



NON PROFIT GPS

HELPING TO KEEP YOU ON THE RIGHT ROAD



How Do Uniform Guidance, Your Indirect Cost Rate, and Procurement Requirements Impact Fee for Service Contracts

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When you have a federal fee for service contract, where you are paid for outcomes rather than reimbursed for expenses, there are some changes to make in order to comply with federal funding requirements.

Because fee for service contracts don't reimburse you for expenses you incur; direct cost assignment and indirect cost allocation, allowable costs, and even the need for an indirect cost rate or de minimis rate are not required.

However, if you also have federally-funded contracts that reimburse allowable expenses, those contracts cannot be charged more than their fair share of overhead/indirect which means that other activities must also bear their fair share of indirect/overhead.

The reimbursement of costs contracts will also require you have an approved indirect cost rate (or a de minimis indirect cost rate) and written procurement procedures that are pertinent regardless of what type of contract you were working on.

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Some regulations apply to all contracts, such as: the requirement for internal controls over your financial statements and over your compliance, procedures for identifying and avoiding conflicts of interest, consistent application of an acceptable accounting method, records retention, timeframes for performance, and audit and compliance audit requirements.

Fee for service contracts are generally billed as services are performed. Reimbursement of costs contracts are generally billed as (direct and indirect) costs are incurred. These billings are sometimes supplemented by advance payments, or by a draw against expenses that will be paid very shortly after the advance is received.

Special Requirements for Private Foundations

The personal income tax deduction for donation of bonds and other capital gain property except publicly-traded securities to a non-operating private foundation is limited to the donor's basis. However, there is another type of private foundation called a "conduit private foundation" also called a "pass-through foundation." A private pass-through foundation must distribute all contributions to publicly supported charities by March 15 of the following year. Those contributions are eligible for the 50% charitable contribution deduction.

Payment of compensation to a director of a private foundation is a prohibited transaction unless it is a payment of reasonable compensation to a director to manage the charitable affairs of the private foundation. The compensation must be reasonable for the services provided.

Payments to directors and other disqualified persons are not included as part of qualifying distributions.

When a private foundation makes a grant to a non-charity, it must exercise *expenditure responsibility* and make a disclosure in its annual filing. Expenditure responsibility includes a pre-grant inquiry and follow-up.

Pre-grant inquiry is an inquiry about the grantee organization including their identity, history and experience, management, activities and practices.

Grants to non-charities should be supported by a written commitment (from them) for repayment of unused amounts, a commitment to submit reports of work done, a commitment to keep records and make them available at reasonable times, and a commitment not to use funds for disqualifying purposes such as influencing legislation.



New York State's Limitation on Indirect Costs and on Nonprofit Salaries Has Been Eliminated.

Governor Hochul recently signed a bill which revokes former Governor Andrew Cuomo's Executive Order EO-38, which limited administrative expenses to 15% of total expenses, and limited executive salaries to \$199,000 for New York State funded health and welfare organizations.

Many nonprofit organizations argued against those limitations ever since the executive order was issued in early 2012. So, this is welcome relief.



Dan O'Dea Becomes Partner

Dan O'Dea Sr., CPA, MBA, who has been a principal with our firm and a leader of our nonprofit and affordable housing services, became an owner of the firm as of July 2022.

Dan is a graduate of SUNY Oswego where he earned a Bachelor of Science and a Masters in Business Administration and Accounting degree.

He is a mentor and trainer for our professional staff and oversees financial, compliance, and special audits, as well as reviews and compilations. He also oversees annual filings for nonprofit organizations. Dan consults with many of our nonprofit clients on a variety of topics.

Dan and his wife Diane have five children and one grandchild. Dan supports and encourages their extracurricular, as well as their academic, activities.

Dan joined the firm in September 2004.

Penalty Relief for Late Filed Tax Returns

The IRS recently issued Notice 2022-36 which provides penalty relief for 2019 and 2020 tax returns that were filed late.

This penalty relief means that unpaid penalties will be forgiven and penalties that have been paid will be automatically refunded, there is no application required.

Delinquent returns must be filed on or before September 30, 2022 to qualify for this penalty forgiveness.

Penalty relief will be for the following returns:

- Form 1040 personal income tax returns,
- Form 1041 trust and estate income tax returns,
- Form 1120 corporation income tax returns,
- Informational return such as form 1099,
- Form 990-PF-private foundation annual filing, and
- Form 990-T-unrelated business income tax return.

Forms 990 and 990-EZ are not listed in this notice, but they are still eligible for the normal abatement request process.



Reminder all CHAR500 Charities Bureau annual filings must be filed electronically

As we mentioned in a previous newsletter, the New York State Charities Bureau is now requiring annual filings to be submitted electronically through their portal.

This process should not start until the form 990 or 990-EZ is final. We will perform this task for our clients.

To submit your annual filing on your own, you can go to [charitiesNYS.com/home](https://charitiesnys.com/home) and click on "annual filing". If you are not already registered online with the Charities Bureau, register as a new user with a username and a password, then click on "begin annual filing".

When the filing is complete you will be asked to upload all required documents including your form 990 or 990-EZ, your annual (reviewed or audited) financial statements, and often other information, such as a redacted IRS form Schedule B. You can stop and save your annual filing, but at this point you cannot print a draft of the form.

The final piece of the submission is electronic signature by the president or CEO, and the treasurer or CFO, and electronic payment of the required fee.



Recent Tax Legislation

In addition to student loan forgiveness enacted by President Biden, estimated to be worth between \$390- \$500 billion by The Tax Foundation, Congress recently passed and the president signed, the Inflation Reduction Act.

Additional student loan forgiveness for nonprofit employees expires on October 31, 2022. This is not the same as the recently enacted student loan forgiveness program. Some of the limitations in that new forgiveness program do not apply to nonprofit employees. Employees can go to <https://studentaid.gov/PSLF> to check their eligibility for forgiveness.

The National Council of Nonprofits put together a concise outline of how the Inflation Reduction Act impacts nonprofit organizations. Visit the National Council of Nonprofits website for a summary of the act.

The new law provides enhanced and extended tax breaks for energy efficient construction in the form of tax credits. Nonprofit organizations can transfer these credits to contractors and reduce the contract cost for these energy efficient systems.

Healthcare premium tax credits under the Affordable Care Act are extended for three years. Credits are increased for participants who are between 100% and 400% of the federal poverty level.

There have also been some recent IRS and NYS Charities Bureau filing changes.

The New York State Charities Bureau filing requires a copy of form 990 or 990-EZ. In the past, the name and address of large donors were required to be included in schedule B submitted with form 990. Donor specific information is no longer required other than the donor's resident state. The name and address of major donors will no longer be included in schedule B that is sent to New York State, but the amount and state are required. Alternatively, you can provide the total amount of contributions from all New York State sources.

IRS completed updates to its portal for receiving certain information including form 990N. If you are submitting that form you need to sign into IRS modernized authentication platform. If you already have an active account with IRS, you can use it, if you do not, you will need to create a new account using ID.me. Then go to the 990N submission page and submit that form.



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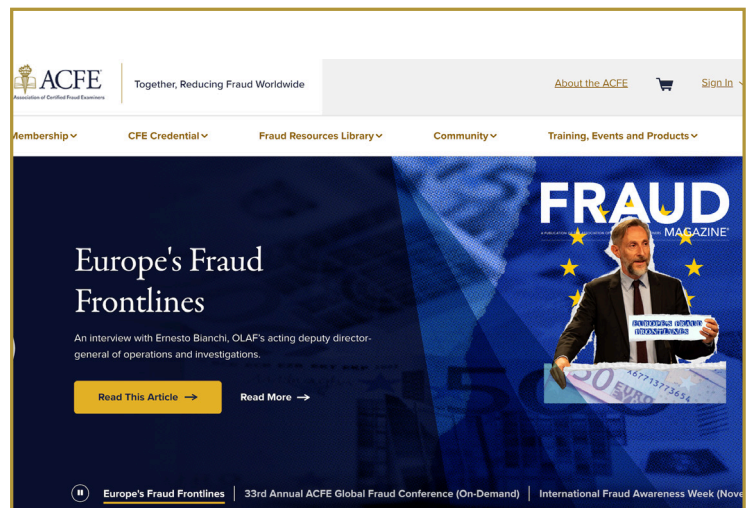


HEVERON & COMPANY
WEBSTAR

This Month's WebStar Winner Is:

Association of Certified Fraud Examiners

The mission of the Association of Certified Fraud Examiners (ACFE) is to reduce the incidence of fraud and white-collar crime and to assist the membership in fraud detection and deterrence.



Because cybercrime is one of the biggest challenges everyone faces nowadays, we would like to acknowledge The Association of Certified Fraud Examiners for the resources they maintain on their website www.acfe.com.

For example, if you go to their free resources section and then to "computers and technology" you will find up-to-date guidance to understand and reduce the possibility of fraud. They also provide additional insights into what allows fraud to occur and even a glimpse into the future of artificial intelligence.