faith, and generally give Americans an opportunity to manifest with their time and money their charitable instincts. The not-for-profit sector, as you know, is all-encompassing. It includes museums; institutions which promote the arts and music; organizations concerned about promoting the welfare of various interests such as the environment, children and the aged; religious groups; universities and other educational

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organizations; institutions which promote various types of research; groups which promote community and regional development; others which provide job training and employment assistance; and those which provide a broad array of social service programs. Each of these services and programs are an integral part of the social fabric of every community in this country.

The not-for-profit sector cannot completely replace the lost Federal revenues that are being considered by Congress. However, working together, we can try to find ways which enable the public and the private not-for-profit sectors to capitalize on their respective strengths. Working together, we can also find ways in which government can encourage increased private charitable giving.

We are well aware that sound fiscal policy dictates Federal spending cuts on programs that affect the not-for-profit sector and the people we serve. Therefore, we respectfully request the opportunity to work with you to discuss how our elected officials can help not-for-profits "do good things" in a society when both public and private sector financial resources are scarce.

Sincerely,

Patricia F. Lewis, CFRE
President and CEO

cc: Sandra Adams, CFRE
Chair, NSFRE
Virgil E. Ecton, CFRE
Vice Chair, External Relations, NSFRE
Stanley Weinstein, CFRE,
Chair, Government Relations Committee, NSFRE

pfl/tbw

NSFRE

National Society of
Fund Raising Executives

Advancing Philanthropy through
Education, Training and Advocacy

Patricia F. Lewis, CFRE
President & CEO

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