COVID-19: Potential impacts and considerations for not-for-profit organizations

April 9, 2020

The resiliency and commitment of not-for-profit organizations is inspiring, considering the significant adversity they continue to overcome amid the COVID-19 crisis and the extent to which they continue to participate, directly and indirectly, in the fight against the pandemic. Whether it’s moving rapidly to find alternative ways to continue to serve and engage with their stakeholders, helping those in need in their communities, advocating on behalf of their constituents, studying the epidemiology and potentially finding a cure, or working on the front lines to help treat the disease, the industry is having to balance the short-term challenges with the longer-term impacts.

The following checklist, which is not intended to be all-inclusive, highlights certain matters and actions to consider as not-for-profit organizations (NFPs) build business continuity plans.

**Governance**
- Fresh look at advocacy strategies, including on emerging issues related to the crisis
- Changes to board and audit committee priorities, agendas
- Possible temporary ad-hoc committees
- Frequency and mode of meetings

**Disaster recovery planning and mitigation funding**
- Activation of emergency response plans
- Establishment of task forces to govern and manage financial impacts during pandemic response
- Process for seeking FEMA reimbursements and determining eligibility for and deployment of federal stimulus relief funds under the CARES Act, including provisions related to the Small Business Administration (SBA), Economic Injury Disaster Loans (EIDL), Payroll Protection Program (PPP), and others
- Evaluation of additional opportunities to seek reimbursement or new grants for ongoing activities related to the pandemic response

**Changes to key business processes**
- Changes to and challenges around engaging with stakeholders in a remote work environment
- Impacts on policies and internal controls
- Communications with and feedback from internal and external auditors
- Importance of contemporaneous documentation

**Cash flow planning and budgeting**
- Ability to project/model fundraising, other revenue streams
- Potential for changes in timing of certain receipts (membership dues, receivables from fee-for-service activities, pledges, government and private grants, etc.)
- Potential incremental cash flows from stimulus provisions, insurance policies, or special campaigns
- Impacts of changes in workforce strategies (see below)
- Evaluate procurement and payment protocols, as well as key vendor contracts
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Workplace rules and communications

- Pandemic response management system
- Volunteer activities and potential virtualization of some
- Employees’ physical presence (e.g., wet signatures for wire transfers, investments, etc.)
- Sufficiency of internet and phone service bandwidths
- Operational, community, and HR considerations surrounding retention, pay, and benefits for hourly and other workers whose jobs are “on hold” or not portable, and challenges around communications in this area
- Adjustments to HR policies (sick and personnel time); temporary replacement of wages for certain workforce segments; unemployment vs. pay (i.e., self-insurance funds); communications with organized workforce groups, as appropriate
- Increased need for workflow management software and similar digital tools

Facilities management and capital planning

- Maintaining operations and maintenance functions while ensuring compliance with social distancing requirements
- Impacts of delays or deferrals on planned or ongoing capital projects
- Potential alternative use of facilities for crisis-related efforts
- Security at vacant facilities, particularly in urban locations
- Assessment of contractual obligations for construction in progress

Cybersecurity

- Continued vigilance and messaging to employees
- Heightened awareness of COVID-19 scammers and phishers
- Potential security enhancements amid remote work environments to ensure continued compliance with E.U. General Data Protection Regulation (GDPR), grantor, and other requirements (e.g., privacy of health-related or other stakeholder information)

Insurance coverages and recoveries

- Review insurance arrangements (include legal counsel, consultants as necessary)
- Applicability and extent of business interruption provisions

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- Potential endowment and other liquidity constraints/obligations, including acceleration of capital calls by alternative investment managers
- Access to lines of credit, impacts on variable-rate debt, and constraints from debt covenants (see below)
- Impacts of delays and/or deferrals of capital projects
- Scenario analysis to evaluate impacts of short and long-term risks

Fundraising

- Continuous engagement with board members and key stakeholders about COVID-19 impacts
- Emphasis and communications regarding existing campaigns given disruption of special events, and consideration of alternative strategies
- Reaching out to key grantors and donors to ensure continuing commitments (and acceleration of some)
- Ensuring continued compliance with donor restrictions (some may ask donors to re-purpose certain funds)
- Establishing dedicated campaigns, including mission tie-ins to pandemic crisis

Research and other grant-funded activities

- Impacts on research activities: which projects are still active, which ones can’t proceed or may be deferred (e.g., labs, human subjects/clinical trials, etc.); new partnerships and activities focused on COVID-19, etc.
- As to above, consideration of NFP’s existing policies (or changes thereto) for continuing to charge grants; effects on effort reporting and charging certain costs (guidance from OMB, other agencies, and industry groups continues to evolve)
- Impacts of redeployment (or absence) of key personnel, including PIs, and other research resources
- Unforeseen risks in supply chain, procurement protocols, and certain subrecipients
- Maintaining grant compliance in remote work environment
- Continuity in and availability of funding of existing research and other activities, particularly those with significant existing investments
- Importance of maintaining documentation of any changes, policies, decisions, communications with granting agencies, etc., to support audit trail

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Debt and credit quality

- Access to lines of credit and debt markets
- Compliance with financial covenants, as applicable, and material adverse change clauses
- Bond disclosures, material event notice filings, etc.
- Enhanced risks and uncertainties disclosures in exempt offerings
- Potential rating agency actions

Benefit plans

- Effects of decreasing interest rates and declining market values on funded status measurements
- Potential impacts on PBGC premium payments, funding strategies, and de-risking options
- Increased activity from hardship loans/withdrawals from 403(b) and other defined contribution plans

Endowment spending rate change considerations

- Potential increases should consider constraints from UPMIFA, liquidity of underlying investments, underwater fund policies, and narrowly restricted funds
- Impact of 2020 market value on future spending

Financial reporting considerations

Balance sheet:
- Valuation: investments; derivatives; receivables from donors, grantors, and fee-based services
- Potential impairment considerations: equity method and joint venture investments; other assets
- Interest-rate swaps: valuation, counterparties, and collateral
- Leases: concessions or other changes; fair value, discount rate, and impairment considerations; additional challenges for NFPs in process of implementing new FASB Leases standard. (because of COVID-19, FASB is likely to defer effective date by one year for conduit debt issuers)
- Valuation of self-insurance obligations – premium deficiencies, incurred-but-not-reported (IBNR) estimates, key assumptions

Revenues:
- Valuation and recognition of contributions, including in-kind transactions
- Changes to sponsored research and grant activities and related reimbursement impacts
- Transactions from relief availed under stimulus programs
- Business interruption insurance recoveries

Expenses:
- Presentation of incremental costs related to the NFP’s COVID-19 response (operating vs. nonoperating)
- Effects of changes, if any, to employee benefits and plans

Disclosures and other items:
- Impacts on guarantees and other contingencies
- Endowment disclosures regarding any changes in spending or other policies
- Debt: compliance with covenants, other disclosures
- Liquidity and availability of resources disclosures under FASB Accounting Standards Update (ASU) 2016-14
- Refresh management’s evaluation of entity’s ability to continue as a going concern under FASB ASU 2014-15
- Impacts of tax relief provisions or other tax law changes
- Subsequent events and enhanced disclosures about risks and uncertainties—may depend on length and severity of market declines and other areas impacted through and after fiscal year-end

Tax considerations

Payroll Tax Deferral:
- Deferral of Social Security taxes due from March 27, 2020 through December 31, 2020 until December 31, 2021 and 2022; 50% of the deferred taxes are due at the end of each year

Employer Retention Credit (not available to governmental entities):
- Eligible employers include: (1) employers whose operations were fully or partially suspended due to a COVID-19 government-mandated shut-down order; or (2) employers whose gross receipts declined by greater than 50% when compared to the corresponding calendar quarter of the prior year
– Eligible employers with more than 100 employees receive a refundable payroll tax credit for 50% of qualified wages up to $10,000 for each employee unable to provide services due to COVID-19

– Eligible employers with less than 100 employees receive a refundable payroll tax credit for 50% of qualified wages up to $10,000 for each employee (regardless of whether the employee is unable to provide services).

Paycheck Protection Program (PPP):

– Provides forgivable loans for 501(c)(3) employers with fewer than 500 employees.

– PPP loan forgiveness program cannot be used in conjunction with the Payroll Tax Deferral or Employer Retention Credit

Other matters:

– Employer contributions for employee student loans: employers can pay up to $5,250 this year tax-free to the employee to pay down student loans

– Facilitating employee-to-employee giving: consider tax-efficient employee-to-employee giving and leave-sharing plans to give accrued paid leave hours to employees dealing with hardship caused by a federally declared “major disaster”

– Section 139 Qualified Disaster Relief Payments made to employees are excluded from gross income and are not subject to any federal payroll taxes

– 2019 Quick Refund (Estimates) - Obtain a quick refund of estimated taxes if overpaid by +10% of the anticipated liability via a quick refund on Form 4466, due by original due date of a corporate income tax return, i.e., for a calendar year tax-exempt entity this would need to be filed by April 15, 2020. There is also potential ability to carry back unrelated business income tax (UBIT) net operating losses (NOLs) derived in 2018, 2019, and 2020 for up to five years, and to potentially get refunds of UBIT paid.

– Analyze new activities or changes to existing activities to ensure consistency with charitable purpose

Filing Deadlines:

– April 15th filing deadline extended until July 15, 2020 for all income tax returns

– No extension for non-income tax returns such as Form 990 or Form 4720

– Various state filing considerations

⚠️ Enterprise risk management

– Ability to manage changing stakeholder expectations and related reputational risks

– Incorporate lessons learned from readiness and response gaps

– Refresh organization’s risk processes, including disaster recovery plans

– Consider impacts on internal audit plan and revisit, as appropriate

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