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## Notes From the Chair

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A recent Foundation Center report on international grantmaking trends, funded by the Council on Foundations, reveals that during the period 1998 through 2001 international grantmaking by U.S. foundations grew nearly twice as fast as all foundation giving. In 2002, however, international grantmaking fell more sharply than giving overall due to stock market declines. Moreover, stricter government counter-terrorism policies since September 2001 are having a chilling effect on U.S. international grantmaking at precisely the time when the philanthropic face of America is most needed abroad, especially in the world's poorest countries.

For many people, my country, Bangladesh, has become synonymous with poverty and natural disasters. It also has, of late, been placed at the top of Transparency International's list of nations plagued by corruption. At the same time, Bangladesh is fortunate to have an active and vibrant civil society, with a rich history and tradition of citizens' movements. Civil society in Bangladesh has always played an important, often decisive, role in the country's social, economic and political development. Bangladesh also is known for some highly

innovative and successful NGO initiatives—such as micro-credit, women's empowerment, population control, health and primary education—which have become successful development models around the world.

One recent initiative in this context is the Bangladesh Freedom Foundation, the organization I direct, which serves as a source of support for innovative ideas and approaches that address challenges to fundamental freedoms in the country.

The Foundation is working to promote equal rights and equal opportunity, so that every citizen, irrespective of religious, ethnic or cultural identity, may enjoy freedom from poverty, ignorance, and oppression. The Foundation supports programs aimed at reducing injustice to the disadvantaged, promoting democratic values, and enhancing human capacities, with special emphasis on women, children, the disabled and minorities. Apart from its role as a grantmaker, the Foundation also is working toward promoting indigenous philanthropy in Bangladesh by bringing communities and citizens in need closer to those who have the capacity, and the will, to share.

Bangladesh has a Muslim majority population, and it has successfully maintained a moderate and tolerant society, rejecting any form of religious and cultural bigotry and extremism. In the changing international environment, however, many fear that maintaining this moderation could become increasingly difficult. As a result, civil society institutions are called upon to play an even more active role, which is not easy given resource constraints. Bangladesh is probably not alone in this regard.

The world today is more unjust and unsafe for the common citizens, wherever they may be. There are new impediments to democracy and democratic practices. Peoples and societies face conflicts over differences in faiths and values. Some of the core values of philanthropies around the world—such as human rights, the rule of law, civil liberties, pluralism and multiculturalism—are being challenged.

All these issues mean that philanthropic organizations worldwide are called upon to do more of what they have been doing for years. Side by side with addressing the problems of the disadvantaged, we need to catalyze a vibrant civil society to influence public policies to end abuses, heal divisions, promote equity and improve the lives of ordinary people. This is the philosophy that guides my work as chair of the Council's International Committee, as chair of the Asia-Pacific Philanthropy Consortium and as executive director of the Bangladesh Freedom Foundation.

## Feature

### More Than One-Third of Largest U.S. Corporations Give Internationally

By Fumiyo Layman, International Programs Fellow

A Council survey of the top U.S. corporations sampled from FORTUNE magazine indicates that more than one-third engaged in some form of international giving in 2002.

Among the top 200 U.S. corporations, 183 are involved in corporate giving. Of these, the study identified 68 corporations that made grants directly to overseas organizations in the 2002 fiscal year, while 115 exclusively made grants within a particular U.S. region.

The average annual total giving (including both domestic and international giving) among the 68 corporations is \$45.73 million, which is higher than that of all grant-making corporations (\$33.8 million). The median of international giving corporations is also higher (\$16.6 million) than that of all grantmaking corporations (\$11.25 million). The significant difference between the average and median of giving points out the wide variance of the data: 14 percent of corporations contribute more than \$100 million cash,<sup>1</sup> while 44 percent make a cash contribution of less than \$15 million. Such findings further reveal that some corporations spent more than 10 percent of their annual profits on cash donations; others spent less than 2 percent. Because of the recent economic climate, almost 30 percent of these international-giving corporations had a negative profit in 2002.<sup>2</sup>

Regarding the organizational structure for corporate giving, over 80 percent of international giving corporations have established their own corporate foundations. About 76 percent have in-house corporate giving programs, and about 60 percent have both. Interestingly, 16 percent of international-giving corporations have only corporate giving programs, under which circumstances those cash donations are not eligible for U.S. income tax charitable deduction. In some cases, such a grant may be deductible under the foreign country's tax laws; however,

conditions vary from country to country.

A breakdown by industries among international-giving corporations is as follows: the top industry is pharmaceuticals (5),<sup>3</sup> followed by technology (4), automotive (3), computer service (3), consumer food products (3), energy (3), financial services (3), insurance (3) and telecommunications (3). The common background among these corporations is a global commercial operation and strategy with well-designed multinational business mechanisms. They tend to make grants to countries or regions where their business operations are well established or prospective.

The results of this survey indicate three issues that need further observation in the future. First, the results of this survey do not account for the corporate giving flow to “friends of” organizations, formed to seek and receive grants and contributions inside the United States to be spent on behalf of a charitable organization outside the country.<sup>4</sup> Thus it is possible that more corporations are engaged in international giving through intermediary organizations than the results show. Secondly, this study does not break down the share of international grant dollars to total giving—meaning that a large grantmaking corporation that may spend 1 percent of all giving to international programs is not differentiated from a small corporate foundation that may donate 90 percent to international programs. Finally, because this survey is only based on 2002 data with no comparison of consecutive years, it does not examine the impact of September 11 or whether corporate giving (including international giving) increased or decreased as a result. However, the finding that more than 30 percent of successful U.S. corporations recognize their global social responsibility suggests a bright future for international philanthropy.

1 Johnson & Johnson and Microsoft made grants totaling more than \$200 million in 2002. 2 In the case of a negative profit, the data on giving percentage of profits become invalid.

3 Numbers in parentheses denote the number of corporations.

4 John A. Edie, *Corporate Giving and the Law* (2002), Council on Foundations.

## International Highlights at Upcoming Family Foundation Conference

Following are Council-sponsored speakers and sessions at the 2004 Family Foundation Conference of particular interest to international grantmakers. The conference will be held February 8–10 at the Hilton New York in New York City.

Sunday, February 8

12:30–3:30 p.m.

**Women Funding Women Internationally (Second Part of a Two-Part Workshop)**  
Family foundations are increasingly placing their work in a global context, and the status of women and girls, especially in war-torn countries, is of paramount concern. Small and large family foundations are getting more involved in healthcare, education and economic development, as well as human rights programs for women and girls either directly through their own grantmaking, or through intermediaries such as the Global Fund for Women. In this timely and compelling workshop, we will hear both perspectives from outstanding leaders for women internationally.

**Moderator:** Lauren Katzowitz Shenfield, Executive Director, Foundation Service

**Speakers:** Kavita Ramdas, President, Global Fund for Women; Susan Dickler, Executive Vice President, Dickler Family Foundation

**Righting Wrongs at Home: Applying Human Rights to Social Issues**

12:30–3:30 p.m.

Social justice activists in the United States increasingly use a human rights approach in their domestic advocacy. This change reflects a growing realization of local-global interconnections and of the power of a human rights approach to re-envision and strengthen advocacy of social

justice issues in the United States. Participants will learn about the value of a human rights approach and the actual and potential role of family foundations in supporting this work.

Moderator: Dorothy Q. Thomas, Consultant, Shaler Adams Foundation

Speakers: Robert Crane, President, JEHT Foundation; Fernando Garcia, Executive Director, Border Network for Human Rights; Monique Harden, Co-director and Co-founder, Advocates for Environmental Human Rights; John Kostishack, Executive Director, Otto Bremer Foundation

Monday, February 9

First Steps in Funding Internationally: How Intermediary Organizations Can Help Family Foundations Get Started

2:00–3:30 p.m.

Thinking of funding internationally but leery about identifying suitable partners, complying with legal requirements, transferring funds or getting timely reports? You are not alone. More and more family foundations are exploring the rewarding possibilities of making grants abroad through U.S. intermediary organizations that can provide the support, guidance, contacts and legal expertise foundations are looking for. This session will highlight several intermediary organizations and the services they can provide to family foundations.

Moderator: Rob Buchanan, Director, International Programs, Council on Foundations

Speakers: Susan Saxon-Harrold, Chief Executive Officer, Charities Aid Foundation America; Mike Rea, Managing Director, Give2Asia; Lani Shaw, Executive Director, General Service Foundation

Negotiating the Cultural Divide: Opportunities and Challenges of International Grantmaking

4:00–5:30 p.m.

Globalization affects every aspect of our lives. The increasing interdependence of peoples across the world highlights the critical need to support work in developing countries. But how do we begin to navigate the cultural divide? Differences in language, customs and cultures can seem insurmountable barriers. How do we build the internal sensitivities within our foundations necessary to honor and reflect the cultures of diverse grantseekers? Please join us for an engaging dialogue on embracing and navigating cultural differences to advance the mission of our foundations.

Moderator: Surita Sandosham, Associate Director, Working Communities, The Rockefeller Foundation

Speakers: Jacqueline Novogratz, Chief Executive Officer, Acumen Fund; Kavita N. Ramdas, President, The Global Fund for Women

Tuesday, February 10

Microcredit: Practical Ways to Be Involved with This Important Means of Reducing Poverty

10:00–11:30 a.m.

Microcredit helps poor people to help themselves out of poverty. It empowers women and brings healthcare, nutrition and education to more than 50 million families worldwide. This session brings together leading microcredit practitioners to discuss the scope and critical role small, private institutions can play (versus larger development organizations) in this field. Ways of getting involved, experiences from other family foundations and tools for evaluating microcredit institutions will be presented.

Facilitator: Michael Rauenhorst, Director, MGR Family Foundation

Speakers: Anne Hastings, Director, Fondation Kole Zepol, Port-au-Prince, Haiti; Francisco Otero, Director, Institute for Microenterprise Policy, Santa Cruz, Bolivia; Annette Krause, Microfinance Training Specialist, U.N. Capital Development Fund

Closing Plenary Luncheon  
12:00–1:30 p.m.

Former President William J. Clinton, “Our Shared Challenge: Philanthropy on a Global Scale” Since leaving office, President Clinton, in conjunction with the William J. Clinton Presidential Foundation, has worked on several issues close to his heart: the economic empowerment of the poor; the education and health of young people; and the reconciliation of racial, ethnic and religious groups. He has made the battle against HIV/AIDS a focal point of his foundation and has partnered with countries in the Caribbean and Africa to develop and implement treatment and prevention programs. President Clinton has also built on the AmeriCorps national service program he founded while in office. The Clinton Democracy Fellowship, for example, brings young leaders from other countries to serve with City Year’s community service programs in American cities. His foundation’s efforts also include partnerships to revitalize Harlem. President Clinton will share his views on the important role U.S. philanthropists can play in tackling vital issues on a global scale.

Introduction: Jill Iscol, Executive Director, IF Hummingbird Foundation

## A Conversation With . . .

Lisa Hiller of the Helen Bader Foundation Inc.

By Isabelle Mack

Helen Bader was a student, mother, businesswoman and social worker. In each of those roles, Helen’s life-long quest was to care for others. As she battled cancer, she encouraged her family to continue to provide aid for those in need. Therefore, the Helen Bader Foundation supports the work of organizations that affect the quality of life in Milwaukee and Israel. Council staff writer Isabelle Mack spoke with Lisa Hiller, vice president for administration, about the Bader Foundation’s commitment to its philanthropy in Israel.

Please tell our readers a little bit about the Helen Bader Foundation and how it was started.

Helen’s two sons created the Helen Bader Foundation in 1991 to honor her legacy as a businesswoman and social worker. The foundation’s original focus areas reflected her philanthropic interests during her life, including Alzheimer’s disease and dementia, Jewish causes, and family and children’s issues. Over time, the foundation’s grant programs have evolved to take a broader look at the quality of life in Wisconsin and Israel.

How did the foundation become involved in international grantmaking? What role did family members play?

The foundation board, which includes Helen’s two sons, sought to create a grant program for Israeli youth right from the beginning. A program officer was recruited, and after one year of managing the grants from Milwaukee, he moved to Jerusalem to set up an office and guide the grantmaking locally.

What is the impetus for your mission statement and how does your international grantmaking tie into it?

The foundation’s mission reflects that our grantmaking activities are buttressed by collaboration-building and idea-sharing efforts among nonprofits, government agencies, and other interested groups. Our Israel-based staff spends a good deal of time working to bring various groups together on addressing common issues.

Where are you funding overseas, what prompted your decision to fund in those countries and what is your average grant size?

The foundation's overseas interests are exclusive to Israel, specifically early childhood development programs for new immigrant children and children with developmental disabilities. Our interest stems from Helen Bader's passion to help these underserved groups in Israel. In 2003, the average grant size was \$43,429.

What goes into your decision to fund a project, especially abroad, and how do you determine whether the grantee organization is legitimate?

Our Israel grants are awarded based on program strategies. Before funding an organization, our Israel staff conducts an extensive inquiry into whether it is a registered Israel nonprofit, and we work closely with our Israeli legal counsel.

At the start of the Israel program, we performed equivalency determinations using affidavits, but in 2001, we moved to expenditure responsibility determinations. We have found that the expenditure responsibility process gives us a better understanding of an agency's status, and we now require Israeli organizations to establish dedicated bank accounts for fund transfers, which helps ensure that the funds are being used for the intended purposes.

Since September 2001, foundations have had to pay special attention to who their grantees are and whether they might have any connections to terrorists. How has the USA Patriot Act or other government actions affected the due diligence you perform in preparation for your international grantmaking?

The Patriot Act has spurred us to try cross-referencing new organizations with government-supplied lists of terror-connected nonprofits. Unfortunately, this has been somewhat of a challenge in practice; there seems to be no easy way to access a comprehensive list, either from the U.S. or Israeli governments.

Passage of the Patriot Act came not long after the foundation adopted expenditure responsibility measures, which have made our due diligence on potential Israeli grant recipients more comprehensive.

Do you fund directly overseas and if not what channels do you use?

The majority of grants are awarded directly to the Israel-based organization, but grants are occasionally awarded to a U.S. umbrella agency (such as the American Jewish Joint Distribution Committee) or a U.S.-based "friends of" organization.

How do you monitor your grants?

American and Israeli grantees have always been required to file timely reports detailing financial expenditures and program activities, but after we adopted expenditure responsibility procedures in 2001, we streamlined and standardized our internal reporting processes for both countries.

What are you most proud of regarding the international initiatives of your foundation? Our work with children with developmental disabilities includes funding programs in both Jewish and Arab Israeli communities. Unfortunately, most Israeli Arab villages and towns are generally remote and poor and suffer from high rates of childhood disabilities.

We're proud to have helped a number of Israeli Arab providers connect with experts from the Jewish sector, and they've worked together on raising the level of treatment and screening services for Israeli Arab children. In light of all the turmoil that's been a part of Israeli life for the past few years, it is as important as ever to build bridges when and where we can.

Do you have any tips for new international grantmakers?

It's extremely valuable to have a local presence where you're working. It certainly isn't cheap, but "being there" gives you a great deal of credibility and demonstrates to collaborators that you have a commitment to the area, wherever it may be.

For more information:

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## Feature

### People's Republic of China Remakes Charitable Sector Laws

By Stephen Dau

When delegations from the Chinese Ministry of Civil Affairs visited the Council on Foundations and other charitable-sector organizations in the U.S. in 2001 and 2002 to study American not-for-profit law, changes in the Chinese system of charity regulation may have seemed far off. However, a November 10th announcement by the vice minister of civil affairs, Yang Yanyin, outlining new rules aimed at providing tax incentives and encouraging charitable donations, made such sweeping changes more palpable.

The vice minister cited the growing importance of charitable contributions made by China's increasingly affluent population as one of the primary reasons behind the overhaul. "Charitable donations have become an important source of funds and materials in disaster and poverty relief," Yang was quoted as saying on November 10th in the online China Daily. "The government had to perfect laws and regulations, cultivate charity organizations and establish incentives."

The charitable-sector changes were in part the product of a series of research trips made by Chinese government officials over the past few years, and they reflect broad changes brought on by China's ten years of economic reform, changes in public attitude toward charity and the growing wealth of the country's population. According to a Newsweek International article published in November, the Chinese have historically been generous with friends and relatives but more reluctant to give to strangers because in the past the government essentially had forced people to give portions of their pay to disaster relief. With increasingly open government policies and more money in their pockets, people and corporations are more inclined to give voluntarily to help the neediest in the society, and the new laws are aimed at encouraging them to do so.

In an effort to keep up with China's changing not-for-profit legal environment, the U.S. International Grantmaking (USIG) Project has revised the China country note posted on the project's website, [www.usig.org](http://www.usig.org). The note can be accessed by clicking on the website's "Country Information" link, and then on the China country note.

You can learn more about the changes in China's charitable sector by reading the [China Daily](http://www1.chinadaily.com.cn/en/doc/2003-11/10/content_280259.htm) article at [http://www1.chinadaily.com.cn/en/doc/2003-11/10/content\\_280259.htm](http://www1.chinadaily.com.cn/en/doc/2003-11/10/content_280259.htm) and the [Newsweek International](http://msnbc.msn.com/Default.aspx?id=3606123&p1=0) article at <http://msnbc.msn.com/Default.aspx?id=3606123&p1=0>.

### Second Annual Conference of International Funders for Indigenous Peoples

By Evelyn Arce White, Coordinator, International Funders for Indigenous Peoples

“To make grantmakers into better grantmakers”—this is how Rebecca Adamson (Cherokee) described her vision of the primary role of International Funders for Indigenous Peoples (IFIP) to the group of international grantmakers and successful native grassroots organizations gathered for IFIP’s Second Annual Conference in Tucson, Arizona on October 16. How this can be done was the main focus for the meeting.

Adamson, president of First Nations Development Institute in Fredericksburg, Virginia, founder of IFIP and member of the Council on Foundations International Committee, highlighted the unique opportunity IFIP offers grantmakers by bringing leaders from indigenous communities to an international venue to voice their concerns. “We [IFIP] are working hard to combine and bridge the vision, heart and brilliance of indigenous leaders with the expertise of grantmakers to build this structure that will bring resources to communities,” said Adamson. “This structure will in turn bring our communities to the forefront, and it will change the world.”

How can international grantmakers become better grantmakers? For Daniel Schreck of the Abelard Foundation, the answer lies in flexibility. “There is a need for us to remain flexible in our funding criteria. Some groups need a much longer incubation process. We might need to stay with them for a period of ten years. Foundation staff also need to make a series of site visits to see what the problems are and how groups are addressing them.”

Beverly Bell, director of the Center for Economic Justice, suggested that foundations could be more effective if they changed the balance of power. They need to support strategies that indigenous peoples currently have in place, she said. In a brainstorming session led by Bell, additional suggestions for improved grantmaking to indigenous peoples included traveling to the places where work is being done, participating in events to increase understanding of what indigenous organizations are doing, making socially responsible investments, educating “traditional” foundations on indigenous issues, creating partnerships with native grassroots organizations, and educating foundation board members and program officers on specific campaigns and indigenous concerns.

Other recommendations included educating international grantmakers through media advocacy, creating a “Philanthropy Watch” team to monitor and document funding trends to ensure compliance with international conventions, forming more indigenous philanthropic institutions, and providing coverage in *Native Americas Journal* of grants made to indigenous peoples and the impact those grants have on native communities in the target areas.

Jorge Fidel Ramos (Lenca), international affairs coordinator of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH), shared his organization’s experience and its instrumental role in transforming the political landscape of Honduras from one of repression and submission to one of participation and negotiation. He also pointed to the need for international grantmakers to work with indigenous peoples: “By educating and mobilizing thousands of poor Hondurans, giving a face and voice to the country’s indigenous people, and joining forces with other grassroots organizations in the country, throughout Central America, and in North America, COPINH has won concrete victories against tremendous odds. These include recognition for hundreds of indigenous land titles, new schools, roads and medical facilities, and the shutdown of illegal logging operations. Right now we need to be heard around the world, we need support.”

The gathering was made possible with financial support from the Skoll, Levi Strauss, Rockefeller, Ford and Garfield Foundations.

Evelyn Arce White (Chibcha) can be contacted for a complete report of the conference, at [ifip@firstnations.org](mailto:ifip@firstnations.org). For more information on IFIP, visit <http://www.firstpeoples.org/ifip.html>. This article was initially published in the November 2003 issue of Alliance Bulletin. For further information, visit [www.allavida.org/alliance](http://www.allavida.org/alliance).

## Spotlight on the Council's International Members

Spotlight on The Council's International Members:  
The J.W. McConnell Family Foundation

By Stephen Dau

Each issue of *International Dateline* highlights a different international member of the Council on Foundations. This issue looks at the J.W. McConnell Family Foundation of Montreal, Canada.

The McConnell Foundation was established in 1937 by John Wilson McConnell and managed by him until his death in 1963. The foundation grew out of McConnell's deep commitment to the public good and his life-long involvement with nonprofit and charitable work in Canada.

In the late 1980s, the foundation recognized the need to focus its grantmaking, and accordingly it adopted the goals of improving Canadians' quality of life, helping people to help themselves, encouraging people to get involved in their communities, and nurturing the values of family life. In the early 1990s the foundation's mandate was reformulated into one overarching theme: To enhance the ability of Canadians to understand, adapt and respond creatively to the underlying forces which are transforming Canadian society and the world. More recently, much of the foundation's effort has been devoted to developing national programs to promote community leadership, environmental stewardship and support for local economic development.

The foundation's grants cross a number of issue areas, from economic development to education to the promotion of volunteerism, with a special emphasis on national funding, often picking up on ideas or initiatives that have succeeded locally. For example ArtsSmarts is a long-term, national initiative of the foundation that was launched in 1998 to promote the active participation of young people in the arts. ArtsSmarts places artists and the arts in schools and communities. Through its partners, ArtsSmarts provides funding to allow schools and their communities to offer arts-related activities linked to educational outcomes. Ten partners across Canada offer this program on a regional or local basis. The Foundation's partners include arts organizations, community foundations and school boards. They are from small rural communities and large urban centers; some have regional jurisdiction, others provincial. The partners are responsible for identifying the projects that receive ArtsSmarts grants in their communities, and for administering the granting of ArtsSmarts funds to support those projects.

The foundation seeks to share the lessons and methods learned from a particular project with a wide audience through its "applied dissemination" (AD) grants. According to the foundation, "applied dissemination" refers to the process of both disseminating information about an existing program, process, concept or knowledge and skills, and applying that information in a different context. The foundation has specific grant funds set aside to enable the wider distribution of knowledge gained in appropriate circumstances.

"Social entrepreneurship"—what the McConnell Foundation defines as the ability to devise new solutions to old problems—has been an interest of the foundation for some time. One program that meets this description is Meal Exchange, a project created by a second-year university student to avoid food waste on campus and to involve students in addressing hunger in their communities. A grant from the foundation is supporting Meal Exchange in the expansion of its work to 65 post-secondary campuses and high schools. It is estimated that this expansion will engage 1,000 volunteers and 10,000 student donors and educate over 350,000 students nationwide about hunger and poverty issues, and an important expectation of the project is that the engagement of students in community issues may set them on a life-long course of social responsibility.

For more information on The J.W. McConnell Family Foundation, visit the foundation's web site at [www.mcconnellfoundation.ca](http://www.mcconnellfoundation.ca).

## Notes and News

### USIG Project Unveils Three New Website Features

New material covers accounting issues, uses of technology in USA Patriot Act compliance, and responding to the Iran earthquake.

The U.S. International Grantmaking (USIG) Project has expanded its website, [www.usig.org](http://www.usig.org), to address three issues of immediate concern to the international grantmaking community.

#### Accounting Section

In January the USIG project launched a new section of the website that will enable users to find resources and links to general accounting information useful to foundations making grants internationally. The accounting section is intended to be a general guide to looking at the financial statements of nonprofit organizations and provides a very broad overview of accounting practices and standards in the U.S. and certain other countries. The new accounting information can be found in the "Issue Areas" section of the website at <http://www.usig.org/AccountingIssues.asp>.

#### USA Patriot Act Compliance

Also added to the website in January is some useful research performed by Martin Scneiderman, president of Information Age Associates, into methods of using technology to facilitate compliance with the USA Patriot Act. The information, which consists of tables showing major grants management software companies and compliance verification services that facilitate checking of terrorist lists, may be found on the USIG website here at <http://www.usig.org/TechnologyandCompliance.asp>.

#### Iran Earthquake

Another new section of the USIG website provides links to information and resources of interest to grantmakers responding to the December 26th earthquake in Iran. This section includes links to general disaster grantmaking resources as well as specific information on organizations and response activities ongoing in the southeastern region of Iraq that was hit by the earthquake. This section can be found on the site at <http://www.usig.org/IranEarthquake.asp>.

In a related effort, the International Programs department of the Council on Foundations is collecting information on the activities of grantmakers in response to the Iran earthquake. If you are a grantmaker who has funded disaster response efforts related to the earthquake and are interested in sharing that information, please e-mail Stephen Dau at [dau@cof.org](mailto:dau@cof.org).

## Notes and News

## Universal Basic Education Funders Group Holds Inaugural Meeting

The inaugural meeting and reception of the Funders Group for Universal Basic Education (UBASE) took place on November 4 in Washington, DC, in conjunction with the annual conference of the Grantmakers for Education affinity group. The meeting was sponsored by the William and Flora Hewlett Foundation and The Banyan Tree Foundation and included an examination of the current needs and challenges confronting funders interested in UBASE and a discussion of the reasons for the group's founding.

Stark statistics illustrate some of the underlying issues confronting the drive toward universal basic education. More than 100 million children worldwide have never attended a single day of school, and one in four children does not complete five years of schooling. The United Nations Educational, Scientific and Cultural Organization (UNESCO) reports that \$5.6 billion dollars of international aid is needed each year from now until 2015 to achieve universal primary education.

The UBASE Funders Group hopes to help address these problems by sharing information, success stories and lessons learned by group members in the course of their work and by promoting greater general interest in universal education. Other potential activities include organizing field visits to explore best practices and sharing ideas for the evaluation and monitoring of projects.

For more information about UBASE and the Funders Group, visit the William and Flora Hewlett Foundation website at <http://www.hewlett.org/Programs/Education/UBASE>, or contact Ellen Morgan via e-mail at [e.morgan@hewlett.org](mailto:e.morgan@hewlett.org).

## Announcements

### International Grantmaking Trends Publication Available

The International Grantmaking Trends Update, published by the Foundation Center with support from the Council on Foundations, is now available for download from the Council's website. The study looks at changes in international grantmaking levels and patterns from 1998 through 2001 and estimates international grantmaking levels in 2002. To download a copy, visit the International Programs section of the Council's website, [www.cof.org](http://www.cof.org), and click on the International Grantmaking Update link in the International Grantmaking Resources Section.

### AIDS Is Your Business

The 2003 edition of AIDS Is Your Business Corporate Update, a corporate-specific publication of the affinity group Funders Concerned About AIDS, was released in September. AIDS Is Your Business includes feature articles, corporate funding updates, HIV/AIDS funding resources, epidemiological information and more. To download a copy of the publication, visit the Funders Concerned About AIDS website at [www.fcaaid.org](http://www.fcaaid.org).

## Announcements

WINGS Announces Community Foundations Symposium  
The Worldwide Initiatives for Grantmaker Support (WINGS) project announces that it will hold a symposium focusing on global issues facing the community foundations movement. Participation is limited and the deadline for applying is February 22, 2004. ([more](#))

### Calendar

2004

- January 22-24: WINGS Peer Learning Meeting for Emerging Associations of Grantmakers Moscow, Russia  
Contact: Michael Strübin,  
[michael@efc.be](mailto:michael@efc.be)

## Foundations on the Hill

On February 4, 2004, gather in the nation's capital with your colleagues from foundations around the United States for the Council's second annual Foundations on the Hill day. Use this opportunity to inform Members of Congress about how foundations and grantmakers make a difference in the everyday lives of their constituents. To register, go to [www.foundationsonthehill.org](http://www.foundationsonthehill.org). For more information, contact Government Relations Coordinator Katie Lamb ([lambk@cof.org](mailto:lambk@cof.org); 202/467-0429).

## 2004–2005 King Baudouin International Development Prize

The King Baudouin Foundation is seeking nominations for the 2004–2005 King Baudouin International Development Prize. Since 1980, the foundation has awarded €150,000 biennially to an individual or organization for sustainable achievements in improving the lives of people in the developing world. However, the granting of the Prize goes beyond the financial support it represents. It is also designed to raise awareness among decision makers and the general public of an issue which merits their attention. The deadline for nominations is February 1, 2004. More information about the prize is available on the King Baudouin Foundation website, [www.kbs-frb.be](http://www.kbs-frb.be), or by e-mailing [info@kbprize.org](mailto:info@kbprize.org), or by calling +32.2.549.0273.

## Council on Foundations International Fellows Program 2004-2005

The International Fellows program consists of a 12-month position designed for a professional working in philanthropy outside the United States who is interested in learning about the Council and the work of its members.

- February 8-10: 18th COF Family Foundation Conference, New York, NY  
Contact: Susan Price, 202/467-0436
- March 3–5 Global Philanthropy Forum 3rd Annual Conference on Borderless Giving, Palo Alto, CA  
Contact: Stacey Fish at [sfish@wacsf.org](mailto:sfish@wacsf.org) or 415/293-4657
- March 10–12 Funders' Network for Smart Growth and Livable Communities 5th Annual Conference Simon Fraser University, Centre for Dialogue, Vancouver, British Columbia, Canada  
Contact: Funders' Network, 305/667-6350
- March 14–15 Jewish Funders Network Special Institute and Annual Meeting Hyatt Regency, Cambridge, MA Contact: JFN, 212/726-0177
- March 21-25 The CIVICUS World Assembly Gaborone, Botswana  
Contact: David Kalete, +27-11-833-5959, [kalete@CIVICUS.org](mailto:kalete@CIVICUS.org)
- April 25 Women & Philanthropy Annual Meeting "Global Leadership for a New World" Toronto, Ontario, Canada  
Contact: Nicole Cozier, 202/887-9660, [ncozier@womenphil.org](mailto:ncozier@womenphil.org)
- April 26-28: 2004 COF Annual Conference Ontario, Canada  
Contact: Angelique Wilkins, 202/467-0295
- June 16–18 2004 Corporate Grantmakers Summit "Inquiring, Informing, Influencing: Communications Challenges in Corporate Philanthropy," Chicago, IL Contact: Fran Eaton, 202/467-0447

### CHARITY GOVERNANCE AFTER SARBANES-OXLEY

By Joshua Mintz and John P. Vail

*The following article is taken from a longer publication entitled *Governance of Not-for-Profit Organizations in 2003*. An electronic version of this article may be found at <http://www.usig.org/SarbanesOxley.pdf>.*

#### 1. INTRODUCTION

It is a challenging time for the directors, managers and advisers of charitable organizations. During a period when poor markets have damaged endowments and the economy has hampered fundraising, charities also have had to grapple with the fallout from scandals that have beset the for-profit world. At the same time, charitable foundations-both public and private-that make grants internationally have faced the added challenges of rethinking their grantmaking procedures to take into account the War on Terrorism. Are there lessons to be taken from the upheaval in the for-profit world? Or is this just another frenzy of media interest that will pass with little lasting change?

This article looks mainly at the governance changes that Congress has required for public companies - those whose shares are traded on the stock exchanges - and considers which might be appropriate for international grantmakers. Of course, no cookie cutter approach will address the needs of all international grantmakers with their different resources, needs and exposures. Changes that might suit a large, well-funded private foundation may not work as well for a small public charity. Accordingly, institutions can pick and choose from the suggestions made, but charities that ignore the current landscape do so at their peril.

Corporate scandals have substantially eroded the confidence of shareholders and regulators in the capacity of management to govern public companies. The debacle at Enron began the erosion of faith, but problems went well beyond Enron. Tyco and Adelphia, Worldcom and HealthSouth, quickly followed. Reacting to public outrage, Congress quickly passed the Sarbanes Oxley Act of 2002 ("Sarbanes Oxley") seeking to restore the confidence of investors in public companies.<sup>1</sup> Prosecutors used their power to force leading executives to do "perp walks" in full view of media that were called to the scene by the prosecutors. Plaintiffs' lawyers quickened the pace of filings of shareholders' suits at the first suggestion of earnings restatements.

Charities have not been immune from scandal. Over the last several years, the white-hot glare of media and prosecutorial interest fell on a number of institutions, from Allegheny Health and Allina in the health care field to the Bishop Estate of Hawaii in the educational sector. More recently, charitable organizations ranging from The Nature Conservancy to the laundry list of private foundations identified by the Boston Globe have played starring roles in news accounts of charities that allegedly have transgressed legal or ethical standards.

A consequence of these reports is that foundations and other charities are facing much greater scrutiny from the media, Congress, state legislatures, and federal and state regulators, many of whom are suggesting that Sarbanes-Oxley type reforms be mandated for charitable institutions. New York Attorney General Eliot Spitzer, for example, has introduced a charity governance bill in New York based in part on Sarbanes-Oxley principles.

How should grantmakers respond? The first step is to look at their operations and decide whether additional steps are needed to bring their practices into line with the best practices of the sector. This article is designed to help grantmakers analyze their current practices and think about what additional safeguards might help boards and the public rest easy and trust their institutions.

#### 2. THE GOVERNANCE PROBLEMS

Reports<sup>2</sup> by the many committees and commissions that have reviewed Enron and other business scandals reflect a consensus that the fundamental problem in corporate America was one of fiduciary failure. Boards of directors allowed their companies to engage in high risk accounting, inappropriate conflict-of-interest transactions, extensive undisclosed off-the-books activities, and excessive executive compensation practices, all to the detriment of shareholders, employees and business associates. Boards failed to actively oversee management actions, were compromised by members' financial

ties with the company, and failed to ensure the independence of outside auditors.<sup>3</sup>

Some company CEOs said that these issues did not exist in most companies and that the extent of the problems was overblown.<sup>4</sup> But the perception that problems were sufficiently widespread to affect public trust in the marketplace nonetheless led Congress to enact sweeping reforms in the governance of public companies.

Several years of news accounts point to similar problems in the governance of some charitable organizations. Like their corporate counterparts, many charity CEOs argue that the problems exist in only a small group of institutions. However, like their corporate counterparts, charities may see Congressional action if they do not act voluntarily to improve their governance.

### **3. GRANTMAKER GOVERNANCE IN A POST-ENRON WORLD**

#### **Whistleblowers and Document Retention**

Although most Sarbanes-Oxley reforms apply only to public companies, two key aspects of the legislation - whistleblower protection and document destruction - pertain to everybody. Changes adopted in Sarbanes-Oxley make it a lot easier for the government to prosecute cases where individuals and organizations have obstructed justice by retaliating against whistleblowers or destroying documents. Because these changes in the criminal law apply to any "person," a term that can include charitable institutions and their managers, foundations should review (or adopt) document retention and whistleblower policies. International grantmakers should pay particular attention to these issues, given the possibility of criminal penalties if a foundation is found to have provided financial support to terrorists or the organizations that support them. A solid whistleblower policy - one that allows direct access to the board or the audit committee and that includes appropriate provisions for anonymity - makes it more likely that management will learn of any attempt to divert grant funds to the support of terrorism.

#### **Some Best Practice Suggestions for All Grantmakers**

Grantmakers considering whether to modify their corporate governance structures to incorporate Sarbanes-Oxley reforms should keep the big picture firmly in mind. Most grantmakers, and especially smaller ones, should spend less time trying to understand the details of Sarbanes-Oxley and more time understanding the problems that triggered the need for reform and how those problems might be reflected in their own operations.

The genesis of Sarbanes-Oxley was in lax corporate governance and fiduciary failure. Stakeholders found that they could trust neither the companies' financial reports nor the process that should have operated to ensure that those reports were reliable and trustworthy. Grantmakers in a post-Sarbanes-Oxley world need to examine their own operations to look for areas of vulnerability that can undermine the confidence of their stakeholders, including regulators, grantees, and employees, to decide what they can do to improve levels of trust. They should consider the following principles of good governance that were lost in the for-profit world:

- Governance by boards that take an active interest in governance and that hold management to standards of accountability.
- Transparency with respect to financial conditions and operations.
- Avoidance of transactions with insiders that provide them with improper benefits at the expense of the organization.
- Access to good advice that is not affected by any conflict of interest.

*With these principles in mind, grantmakers should ask themselves the following simple questions:*

1. What can the organization do to increase the quality of director candidates? What is the current process for nominating and selecting directors? Should there be additional efforts to find directors with business acumen and financial expertise to assist the organization and show third parties that the organization is concerned about proper governance?
2. Should grantmakers make additional efforts to educate directors about governance and their fiduciary duties? This effort is one that generally will be well worth making. Not all organizations will be able to find new, highly-experienced, businesspeople to serve on their boards. However, they can increase the expertise of their boards through education.

3. Is the board devoting adequate time and effort to governing the organization? More frequent or longer meetings may be needed to increase the board's ability to provide adequate oversight to management and exercise its duty of care. Grantmakers with large boards should consider establishing and using board committees.
4. Is the board holding management accountable and demanding sufficient information from management to enable it to do its job well? This is a critical area for attention in any organization. Management often is in the best position to have information on all operations of the organization. Unless critical information makes its way from management to the board, the board will not be able to do its duty or act as a check on managerial excess. Boards need to develop clear expectations of their managers and hold them to the expectations.
5. Do the chief officers understand the financial statements of the organization to a degree that they could certify them as true and accurate if ever called upon to do so? Many charitable organizations are finding that their chief officers - their CEOs and their CFOs - must know more about the details of the financial condition of the organization and must be comfortable that controls are in place that can ensure that financial statements can be accurately prepared. Even if Congress or state legislatures never act to apply Sarbanes-Oxley to charities, bond-rating agencies or other lending institutions may be asking for Sarbanes-Oxley style certifications of financial information.
6. Is the organization's conflict of interest policy current and adequate to address the organization's issues? Although it may be difficult for many grantmakers to put new policies in place in the vast number of governance areas being discussed today, attention should be given to critical ones such as the conflict of interest policy. Public pronouncements by the Internal Revenue Service, the Council on Foundations' Principles and Practices for Effective Grantmakers and the Treasury Anti-Terrorist Financing Guidelines all stress the importance of adopting and implementing a conflict of interest policy.
7. Can donors, beneficiaries and regulators understand the financial condition of the organization and the risks that it faces in its operations? Trust by constituencies can only be engendered if an organization is sufficiently transparent to them. Grantmakers should consider their vehicles for dispensing information, such as websites, tax returns, annual reports, financial statements, brochures, and other public communications, to determine whether they can improve the quality, quantity, and understandability of information about the foundation's resources and expenditures.
8. Where are the temptations to understate or overstate the grantmaker's financial affairs and what internal controls are needed to prevent that happening? The Sarbanes-Oxley reforms were designed to protect against the use of financial chicanery to overstate earnings and understate expenses. While charitable organizations are not expected to return a profit, there is considerable public pressure to minimize administrative expenses and, for public charities, to keep fundraising costs low. Does the grantmaker have systems in place to assure that these expenses are fairly and accurately reported on its financial statements and Form 990 or Form 990-PF? Grantmakers also should consider whether internal controls are sufficient to monitor their handling of restricted gifts and endowments. The finance committee or other individuals playing a similar role should always have available an inventory of the organization's significant restricted gifts and have procedures in place to ensure compliance with such restrictions.
9. Are the compensation policies of the institution in line with those of similarly situated organizations? Are they adequate to compensate employees for the value they bring to the organization, but not excessive? Excessive compensation has been a primary factor that has eroded trust and confidence in for-profit CEOs. Trust in charitable organizations can similarly wither away unless boards and executives clearly communicate, through their compensation decisions as well as their words, their understanding of the basic principle that charities exist for the benefit of the public and not for the benefit of any private persons.

### **Some Best-Practices Considerations for Larger Grantmakers**

Larger grantmakers may want to go beyond the general principles just enunciated and consider whether to adopt specific aspects of the Sarbanes-Oxley reforms. The remainder of this article provides a quick guide to the major changes that Sarbanes-Oxley required of public companies and how grantmakers might evaluate whether to adopt similar reforms.

1. **Board Independence.** Sarbanes-Oxley requires that independent directors make up a majority of the boards of public companies. Most public charity boards meet this standard - they have a majority of directors that are not tied to the organization through employment or other financial or familial relationships. Many large, older, private foundations also have independent boards; however, newer foundations and especially family foundations and those connected to

businesses typically do not. Grantmakers should evaluate whether their boards should include a majority of members that are independent, keeping in mind that different organizations may reach differing conclusions on this point - after all, a family foundation with a majority of independent directors would cease to be a family foundation -- and that the government already strictly regulates the operation of private foundations.

2. Loans to Executives and Board Members. Because of abuses linked to unduly favorable lending practices, Sarbanes-Oxley prohibits personal loans or extensions of credit to directors or executive officers. However, federal and state law already limits the ability of grantmakers to lend money to their directors and officers. For private foundations, the federal self-dealing prohibition bars loans to directors, officers, members of their immediate families, and businesses they control. For public charities, many state nonprofit corporations laws bar loans to directors and officers, while federal law bars any loan that confers an undue benefit on such individuals. In situations where a loan is permissible, grantmakers should ensure that the loan is supported by good business reasons and is clearly and adequately documented.

3. Conflict of Interest Policy. Any grantmaker that does not have a conflict of interest policy should implement one and any organization that has one should review it for improvement.

4. Code of Ethics. Grantmakers already have codes of ethics for the conduct of their affairs and the management of their employees should review their codes to determine whether they are comprehensive and whether they are adequate to send the strong ethical message that is desired. Particular attention should be given to the implementation of codes of conduct and ethical standards for senior financial officers. Grantmakers that do not have an ethical code should consider adopting one.

5. Audit Committee. Many larger grantmakers already follow the practice of public companies in using an audit committee to oversee management with respect to financial matters, including the work of outside auditors. Grantmakers, particularly those that hold substantial assets or have large boards, should consider creating an audit committee to increase attention to the organization's accounting practices and financial reporting. Grantmakers should weigh carefully whether the audit committee should also supervise the foundation's investment activities or whether those functions should be clearly separate. Grantmakers with audit committees also should consider the following Sarbanes-Oxley reforms:

- Charter. The board should consider adopting a charter for the audit committee setting forth its powers and legal duties as well as the required qualifications of the audit committee members.

- Financial Expert. The board should consider whether the audit committee includes at least one "financial expert" and whether that expert is independent of management. Considerations in deciding whether an individual is a financial expert include whether the individual understands and can apply generally accepted accounting principles (GAAP), understands internal controls and financial reporting procedures, and understands the functions of an audit committee.

- Outside Experts. In order to obtain necessary or appropriate expertise and analysis of issues, audit committees should consider retaining professionals as needed for independent advice.

- Independence. SEC regulations require that all audit committee members be "independent." That is, they cannot accept any consulting, advisory or other fees (other than fees for serving as a director or on the audit committee) from the company or its affiliates. Grantmakers that establish audit committees should consider whether to adopt a similar independence standard for committee members.

6. Outside Auditor. Besides strengthening the independence of the audit committee, Sarbanes-Oxley reforms also address the independence of the outside auditors employed by public companies. Reforms include:

- Prohibiting Non-Audit Services. The drafters of Sarbanes-Oxley identified serious problems stemming from the conflict of interest that results when an organization allows its auditor to simultaneously provide other, more profitable, services to the organization and acted to prohibit such services. Audit committees should identify all non-audit services provided to the organization by its auditors and determine whether the services are prohibited under Sarbanes-Oxley or would materially impair the auditor's independence. The audit committee should then decide whether to allow any services to continue and, if so, under what conditions.

- Audit Partner Rotation. Sarbanes-Oxley requires that the lead and concurring audit partner must rotate off an audit client after five to seven years and be subject to a five-year "time out" period after rotation. Grantmakers should consider whether to adopt a similar requirement for their relationship with auditors, keeping in mind that frequent rotation may be

more needed in public company settings because the necessity for quarterly reporting to the public promotes closer, more intimate, relationships between company officials and the auditors. Grantmakers also must take into account the supply of outside auditors with knowledge of not-for-profit issues and the increased costs associated with rotation.

7. **Management Certifications.** Sarbanes-Oxley requires a company's principal executive officer and principal financial officer to certify that the information contained in the company's financial reports is fairly and accurately presented. These individuals also must certify that the organization's disclosure controls and procedures are regularly analyzed and are effective in ensuring that material information is made known to appropriate officers. Finally, the certifications must state that these chief officers have disclosed to the auditors and the audit committee all significant deficiencies in internal controls and any fraud by any person that is significantly related to internal controls. A grantmaker's board could consider imposing a requirement that the two primary officers make certifications to them similar to the above. At a minimum the board should demand that its principal officers be in the position of providing such certifications if required by a third party.

8. **Off-Balance Sheet Transactions.** Sarbanes-Oxley requires that a company explain in its public reports all off-balance sheet arrangements and certain contractual arrangements (such as guarantees or contingent interests in assets) that have or are reasonably likely to have an effect on the company's financial condition. Grantmakers are unlikely to have similar arrangements but, if they do exist, should report them to the audit committee on a regular basis.

## **CONCLUSION**

Discussions of the state of governance of not-for-profit institutions are not new. However, Sarbanes-Oxley, and its suggestions of new best practices, is a wake-up call to grantmakers, reminding them of the importance of engaging in self-examination of current governance practices. Reasonable reforms, willingly adopted, will increase trust in charitable institutions and begin to silence the field's harshest critics.

## **Additional Resources**

The Council on Foundations' Statement on Principles and Practices for Effective Grantmaking

<http://www.cof.org/Learn/content.cfm?ItemNumber=776>

Recommended Best Practices in Determining Reasonable Executive Compensation

[http://www.cof.org/files/Documents/Governing\\_Boards/execcomp2003.pdf](http://www.cof.org/files/Documents/Governing_Boards/execcomp2003.pdf)

Sample Conflict of Interest Policies

<http://www.foundationnews.org/CME/articles.cfm?ID=1870&IssueID=2521>

## **Notes**

1. Sarbanes Oxley Act of 2002, Pub. L. No. 107-204, 116 Stat. 745, July 30, 2002.
2. Two of the more prominent committee reports were the Report of the Special Investigation Committee of the Board of Directors of Enron Corporation, Chaired by Dean William Powers, Jr. (Feb. 1, 2002) and the Findings and Recommendations of The Conference Board's Commission on Public Trust and Private Enterprise on Corporate Governance and Audit and Accounting dated January 9, 2003.
3. See Report of the Special Investigation Committee, note 2 above.
4. See John Byrne, Restoring Trust in Corporate America, Business Week Online, June 14, 2002, quoting James F. Parker, CEO of Southwest Airlines Co.

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