

EXECUTIVE BRIEF

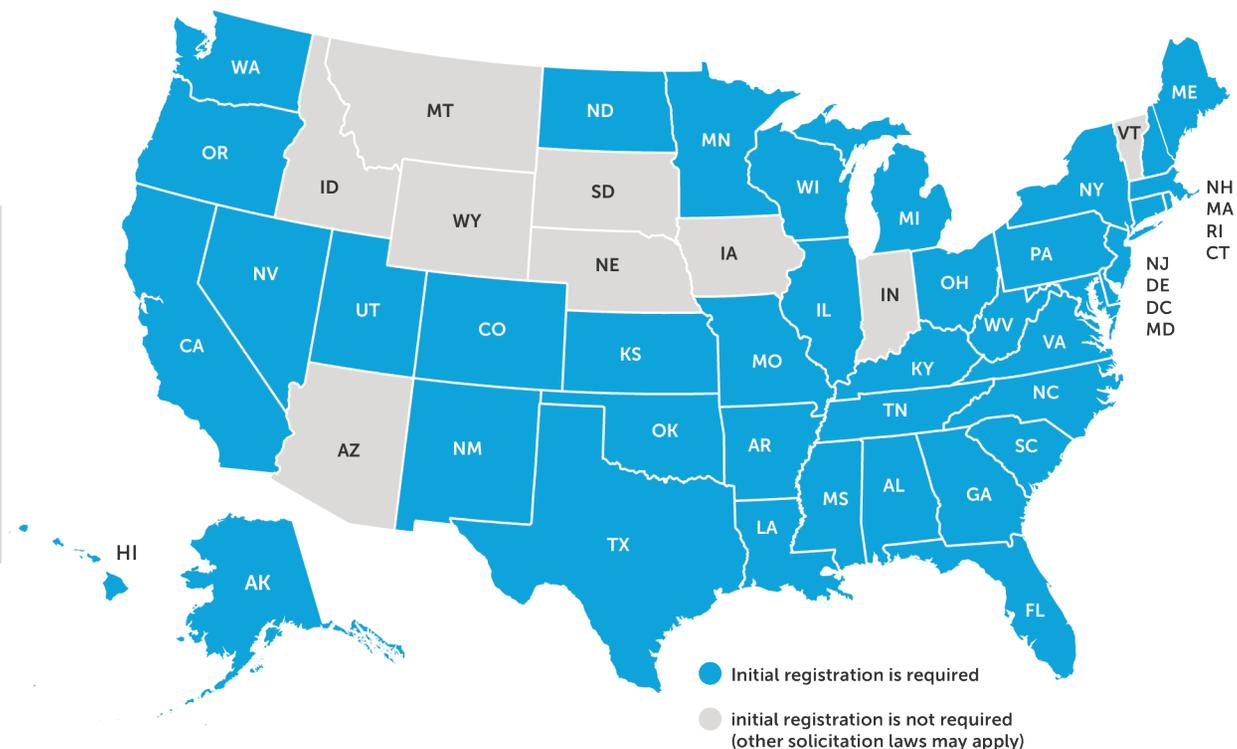
Charitable Solicitation Registration

Introduction

Nonprofits that raise funds from the public must comply with state charitable solicitation requirements.¹ State requirements vary by organization type, solicitation methods, and revenue raised. Forty-one states currently require charities to register to solicit residents of their states and twenty-four states require certain disclosures to be made at the time of soliciting. Charitable registration laws have created a maze of filing and disclosure requirements for 501(c)(3) nonprofits.

KEY FACT
41 states require charities to register to solicit donations.

As online fundraising becomes common, most charities face charitable solicitation requirements in several states, or potentially all forty-one. Consequences of noncompliance range from monetary fines to criminal and civil penalties, and even the revocation of a charity's right to solicit.² State charity officials have expanded their roles into enforcement agencies, often with auditors and prosecuting attorneys on staff. Government oversight combined with heightened donor awareness has made charitable solicitation compliance increasingly important to an organization's fundraising and operational success.



Solicitation Triggers Registration

In most states, the act of soliciting triggers registration, not the receipt of funds. Solicitation takes many forms, including mailing letters and making phone calls, sending emails, applying for grant funding, having a Donate Now button on the charity's website, and using professional solicitors or fundraising consultants. In an Internet age, charities leverage any number of these methods of solicitation to garnish public support in multiple states, or nationwide. It is the responsibility of charitable organizations to understand the requirements of a given jurisdiction prior to soliciting or accepting contributions from its residents.

Online Fundraising

Nonprofits soliciting donations online via email, social media, and Donate Now buttons face particular uncertainty. If a charity accepts donations online, where is it soliciting? Where must the charity register? The Charleston Principles are commonly-cited guidelines for charities that accept funds through their websites. Nineteen states adhere to the Charleston Principles but the remaining twenty-two states regulate online fundraising in their own way. Nonprofits often use a Donate Now button in conjunction with email, newsletters, and other means of solicitation. Given the reach of these activities, online fundraising often triggers registration requirements nationwide.

SOLICITATION CAN TAKE MANY FORMS

- ✓ Mailing letters and making phone calls
- ✓ Sending emails
- ✓ Applying for grant funding
- ✓ Placing a Donate Now button on the charity's website
- ✓ Holding fundraising events
- ✓ Using professional solicitors or fundraising consultants

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Charitable Solicitation Registration

Becoming Compliant

In most states, charities are required to register prior to soliciting.³ Organizations submit a registration application, articles of incorporation, and financial statements to the state charity official, often the Attorney General.⁴ Certain prerequisites, such as foreign qualifying the nonprofit with the Secretary of State and appointing a registered agent, must be met before being authorized to solicit. There is a now-outdated Unified Registration Statement (URS) that attempted to create a common form for registration in multiple states, but for a variety of reasons it is more prudent to use each state's own forms.

Registrations must be renewed annually in all states except the District of Columbia and Georgia, which are renewed every two years. Due dates vary by state, and are often based on the organization's fiscal year end. Penalties for late or missed registration can be costly. In many states, extensions can be filed to keep a registration in good standing without penalty. Tracking due dates and extensions is integral to avoiding late, missed, or lapsed registrations.

Risks of Noncompliance

State agencies that once served strictly as registration offices have expanded their roles to enforce charity regulations. With these powers come increased scrutiny of charities of all sizes. In order to preserve its reputation and to continue serving the public, a charity is better off becoming compliant with state requirements rather than trying to fly under the radar. Organizations that have solicited without registering, even for many years, are rarely penalized for registering proactively and in good faith.⁵ Conversely, consumer complaints and government investigations into noncompliant organizations increase the likelihood of severe penalties, including the revocation of the right to solicit. Board members concerned about their personal reputation and that of the charity should take all necessary action to avoid such scenarios.

Benefits of Compliance

Organizations that are in compliance with state registration, reporting, and disclosure requirements are perceived as more credible, and get a better rate of return on their solicitations.⁶ Donors can easily research an organization's registration status online, which can impact their willingness to give. Organizations registered in every jurisdiction in which they solicit are generally able to apply for grant funding, engage in corporate sponsorship opportunities, send appeal letters, and fundraise online without limitation. Charitable solicitation registration should be viewed by nonprofit leadership like any other compliance requirement, including timely filing of the annual IRS 990 return. Charities concerned about the administrative burden of compliance should consider a professional service company to manage their compliance and navigate the ever-changing requirements.

Moving Forward

Organizations should approach compliance proactively and within their budgetary capacity, ideally by registering in as many states as possible and excluding the rest from their solicitation activities.

REGISTRATION COSTS

In many states,
the fee is under

\$50

Total state fees for initial
registration range from

\$1,400 - \$5,000

BENEFITS OF REGISTERING

Charities that register proactively
are not generally penalized for past noncompliance

Charities that have registered
are perceived as more credible and get a better
rate of return on solicitations

How We Can Help

Harbor Compliance® partners with organizations in every state and over 25 countries abroad to help solve their most challenging compliance problems. Our full-service approach significantly reduces the burden of charitable solicitation registration. We collect all necessary information from your IRS 990 return and a single, concise questionnaire. We research your current registration statuses, prepare and mail your applications, remit state fee payments on your behalf, and track the approval process. Signatures and current information is all that we require; our experienced staff takes care of the rest.

Our proprietary software provides insightful reporting and allows you to view the renewal dates and state fees. Combined with our flat-fee structure, your organization can easily budget for compliance each year.

Contact an account manager to learn more.

 **CALL US**
888-995-5895

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SOURCES

- Charitable Solicitation - State Requirements (n.d.). Retrieved September 05, 2016, from <https://www.irs.gov/charities-non-profits/charitable-organizations/charitable-solicitation-state-requirements>
- Charitable Registration and Investigation Section Law. (2013, February 21). Retrieved September 05, 2016, from <http://www.njconsumeraffairs.gov/Statutes/Charitable-Registration-and-Investigation-Act.pdf#page=21>
- Charitable Solicitation Registration (n.d.). Retrieved September 10, 2016, from <https://www.councilofnonprofits.org/tools-resources/charitable-solicitation-registration>
- U.S. Charity Offices (2015, June 10) Retrieved September 10, 2016, from <http://www.nasconet.org/documents/u-s-charity-offices/>
- Emerson, C. (2012, March 10). Understanding PA Charitable Solicitation Statute. Retrieved September 05, 2016, from http://www.lcfa.com/clientuploads/Resource_Center/Reports/Charitable_Organizations_Report.pdf
- Ibid

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