



## 10 Keys to Starting a Nonprofit - Public Charity

A great idea and committed leader are the baselines for starting a nonprofit public charity. But there's more needed. Check out the following steps you should take as you move forward:

1. Define your mission and identify who you intend to serve in order to determine whether the mission is consistent with a 501(c)(3) exempt purpose. Helping people is not necessarily charitable.
2. Determine your core activities and assess whether they are consistent with 501(c)(3). Core activities must be in furtherance of the organization's exempt purposes. A primary activity of providing services in competition with for-profits may or may not be consistent with such requirement.
3. Identify what needs you are serving and evaluate whether your mission and activities are best run through a new nonprofit or perhaps through an existing nonprofit or a fiscal sponsorship arrangement. A new nonprofit should not merely duplicate what is already out there or primarily serve the personal interests of its founder(s). Do your homework and understand your place in the market and the need to be collaborative and competitive in furthering your mission and acquiring sufficient resources to do so.
4. Assess whether your funding strategy (whether through individual donations, grants, service fees, sales, or other sources) gives you a good chance at sustainability. While funding is almost never a sure thing, you should take reasonable steps (as if it was your own money) to assure charitable funds are not wasted for lack of consideration about sustainability.
5. Assess whether you have sufficient other resources to create a strong foundation upon which the nonprofit can be organized and operated. A nonprofit built on a weak base can later jeopardize everything built on top of it. Critical building blocks include human resources to govern your organization (board of directors), run your charitable programs, take care of the administration and compliance work, and fundraise. There may be attractive alternatives to starting a nonprofit, such as fiscal sponsorship, if you're weak in the essential, but often downplayed, areas of administration and legal compliance.
6. Educate yourself and your leadership team on the laws relevant to organizing and operating a nonprofit and 501(c)(3) public charity, including those related to board duties and responsibilities, areas of potential liability, filing requirements, conduct and activity restrictions, charitable solicitations, certain applicable taxes, substantiation and disclosure requirements, employment, intellectual property, and leasing.

7. Draft a business plan. All of the work in the previous steps should be incorporated into this draft (which should be a work-in-progress, changing as facts and circumstances change), and it should also detail, among other things, a thoughtful SWOT analysis, marketing plan, and a 3-year budget (which you'll need to submit to the IRS in applying for tax-exemption).
8. Draft the governing documents (e.g., articles of incorporation, bylaws, conflict of interest policy) with care. Governing documents serve as manuals on how to run the nonprofit and should be catered to your organization. Template and form documents may contain provisions not applicable to your form of entity, may lack many required provisions, and may not address the many decision points available. Such forms may provide some guidance but they are often a mistake to copy, in whole or in part, unless reviewed by an attorney.
9. Consider where you plan to engage in charitable solicitations and check whether you must register to solicit donations in those states. This a commonly overlooked requirement.
10. Draft the exemption application(s) with care. Your completed Form 1023 will be a public document signed under penalty of perjury. It may be heavily scrutinized by the IRS during the application process and also may face future scrutiny by government authorities, the public, and media, even if the organization is granted tax-exempt status. Also, remember to check on any state tax exemption requirements. California, for example, requires even churches to apply for state tax-exempt status or be subject to minimum franchise taxes despite their nonprofit and federal tax-exempt status and regardless of whether they have any revenues.