Nonprofit Disclosure: The Answer to Accountability?

February 1, 2005
The Urban Institute

JOHN ROGERS, Urban Institute: Good afternoon. I'm John Rogers, Senior Vice-President and CFO here at the Urban Institute, and I'd like to welcome you to our First Tuesday forum on Nonprofit Disclosure and Accountability.

When I was asked to introduce this session today, I was reminded of the value of disclosure from an event that I experienced first hand some years ago. The small country church that I attended growing up suddenly received a contribution of more than $3 million, a sum equivalent to about 30 years' worth of annual church budgets. The problem was that the pastor had been instructed by the donor to disclose to his flock neither where the money had come from nor how it was to be used. You can probably imagine the controversies that ensued.

Putting churches aside, the nonprofit sector is incredibly broad and includes more than 1.4 million organizations with more than $3 trillion in assets. Within the sector, around 800,000 non-profits are considered public charities and in 2002 those organizations received contributions totaling over $250 billion.

The number of nonprofits is still growing rapidly, with registered charities increasing by at least 50 percent in the last 10 years. The vast majority of these new enterprises are very small, and in fact, less than half of them file an IRS Form 990 because the remainder is below the $25,000 revenue filing threshold.

Accountability and the disclosure of information are at the heart of the current discussion about America's nonprofit community: Information on how the sector is governed, who its constituents are, how its employees are compensated, and how its assets are used for the betterment of society.

There are many opportunities for giving in this country, particularly to nonprofit organizations, but how can we really know how our resources are being used and whether they are supporting the goals that we had intended? A few high-profile scandals in this sector in the past few years have put a spotlight on this; the public is focusing on it and inevitably this has led to increasing scrutiny in the government at various levels as well.

We have the perfect panel with us today to help navigate these issues. Our moderator will be Stacy Palmer who helped to found the *Chronicle of Philanthropy* in the late '80s and currently serves as its editor. She was previously the government and politics editor at the *Chronicle of Higher Education* and is the editor of a new book called *Challenges for Nonprofits and Philanthropy: The Courage to Change*. So thank you for being with us.

Our first speaker will be Mark Hager, a senior research associate in our Center on Nonprofits and Philanthropy. Dr. Hager's research focuses on numerous aspects of nonprofit operations, capacity, and sustainability.

Mark will be followed by Julie Floch, a partner at Eisner LLP and director of the firm's not-for-profit practice. Ms. Floch serves in a number of advisory roles for the IRS, independent sector, and other groups, and is also a founding member of the Alliance for Nonprofit Government.

Next will be Art Taylor at the end, the president and CEO of the BBB Wise Giving Alliance. Mr. Taylor formerly headed the Opportunities Industrialization Centers of America, an organization that he built to the point that it was serving close to 2 million disadvantaged Americans in more than 70 cities. Mr. Taylor is active in a number of nonprofit boards and he served as chief operating officer for Saint Hill and Associations in Philadelphia.

And finally, we'll hear from Dean Zerbe—hello, Dean—senior council for the Senate Finance Committee. Mr. Zerbe previously held a number of senior legal- and policy-oriented jobs in Washington both within government and in private practice, and he is a particularly active participant in helping to frame the nonprofit disclosure and accountability issue, both on the Hill and as a frequent speaker to groups like this.

STACY PALMER, *Chronicle of Philanthropy*: Hello, thank you all for being with us. And it pleases me enormously as somebody who cares constantly about the disclosure of information that so many of you want to talk about it—(laughter)—but I have a feeling sometimes the press has a little bit different views than nonprofits have about what should be disclosed, and then the researchers have the data that tells us what's really going on rather than those of us who are sometimes dealing with anecdote. So I'm especially pleased to have Mark start off in telling us about his research.

MARK HAGER, Urban Institute: Thank you, Stacy. I want to add to John's welcome, since I'm the Urban Institute representative on this panel, both to the other panelists and to all of you. We've got a full room and I think that speaks to timeliness of this issue that we've decided to focus on today.

The panel is motivated in part by recent regulatory attention from the federal government on issues of reporting and accountability, but it's also motivated in part because the National Center for Charitable Statistics, which is housed here at the Urban Institute, has an ongoing focus on data quality. And we have very recently finished a five-year study of nonprofit cost reporting. That's part of the reason we wanted to bring a panel together and discuss this issue with you today.

I'm going to be referring to that study a fair amount, probably more in the Q and A than in the remarks that I've got prepared in my six-to-eight minute time span here. So I'll add that it's called the "Nonprofit Overhead Cost Project"; it's a collaboration between the Center on Nonprofits and Philanthropy here at the Urban Institute and the Center on Philanthropy at Indiana University. Materials from that study are in the packet that you have on your seats, but there are a lot more materials at the study's web site: http://www.CostStudy.org. You don't need to scribble that down because that URL is prominent on all of the project materials that you have in your packet.

One of the assumptions that underlies our research, as well as the broader work of the National Center for Charitable Statistics, is that transparent disclosure of a nonprofit organization's operations and its finances is an important component of public accountability. This seems to also be the historic position of the federal government, since they require public charities to report each year on Form 990 if they are large enough; they make the form available to the public if we ask for it; and they require charities themselves to make the form available when the public asks for it. In fact, Form 990 is the only document that's legally required to be publicly available, and as a consequence, this form bears the brunt of accountability discussions.

Lots of people have jumped onto the charities disclosure bandwagon. Individual forms can be viewed at http://GuideStar.org. This is, I think, an incalculable advance in the disclosure and accountability realm—probably the single most important development in information on nonprofit organizations ever. I hope that some of my colleagues at the National Center for Charitable Statistics will debate me on that ranking, but GuideStar is certainly very important on this accountability issue. The National Center for Charitable Statistics is also central because of its information and research database focus on Forms 990. The fact that the form is increasingly accessible through these outlets and presumably used by donors—we actually really don't have good information on that yet—is part of the reason why it's being increasingly scrutinized by various parties.

At least in the public charity realm, the part of the Form that draws the most attention and consequently the most scrutiny is Part II. Part I is the part where different revenue and total spending are documented and Part II is where we have the statement of functional expenses. This is where charities are required to track, tally, and report their expenses into one of three different categories: program expenses, which are directly related to service; administrative expenses, also known as management in general, which are related to organizational operations such as information technology, human resources, and accounting; and third, fundraising expenses, which are related to raising contributions.

Part II, the statement of functional expenses gets attention for, I think, three related reasons, and these three aspects constitute the majority of my remarks here. First, functional expense reporting is the basis for most popular measures of financial efficiency, or what gets popularly translated into what I call “donation-worthiness.” We get this all of the time from charity watchdogs, and the media, I think, is particularly egregious about this: “How much of an organization's expenses goes toward the program and how much goes toward overhead” (because, by god, we don't want to fund an organization's operating expenses)? Or an alternative question: “How much of my contribution is just going to be eaten up by further fundraising expenses?” These two popular measures are outlined in brief number five in your packet, and Art Taylor, to my right, will no doubt pick up on this point. The point I want to emphasize is that the measures are based on functional expense tracking and self-reporting in Part II of Form 990.

Here is my second issue. The second reason why Part II gets attention is that functional expense reporting can be complicated. It can be hard to do and it's fraught with interpretation about allocation of program, administrative, and fundraising expenses. However, there isn't as much latitude as people sometimes say there is in documenting these expenses.

The IRS instructions are pretty explicit and I'd like to add they are actually pretty well written. There are a host of accounting guides that outline Generally Accepted Accounting Practices on detailed issues of functional expense accounting. Julie Floch, on my left, can speak more authoritatively to these points than I can. But my point here is that many amateur nonprofit accountants don't read these things and they aren't motivated to learn the details of functional expense reporting.

And that brings me to my third point. A third reason why functional expense accounting is scrutinized is that all too generally, nonprofit organizations don't track and report these expenses very well. Consequently—and I'm getting to my conclusion here—there is widespread misreporting of the very figures that we rely on most to monitor charities. Before we began the overhead cost study, we already knew that many of the functional expense allocations reported on Forms 990 defied plausibility.

What we learned in the course of this study is that this misreporting is real. Sometimes it comes from mistakes, sometimes from misunderstandings of rules, sometimes in miscommunications between charities and their CPAs, and sometimes—and I think we all know this happens—from the strategic decisions of managers to make those popular financial ratios look as good as possible.

My conclusion is to note the irony of the relationship between disclosure and accountability. As disclosure increases—greater increase to Forms 990 through these various outlets, and without simultaneous increases and oversight and regulation—charities have more incentive to misreport than they do to report accurately.

This has implications for all parties who rely on information provided on the Form or similar information provided in audited financial statements; that is, managers, watchdogs, regulators, donors, institutional funders, researchers—six parties I think that are all represented in the room today and many of which are represented on the panel with me today. Each gets a misshapen view of the world when they rely on self-reported functional expense allocations.

You'll hear from some of those folks in here in a few moments, but I am a representative of the research community. The state of the field is that we can't answer basic questions about how charities spend their money because too many charities are unable or unwilling to track and accurately report these expenses. Shortly after the tsunami disaster, a reporter called me from Hong Kong to discuss program versus administrative spending by international relief agencies. My responses to his questions had more to do with data quality than they had to do with the substance of his questions. That, I think, is an indication that the accountability issue remains an issue and that disclosure alone is not going to be the solution to these problems.

Thank you.

STACY PALMER, *Chronicle of Philanthropy*: The way you work with these Forms all of the time, how much misreporting is there, and who is responsible for it?

JULIE FLOCH, Eisner LLP: Well, as I was saying to Mark before, I think some—we're going to agree to disagree on some areas. But I would just like to actually ask the audience if I can, how many people here have any type of financial background? [Approximately half of audience raises hand.] Okay. So for those of you that either don't have one or have some of it, I'm going to tell you everything that you really want to know about GAAP and financial reporting in seven minutes. And actually, that probably will do it. (Laughter.)

So just to start out—to understand the functional allocation process or how that really works—you know, it's one thing to say that the statistics and the allocations, and the information is misleading or should be more precise, or you know, lots of other terms that we use. But you know, if you actually break it down and you think about the process of how that even gets put together just from the start—an organization says, oh, wow, I've got a rent bill and I have to pay my rent bill and so they write out a check—somebody approves their rent bill, they write out a check and it gets put into their systems and charged against some activity—what that activity is going to be. And then for 12 months they've got 12 rent bills and then obviously their salaries, and their program, and all of the other things that go in there—you're talking about an enormous amount of transactions that go on during the course of the year. For a small organization, maybe, you know, of a couple hundred; for larger organizations, it can go into the hundreds of thousands, maybe millions of transactions.

And if you go back and you look at each individual transaction, it's almost impossible to be able to say with any kind of precision that this is the allocation percent that you should use, so that for instance rent maybe is almost slightly easier than some of the others. But I look at the rent and I pay that rent bill, and I say, well, how much of this rent bill is a program activity and how much of this rent bill is management in general, and how much of this rent bill is fundraising? And how am I going to determine that?

Well, one way I might determine it—and that's sort of the key here and the point I'm going to stress in my remarks—but maybe the way that I'm going to determine that is through square footage—maybe that's the method I'm going to use. And I'm going to say, how many people of my organization sit in programmatic areas and what is the square footage there? And how many in my organization sit in fundraising—they're the development office—and what's the square footage that way? And I'm going to do a calculation that is going to go like that over the course of the year.

And maybe I'm then going to use that and say, well, you know, if that's my rent expense, then my utilities expense, and some of my other expenses all during the course of the year. I'm going to allocate those based on that same square footage percentage.

Other organizations might say, well, I don't really want to do that by square footage; it's hard to do that; we move around a lot; it's not consistent in nature; maybe I'm going to do it by salary allocation. So I'm going to look at the amount of people who work in my organization and I'm going to say, okay, of the people who work in my organization, this percent and this dollar value is salary, is program people, and this percent dollar value is fundraising and management in general, and I'm going to break down my allocations that way.

And you can start to get a flavor that, first of all, those are judgment calls and those are imprecise at best. Second of all, they are very fluid because I might pick a particular day or a particular time, or a particular year and go by that kind of allocation method, but come next week, next month, next year, things change. My program person now suddenly is helping to do development because my development person has left. My person who is the executive director in point of fact is crossing over and doing all of those allocations or all of those different functions—so on and so forth.

So essentially what I'm really trying to say or try to give you a flavor for is it is such an imprecise measure—assuming you are really, truly trying to report in a way that's to the best of your ability accurate, right—although I hate to use the word "accurate"—but fair to the best of your ability. You've got to go and try to figure out through the course of the year all of those expenses that the organization has. How should they be allocated?

Well, some are kind of easy. Some are clearly going to be programmatic expenses; some are clearly going to be fundraising expenses; but it's the ones that cross over and need some sort of allocation method that are problematic. And again, that's where the judgment call is and that's where the problem—and again, I'm talking here about the organizations that really are trying to do this the right way—that's where the problem arises as to how one would do that.

The AICPA, American Institute of Certified Public Accountants, many years ago recognized that there were a lot of problems and what we call joint cost allocation, which meant if you had activities that spanned over between what would be programmatic—and fundraising is an example of them—that organizations maybe didn't use the most precise methods, the most advantageous methods—whatever it was—to actually figure out how the costs of those events should be allocated between what was a programmatic activity and fundraising activity.

And they issued back in '87 a pronouncement that said here is the way you should do this kind of allocation for this kind of joint cost. And then we recognized over the next 10 years, I guess it was—15 years, that it was guidance but it wasn't as clear guidance as perhaps it could have been. And so in '98, the AICPA issued another pronouncement. It's got a different title but it's essentially the same concept, which is how do you allocate costs between programmatic and fundraising activities. And there is a whole bunch of criteria that you need to meet that criteria. You can allocate if you don't meet the criteria, but then all of the costs incurred have to be fundraising. And so organizations kind of did a lot of scrambling around to try to figure out how to allocate those costs.

But those are really only addressing the cost that one could say cross over between program and fundraising. There are a lot of activities where those costs don't cross over at all, again going back to my rent or my salary or any other allocations of expenses during the course of the year.

The point of all of that is it's a judgment call. The point of all of that is it's very hard and imprecise at best—and that's at best. Now you add in what is arguably a problem in our sector, which is in our finance area, we run very lean as a general rule. Our recordkeeping certainly maybe is not as pristine as it could be or as it might be in other sectors—that's very true. The training that goes on in the sector is maybe not as good as it could be, as strong as it should be for people who are really trying to understand how these processes and finances should work.

Now it's the year-end of the organization. If it's an organization that gets an audit—and not all organizations obviously do—but if it's an organization that gets an audit, its auditors come in. The auditors don't redo those schedules at all. The auditors don't put together those schedules. The auditors really marginally test those schedules. What they test and try to grasp and appreciate is the concept of the allocation method. What did you use? What was your rationale for how you put this together? Not: I'm going back to look at every postage bill and every rent bill, and every telephone bill, and look at the calls that you made, and try to figure out was that a programmatic phone call? Was that a fundraising? You can appreciate that there really is no way to do that. So the process—again, it's an approximate process at absolute best.

For tax purposes, if it's done right—in theory what should happen—should be that the information for organizations that do an audited financial statement and have a functional expense allocation—which not all do and not all are subject to—that information should in some way dovetail to what happens on the 990. Often it doesn't because of the 990 requirements.

GAAP says you've to record your volunteer services if they meet certain criteria, so that's a programmatic expense or a fundraising or management general expense—tax return. There is no concept there that is not recorded.

There are things on the tax return that get net against revenue; therefore, they're not shown in functionals on the tax return as they are on the GAAP disclosure. So inherent in the way those two forms are put together, even for organizations that really do do both the 990 and the functional expense breakdown for GAAP, there are going to be inherent differences.

The point I think I would like to stress is that it doesn't necessarily mean that organizations are misleading the public; it doesn't necessarily mean that there is an inherent abuse in the system. What it means is there isn't an exact way to do it. Are there ways we can do it better? Absolutely. There is no question about it. Are there organizations and people who are out there abusing those numbers who are concerned about their fundraising percentages—that they are too high, trying to find allocation methods that will lower those numbers and raise their programmatic percentage? Absolutely. No question about that.

But in terms of understanding just the concept of how one puts those functionals together, it isn't like we can say, okay, here is the method, and the people who don't use this method are therefore doing it wrong. Again, it's an imprecise system and it's an imprecise process really at best.

And so when we talk about the allocation process and we talk about, you know, some of the statistics that come out of it, we want to get an appreciation for the concept that we can't say this is the right number and this is the wrong number. Is this the right method? Is this the right allocation process? Or is it the wrong allocation process? And I think that's really more the area to focus on. We'll talk a little more about that, I think, from the Q and A.

STACY PALMER, *Chronicle of Philanthropy*: Okay. It's hard to tell the good guys from the bad guys. How do you do it, Art?

ART TAYLOR, BBB Wise Giving Alliance: Well, for me it's just interesting to share with you how conversations go when people ask me what it is I do for a living. (Laughter.) You know, I'll be riding on the metro and happen to have a conversation and someone will say, well, what do you do? I say, well, I'm a charity watchdog. And they say what is that? And I say, well, you know, I try to help organizations and people know if charities meet standards or not. And you know what the response nine times out of 10 is: oh, you're one of these people who will tell me if they're spending enough money on a program or not—nine times out of 10, it is always the response.

And so, you know, as a watchdog, I start thinking why is it—where did this come from? You know, why is it that the public has such an affinity for knowing that. And it seems the overwhelming way in which they make decisions about whether to give money. And I guess, like Julie, I come from an accounting background, and when you're taught accounting, you're taught to interpret financial statements and what they might mean for an organization's health. And out of those financial statements come ratios.

But in a business context, you know, you can really use ratios for important comparisons. You might want to know if an organization is able to manage its debt so you'll have a debt-to-equity ratio. You might want to know if an organization is able to pay its bills on time so you might want to look at its current ratio, that is, how much cash does it have to cover its immediate liabilities. And there are other ratios that can be used in business to really determine if an organization is profitable or not—earnings per share, other things.

And in a business context, that's important because ultimately what a business is around to do is to be profitable and to make money, and to hopefully be around for a long time. Those things don't necessarily work when superimposed on a charitable organization, although some of them still apply, but ultimately you want to find out a lot more about an organization than is it going to be around 10 years from now, and if it has a bottom line.

The other important point though is that, you know, these ratios, while they tell us maybe how much an organization might be spending on fundraising or how much they might be spending on administration, they really don't get at some of the larger challenges that nonprofits have and, I think, some of the more important issues that we should be concerned about with nonprofits—namely, how is it being governed? Is it being governed well? Does it have an engaged board? Is the organization telling the truth to the public about what it intends to do with the resources that it's given? Is it marketing itself in a truthful way?

We want to know, for instance, if an organization even gets an annual audit and whether they are providing those audits to people. We want to know if an organization is open to questions and whether they deal with those questions forthrightly and whether an organization is truly going about attempting to meet a mission. And simply looking at a ratio doesn't quite get that.

But if you were tell a business person who is focused on ratios that you could not apply any set of ratios that would make any sense to a nonprofit, they would tell you that you're crazy. Any business activity can be measured by a ratio. And yet, you know, business have been doing this a lot longer perhaps than nonprofits and I still don't believe that that's quite the way of getting at it.

We use them in our business; we use them but we try to do it in such a way that we set a minimum floor for what is acceptable behavior and we don't think that's useful really to compare nonprofits to other nonprofits based on those ratios for reasons that Julie has pointed out. I mean, people use different ways to determine what those expenses ought to be and those are fair ways of doing it.

I guess the last thing I want to say is that part of this love for ratios probably comes from our history. I mean, we have had a history where we have wanted to know if nonprofits are using money to support some public good and historically you know that state charity regulators have used these percentages as a threshold to determine if an organization can solicit for funds in a particular state.

We know now of course that the Supreme Court has years ago taken away the ability of states to do that, declaring that they violate the Constitution. But it's clear to me that these ratios have stuck in people's minds. And I think what people are really seeking is some shorthand way of knowing if these organizations are actually serving the public good.

And so until we can come up with a campaign of sorts, which would have to be a lot larger, to help the public better understand ways of getting at charity activity and to also know the limitations on these ratios, I think they are going to be with us. And you did point out the irony.

The irony is that, Bob, as we continue to get better at 990 information, I think people are going to continue to look for shorthand financial ways of knowing what nonprofits do.

So I think that's pretty much what we're stuck with. I would be surprised if in the short run anything changes, but we'll try to continue on our side to at least let people know there is a lot more you have to look at than simply where those numbers come out.

STACY PALMER, *Chronicle of Philanthropy*: Dean Zerbe, can you give us a perspective of how lawmakers look at some of these numbers and what they are thinking about?

DEAN ZERBE, Senate Finance Committee: Sure. I just have a few points. I think for many of you here, Congress views it the same way—that 990s are a pillar for oversight of public charities, particularly public charities. So they are very important in terms of that role that they play.

And I think that's why I encourage—let me also just say for press that here—my comments if I can just be quoted as a council for the Finance Committee. I think it's well worth paying very close attention to the really excellent work that Urban Institute and the University of Indiana have done in these studies here, in this material. It bears very good, close reading, and so I commend you all for your work, and it's something that I have read very closely and have benefited from looking at. So I think it has been good to get this kind of detailed analysis. We need more of it.

Let me talk to you first about the problems of 990 reporting. For those who have had the singular joy of hearing me give speeches before, I have usually made the comment that the 990 manages to perfect the trifecta of being late, incomplete, and inaccurate. (Laughter.) That is—but I'm more heartened—it's one thing for me to say it based on, you know, going through more 990s than I care to. But I would just read you this quote from this—just from one of the two studies here.

"Taking collectively, the findings of the 'Nonprofit Overhead Cost Project' suggest that users are relying on information prepared by or attested to by CPAs and in many cases, the information is"—I know not your firm—(laughter)—"is incomplete, misleading, or inaccurate"—you didn't say "trefecta," but that's all right—(laughter). "In particular, public accounting needs to bring higher standards to expense reporting by functional classification into the preparation of IRS Form 990."

I think that is a very good summation of the concerns that we have seen there and I would also say that the IRS has made public comments, has been more vocal about the problems it has been seeing in terms of the 990.

I think another point I just wanted to raise that I thought was very interesting in terms of the report was also—I know there have been a lot of good discussions about the issues of audits, of financial statements—things that have been proposed by the financial committee, things that the Independent Sector is looking at now under the very good leadership of Diana Aviv.

But again, I would—I'll spare you another quote—but I would just say on page two of this report—again, I think a very broad sweeping comment about the enormous benefits of financial controls regardless of the size—"given the fundamental importance of a board's responsibility to safeguard assets. However, adequate financial controls must be a board priority." I think it was saying, you know, regardless of the size—and I think that is again something that—we may not be perfect in how we try to approach it and bring that forward, but I think it is extremely important that you get organizations to understand that.

So I'll just highlight those two points because they are two points that have certainly been a thread for us as well in terms of the finance committee and the standard discussion draft that has been going forward. And I would say to you, as you look at the 990s, you know, there are a lot of ways to deal with these issues in terms of, you know, perhaps better guidance. The IRS is looking at reforming the 990s and we welcome that and think that there is a lot to be gained from that.

But I would say to you—and I have been very discouraged by folks who believe it is a well, you know, we don't need to do anything. We need to go enforce the law more. Law is absolute—you can't get there from here in terms of that issue. Any time you've got a reasonableness standard—and this is in to your—I think a fair point about, well, you know, how much square footage did this have or that have.

We have, time and time again—there is just nothing there in the 990—there is salary zero. I mean, it's not a problem of, you know, is it kind of off white or is it beige? It's well, no, she just didn't check the box. And that is, time and time again, what we see out there. And I'll tell you, when you have a reasonable—people say, well, there are penalties. There is an allowance that you can have a reasonableness. Well, I'm a tax attorney. I've gotten more of my clients out of more penalties than Carters has got of little pills.

They say, well, let me explain why I didn't put down the salary. I had a dental appointment that day; my dog ate it. You know, you can give all of these explanations and the IRS—you can say well, they count those up but that just burdens the IRS enormously. You can't talk about the limited resources and then say, oh, but by the way, let me build you a mountain this high. You've got to make it a yeah or nay in terms of accomplishing it, and we do this in other areas.

We do this, for instance, in an area regarding financial accounts overseas. If you have an account overseas and you don't report it to the IRS—which I can say to you is usually a gateway for money laundering and everything like that—we don't put up with your I have a story to tell you; let me tell you this thing—my accountant l really lied to me once. You know, we just say, "That's great; you pay the penalty; bless your heart; and you know what, next time you'll learn."

And I'll say to you this, it's human nature. Now, I think we need to look at the penalties and how they're enforced. I think it's nuts that it's a daily event for someone to fail to check a box. I think you should also be looking at the size of the organization—that's a fair point as well.

But let me just give you an anecdote, we looked at a lot of different organizations in terms of the more mundane area of people that lose computers and lose guns. The IRS—if you lose a computer or lose a gun at the IRS, they say, well, that's—you know, we're not happy with you and you're probably not going to get to have a long lunch break. And that's about it. What a shock—the IRS has thousands of computers they can't account for and they have all sorts of guns they can't account for.

The Secret Service says, if you lose a gun or you lose a computer, guess what, you get to pay for it, and you will pay for it and it will be on your record. Guess what, Secret Service, ooh, you don't lose many guns—(laughter). They don't lose very many computers. And it's that same mindset. If you get folks understanding that these are laws, these are simple, these are clear—if you didn't check the box and you should have checked the box, you're going to get penalized. The next time the accountant will understand it and they're going to have to explain it.

So I just encourage you. You can't just say, oh, well, boy, next year, let's really enforce it. I mean, this time we'll—(inaudible). We don't want IRS agents having to crawl through 990s, spending an enormous amount of time arguing about reasonableness on a question of something that should be painfully obvious.

So I think that's important for folks to recognize because I think—just to wrap up and get to questions—I want to take on a point that Art made and I think that's right, and if you notice this sad discussion—(inaudible)—we have not gotten into ratios and things like this.

I think one thing that we've tried to highlight—and I have not seen much discussion on it out there but that's all right—is we've talked about well, shouldn't there be a discussion about performance? Our thought was maybe a homeless center rather than having such a focus on X, Y, and Z. Maybe it would be better if they focus on—here is how many beds we were providing; here is how many people we got into training; here is what we accomplished. This would be a better means for people to look at—getting to your point, Art, of other ways to do this rather than just your Form 990.

The idea was not for the IRS to dictate what your goals, performances should be. You can have them be whatever you want. If you want to tell people that you should contribute to me because we provide Romanian dictionaries to foster children—true case of a charity that did that in the United States—(laughter)—have at it. Maybe people will say, yes, that's where I want to write my check, but it's better if you have a straight discussion about here's what I'm doing and that will be the focus of it—what can we accomplish, what have we done, and what have we done with our money? And people won't be as fascinated about, well, you know, I don't quite understand where you were from here or from there.

I guess I'd end up by saying as I started, 990 is a pillar but I would say to you that that pillar is rotten. You have to look at the fundamental reforms of the nonprofit community. This is an opportunity to take a real lead in this with the independent sector's comments on this, but we have got to get into a reform situation with this. It's too damning for the enormous amount of charities that do good work, do the right thing, and it's playing hell out there in the field in terms of that. So I'll leave it at that.

STACY PALMER, *Chronicle of Philanthropy*: Thank you, all.

Now it's your turn for questions and I'm sure you all have lots of them. We have a microphone that is going to come around and if you could identify yourself and your organization.

BRAD GRAY, Urban Institute: Several of you have looked at a lot of 990s, and I'm just wondering whether or not in looking at a lot of them there is a sniff test that you can pick up pretty easily that an organization is okay or not. Or is it more difficult than I'm implying?

DEAN ZERBE, Senate Finance Committee: Well, I would say first of all—the Urban Institute—I think we should figure out some way to—what is it? They make it a national treasure—we should take your work on the computers and make it a national treasure and just put it online and let everybody deal with it.

I'll give you a good example. We've been finding enormous problems in type three supporting organizations. An easy way for me to find that there is a problem—why does an organization have $200 million in assets if they only put out less than a million dollars in grants per year with $200 million sitting there. That to me is a strange little bird in my ear that says maybe this is an organization I need to take a look at. That is just a quick example, something from my perspective, something that we're looking at right now that immediately raises a concern, and we are seeing that spreading like wildfire—people are using type three supporting organizations as basically the opt out for private foundation rules. So that's one from me.

Look how much assets they've got; look at what they are doing. I think we saw that with the Statue of Liberty. With a public charity, where you had millions of dollars just sitting—yet, they were still raising money—had the crazy notion of maybe you could spend some of the money you actually have as opposed to having this ever building thing. So I just—that's just one quick thing that comes to mind for me that I'm looking at right now.

MARK HAGER, Urban Institute: I want to comment; we'll all want to comment. (Scattered laughter.)

ART TAYLOR, BBB Wise Giving Alliance: One quick one for me is I'm always amused when I see organizations report zero fundraising costs. And I think someone did a study recently that reporting nearly 18, 20 percent of the organizations report zero fundraising costs on their 990s. I wonder how they get any money. I mean, you have to have at least a dollar going to—(scattered laughter)—somebody had to say, give me something. So it's—that's a sniff test for me.

JULIE FLOCH, Eisner LLP: I would just add to that—yes, that is. Just remember the flip side, which is you could have an organization that is being run by volunteers and because the volunteer expenses aren't being picked up, they really truly could have no fundraising costs, although it's unlikely. The other thing you could have is organizations that are controlled by a whole bunch of their consolidated entities so one organization is picking up all of the costs and the individual affiliates aren't. So that would be another way. So it could happen, although I agree, it certainly is a trigger.

Other organizations for some reason seem to think that if they get grants but not contributions, somehow the process involved in getting a grant somehow is not a fundraising cost. (Laughter.) So that's an education issue because that is clearly wrong. You know, so you have a combination.

MARK HAGER, Urban Institute: My comment is very much in the same area. I mean, I have a colleague in the back of the room, Linda Lampkin, who I'll quote saying, "There is no checkbox on the 990 that says 'I'm committing fraud'." (Laughter.) That would be very helpful for us. So when we look at an organization, we look at its 990 and it's got numbers in most of the boxes, you know, it's hard to know whether they are right or wrong. We take it at face value that the reporting is probably in pretty good shape.

It's only when we start seeing something egregious, and we've seen some examples pointed out here, and the most famous one is the one that Art has seized upon—that large proportions of organizations that get lots of contributions—and by GAAP, expenses related to raising contributions are fundraising expenses—and you see a zero on that line. It's just, yeah, we can probably explain away a few of them, but we know of specific examples through the work on the overhead cost from case studies—for example, you have a fulltime fundraising executive working in your organization and they have a zero on the line. There are enough examples for us to not think we can explain it away with volunteers or complex organizational structures. There are real issues at stake here.

STACY PALMER, *Chronicle of Philanthropy*: Not only are there zeros, a lot of times people just don't fill that out and figure that that's easier than actually committing to a number. Then you haven't really had a problem. We've seen lots of examples of that too.

ART TAYLOR, BBB Wise Giving Alliance: I was just going to comment that it really doesn't help nonprofit organizations in general when people don't report what their true costs are in those categories. I think it does create somewhat of a perception in the public that, you know, good organizations don't have these things when we do that. And I think if more organizations were to be accurate and forthcoming with this information, then maybe the public would relax a little bit more about it because maybe if people reported what they were, they would find that they would be within reasonable thresholds.

In our case, only about 12 percent of the organizations that we evaluate don't meet one of those percentage tests. Now, they fail to meet other tests but not the percentage tests. The percentage test most organizations do pretty well on. It could be because they are not being truthful, I know, but I think they are less likely to not be truthful with us than they would be just by filing a 990.

JULIE FLOCH, Eisner LLP: I would just add in two things. One is, you know, we're only talking here about 501(c)(3) organizations, right, because they are the only ones that are required to do that functional expense on a 990. So we're limited to that.

But the second point I just wanted to go back to—what your comment was, because I thought it was a really good comment, which is what other kinds of things—can you look at the 990 and say, oh, wow, something looks blatantly wrong—(audio break, tape change)—ratios odd. Or causes something about the organization to look odd on its 990. And you know, it certainly has the option—should it chose to disclose all of that, add attachments and schedules, and all of that. And some do; I suspect most don't.

But in point of fact, it's the trend of what is happening of that organization over time—one year, two years, three years, four years—that is really going to have much more relevance than that particular—or in just obvious errors—they were engaging political activities—you know, clearly a problem or their lobbying is clearly over a threshold or their fundraising ratios are, you know, nonexistent or strange. Those are the obvious errors.

But if you're looking at them and you're saying, what's not obvious that I really want to get out this document? It's the trend that you're going to really want to look at.

DEAN ZERBE, Senate Finance Committee: One of the questions—one just as an admirer of the good work of *Chronicle of Philanthropy*—loans is always a fun thing—(laughter)—see loans, you might want to understand a little bit more for your files, what is going on there. But I would encourage you to—I'll tell you this phenomenal, kind of walking you through 990s, is Carl Emerson with the Pennsylvania—(unintelligible)—I just put his name out there.

But anyways, they do a magnificent job of kind of walking through all of the points. If you really want a kind of chapter and verse on maybe things to look at or highlight, I know he was happy to come in and brief the finance committee and I'm sure he's happy to talk to other people about how they view these issues and what they think are of concern from looking at it in detail.

STACY PALMER, *Chronicle of Philanthropy*: They did that for us when they said that they had never seen a 990 that was filled out completely accurately ever—(chuckles)—just to give you a perspective on that.

TERRY ODENDAHL, Georgetown University: When I'm not at Georgetown, I run a capacity building outfit and we do a lot of work with nonprofit organizations on things like financial reporting and so on.

And I just wanted to put the other side of the equation out there, which I've observed quite a lot, which is, yes, nonprofit staff need to be better trained in these matters, but so do the accountants that are filling out the forms for them, whom they are really trusting because they think they don't know anything about it, so they are relying on the accountant. And how few accountants really seem to have any specialized expertise on nonprofits and so on.

STACY PALMER, *Chronicle of Philanthropy*: Yes. Go ahead.

JULIE FLOCH, Eisner LLP: I think that you're right. I think that as a profession, that is absolutely true. We do need to be better trained in it. I think there are a fair number of firms that do specialize in that work and do do that work, but it certainly is an area to look at.

What I would say though—and I again I caution you—it's easy to say, well, the accountants are supposed to fill out the forms and so if the forms aren't filled out correctly, it's the accountant's fault. And perhaps sometimes that's really true and even perhaps sometimes the accountants don't ask the right questions and that's really true, but a lot of times the information has a funny way of becoming the accountant's information as opposed to the organization's information and that's a big problem.

And if you are an accountant who is not as well trained in this area as you should be, and don't ask the questions that you should ask, a lot of times the information that gets on there, which is given to them by the organization, is incorrect information.

DEAN ZERBE, Senate Finance Committee: I just want a quick add on to that point. I think you raised—while I kind of emphasized the Sturm und Drang of getting 990s accurate, I think when you go back and look at the staff discussion draft, we emphasize quite a bit of money going to education, and the idea was, you know, particularly obviously with small organizations, getting them to understand what their responsibilities are, their duties are, and things of that nature. So I think it is a fair point and perhaps it's also having to get the accountants focused in terms of where they are. But it's an interesting point you are raising.

JULIE FLOCH, Eisner LLP: I'm just going to say one last thing and I'll move away from it. But you know, a lot of times, for instance, in my firm, we'll put together a—here's the things we need for you to give us for the 990—you're doing the 990. And we say, well, yeah, but you're giving us the information to do the 990. What do you mean? As if the thought is we're going to come in and pour through their records and put it all on a document and that's—

Now, again, I'm not trying to excuse the entire profession because there clearly is a problem. I mean, the statistics out of the IRS are very alarming as to the improper reporting in the 990, the percent that is done by paid preparers, et cetera, et cetera. So there is clearly a problem, but it's a two-fold problem—not the Georgetown University's but the smaller organizations.

TERRY ODENDAHL, Georgetown University: If I could just add really quickly, I think there's a geographic divide there. So you know, you have your firms that have—(off mike)—in other areas—(off mike).

JULIE FLOCH, Eisner LLP: And this probably isn't a forum for it, but that was part of our objection to some of the Senate proposals that talked about rotation. That was a very big concern—was that, yeah, if you have a geographic area where there is not a lot of people with that kind of specialty and then you say you need rotation, that's a big problem.

BOB LERMAN, Urban Institute: I can see that just having a 990 at all—(chuckles)—might be a good point—I mean, some of you might comment on that—in that, you know, if you didn't have anything, maybe there wouldn't even be any accounts in some of these organizations, but that's on the low side. But looking more positively, I wonder if the panel could come up with—are there any possible simple actions that might move toward better disclosure other than the basic incentive of the organizations themselves that may be put on their web site, or something like that? And what would those be?

DEAN ZERBE, Senate Finance Committee: (Off mike)—I mean, go to the Finance Committee's report. I think the simplest thing is to make the penalties clear and no reasonableness. I can't emphasize to you enough—you know, if you go to the abatement of penalties and the IRS is reluctant to even look at going forward in a penalty, you basically effectively neuter that law. There is effectively no penalty for having an inaccurate, incomplete, late 990, and if you really want to have a quick fix, then you've got to make it a clean, simple, yay or nay, you didn't check the box; you should have checked the box; we're done. I don't want to hear about your dog, I don't want to—I mean, that's your quickest way to wake people up.

BOB LERMAN, Urban Institute: I meant the broader objective that you were talking about earlier, about the performance of organizations. That it might be that the reason why I'm doing well in serving people is that I hire good people to administer my agency and I pay them a lot so they do a good job. So it looks as if my administration cost is high but my output is also high. So that's what I'm trying to get at. Are there some things that either could encourage your organization because obviously—(off mike)—as opposed to just straight—(off mike).

ART TAYLOR, BBB Wise Giving Alliance: Yeah, I think you would be talking about—and I talked earlier about a campaign but it would be a shift in public understanding of nonprofits and what's important to know. In order to create that shift, it might take something equivalent to what it took to get people to stop smoking like they did in the 1950s. I really feel that the public is so entrenched with the shorthand way of assessing what a nonprofit is that that is almost what—(unintelligible)—and the nonprofit organizations are not going to be helpful because if you have good percentages, you are going to promote that. You know, you're going to get out there and say ours is only 7 percent on fundraising. Look at them, you know. So I think we have got to do a lot more to help the public understand that there are serious limitations to simply looking at this.

Now, one of the things we're doing—you know, we took some criticism for coming up with a charity seal because we never had a seal before—we never let the public organizations say, hey, guess what, we meet the BBB standards. And the seal is not a perfect product; there aren't a whole lot of organizations that use it right now. But at some point you could see if there was this thing that people could look at and say somebody has checked this organization out and they looked at a lot more than just these financial ratios; they really checked them out to a certain extent, then maybe the people—the shorthand might be ask questions of organizations who don't have it and organizations that do have it, you can feel somewhat—but that is just a small piece. I mean, it's going to take a lot more than that and a lot of time.

DEAN ZERBE, Senate Finance Committee: I guess maybe if I understand your question a little bit better—I guess one thing that comes to mind is something that we're working on in the area of land donations is right now—the idea of land donations is a major concern and things like this were based on a faulty premise that only people who love birds, bees, and trees would ever be involved in land donation as a charity, and we found out that people who are land developers, golf developers, things like that also—some of them manage to find a stamp and envelope, lick it and send their 1023 to the IRS and get approved because you can walk a monkey through the IRS and get approved as a charity because the IRS—they are as incapable of looking at someone's soul and saying, I know you say you like birds, bees, and trees, but I can tell that you really want to pave it over. There is no way they can do that. (Scattered laughter.)

But the point of the—but we're looking at the accreditation is to say, you know, it's not just enough to get blessed by the IRS and they do—(unintelligible)—I would do worse than them in terms of trying to prove it is that we're saying not only are you going to be blessed by them, but we're going to want you to be blessed in the best practicing standards with this umbrella organization—say it's the Land Trust Alliance, which has a telephone book thick of best practices—how you're supposed to land, how you're supposed account for it, how you're supposed to—you know, maybe it doesn't quite go into the ratio, but at least say, okay, now I know I'm dealing with an organization that is at least meeting best practices and achieving it—is it subject to peer review—things of that nature are perhaps another way to get at the issue.

I mean, the other one would be performance goals I mentioned earlier, but at least what you could—and we do do this already. Somewhat the folks don't realize that charitable zoos are accredited. For instance, you cannot just have a tiger; you've got to have accreditation to be a zoo. They import a tiger into this country and that's something my clients were shocked to find out in Nevada. But the—(laughter)—and so it's a real issue. So maybe that's maybe another way you could get it—maybe not a cure-all but there are an enormous number of discrete issues. We've got a lot of—Credit Counseling is another— organizations that want to come in and basically say we want to be within a second tier of accreditation because we're very worried about bad actors coming into it. So that may not get it exactly, but it's just something we've struggled with.

DAN PRIVES: I have a lot of questions about this stuff, but I just want to go to maybe the fundamental issue of has anybody started to consider the IRS—whether the IRS should be in this business at all? I mean, there are tax-exempt organizations, why shouldn't they be IRS exempt as well? And whether there wouldn't be—isn't the time to start to talk about having an expert body that is responsible for charity regulation rather than making it one thing more for the overworked IRS to be doing?

DEAN ZERBE, Senate Finance Committee: Well, let me—and I don't know if anyone wants to—catch that pitch. A couple of things—of course it's fascinating. We, I think in the staff discussion draft, looked at, in some sense, consolidating somewhat within the IRS some of the charitable functions. I think some people were kind of grimacing but then we're shocked to see days later that there is an organization that actually establishes best practices in the federal government; of course that's OPM.

And why OPM has become the reservoir of all things knowledgeable is beyond me. I think if anything, you'd say, well, maybe what we'd want to do is at least have this all controlled because we have FTC which is looking at things, the post office is looking at areas. You've got kind of a whole range of people that actually are looking at this area.

I guess, what I'd say to you as a tax attorney, as a Finance Committee—is I would fundamentally question the assertion you say. We see so much interplay and mischief going on between the commission that the IRS made. I think the one of the statements that most astounded committee members during the June hearings was when he stated that over half of all corporate tax shelters involve a nonprofit—a tax exempt—as an accommodating party. Yeah, a lot of people looked around to me and would go—it always is joyful being on the staff because the members all look at you as if you were personally to blame for that fact—(laughter)—and so, you know, why haven't we—what's going on Dean? Did you not know this?

But anyways—and it's a very significant problem. There is an enormous interplay that we see between the entities and of course—you know too, one of the things that has astounded us in looking at it is—the good accountant here can be far more knowledgeable than I can—is the enormous interplay of the nonprofit and its for-profit subsidiaries in 990—this is not just—it's not just the soup kitchen, I guess is what I'm saying. You've got groups that, you know—well, yes, they do this but then they've got a cattle ranch and then they're doing a mission. You know, the interplay is enormous between the organizations.

I think it's not an unfair point you're raising. We've thought about it a lot too and I'm not saying we're right but I guess—I think, if anything, we've been trying to integrate them more with the IRS. A classic example is, historically the IRS has never looked at a 170 charitable deduction issue and then also looked at the countervailing issue regarding the charity, and never said, hmm, I don't know; this is kind of crazy talk; these guys keep giving out junker cars to this organization that this fellow's brother seems to be running. There is never an interrelation—or conversely looking at this bogus charity and saying, you know, we had this crazy notion that maybe these pencils that are being contributed—that they're claiming $2 million in software for from a company that couldn't even produce $20,000, is something we just found about today—maybe those are things we should look at.

I mean, if anything, we're trying to see more of an interconnection between giving and that, and with the four—and not only just us—I guess we're being forced to because we're seeing people taking great tax advantage of that interplay between the tax—as you said, they looked and said, yes, they're tax exempted—that's where we'll dump all of our losses or—(chuckles)—that's where we'll dump our—I mean, whatever the play is going to be.

So I'm concerned—I think you raise a fair point about it, but I think for us, we're very concerned about—and we're pleased that it's no longer been the forgotten stepchild of the IRS, that they are recognizing and the commissioner is recognizing this really is an area they need to be aggressive. I don't know, you comment.

JULIE FLOCH, Eisner LLP: Well, I think that's actually quite right. I mean, I would say that should there be another agency setup. I mean, I don't really know but I think the real issue right now is that there are things that the IRS is currently looking at and maybe the 990 isn't the perfect tool. I think again, you know, we all—you all pretty much agree with that and there are things that should be done or reported in a different manner. I don't know.

MARK HAGER, Urban Institute: I personally believe, Dan, that we need some regulatory body. If it's not the IRS, then it's state attorney's general, which are uneven and sort of—you know, how much bite and how much resources they have—some states very good; some clearly not very good.

I don't think we can rely on charity watchdogs. They don't really have the standing to hand down penalties, even if they were trying to police the entire sector, which as far as I know, none of them try to do. So in my opinion, we need some sort of regulatory body with bite. If not the IRS, what? Well, there have been various proposals that I've seen—an SEC-like body that has some sort of standing and resources to get the job done. I don't think we probably have the political will to move in that direction. I don't know, we'll see; but my guess is that we're going to stick with the IRS and rely on some combination of the IRS, education, oversight from charity watchdogs, trying to really improve the relationships between the CPA community and these organizations, and try to temper the way that we use these various ratios. If we do that all at the same time, we can get toward a good stopgap that's short of a wholesale overhaul in this area.

JULIE FLOCH, Eisner LLP: I think I would just add one sector to that, and that's the newspaper reporting. And I think actually, if you look at some of what's really sparked an enormous change or an enormous response, or an enormous interest in what's been in happening in this sector, it's been the newspaper reporting that has pointed out some of the real abuses that have taken place. Whether those are really prevalent in the sector, whether those are isolated cases, I mean that's—you know, that's really an issue.

So if I'm an organization and I've—maybe I don't have a fear of the IRS or maybe I'm not that worried about being subject to audit scrutiny—percentages aren't all that good—that that's going to happen to me, maybe in my particular state, I don't have to submit an audit and financial statement on and on, and on, but I might be worried that somehow, somewhere, somebody is going to read about my organization or hear about my organization and I'm going to show up in the local paper, and that's going to be really damning to me. So I think that's an important piece of what we're looking at.

DEAN ZERBE, Senate Finance Committee: I think it's limited. You know, I can count on two hands how many press—but you're right; it's nice to have that out there. I would say to you though, what stuns me though is that for—the thing to remember is that for many organizations, they've got all of their money. They don't—you know, they don't care. For a public charity that's getting public dues, I mean, it matters, but there are type three supporting organizations—you're a private foundation but, you know, sure, you bet—I would pay for my daughter's wedding—you bet, have at it. You know, I mean, they'll just go about their business; it won't affect their—

JULIE FLOCH, Eisner LLP: Yeah, I don't take exception to that other than I would just say, if we're talking about private foundations, we're out of sort of the whole reporting kind of method and methodology. Because I agree: there are certainly abuses in the private foundation. I think that's a very fair statement, but I don't think we're going to get at that.

DEAN ZERBE, Senate Finance Committee: I agree.

JULIE FLOCH, Eisner LLP: Okay.

STACY PALMER, *Chronicle of Philanthropy*: Other questions?

RICHARD BREWSTER, National Center on Nonprofit Enterprise: I guess we're still looking for the solution then for the sort of medium and small size nonprofit executive who is worrying about the particular difficult child psychiatry case—the fact that they can't get the money to keep their year program and then somebody comes in and says, hey, we've really got to finish this 990 now; what are we doing about fundraising costs? Oh, keep it low; if we get in trouble next year, we'll never get the grant again.

How do you incentivize people like that to do this in a considered and accurate way? I think you're right—that maybe the quickest—(chuckles)—fix is actually a threat of punishment, but actually, how might you make it a positive experience?

MARK HAGER, Urban Institute: I think it's possible that there is no solution. (Laughter.)

JULIE FLOCH, Eisner LLP: Well, I think that it's possible there is no solution. (Laughter.) It is also possible that, you know, a board needs to understand that it's got a responsibility, right—that the people who are on that board have elected to be on that board, have a responsibility to see that the organization is running properly. And part of running properly includes regular reporting, whether it's to the outside because that's a regulatory requirement, whether it's audits, if those are regulatory, but also the internal workings of the organization too.

I wouldn't want to be part of an organization's board for an organization who said to me, you know, we're putting all of our money on program and we have no infrastructure for reporting, so we can't tell you how we did for the first quarter or the second quarter; we've got no financial information. I wouldn't want to be part of that organization even if I really believed that that's really true that they had, you know—they were programmatic in nature, et cetera.

So I think if you're part of the oversight of an organization, that's part of your responsibility to figure out how that's going to be done—by volunteers? By other—I don't have an easy answer but—

DEAN ZERBE, Senate Finance Committee: I think that's well said. I know you get kind of the crisis scenario—well, you know, should I feed the infant or should I drop everything and, you know, give the 990? But I think you said it well. And I think for us more than anything, was trying to send a clear message that you have boards there and those boards are meant to govern and manage.

These organizations are not there for ribbon cutting ceremonies, they're not there for tea parties, they're not—they're there to manage these organizations, and it starts not with the crisis of well, you know, drop the infant formula or fill out the 990; it's one or the other—it's saying, well, yes, the board is going to get focused on its priorities and its duties, and you know, you won't have that solution—I'm sorry—that situation come forward, that they'll have recognized you're one of the rules of the road in terms of being this organization. We have to have this set up. And I think it goes to the good point of getting a good accounting understanding with the accountants—that they just don't show up with their shoe box and say, well, here you go—you know, good luck, and that they have an ongoing relationship with them.

It's going to take time to get them there that way and get them, you know, educated as well too. You know we'd much rather get people in a happy place, but I do think it's also—(inaudible)—when people say, if you don't engage in—if you don't do these things or it's going to be, you know, a payment at the end.

ART TAYLOR, BBB Wise Giving Alliance: If I could—I think that regardless of what comes out of—one of the things that will definitely come out of the Senate actions and the government actions will be that we will be raising the stakes on what it takes to be an nonprofit organization and to operate. And that will mean that some will opt to say, you know what, maybe we shouldn't be doing this; maybe we should be working with some other organizations and that's not a bad thing either. I just think that we can no longer sit back and say that well, you know, we've got to make a choice between reporting what we do to the public that supported us and meeting our mission. They are one in the same. I mean, part of what you do is to let the public know what you did so that you can continue to get support to do that.

And I just happen to believe that that will be one of the key results, Dean, that comes out of everything that you've done. The stakes will go up, the costs will go up for what it takes to be a—we don't need to create 90,000 new organizations a year. Many of them come in one year; they're gone the next; we don't know how many of them are even still going on. And I think that the incentives—if you want to know about incentives, I'll tell you—the tsunami created an enormous incentive for relief agencies. They were jumping to get on our website once they found out that we were going to publish a list of organizations that had gone through the review process.

And so I think organizations, when they see they have an opportunity to get resources, will do it. Or, as Dean says, they see that they're going to be penalized for not doing it—they will obviously ante up too. So we can create the incentives but we've just got to get to doing it. And we can't be about trying to protect every single organization that is out there and making the excuses that, well, they're small and they shouldn't be able to do it. There are some size issues, I agree with that. But, you know, how long should you be a small organization and exempt from being accountable? I don't know.

JULIE FLOCH, Eisner LLP: New York has a pamphlet on its web site that is a really good pamphlet, and it has to do with internal controls. And it's actually—actually there are two pamphlets there: setting up an organization and the internal controls that you have. And both of them are very user friendly, and New York would encourage—when they go out and do symposium and education through charities there—they encourage them to look at those pamphlets and to get an understanding of what's involved in setting up an organization—what's involved in maintaining an organization.

And if I was wearing my other hat, I would start preaching about internal control and how that really goes to the fundamental nature of a lot of what's wrong in the accounting area of it. But I would say just education and understanding what your commitment is, whether you're the executive director, or whether you're the board of an organization, I think is really the important thing.

DEAN ZERBE, Senate Finance Committee: I just had one thought. I can't take credit for it; it came to me from someone who is active in the independent sector process—but I don't want to say that this is speaking for them or their word.

But going to your point of what are the other ways to encourage—and when we talk about accreditation and these good ideas, and sort of—(inaudible)—you know, we talk about even government contracts and seeing if you're applying for a government contract or grant—we're going to look at, you know, these kinds of behavior.

One thing that was suggested that I thought was very interesting and maybe worth further consideration by folks is to say, well, you know, here is what we'll do because I think for individuals, it would be a nightmare to try to get it. But you would say, okay, we're a supporting organization, a community foundation, a private foundation. If you—or you know whatever phrase you want to—you know, for your payout or whatever—whereas you're going to—you know, it's going to have to be this kind of organization that—you can give to the others but for your pay—I don't know—or what have you, you're going to have to kind of have an—a certified charity is going to be what's going to have to account for, say, your payout.

I got an interesting idea of another way to kind of encourage charities to get them with sunshine as opposed to wind in terms of mispractices.

JULIE FLOCH, Eisner LLP: Absolutely. Well, you know, I would say if you were going to run your organization, what document was probably more important on a daily basis is probably your budget—monitoring your budget, your budget to actual, and the actuals would be what's coming off of the system itself, et cetera. That's not going to be what's going to turn out to be your accrual basis financial information that is on your 990. So your 990 is never—and a 990 is a look-back. You know, it's done; your year is over; your information is finished; you can't do anything to change it. So it's not really—it's a tool but it's not really a governance tool. It's certainly not a primary governance tool at that.

So I would say, yeah—I mean, you really care about internal information—budget-type information, quarterly-type information, and again, a whole long list of things, but the 990 wouldn't be it.

RICHARD BREWSTER, National Center on Nonprofit Enterprise: No, no. I think I'm just saying the 990 would seem more like a logical summation of the information you're looking at every week or every month. It might actually just seem to be more relevant to what you're average small—(off mike).

JULIE FLOCH, Eisner LLP: And again, you have accounting concepts that get in your way because you have cash basis versus accrual basis and all of that. Yeah.

RICHARD BREWSTER, National Center on Nonprofit Enterprise: It may have been—(off mike, laughter).

JULIE FLOCH, Eisner LLP: Yeah, it's not a governing tool.

ART TAYLOR, BBB Wise Giving Alliance: I would like to see us try more aggressively to help the public understand that they are the first line of defense against bad charity activity and knowing which charity that they should support. They have to do more themselves and maybe helping people learn where to go to get that information. And if it's a 990 helping them appreciate what some of the—where some of the information is on a 990; how they should be analyzing that 990; if it's a watchdog, here are some watchdog sites and here is how they do what they do.

I can tell you it works. Again, during the tsunami, I know there was heightened interest in giving to a relief organization. But I'll tell you, Dan Zerbe and the Senate Finance Committee sent out a press release that said if you want to give to a charity, you should check out GuideStar and Wise Giving. In three weeks—three weeks, we had half a million reports pulled off of our website. In a normal year, we'll probably get about 2 million pulled off. So when the information is out in the public, the public will use it, but we have got to do a lot more, I think, to help the public appreciate that that information is there and that they should be the first line of defense in protecting themselves against these practices.

MARK HAGER, Urban Institute: My comment earlier about the potential lack of a solution comes from that irony that I was pointing out in my earlier comments. Even though I agree with everything that has been said here about the involvement of boards, so they're seeng what's going into financial reporting; staff; relationships with CPAs; donors understanding what's going into financial reports—all of these things are good things in terms of disclosure. The issue that keeps me awake at night is that as we do a good job with all of this stuff—really focus on the Form and on disclosure and everybody looking at it—that there is no reason why organizations don't increase their misreporting rather than do a better job at it. That's the quandary I think we have had a hard time solving.

STACY PALMER, *Chronicle of Philanthropy*: We have time for one more question. Who wants to have it? (Chuckles.) Elizabeth, did you have something?

ELIZABETH BORIS, Urban Institute: I was going to mention that, one, we have electronic filing and hopefully we'll have mandatory electronic filing before too long. Some of the more mundane problems about inaccurate reporting will be solved. It won't solve the deeper accounting problems or—but I think that we can fix some of those—that some of those are fixable on the Form 990.

But going to Richard's comment, I wonder if there isn't a way, you know, at the cusp of electronic filing—we have electronic forms on our NCCS website—whether we could do a better job of giving guidance on how to fill out those forms; maybe guidance for boards; maybe guidance for how to do it better.

And I also wanted to mention the pilot project where someone could create their internal budget and financial accounts—and Bill Levis who was sitting here a minute ago, really developed that system—from central standardized indicators of financial activity, fill out the 990, fill out the audited financial, do the budget, but no one has really—except in Tennessee—really taken that on. So it is doable; I mean, we could do a lot more to make this whole process integrated, which would make a lot more sense to the nonprofits themselves. So there are some frontiers to push here, but it requires some will, some money, some visibility to really say, hey, we can do a better job, and to invest in doing it.

STACY PALMER, *Chronicle of Philanthropy*: Anybody want to comment on that?

JULIE FLOCH, Eisner LLP: I think she said it beautifully. (Laughter.)

STACY PALMER, *Chronicle of Philanthropy*: And summed up the panel very well. Thank you for all of your good questions and thank our panelists for a good conversation.

(Applause.)