

## Soliciting Contributions Legally: What Your Organization Needs to Know Before It Raises Funds

In July 2010, the Tennessee Department of State assessed \$50,000 in civil penalties on the Veterans Support Organization (VSO) for violating a number of the state's charitable solicitation statutes, including failure to register with the state's Division of Charitable Solicitations and Gaming. Like Tennessee, many other states regulate charitable solicitations in an attempt to protect their residents from solicitation fraud. Forty-five states and the District of Columbia now have some form of charitable solicitation regulation, with 39 of those (plus the District of Columbia) requiring registration by soliciting charities. In addition, many municipalities have adopted their own fund raising regulations. Nonprofits must be aware of the requirements in states and localities where they solicit funds, lest they find themselves inadvertently in violation of the law and facing penalties.

The reach of charitable solicitation registration requirements is broad, generally triggered whenever a "charitable organization" makes a "solicitation." Most states define a charitable organization as any entity that is or holds itself out to be established for any charitable purpose or employs a charitable appeal as the basis of any solicitation. Solicitations come in many different forms and may be oral, written, mailed, televised, announced, published, or posted on the internet.

Charitable solicitation regulations vary from state to state, but typically cover several or all of the following issues:

- Registration, annual reporting, and record keeping requirements of Charitable Organizations, Professional Solicitors, and Fund Raising Counsel engaged in charitable solicitations.
- Exemptions from registration and reporting requirements. For instance, churches and some other religious entities are exempt from most states' registration requirements.
- Requirements for contractual relationships between Charitable Organizations and Professional Solicitors or Fund Raising Counsel.
- Requirements that Charitable Organizations or Professional Solicitors disclose certain information when soliciting. For example, several states require that all solicitations disclose that the Charitable Organization's financial statement will be provided on request.
- Prohibitions against certain acts when soliciting (e.g. misrepresentation of how solicited funds will be used, or implying endorsement by an individual without that individual's written consent).

The nuances of various state regulations, together with an organization's purposes and fundraising methods, will affect registration obligations. Thus, the best practice for any nonprofit making appeals for donations is to research proactively the regulatory requirements in the states where it solicits (a good starting point is [www.multistatefiling.org](http://www.multistatefiling.org)) and seek legal counsel if questions about registration requirements in any particular state arise.

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