Is Leadership Denial Feeding the Charitable Sector Crisis?

By Gary Snyder

Photo: Reuters/Molly Riley

Former Smithsonian Secretary Lawrence M. Small (R) seen here with former U.S. Senator Ben Nighthorse Campbell (R-Colo.). Small resigned in March 2007 following revelations regarding excessive compensation and thousands of dollars in unauthorized expenses.

Accountability is an indispensable topic at all charity-related forums—for good reason. Congress, state attorneys general and the Internal Revenue Service have found it necessary to intervene into the practices of the charitable sector. The many investigations have peeled back the veil of secrecy of the sector and the consequences may be of epic proportions.

Poor accountability and an incredible lack of transparency have caused trust in the charitable sector to tumble, similar to what happened to corporations several years ago. The erosion of the public's trust can be illustrated best by the fact that barely one-tenth of those surveyed in 2005 and 2006 polls[1] believe that charities do a very good job spending money wisely.

Declining public confidence in nonprofit organizations already has started to cause serious doubts about the sector's trustworthiness. Trent Stamp, former executive of Charity Navigator, noted in an article that his organization gets hundreds of complaints "*every day* from donors fed up with the unscrupulous practices of many charities."[2] Unfortunately, charities have failed to demonstrate that they are producing results with every dollar and volunteer hour they receive.

UNDER INVESTIGATION

Even in view of the diminishing confidence, few are asking the hard questions about the sector's future. While the nonprofit world is struggling with many problems, none is more daunting or challenging than the issue of accountability, which has been the subject of some media attention. Despite the attention generated by Senate Finance Committee's hearings, IRS inquiries and regulations, most charities are not aware of the impending crisis.

It is not a new issue. For the past several years, Americans have learned about scandals involving abuses, inappropriate expenditures, conflicts of interest and malfeasance in the for-profit sector. The sector now is under the regulator's watchful eye following the misdeeds at such corporate giants as Enron, WorldCom and Tyco.

Charities are far more capable of similar misdeeds than most realize, including those who work within the nonprofit community. For decades, the charitable sector has been able to cover up much of its dirty laundry. With no national oversight, little leadership and lack of openness, such stalwart organizations as the United Way, The Nature Conservancy and American University have evidenced considerable mismanagement in the past. We have seen some congressional-chartered organizations such as AMVETS, Smithsonian Institution and the American Red Cross lose their way. Because of poor leadership at the board and staff levels, the Red Cross and the Smithsonian are in dire financial straits and are seeking bailouts from taxpayers.

LEADERSHIP IN DENIAL

Intoxicated by denial, the sector consistently has maintained that the abuses and poor practices are the work of a few "bad apples." This belief is self-serving and comforting, but not accurate. There are many more "bad apples" than most of us believe exist.

The problems before the sector are long-standing. In 2004, New York State Assistant Attorney General William Josephson testified before the U.S. Senate Finance Committee that reviews of fully one in ten of all foundations raised red flags. More recently, Elliot Spitzer, when he was New York attorney general, pointed out that excessive compensation might be *the* issue in the future.

The IRS is challenging tax-exempt salaries that are unreasonable, under the Intermediate Sanctions provisions of the IRS code. It has decided to investigate some 200 nonprofit hospitals to see if these charitable institutions actually are doing anything to jeopardize their nonprofit status. Other investigations involve charity investment managers and symphony leaders.

Most recently, authorities from local tax assessors to members of Congress have challenged the tax-exempt status of nonprofit institutions—ranging from small group homes to wealthy universities—because they look like for-profit businesses. Almost 88 percent of overall nonprofit revenues in 2005, the most recent year for which figures are available, came from fees for services, sales and sources other than charitable contributions, according to the National Center for Charitable Statistics. Nonprofits often are difficult to distinguish from their taxpaying competitors.

Some charities also are acting like for-profits on another front. The *New York Times* reported on a study that estimated the cost of fraud in the nonprofit sector at about $40 billion, or 13 percent of the $300 billion donated to charities in 2006.[3]

My own ongoing research for *Nonprofit Imperative*[4] has found more than $1 billion in thefts from charities in 2007 alone, in hundreds of cases of illegal behavior gleaned from publicly accessible documents. Criminologists suggest that this represents only 10–20 percent of the offenses that actually happened.

What is even more startling is that this does not include most houses of worship, foundations (10 percent of nonprofit funding) and government funding (30 percent of total funding).

Deficient internal controls have enabled charity board members or key employees to help themselves to millions of dollars from their organizations' coffers.

LEADERSHIP VACANCY

These shocking numbers mask the real problem. The charitable world is devoid of leadership. There is a profound crisis in the governance and management of many of our charitable organizations, providing the amphitheater to perpetuate all of these abuses.

There also is a vacuum in national leadership. Independent Sector, a coalition of 550 of the nation's largest nonprofits and foundations, finally has shown concern, though only after congressional threats. It spent more than $3.5 million to answer the U.S. Senate Finance Committee's inquiries. In sum, the toothless recommendations described in its Principles for Good Governance and Ethical Practice[5] amounted to maintaining self-regulation, but invited federal governmental intervention in a number of areas. The answers speak to minimal voluntary steps that nonprofits can take to improve their governance and transparency, accompanied by measures that are unlikely to make much of a difference in accountability. There is a conspicuous absence of support for the Principles document from organizations and individuals, including prominent foundations that are influential philanthropic leaders.

The sector needs leadership that takes control and does not abrogate its cherished responsibility of giving direction to a challenged sector. Very few are willing to speak out against the hundreds or thousands of bad apples that are spoiling the bunch. Too many have demonstrated indifference in the hope that the ugly cloud that is sitting over the sector will dissipate.

Such "watchdog agencies" as Charity Navigator, BBB Wise Giving Alliance and American Institute of Philanthropy perform a needed service but do not seem postured to seek change. Public outcries by the leaders of foundations and other nonprofits are exceedingly rare. Little is being done to propagate new ideas that can transition the sector out of its current morass.

OTHER LEADERSHIP ISSUES

Dubious performance sometimes is blamed on less than stellar principals. Some believe that charities hire employees who are willing to work for less than market wages in either the for-profit or governmental sectors. Some argue that such wage disparities cause increased malfeasance. Some think that lower wages means hiring less competent, less efficient and less effective workers. Others subscribe to the view that the nonprofit sector's inherent inefficiencies attract those with a less than stellar skill set, so there are fewer checks and balances in internal controls.

Several, however, believe that some compromises in the hiring of staff with technical fitness and the selection of boards with an appropriate skill set are of secondary importance to the mission of the agency. And there are indications that the desired change needed to gain competent staff and board members is a steep slope that few want to climb.

As a result, many of those serving on nonprofit boards don't know their rights and obligations. When they become aware of misdeeds, too few board members are willing to do something about it. Boards, typically, will not do anything because they have no clue as to what they are supposed to or can do, such as challenging their organization's executive director. Many nonprofit staff members are vested in not doing anything. The status quo is on their side.

There is, however, some concern about the lack of accountability from charities. Pablo Eisenberg of the Georgetown University Public Policy Institute, a noted visionary, says that nonprofit leaders of all stripes remain silent in the face of abuses, scandals and irresponsible expenditures, thereby deepening the extent of the problems.

In a speech, Independent Sector President and CEO Diana Aviv readily admitted that there "are few rules … there are many nonprofits that have no idea that there is a set of expectations."[6] This is quite an appalling admission.

Many board members indeed lack the understanding, as well as the decision-making skills, to deal with the problems. And then there are those who show shocking indifference and detachment; they have shown a lack of commitment to the organization that they have in their own personal lives.

MOVING ON FROM HERE

The sector is the last to know, or admit, that there is a gap in accountability. Most believe that the embarrassments at the American Red Cross and the Smithsonian Institution are limited to large agencies. That, unfortunately, is not true; thousands of charities—regardless of size—are involved in accountability issues. It is verging on pandemic.

Charities are a vital part of our society and are the cornerstone of the American economy that provides life and death services. The responsibility for improvement, therefore, lies with its stakeholders, primarily its leadership.

First and foremost, the leadership must acknowledge that there are, indeed, problems. It must admit the extent of them and address them head-on.

Second, it must eliminate the complacency and self-righteousness that seems all too pervasive. Leadership must throw off the crusty and entrenched methods of doing things that have not served the sector well. Every attempt should be made to shake the foundations of the sector until integrity and accountability emerge. Change undoubtedly will be met with apprehension, even some animus, and a tremendous amount of resistance. In spite of its perplexities, the leadership must take a worldview and throw off the parochial perspectives and get its hands dirty. It is going to be a struggle. It is a fight for survival, one worthy of everyone's participation.

Third, the leadership must start to engage in more self-evaluation and a look to the future. It can begin by raising awareness, with no sugarcoating, of charitable responsibility at the board and staff levels. It should address such matters as fiduciary duties, board-based business solutions, strategic thinking and other skill sets that often are absent.

Fourth, it should seek to produce a generation of thinkers who possess integrity and are free of the current constraints. Clearly, the financial resources are available to tackle these objectives, but willingness must there as well.

Discontent will not pass until there is an invigorated response. It would be fatal for the sector to overlook the urgency of the moment.

As Paul Light, noted scholar at New York University and formerly of the Brookings Institution said, "The last thing anyone wants is a story about how the money they raised helped pave a road to nowhere."

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NOTES

1. Harris Interactive and New York University's Organizational Performance Initiative.
2. Trent Stamp, Swing and a Miss: Charities, Like Baseball, Strike Out (Charity Navigator: New Jersey, April 1, 2005), http://www.charity-navigator.org/index.cfm?bay=content.view&cpid=277.
3. Strom, Stephanie, New York Times, "Report Sketches Crime Costing Billions: Theft From Charities," March 29, 2008.
4. Nonprofit Imperative, a monthly e-newsletter; www.garyrsnyder.com.
5. The report is available online at http://www.nonprofitpanel.org/.
6. Diana Aviv, Nonprofit Accountability: Inside and Out (Keynote speech delivered in a Bridgestar event, June 8, 2004).