

Note: This chapter was originally written for immigrant and refugee groups but the content applies to all community-based groups

Organizational Structures

Background

There are many ways to work to improve your community and the lives of the people who are part of it. You can:

- ✓ **Be a good neighbor.** Being a good neighbor means giving a friend or neighbor a ride to the doctor, bringing a meal to someone who is sick, helping someone you know who does not speak English fill out a form or application. Many refugees – especially people who have already acculturated to life in the U.S. and speak English – do these kinds of things for family, friends, and neighbors frequently and informally.
- ✓ **Volunteer for an existing organization.** Volunteering for an existing organization is a more structured way to help others. For example, there might be an organization in your community that already has a program to help refugees. You could offer to volunteer, perhaps taking families to appointments, visiting them to see how they are doing, or tutoring people in English. If you want to help your community, volunteering for an existing organization is a good way to get started. Through volunteering, you can learn more about how nonprofit organizations work and about other community resources.
- ✓ **Work for an existing organization.** People with special skills often choose to work for an existing nonprofit organization. Again, there might be an organization in your community that already has a program to help refugees. If you have certain skills and experience – maybe you worked for a non-governmental organization (NGO) in your home country or you are a trained teacher or are good at working with teenagers – you may decide to work for an existing organization, either full or part time.
- ✓ **Start your own project or organization.** Sometimes, an individual or group of people who want to help the community see an unmet need or a problem to solve *and* find that no existing organization is addressing this need or problem. **For refugees, the issue is often that no existing organizations provide culturally and linguistically appropriate services tailored to the needs of your community!* So, you may decide to start your own project. You may be able to find an existing organization that would like to house and help manage the project – or you may decide that there is no appropriate existing organization, so you decide to start a new nonprofit organization.

If you decide to start an organization, the question is: what type of form or structure should it have? There is no single "correct" legal or organizational structure. However, there are some important factors to consider in deciding whether to incorporate and whether to seek tax-exempt status. This chapter provides an introduction to different organizational models.

How Do Community-based Organizations Get Started?

Sometimes, an individual or a group of people set out to form an organization. Through research and experience, they've identified a gap and a need for a new organization to fill that gap. The organization starts on paper, with a written vision, mission, and plan.

But more often, community-based organizations grow out of the informal efforts of individuals and groups to help others, solve a problem, or address a need. A number of community residents may come together informally to help others in need, improve some aspect of their community, address a crisis situation, or work together for some other common goal. For example:

- ✓ A group of concerned parents starts meeting to brainstorm how they can help make positive changes in their children's school.
- ✓ A photographer starts working with the kids in her neighborhood to document the history of their community.
- ✓ A group of people from a neighborhood notice that many recent immigrants are living in very overcrowded conditions, with several families in the same apartment. They decide to reach out and help their neighbors find apartments and jobs.
- ✓ A group of community members from a refugee community begins organizing an annual cultural celebration to share their community's traditional music, dance, and food.

Initially, the group may be informal – a few individuals take the lead in organizing activities, and other volunteers help carry them out, but the group has no formal structure, membership, or leadership. Sometimes, the group is so effective in making positive change – providing needed services, bringing the community together, or solving a problem – that the people involved realize that they can do even more with more resources and more structure. The group decides to create a more formal organization that can seek funding and have staff. They decide to incorporate and obtain legal nonprofit status or find a fiscal sponsor.

"We Want To Help Our Community" - Some Questions to Start With

As you decide how you want to help your community, and especially, whether or not you should start an organization, you should step back and ask yourself some questions. You need to ask yourself both *What is needed?* and *What do I want to do?* Ultimately, you need to balance your needs and goals with your community's needs and goals. Ask yourself the following:

- ✓ **What is needed?** As you think about needs, ask yourself both: "What do the individual members of my community need?" and "What does my community as a whole need?" You may be very familiar with the needs of individuals. As a community leader, you see that people in your community need quality health care, affordable housing, training and education, and good jobs. What

Keep in Mind...

Starting an organization is not always the best way to serve your community. You may find that you can be more helpful by extending and supporting work already being done through existing organizations.

you may not know is whether or not there is already a free health clinic that could be serving your community if it had the needed language skills. The question isn't just "What's needed?" but also "What already exists?"

- ✓ **What resources already exist? Are there service gaps that need to be filled?** In part, identifying what is needed depends on knowing what already exists. What services or organizations already exist to meet a particular need? Some people start nonprofits without knowing what already exists in their community, and end up duplicating structures. On the other hand, it's also important to ask whether or not existing programs and services effectively serve your community.

Helpful Hint...

Community Mapping is a useful tool you can use to identify existing resources and gaps. For more information, see Chapter 7 of *Standing Up and Speaking Out for Refugees Tool Kit*.

- ✓ **What do I want to do? How do I want to help my community?** There are many ways to help your community – as discussed at the beginning of this chapter. Running an organization is not for everyone. It means spending time in meetings, making sure you are meeting various legal requirements, and sitting in front of your computer writing proposals and reports. It's important to ask yourself: What are my skills and strengths? What experiences can I offer and build on? What will I enjoy doing? Am I good at creating things or implementing them? Do I want to work one-on-one with people or do you like managing things? Am I willing to learn the management and administrative side? Remember that even if there are things you decide you are not good at or don't want to do, you can always start an organization, then bring in other people to do them!
- ✓ **What can I commit to doing?** Building and running an organization takes a significant and long-term investment of time and energy. Can you afford to volunteer your time? Or, do you want or need to be paid for your time? How much time can you commit? Do you see yourself doing this work for the next year? Next five years? How long a commitment are you willing and able to make?

Keep in Mind...

Most founders of community organizations spend many years volunteering their time to build an organization. It takes time--sometimes years--to raise the funds needed to pay staff. In fact, many people who found organizations never intend to become the paid staff. For them, the joy is in the creation!

If you already have a job and simply want to help people in your free time, then maybe you should lend your skills and experience to existing organization and serve as a *volunteer*.

But let's say you do your homework – you map our “what exists” in your community – and you find that *there is no organization* providing the services your community needs that you can volunteer for or refer people to.

Now what are your options? You can:

- ✓ Start a project or program that becomes a project of another organization
OR take your idea for a project to another organization
- ✓ Form an unincorporated association
- ✓ Incorporate as a nonprofit but not seek 501(c)(3) tax-exempt status
- ✓ Incorporate and seek 501(c)(3) tax-exempt status
- ✓ Find a fiscal sponsor for your project or programs

Helpful Hint...

What does 501(c)(3) mean?

To be a “501(c)(3) organization” means to be recognized as tax exempt under Section 501(c)(3) of the Internal Revenue Code. The federal Internal Revenue Service (IRS) has a form and process that incorporated nonprofit organizations must follow to request this “recognition of their tax-exempt status.”

This 501(c)(3) status makes your organization exempt from federal income taxes. It allows contributors (e.g., individuals and corporations) to receive a tax deduction for contributions to your organization, and enables U.S. foundations to make grants directly to your organization.

“We Want to Help our Community” What Are The Options?

A Project of Another Organization

What is the model?

If you have an idea for a specific program, service, or project, you don't have to start your own organization. You can become a *project of another organization*. How does this work? An individual or group of people with an idea for a specific program, service, or project can sometimes find a permanent home with another organization. An option may be to meet with another organization and sell your idea. The organization may be interested in providing a new service or assisting a new population, such as resettled refugees. You could start volunteering for that organization or work with the organization to obtain funds for your project idea.

As a project of another organization, you become just like any other program or service of the organization. The parent organization has formal control and authority over the program and overall responsibility for its planning, implementation, and management. You become a staff member of the organization and subject to all of the rules and requirements of the organization.

Why would you choose this model?

This model makes sense if:

- ✓ You are very clear that you only want to deliver a very specific and focused program, service, or project.
- ✓ You don't want to spend time building an organization.
- ✓ You don't mind giving up some power and control to a parent organization.

You also need to make sure you can find an organization that is willing and able to be a home for your project--to house it, manage it, and raise resources for it. An appropriate home should also be an organization that shares your values, sees the importance of working with your community, and is willing to develop cultural competency.

See Chapter 2 for more information about this option.

An Example...

A staff member of a Southeast Asian community organization had an idea for a project that would focus on building the leadership skills of youth. He decided to approach the Executive Director of his organization and see if the organization would be willing to provide a home for the project. Since the project fit the organization's mission, the organization agreed to manage the project, as long as the staff member took the lead on raising funds for it. The project became very successful and, several years later, was "spun off" to become an independent nonprofit organization.

An Unincorporated Association

What is the model?

Sometimes a group may want to formalize without incorporating. The most common informal structure is an *unincorporated association*. In the United States, there are all kinds of unincorporated associations. These are informal groups that are formed by individuals that share a common interest and engage in activities together. There are book or literary clubs, recreational clubs (such as hiking or soccer clubs), historical societies, and groups that focus on cultural preservation (such as dance or music groups). The members of the group come together mainly to form a group identity and community and carry out some form of activity.

Generally, unincorporated associations:

- ✓ **Can obtain only limited amounts of funding.** Because donations are not tax-deductible, unincorporated associations can usually only raise small amounts of money from the community and cannot obtain grants from government or foundations. They cannot seek or distribute funds beyond very small amounts required for equipment or refreshments (usually, members provide the funds from their own pockets).
- ✓ **Are loosely organized, with no formal board or decision-making body.** Usually, members with more time or interest choose to take on leadership roles, without any formal election. Responsibility for the activities is divided among the members, with the informal leaders providing coordination and making sure key tasks are completed.
- ✓ **Have no reporting requirements.** As long as the organization is not raising money beyond what members provide and no one is expecting donations to be tax-deductible, generally no reporting to the state or federal government is required.

Some associations do become more structured. If your unincorporated association expects to operate for a long time, you may choose to formalize a membership structure and define how members will make decisions about the association and its activities. The members may choose to develop and adopt a constitution (similar to the articles of incorporation of an incorporated organization) and bylaws to guide the association's activities. They may elect a steering group. So long as the organization is not raising money beyond what members provide and no one is expecting donations to be tax-deductible, generally no reporting to the state or federal government is required.

There are some possible legal problems associated with informal associations. The members of an unincorporated association can be held personally liable for the actions and debts of the association. There is no protection against personal liability. For example, if a dance group orders new costumes and then doesn't have enough money to pay for them, the store may demand the money from the person who ordered the costumes. If someone gets hurt while involved in association activities (for example, a soccer player breaks his arm), leaders or members of the association could be sued. Because the association has no funds and no legal structure, a lawsuit would target individual members or leaders.

Why would you choose this model?

If you plan to be mainly volunteer-led and do not plan to raise significant amounts of money – that is, you'll have an annual budget just large enough to cover direct costs, with no taxable income – it may be easier to remain unincorporated. You won't have to report to the state or the federal government, or spend time managing a legal entity.

If you are not worried about liability, an unincorporated association may serve you well. If you are concerned with liability, you should probably choose incorporation.

See Chapter 3 for more information about this model.

Incorporated Nonprofit Organization *without* 501(c)(3) Status

What is this model?

Another option is to become an *incorporated* nonprofit organization but *not* seek tax-exempt status. An organization incorporates at the state level, typically through a department of consumer and regulatory affairs, department of taxation, or the office of the Secretary of State. In most states, you must submit your Articles of Incorporation along with a filing fee. Once you incorporate at the state level, your organization is recognized as an incorporated nonprofit organization. See Chapter 3 for more information about this process.

As an incorporated organization, you must:

- ✓ **Create a more formal structure.** This includes drafting articles of incorporation, setting up a Board of Directors, and developing bylaws and other formal procedures to guide your operations and decision making.
- ✓ **File reports**, usually annually, to the state in which you are incorporated.
- ✓ **Pay taxes on any significant levels of income.** Being incorporated as a nonprofit organization--without obtaining recognition as a tax-exempt organization--does not make a group tax-exempt, so contributions are generally not tax-deductible and income is not tax-exempt.

Keep in Mind ...

Incorporation is not the same as getting your 501(c)(3) status. It is only the first step!
Incorporation is something you do at the state level--you incorporate in your state--while it's the federal Internal Revenue Service (IRS) that grants tax-exemption.

Why would you choose this model?

Being incorporated provides some structure and formality to the organization, along with protection against personal liability. One of the main reasons groups choose to incorporate is to limit the liability of individual members. By incorporating, you create a legal entity that assumes liability. For example, if someone participating in a dance group gets hurt and says the floor was dangerously slippery, s/he will sue the organization, and the individual leaders and members will have some protection from individual suits. In most cases, once you are incorporated, your Board members, members, staff, and volunteers won't be personally liable for the organization's debts or legal judgments against the organization. Only the organization's assets are at risk.

If you want protection from personal liability, but expect to have a very small budget, without taxable income, then it makes sense to incorporate but not seek 501(c)(3) status. However, if you do not seek tax-exempt status or find a tax-exempt fiscal sponsor, you must pay taxes on your organization's income just as you would if the organization were a for-profit corporation.

As you'll see later in this chapter – and much greater detail in Chapter 5 – choosing the 501(c)(3) path brings with it a number of legal requirements that will require your time and attention. It also involves some important benefits, primarily if you want to raise money and hire staff.

See Chapter 3 for more information about this model.

An Independent 501(c)(3)

What is the model?

The most formal structure is an independent, incorporated organization with a 501(c)(3) tax exemption. In the United States, a nonprofit, tax-exempt corporation is a corporation formed to carry out a charitable, educational, religious, literary, or scientific purpose. A nonprofit corporation doesn't pay federal income taxes on income from the activities it uses to carry out its tax-exempt purposes. Usually, it doesn't pay state taxes either. This is because the IRS and state tax agencies believe that the benefits the public derives from these organizations' activities entitle them to a special tax-exempt status. The most common federal tax exemption for nonprofits comes from Section 501(c)(3) of the Internal Revenue Code, which is why nonprofits are sometimes called 501(c)(3) corporations.

To obtain and maintain federal tax-exempt status as a 501(c)(3) organization, a nonprofit organization must:

Keep in Mind...

There are special considerations as to why refugee leaders may want to start independent tax-exempt organizations, even if there are other service providers serving their community.

Sometimes existing providers do not have the multicultural competence to serve refugee communities. You may also decide that it is important for your refugee community to be represented by organizations led by and for your community.

- ✓ **Exist for the Public Good.** The organization must exist for humanitarian, charitable, educational, or other purposes that can be described as contributing to the *public good*.
- ✓ **Be Governed by Volunteers.** The organization must have some group of people who are responsible for ensuring that it meets various legal requirements, set policies and provide oversight of all activities and funds. Because nonprofit exist for the public good, it is important that this group of people – typically called the Board of Directors – are *volunteers*.
- ✓ **Be Independent.** Again, because they exist to serve the public good, nonprofit organizations must be independent of both government and the private sector.
- ✓ **Be Nonpartisan.** Nonprofit organizations must *not* engage in partisan political activity-- that is, they must *not* support or oppose candidates for office or political parties. However, they *can* do legislative advocacy or “lobbying.” However, organizations must follow federal regulations on lobbying and may not use federal grant funds to lobby.
- ✓ **Ensure Fiduciary Responsibility:** The organization must ensure that contributions and other funds received are used for tax-exempt purposes involving public benefit, not for the personal gain or benefit of specific individuals.
- ✓ **Be Accountable to the Public:** Because a nonprofit organization exists for the public good, it must be accountable to the public. Nonprofit organizations are required to make information about their finances and their activities available to the public.

Why choose this model?

If you want to operate independently, raise significant funds from sources that care about tax exemption, hire staff, and do a variety of things (not just one project), then it probably makes sense to incorporate and seek independent 501(c)(3) tax-exempt status. As a 501(c)(3) organization:

- ✓ **Your organization does not pay taxes on its income.** As a 501(c)(3), you are exempt from paying federal income tax. You still have to file a tax return – called a Form 990 – but you do not have to pay taxes on your income. The only exception to this is if your organization has certain kinds of earned income, called Unrelated Business Income.
- ✓ **Individual contributors can receive tax deductions for their donations.** Individuals who make a financial contribution to your organization can deduct the contribution on their tax return.

Keep In Mind...

Remember that individuals can only deduct the amount of their *financial contribution* to your organization. They *cannot* deduct the value of volunteer time on their tax return.

However, this “privilege” is only available to individuals who itemize their deductions on their tax return.

- ✓ **You do not have to pay sales taxes.** In most states, as a 501(c)(3), you can also apply for state sales tax exemption. However, you must apply for this tax exemption in your state. Getting your 501(c)(3) from the IRS does not automatically qualify you for state sales tax exemption.
- ✓ **You can raise money from public and private sources.** As a 501(c)(3), you are eligible for grants from foundations and government. There are some funders--private foundations and government funders--who will consider giving a grant to an organization that is not a 501(c)(3), as long as this organization finds a fiscal sponsor that will accept the grant on its behalf.
- ✓ **You can receive discounts from businesses.** Some vendors, such as internet service providers or membership retailers outlets (such as Costco or Price Club) offer discounts to nonprofits. In addition, as a 501(c)(3), you can get lower postal rates on bulk mail.
- ✓ **The Directors have limited liability.** As a 501(c)(3), the organization’s officers and directors have *limited personal liability*. What does this mean? Nonprofit organizations can get sued – and when they do, it is the Directors who are sued – but as long as the Directors are doing their job, it’s unlikely the suit will be successful.

See Chapter 5 for more information about this model.

Fiscal Sponsorship

What is the model?

If you are not ready to become an independent, 501(c)(3) tax-exempt organization but need to be able to raise significant funds, the best option may be to become associated with a 501(c)(3) organization that serves as your fiscal sponsor. Fiscal sponsorship basically means one entity accepting and managing funds for another. A fiscal sponsor is a 501(c)(3) organization that is willing and able to provide a tax-exempt home for an unincorporated group or incorporated organization without 501(c)(3) status. In most fiscal sponsor arrangements, the sponsored organization and its staff are legally part of the sponsor’s organization, but maintain autonomy over their program(s).

There are many different models of fiscal sponsorship. Each has its own advantages and disadvantages. The model you choose may depend on whether your organization is an unincorporated association; an incorporated organization without 501(c)(3) status, or even an incorporated organization that recently received its 501(c)(3) status but doesn’t yet feel ready to manage its own funds.

There are many fiscal sponsorship arrangements. You can have a fiscal sponsor for specific grants or projects. You can have a short-term fiscal sponsor or a long-term fiscal sponsor. If you have a fiscal sponsor for a particular grant or project, then you can maintain your independence as an organization, while the fiscal sponsor takes on legal responsibility for managing the grant funds and overall program administration for that project only.

Why would you choose this model?

Why might an unincorporated association or an incorporated organization choose to enter into a fiscal sponsorship arrangement with a tax-exempt organization? A fiscal sponsorship arrangement may be just what you need if you:

- ✓ Are undertaking a very time-specific, short-term project.
- ✓ Plan to file for 501(c)(3) tax-exempt status but want to start fundraising immediately.
- ✓ Want to focus your energy on program activities rather than building and managing an organization.
- ✓ Are not sure whether or not there is enough support--from the community, from funders--to sustain your efforts long term.
- ✓ Do not yet have the maturity, visibility, credibility, or track record to raise and manage organizational resources on your own.

Depending on your goals and situation, you may want a temporary fiscal sponsor for a particular project or while you apply for tax-exemption, or, you may be looking for a permanent 501(c)(3) fiscal sponsor.

Fiscal sponsorship is a good option for groups that want to remain all volunteer but also want to raise significant funds – such as for a scholarship fund or emergency funds for community members. Fiscal sponsorship also gives new organizations time to decide whether to become independent, long-lasting nonprofits.

An Examples...

A group of Southeast Asian business owners and professionals who came to the U.S. as refugees and are now economically successful wants to establish a scholarship fund for refugees and the children of refugees. Members want to receive tax deductions for their contributions, and believe they can raise funds from local foundations. They have established a Steering Committee but have no desire to form a separate organization. However, they need a tax-exempt entity to receive and manage their funds. Long-term fiscal sponsorship by an established Southeast Asian MAA that has had 501(c)(3) tax-exempt status for many years is the perfect answer.

See Chapter 4 for more information about this model.

Mergers

Lastly, two existing organizations – whether they have their own 501(c)(3) status or not – can decide to merge. A merger, simply put, is when *two* organizations come together to become *one* organization. This can happen in two ways:

1. One organization absorbs another and the *surviving* organization assumes the assets and liabilities of the *dissolving* organization, or
2. Both organizations dissolve and create a new organization with a new name. The new organization assumes the assets and liabilities of the two dissolving organizations.

In the nonprofit world, mergers are becoming more common as community organizations seek to reduce competition for limited resources, reduce duplication of services, and find more innovative and creative ways to improve the lives of the communities they serve and represent.

There are numerous examples of ECBOs that have merged, including organizations and associations representing different clans or ethnic groups from the same country merging, as well as organizations or associations representing different ethnic groups from different countries merging. When two groups are already established 501(c)(3) organizations, the process is more complicated and there are lots of things you need to think about.

See Chapter 7 for more information about mergers.

So, Should We Start An Organization?

As you consider whether or not to start an organization – and if so, what kind of organization to start – think about the following:

- ✓ **Is there a need for a one-time only project to address a short-term need or ongoing programs and services to address long-term needs?** For example, do you want to organize annual cultural activities, or run ongoing cultural programs? Do you want to meet a short-term need such as improving relations between new refugees and neighborhood schools, or do you intend to generate ongoing programs and activities such as parent involvement in the schools and after-school services for children?

Keep in Mind ...

If your group came together to address a problem that needs to be addressed quickly but for a limited period, then going through the process of forming an organization might not make the most sense.

- ✓ **If you were to start an organization, what niche it would fill?** Is there an unmet need for the services you want to provide? What would be your nonprofit's advantage over existing nonprofit organizations? Would there be a long-term demand for your organization?

- ✓ **If you started an organization, would you be able to keep it operating?** Would the organization be able to raise needed resources to sustain its operations? What cash or non-cash resources would you require and how would you raise them? (Don't assume you can rely solely on informal donations. Virtually every nonprofit that provides ongoing services writes proposals or carries out other organized efforts to raise funds from public and/or private sources, and/or generates some type of income.)

Now ask yourself, *Is forming a new organization the most effective way to reach our goal?* Your goal should never be to start an organization – the organization should be a means to an end. The goal should be about serving your community! Starting a 501(c)(3) nonprofit organization is just one option. There are other models.