

# Nonprofit Financial Managers

A Resource for the areas of Finance, IT, Human Resources, and Office/Facilities Management

Volume Seventeen, Number Eight

May 2010

For information, go to [npfm.org](http://npfm.org), or contact Mitzi Fennel at 617-547-1063 x235 or Jessica Zander at 617-850-1752.

## Mark Your Calendars

All of our meetings take place on the **last Tuesday** of each month. **No pre-registration required.** Upcoming dates:

- **May 25: Dashboard Reporting for boards and staff: what do we need to report to whom**
- **June 29: Restricted Grants: How to track and account for them**

## NPFM Membership Information

The annual membership fee of \$100 covers monthly mailings and other operating expenses. The membership period is from September to August. A part-year membership for \$60 is offered for those joining after January 1, which covers membership through August. Full-time students are welcome to join at any time without paying a fee.

In addition to attendance at monthly meetings, members receive a monthly newsletter and access to the NPFM e-mail forum. Lunch is provided for all attendees at meetings. There is a \$12 meeting fee for non-members, and since membership is by organization, there is no limit of individuals from any one organization who may attend the meetings.

R.S.V.P.s for the meetings are not required.

For renewals or new membership fees, please make your check out to:

NonProfit Financial Managers  
C/O Child Care Resource Center  
130 Bishop Allen Drive  
Cambridge, MA 02139

Contact Mitzi Fennel at 617-547-1063, x235 for more information.

## The Next Meeting

**Topic: Dashboard Reporting for Boards and Staff: what is essential to report to whom?**

**Date: May 25, 2010**

**Location: United South End Settlements  
566 Columbus Ave., Boston**

**Time: 12:00 PM – 1:30 PM**

### Dashboard Reporting for Boards and Staff

What kind of information should your organization be providing to your board and senior managers? It could be very different for these two audiences and probably should be. How do you know it's helping to shape good decision making and strategic planning? This goes beyond a standard balance sheet or income statement and will vary, depending on the type of operation that each organization has. Come find out what your role is in this and how close you might be to best practices.

Arshad Merchant, a director at Wellspring Consulting, LLC, will present.

## Recap of April Meeting

### Mergers 101: What a nonprofit CFO needs to know

In the current economy, many of us may be aware of nonprofit organizations that are thinking about merging. Anthony E. Hubbard, a partner with Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, gave a presentation during which he described some of the factors that organizations consider when thinking about whether to merge with another organization: some organizations may need to acquire additional skill sets to better serve clients; funding may have dried up or contracted substantially, but elements of the mission are worth preserving; an organization may want to expand its geographic footprint; an organization may be ready to go out of business and needs a place for its employees.

In for-profit mergers, the owners of the entity being merged out of existence typically have a

financial agreement whereby funds are set aside in escrow to cover unforeseen expenses and which can be accessed after the merger takes place. On the other hand, with nonprofits, the date of merger is the final date because there are no owners who can agree to set funds aside. These circumstances partially explain why there is a much longer lead time for nonprofit mergers; because all of the due diligence must be completed before the legal transaction. After the date of merger all assets and liabilities are owned by the surviving organization, whether fixed or contingent, and whether known or unknown prior to merger.

There are different options for organizations considering merger:

1. Merger – the merger of two Massachusetts nonprofit corporations would be considered a “marriage of equals” and is governed by Massachusetts law. Links to the applicable laws are available on the Massachusetts Attorney General’s Division of Public Charities website. In the merger transaction, the balance sheets of two organizations are added together, with assets retaining book value.
2. Consolidation –both organizations in a merger are combined into a new organization.
3. Purchase of assets – an organization could sell off assets for a part of the business that is being discontinued. This transaction requires an assessment of “fair market value” for the assets as prescribed in the recently issued FAS 164. FAS 164, which was adopted in 2009 and which is now in effect, governs nonprofit transactions. FAS 164 focuses on the effect of the transaction and is less concerned with whether the transaction is a merger or asset purchase in the legal sense. However, where a nonprofit purchases all or substantially all of these assets of another nonprofit, the Division of Public Charities at the Massachusetts Attorney General’s office requires prior notification under most circumstances. The Division of Public Charities will review the proposed transaction to ensure that a fair price is paid for the assets, participation by interested parties does not have a negative impact on the organization, and that a fair process was conducted. Anthony said that the Division of Public Charities will clarify the rules for these Section 8A(c) transactions and these rules will soon be posted on the Public Charities website.
4. Membership Affiliation Transaction – an organization may have a “sole member” who is exchanged for another “sole member”, as in a school that is taken over by a different university.
5. Dissolution –the organization goes out of business and the net assets are distributed to another organization with the same or a similar mission. This option requires prior notification of the Division of Public Charities, and subsequent approval by the Massachusetts Supreme Judicial Court.

Because senior managers at each organization have their own interests, Anthony recom-

mends that a committee be formed outside the day-to-day management of the organization. The two organizations should sign a mutual confidentiality agreement so the members can review a long list of documents from each party. If committees representing each organization think a merger is appropriate after their discussions then the committees should, with the assistance of competent legal counsel, prepare a non-binding memorandum of understanding outlining plans for programs, governance, funding sources, contracts and contract assignment, and other organizational issues.

The restrictions imposed on restricted assets must be reviewed and addressed prior to completing the merger. Donors can be approached to remove a restriction or transfer the gift to the new entity. An organization may, in conjunction with the Division of Public Charities, seek a judicially approved modification of the terms of the gift if the donor is no longer alive. The corporation with the restricted asset may be preserved with the new corporation as its sole member for the life of the gift.

This presentation focused on technical and financial issues in mergers and acquisitions, but the melding of different organizational cultures and management styles figure prominently in the prognosis for merger success. If all goes well, the long lead time required for due diligence allows time for the organizations to learn to work together for the success of the surviving organization.

### ***Job Openings...***

The NPFM group has a section on their website for job postings. Check out our website at [www.npfm.org](http://www.npfm.org) for a complete list of jobs. Contact David Richardson at [dr44@verizon.net](mailto:dr44@verizon.net) with questions or postings.

### ***NPFM E-mail Forum***

One of the benefits of membership in NPFM is a subscription to our e-mail listserv. We encourage members to post questions, announcements and new developments in finance and administration. All new members who provide e-mail addresses are automatically subscribed. To post messages send to [npfm@topica.com](mailto:npfm@topica.com)

### ***NPFM Steering Committee***

The Steering Committee consists of several members who are responsible for the meeting topics, speakers, and other details surrounding the group. If you are interested in joining the steering committee, or in submitting ideas for future sessions, please contact any of the existing members, by e-mail or in person at a meeting.