

Compensation Guidelines Checklist



ENSURE PAY IS BOTH REASONABLE AND NECESSARY

When private foundations choose to compensate individuals who are insiders for their time and effort, it's important to ensure compensation is reasonable, necessary, and paid for a permissible type of service. Failure to do so could expose the insider and the foundation to penalties and reputational risks. Use this convenient checklist developed by our Legal Team as a helpful guide.



Determine If The Individual Is An Insider		Complete
<p>The IRS prohibits almost all financial transactions between a foundation and its “disqualified persons” or insiders—those who create, control and manage it—unless a special exception applies. Violations can result in penalties to the insider and the foundation. In some cases, it can even lead to the loss of a foundation’s exempt status.</p>	<p>Is the Individual...</p> <ul style="list-style-type: none"> • A “foundation manager,” which includes a foundation’s directors, officers and trustees? • A substantial contributor? • An owner of more than a 20% interest in a company that’s a substantial contributor, or who is an officer or director of such a company? • A family member of any of the above individuals? 	<input type="checkbox"/>
Determine If The Services Are Necessary And Personal		Complete
<p>For the foundation to provide compensation, the services rendered must be “necessary” for the foundation to carry out its tax-exempt purpose and mission. It must also be “personal” in nature. Although the term “personal services” has not been defined by the IRS, the regulations provide examples indicating that it includes investment management, legal, and banking services. It’s also generally understood to include professional and managerial services.</p>	<ul style="list-style-type: none"> • Are the services “necessary” to carry out the foundation’s tax-exempt purposes and mission? • Are the services “personal” in nature? <ul style="list-style-type: none"> > Board, Officer or Trustee Service: Is the compensation for services to be rendered as an officer, director, or trustee? > Staff Service: Is the compensation for services to be rendered as an executive director, program officer, or in some other professional capacity? > Legal, Investment Management, Banking, or Other Professional Service: Is the insider a professional service provider who will render professional and/or managerial services to the foundation? 	<input type="checkbox"/>

Determine If The Compensation Is Reasonable		Complete
<p>The regulations require compensation to be “reasonable.” This generally entails determining that the compensation is comparable to compensation paid to third parties based on market comparables. This is measured by what a person with comparable skills would be paid for like services by an organization of a similar size and locale.</p>	<ul style="list-style-type: none"> • Is there a job description describing the duties, hours, and responsibilities of the insider? • Are all elements of the compensation package (including wages, benefits, fringes, and allowances) being considered? • Was comparability data obtained? • Is the compensation reasonable given the insider’s job responsibilities, credentials, experience, and hourly commitment? • Did the insider receive actual written offers from similar institutions? • Was the organization’s size, annual grantmaking budget, and location considered? 	<input type="checkbox"/>
Properly Document The Reasonableness Of The Compensation		Complete
<p>Generally, private foundations follow the rules applicable to public charities for establishing the reasonableness of compensation paid to an insider. Those rules require that (1) the compensation arrangement is approved in advanced by an authorized body of individuals, the authorized body, (2) the authorized body obtains appropriate comparability data prior to making its determination as to reasonableness, and (3) the authorized body concurrently makes its determination and adequately documents the basis for that determination.</p>	<ul style="list-style-type: none"> • Did the foundation follow the procedures in its conflict-of-interest policy? • Was the compensation arrangement approved in advance by an authorized body of disinterested individuals? • Was the documentation relied upon by the authorized body preserved? Such documentation would include the terms of the compensation arrangement, statistical surveys, opinions of consultants, etc. Generally, this is documented before the authorized body’s next meeting or within 60 days after the body approves the compensation arrangement. • Are written records of the meeting (Minutes) when the arrangement was approved kept with notations of votes, abstentions (conflict), and any other pertinent discussions? Generally, the authorized body must review and approve the documentation as reasonable, accurate and complete within a reasonable time after it’s been prepared. 	<input type="checkbox"/>

Proceed with Caution

Foundations and their insiders that fail to meet the “reasonable and necessary” and “personal services” requirements with respect to compensation face an array of possible self-dealing and/or taxable expenditure penalties. To learn more, checkout our [complete white paper](#).

HAVE A QUESTION?

We can help! Contact our philanthropic experts at 800.839.0054 or email us at info@foundationsource.com.

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