The Hauser Center
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Should Mission Statements Be Promises?
(And should they have to be?)

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Abstract

This paper explores how mission statements might become a resource for improving nonprofit governance and accountability. The author asks what legal duty – or moral obligation – nonprofit organizations should be under to articulate a mission statement that others (the government, donors, prospective beneficiaries, the public at large) could use to assess their goals and performance. The paper explores how mission statements might include auditable claims, rather than vague aspirations, and raises questions about how various stakeholders might be empowered to use mission statements in holding an organization to account.

Jerusalem House provides a warm, caring home for homeless people with AIDS that allows them to retain their independence and dignity.

The Network of Hope exists to promote Lasting Change in the lives of individuals, families and communities.

Grail Family Services fosters learning and the empowerment of vulnerable families with young children through the delivery of programs that educate, develop leadership skills, and build a sense of community.

Nonprofit organizations generally announce "mission statements" – usually comprised by descriptions of some combination of their intended or ongoing activities and the results they hope will flow from them. Many are inspirational, presumably seeking to motivate potential supporters, workers, and volunteers. Some are general, with mainly broad and relatively abstract statements; others are highly specific and focused.

How should we interpret an organization's mission statement – from a moral and legal standpoint? To what extent should we imagine that mission statements are or should be a reliable basis for understanding what a nonprofit organization seeks to accomplish and/or how it intends to go about it? What legal duty – or moral obligation – should nonprofits be under to articulate a mission statement … and to what extent ought others (the government, donors, prospective beneficiaries, the public at large, …) be invited to place reliance on an organization's statement of its mission? Or, to put it the other way around – should nonprofit organizations be required to articulate a mission statement on which others are invited or allowed to place reliance? If so, what form of statement should be required? What forms of reliance – and what forms of enforcement – would it be appropriate (or most socially beneficial) to create?

This paper explores the possibility that nonprofits should – and perhaps should even be required to – articulate a mission statement that can be relied upon as a promise to deliver specified social value. It raises the possibility that we should define two forms of nonprofit organizations – (1) those operating largely independently of public support; and (2) those materially supported by public treasuries. Those not relying on public support would be invited to pursue, within broad boundaries, their own ideas of what is in the public interest. By contrast, those accepting significant levels of public funds might be asked to meet different standards for establishing that the interests they were pursuing were indeed public interests and for showing that they were serving those interests efficiently and/or effectively. When a socially-oriented nonprofit organization accepts significant funding from the public treasury, what reciprocal responsibility does it undertake to align its actions with interests seen by others as socially important? To what extent should it be asked to demonstrate its efficiency and effectiveness at serving those interests? What would be appropriate mechanisms for scrutinizing or authorizing the actions of such organizations? Or would the gains from greater alignment of the "public" spending with public interests be overshadowed by the inefficiencies provided by greater oversight – so that we would be better off leaving them to their own devices?

The status quo ante

Under current federal US tax law, nonprofit organizations are permitted to organize to pursue any of a very broad collection of charitable interests. In order to qualify as tax-exempt organizations the contributions to which are deductible from donors' incomes, they must designate a mission that fits within the IRS' Congressionally mandated and very broadly drawn list of charitable purposes, and if they subsequently decide to change the focus of their activities they must submit a description of the changes (so that the IRS can affirm that the new collection also lies within the quite broad zone of what is federally authorized). Their stated intentions – to operate programs on behalf, for example, of disadvantaged children – create an obligation to establish, operate, or participate in programs that can reasonably be described as for the benefit of disadvantaged children, but creates no obligation to the intended beneficiaries actually to produce benefits for them. The organization is free to define practically anything it wants to as a "benefit," and to work on producing it – there is no requirement that it succeed, even on its own terms … and certainly no obligation to test its interpretation of what a "benefit" is against the views of either intended beneficiaries or of the interested public. Donors have standing to protest legally if they feel that the agreements made with them about the activities to be undertaken have not been honored – but the intended beneficiaries have no right to complain if they do not view the activities undertaken on their behalf as effective, or even if they do not regard them as a benefit at all. As recipients of charity, it is not up to them to have a view about what is being done for them is being done well, or even about whether it is a good thing *if* done well.

Social value production as fundamental purpose

Since societies constitute legal organizations (private for-profit organizations, nonprofit organizations, and governmental entities) – setting the terms and conditions on which they are permitted to be established, and the legal frameworks within which they are permitted to operate – we can suppose that the purpose of all organizations can be understood to be the production of social value (broadly defined to include both publicly-valued private interests and broader collective social interests). In some cases, society may seek to serve social interests by allowing organizations to pursue the private interest of the individuals involved. Under standard economic theories of free market competition, for example, it can be argued that constituting private sector for-profit organizations owned by (and legally bound to serve the interests of) private investors by creating products and seeking and serving customers in competitive markets will be an effective way to advance (1) the private wealth interests of investors, (2) the consumption interests of consumers, and (3) the income and employment interests of the organization's employees. So long as society treats the private income and consumption interests of private citizens as valuable, these "private" organizations, driven by private motives, are in fact serving public interests.

The link to the production of social value is more direct for nonprofit organizations; at least nominally, they are typically established specifically for the purpose of advancing wider social interests – at least, that is the notion embedded in the tax laws under which they are generally chartered and organized. Two major forms of public value can be generated by nonprofit organizations. First, they can produce what has been referred to as "expressive value" for their donors and supporters – they constitute an opportunity to engage in public speech affirming particular values and ideas that their organizers believe in and want to propound. In societies valuing free expression, this can be interpreted as a social purpose in and of itself – whether or not other services or benefits are generated for others. Second, they can produce products or services that are of direct benefit to individuals or groups that society has determined are worthy of social interest (and thus designated as appropriate recipients of charitable action).

Asserting the public claim

On what basis could governmental authorities – or the public – assert that nonprofits owe the world a promise of social benefit? To the extent that the organization acts independently, on its own volition and with its own resources, we might conclude that no obvious public claim on its intentions, activities, or results has been created. If, by contrast, the public – in the form of its resources, authority, authorization, assumption or limitation of liability, or otherwise is significantly involved in "supporting" the organization, then we might reasonably inquire about what reciprocal obligation that support creates on the part of the nonprofit.

There is a wide spectrum of degrees of public involvement in and public financial support for nonprofit organizations. At one end lies the independent, self-sustaining nonprofit organization: When individuals self-organize in a free society into groups and seek to produce something that is in their judgment good for the society – or simply act in ways that serves their own expressive purpose – there is no obvious basis for a claim by others on their effort, resources, activities, or results. It seems reasonable to interpret constitutional protections on freedom of expression and association to permit individuals and groups to organize themselves, using only their own resources, to do more or less whatever they want (within the confines of what are generally legally permitted activities).

At the other end of this continuum lies the contract-based agency. Consider a nonprofit organization that is directly receiving public funds to carry out a specified program. Here, it would seem completely appropriate to consider the acceptance of public funding as creating an obligation that at a minimum would include carrying out specified activities, and might perhaps include attaining specified results. Indeed, such arrangements are generally codified in the form of contracts that specify either the activities to be undertaken, or the results to be achieved, or some combination of the two – and thus create an enforceable promise by the nonprofit service provider that enters into the contract.

Where, then, does the traditional 501(c)3 nonprofit organization fit on this spectrum? An alternative to organizing under the tax code as a nonprofit organization would be to organize as a (not-very-profitable) for-profit organization to pursue whatever social benefits its organizers wish to generate. What is different by reason of choosing to organize instead as a nonprofit under the tax law? There are at least five potentially significant ways in which the qualifying 501(c)3 differs from private sector organizations:

(1) *no one owns the residual income or accumulated surplus of the organization* – the board of directors or trustees are charged in perpetuity to use the organization's resources for

the public purposes for which the organization was created, and transactions for the benefit of others (directors, employees, donors, …) are prohibited;

(2) the *liabilities of trustees or board members and management employees are limited* so long as they act in good faith to discharge the charitable intent of the organization;

(3) any *net earnings* of the organization pursuant to its charitable purpose *are exempt from income taxation*;

(4) *contributions* to the organization *are deductible* from taxable income before tax is computed and from estate value before inheritance taxes are computed.

(5) *property owned by nonprofit organizations* that is used in the direct service of its mission *is (commonly) exempt from property taxes*.

The first of these – the prohibition of individual gain from the activities of the organization (through residual ownership of the surplus or through self-dealing) – establishes the nature of the organization and its incentives, insuring that the organization's interests are not aligned with any other individual or organization's interests (though not exactly guaranteeing that they are aligned instead with the production of the social value for which the organization was chartered – that is left to the board of directors or trustees to arrange). This would not seem by itself to create any obvious obligation – other than to serve the stated charitable interests of the organization as well as they reasonably are able.

By contrast, the other four major departures all constitute forms of direct public support for the organization. The limitation of or indemnity from liability for trustees is effectively a free insurance policy, worth whatever the premiums would be on a policy providing similar protection from the risk of lawsuits; this is probably not a hugely significant subsidy, but it is at least a minor form of public support. Exclusion of net earnings from exposure to income taxation may be a larger subsidy from the public treasury (equal in value to the taxes that would otherwise have had to have been paid on net earnings), but since organizations that are constituted for a public purpose (and which by law cannot direct their net accumulated resources to other individuals or groups) have no incentive *not* to spend their funds on behalf of their stated purposes, and since they can generally find ways to spend down any surplus they generate, their average net incomes over time are likely to be small (or could be arranged to be small), so the subsidy flowing from exemption from income taxation on the net earnings of the organization is not as large as it might at first seem.

The ability of donors to exclude contributions to qualified 501(c)3s from their income before calculating taxes – and, similarly, from their estates before inheritance taxes are computed – is a considerably larger benefit. In effect, the federal government (and some state governments) provide a matching donation to the charity of the donor’s choice when a contributor takes advantage of these tax benefits. Consider a donor in a 35 percent tax bracket who writes a check for $10,000 to a qualified charity, and takes a charitable deduction for this amount on her federal income tax return. The interaction of income, other deductions, tax brackets, and other features of the federal income tax imply that the net reduction in her taxes could vary considerably (though in general there will be a significant reduction, and it could approach 35 percent of her gift). For simplicity, assume that the net reduction is 25 percent of the gift amount, or $2,500. The actual cost of the gift to her is thus $7,500; the remaining $2,500 that the organization received came, in effect, from the federal treasury – or, to put it more bluntly, from other federal taxpayers. Thus, the organization has actually received a charitable gift in the amount of $7,500 from a donor who chose to support it, matched by a 1:3, or 33 percent matching grant of $2,500 from taxpayers who did not specifically choose to support this particular charity (though we should observe, in fairness, that they did agree, in general terms, to the establishment of this broad matching grant scheme to support qualifying charities in general who receive intentional donations from other taxpayers).

Given the higher marginal tax rates imposed through the gift and estate taxes on large transfers of wealth, the "matching rate" for charitable contributions made at death are even higher. For taxpayers with the largest estates, facing tax rates of 55 percent, a $1 million contribution to a qualifying organization from an estate costs $450,000; the remaining $550,000 received by the organization comes from the federal government, which is thus matching the donation at a match rate of 1.22:1, or over 120 percent.

Having the federal government (and some state governments) as a more or less silent partner matching donations at something ranging from 20 percent to over 100 percent (depending on the circumstances of the intentional donor) amounts to an enormous subsidy from the public treasury to support the activities of qualifying charities. For example, the Office of Management and

Budget estimates that the foregone federal income tax alone resulting from charitable deductions in fiscal year 2006 is about $40 billion.[1]

The common (state-law based) exemption of property owned by nonprofit organizations (and used directly in their charitable activities, in contrast to those held for investment purposes) from local property taxes also amounts to a considerable subsidy – this time mainly from the treasuries of municipal governments (which, not incidentally, play little or no direct role in the determination of eligibility for these subsidies, and can do little to control the amount of tax-exempt property owned within their jurisdictions). The amount of tax that would have been owed on these properties if they had not been owned by qualifying nonprofit organizations is a direct subsidy to them – and given the way local property taxes are set (with the total burden being spread across all taxable property), this subsidy is paid directly by the other taxpayers of the local jurisdiction in which the qualifying nonprofit organization owns tax-exempt property. Thus, Harvard University and MIT, which own literally billions of dollars worth of what would otherwise be taxable property used in pursuit of their educational missions in Cambridge, are being directly subsidized by the town's other taxpayers.

What (if any) responsibilities and obligations are entailed by the receipt of public subsidies?

The combination of these forms of subsidy – free insurance, the ability to accumulate earnings free of tax (for a public purpose only, to be sure), matching grants from federal (and some state)

[1] Office of Management and Budget, Analytical Perspectives appendix to Budget of the United States Government FY 2007, pp 287-290.

income taxpayers and from federal (and some state) inheritance taxpayers, and property tax subsidies from nearby property-owning residents and businesses – amounts to quite substantial support of the charitable sector by a wide array of taxpayers (as, indeed, it is no doubt intended to). What, if any, obligations or responsibilities would it be reasonable or appropriate for the nonprofit to assume as a result? The intentional donors have standing to insist that their funds be used according to their agreed terms, including what programs are to be operated, what benefits produced, what beneficiaries served – what say should the matching donors or nearby residents who are covering what would have been the organization's property taxes have in determining what programs *their* contributions should support, how the programs should operate, or who should benefit from them? Intentional donors may be able to get recipient organizations to agree to develop (and share with them) data on performance and results (and can withhold their contributions if the organization will not agree) – what access to such data should the matching donors have? More generally, what forms of accountability would be appropriate for nonprofit organizations that are receiving significant public taxpayer-funded subsidies?

Accountability can be defined in terms of four attributes:

(1) **To whom**? To what individual or group is the organization to answer, or present its "accounting" of its activities and/or results?

(2) **For what**? Which responsibilities is the organization held accountable for – financial integrity? carrying out particular activities? achieving specified results?

(3) **With what form and level of detail of descriptive information (within what "information regime")**? What dimensions of description is the organization to render? Does it have to report on its financial flows, and if so in what ways and at what level of detail? Does it have to report on its activities? Its results?

(4) **With what sanctions**? If the individual or group to whom the organization is accountable does not approve of the organization's degree of transparency, the form or nature or depth of its reports, the activities it is engaged in, its assessment of results, or its achievements – if, in short, it objects to some aspect of the accounting that is presented to it – then what sanctions, powers, or methods of influence does it have available to it to require or encourage what it judges would be a better job by the accountor?

If we accept the premise that the level of public subsidy provided to nonprofit organizations warrants some form of accountability to the taxpayer supporters, then we can reasonably inquire about what the alternatives are under each of these four accountability attributes: to whom, for what, within the setting of what provided information, and in the context of what sanctions?

To Whom, and For What?

Currently, nonprofit organizations are principally accountable to their donors. Their trustees or board members are charged with insuring that the organization is serving its articulated mission (as stated or restated by the same trustees or board, from time to time). This is their fiduciary public duty, but there is precious little opportunity or standing for anyone else to make a judgment about how well it is being discharged or to press the organization or its board or trustees to improve performance. Nonprofits do face, in addition, requirements to report to the IRS about their activities, but this is mainly focused on insuring that they are not engaged in self-dealing, and involves practically no examination of whether their approach to their mission is sensible and effective (or even much about whether it is being carried out) – so long as the money isn't being misappropriated in some way, the tax authorities are generally satisfied. The current answer to the first part of the accountability question, thus, is that nonprofits owe accountability to donors, for honoring gift agreements, and to public tax authorities, for reasonable financial integrity and avoidance of self-dealing and theft. Donors could, in their contribution agreements, insist on higher levels of accountability – requiring the organization to report on performance and achievements, for example – and only then would the organization owe that higher standard of accounting to anyone, and even then it would only have to provide it to its donors.

Since taxpayers are also contributors to these same organizations, those nonprofits that accept public funds to support their activities and help them advance stated purposes – as we have argued 501(c)3 organizations should be understood to be doing – might reasonably be held to account to their "other" supporters/"donors" – the taxpayers providing the subsidies they receive. This would follow even under the existing theory of accountability (that organizations are accountable to their donors), if we simply recognize that taxpayers are in the position of making matching donations and thus might reasonably expect to be rendered an accounting as well. And this would presumably involve more than simply accounting for the spending itself. The subsidy is granted to help the organization to achieve its stated mission – and the taxpayers providing the subsidy thus have a legitimate interest in knowing whether it is being served effectively and efficiently or not. Thus, a more detailed accounting – of activities and results – to the taxpaying supporters of the enterprise would seem to be in order.

Since the public purpose to be served by the organization – and the presumptive reason for the public subsidies involved – is ultimately to serve the stated beneficiaries, it might seem sensible for there to be some role for the views of beneficiaries in examining the performance of the enterprise as well. Recipients – on whose behalf the activities were, at least nominally, undertaken, will often have information about how effective the services or programs have been. In addition, they may have useful information about priorities, about the choice of which socially-valuable benefits it is most important to produce. Recipients might agree that the organization is producing the benefits it says it is, but believe that other benefits that are more important to them should be produced instead. That is, recipients may have judgments both about how well the mission is being served *and* about whether the mission itself should be changed.

Recipients, of course, will not always have good information about either priorities or results. In addition, they have an intrinsic conflict of interest with the organizations that serve them – they might, in principle, be just as happy (or even happier) to have their *individual* interests (rather than the broader social interests) served by the programs, and might thus constitute a force for moving programs toward serving narrower personal and individual interests and moving away from broader social interests. Thus, it may be most appropriate to include the views of recipients as information to be considered by the taxpaying “donors” supporting the programs (rather than to define recipients themselves as a group by whom the organization may also be held to account).

Thus, the expanded answer to the first two accountability questions is that organizations that are accepting significant levels of public taxpayer funding should be accountable to the larger public that is supporting them – and they should be accountable for an explanation and justification of both their selection of purposes to be served and of their efficiency and effectiveness in serving those purposes.

Exactly how should the “larger public” that is contributing to the funding for the nonprofit organization be constituted for purposes of receiving (and reacting to) the enterprise’s accounting of its activities and results? Obviously, there is a wide range of possible approaches, ranging from appointing professional officers of the IRS to represent the public’s interests in this regard to forming a public committee of interested parties not involved in the organization to receive and respond to its description. It might be a desirable (or required) feature of such a committee that it include representatives of the intended beneficiaries.

Within what information regime – and with what sanctions?

What information would nonprofit organizations then need to provide to those to whom they are being accountable? If they are to be accountable for the purposes they select and the progress they make toward their stated goals, those holding them accountable must have some ability to understand both activities and results. Thus, nonprofits accepting public funding would need to disclose descriptions of their flows of funding (as they do now), their activities, and measures of their results.

As with the nature of the committee that would receive the organization's accounting for itself, there is a wide range of possible sanctions that could be within the authority of the oversight organization to impose. Most obviously, its continued approval might be required to retain the tax-privileged status of the organization. Such approval could be structured with differing levels of presumption in favor of the organization's efforts – for example, a significant supermajority of the body might be required to suspend the deductibility of contributions to the organization.

Mission statements as promises

If nonprofits receiving tax subsidies are to be made subject to external review of their chosen purposes and results – broadly speaking, for their *performance* – then they will need to be assured that they are not going to be held to arbitrary goals not of their choosing. In order to make this higher level of scrutiny more feasible, we might permit the organization to specify the terms on which it is prepared to be held accountable. For example, a homeless shelter could define its mission for a given year in terms of the number of bed-nights available, the number of homeless people served, and so on.

One way in which to implement this would be to ask (or require) tax-subsidized nonprofit organizations to produce a mission statement with what we might term an "auditable impact claim." What is it that they expect to accomplish over the coming year that we can reasonably measure, assess, and verify? Their impact claim is an assertion of what results they intend to produce. They may have (and state) other, broader goals. For example, the homeless shelter that states as its impact claim that it will have 15,000 bed-nights available over the course of the year may also have as one of its goals that it will successfully move more than 100 homeless people into permanent housing that lasts for more than 6 months – but they may choose not to specify that as part of their auditable, stated, impact claim.

In effect, the stated auditable impact claim would become a promise by the organization about its activities and performance. It would get to choose what its mission statement – in the form of an auditable claim about the results it will achieve – includes (and does not include). Having set forth its current mission in this form, however, its specified claim would be viewed as a promise rather than merely as an aspiration.

What form of claim – activities, or results?

Ideally, nonprofits receiving tax subsidies would set out auditable claims of results that they promise to achieve. In practice, however, it is generally easier to measure, demonstrate, and audit levels of activity than it is to assess actual results. Consider, for example, the homeless shelter that maintains available beds and provides temporary housing and meals. Are these activities, or results? In some cases, the distinction is semantic – while serving a meal is an activity, providing nutrition could be viewed as a result. For obviously beneficial activities with tightly-linked results (vaccinations and immunity and reduction in the incidence of diseases, for example), the distinction may not be important. In other cases, the distinction is important but the measurability of the results is low. For example, one reason for providing temporary shelter is to help families in crisis to stabilize their situations and move to permanently improved circumstances – but that "result" will generally take longer to appear, will be harder to measure, and may be harder to attribute to the work of the homeless shelter per se. Thus, while we might like to focus on the farther downstream "results," we may often have to settle for assessing activities that we can reasonably hope are tied to the results we aspire to. To those articulating "impact claims," it will generally feel less risky to make assertions about activities than about their consequences. Thus, the nonprofits we ask to make impact claims will often couch them in terms of activities they intend to conduct, while their overseers should generally want them to focus on, measure, manage for, and produce actual consequences.

What form of "mission statement"?

If mission statements are to be promises, then the nonprofits articulating those mission statements are likely to be very careful about the nature of the claims they advance. Mission statements, as currently produced, range across a wide range of forms and levels of abstraction. At least three elements are common (though rarely does any one mission statement include all three):

(1) A "destination vision" (an image of how the world will look if the organization succeeds in its mission): "we foresee a city where the playgrounds are safe and a meeting ground for a diverse collection of neighborhood children …"

(2) A “role vision” (a description of what part of the broader challenge this organization will take responsibility for): “we organize afterschool enrichment programs to help inner city kids develop better math skills…”

(3) An “operational vision” (a more detailed picture of the actual activities that will be undertaken): “we run chess competitions at six junior high schools in the Dundalk area…”

Generally, destination visions are too broad to provide auditable claims of results, and operational visions are so tactical that they may provide auditable *activity* claims, but will not generally frame true results claims. Role visions often contain an aspirational statement about results (“better math skills”) in the context of a description of the role the organization will take in trying to achieve those results. Thus, trying to codify a “role vision” into a reasonably concrete results claim may be the most productive way to build a true “impact claim.”

Voluntary and mandatory approaches

Treating mission statements as promises could be implemented either voluntarily and individually, or by legal mandate (presumably, through a change in the tax law governing nonprofit tax status). Nonprofit organizations could reach for higher standards of accountability, among other approaches, by:

(1) developing and articulating auditable claims of intended results;

(2) organizing external groups designed to represent the broader public interest, reporting to them on their activities and their results, and discussing with them the establishment of priorities among different programs they could run and results they could seek to achieve; and

(3) treating their own projected impacts as promises they have made to the public and to intended beneficiaries about how efficiently and effectively they will use the publicly- and privately-provided resources with which they are working.

Alternatively, we could as a society redefine the terms on which nonprofits receive public tax subsidies, requiring that they specify in advance what they will accomplish, and developing mechanisms for reviewing their choices of goals and their performance, withholding the benefits of tax subsidies in cases where goals are either not agreed or not met.

Opting out: Defining two classes of nonprofit organizations

Some nonprofit organizations might not want to be held (either voluntarily or on a mandatory basis) to the standards of accountability suggested here as appropriate for organizations that are receiving taxpayer subsidies. They may wish to pursue ideas or approaches that they do not wish to explain to others or to defend, or for which they are not prepared to make auditable activity-level or impact claim commitments. For example, their purposes may be expressive, rather than impact-oriented, and they may not wish to be induced to make impact claims or to present evidence of results. If we were to adopt standards that organizations accepting public taxpayer subsidies (through the mechanisms described above) had to meet the kinds of more stringent forms of accountability described here, it seems reasonable to permit organizations that do not wish to meet those standards to opt out by eschewing the public subsidies that qualified organizations generally receive. Thus, we would define two categories of nonprofit organizations:

(1) those that accept public subsidies, and are required to meet the corresponding standards (whatever those may be established to be); and

(2) those that eschew the public subsidies, and are required to meet correspondingly lower demands for accountability.

The characteristics of nonprofit organizations that accept the public subsidies would thus be:

(1) No one is allowed to own any residual value of the organization, and all funds must be used to serve the organization's stated mission interests;
(2) Liabilities of trustees or directors and managerial officers for actions taken in good faith to serve the organization's mission are limited;
(3) Net earnings of the organization are exempted from income tax;
(4) Charitable contributions to the organization are deductible from income or from estate valuations before income or gift and estate taxes are calculated;
(5) Property owned and used by the organization in the pursuit of its mission are exempt from local property taxes.

(6) The organization must meet the higher standards of accountability associated with receipt of public tax subsidies. In particular (and in addition to other requirements), it must articulate a set of auditable mission goals – its “impact claims” – which will be treated as a promise to perform.

The characteristics of nonprofit organizations that opt not to receive public tax subsidies would thus be:

(1) No one is allowed to own any residual value of the organization, and all funds must be used to serve the organization’s stated mission interests;
(2) There is no limitation of liability for actions by directors or trustees and managerial officers beyond what is provided for for-profit organizations;
(3) Net earnings of the organization are taxable;
(4) Contributions to the organization are not deductible from income or from estate valuations before income or gift and estate taxes are calculated;
(5) Property owned by the organization is subject to local property taxes;
(6) The organization is required to meet correspondingly lower standards of accountability, mainly in the form of financial stewardship and reporting.

Do we ask that nonprofits aspire, that they try – or that they deliver?

The standards and mechanisms of accountability we establish for nonprofit organizations that are receiving substantial public tax subsidies will determine what constitutes the social quid pro quo for receipt of those public funds. Under current law, the main requirement is that nonprofits aspire to produce benefits (and keep themselves and others from stealing the money) – any other performance pressures they face are either self-imposed or imposed by donors in the context of contribution agreements. We could, either voluntarily or as a legal mandate, raise these standards. We could require effort – that nonprofit organizations receiving public funds engage in activities that reasonable people would agree are directed in good faith toward the provision of intended, mission-described social benefits. Or, more boldly still, we could require the articulation of a specific, auditable claim of results that the organization promises to achieve. If we build the mechanisms of higher accountability carefully, one important result that would be reasonable to expect is that society will get a greater social return for its already very significant financial investment in the activities of nonprofit organizations.