

## Legal Checklist for Nonprofit

*This template is not intended as legal advice. Your organizational goals, purpose, values, and bylaws should drive the creation of this document.*

Following is a checklist of the necessary documents and actions to ensure that the organization you represent is properly protected from potential legal consequences that could occur. Like any document created to apply generally to a group, your organization may have other specific needs and issues that must be addressed. The list that follows is provided as an outline for discussion by staff and board members charged with ensuring the continued legal compliance of the organization.

It is always prudent to periodically implement a “legal audit” of your organization to make sure that the individual needs of your organization are properly considered in your actions. Providing protection from the legal ramifications of every activity and action of the organization, its boards, officers, employees and volunteers is an impossible task. However, this checklist is intended to provide at least the minimum consideration that will cover most circumstances you may confront.

### **Please keep in mind that:**

1. The checklist is developed for publically supported charitable organizations and not private foundations.
2. Supporting organizations are required to comply with other rules developed and administered by the IRS that cause significant additional compliance responsibilities.
3. Specially created trust instruments require specific legal expertise in interpretation – periodic consultation with legal counsel is recommended.
4. It must be understood that the laws change continuously and this listing is best used in Alaska by an experienced legal advisor because its publication is geographically and time sensitive (January 1, 2014) and its provision is not intended to be legal advice.

### **Use the following list to help you periodically review important aspects of your organization:**

The organization maintains a legible Corporate Record. The record is a repository of all formal documents (Form 1023, Forms 990, Alaska Biennial Reports, etc.), corporate minutes and records of meetings of the organization. This repository may hold either paper or electronic (be sure you have policies regarding “back-up” of electronic records). Record for the benefit of the organization, its board and its members. This repository is subject to the organization’s document retention policies. An offsite back-up copy of all documents is maintained and updated on a regular basis. The record will include, at a minimum:

1. Original Articles of Incorporation (Articles of Organization or Charter) and all subsequent amendments as approved by the Department of Commerce and Economic Development,
  - The Certificate of entity status provided by the State of Alaska
  - The organization’s business license if separate

- The current Bylaws signed by the Secretary and attested to by a Director
  - The Letter of Determination of Exempt Status received from the Internal Revenue Service
  - The Form 1023 Application for Exempt Status originally filed with the Internal Revenue Service
  - The Annual Solicitation Report filed with the Alaska Department of Law
  - Names, physical address, mailing address, electronic address and Notice address of each of the members of the governing board
  - Current list of all committees, designated chairman of each and members
  - A complete, current and dated list of all members of the organization (unless considered confidential, which they should then be separately maintained)
  - The corporate minutes of at least the prior 12 months of meetings of the board of directors (such prior Minutes should be permanently maintained in accord with document retention policies)
2. The board matrix identifying each board member by their appointment history to the board and various officers' status, term of office, and identified skill set of value to the board.
  3. Copies of legal documents considered important to the proper function of the organization such as insurance policies, executive employment agreements, intellectual property agreements, loan documents, lease agreements, major grant agreements and other major contracts.
  4. A copy of the board approved Ethics Statement of the organization that is provided or published conspicuously as deemed necessary (on the organization's website, the entrance to its facilities, in all employee and volunteer meeting areas, etc.).
  5. Copies of the audited financial statements for the prior 3 fiscal years.
  6. Copies of the IRS Forms 990, 990-EZ and 990-T filed in the last 3 tax years.
  7. The organization's donor database.
  8. The organization's current biennial report filed with the State of Alaska, Department of Commerce and Economic Development, Division of Corporations. A copy of the last filed report is included and has been amended and re-filed after each change of director, officer or registered agent, and any amendments to the Articles. (Copies of any required letters informing the IRS of a modification to the Articles or Bylaws are also included).
  9. Copy of the last approved organization strategic plan.
  10. An annual "tickler" file or calendar of required filings and activities to maintain the organization's status as a legal entity which at a minimum includes:
    - The date upon which the fiscal year ends
    - The date upon which and what federal returns or report are due to be filed (Form 990, 990-EZ, 990-N, and/or 990-T)

- The date upon which the annual solicitation report must be filed with the Department of Law
  - The date upon which the biennial report is due to be filed
  - Required filings to maintain certification as necessary for the activities of the organization
11. If not incorporated into the Bylaws of the organization, a copy of the organization's Conflict of Interest Policy.
  12. If not incorporated into the Employee Policies of the organization, the organization's Whistleblower Policy (if incorporated, a description of exactly where a copy of the most recent Employee Policies may be found).
  13. If not incorporated into the Employee Policies of the organization, the organization's Compensation Policy incorporating the Internal Revenue Service's Safe Harbor provisions related to Excess Benefit Rules. If incorporated a description of exactly where a copy of the most recent Employee Policies may be found. Any and all contemporaneous records of the activities and meetings of the Compensation Committee in pursuit of its activities as required under the Safe Harbor provisions.
  14. If not otherwise incorporated into the Administration Policies of the organization, the organization's Document Retention and Destruction Policy.
  15. A copy of the last Management Letter received from the organizations Independent Certified Public Accountant (Auditor) and the contract entered into for the audit of the current fiscal year.
  16. The most recent copy of the organization's Privacy Policy with regard to information collected in the normal course of business.