

**Statement and Recommendations to the**  
**Red Tape Review Commission**

The Honorable Kim Guadagno, Chairperson

The Honorable Brian P. Stack  
The Honorable Steven V. Oroho  
The Honorable John J. Burzichelli  
The Honorable Scott T. Rumana

The Honorable Brian D. Levine  
Edward B. Deutsch  
John Galandak  
Tony Monteiro

**Presented July 19, 2011**

**Endorsed by:**

Center for Non-Profits  
Hyacinth AIDS Foundation  
New Jersey After 3  
New Jersey Alliance for Children, Youth and Families  
New Jersey Association of Community Providers, Inc.  
New Jersey Association of Mental Health and Addiction Agencies, Inc.  
New Jersey Prevention Network  
New Jersey State Association of Jewish Federations  
Pro Bono Partnership

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## EXECUTIVE SUMMARY

The recommendations in this paper have been formally endorsed by the organizations whose names appear on the cover, and are the result of extensive discussions among a working group of non-profit organizations in the state, as well as outreach and feedback from the broader community of non-profits and service providers. We thank the Governor, the Lieutenant Governor, and the members and staff of the Red Tape Review Commission for the opportunity to present our comments and recommendations, and for focusing on non-profit and social concerns as part of the Commission's work.

Non-profit organizations and service providers are a vital part of New Jersey's economic and social fabric.

- New Jersey is home to **over 31,000 charitable organizations**, which collectively **employ over 288,000 workers** – about 7% of the state's work force – and **spend more than \$33 billion each year** combined, making them a powerful contributor to our state's economy.
- New Jersey non-profits employ more people than many major industries – **more than the construction, transportation and public utilities, and more than finance and insurance combined** – providing jobs to individual taxpayers and pumping payroll taxes back into government coffers.
- Non-profits and service providers **save taxpayers untold dollars** by providing vital activities that make our state a better place to live and work.

Non-profits, service providers and government share the common goal of improving the quality of life in our communities, state and nation. The non-profit and provider community has a long tradition of working in partnership with government to identify and address public needs, and government is relying increasingly on non-profits to deliver vital programs and services. This relationship depends upon the ability of both partners to exchange information, ideas and recommendations freely.

We believe that both short- and long-term changes could be made that would improve our partnership with government, help to ensure the efficient provision of high quality programs and foster a climate of creativity, independence and innovation to enable non-profits and service providers to continue to serve the public good.

### Summary of Major Recommendations

#### PART I – CREATE A CLIMATE FOR IMPROVED COMMUNICATION AND POLICYMAKING

- Create an **advisory panel**, comprised of non-profit leaders and other experts to regularly review and make recommendations regarding the development, revision, streamlining and coordination of policies for non-profits and providers.
- Establish a mandatory system of **information-sharing and coordination** within government **across departments and divisions**, in partnership with and reflecting strong input from regulated and contract entities, grantees and other outside experts, in order to reduce conflict and duplication in the development and implementation of policies and procedures.

## PART 2 – BOOST EFFICIENCIES AND QUALITY THROUGH IMPROVED CONTRACTING

- **Create a centralized contracting unit** to cut down on redundancies and duplicative monitoring and reporting. Within this unit, also create a centralized vendor database (“document vault”) for non-profit and provider contracting purposes that would allow one-time filing – or reductions in duplicative filing – of basic information.
- **Establish a contracting boilerplate** for certain information that would be applicable across departments and divisions to save time and duplication in submitting repetitive organizational information.
- Establish a grant and contracting culture and practices that ***focus primarily on outcomes, quality of service and community impact, and sufficiently fund the services to be provided***, while allowing organizations to retain flexibility and autonomy regarding their internal operations.
- **Conduct an outside efficiency review of the purchasing process**, including review and establishment or revision of timelines for contract execution, modifications, documentation review and approval.
- **Establish a mandatory prompt contracting process** to cut down on delays in executing paperwork needed to process payment. **Review and revise the current prompt payment requirements** to prevent cash flow problems and ensure continuity of service.
- **Apply the “common sense” provisions of Governor Christie’s Executive Order # 2 (2010) to state department contracting policies/manuals and similar non-regulatory procedures**, to provide opportunities for entities and other experts to provide advanced input into contract policies on regulatory proposals during the development stage
- **Consolidate licensing, inspections, monitoring and auditing requirements** to minimize duplication and provide for more reciprocity.
- **Implement “deemed status”** to recognize the national or international accreditations of non-profits and providers in order to streamline repetitious state monitoring, licensing and auditing practices. Provide greater options for multi-year contracting to accredited organizations.
- **Reform the registry and background checking/fingerprinting systems**, to remove needlessly duplicative checks and fees while ensuring ready access to a single, consolidated up-to-date database so that potential problems can be uncovered quickly. Provide a complete listing, in layperson’s terms, of the organizations/circumstances in which background checks are required or available.
- **Reward efficiencies** by allowing organizations to reinvest in contracted programs or to retain modest reserves for unanticipated program-related needs.

## PART 3 – REMOVE OBSTACLES TO RESPONSIBLE FUND RAISING

- Recognizing the need for a strong regulatory system that provides for transparency and safeguards donors, charities and the public, ***regulations should be avoided that would excessively and unnecessarily limit non-profits’ ability to raise unrestricted funds.***
- **Establish an electronic filing system** for charities registration and financial reports.

- **Update and reform Legalized Games of Chance** (bingo and raffles) regulations to eliminate antiquated and duplicative licensing and reporting requirements. These include greater acceptance of scans and copies; streamlined licensing for organizations that conduct multiple events or events in different localities; electronic filing for registration and reporting; and clearer guidance regarding rules and procedures for regulated entities.

#### PART 4 - FACILITATE COMPLIANCE WITH CORPORATE FILING AND OTHER REQUIREMENTS

- **Ease compliance with online non-profit** incorporation and **corporate filing requirements** under the Division of Revenue by providing easier access to non-profit-specific reporting areas, and clearer assistance for organizations seeking federal tax exemption from the IRS.
- Require each department to provide **readily locatable online access to current laws, current and pending regulations, and similar online compliance information**, and require departments to provide **plain language versions** to facilitate understanding and compliance. Provide links to this information through the Department of State's to-be-established Web portal for non-profits.

#### PART 5 – ENCOURAGE INNOVATION AND INVESTMENT IN TECHNOLOGY AND BEST PRACTICES

- Actively embrace and pursue the utilization of **up-to-date technologies** to facilitate compliance, filing of reports, contract requirements and boost overall efficiency and effectiveness.
- **Abandon requirements for handwritten or faxed documents** in favor of secure electronic versions.
- Explore ways to **improve opportunities to access affordable health and other forms of insurance** for organizations and their employees through small employer purchasing alliances and other means. Explore ways to foster **increased access to cooperative purchasing of energy** and other items.
- **Invest in the capacity and health of New Jersey's non-profit and provider community by establishing a "Management Assistance Fund"** to enable organizations to access funds for technical assistance and other infrastructure support.

The full report begins on the next page. We stand ready to work with the Commission to create a stronger climate for New Jersey's non-profits, provider organizations and government to work collaboratively in service to the people of our state.

## Recommendations to the Red Tape Review Commission

The recommendations in this paper have been formally endorsed by the organizations whose names appear on the cover, and are the result of extensive discussions among a working group of non-profit organizations in the state, as well as outreach and feedback from the broader community of non-profits and service providers.

We thank the Governor, the Lieutenant Governor, and the members and staff of the Red Tape Review Commission for the opportunity to present our comments and recommendations, and for focusing on non-profit and social concerns as part of the Commission's work.

### Background

Non-profit organizations and service providers are a vital part of New Jersey's economic and social fabric.

- New Jersey is home to **over 31,000 charitable organizations**, which collectively **employ over 288,000 workers** – about 7% of the state's work force – and hold combined assets of over \$67 billion.
- New Jersey public charities **spend more than \$33 billion each year** combined, making them a powerful contributor to our state's economy.
- Non-profits also leverage the time and talents of **more than 1.5 million volunteers** who contribute **services worth an estimated \$3.4 billion annually**.
- New Jersey non-profits **employ more people than the construction, transportation or public utilities industries, and more than finance and insurance combined** – providing jobs to individual taxpayers and pumping payroll taxes into government coffers.
- Non-profits **save taxpayers untold dollars** by preventing and curing disease, educating and nurturing children, providing affordable housing, feeding the hungry, providing employment and skills training, and protecting the environment. They purchase goods and services from businesses, and they attract residential and tourism dollars through artistic, cultural, historic preservation, economic development and other activities that make our communities better places to live, work and visit. Government relies heavily on non-profits and other service providers to do things that it can't or won't do on its own.

In short, **non-profits and service providers are an integral part of what makes New Jersey more affordable, more vibrant, and more livable.**

Unfortunately, non-profits and service providers are struggling under the weight of the economy, rising demand for services and shrinking funding. According to a March 2011 survey conducted by the Center for Non-Profits:

- Nearly three-quarters (73%) of responding organizations reported that demand for services had increased during the past year, and 72% expected demand to continue to rise in 2011.
- Thirty-four percent reported that total funding had declined in 2010, and 36% reported that expenses exceeded support and revenue during the most recently completed fiscal year.
- Forty-three percent of respondents reported that they had already frozen or cut salaries by the time the survey was taken, 36% had cut staff, 27% had implemented some reduction of staff hours, and 23% had reduced employee benefits.
- Despite these cost-cutting measures, 65% expected their total expenses to increase in 2011, but only 38% expected total 2011 funding to increase. By contrast, 25% anticipated a decrease in their total funding, while 31% expected flat funding in the coming year.

## The Red Tape Climate

Non-profits, service providers and government share the common goal of improving the quality of life in our communities, state and nation. The non-profit and provider community has a long tradition of working in partnership with government to identify and address public needs, and government is relying increasingly on non-profits to deliver vital programs and services. This relationship depends upon the ability of both partners to exchange information, ideas and recommendations freely.

When policies are enacted on a piecemeal basis or without sufficient input, or when government grants or service contracts cross inappropriately into micromanagement, the result is inefficiency, ineffective or counterproductive policies, and wasted resources for non-profits, providers, the state and broader communities alike. The situation has consequences that extend far beyond contracting entities to organizations, funders and communities statewide.

Non-profit and provider organizations continue to work to advocate for a restructuring and reforming of the state regulatory system to avoid overlapping and duplicative requirements; to achieve regulatory relief from unfunded mandates; to reduce regulatory barriers; to decrease excessive and unnecessary administration and oversight; to minimize and end unwarranted penalization; to increase coordination among the various divisions and departments of government; to encourage outcomes based on achievable goals; and to generate greater awareness and responsiveness to organizational operations and fiscal realities so that they can best meet the needs of those they serve.

We believe that both short- and long-term changes could be made that would improve our partnership with government, help to ensure the efficient provision of high quality programs and foster a climate of creativity and innovation for the public good.

Progress has already been made in several important legislative and regulatory areas, including:

- The raising of the mandatory audit threshold for charities under the Charitable Registration and Investigation Act;
- The enactment of legislation to create a web portal through the Department of State to allow non-profits to more easily access funding, compliance, volunteer and other information;
- Pending legislation (A-3158/S2379) that would establish a task force on Coordination Among Social Service organizations, will allow further exploration of ways to improve collaboration among social service organizations and with government;
- Pending legislation (S-2331) would direct the Departments of Human Services and Children and Families, to the extent practicable, to standardize contracting and licensing requirements, reporting procedures and auditing schedules for provider agencies, is nearing final passage in the Legislature;
- Productive discussions in the Department of Children and Families and the Department of Human Services regarding allowing “deemed status” for provider organizations that are certified by certain national or international accrediting bodies.

These items are important steps in the right direction, but clearly, there is much more that can be done. Our group has collected numerous examples of where regulations, policies, and in some cases, statutes, could be changed in order to reduce needless duplication and improve efficiency and effectiveness.

## Guiding Principles

We respectfully offer the following guiding principles as a basis for our recommendations:

- Government, non-profits and service providers are partners in providing essential programs and services that strengthen New Jersey's economy and quality of life. Our recommendations recognize that all are staffed by dedicated people working hard in furtherance of the public good. Our recommendations are in no way intended to diminish the value of the work of any these talented individuals.
- We recognize that the state is facing protracted and unprecedented economic challenges. In this environment, ensuring that New Jerseyans are served in the most efficient and effective manner will require all parties to work collaboratively and explore creative solutions in an open-minded, mutually respectful manner.
- Recognizing that there are many necessary differences among the various programs that departments oversee and non-profits and service providers implement, there are nonetheless many instance in which standardization of formats and submission mechanisms of basic information would help organizations to leverage scarce resources to maximum effect.
- Laws, regulations and policies should strike an appropriate balance to ensure accountability, transparency and protection without needlessly overburdening organizations.
- Information regarding existing and pending laws, regulations and policies should be current, easy to find, and accessible both in full text and in plain language format that is easier for the layperson to understand.
- We believe that streamlining a variety of regulations and government procedures would promote innovation and flexibility, further improving efficiency and effectiveness for organizations and the State alike. We believe that organizations should be encouraged to remain creative and innovative in their approaches to service delivery and administration.
- Regular communication and joint problem-solving among public/private partners are key to fostering quality, accountability, transparency, innovation and creativity in the effective provision of programs and services.
- We believe that there are many short-term solutions that would bring immediate relief to our organizations and increased efficiencies to the state. However, we also believe it is important to invest in the exploration and development of long-term solutions and new ways of providing effective programming.

Improving the public/private partnership and reducing needless red tape for non-profits and service providers will enhance the quality, effectiveness, efficiency and accountability of our programs and services for the people in our communities.

## PART I – CREATE A CLIMATE FOR IMPROVED COMMUNICATION AND POLICYMAKING

*Rules and regulations that affect non-profits and service providers are scattered across numerous departments, divisions and agencies, and are often enacted piecemeal or in isolation. We believe that policymaking and program delivery would be significantly enhanced with better coordination and more opportunities the communication, and the exchange of ideas across all interested parties.*

### Recommendations

- Create an **advisory panel**, comprised of non-profit leaders and other experts to regularly review and make recommendations regarding the development, revision, streamlining and coordination of policies for non-profits and providers, in order to reduce duplication and inconsistency, foster comprehensive cooperative solutions across departments and disciplines, and achieve better outcomes in addressing community challenges.
- Establish a mandatory system of **information-sharing and coordination** within government **across departments and divisions**, in partnership with and reflecting strong input from regulated and contract entities, grantees and other outside experts, in order to reduce conflict and duplication in the development and implementation of policies and procedures. Benefits of such a system could include the identification of emerging trends; greater reciprocity between departments and agencies; and the development of new, creative solutions to community needs.

## PART 2 – BOOST EFFICIENCIES AND QUALITY THROUGH IMPROVED CONTRACTING

*The State of New Jersey relies on non-profit organizations and community service providers to fulfill a broad array of essential health, social service, educational, artistic, cultural, vocational and other needs for our state's residents. Generally speaking, we believe that the relationship works best on both sides when the focus is on the big picture:*

- *What are the outcomes that we seek to achieve?*
- *What service or program is being paid for?*
- *Are the agreed-upon services being provided safely and in a high-quality fashion, and are they having an impact?*

But in New Jersey and throughout the country, the contracting system is fraught with problems that have widespread significant social and economic implications across sectors. A national study of human service organizations released last October, in which New Jersey organizations participated, highlighted problems with the contracting system, including the following:

- 1) **Contracts that don't cover the full costs of providing services** –The problem can take the form of match requirements – some as high as 50%; limits on reimbursable overhead or indirect costs under the contract; limits on allowable overhead costs for the organization overall.
- 2) **Complex or time consuming reporting requirements** that drive up costs and divert scarce resources.

- 3) **Complex or time consuming application requirements/procedures** that increase costs and discourage some worthy organizations from applying altogether.
- 4) **Late payments to providers**, and delays in processing contract paperwork, wreaking havoc on non-profit cash flows and credit ratings.
- 5) **Governments that change the terms of the contract in mid-stream**, such as imposing additional program requirements or expectations without providing additional resources.

In addition, organizations are struggling under the burdens of **duplicative or contradictory** government **monitoring and auditing** procedures and compliance requirements, as well as **outdated, incompatible or nonexistent technologies** that encourage inefficiency and siphon scarce resources away from mission and program.

To get an idea of how these problems play out in real life, consider the following examples:

- One organization reported spending over \$2,000 in copying costs alone to submit its contract application package because the State would not accept the materials electronically.
- Another reported that its proposal package comprised 30 binders of information, again because electronic submissions were not an option.
- A multipurpose organization providing mental health and substance abuse services in Bergen and Essex Counties reported that its staff spent a total of **108 days** on government monitoring and auditing visits in 2010.
- A local Boys and Girls Club reports that its child care facilities are regularly subject to repetitive, duplicative inspections by both municipal and state officials, when one would presumably be sufficient.
- A non-profit providing academic summer schools for Newark children had to spend over \$1,500 in copying and countless staff hours verifying the income eligibility of each of the 2,500 children in the program, because a waiver of this verification which had been in place for prior years was rescinded by the State. The data from each of the 2,500 income verification applications had to be transferred by hand onto state-prescribed master forms, which are not available electronically. After this diversion of dollars and time – which the director also believes discouraged parents from enrolling their children in the program – only 6 children out of 2,500 were found to have been ineligible, resulting in a recovery of only \$30 for the state.
- Under the current system, providers are punished for exercising efficiencies, since unspent year-end funds have to be returned to the State rather than re-invested in the contracted program or held in reserve for unanticipated program-related expenses. One organization reported that it just received a notification from the Department of Treasury requesting the return of \$25,000 that Treasury claimed had been underspent – in 2003.
- Many organizations, and especially those that serve children, people with disabilities, the elderly or other vulnerable populations, conduct some form of background checking or screening of potential employees or volunteers. Some of these checks are required by law, while others are conducted voluntarily. Criminal history and other background checks can cost the State or the service organization from \$70.25 to several hundred dollars. While providing adequate screening is clearly essential, the current system generally does not permit one background and/or fingerprint check to satisfy the requirements of multiple government agencies. Instead, employees or volunteers frequently have to conduct duplicate

checks and fingerprinting to satisfy the requirements of each separate government agency with which the organization does business, needlessly driving up costs.

- Many required reports are required to be submitted on paper and either mailed or faxed to the government agency that provides the contracts. Some members report that available technologies that they might use to track levels of service, finances or other matters more efficiently are not deemed to be acceptable by the State.
- One state agency recently issued a notice to remind provider agencies that they are required to have an emergency evacuation plan in place as a condition of licensing. While no one would dispute the necessity of such a plan, organizations that are certified by the major national accrediting bodies will have already have provided such plans as part of their accreditation process.
- Several state departments use the SAGE (System for Administering Grants Electronically) for at least some grant/contract monitoring and reporting functions. The appeal of a common program for such administration is readily apparent; unfortunately, there is no connection or continuity between the programs, meaning that if the provider organization contracts with two separate departments that both use SAGE, it must re-enter the same information into two “separate” systems, drastically reducing any efficiencies that could be gained through the use of this technology.
- One group of organizations reported that a new mandatory fiscal reporting system has significantly increased the compliance and administrative expenses for the substance abuse prevention organizations that contract with the state. The Contract Inventory Management System (CIMS) now requires the organizations to input such an extensive level of details and re-entry for even minor modifications that it has more than doubled the administrative time to support these grants. One organization reported that a renewal application that took 12 hours to complete last year without CIMS took 56 hours this year, effectively rendering its fiscal officer unavailable for other work or applications for an entire week. Although efforts are underway to improve the situation, a standardized reporting system would clearly be preferable.

## Recommendations

### Reducing inefficiency

- **Create a centralized contracting unit to cut down on redundancies and duplicative monitoring and reporting. Within this unit, also create a centralized vendor database (“document vault”) for non-profit and provider contracting purposes** that would allow one-time filing – or reductions in duplicative filing – of basic information, such as address, tax ID numbers, CEO and members of boards of directors, IRS determination letters, registration numbers, good standing certificates, corporate annual reports, Form 990 information returns and other standardized information. The current lack of electronic filing or a centralized information system means that organizations waste time, paper and expense, often to provide the same basic information over and over.
- **Establish a contracting boilerplate** for certain information that would be applicable across departments and divisions to save time and duplication in submitting repetitive organizational information.

- As a matter of good practice:
  - **Purchase of service contracts should fully cover the actual cost** of services to be provided, including reasonable levels for indirect costs that are standardized across departments.
  - **Contracts and grants should focus primarily on the outcomes, quality of service and community impact**, while allowing organizations to retain flexibility and autonomy regarding their internal operations.
  - **Organizations should be allowed to invest in continuing quality improvement**, via staff development, investment in appropriate technology/infrastructure, and other program-relevant means.
  - **The grant and contracting process should avoid excessive focus on administrative details** or information that duplicates what organizations already provide to satisfy existing legal, compliance or grant requirements and which are tangential to the performance of the contract.
- **Conduct an outside efficiency review of the purchasing process**, including review and establishment or revision of timelines for contract execution, modifications, documentation review and approval.
- **Establish a mandatory prompt contracting process** to cut down on delays in executing paperwork needed to process payment.
- **Review and revise the current prompt payment requirements** to prevent cash flow problems and ensure continuity of service.
- **Review county and local purchasing processes and procedures** in order to reduce duplication and needless bureaucracy in funding, contracting and purchasing practices, and ensure prompt processing of grant and contract paperwork and payments.

#### Encouraging Communications and Transparency

- **Apply the “common sense” provisions of Governor Christie’s Executive Order # 2 (2010) to state department contracting policies/manuals and similar non-regulatory procedures.** In providing for opportunities for regulated entities and other experts to provide advanced input on regulatory proposals during the development stage, Governor Christie’s Executive Order #2 is a tremendous step forward in improving communications, transparency and sound policy development by government agencies working in partnership with private entities and the public. It is natural, then, to request that these common-sense principles be extended to state government contracting policies, which effectively carry the some weight of regulations but which are often enacted piecemeal and often without meaningful opportunities for input by the organizations and providers that have to abide by them in order to remain eligible for these contracts. We believe that the increased opportunities for input at the early stages will result in a more efficient, effective contracting partnership and better quality programs and services for the people of New Jersey.

## Reducing Needless Duplication of Effort

- **Accept the report/findings of an independent, single audit rather than the current, common practice of multiple, duplicative audits being performed by separate governmental units.**

Audits are a crucial accountability tool to analyze the financial health of an organization, strengthen financial systems and safeguard against fraud. For those non-profits receiving more than \$500,000 in federal funds (including those passed through the State), the federal Single Audit Act requires an annual audit conducted in conformance with especially rigorous accounting standards and compliance with various state and federal recordkeeping, reporting and legal requirements, pursuant to the requirements of OMB Circular A-133. The Single Audit Act prevents non-profits from having to contract out for multiple audits to satisfy the terms of different government contractors. However, it does NOT prevent different government agencies from conducting *their own* separate audits with their own personnel/firms, and too often, that's exactly what happens. Audits are time-consuming and expensive, and multiple duplicative audits needlessly sap scarce resources from both non-profits and government. Requiring some form of "reciprocal audit acceptance" among government agencies would reduce costs and improve efficiency.

- **Consolidate program inspections and site visits.**

Community programs are frequently stymied by the fact that they must adhere to multiple licensing authorities, program and contract compliance visits and standards, across numerous departments, divisions, and levels of government, with no coordination among them. Such visits can easily eat into days and weeks of staff time, and often occur in consecutive fashion from one department or division to the next. By synchronizing state site visits or replacing multiple visits with a single visit similar to OMB A-133 audits, lengthy and often-unnecessary site reviews that redirect staff time away from direct care services to prepare for site visits would be eliminated while the government's interests in oversight are achieved. Limited government resources would also be freed up for other uses.

- **Recognize the rigorous accreditations by national entities** of provider organizations ("deemed status") in order to streamline repetitious state monitoring practices and eliminate redundant program reviews, licensing reviews, monitoring visits and audits. Although some departments provide deemed status in certain circumstances, many do not; and the procedures in the current process need to be streamlined and standards applied more universally.
- **Provide greater options for multi-year contracting** to accredited organizations and proven high-performers.
- **Revise duplicative and conflicting statutes to eliminate the need for repeated fingerprinting** of the same staff to satisfy the contractual requirements of multiple state agencies.
- **Develop a consolidated system to facilitate state and national level background checking of employees/volunteers across departments/agencies** that would incorporate the various separate registries that have been established pursuant to statutory requirements. Under such a system, a prospective employee/volunteer would only need to submit to the time and expense of a single check, and an organization would have "one-stop" access to the broader

array of background records so that potential criminal history problems could be discovered more quickly and less expensively.

- **Direct the State Police to maintain a web page, accessible through the to-be-developed Department of State web portal, to provide a current and complete listing of the constantly growing number of laws that require or permit criminal background checks** and, with respect to each such law, a summary of what organizations are covered by the law, which offenses (in layperson's terminology as opposed to citations to NJSA section numbers) are automatic disqualifiers, which offenses are discretionary disqualifiers, and which organization (i.e., a governing agency or the nonprofit employer) makes the determination that a worker is disqualified.
- **Consolidate contract reform task forces across divisions/departments.**  
Over the years, many departments and divisions have convened contract reform workgroups with provider organizations. The recommendations and reports of these workgroups are often not utilized in a meaningful way or are instead used as a means of justifying predetermined contracting changes. Many aspects of contract reform/streamlining are broadly applicable across types of organizations, services and departments/divisions. Elevating and consolidating the various task forces and efforts to improve the contracting process would reduce fragmentation, minimize duplication and increase the effectiveness of such efforts.

#### Reward Operational Efficiencies

- **Allow organizations to channel savings or efficiencies into the establishment of reserves or capital funds** to be carried over to the next contract year to further the purposes of the contract or to be used for unanticipated program-related expenses (higher-than anticipated snow removal at facilities, etc.).
- **Provide for more multi-year contracting** for proven high-performers.
- **Transfer certain capital assets to the provider community**  
The State should enable providers to gradually take ownership of capital assets over extended periods of time, thereby reducing the cost of borrowing for capital improvements and reinforcing organizations' financial stability, without requiring further state expenditure.

## **PART 3 – REMOVE OBSTACLES TO RESPONSIBLE FUND RAISING**

*Nonprofits rely on the donations of generous individuals in New Jersey and nationwide in order to be able to do their work. For many organizations, fundraising is more challenging than ever in the current economy, in which funding from most major sources – individuals, corporations, foundations and government – has decreased markedly compared with pre-recession levels.*

*Donors, the public and responsible organizations alike need a regulatory system that is fair, addresses abuses vigorously, and safeguards against fraud without needlessly hampering the ability of charities to raise funds.*

The New Jersey Division of Consumer Affairs has a dedicated, talented staff with whom we have worked cooperatively for many years to pursue this balance. For example, we were thrilled when the

Division earlier this year raised the mandatory audit threshold for Charities Registration filings – a change which could save thousands of dollars for each covered organization and millions overall.

Still, we believe that there are additional areas of simplification that would benefit everyone.

### **Charitable solicitation, registration and reporting:**

#### **Recommendations**

- As a general principle, the state should **avoid regulations that would excessively and unnecessarily limit non-profits' ability to raise unrestricted funds.** These include proposals such Division of Consumer Affairs Pre-Proposal #2011-001, currently under consideration, which would impose onerous point-of-solicitation requirements and mandate the printing of detailed pledge cards or donor designation mechanisms.
- We also encourage the Division of Consumer Affairs to work to **establish technologies that would establish an electronic filing option for charitable registrations,** reports and supporting documents.

**Legalized Games of Chance:** The current state regulations for raffle licenses have become burdensome to charities and limit opportunities to raise dollars that are needed to service our communities. This is true not only for organizations like the American Cancer Society that are organized on a statewide basis, but also for small organizations that rely on raffles and games of chance to stretch scarce resources. Organizations that conduct raffles or games of chance are subject to a myriad of confusing, outdated and inconsistent rules of compliance, and a dual (state and municipal) registration/licensing requirement that is at once duplicative, expensive and often inconsistent.

The current framework requires both a state-level registration and local-level licensing; limits on dollar values of door prizes and the like that are decades old; requirements for the provision of original documents rather than secure electronic copies; and unclear eligibility standards that may be applied inconsistently and that may exclude organizations from participating.

We know of at least one organization that, after having run an annual raffle for nearly a decade, was deemed in 2009 to be ineligible for a license, and ended up having to cease operations because this important source of revenue was no longer available. Just this past month, a new non-profit was told by a local jurisdiction that it could not conduct raffles until it is in existence for one year, despite the fact that the one-year requirement was eliminated many years ago.

These comments are no reflection on those individuals at the Legalized Games of Chance Control Commission who have made efforts to educate and guide the process. In fact, ongoing conversations by members of our working group with those at the Commission suggest that they too believe that some of the current regulations that were put in place to protect charities are having the opposite impact.

The New Jersey Law Review Commission has, in prior years, recommended a series of changes to streamline and update the laws pertaining to charitable gaming. These recommendations can be explored along with the suggestions that appear below.

## Recommendations

- **Eliminate Legalized Game of Chance requirement that the original raffle license registration certificate, rather than photocopy or electronic scan,** be presented to the appropriate governing body in order to expedite local permits.
- **Frequency and location of games** (N.J.A.C. 13.47-6.11)
  - Replace the limit of one off-premise 50/50 cash raffle per month to one 50/50 cash raffle per county per month.
  - Eliminate current limit of six per week for the maximum number of on premises draw raffles as long as no prize exceeds \$100.00.
- **Door Prizes** – increase the value of door prize where no license is required from \$50.00 to \$100.00.
- **Limit the restrictions for on premise raffles,** particularly when they involve prizes of retail value under \$100.00.
- **Extend the time for the report of raffle** operations from the 15<sup>th</sup> day following the month of the raffle to 60 days.
- Include with the license/approval **a letter that indicates the duration of time** that non-profits need to keep sold and unsold raffle tickets.
- **Provide guidelines** for promotion/payment of raffles utilizing **on-line fundraising tools.**
- **Establish a system for electronic registration and reporting** by regulated entities.
- **Modify the licensing framework** so that organizations that conduct multiple events can hold a single license which would be valid for a specified number of events.
- **Direct the Division of Consumer Affairs to issue online guidebooks, in laypersons' terms,** to help the non-profit community navigate the requirements of the various charities registration and games-of-chance laws and regulations and the permitting/licensing processes.

## Multi-State Charitable Solicitation:

### Recommendation

- **Provide leadership on the national level to encourage more consistency in registration and reporting requirements among the states.**

Charities that raise funds in multiple states are faced with a daunting array of registration and reporting requirements between the states, with little consistency in terms of application and enforcement. Some 37 states have some sort of charitable registration requirement, each with their own fees and reporting mechanisms. There exists a voluntary “unified registration statement,” but states are not bound to accept it; many supplement this statement with additional submission requirements, and of course each has its own fee structure, which can quickly amount to thousands of dollars. Especially with the increase in electronic/online activity, there is a great need for clearer guidance and a more consistent, streamlined registration system across the states. New Jersey could provide significant leadership in pursuing such a system.

## PART 4 - FACILITATE COMPLIANCE WITH CORPORATE FILING AND OTHER REQUIREMENTS

*For many organizations, a significant amount of red tape could be cut simply by making essential information easier to find and understand, and by providing names/links to outside resources that can provide additional guidance and assistance.*

- **Ease compliance with online non-profit corporate filing requirements** under the Division of Revenue by providing easier access to non-profit-specific reporting areas (incorporation, annual report filings, registered agent and the like).
- **Provide specific online guidance and sample certificate of incorporation (COI) language/templates** for newly forming non-profit organizations that intend to seek federal tax exemption with the IRS. Many non-profits that incorporate with the State of New Jersey plan to also seek federal tax exemption under Section 501(c)(3). Because the IRS requires certain extra language in COIs that the state does not, countless organizations end up needing to file restated or amended certificates if they are not aware of this requirement ahead of time. The state could help these organizations save time and money by providing easy access to the IRS model language (which is already readily available) that would meet this requirement.
- **Revise coding on the incorporation and annual report filing** sections to accommodate more information and longer text fields.
- **Require each department to provide readily locatable online access to current laws, current and pending regulations, and similar online compliance information** relevant to that department, as well as plain-language summaries of the major points for each, (including explaining who is covered, what conduct is regulated, any licensing requirements, and the process for obtaining a license), and make this information readily accessible through the to-be-developed Web portal at the Department of State. One example of a site that makes a complicated topic fairly easy to navigate and understand is the **Department of Banking & Insurance's Small Employer Health Benefits Program** web site at [www.state.nj.us/dobi/division\\_insurance/ihcseh/sehguide/index.html](http://www.state.nj.us/dobi/division_insurance/ihcseh/sehguide/index.html).
- **Establish a New Jersey equivalent of the federal "Plain Writing Act of 2010,"** which directs government agencies to generate "plain language" documents to help the public obtain and learn about government benefits and services, as well as to comply with government requirements.
- **Have agencies that administer overlapping laws issue joint, online guidance documents** that will help organizations navigate the confusing and seemingly conflicting obligations of the laws (e.g., the overlap of the New Jersey Family Leave Act and the New Jersey Law Against Discrimination, which are administered by the Division on Civil Rights, and the New Jersey family leave insurance, temporary disability insurance and workers' comp laws, which are administered by the Department of Labor & Workforce Development.)
- **Prescribe a specific window of time by which departments are required to update their online information to reflect changes in laws, regulations and procedures.** Recognizing that there may be a reasonable time lag between the passage of a law/adoption of a rule and the ability to post a substantive summary, a shorter period of time can be used for the government entity to post a notice to make users aware that an update has been enacted and more detailed information forthcoming.

- **Designate a specific individual or individuals within departments to whom corrections to posted information can be submitted.** When errors are detected, it would help to have a specifically designated point of contact so that they can be reported and the information can be promptly corrected.
- **Provide a listing of technical assistance organization that provide low-cost or free services to non-profits,** on the to-be-developed Web portal at the Department of State.

## PART 5 – ENCOURAGE INNOVATION AND INVESTMENT IN TECHNOLOGY AND BEST PRACTICES

*An up-front investment in best practices, technology and innovation can yield dividends in terms of creative solutions, a more efficient partnership with government, better community outcomes and stronger organizations better positioned to serve the public good.*

### Recommendations

- As an immediate first step, **allow reasonable uses of technology** to facilitate more efficient documentation, reporting and compliance, including alternative software platforms that satisfy reporting requirements.
- **Abandon requirement of faxed or handwritten reporting** in favor of **allowing encrypted electronic reporting** (e.g., critical incident reporting).
- **Accept electronic signatures and secure electronic filing** of reports and applications.
- **Embrace the use of current and emerging secure technology**, including increased use of Web portals, cloud technology, and modern electronic devices to facilitate quality programs and services, efficiency, transparency, and constructive communication.
- Direct the Office of Technology and Information Services (OTIS) to **develop or adopt a coordinated information technology platform** to support accountability, transparency, efficiency, safety, and value-added operations, in conjunction with end users such as departmental entities, providers and other community organizations, and other experts.
- Direct the Department of Banking and Insurance to work with organizations to explore ways to **improve opportunities to access affordable health and other forms of insurance** for organizations and their employees. Current law allows for the creation of small employer purchasing alliances, such as the Social Services Purchasing Alliance, a New Jersey 501(c)(3) created for human service organizations; explore ways to make these alliances arrangements more flexible and/or attractive to a greater pool of insurers.
- Explore ways to foster **increased access to cooperative purchasing of energy** and other items.
- **Invest in the capacity and health of New Jersey’s non-profit and provider community by establishing a “Management Assistance Fund” to enable New Jersey organizations to access funds to secure technical assistance and other infrastructure support.** Both the State and Federal government help to provide infrastructure support to targeted segments of the for-profit sector to increase productivity, create jobs, and grow business to benefit the economy. Give the social and economic contributions of New Jersey’s non-profit community, which employ 7% of the state’s work force, it makes good sense to make more such opportunities available to non-profits as well. While some limited federal capacity building programs such as the Strengthening Communities Fund and the Compassion Capital Demonstration fund (in which New Jersey is participating), are available, the dollars

appropriated pale in comparison to the need for such infrastructure support. The creation of State and other funds to support managerial support and infrastructure in the non-profit sector – like those already in existence for small businesses – would be a wise investment in and for New Jersey. It would be an investment that would help non-profits to run more effectively and efficiently in service to the people of our state.

## Promising Practices from Other States:

Finally, we would like to highlight some evolving practices in some other states that may be worth further exploration:

### New York

1. The New York State Comptroller has for several years issued an annual **Prompt Payment and Contracting report** that analyzes in detail the performance of the state by department and also makes policy and regulatory recommendations. The report is publicly available on the Comptroller’s Web site at <http://www.osc.state.ny.us/agencies/index.htm> .
2. In 2010, the Comptroller conducted **nonprofit forums** across the state to hear from nonprofits their experiences and recommendations. These forums were then followed up by a convening of nonprofit leaders to process the notes and the development of a report that formed the basis for future activities.
3. The New York State Attorney General recently announced the creation of a “**Leadership on Nonprofit Revitalization Committee**,” comprised of 29 non-profit leaders that will develop “doable and practical” recommendations aimed at reducing unnecessary and burdensome regulations on non-profits while ensuring that accountability remains. The work group will focus its activities on Not-for-Profit Corporation Law, Prompt Payment & Contracting, and Governance.
4. In cooperation with the nonprofit human services community, New York City is developing the **Health and Human Services Accelerator** that aims to centralize document management, speed the selection process, standardize contracts, and regulate post-award actions.

**North Carolina** and **Florida** are among the states that have recognized deemed status for provider organizations.

**Texas** convened a public/private task force that issued a series of recommendations to strengthen the capacity of non-profit organizations.

States that are developing vendor banks and document vaults include **New York, Virginia** and **Florida**.