



National Association of State Charities Officials
c/o Karen Gano
Assistant Attorney General
Office of Attorney General George Jepsen
55 Elm Street
P.O. Box 120
Hartford, CT 06106

Dear Karen,

The Council on Foundations (the “Council”) welcomes the development of the Single Portal Initiative, as announced by the Multistate Registration and Filing Portal, Inc., in collaboration with the National Association of State Charities Officials (NASCO), and the National Association of Attorneys General (NAAG). The purpose of this writing is to provide the Council’s input as it relates to need of a single online portal, as well as the Council’s experience and knowledge of online platforms.

Council on Foundation’s Experience as a Multistate Filer

As a national nonprofit membership association, the Council’s activities are funded primarily through membership dues from foundations and grantmakers. The Council’s active philanthropic network of roughly 1,300 members is comprised of both US-based private foundations as well as public charities, many of which are community foundations. Currently, the vastness and geographic diversity of membership requires the Council to comply with several states’ differing registration requirements in order to solicit funds, even from its own members. This, the Council believes, is unduly burdensome in terms of administrative efficiency and cost, especially to smaller charities that actively solicit charitable donations across state lines. And while one can appreciate a state’s role of *parens patriae* to limit and regulate charitable solicitation to ensure dollars raised are efficiently spent and the public protected from unscrupulous charitable solicitors, current law mandates charities to comply with 39 elaborate state registration and filing system requirements. In this regard, the Council believes a single online portal to accomplish the aforementioned requirements will indeed maximize efficiency, data transparency, and information sharing for charities in a way that is less burdensome, but will still allow states to act to protect or regulate the charitable environment.

Separate State Regulatory Schemes

The Council contracts with an independent law firm experienced in charitable solicitation filing to keep current with annual registration and renewals. In 2015, the Council renewed its registration with the following 30 states: Alabama, Alaska, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Mississippi, North Carolina, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, West Virginia and Wisconsin.

Some states have exempted membership organizations, like that of the Council, from the state's registration requirements. The justification for this exemption is when organizations solicit from their own constituency, it is appropriate to regard such solicitations as private and beyond the purposes of state regulation. Despite this exemption, in the past, the Council maintained a conservative, risk-averse approach to charitable solicitation and, nonetheless, registered and/or renewed in states that recognized the exception.

Regardless of the membership exception, the Council is annually tasked with maintaining its charitable solicitation requirements in several states, which can be expensive and overbroad. Indeed, some states give their officials overseeing the charitable sector too much discretion. As a result, increased compliance costs to charities from the proliferation of state regulation of charities with different forms, unduly burden these organizations. For example as it relates to the Council, several states require signatures to be witnessed by a Notary Public. Some states require signatures from organization officers only, while others will accept signed applications from authorized representatives. In California, the Registry of Charitable Trusts must receive a copy of Schedule B, Schedule of Contributors, in order to constitute a complete filing. Other states do not require such 990 attachments. Some states, such as Mississippi, have moved away from paper applications to an online registration system. And states like Ohio and Oregon require disclosure of the number of board meetings. For the Council, such a hodgepodge of registration requirements amongst the several states is insensitive to the varied needs of the sector, and hampers the vitality of charities.

In this regard, an à la carte state charitable solicitation scheme is outdated, and a centralized, online registration depository, such as the Single Portal Initiative, will provide a fresh and fair standard of accountability, while recognizing the need to address individual state and donor concerns with the integrity of charitable fundraising.

Member Experience

The Council on Foundations' members often discuss in their own work how to create single portals for scholarship or grant applications. As they think through these processes, they raise some interesting points that may also apply to the development of the charitable solicitation registration single portal.

Interpretation of Charleston Principles

We regularly hear from Council members and staff who were formerly working in foundations about charitable solicitation registration. Many are confused how to interpret the Charleston Principles related to charitable solicitation registration, especially regarding online fundraising. So the first question from our member foundations is would a single portal create an expectation that all organizations with online fundraising should register in all fifty states? This is a vital question, because while the process may decrease administrative burden, it may increase the financial burden.

Protecting Data

The Council's members are acutely aware of security breaches of sophisticated technology systems such as health care providers and big box stores. When a single foundation looks at its own ability to manage security concerns, they can feel overwhelmed which leads to several questions about data collection. The first question is what data is being collected? Foundations will want to know what is expected for them to share – not in a positive or negative sense but to advance transparency

and to provide an opportunity for feedback. The second question is what is the purpose of this data collection? While the big picture answer is to streamline a currently individualized process, it may not be clear when we look at each question that will be asked. The third question is how will the data be secured? The foundations understand this is a difficult question to answer because technology evolves rapidly but an important one nonetheless. We've received a strong signal from members that we should not collect what we don't absolutely need and what we cannot protect.

Administrative Burden is Affected by State Specific Information

The most beneficial process will ensure the single portal is both practical to the states and the registrant charity, ensuring an elimination of various discrepancies between reporting requirements. If each state continues to require separate supplementations and varying attachments, the additives could actually be bulkier and more burdensome than each individual state's application. Rather, the single portal should seek a streamlined process by which the states have reached unified agreement on what is acceptable.

The Council congratulates the stakeholders who are moving this important initiative forward. We have been part of talks regarding this issue for several years, and recognize the progress you've made to build consensus among numerous states and numerous government agencies.

Thank you for this opportunity to share the Council's and our members' experience with you. We hope you will continue to seek input as you move forward in the process, and we are happy to help gain input from our member foundations.

Kind regards,

A handwritten signature in black ink, appearing to read "Sue Santa". The signature is fluid and cursive, with the first name "Sue" and last name "Santa" clearly distinguishable.

Sue Santa
Senior Vice President of Public Policy and Legal Affairs
Council on Foundations