

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

State of New Mexico Professional Fundraiser Registration Form

INSTRUCTIONS:

1. This form must be completed before entering into a contract with any charitable organization that is required to register with the Attorney General, to solicit for or on its behalf. The form currently on www.nmag.gov is the form to be used, any older versions of the form will not be accepted.
2. Be sure all information requested is complete and that you have filled in all the blanks – incomplete forms will be returned. If there is not enough space on the form, attachments will be accepted.
3. If the information submitted changes or additional charities are contracted with, the updated information MUST be forwarded to the Registrar of Charitable Organizations to stay in compliance with the New Mexico Charitable Solicitations Act.
4. If the surety bond expires, the professional fundraiser is responsible for promptly emailing the new bond to the OAG.
5. A professional fundraiser who fails to register with the Attorney General may be assessed a late registration fee of five hundred dollars (\$500.00).
6. If you have any questions or are not sure if you need to register, please contact the NM Attorney General's office at 505-717-3500 or charity.registrar@nmag.gov.
7. Email completed application, with attachments, to: charity.registrar@nmag.gov

1. Organizational contact information:

Name of Professional Fundraiser Firm: _____

Contact Person, Phone and Email: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Website: _____

2. Name(s) under which business is conducted: _____

3. FEIN: _____

4. Name, title, residence, and business addresses of all officers, partners, agents, servants, employees, directors and independent contractors (if more room is needed, please attach list):

<u>Name</u>	<u>Title</u>	<u>Residence Address</u>	<u>Business Address</u>

5. Individuals or officers of the organization who will have custody of the contributions (name title, address, street, city and state).

6. Individuals or officers of the organization who are responsible for the distribution thereof: (name title, address, street, city and state).

7. Period of time during which the fundraising is to be conducted (month, day and year):

8. Description of the method(s) of fundraising:

9. Location and telephone numbers from where fundraising is conducted:

10. Compensation and authority of the professional fundraiser including percentage going to the charity:

11. Name and email of primary contact: _____

12. Contact information for organization completing this form (if different from the fundraising organization itself).

Name of Organization: _____

Address/Phone: _____

Primary Contact Person: _____

Please check here if this is to be used as the mailing address.

ATTACHMENTS:

The following information **MUST** accompany this registration form:

- A surety bond in the amount of \$25,000.
- A copy of the intended contract between the professional fundraiser and the charitable organization, which must clearly describe, at a minimum, the compensation and authority of the professional fundraiser, details of the solicitation campaign, location and telephone numbers where solicitations are intended to be conducted from, a list of names and addresses of all employees, agents, or other persons who are to solicit during the campaign, and copies of the solicitation literature , including scripts of any written or verbal solicitation.
- If located out-of-state, a CONSENT TO SERVICE OF PROCESS must be attached if the professional fundraiser does not maintain a registered agent in New Mexico, whose name is disclosed to the OAG.

**CERTIFICATION AND AFFIDAVIT
OF PROFESSIONAL FUNDRAISER**

STATE OF _____)
) SS
COUNTY OF _____)

_____, deposes and says that he/she
(Name of Professional
Fundraiser Representative)

is _____ of _____
(Title) (Name of Professional Fundraiser Org)

and that the information provided on this form is true and complete.

(Signature of Representative of PF) (Title) _____

Subscribed and sworn to before me this
_____ day of _____, 20_____

Notary Public, State of: _____
My commission expires: _____

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Charitable Solicitations Act for Professional Fundraisers

This document has been prepared to provide information to people and organizations requesting information on how to comply with the regulations surrounding professional fundraisers operating in New Mexico. **It is important to review the Charitable Solicitations Act or consult an attorney prior to soliciting in New Mexico.** While the Office of the Attorney General is not authorized to provide legal advice to private individuals or organizations, the following information may be helpful.

A charitable organization means any entity that has been granted exemption from the federal income tax by the United States commissioner of the Internal Revenue as an organization described in Section 501(c) 3 of the Internal Revenue Code of 1986.

Contribution means the promise, grant or pledge of any money, credit or property of any kind or value provided to a charitable organization in response to a solicitation, but does not include program service revenue or bona fide membership fees, dues or assessments.

Solicit or Solicitation means any communication requesting a contribution or offering an opportunity to participate in a game of chance, raffle or similar event with the representation that the contribution or participation will support a charitable purpose. This includes any verbal request made in person or by telephone, radio, television, electronic communication or other media, and any written or published request mailed, sent, delivered, circulated, distributed, posted in a public place, advertised or communicated through any medium to the public.

Professional fundraiser means a person that solicits or employs or directs others to solicit contributions from the public on behalf of a charitable organization in exchange for compensation and has custody or control of the contributions; provided that “professional fundraiser” does not include a director, officer, bona fide employee or salaried officer, volunteer, attorney, accountant or investment counselor of a charitable organization. Professional fundraisers **MUST REGISTER** in the State of New Mexico.

Professional fundraising counsel means a person that provides services or employs or directs others to provide services for compensation to a charitable organization in the solicitation of contributions, including managing or preparing materials to be used in conjunction with any solicitation. Professional fundraising counsel do not directly solicit contributions or have access to or control of any funds. Professional fundraising counsel **DO NOT** register in the State of New Mexico.

A professional fundraiser shall register with the New Mexico Office of the Attorney

General before entering into a contract with any charitable organization that is required to register with the Attorney General, to solicit for or on its behalf.

A contribution is not required for a solicitation to have occurred.

According to New Mexico law, a professional fundraiser shall not:

A. engage in deceptive fundraising practices, meaning any false or misleading verbal or written statement, description or representation of any kind knowingly made in connection with a solicitation and that may, tends to or does deceive or mislead any person and includes:

(1) using the name or likeness of any person in solicitation literature without the express written consent of the person; provided that publication of previous contributors' names to acknowledge their contributions shall not require their express written consent;

(2) using a name, symbol or statement that is so closely related or similar to that used by another charitable organization or governmental agency that the use would tend to confuse or mislead the public; and

(3) misrepresenting, confusing or misleading any person to reasonably believe incorrectly that the contributions being solicited are or will be used for purposes, persons or programs in the state; or

B. collect or attempt to collect a contribution in person or by courier unless:

(1) the solicitation and collection or attempt to collect occur contemporaneously; or

(2) the solicitation includes the sale of goods or items and the collection or attempt to collect occurs contemporaneously with the delivery of the goods or items agreed to be purchased by the contributor.

NMSA 1978 § 57-22-6.3

Under New Mexico law, a professional fundraiser must;

A. At least every six months, the professional fundraiser shall account in writing to the charitable organization for all contributions received and all expenses incurred under their contract. The charitable organization shall maintain a copy of the accounting of contributions and expenses for three years and make it available to the attorney general upon request.

B. All contributions of money received by the professional fundraiser shall be deposited in an account at a federally insured financial institution within two days after receipt. The account shall be established and maintained in the name of the charitable organization. Disbursements from the account shall be made upon warrants signed by an authorized representative of the charitable organization and may also be signed by the professional fundraiser.

C. The professional fundraiser shall include the following information in its accounting required by Subsection A of this section to the charitable organization:

(1) the name and address of each person contributing to the charitable organization and the date and amount of the contribution. This information shall not be publicly disclosed and shall be used only for law enforcement purposes;

(2) the name and residence address of each employee, agent or other person involved in the solicitation;

(3) the script or other instructional information provided by the charitable organization or professional fundraiser to employees, agents or other persons conducting solicitations;

(4) a record of expenses incurred by the professional fundraiser that the charitable organization paid; and

(5) the name and address of each financial institution and the account number of each account in which the professional fundraiser deposited contributions received from the solicitation.

D. The professional fundraiser and the employees of the professional fundraiser shall disclose the following in solicitations:

(1) the name of the charitable organization; and

(2) the fact that the solicitation is made by or through a professional fundraiser.

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PROFESSIONAL FUNDRAISER BOND

BE IT KNOWN, That the applicant for registration,

NAME OF APPLICANT

a/an _____

INDIVIDUAL, ASSOCIATION, PARTNERSHIP OR CORPORATION

with business located at _____

STREET

MUNICIPALITY

COUNTY

STATE

ZIP CODE

as PRINCIPAL, and _____

NAME OF SURETY COMPANY

with principal office located at _____

STREET

MUNICIPALITY

COUNTY

STATE

ZIP CODE

as SURETY, are held and firmly bound unto the State of New Mexico for the use of the Attorney General and any person having a cause of action against the principal as defined in the New Mexico Charitable Solicitation Act. §57-22-6.2, in the sum of Twenty-five Thousand Dollars (\$25,000), lawful money of the United States of America, to be paid to the said State, its certain attorney or assigns, to which payment well and truly to be made, we do hereby bind ourselves, jointly and severally, our heirs, executors, administrators, successors and assigns firmly by these presents.

BECOMES EFFECTIVE this _____ day of _____,

20_____

EXPIRES one year from date.

WHEREAS, the above bounded Principal desires to operate as a Professional Fundraiser under the provisions of the New Mexico Charitable Solicitations Act, § 57-22 *et seq.*, and the rules and regulations adopted pursuant thereto;

NOW THEREFORE, the condition of this obligation is such that if upon and after the issuance of such registration the above bounded Principal shall fully and faithfully observe the provisions of all the laws of this State and the rules and regulations promulgated by the Registrar of Charitable Organizations, State of New Mexico, as a Professional Fundraiser, then this obligation shall be void; otherwise, it shall remain in full force, virtue and effect.

And the obligors, jointly and severally, for themselves, their heirs, executors, administrators, successors and assigns, do agree with the State of New Mexico that upon violation of any provisions of the said Charitable Solicitations Act § 57-22 *et seq.*, and the rules and regulations promulgated by the Registrar of Charitable Organizations, said Bond up to the full amount shall be due and payable.

**SIGNATURE OF PRINCIPAL OFFICER
FOR PROFESSIONAL SOLICITOR**

**TYPE OR PRINT NAME AND TITLE OF
PRINCIPAL OFFICER FOR PROFESSIONAL
SOLICITOR**

**SIGNATURE OF ATTORNEY-IN-FACT
FOR SURETY COMPANY**

**TYPE OR PRINT NAME OF ATTORNEY-IN-FACT
FOR SURETY COMPANY**

(Certified Copy of Power-of-Attorney nominating, constituting and appointing said Attorney-in-Fact for said Surety Company must be attached hereto. Date of certification and date of execution of Bond must agree).

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IRREVOCABLE CONSENT TO SERVICE OF PROCESS

I, the undersigned individual, _____, being a non-resident
Applicant's Name

Professional Fundraiser applicant for New Mexico Charitable Registration, do hereby irrevocably consent, stipulate, and agree that suits and actions may be commenced against me in the proper court in which a cause of action may arise, or in which the plaintiff may reside, by the service of any process or pleading, and that such service of process or pleadings on the Attorney General shall be taken and held in all courts to be as valid and binding as if the service had been duly made upon me according to the laws of this or any other state.

Signed at _____ on the _____ day of
City and State Date

_____,
Month Year

The applicant, _____ personally appeared before the
Applicant's Name

undersigned notary public in and for the below named county and state, on the day above named, and being first duly sworn, acknowledged the execution of the foregoing instrument to be a voluntary act for the purposes therein set forth.

Applicant Signature

Notary Public in and for the

County of _____

State of _____

My Commission Expires: _____

Notary Seal: