

## **A CHECKLIST FOR CREATING A 501(c)(3) ORGANIZATION IN TEXAS**

- € Establish the charitable purpose of the anticipated programs. Research whether or not other nonprofits are engaged in the same program. Consider if you need to incorporate or if you could partner with an existing nonprofit. Develop a basic understanding of the nonprofit sector and nonprofit governance, leadership and management through reading and interviews with experienced leaders in this sector.
- € If you conclude you need to proceed with starting a new nonprofit, create a clear, succinct, written mission statement (charitable purpose) and vision (how the mission will be embodied). Be aware that, while the founder, you will not own the organization created (unlike a business). Anything given to the nonprofit cannot be later given to an individual, even the original donor.
- € Recruit initial board of directors (minimum of three). These should be people committed to your mission, preferably not family members. Be aware that the board of directors has direct legal responsibility for the nonprofits activities. The board also is responsible for supervising the executive director. This means, even though you are the founder, you may or may not be in a permanent position, whether as staff or as a board member. Board members should have a predetermined term of office (as detailed in the bylaws).
- € Name the nonprofit. Contact Secretary of State to confirm availability (512) 463-5555) or (Email: [corpinfo@sos.state.tx.us](mailto:corpinfo@sos.state.tx.us))
- € Determine if the organization will be incorporated. This is necessary to become tax-exempt. Remember, a nonprofit designation is from the state, and tax-exemption is from the federal government.
- € Complete Form 202, available from the Texas Secretary of State website ([www.sos.state.tx.us](http://www.sos.state.tx.us)). There is a fee of \$25. Be certain to word the section on Purpose to comply with the IRS required wording (see page 7 of Instructions for the IRS Package 1023). Include a dissolution clause (wording is also found on page 7 mentioned above).
- € Call the IRS for a nonprofit packet and allied forms 1-800-829-3676. (Form 1023, Form SS-4 and Publication 557) or go on-line: [www.irs.gov/formspubs/index.html](http://www.irs.gov/formspubs/index.html)
- € Complete and submit IRS Form SS-4 for an EIN (Employer Identification Number)
- € Complete the bylaws. Be certain to include the purpose and dissolution clauses mentioned above, as well as a conflict of interest policy (Appendix A., page 25.)

- € **Develop a program plan with written goals and objectives, a work plan, and a service description for at least a one-year period. Complete plans for the following two years based on the detailed one-year plan.**
- € **Develop a budget to anticipate expenditures and income for the first full year. Based on this detailed budget, complete a more general budget projection for the following two years.**
- € **Hold formal organizational meeting of the board to adopt the bylaws, elect officers, authorize application for tax-exempt status, authorize any financial transactions, and continue program planning.**
- € **After you have the EIN, and the Bylaws are approved, dated and signed by the Board of Directors, most banks will allow you to open an organizational bank account.**
- € **Submit to IRS**
  - **User fee (see Part XI of Form 1023)**
  - **Form 1023 Checklist**
  - **Form 1023 – IRS Application for Recognition of Exemption**
  - **Copy of Form 202 (“organizing document”) from Secretary of State, with stamped “date of formation”.**
  - **Copy of the signed Bylaws**
  - **Attachments formatted as per the instructions on page 4 of Form 1023**
  - **Program details that support the totals entered on the 3-year budget (Part 9 of Form 1023.)**
- € **Establish a record keeping system for the organization's official records. Note the requirement to have certain specific information available for public inspection (see page 5 of the Instructions for the IRS Package 1023).**
- € **Establish an accounting system. Since you will eventually need an audited financial statement, it is prudent to set this system up according the generally accepted accounting practices. You will also need to file a tax return with IRS each year; the type of form 990 will be based on your budget size.**
- € **After receipt of IRS tax-exempt status "letter of determination", make application with the Comptroller of Public Accounts in Austin, TX. to receive franchise tax or sales tax exemption. Send this along with a copy of the IRS letter of determination.**
- € **Apply for a nonprofit mailing permit from the US Postal Service.**

- € If hiring staff, apply to the Texas Workforce Commission as a new employer. Your organization must collect and pay the same taxes and fees as any other employer. You must also comply with OSHA, ADA, and other legal requirements.
- € Obtain liability insurance, directors and officers insurance, and any permits or licenses related to your work (i.e. sellers permit, child care license, etc.)
- € Develop personnel and organizational policies and procedures.
- € Begin program activities.

**For further assistance contact:**

Texas C-BAR (Texas Community Building with Attorney Resources)  
4920 N. IH-35  
Austin, TX 78751  
(512) 374-2710 or (800) 369-9270 ext. 2710  
Fax: (512) 447-3940  
Email: [info@texasobar.org](mailto:info@texasobar.org)

Nonprofit Development Center  
903-581-6376, ext.225  
[jtaylor@uwtyler.org](mailto:jtaylor@uwtyler.org)