

# Nuts & Bolts of Nonprofit Development: The 5 Secrets of Nonprofit Success

Beverley Francis-Gibson, BA, MA  
*President and CEO, Sickle Cell Disease Association of America, Inc.*

# A “charity” is a business? Right?

There is a false perception that “charities” are not businesses, but in fact they are.

The term “nonprofit” is a misnomer. A nonprofit organization is not prohibited from earning a profit—a well run nonprofit strives to earn a profit each year.

The organization should place profits into a reserve fund (ideally 6-12 months).

Nonprofit corporations do not have owners like a for profit organization; nonprofits are owned by the public.

# Do I Need a Figure-head Board of Directors

Another unique characteristic of nonprofits is that they are governed by a volunteer board of directors-they are the ultimate stewards of the organization.

A diverse board is recruited for their skills, life experiences and perspectives that improve the organization, not just because of their titles.

Recruit board members who understand they have to give their **time, talent and their treasure.**

# Strategic and Operational Plans

**“A ship without direction is going in circles and never reaches its destination.”**

Your organization’s success is based on having specific goals and objectives related to the mission, and by which the board/staff evaluates the success of the programs towards fulfilling the mission.

Effective boards undertake long range planning at least every 3-7 years, should include the staff and be monitored (i.e. quarterly, annually).

# Legal and Fiduciary Oversight

**LEGAL:** Nonprofit organizations are highly regulated, so they must comply with all laws and regulations that are applicable to any business entity, as well those applicable to nonprofit, tax-exempt entities. They should have a Corporate Charter and bylaws.

**FIDUCIARY:** Oversight of the financial health of the organization is a major responsibility of the board.

# 5 Essential Elements of Financial Oversight

1. The budget
2. Financial statements
3. An annual audit
4. The Form 990
5. Financial Policies

# Resource Development

The organization must have resources to fulfill its mission.

The most important and often overlooked asset of nonprofit organizations are the “people” (staff and volunteers); hire the right people for the job, then let them do it!

Diverse funding streams: fees for service or contracts, grants for private sources and government, individual donations, corporate sponsorships, special events, income from for-profit subsidiaries; bequests, in-kind

# Tell Your Nonprofit Story Often

## Effectively Market Your Nonprofit: Create a Marketing Plan

1. Know your organization
2. Know your audience
3. Tell your story
4. Budget
5. Gather your materials
6. Create a full responsive website
7. Make the most of your newsletter
8. Use social media



# Continuity of Operations (COOP)

A Continuity of Operations establishes policy and guidance ensuring that critical functions continue and that personnel and resources are related to an alternate facility in case of emergencies.

Key elements of a COOP are:

Communication plan and role assignments

Plan for equipment

Data continuity system and back up check

Detailed asset inventory

Pictures of office and equipment

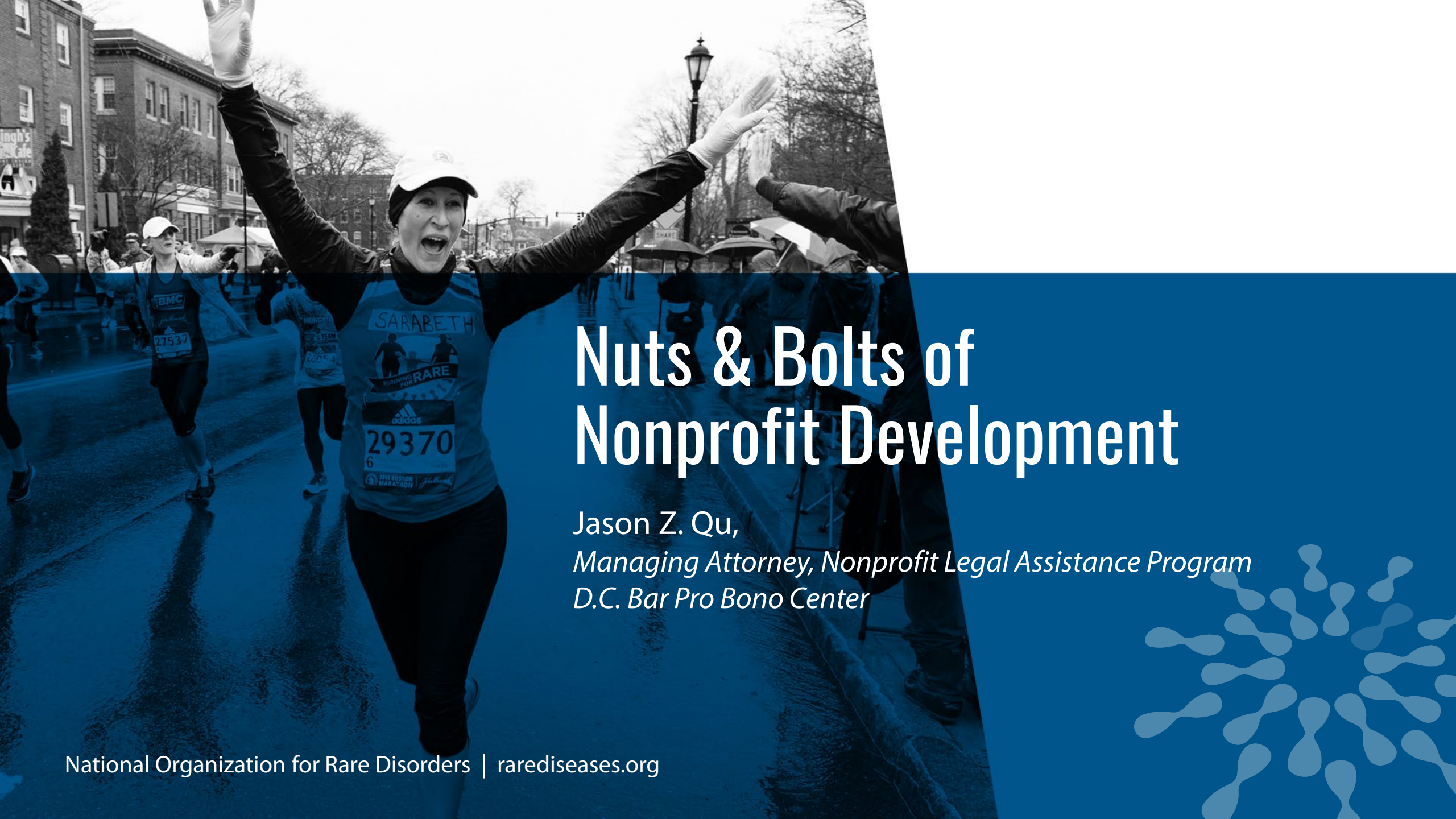
Vendor notification and service restoration plan

# Standards of Excellence

No one that I've ever met starts or is employed at a nonprofit organization to become a millionaire.

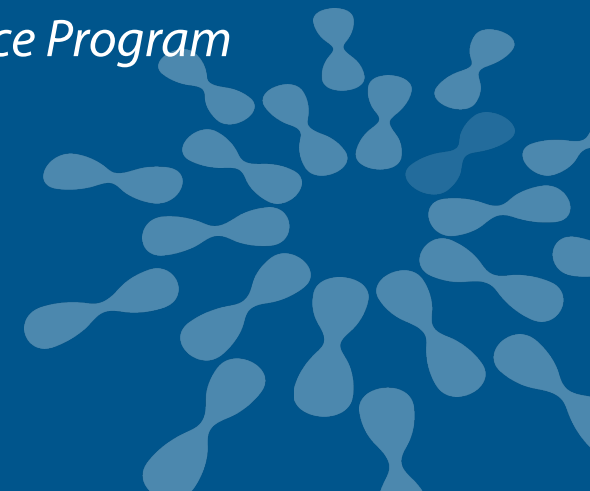
We are driven by the mission of the organization, people we serve and the difference we want to make in our communities and to the larger society; so, it's incumbent on us to do it with "excellence."

**"Excellence is not an exception; it is a prevailing attitude." - Colin Powell**



# Nuts & Bolts of Nonprofit Development

Jason Z. Qu,  
*Managing Attorney, Nonprofit Legal Assistance Program*  
*D.C. Bar Pro Bono Center*





# Overview: Starting a Nonprofit

Incorporating and registering a 501(c)(3) nonprofit organization is a multi-step process, including:

1. Where to Incorporate?
2. Recruit Founding Team
3. Incorporate State Entity
4. Draft Bylaws
5. Draft Governance Policies
6. Hold Inaugural Board Meeting
7. Get an EIN
8. Apply for Federal 501(c)(3) Status
9. Obtain State Licenses & Tax Exemptions



# 1. Where to Incorporate?

- Decide where your domestic jurisdiction will be – i.e. your nonprofit’s “home” state
- Think operationally. Consider:
  - Location of current/future offices
  - Location of/proximity to planned events & activities
  - Location of/proximity to key stakeholders (e.g. board members; govt institutions; other institutional partners)
  - Location of/proximity to fundraising activities and funding sources (including access to state-specific grants/funding opportunities)
  - Applicable nonprofit law and general business law reqs



## 2. Recruit Founding Team

- You'll need a founding team to act as (1) incorporators of the nonprofit and (2) the inaugural board of directors
- Applicable state nonprofit law may require a minimum # of directors (e.g. at least three)
  - Practically, you will need at least three to deliberate/vote on basic corporate actions
- When building the team, consider:
  - Dedication to/alignment with mission
  - Skills and experience (\*\*finance & accounting\*\*); board service/management experience; nonprofit management; fundraising; programmatic; legal)
  - Bandwidth – serving on a startup board is hands-on and time-intensive



# 3. Incorporate State Entity

Create a state-level nonprofit corporation by filing Articles of Incorporation with your home state's corporate registration agency

- Agency may be the Secretary of State or other regulatory agency; see SBA website for information: <https://www.sba.gov/business-guide/launch-your-business/register-your-business>
- Articles must contain IRS-required language in order to register the corporation as a 501(c)(3) down the line – don't just rely on the agency's template form!
  - E.g. compliance with IRS legal reqs; charitable disposition of assets at dissolution
  - IRS has template language: <https://www.irs.gov/charities-non-profits/suggested-language-for-corporations-and-associations>



# 3. Incorporate State Entity

- Your Articles will contain your core mission statement – think carefully about scope and specificity
  - Specific enough to give public and govt regulators a clear idea of your mission and activities; *but also*
  - General enough to allow org to grow/expand/shift/pivot without having to amend Articles
- Decide whether you will be a formal membership organization or a non-membership organization
  - Non-membership organizations are more common and are easier to operate – they can still have “members,” but don’t play a formal governance role (e.g. electing directors; approving major decisions)





## 4. Draft Bylaws

Bylaws spell out the internal operating rules of the organization.

- Who leads the organization?
- How are decisions made/actions taken?

Should address:

- Election and tenure of directors;
- Rules regarding board meetings (e.g. notice requirements, quorum, remote meetings, voting thresholds);
- Role and appointment of officers (e.g. CEO, treasurer, etc.);
- Creation of board committees;
- State law requirements (e.g. indemnification);
- Process for amending the bylaws.



## 4. Draft Bylaws

Bylaws are required to obtain 501(c)(3) status, and should reflect both state and federal legal requirements

- State nonprofit codes provide default rules if bylaws are silent on key issues – but better to be explicit & clear

Other goals when drafting bylaws:

- Consistency
- Clarity
- Completeness
- Flexibility
- Establishing Culture & Values



## 5. Draft Governance Policies

In addition to bylaws, your nonprofit should have a Conflict of Interest policy and other core governance policies (e.g. whistleblower; record retention)

- A COI policy is an instruction manual for how your organization navigates transactions/ decisions in which the org's directors, officers, and key employees have a parallel personal interest – very strongly recommended by IRS at startup stage
- WB and record retention policies are strongly recommended for established organizations



## 6. Hold Inaugural Board Meeting

Important agenda items for your first board meeting include:

1. Appointing the initial board;
2. Electing officers;
3. Ratifying/adopting organizational documents (e.g. Articles, Bylaws, governance policies);
4. Approving application for EIN and federal and/or state tax exemptions;
5. Approving opening of bank account, if desired;
6. Establishing initial committees, if desired.



## 7. Get an EIN

- Employer Identification Number (EIN) linked to your nonprofit corporation is required before you can apply for 501(c)(3) status – do not need employees to apply
- Application is fast and free online process: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>



# 8. Apply for Federal 501(c)(3) Status

File IRS Form 1023 to “upgrade” organization from state-registered nonprofit to federally-registered 501(c)(3).

2 filing options:

- Form 1023-EZ: File if your org’s projected annual gross receipts will not exceed \$50,000 in any of the next three years, and if its assets do not exceed \$250,000
  - No “crystal ball,” but think about (1) current fundraising trends/targets; (2) operational requirements
  - Three-page form that asks for basic information on your organization and activities - filing fee is \$275, turnaround time is faster (ie. weeks/few months)
- Form 1023: For organizations who do not qualify for 1023-EZ
  - 26-page, multi-part form that asks for detailed information on your organization and activities; requires detailed financial history information and/or financial projections for the next 3 years - filing fee is \$600 (ie. 3+ months)
- On both forms, filer must affirmatively opt into being classified as a “public charity” – default assumption is that 501(c)(3) organizations are “private foundations”, which enjoy less favorable tax status and have more financial restrictions



## 9. Obtain State Licenses & Tax Exemptions

Apply for necessary state tax exemptions and charity licenses after obtaining 501(c)(3) status

- Requirements vary by state, but new 501(c)(3)s will generally have to apply for a number of licenses and exemption certificates from their state of incorporation
  - For example, DC nonprofits with over \$50,000 in gross receipts need to obtain a Basic Business License (filing fee: \$412.50) and apply for state tax exemptions from the Office of Tax and Revenue
- You must also obtain charitable solicitation licenses in ~40 states in order to fundraise in those jurisdictions
  - Exemptions may apply, but different in each state
  - Online fundraising – when is it “in” a particular state?



# While You're Waiting

Contributions made to your nonprofit while your 501(c)(3) application is pending will be retroactively tax-deductible if your IRS application is approved within 27 months of incorporation

- Be transparent with donors – disclose that 501(c)(3) application is pending, that donations are not immediately deductible, and that your application may ultimately be denied
- Charitable solicitation reqs still apply – be careful around making formal “asks” before receiving 501(c)(3) status

Ok to reimburse directors/officers for legitimate out-of-pocket business expenses (e.g. filing fees) – but document board-level decision and navigate COIs