



Heads in the sand

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Nonprofit panel sidesteps critical regulatory challenges facing nonprofits.

By Rick Cohen



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Despite having raised more than \$3 million to support its work, a panel of nonprofit leaders has generated paltry and picayune accountability recommendations that will accomplish little or nothing to cure the accountability problems facing the nonprofit sector.

These recommendations, with more to come, sidestep most of the toughest issues of self-dealing, inappropriate expenditures, exorbitant trustee fees, inadequate foundation payout, and insufficient transparency that underlie the nonprofit accountability problems that have roiled the sector for the past few years.

The panel – or to staff to the panel-- that generated the recommendations to the Senate Finance Committee clearly ruled out some issues, such as inadequate foundation payout rates on the half trillion dollars of assets of tax-exempt foundations, hardly a surprise given that most panel members represent private and public foundations, hugely disproportionate to their less than 1 percent proportion of the charitable sector.

By focusing on the “easy” issues of accountability -- e-filing 990s, permitting federal and state cooperation on oversight, requiring audits for nonprofits with more than \$2 million in revenues -- the panel reveals an agenda that avoids stronger regulations on inappropriate and exorbitant foundation expenditures; five- and six-figure fees paid to foundation trustees; self-dealing by foundation insiders; and inadequate grantmaking "payout".

Given the limited “political-time” attention span of legislators facing issues like the budget deficit and Social Security reform, it is hard to believe that the Senate Finance Committee will hang in to wait for tough regulations correcting philanthropic abuses that have been generally exempt from oversight and enforcement and immune from the sector’s collegial self-policing.

It's time to put some muscle and authority into government oversight and accountability so that the thousands of good nonprofits and foundations are not undermined by those that seem more interested in hiding behind their tax exempt status than in delivering the maximum value they should in exchange for their tax

exempt status.

Given the now strenuous effort that is being made to market the recommendations around the nation through what Independent Sector calls ‘field meetings,’ it looks like a lot of energy to promote relatively milquetoast policy recommendations and continuing insufficient attention to the really important issues of nonprofit and particularly philanthropic accountability that, given this sequence, might never get the attention they deserve.

Despite recommendations for marginal changes in nonprofit accountability, there is no question that the ultimate agenda behind this report and the campaign launched by spokespersons for the nonprofit panel is one of self-regulation, and of minimizing the need for toughened laws, more muscular regulations, and bolstered oversight and enforcement.

The recommendations constantly underscore the inherent strength of self-regulation and self-policing in the nonprofit sector, and only reluctantly contemplate minor alterations in the standards government gets to enforce. The idea that somehow the nonprofit and philanthropic sectors are not only exempt from taxation, but also exempt from government oversight, scrutiny and regulatory enforcement is plainly wrongheaded.

Moreover, the idea that nonprofit leaders associated with Independent Sector can hint to the Senate Finance Committee about an openness to improved and increased regulations while denouncing regulations as a ‘sledgehammer’ to the nonprofit sector raises questions about the seriousness and reliability of the nonprofit panel’s recommendations.

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