

CLIENT ALERT: MAY 6, 2009

**POLICIES AND PROCEDURES IN CONNECTION WITH
REVISED FORM 990**

In December 2008, the Internal Revenue Service (the "IRS") made significant revisions to Form 990, the annual informational return that certain tax exempt entities must file. As a result of these changes, organizations should evaluate their existing by-laws and other governing documents to determine if they are sufficient under the new reporting requirements, in light of the organization's size, type and culture. The Form 990 is a public document that is generally available on Guidestar.com. When filing the new Form 990, an organization must disclose to the IRS and the general public whether it has the following policies and procedures:

- **Conflict of Interest Policy** - a written conflict of interest policy and procedures for managing, monitoring and enforcing the policy;
- **Annual Disclosure Policy** - a policy requiring annual disclosure of interests that could give rise to a conflict of interest by officers, directors, trustees, key employees and their family members;
- **Whistleblower Policy** - a written whistleblower policy;
- **Document Retention/Destruction Policy** - a written document retention and destruction policy;
- **Public Availability of Tax and Corporate Documents** - a policy regarding how the organization will make its Form 990, Form 990-T and Form 1023 available to the public and whether it will make its governing documents, conflict of interest policy and financial statements available to the public;
- **Procedures for Local Chapters** - written policies and procedures governing the activities of local chapters, branches or affiliates (if applicable);
- **Compensation Procedures** - a process for determining the compensation of the CEO, executive director, top management officials, officers and key employees;
- **Procedures for Evaluating Arrangements with Other Entities** - written policies and procedures to review the organization's investments or participation in disregarded entities, joint ventures or other affiliated organizations (both exempt and non-exempt), and written policies to safeguard the organization's exempt status with respect to joint ventures, transactions or arrangements with *related* organizations or taxable entities;
- **990 Review Procedure** - a process for the review of Form 990 before filing; and
- **Documentation of Board Actions** - a policy regarding how board and committee meetings and written actions of the board or committee will be documented.

To the extent that an organization's existing by-laws or other governing documents do not address the foregoing items, the organization should consider creating and adopting new policies and procedures. For additional information or assistance with drafting policies and procedures, please contact Krokidas and Bluestein.

Links:

- The new Form 990, Schedules and related instructions can be found at:
<http://www.irs.gov/charities/article/0,,id=185561,00.html>
- For a discussion of policies and procedures required for issuers of tax exempt bonds in connection with the new Schedule K to Form 990, see:
<http://www.kb-law.com/articles/documents/ClientAlert-ScheduleKReporting2.pdf>