

Employee Giving Program

Implementation Guidance for King County Employee Giving Program Eligibility Requirements

All Organizations

Eligibility Requirement 1

Is formally recognized by the IRS as a 501(c)(3) or is a governmental unit of the state of Washington, and for which all contributions to the nonprofit organization are eligible to be deductible for federal income tax purposes under Section 170 of the Internal Revenue Code of 1986.

Implementation Guidance

Certify compliance on the application and provide a copy of the IRS tax determination letter when applying to EGP as a new organization.

Eligibility Requirement 2

Is registered with the Washington state Secretary of State as provided by RCW 19.09.065 and is in compliance with Washington state laws governing charities.

Implementation Guidance

Certify compliance on the application and provide a screen shot from the Washington Secretary of State website showing current registration as a charity, fundraiser, or trust (find your organization's listing at <https://ccfs.sos.wa.gov/#/cftSearch>). An organization that is not registered may still be eligible if it has a legal exemption. More information regarding legal exemptions can be found at <http://www.sos.wa.gov/charities/StartingaNewCharitableOrganization.aspx>. However, completing the optional registration is strongly encouraged.

Eligibility Requirement 3

Does not discriminate against any person on the basis of race, color, religious affiliation, sex, age, national origin, marital status, sexual orientation, disability, or gender identity or expression or qualifies for an exemption under Title VII of the Civil Rights Act of 1964 as amended. This does not deny eligibility to a federation or nonprofit organization that is otherwise eligible to participate in the annual drive merely because the federation or nonprofit organization is organized by, on behalf of or to serve persons of a particular race, color, religious affiliation, sex, national origin, age, marital status, sexual orientation, disability, or gender identity or expression.

Implementation Guidance

Certify compliance on the application that (1) the organization has a documented, board-approved nondiscrimination policy that aligns with the spirit of the nondiscrimination policy in Eligibility Requirement 3 above, (2) the organization does not omit any of the listed protected classes, and/or (3) the organization is legally exempt. EGP recognizes that precise wording of nondiscrimination policies varies and does not require organizations to adopt King County policy verbatim. Per King County Code 3.36, we reserve the right to ask for supporting documentation of nondiscrimination policy, or of exemption thereof, at any time.

Eligibility Requirement 4

Each federation and each independent nonprofit organization must submit an on-time and complete application, including all required attachments, during the annual nonprofit application cycle.

Implementation Guidance

EGP must receive the application by the published due date. If the application is initially denied and the organization chooses to appeal the decision, the appeal must be received by the published appeal due date. The application must be complete, with every required question answered and all requested documentation included. Incomplete and ineligible applications will be automatically denied but, if received by the application due date, will be offered one appeal. Write-ins during the Annual Giving Drive will not be accepted, and applications submitted after the appeal deadline will not be considered. All organizations must reapply annually.

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Eligibility Requirement 5

The organization has been providing or conducting real services, benefits, assistance, or program activities at least the previous two years.

Implementation Guidance

Include the date of incorporation on the application. Additional documentation may be requested for determination of eligibility, such as annual reports, financial statements, tax filing, program reports, or any documentation showing that the organization has been working toward its mission for at least two years prior to June 1 of the application year. Information that demonstrates provision of services, benefits, assistance, or program activities may include number of people served, referrals made, money distributed, outreach and education provided, or project plan steps completed.

Eligibility Requirement 6a

The organization is directed by an active governing body whose members have affirmed adherence to a conflict of interest policy and a majority of whom serve without compensation.

EGP uses the following definitions from the Better Business Bureau:

- The IRS Form 990 instructions define a director/trustee as a member of the governing body with voting rights.
- Directly compensated voting members of the board are those who receive payment (cash or in-kind) from the organization (paid staff member, paid consultant, etc.).
- Indirectly compensated voting members of the board are those who are direct family members (e.g., spouse, parent, sibling, child) of anyone who receives payment (cash or in-kind) from the organization (paid staff member, paid consultant, etc.).
- Voting members of the board who receive honoraria are considered to be directly compensated.
- Voting members of the board who receive only reimbursement for expenses incurred are not considered to be compensated.
- Voting members of the board who are paid staff members of affiliated organizations are considered to be directly compensated if, and only if, financial and governance relationships between the subject organization and the affiliated organization are such that generally accepted accounting principles (GAAP) require the subject and affiliated organizations to have combined audited financial statements.
- Conflict of interest policy – please see the IRS sample policy located in Appendix A of the Instructions for Form 1023 (<https://www.irs.gov/pub/irs-pdf/i1023.pdf>).

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization; for example, Part VII of the full IRS Form 990.

Eligibility Requirement 6b

Compensated governing body members do not serve as the governing body's chair or treasurer. Governmental units are exempt.

EGP applies the following to this requirement:

- The governing body's chair and treasurer are officers of the organization in a unique decision-making capacity, regardless of whether they have official voting rights.
- Directly compensated members of the governing body are those who receive payments (cash or in-kind) from the organization (paid staff member, paid consultant, etc.).
- Indirectly compensated members of the governing body are those who are direct family members (e.g., spouse, parent, sibling, child) of anyone who receives payment (cash or in-kind) from the organization (paid staff member, paid consultant, etc.).
- Members of the governing body who receive honoraria are considered to be directly compensated.

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- Members of the governing body who receive only reimbursement for expenses incurred are not considered to be compensated.
- Members of the governing body who are paid staff members of affiliated organizations are considered to be directly compensated if, and only if, financial and governance relationships between the subject organization and the affiliated organization are such that generally accepted accounting principles (GAAP) require the subject and affiliated organizations to have combined audited financial statements.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization; for example, Part VII of the full IRS Form 990.

Eligibility Requirement 7

The organization's publicity and promotional activities are based upon the actual program and operations, are truthful and non-deceptive, and make no exaggerated or misleading claims.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization; for example, annual report, meeting minutes, financial statements, performance measures, and/or a work plan that can substantiate publicity and promotional activities.

Eligibility Requirement 8

The organization has an annual financial statement prepared in accordance with generally accepted accounting principles.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization; for example, profit and loss statements or IRS Form 990. GAAP requires the accrual method of accounting. Many small organizations do cash accounting throughout the year and adjust to accrual accounting for year-end statements. In some cases, the nonprofit is small enough, does not have any paid staff, and has no receivables (i.e., does not owe anyone money and no one owes the organization), and the difference between cash and accrual accounting is not material and would not have a consequence on the financial statement. See the Nonprofit Accounting Resources section of our [Eligibility Requirements webpage](https://www.kingcounty.gov/audience/employees/giving/for-nonprofits/Eligibility-requirements.aspx) (URL: <https://www.kingcounty.gov/audience/employees/giving/for-nonprofits/Eligibility-requirements.aspx>).

Eligibility Requirement 9

Within the fiscal period ending not more than 18 months prior to the January of the year of the Annual Drive for which the organization is applying, the organization's financial statement has been reviewed per the following: (1) entities with an annual gross income of less than \$1,000,000 must certify that they have an internally produced complete financial statement that has been reviewed by their governing body; (2) entities with an annual gross income of more than \$1,000,000 but less than \$3,000,000 may provide either (a) federal financial reporting form (990, 990PF, 990EZ, 990T) the organization normally files with the IRS which must be prepared by a certified public accountant or other professional who normally prepares such forms in the ordinary course of their business, or (b) an audited financial statement prepared by an independent certified public accountant; (3) entities with more than \$3,000,000 in annual gross income averaged over the preceding three years must conduct, and may be asked to provide, an independent, third-party audit of their financial records for the preceding tax year. Governmental units are exempt.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization that shows that the most recent complete financial statement ending between June 30, 2019, and December 31, 2020, fulfills the following criteria:

- **3-Year Average Gross Annual Income of \$3,000,000 or More** – The organization had an independent, third-party audit of their financial records for the preceding tax year.

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- *Gross Annual Income Less Than \$3,000,000 but at Least \$1,000,000* – The organization completed either or both of the following:
 - Federal financial reporting form (e.g., 990, 990PF, 990EZ, 990T) it normally files with the IRS, which must be prepared by a certified public accountant or other professional who normally prepares such forms in the ordinary course of their business.
 - Audited financial statement prepared by an independent certified public accountant.
- *Gross Annual Income Less Than \$1,000,000* – The organization's governing body reviewed an internally produced complete financial statement.

Eligibility Requirement 10

The organization will prohibit the sale, lease or distribution of King County contributor lists.

Implementation Guidance

Certify compliance on the application. In the case of an audit by EGP, documentation of an overarching organizational privacy policy that includes a statement that the organization does not sell, lease, or distribute its contributor lists or documentation of a process that separates out King County contributor names from distributed lists would be acceptable supporting documentation.

Eligibility Requirement 11

A federation, each nonprofit organization represented by a federation, and each independent nonprofit organization, shall make available upon request by the EGP Committee, the King County Council, or the County Executive:

- *its most recent IRS Form 990 or IRS Pro Forma 990;*
- *its most recent annual report, including an annual financial statement;*
- *a disclosure for the most recent annual report period of the total dollar value of support from all sources received on behalf of the charitable purposes of the organization; and*
- *the total dollar amounts applied to charitable purposes, fundraising costs and all other expenses during the most recent annual report period.*

Implementation Guidance

Certify compliance on the application and provide supporting documentation if requested by EGP.

Federations

Federations must meet the following eligibility requirements in addition to Eligibility Requirements 1 through 11 above.

Eligibility Requirement Fed 1

For a federation, the federation has the express permission of an authorized official of each of its member nonprofit organizations to use the nonprofit organization's name and to participate in the Annual Drive.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization, such as a member organization application giving such permission or a signed authorization from the board of directors or executive director.

Eligibility Requirement Fed 2

For a federation, the federation has verified and accurately declared that each member organization meets all EGP eligibility requirements.

Implementation Guidance

Certify compliance on the application and maintain supporting documentation on file within the organization, such as a member organization application to the federation that covers all eligibility requirements or specific

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verification of our eligibility process through a separate process, such as sharing of our application and/or worksheet.

Governmental Units

Governmental units must meet the following eligibility requirement in addition to Eligibility Requirements 1 through 11 above, except where exempted.

Eligibility Requirement Gov 1

A state of Washington governmental unit may apply for inclusion in the Annual Drive if a contribution for the purpose specified by the governmental unit would constitute a “charitable contribution” under Section 170 of the Internal Revenue Code of 1986. Under Section 170, a charitable contribution to a state or political subdivision must be “for exclusively public purposes.”

Implementation Guidance

In order to establish eligibility, a governmental unit must certify compliance on its application and include with its application all of the following:

- Documentation that the governmental unit is authorized to solicit and accept donations for the purpose identified in the application. For example, this could be a copy of legislation – whichever legal instrument is appropriate for the municipality.
- Documentation of a separate fund or account verifying that the account’s uses are limited to donations made for the purpose identified in the application; this could be included in the legal review below.
- A legal review stating that a contribution to the separate fund or account would meet the definition of “charitable contribution” under Section 170 of the IRS Tax Code.

Shared Tax Identification Numbers

Nonprofit organizations that submit separate applications under a common Tax Identification Number (TIN) must provide information to establish clearly distinguishable, separate identities for each organization in order to be listed separately in the Annual Giving Drive. The information supplied by nonprofit organizations with a common TIN must establish that they are not simply a parent organization and a program(s) of the parent organization. Provision of information does not guarantee separate listings. Such information may include:

- separate accounting, including independent financial statements;
- separate advisory/governing bodies;
- clearly defined geographical service areas such as local chapters of a national organization; and/or
- independent branding including website and marketing materials.