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## **REQUIRED CONTENTS FOR FUNDRAISING CONTRACT AGREEMENTS**

Pursuant to RCW 19.09.097 and WAC 434-120-240

### **ALL WRITTEN CONTRACT AGREEMENTS MUST CONTAIN THE FOLLOWING PROVISIONS:**

- The contract shall include a requirement that both the commercial fundraiser and charitable organization comply with the law.
- The contract shall permit officers of the charitable organization reasonable access to the commercial fundraiser's financial records relating to that charitable organization.
- The contract shall permit officers of the charitable organization reasonable access to the commercial fundraiser's operations, including without limitation the right to be present during any telephone solicitation.
- The contract shall permit the officers of the charitable organization reasonable access to the names of all the fundraiser's employees or staff who are conducting fundraising or charitable solicitations on its behalf.
- The contract shall specify the amount of raised funds that the charitable organization will receive, or the method of computing that amount.
- The contract shall specify the amount of compensation of the commercial fundraiser, or the method of computing that amount.
- The contract shall indicate whether the commercial fundraiser's compensation is fixed or contingent.
- The contract shall include terms relating to the amount, or percentages of amounts, to inure to the charitable organization.
- The contract shall include terms relating to limitations placed on the maximum amount to be raised by the fundraiser, if the amount to inure to the charitable organization is not stated as a percentage of the amount raised.
- The contract shall specify the costs of fundraising that will be the responsibility of the charitable organization, regardless of whether paid as a direct expense, deducted from the amounts disbursed, or otherwise.
- The contract shall specify the manner in which contributions received directly by the charitable organization, not the result of services provided by the commercial fundraiser, will be identified and used in computing the fee owed to the commercial fundraiser.
- The contract shall specify which party will maintain the donor list.

### **ALL FUNDRAISING SERVICE CONTRACT REGISTRATION FORMS MUST CONTAIN THE FOLLOWING:**

- The name and registration number of the commercial fundraiser;
- The name of the surety or sureties issuing the bond required by RCW 19.09.190, the aggregate amount of such bond or bonds, the bond number(s), original effective date(s), and termination date(s);
- The name and registration number of the charitable organization;
- The name of the representative of the commercial fundraiser who will be responsible for the conduct of the fundraising;
- The type(s) of service(s) to be provided by the commercial fundraiser, and the dates such service(s) will begin and end; and
- The names of any entity to which more than ten percent of the total anticipated fundraising cost is to be paid, and whether any principal officer or owner of the commercial fundraiser, or relative by blood or marriage thereof, is an owner or officer of any such entity.

### **OTHER SUGGESTED CONTENT:**

- The address and telephone number of the charitable organization and the commercial fundraiser
- A statement affirming the charitable organization's right to review, monitor and approve or disapprove of all solicitation materials used by the commercial fundraiser
- The term dates of the contract, if different than the dates that service(s) will begin and end
- A statement affirming that the contract term automatically renews or is perpetual in nature, if applicable, and instructions concerning notifying the Secretary of State's Charities Program, in writing, when the contract terminates
- Instructions concerning the process for amending the contract and notifying the Secretary of State's Charities Program, in writing, if/when the contract is amended
- Instructions concerning the conditions and process for terminating the contract and notifying the Secretary of State's Charities Program, in writing, if the contract is terminated early

- Instructions concerning the distribution of fees, expenses & revenue in the event that the contract is terminated or the agreed-upon responsibilities are not fulfilled
- A provision that the party with custody of the funds provide timely financial reports to the party that does not have custody of the funds so that the latter may comply with state and federal financial reporting requirements
- A statement specifying how and when donor lists can be used and which party will retain them after the campaign ends
- A statement concerning the commercial fundraiser's planned use of subcontractors, if any
- The terms and conditions associated with assigning or transferring the contract to another commercial fundraiser, if applicable

#### **OTHER REQUIREMENTS AND CONDITIONS:**

- Before a charitable organization may contract with a commercial fundraiser for any fundraising service or activity, the charitable organization and commercial fundraiser shall complete and file a Fundraising Service Contract Registration Form with the Charities Program. The registration shall be filed by the charitable organization.
- The Fundraising Service Contract Registration Form shall be submitted with nonrefundable filing fee and shall be signed by an owner or principal officer of the commercial fundraiser and the President, Treasurer, or comparable officer of the charitable organization.
- A correct copy of the contract and Fundraising Service Contract Registration Form shall be filed with the Charities Program before the commencement of any campaign.
- A commercial fundraiser must obtain written permission from a charitable organization to use its name for the purpose of soliciting contributions in Washington State. A copy of the written consent must be kept on file and made available to Secretary of State, Attorney General, or County Prosecutor upon demand.
- If a commercial fundraiser represents that tickets to any fundraising event will be donated for use by another person, the fundraiser must obtain written commitments from persons stating that they will accept donated tickets and the number of tickets they will accept. The written commitments must be kept on file by the commercial fundraiser for three years and made available to the Secretary of State, Attorney General, or County Prosecutor upon demand. Contributions solicited for donated tickets cannot exceed the amount represented by the ticket commitments on file. Donated tickets must be distributed no later than seven calendar days prior to the event.
- Written authorization from a bona fide police, sheriff or firefighter department or organization is required to use the name "police," "sheriff," "fire fighter," "firemen" or a similar name during the conduct of solicitations. A copy of the written consent must be filed with the Secretary of State.
- Written authorization from a federally chartered or nationally recognized military veterans' service organization is required to use their name during the conduct of solicitations.
- Each person or organization soliciting contributions on behalf of a charitable organization that is associated with, or has a name that is similar to, any unit of government shall disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government.

#### **THE FOLLOWING ACTIVITIES ARE PROHIBITED BY LAW:**

1. Representing that contributions are tax-deductible unless the charitable organization has applied for and been granted federal tax-exempt status from the IRS;
2. Representing that the person soliciting contributions is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor, unless such person is unpaid for his/her services;
3. Representing that the person soliciting contributions is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor when in fact the solicitor is employed, contracted, or paid by a commercial fundraiser;
4. Including in solicitations, advertising materials or promotional plans any statement that is false, misleading or deceptive;
5. Conducting solicitations, if the charitable organization or commercial fundraiser has (or its officers, directors or principals have) been subject to legal action involving charitable solicitations or false and misleading promotional plans within the past ten years;
6. Representing that registration under the Charitable Solicitations Act constitutes an endorsement or approval by the state;
7. Soliciting contributions, unless the charitable organization and/or commercial fundraiser are currently registered with the Charities Program;
8. Placing a telephone call to a donor or potential donor for the purpose of charitable solicitation before 8AM or after 9PM (Pacific time); or
9. Engaging in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with contacting a donor or potential donor for the purpose of charitable solicitation

***NOTE: Please review RCW 19.09.100 for disclosures that are required at the point of solicitation.***