



So You Wanna Be a 501(c)(3)



Side Project Inc.

BUILDING CAPACITY
IDENTIFYING RESOURCES
CAPTURING OUTCOMES

Disclaimer

Information provided in this session is not legal advice and is intended for informational purposes only.

Attendance at this program does not result in an attorney-client relationship.

Consult an attorney before acting on the information

Welcome

Today's Presenter is:

Jeffrey Fromknecht, MSW, Attorney at Law
Side Project Inc.




Why?



Reasons given by others:

- Unfilled need in the community
- Earn a salary for volunteer work
- Want to run own organization
- Honor a family member's memory
- For-profit conversion to tap new \$
- Formalize work currently doing
- To do good



The very best, A+, ideal response:

- There is a need in the community which is not being addressed by any other organizations.
- Several funders and individual donors have committed dollars to the new organization.
- 6 “disinterested” people have agreed to serve on the founding board & help with fundraising
- The founder doesn’t require a steady income or benefits for 3 years.



A for-profit may work best for you:

- You may want to profit from your idea.
- You may want total control.
- You may want to move faster
- No significant benefit to 501(c)(3)



Alternatives to Forming a New 501(c)(3)

- **Network** – find out what’s already happening in the area. The need for a new corporation is different than the need for a new program!
- **Find a winner** – there are many programs already thriving; chances are someone is already doing what you’re thinking about. If you have something to add, add it to a proven winner! If your program is duplicative, enhance the existing one!
- **Corroborate** – 2 heads are better than 1, 5 heads are better than 2!



Alternatives to Forming a New 501(c)(3)

Options:

- **Fiscal Sponsor** – can add expertise, oversight, credibility to new organization.
- **Collaborations** – 2 or more entities offer coordinated services; often increases efficiency, effectiveness.
- **Co-Location** – collaboration in a shared facility = broader networking + reduced costs.
- **Back-office Consolidation** – share administrative functions to enhance efficiency, reduce costs.
- **Joint Venture** – separate legal entity that merges targeted activities of 2 or more organizations.
- **Merger** – ultimate wedding of service agencies, both programmatically, legally



What's Your Road Map?

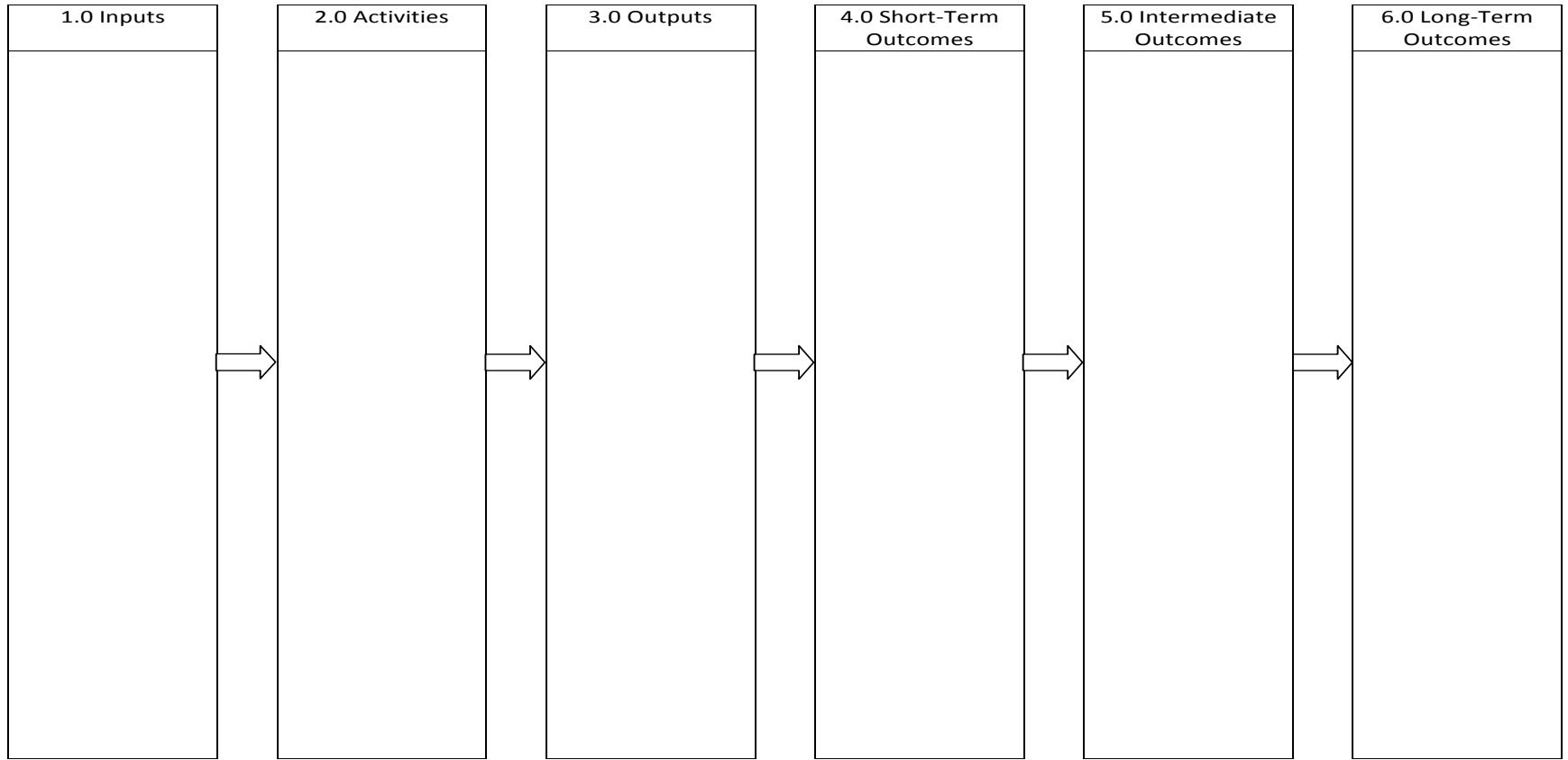
Logic Model:

**A Planning Tool for
New Projects and Organizations**

Logic Model

Process

Outcomes



Roles and responsibilities should be negotiated and documented in a written agreement. Every sponsorship is different, but these are the basics:

Fiscal Sponsorship: Who Does What?



Fiscal SPONSOR

Sponsored PROJECT



As fiscal sponsors, tax-exempt organizations can provide infrastructure and support for a start-up project or new organization, as well as a home for that organization's donations.



2 parts to forming viable nonprofit organization

- The mechanics – filing paperwork to meet local, state, & federal requirements. Believe it or not, this is the easy part!
- The planning – getting your ducks in a row so that you have the best possible chance for success.



Benefits to 501(c)(3) organizations

- Don't pay Federal or state corporate income tax
- Donations to your organization are tax-deductible
- Eligible for property tax exemption
- Eligible for PA sales tax exemption
- Eligible for nonprofit bulk mail rate
- Some government contracts and grants are only available to nonprofits
- Many foundations make grants only to nonprofits
- Nonprofit status communicates that you are dedicated to community good



Restrictions placed on 501(c)(3)s

- Can't distribute profits to shareholders or others
- Must have a board of directors to represent the public's stake in your organization
- Cannot support or oppose candidates for office
- Limits on lobbying (but not on education)
- Can't be a guise for personal profits
- If you close, you must distribute any remaining assets (such as money) to other nonprofits
- Required annual paperwork for federal and state governments



Where to start?

Mission – why organization was created.

- The mission of Peer Support & Advocacy Network is to build a community, free of stigma, where individuals with mental illness work together toward recovery of mind, body and spirit.
- The mission of CLASS is to support people with disabilities as they explore options, participate in the community and strive toward equality. We are "WORKING TOWARD A COMMUNITY WHERE EACH BELONGS."



Where to start?

Vision - a statement that describes your clients if your organization is successful.

- No child in our city will go hungry to bed in the evening. (Soup kitchen)
- Our vision is that no deserving scholar in our community will be deprived of higher education because of a shortage of funds. (Scholarship fund)



Incorporate as a nonprofit

File Nonprofit Articles of Incorporation with Dept of State in your state

Filing Fee: Varies between \$100-\$200

Apply for federal tax-exempt status from the IRS



You will need to file either

- A) Form 1023 or www.irs.gov/pub/irs-pdf/f1023.pdf (\$850)
- B) 1023 EZ if you expect income to be less than \$50,000 per year (\$400)
- C) Automatic if you have income of less than \$5,000 per year

Apply for federal tax-exempt status from the IRS



You will need

- Bylaws
- Organizational structure
- Planned activities
- Whether/how people will be paid
- History if you have already been operating
- 3 year financial projection

What needs to be in the bylaws about the board?



- How many board members there can be
Ex: Minimum of 3 and maximum of 12
- How board members are elected. Ex: by majority vote of board members at a board meeting
- How to remove members
- How often the board will meet Ex: 6 times per year
- Define quorum for board meetings

What needs to be in the bylaws about the board?



- Officers Ex: chair/president, vice chair/president, secretary, treasurer and their duties
- Terms and term limits Ex: a term is three years, and maximum is two three year terms in a row
- Officer terms Ex: a term is one year
- Attendance by conference calls and electronic voting



Additional elements in the bylaws

- Whether your corporation is a membership organization or a non-membership organization (We usually avoid memberships)
- How an emergency board meeting can be called
- How a board committee can be created and dissolved
- What the permanent committees are



Additional elements in the bylaws

- Conflict of interest policy, or simply stating that one exists elsewhere
- How the bylaws can be changed
- Indemnification of board members
- Organization dissolution statement

Additional State Level Filing Requirements



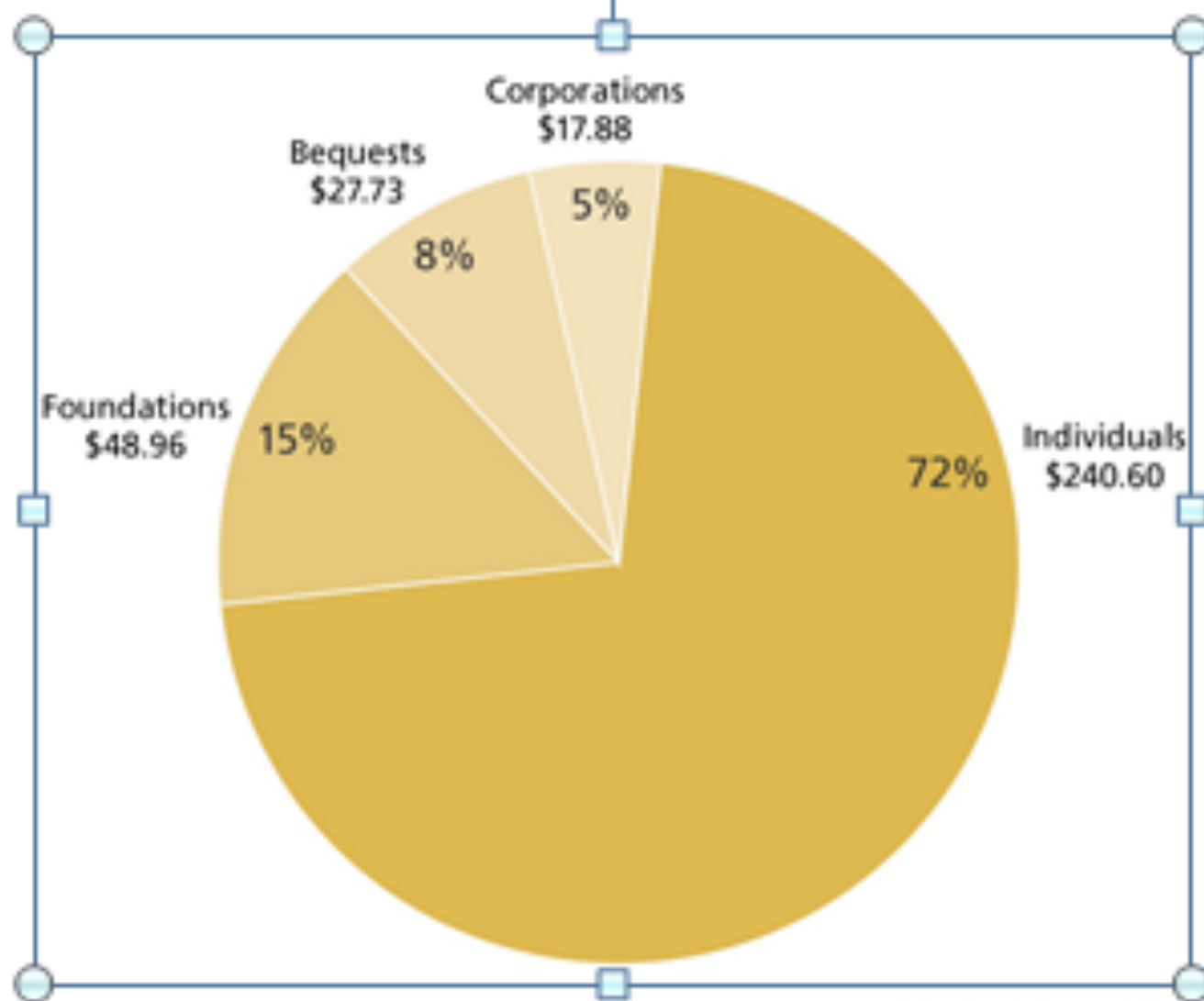
- Register with the State Bureau of Charitable Organizations after receiving the 501(c)(3)
- State Sales Tax Exemption
- Local Property Tax Exemption

Funding a New Nonprofit



Where Does the money
come from?

2013 contributions: \$335.17 billion by source of contributions
(in billions of dollars – all figures are rounded)



© 2014 Giving USA Foundation™

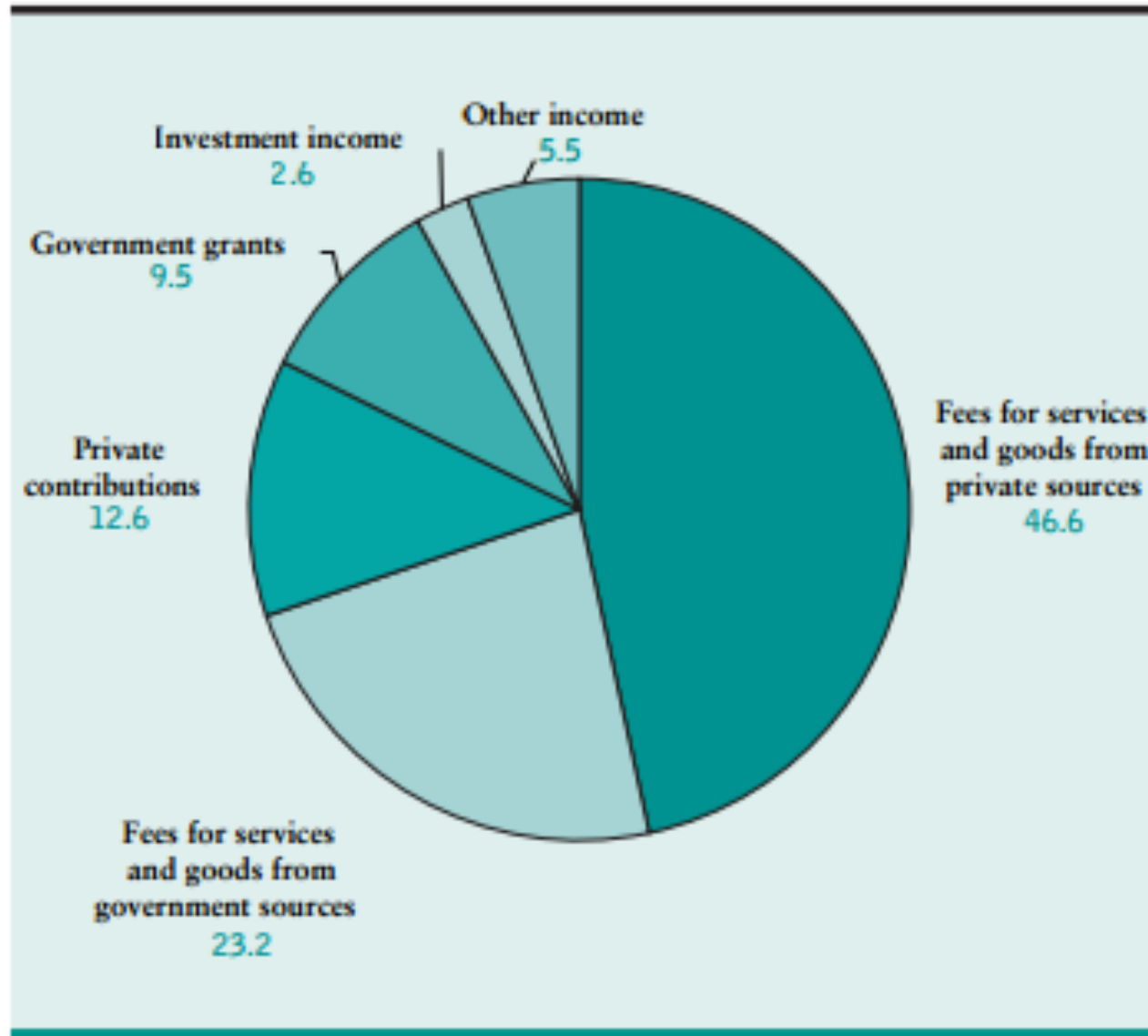
SOURCE: Giving USA Foundation | GIVING USA 2014



In nonprofits, the funder isn't the consumer of services.

Many founders think of foundations as primary funders, but individuals provide the vast majority of funding for nonprofits in the U.S.

Figure 2. Sources of Revenue for Reporting Public Charities, 2011 (percent)





You can't raise funds from the general public until the organization is a 501(c)(3) and it is registered with the Bureau of Charitable Organizations in Harrisburg.



How do I get some money to start with?

Most common ways to get start-up money

- Donate your own time and money. (MOST COMMON)
- Ask friends and supporters for startup funds.
- Ask them through Facebook, in person, by email, on IndieGogo, etc.
- Apply to foundations for seed money. (This is rare)



Retroactive Rule

If Jake gives you a donation between the time you file for tax exempt status and when you obtain it, he can deduct that donation from his taxable income.

However, if you are denied tax exempt status, he can't.

So . . . You can ask for donations between when you file and when you obtain tax exempt status. You should explain the situation to your donors.



Ongoing sources of revenue

You need a realistic fund development plan before you start!

Hope is not a strategy



Diversified Fundraising Plan

- **Individuals (Annual, major donors, bequests)**
- **Contracts (Federal, state, local govt.)**
- **Earned Revenue (Sale of goods, expertise, services)**
- **Foundation (Family, Corporate, community, etc.)**
- **Business (In-kind, donations)**
- **Civic organizations (United Way, Kiwanis, etc.)**
- **Special Events**



What We've Learned So Far...

- **Good ideas are only the beginning!**
- Fundraising is going to be very difficult for the first few years
- Need People
- Need Time, Talent, and Treasure
- **Planning, Organization, and Evaluation are CRITICAL to success**

Contact me for more information



Jeffrey Fromknecht, MSW
Managing Attorney
Nonprofit & Tax Exempt Law Practice
Side Project Inc.
Jeff@sideprojectinc.org
800-330-5807