

Ethics

Ringin' up New Contributions

By Michael Rosen, CFRE

Ethical fundraising practices are the cornerstone of the profession, and *Advancing Philanthropy* endeavors to provide readers with examples and case studies to illustrate best practices. However, such examples are not intended to provide legal, accounting or other professional advice. For a copy of the AFP *Code of Ethical Principles and Standards of Professional Practice*, with enforcement procedures, time limits, forms, addresses and phone numbers, visit www.afpnet.org/ethics or ask any chapter president for one.

Imagine that you are the chief development officer for a deserving organization serving underprivileged children. You need to raise more money to meet the demands for your organization's services, but you do not have the budget resources to invest in new fundraising initiatives. As your frustration grows, you receive a call from a direct-response firm offering to provide telephone fundraising services to raise money for your organization's annual fund in return for 50 percent of all contributions generated. Your organization is not required to pay a retainer or any other expenses.

1. Would this arrangement be acceptable under the AFP Code of Ethical Principles and Standards of Professional Practice?

Quite simply and emphatically, a commission arrangement is not acceptable under the AFP *Code*. A desire to

maintain the public trust and eliminate incentives for improper behavior motivated AFP to take an unambiguous position on this issue.

Based on **Standard No. 16**, we know that we, as AFP members, cannot receive commission-based compensation. Standard 16 reads, "Members shall not accept compensation that is based on a percentage of contributions; nor shall they accept finder's fees." However, the AFP *Code* does not merely prohibit us from receiving commission-based compensation.

Adherence to the *Code* means that we cannot obligate our organizations to pay commission-based compensation. We also have an obligation to try to ensure that no one else in our organizations pay such commissions. **Standard No. 18**, which also deals with commission compensation, reads, "Members shall not pay finder's fees, or commis-



sions or percentage compensation based on contributions, and shall take care to discourage their organizations from making such payments."

Ensuring that you are personally in compliance with the *Code* is not enough. AFP encourages members to ensure that our colleagues, our organizations and our vendors strive for compliance regardless of whether they themselves are members of AFP. The *Code* states, "AFP members aspire to encourage colleagues to embrace and practice these ethical principles and standards of professional practice."

2. Suppose the fundraising firm offered to charge a fee for each completed call, whether or not the call results in a contribution. Would this be in acceptable under the AFP Code?

If the fundraising firm charges a flat fee based on the number of completed calls, actual solicitations, or calling hours, the arrangement would not violate Standards 16 and 18. Furthermore, a flat fee based on completed calls, one measure of performance, would comply with **Standard No. 17**, which reads, "Members may accept performance-based compensation, such as bonuses, provided such bonuses are in accord with prevailing practices within the members' own organizations, and are not based on a percentage of contributions."

While a fee based on completed calls is an acceptable compensation formula, it does present some risk to the nonprofit organization. If the telephone fundraising firm does not secure enough contributions to offset its fixed fee, the nonprofit organization could lose money. Fortunately, there are other ways to mitigate risk without resorting to commission-based compensation.

Before contracting with a telephone fundraising firm, the nonprofit organi-



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zation should conduct thorough due diligence. Understand the firm’s methodology. Check references, both positive and otherwise. Know your options if the program does not perform to your minimum level of expectation. Have realistic expectations. Be honest with your service provider. Establish a collegial rather than adversarial relationship with the telephone fundraising company to ensure the best effort.

3. Suppose the fundraising firm proposed receiving a small fee for each completed call plus 7 percent of all contributions generated from the calling program. Would this arrangement be acceptable under the AFP Code?

Performance-based bonuses are acceptable provided they are not linked to the amount of money contributed.

For example, the telephone fundraising company might be offered a bonus if no donor complaints are generated or if the project is completed on time. However, the AFP Code prohibits commission arrangements of any type. The size of the commission fee is irrelevant.

AFP’s *Position Paper: Percentage-based Compensation* (1992), which is available on the AFP website at www.afpnet.org/ethics/ethics_papers/articles, details the rationale behind AFP’s opposition to commissions. Most professional fundraising associations around the world have adopted a position similar to AFP on this issue:

“The Association of Fundraising Professionals (AFP) believes that individuals serving a charity for compensation must accept the principle that charitable purpose, not self-gain, is paramount. If

this principle is violated and percentage-based compensation is accepted:

- charitable mission can become secondary to self-gain
- donor trust can be unalterably damaged
- there is incentive for self-dealing to prevail over donors’ best interests

“AFP holds that percentage-based compensation can encourage abuses, imperils the integrity of the voluntary sector, and undermines the very philanthropic values on which the voluntary sector is based.”

The AFP Code states that members must “encourage colleagues to embrace and practice these ethical principles and standards of professional practice.” Trying to get your vendors, colleagues and organization to adhere to the Code is not without challenge. While paying

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a vendor a commission based on contributions may appear to ease a short-term challenge, nonprofit organizations are far better off in the long term by honoring the long-standing provisions of the AFP Code. Ensuring your own compliance to the Code is a requirement of AFP membership. However, it is not enough. AFP members must also do their best to ensure that the public trust is truly protected. When this is done, everyone benefits. 

Michael Rosen, CFRE, is executive vice president, client development, at Legacy Leaders Inc. in Philadelphia and a member of the boards of the AFP PAC, the Pennsbury Scholarship Foundation and the Jewish Federation of Greater Philadelphia. He also serves on the editorial board of the *International Journal of Nonprofit and Voluntary Sector Marketing*.

The AFP Ethics Committee, an 11-member standing committee, is the guardian of AFP's *Code of Ethical Principles and Standards of Professional Practice*, with substantial contribution from the association's CEO and the general counsel. To ensure consistency and avoid conflicts, individual chapters play no substantial role in interpretation or enforcement of the Code. The Ethics Committee investigates ethics queries and complaints (or initiates proceedings, including complaints, on its own), provides counseling, holds hearings, makes rulings and imposes sanctions. The primary objective of the Ethics Committee is education and correction of prohibited behavior. The committee also is empowered to impose sanctions, including publication of the names of violators. Committee meetings occur twice a year, in winter and late summer. To avoid even the appearance of impropriety, the committee never convenes at board meetings.

For confidential ethics advice about proposed transactions or other matters related to the AFP Code of Ethics, call AFP's CEO at 703-519-8440 or general counsel at 703-519-8455. (Please note that legal counseling cannot be provided.)

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