



Guiding

Principles Practices

Infrastructure Checklist

For 501(c)(3) Nonprofit
Organizations in Maine

The following list outlines the documentation, systems and support mechanisms that nonprofits of all sizes should have in place to function effectively, sustainably and accountably.

Basic

M | A | N | P
Maine Association
of Nonprofits

Our sincere thanks to Healey & Associates for their generous sponsorship for this fourth edition of the *Basic Infrastructure Checklist*.



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Introduction

The following publication outlines the documentation, systems and support mechanisms that nonprofit organizations should have in place to function in a manner that is effective, sustainable and accountable. Generally, these recommendations are applicable to small grassroots organizations as well as to large, multi-site networks.

Much of this information is needed to receive grant funding, as well as to demonstrate professional accountability to the public, your clients, and prospective donors. Some of these items are state or federal **requirements**: failure to comply with regulations may jeopardize the organization's legal standing. In a time of increased accountability and public scrutiny, the ability of an organization to answer questions on its operations in a precise and meaningful way facilitates the public's trust.

Recommended items are provided as a planning framework to help nonprofit leaders make a conscious comparison and determination of what will best move them forward in ensuring that the organization operates with integrity and its programs and services are of the highest possible quality. The value of adopting any practice should be measured against the time and effort it would take to create, implement and maintain that practice.

Because most of the Maine Association of Nonprofit's (MANP's) members are 501(c)(3) public charities, this

checklist is tailored to the particular needs of those organizations. Other kinds of organizations, including 501(c)(4)s and 501(c)(3) private foundations, are subject to somewhat different legal requirements. Therefore, although much of the content of this checklist applies to these latter organizations as well, extra care should be taken to ensure compliance with all relevant laws and regulations.

For legally required items, the relevant Maine or US statutes have been cited. To read these statutes, search the following websites:

ME - <http://www.mainelegislature.org/legis/statutes/search.htm>

US - <http://www.gpoaccess.gov/uscode/browse.html>

Please note that while this document is grouped by topic area, many recommendations relate to more than one topic, and readers should review the document as a whole for the most comprehensive guidance.

This checklist is based on a similar document created by the Michigan Nonprofit Association. We appreciate their generosity in sharing their information and experience with MANP.



*We used the Guiding Principles + Practices for Nonprofit Excellence in Maine to self-assess and that has **shown us how we can continue to strengthen our organization and increase its effectiveness.***

—Jane Morse, Nancy Nellis,
Organization Committee
Co-Chairs, MANP Member
Organization

Checklist

Public Benefit + Accountability

Required

- IRS Determination Letter and Forms 1023, 990 (and variants) for the last three years (on file and publicly available, redacted to maintain donor confidentiality) (US – 26 USC § 6104(d))
- Submission of Annual Report to Maine Secretary of State, if incorporated (ME – 13-B MRS § 1301)
- Compliance with Sarbanes-Oxley document destruction law (US – 18 USC § 1519)
- Federal, state and local licenses for services provided, if applicable (US/ME)

Recommended

- Organizational annual report (publicly available, distinct from Annual Report required to be filed with Maine Secretary of State) made available to stakeholders
- Written document retention and destruction policy
- Opportunities for stakeholder engagement in planning and/or decision-making
- Regular measurement and communication of mission impact (see evaluation section)

Recommended as Applicable

- Adoption of industry-specific professional standards or code of ethics

Planning

Required

- Any material changes to organizational purpose and activities to the IRS. (US – 26 U.S.C. § 501(c)(3))
- Any changes to the Articles of Incorporation to the Secretary of State, if incorporated. (ME – 13-B MRS § 802)

Recommended

- Mission statement
- Vision statement
- Value statement
- Community needs/assets assessment (every 3-5 years)
- Mission-driven strategic plan (including system to monitor progress)
- Annual operational plan, aligned to strategic plan
- Fund development plan
- Technology plan
- Succession plan
- Risk management plan
- Disaster plan
- Plans informed by and responsive to stakeholder input

Required

- Up-to-date Articles of Incorporation (and Articles of Amendment, if applicable) (ME - 13-B MRS §§ 801-805)
- Compliance with up-to-date Bylaws (ME - 13-B MRS §§ 601 – 606; 714)
- Annual Report and up-to-date registered agent filed with Maine Secretary of State) (ME -13-B MRS § 304-A, 1301)
- At least 3 board directors (ME – 13-B MRS § 702)
- Required Officers: President, Treasurer, Secretary (ME – 13-B MRS § 710)
- Annual meeting of members (If membership organization) (ME – 13-B MRS § 602)
- No loans from corporation to directors or officers (ME – 13-B MRS § 712)
- No more than 49% financially interested persons on board (ME – 13-B MRS § 713-A)
- Compliance with compensation disclosure law (ME – 13-B MRS § 713-A(2-A))
- Maintain books, records and minutes (and make available to members, if applicable) (ME – 13-B MRS § 715)

Recommended

- Up-to-date mission statement (and vision and values statements, if desired)
- At least 5 independent and unrelated board members
- Directors meet at least quarterly and abide by rules governing quorums and voting
- Diversity of board member skills and perspectives
- Board membership representative of organization's constituents and community
- Board member recruitment plan
- No staff on board beyond ex-officio members without voting status
- Board resolutions/minutes book
- Board member orientation and training plans
- Board and committee policy handbooks, including:
 - Conflict of interest policy
 - Whistleblower policy
 - Board member giving policy
- Committee descriptions (purpose, structure, goals and activities)
- Board self-assessment plan
- Disaster recovery plan
- Cultural competency development plan
- Annual executive director assessment plan
- Executive compensation policy
- Leadership succession and transition plan (volunteer and staff leadership)
- Risk evaluation and management systems
- Liability insurances (directors and officers, general, volunteer, etc.)
- Regular board-level dialogue regarding mission impact
- Regular environmental scan to assess potential strategic alliances
- Board involvement in strategic planning
- Board members active as liaisons to community

Checklist

Public Policy + Advocacy

Required

- No activities in support or opposition of any candidate for public office and no participation in political party activities. (US – 26 U.S.C. § 501(c)(3))
- Lobbying activities comply with federal limitations (US – 26 U.S.C. § 501(c)(3), § 4911, Treas. Reg. § 1.501(c)(3)-1(c)(3), § 56.4911)
- If applicable, Maine Lobbyist/Lobbyist Agent Registration (ME-- 3 MRS §§ 311-326)
- If applicable, Federal Lobbyist Registration (US-2 U.S.C. § 1605)
- Compliance with Maine Election Practices (21-A M.R.S.A. if lobbying on a ballot question)
- No federal funds used for lobbying activities (OMB Circular A-122, § 25)
- Report lobbying efforts and expenditures on Schedule A of Form 990

Recommended

- IRS Form 5768 to make 501(h) Election (if conducting any lobbying)
- Advocacy and lobbying policy/plan
- Voter engagement plan
- Staff training on advocacy rules and techniques
- Awareness of public policy that impacts community and/or mission
- Ongoing relationship-building with elected officials and community leaders
- Participation in collaborative efforts to support the formation and amendment of public policy consistent with the organization's mission

Evaluation

Required

None

Recommended

- Both process and outcome evaluation strategies
- Specific, measurable performance indicators for all programs/services and systems to monitor progress
- Measures are comparable to any relevant, generally accepted benchmarks
- Multiple strategies for gathering stakeholder input
- Culturally sensitive evaluation practices
- Evaluation undertaken in accordance with human subject protection protocols (Title 45 CFR Part 46 Code of Federal Regulations)
- Adequate resources appropriated to ensure ongoing evaluation
- Staff trained in evaluation methods, and/or guidance sought from external professional evaluators
- Evaluation results inform planning processes
- Periodic community needs/assets assessment

Required

- A nonprofit must meet all federal and state requirements for public disclosure. (See Public Benefit + Accountability section)
- Compliance with Spam Law (US - 15 U.S.C. § 7701)

Recommended

- All basic organizational information easily available : Form 990 (as redacted), annual reports, financial statements, fees and services, and contact information
- Board, staff and other stakeholders involved as organization ambassadors
- Marketing goals
- Communications and marketing plans
- Marketing and communications ethical/professional standards
- Established brand
- Graphic elements and standards to support brand
- Policies and procedures to ensure brand integrity
- Confidentiality/openness policies and procedures
- Crisis communication plan
- Spokesperson(s) authorized to make public statements
- Process for developing statements and positions on issues
- Policy outlining expectations for board/staff differentiation of personal opinion and organizational position
- Policies and procedures to encourage and guide internal communication
- Social media policy
- Grievance procedure
- Appropriate technology to support effective marketing

Marketing + Communications

Required

None

Recommended

- Foster relationships with organizations across all sectors to advance mission
- Periodic environmental scan to assess opportunities for alliances
- Written policies and procedures to guide assessment of strategic alliance opportunities
- Memo of agreement/understanding (for each collaborative commitment)

Recommended as Applicable

- Written policies governing activities of local chapters, branches or affiliates
- Proper establishment and management of fiscal sponsorships. (US - See IRS Rev. Rul. 252, Rev. Rul. 68-489.)

Strategic Alliances

Checklist

Financial Management

Required

- Submission of appropriate IRS Form 990 annually (see IRS Publication 4741) (US – 26 USC § 6033)
- Compliance with Public Support Test (US – 26 USC § 170(b)(1)(A)(vi) or § 509(a)(2)) (if relying on public support tests for public charity status)
- Assets used solely for charitable mission of organization, no excess benefit transactions (US – 26 USC §§ 501(c)(3), 4958)
- Charitable solicitation registration and reporting compliance (see Fund + Resource Development section)
- Reasonable executive compensation (US – 26 USC § 4958)
- Financial system supports segregation of grant/donated funds
- Compliance With Uniform Prudent Management of Institutional Funds Act (Investment management standards for all nonprofits; additional requirements if have formal endowment or restricted funds) (ME – 13 MRS § 5101)
- IRS Form 1099-MISC (if paid Independent Contractor \$600 or more in calendar year) (US – 26 USC § 6041)
- Report of Foreign Bank and Financial Accounts (FBAR), IRS Form TD-F 90.22.1 (if hold over \$10,000 in foreign bank accounts) (US – 31 USC § 5314, Treas. Reg. 31 CFR 103)
- If receive Federal dollars, compliance with Office of Management and Budget (OMB) Circulars A-133, A-110 and A-122. If expend more than \$500,000 in Federal funds for its operations, completion of a Single Audit.

Recommended

- Asset and cash management policies and procedures
- Annual, balanced budget (revenue/expenses), with majority spending on mission-driven programs, and adequate resources for effective administration, including evaluation, technology and fundraising costs
- Internal control procedures, including:
 - Spending limits policy
 - Signature authority
 - Regular review of bank and credit card statements by at least two individuals
- Documentation of accounting policies and systems (meet Financial Accounting Standards Board (FASB) and/or Government Accounting Standards Board (GASB) requirements)
- Financial reserve
- Chart of Accounts appropriate to the nonprofit's structure and mission
- Contract management policies and procedures (bidding system, contracts, evaluation and monitoring tools)
- Expense reimbursement policy and procedures that meet IRS "Accountable Plan" standards
- Financial records retention policy, as part of larger document retention and destruction policies
- Training for directors on fiscal oversight responsibilities
- Conflict of interest policy
- Whistleblower protection policies and procedures

Recommended As Applicable

- Audit committee policies and procedures (for larger organizations)
- Business credit card use policy
- Payment card industry data security standards (PCI DSS) compliance, if process credit card payments
- Maine Sales and Use Tax exemption (see <http://www.state.me.us/revenue/salesuse/exemptions/exemptions.html> for list of exempt categories)
- Audit (if revenue > \$1 million) or financial review (if revenue > \$250,000)
- Nonprofit bulk-mailing postage permit (if 200 or more on mailing list)
- Investment policy

Required

None

Recommended

- Technology plan
- Technology and equipment infrastructure to enhance and streamline mission-achievement (phones, computers, internet access, fax machine, etc.)
- Management information systems (MIS) policies and procedures, including security policies and procedures
- Resourced and intentional website and social media presence
- Information, technology and social media personal use policy
- Off-site electronic backup (of all data)
- Surge protectors, virus scans, firewalls, anti-spyware and passwords (for all computers)
- Funded equipment depreciation
- Responsibility for information/technology systems shared by multiple people
- Appropriate training for staff on relevant information/technology systems
- Security and privacy policies posted on website
- Catastrophic recovery plan

Recommended As Applicable

- Computer networking and remote access strategies, if applicable
- Payment card industry data security standards compliance (if accept credit card payments)

Checklist

Staff + Volunteer Management

Required (if 1+ employees)

- Compensation not unreasonably high (US – 26 USC § 4958)
- Compliance with Whistleblower Protection Laws (US -18 USC § 1107 / ME - 26 MRS §§ 833 – 840)
- Payroll and income tax withholdings/filings (US – 26 U.S.C. § 3402 / ME – 36 MRS § 5250)
- Report all hires to Maine Department of Human Services (to improve enforcement of child support obligations) (ME - 19-A MRS § 2154)
- Workers Compensation Insurance (ME – Title 39-A MRS)
- Maine Human Rights Act (prohibits discrimination based on: race, sex, sexual orientation, physical or mental disability, religion, ancestry or national origin, and age) (ME – 5 MRS §§ 4551 - 4634)
- Minimum Wage Laws – (US - 29 USC §201 et seq./ME – 26 MRS §§ 661 – 672)
- Overtime Laws – US - 29 USC §201 et seq./ ME – 26 MRS §§ 603, 664
- Federal and Maine Equal Pay Law (US – 29 U.S.C. § 206(d) / ME-26 MRS § 628)
- Wage Payment Statutes (ME – 26 MRS §§ 621 – 636)
- Child Labor Laws (US - 29 USC §201 et seq. / ME - 26 MRS §§ 771 - 785)
- Proper classification as “employee” or “independent contractor” (US - IRS Treasury Reg. § 31.3121(d)-1(c), 31.3401(c)-1(b) / ME – Various (workers compensation, Maine income tax, unemployment compensation insurance)
- Preference to Maine Workers and Contractors (ME – 26 MRS § 1301)
- Recovery of Overcompensation (ME – 26 MRS § 635)
- Medical Examination Fees and Application Fees (ME – 26 MRS §§ 592, 594)
- Smoker’s Rights Statute (ME – 26 MRS § 597)
- Maine Substance Abuse Testing Law (ME - 26 MRS §§ 681 – 690)
- Maine and Federal Fair Credit Reporting Acts (US - 15 U.S.C. § 1681 / ME – 10 M.R.S. § 1311)
- Employment Eligibility Documentation (US - 8 USC 1324a/ ME – 26 MRS §§ 871 - 872)
- Uniformed Services Employment and Reemployment Rights Act of 1994 (US - 38 U.S.C. §§ 4301 – 4335)
- Employment Leave For Victims of Violence (ME – 26 MRS § 850)
- Military Leave Law (ME – 26 MRS §§ 811 – 814)
- Legislator Leave Law (ME – 26 MRS §§ 821 – 824)
- Leave During Extreme Public Health Emergency (ME – 26 MRS § 875)

Federal Required Postings (US)

- EEOC Consolidated Poster
- OSHA Poster
- Wage and Hour Poster
- Employee Polygraph Protection Act Poster

Maine Required Postings for All Employers (ME)

- Workers’ Compensation Poster
- Minimum Wage Poster
- Protection of Employees Poster
- Regulation of Employment Poster
- Employment-At-Will Poster

- Sexual Harassment Information Poster
- Whistleblower's Protection Act Poster
- Child Labor Law Poster
- Smoking Policy

Personnel Records

- Confidential records (usually organized in employee-specific files) for each employee (and in some cases a briefer file for volunteers). Note: special rules apply for maintaining medical records separate from personnel files under Americans With Disabilities Act and HIPPA if enrolled in a group health plan. Note: employees have right to view their personnel files. (ME / US – Various Statutes and Case Law)
- Time sheets for hourly employees (ME – 26 M.R.S. §§ 622, 631)
- Tax forms (W-4, and annual W-2/3) (US – 26 U.S.C. § 3402)
- Employment Eligibility Verification Form I-9 (kept in separate folder) (US - 8 USC 1324a / ME – 26 MRS §§ 871 - 872))
- Maine Withholding Tax Forms (-ME – 36 MRS § 5250)
- Background Check Documentation (Required for certain licensed organizations or jobs; recommended any time a person is working with children or vulnerable adults) (ME – Various Statutes)

Required (if offering employee benefits)

- Benefits documentation – varies according to type of plan. (US – For 403(b) plans. See <http://www.dol.gov/ebsa/403b.html>)

Required (if 2+ employees)

- Maine Video Display Terminal Law and Poster (ME-26 MRS §§ 251 - 252)
- National Labor Relations Act and Poster (New as of 2012)(US-29 USC §§ 151-169)

Required (if 3+ employees)

- The Maine Rest Break Statute (ME-26 MRS § 601)

Required (if 4+ employees)

- Maine Unemployment Tax, if meet “4 for 20” provision and no exemptions apply. (ME – 26 MRS § 1043(11)(A-1)(3))
- Maine Employment Security Law Poster (if required to pay unemployment tax)

Required (if 5+ employees)

- Maine Video Display Training Law (provided both orally and in writing) (ME-26 MRS §§ 251 - 252)

Required (if 15+ employees)

- Civil Rights Act of 1964 (Prohibits discrimination based on race, color, religion, sex, or national origin --may also apply to volunteers) (US-42 USC § 2000e et seq.)
- Americans with Disabilities Act of 1990 (US-42 USC § 12101 et seq.)
- Maine Family Medical Leave Law (ME-26 MRS §§ 843 – 848)

Checklist

Staff + Volunteer Management

- Sexual Harassment Training (provided for all new employees within one year) (ME-26 MRS §§ 806 – 807)

Required (if 20+ employees)

- Age Discrimination in Employment Act of 1967 (Prohibits age-based discrimination against individuals aged 40 and over (US – 29 USC § 621 et seq.)
- Employee Retirement Income Security Act of 1974 (US-29 USC § 1001 et seq.)

Required (if 25+ employees)

- Maine Family Sick Leave Law (ME – 26 MRS § 636)

Required (if 50+ employees)

- Federal Family Medical Leave Act and Poster (US - 29 U.S.C. § 2619)

Required (if 100+ employees)

- Federal Worker Adjustment and Retraining Notification (WARN) Act (US-29 USC 2101 et seq.)
- Maine Severance Pay Law (ME-26 MRS § 625-B)

Recommended (for all organizations)

- Recruitment and hiring policies and procedures to ensure necessary personnel for mission activities
- Review of all employee interview questions for legality
- Background check policies + procedures
- Standards and policies for working with contractual employees and consultants (guidelines for selection, hiring and monitoring)
- Personnel reflect diversity of community
- Leadership succession plan for key employees and volunteers
- Annual board review of compensation structure
- Annual board review of Personnel and Volunteer Policy and Procedure Manuals
- Formal orientation program for new employees and volunteers
- Position descriptions (written for staff and volunteers)
- Organizational chart
- Maine Unemployment Tax or equivalent unemployment protection (even if fewer than four employees)
- Human Resources records retention policy (as part of larger document retention and destruction policies)
- Open communication channels encouraging input from paid and unpaid personnel
- Personnel Records
 - Documentation of disciplinary actions (signed by employee)
 - Performance evaluations (signed by employee)
 - Application (signed by employee)
 - Resume
 - Emergency Form (with contact information)

These policies and procedures should be combined and made available as manuals, separate and as appropriate for Personnel and Volunteers.

Required

- Drug Free Workplace Act of 1988 (US - 41 USC § 701) (federal contractors and grantees)
- Privacy of Health Information-HIPPA (US - 42 USC §§ 300gg et seq., 29 USC §§ 1181 et seq, and 42 USC §§ 1320d et seq.)

Recommended

Employment Policies

- EEO/AA (equal employment opportunity/affirmative action)
- Nondiscrimination, diversity and harassment (also make applicable to volunteers and constituents)
- Employment at will
- Confidentiality policies and procedures
- Eligibility and classifications
- Attendance/leave
- Code of ethics
- Disciplinary action and involuntary termination
- Conflict of interest (including annual disclosure form)
- Reference requests
- Personal use of equipment and supplies (including email, internet and computers)
- Social media
- Organizational policies (including non-smoking and whistleblower)
- Hours worked
- Paychecks/expense reimbursement
- Outside employment
- Grievance
- Domestic violence policy

Benefits Policies

- Leave Policies (including jury duty, military, bereavement, leaves for victims of violence, leave of absence and family and medical leave)
- Breaks, including lunch
- Medical benefits continuation privileges
- Unemployment insurance
- Workers' compensation
- Social Security
- Professional development

Informational Policies

- Inclement weather
- Professionalism
- Office hours and holidays

Staff + Volunteer Management: Policies + Procedures

Checklist

Fund + Resource Development

Required

- Annual Maine charitable solicitations registration and Annual Fundraising Activity Report (or Exemption Form, if applicable) (ME – 9 MRS §§ 5004, 5005-B)
- Charitable solicitation registration in other states, if solicit in other states
- Compliance with bingo, raffle, and games of chance Laws (ME – 17 MRS §§ 311 – 329, §§ 1831 - 1846)
- Clear, accurate, honest appeals
- Funds used according to donor intent
- Prompt acknowledgment to all donors, including compliance with federal gift substantiation requirements (see IRS Publication 1771)(US – 26 U.S.C. § 170(f)(8), 170(f)(11))
- Proof of registration for each contractual fundraising professional (ME – 9 MRS § 5005-B(3))
- Written contracts with fundraising consultants (submit to state) (ME- 9 MRS § 5009)
- Commercial co-venturers licensed if over \$10,000 raised annually for a nonprofit (ME – 9 MRS § 5008)

Recommended

- Adherence to ethical fundraising practices
- Appropriate systems to track and manage past, present and future donors and grants, such as a donor database, grants management system, etc.
- Resource Development Plan which includes strategies for funding diversification
- Board member giving policy
- Acceptance of personal gifts policy
- Gift acceptance and recognition policy (include standards for acceptance, in-kind donations, address fair market value, disposal of assets, and provision for privacy)
- High percentage of raised funds spent on programs and services
- Regular communication with donors about organization activities and outcomes
- Professional development for development staff and volunteers
- Fundraising personnel/consultants not compensated based on commission

Recommended As Applicable

- Copy of every proposal, acceptance/denial, evaluation, correspondence, reporting requirements, due dates
- Diligent vetting of any third party vendors or processors

About MANP

Mainers count on nonprofits and Maine nonprofits count on the Maine Association of Nonprofits (MANP). Since 1994, MANP has grown to be the state's comprehensive resource for the tools, knowledge, and connections nonprofits need to be effective and well-run.

MANP is the voice of Maine's nonprofit sector and convenes funders, government, and businesses to shape responses to pressing issues and opportunities facing Maine.

MANP provides nonprofit executives, staff, board members and volunteers with:

- ▶ Answers to nonprofit management questions;
- ▶ Workshops and in-depth leadership training;
- ▶ Connections to the statewide nonprofit community and updates on national trends;
- ▶ Data on the economic and social significance of the Maine nonprofit sector;
- ▶ Advocacy on issues and policies important to all nonprofits;
- ▶ Best practice standards, organizational assessment tools, MANP guidebooks and other recommended resources; and
- ▶ A high traffic job board for posting and finding jobs in the Maine's nonprofit community.

To learn more about MANP, contact us at 207-871-1885 or visit us at www.NonprofitMaine.org.

