

The Oklahoma Bar Foundation

A Legal Blueprint for Creating and Sustaining a Successful Nonprofit Charitable Organization

By *Renée DeMoss*

You are providing legal advice to a start-up nonprofit organization or sitting on the board of such an organization. You believe strongly in the entity's mission and want to do all you can, as a lawyer and as a volunteer, to help it succeed. A perfect example to follow is right in front of you — the Oklahoma Bar Foundation. This nonprofit charitable organization, which is the third oldest bar foundation in the United States, has successfully raised and distributed more than \$10 million to provide legal services and law-related benefits and education to Oklahoma citizens, all in the name of Oklahoma lawyers. The OBF provides a valuable legal blueprint for any lawyer to follow in establishing, operating or contributing to the success of a nonprofit organization.

The OBF is the charitable arm of the Oklahoma Bar Association. One of its finest features is that its work is done entirely by Oklahoma lawyers on behalf of Oklahoma lawyers. As a tax-exempt entity under Internal Revenue Code Section 501(c)(3), it raises and distributes funds to worthy, vetted organizations that provide legal services to Oklahoma citizens who could not otherwise afford them. Through the use of proven and careful governance systems, fundraising techniques and grant-making procedures, the OBF employs a United Way type model to fund legal services for needy Oklahomans. The Oklahoma lawyers who constitute the Board of Trustees of this nonprofit entity make all decisions regarding how to operate the foundation, how to raise funds and how to distribute them.

This article details how this successful nonprofit was established by Oklahoma lawyers for the people of Oklahoma, and illustrates

how the legal principles and requirements for running a nonprofit charitable organization can be applied and followed, including developing a meaningful vision and mission, establishing good governance procedures, creative and successful fundraising, and implementing and following a careful grant process.

A MEANINGFUL MISSION AND PURPOSE

The cornerstone of any nonprofit organization, and in many respects the determinative factor of its success, is whether its mission and purpose meet a true need. The OBF was established in 1946 by a group of attorneys from across the state who sought to accomplish charitable goals in the area of the law. The mission, as envisioned by these early OBA leaders, was to improve the administration of justice in Oklahoma and to advance the general welfare of all Oklahomans through service of its lawyers. Additionally, even back in 1946, lawyers

experienced image problems, and the OBF's work served to improve this image. Minutes from an early OBA meeting relating to the foundation's creation state:

The Executive Council of the Bar Association took one of its boldest and most imaginative steps in the history of the organized bar at the last meeting of the Council. It is a step which will inure to the benefit of all lawyers in Oklahoma and redound to the public interest. That was the creation of the Oklahoma Bar Foundation. Many laymen and some lawyers believe that the primary purpose of the [Oklahoma] bar association is to discipline the constituent members — that the OBA is nothing more than a 'big grievance committee.' While we do have a grief, gripe and groan department, that popular impression is grossly inaccurate...Our primary purpose is to improve the administration of justice, to advance the general welfare of the constituent members, and to serve the interests of our clients and of the public. The Oklahoma Bar Foundation will, therefore, be devoted to these ends....

Each lawyer is urged to give his support and cooperation to this [foundation]. The glories of the possibilities are ours if we but realize them.¹

The OBF was subsequently incorporated under Oklahoma law and was granted tax-exempt status under Section 501(c)(3). This designation allows the foundation to achieve the public service activities envisioned by its OBA founders. Bar foundations, as 501(c)(3) entities, can address broad public purposes, such as providing funding for legal services and educating the public about the role of law in American society. There are, however, restrictions on use of foundation assets. Monies paid out must always be in furtherance of their charitable purposes. For example, the charitable funds that a bar foundation donates to its sister bar association must be granted and used for charitable and educational activities that fall within the foundation's purpose, and not for any other activity or business purpose of the association. If foundation funds are not used or accounted for properly, tax-exempt status can be lost.

The OBF also fulfills its purpose by holding title to the Oklahoma Bar Center land and building in trust for the association.² In fact, the

foundation's first project was to find a new home for the association, which originally operated from an old office building in downtown Oklahoma City. In 1946, the Oklahoma Supreme Court authorized the transfer of \$40,000 in surplus funds for the foundation's use in finding a permanent bar center location. The site at 1901 N. Lincoln was chosen and purchased for \$21,000, and remains the bar's home today. The foundation in its early years also donated funds to the OU, OCU and Tulsa law schools and paid for bench materials used by Oklahoma judges. The OBF has now fully evolved into its role as the charitable arm of the OBA, with the necessary tools in place to effectively meet its mission of ensuring that legal service needs of Oklahomans are addressed.

The OBF is an organization that can also benefit Oklahoma lawyers by helping them meet some of their ethical obligations. Under Rule 6.1 of the Oklahoma Rules for Professional Conduct, a lawyer has a responsibility to provide pro bono public interest legal services, specifically by providing professional services at no fee or a reduced fee to the needy, serving without compensation in public interest activities that improve the law, or by providing financial support to organizations that provide legal services to people of limited means.³ Lawyers are not always able to personally provide legal services or even to research specific legal-related programs that are worthy of their investments. By donating to the foundation, they know that their funds are spent on valuable programs that provide quality services. Further, the OBF charitable funds go directly to programs that are particularly important to lawyers — programs that provide legal aid for Oklahomans and educate the public about the law.

In its more than 65 years of existence, OBF grants have provided legal assistance for the poor and the elderly, protection and legal assistance for children, public law-related education programs, law student scholarships and a safe haven for the abused. Through its mission of "promoting justice, funding critical legal services, and advancing public awareness of the law," the OBF has a charitable purpose that meets a true need in Oklahoma.

GOVERNANCE AND ACCOUNTABILITY PROCEDURES

In order to succeed, a nonprofit organization must have a well-designed governance framework that both reflects the mission and core

values of the organization, and also ensures that it is accountable to its constituents. The nonprofit's board of directors, with the support of its staff, is ultimately responsible for developing and maintaining such a framework, including establishing and maintaining policies, procedures and best practices that define how decisions will be made, and how the governance process will work.⁴

Accountability Through A Prudent Board of Directors

Like many charitable organizations, the OBF is supervised by board members who are strictly volunteers — the OBF Board of Trustees. OBF trustees are stewards of the charitable funds raised to meet legal service challenges in Oklahoma, and have essentially the same legal duties and responsibilities as directors of for-profit organizations.

The OBF Board has two primary roles — to make prudent decisions for the organization and to properly oversee its functions. The decision-making role includes forming goals and policies and implementing actions to achieve them. The oversight role concerns devoting attention to corporate systems, controls and matters the foundation must address. A proper governance system is critical to the board's ability to ensure the success of the organization, as it enables the board to assess the foundation's day-to-day management, oversee implementation of foundation plans and commitments, ensure compliance with legal and contractual requirements, and evaluate the OBF's work. OBF trustees also strive to bring recognition to the foundation and act as its ambassadors.

The OBF Board of Trustees is composed of 26 Oklahoma attorneys who oversee the operations of the OBF and its staff, including its executive director. Five of the trustees also serve as officers. The OBF follows the three-year officer model of the OBA, whereby a president-elect serves a one-year term, then ascends to the presidency for a year, and then serves as the past president for an additional year. Every trustee must undergo an orientation session to learn the details of the OBF's functions and organization. Trustees are required to attend an annual retreat at the beginning of each year, in addition to regularly scheduled meetings, and must remain fully familiar with all OBF matters which they address.

Accountability Through Articles of Incorporation and By-Laws

All nonprofit organizations must be held accountable to their donors, the people they serve and the public at large. Through proper governance and documentation, the OBF tracks how it meets the needs of those it serves, how its programs work, their cost and the benefits they produce.

The OBF's Articles of Incorporation are the binding legal document that sets forth the OBF's purpose and meets the requirements for establishing the entity as required by Oklahoma statutes. The OBF bylaws handle more specific details related to OBF governance. They include more than the minimum requirements, such as classification of members, requirements and terms for officers, maintenance of proper organizational and financial records, and acceptance of donations by the foundation.

Accountability Through Committees and Written Policies and Procedures

An effective committee structure is essential to running a successful nonprofit entity. The OBF board employs a system to effectively accomplish its work by delegating tasks to committees with well-defined responsibilities. The OBF system includes specific standing committees with written descriptions of their ongoing charges, and special committees or task forces which are established as needed to meet goals within a more limited time frame. Each committee is charged with researching and making recommendations to the full board for discussion and action. The OBF board president has the ultimate responsibility over the board committee structure, and also the responsibility to help ensure that committees achieve their stated objectives.

The OBF also employs a system of written policies and procedures to guide and focus committee activities. The OBF has several standing committees which operate in accordance with the guidelines set forth in the written policies. The Executive Committee is responsible for full oversight and general direction of OBF activities, including the financial status, supervision of the OBF executive director, assistance with long range planning and strategy, and progress toward OBF goals.

The Audit Committee ensures the OBF financial records are audited annually, in accordance

with Audit Policy requirements. It assists in oversight of accounting, financial reporting and compliance with legal and regulatory requirements. Such oversight provides donors with confidence that OBF properly uses and accounts for the funds with which it is entrusted, helps ensure that restricted donor gifts are administered appropriately and provides protection from charges of improper handling of funds.

The Finance and Investment Committee coordinates the OBF's financial oversight responsibilities and assessment of OBF's financial performance. It ensures accurate and timely presentation of periodic financial reports, and oversees budgets and financial planning. This committee is also responsible for investment policies, overseeing performance of OBF investments and working directly with OBF's professional investment manager.

The Finance and Investment Committee employs several written policies. The Investment Policy addresses the OBF's overall investment objectives to establish a reasonably consistent rate of return on its assets, while at the same time maintaining stability and preserving capital. It helps ensure the OBF diversifies its assets across a broad range of equity, fixed income, cash equivalent and other types of securities.

The Capital Growth and Expenditure Policy helps the board assess OBF spending and whether OBF operates within its means and maximizes its resources. The OBF Reserve Policy governs the accumulation of funds to ensure long-term financial stability and to provide income in the event of loss of a major funding source or exceptionally hard times. The OBF, for example, was recently forced to tap into reserves due to historically low interest rates affecting its revenues. The OBF's Check-Signing Authority Policy requires two board members to sign checks, thus ensuring deliberate and accountable decisions are made regarding the outflow of foundation funds.

Additional OBF standing committees include the Leadership and Governance Committee, Nominating Committee, Development Committee, and Grants and Awards Committee. These committees are not focused on finances, but are devoted to ensuring that OBF continues to perform as a quality organization, has solid future plans, and appropriately uses its assets. They are guided by written policies including a Conflict of Interest Policy, which

all 501(c)(3) organizations must have in place. The duty of loyalty that OBF trustees must observe requires them to consider any potential conflict of interest that may arise in their board service. It further protects against tax-exempt benefits accruing to an individual trustee, which can occur when a nonprofit conducts business on less than an arm's length basis with a firm or person related to a trustee or employee.⁵

The OBF's Record Retention Policy ensures that state and federal laws and regulations are met, including the Sarbanes-Oxley Act requirements on the destruction of business records and documents, and finally, the OBF's Whistleblower Policy is designed to encourage and protect any person who may have credible information about illegal practices or policy violations.

FUNDRAISING

The lifeblood of any nonprofit organization is its ability to keep the doors open and raise the funds needed to meet its mission. A successful nonprofit must have a range of funding sources. Total dependence on any one source can have drastic consequences, as illustrated by the plunging interest rates on investments that have recently devastated many nonprofits.

The OBF has in place several diverse funding sources to guard against decline in any one source. Most of these can be employed by virtually any nonprofit to contribute to its success, including: 1) Monetary donations from Oklahoma lawyers, including dues payments from lawyers that are Fellows of the foundation; 2) Memorial gifts and donations; 3) *Cy Pres* awards; and 4) other sources including interest earned on investments and fundraisers. The OBF also has a very unique fundraising method of particular interest to lawyers: 5) IOLTA — Interest on Lawyer Trust Accounts.

IOLTA

Most Oklahoma lawyers know the term IOLTA — Interest on Lawyers Trust Accounts — and that Rule 5.1 of the ORPC requires lawyers to hold their clients' funds in trust accounts, with interest on those accounts designated for IOLTA.⁶ Less is known, however, about how and why IOLTA was created and what it actually does. Without placing any tax burden whatsoever on the public, and without imposing any cost whatsoever on lawyers or their clients, IOLTA requires that certain accounts

established by lawyers to hold client funds must be pooled together, and interest generated on the accounts must be used to provide legal aid to the underprivileged and other charitable legal causes. In Oklahoma, as in other states, IOLTA funds are paid to the state bar foundation, who is charged with using them for exclusively law-related public purposes. IOLTA provides a truly cost-free benefit to the public.

The first IOLTA programs were established in the 1960s in Australia and Canada to generate funds to provide the underprivileged with legal services. In the 1970s, several states considered establishing such programs, but were prevented from doing so by U.S. laws. Federal regulations enacted after the Depression prohibited banks from awarding interest on checking accounts. This created problems for lawyers who routinely obtain and hold client funds, some of which are very small or are to be held for only a short period of time. All such funds must be kept separate from the lawyer's own funds, and also must be readily accessible, so lawyers deposit them into checking accounts. Fees charged by banks on the accounts make maintenance of separate accounts for each client too expensive, so lawyers routinely pool all of their clients' small and short term funds together into one account. This pooling of small funds can eventually amount to large sums of money, but the laws prior to 1980 prohibited interest from being paid on the accounts. Therefore, only banks benefitted from the deposits, as they had free use of the funds.

All of this changed in 1980 when Congress enacted the Consumer Checking Account Equity Act, permitting the establishment of interest-bearing checking accounts. The law permitted banks to pay interest on "NOW" demand deposit checking accounts, enabling client accounts with pooled small and short-term funds to generate interest and to pay any bank fees from this interest.⁷ The remaining interest funds in the accounts can be distributed, but only if the funds benefit either individuals or charitable organizations.⁸

Obviously, a critical premise underlying IOLTA is that an individual client must receive back any interest earned on his funds that can be identified and to which the client is entitled, so lawyers must properly evaluate all funds they receive to hold for their clients. Three factors must be evaluated: 1) the amount of interest that the funds would earn during the period

of time they are expected to be deposited; 2) the cost of establishing and administering the account; and 3) the capability of the financial institution to calculate and pay interest to individual clients.⁹ If the funds a lawyer holds for a client are great enough, or will be held long enough to generate net interest for the client when deposited, those interest funds earned must be paid to the client and not to IOLTA.

The Oklahoma IOLTA Program

The Oklahoma Supreme Court amended the Code of Professional Responsibility to permit the establishment of a voluntary Oklahoma IOLTA program in 1983, giving Oklahoma lawyers the choice to participate in IOLTA by opting in. The program did not become mandatory until after legal challenges to IOLTA were overcome. Lawyers opposing IOLTA had always argued it was unconstitutional based on the Fifth Amendment's prohibition of taking private property from individuals without just compensation. The U.S. Supreme Court considered this issue in 1998, and ruled that the interest earned on individual client funds in pooled IOLTA accounts was indeed the property of the individual clients. The court declined, however, to decide whether payment of the interest earned on the funds into an IOLTA program constituted a taking of the individual client's property, or if there was a taking, what the amount of just compensation, if any, would be.¹⁰

Subsequently, in 2003 the court addressed the state of Washington's mandatory program, and concluded that it was constitutional because there was no "uncompensated taking" of property involved.¹¹ The court reasoned that the amount of any "just compensation" that a client would be entitled to from IOLTA should be measured by the amount of the client's property loss. Because IOLTA accounts only hold funds that are too small or short term to generate any interest income for any one individual client, no individual can suffer any monetary loss for which just compensation would be due.

After this decision, the OBA and OBF jointly moved the Oklahoma Supreme Court to convert Oklahoma's voluntary IOLTA program to a mandatory one. The court approved an ORPC rule change and the Oklahoma program became mandatory on July 1, 2004. The new rule incorporates the basic IOLTA premise that a client must receive any interest to which he would actually be entitled, so an attorney who deposits funds in an IOLTA account still must

first consider whether the funds can be used to provide a positive net return to the client.

The Oklahoma rule also provides a lawyer with an appeal process relating to client funds and to IOLTA accounts. If a client asserts a claim against an attorney to obtain interest funds, the attorney can ask the OBF to review the claim. After review, the OBF can either approve the claim and return the interest paid directly to the client, or reject the claim and inform the client in writing of the reasons for the rejection. If litigation arises regarding the claim, the OBF will interplead the interest amount into the court, and will assume the defense of the action. Less than 20 claims for IOLTA refunds have been submitted and paid by OBF in the years IOLTA has existed.

Although the Oklahoma IOLTA program is capable of generating substantial amounts of funds to meet the legal service needs of Oklahomans, it is wholly dependent on interest rates, and thus provides a perfect example of why a successful nonprofit can never safely rely on any one funding source. Changes in interest rates can, and have, lead to great disparities in the amounts of Oklahoma's IOLTA funds over the years.

Attorney Donations and Fellows Program

Many nonprofits raise funds through programs in which individuals make direct donations to the entity. The OBF has two such sources. First, there is a specific section on the OBA annual membership application that provides lawyers the opportunity to individually donate funds to OBF when they renew their OBA membership.

Second, the OBF has an annual giving program called the Fellows Program in which an Oklahoma lawyer makes a voluntary, intentional decision to monetarily support the foundation. This program was created in 1978, with 91 attorneys across Oklahoma signing up as the original Fellows. An Oklahoma attorney becomes a foundation Fellow by donating \$100 a year for 10 years or \$1,000 total. This amount has not been increased since 1978.

The OBF program has two additional Fellow participation levels. Sustaining Fellows complete their initial \$1,000 contribution and then continue to donate \$100 per year; Benefactor Fellows — the highest level of foundation leadership — contribute \$300 per year after they complete their \$1,000 contribution.

The OBF currently has 718 OBF Fellows, 227 Sustaining Fellows, and 165 Benefactor Fellows. The Fellows Program generated approximately \$109,000 in 2011.

Memorials and Other Gifts

Monetary support for OBF programs also comes from OBA lawyers and their families who make gifts for the general charitable purposes of the foundation. Such generous gifts are an important source of permanent funds. These include the Edward and Mary Howell Memorial Fund, which began with a \$500,000 principle gift in a will; the Joseph S. Lewis Memorial Fund, which began with a \$200,000 principle gift in a will; and the Chapman-Rogers Education Fund, created to honor attorney John Rogers, in the total amount of \$226,000. This pledge to the general charitable purposes of the foundation currently funds annual scholarships at each of Oklahoma's three law schools.

Other gifts have created scholarships to honor specific individuals, including: 1) the Maurice H. Merrill Scholarship Fund, which provides an annual scholarship to an OU College of Law student who intends to practice public law; 2) the W.B. Clark Scholarship Fund, which provides funds for students from Kay County to attend law school in Oklahoma; 3) the Gerald B. Klein Fund, which funds an award to an individual who exemplifies dedication and devotion to the legal profession; 4) the Phillips Allen Porta Memorial Fund, which funds an award to the graduating senior student at OU College of Law with the highest grade in legal ethics; 5) the Thomas L. Hieronymus Fund, which funds an award to an OU law student studying energy and natural resources law; and 6) the Marvin C. Emerson Scholarship Fund, established to provide a scholarship to an OU law student studying family law.

In 2011, the foundation received approximately \$73,645 in private gifts and memorials.

Cy Pres Awards

Another unpredictable, but potentially substantial, source of OBF income is a court award of *cy pres* funds. The *cy pres* doctrine was created as a method a court could use to fairly distribute a trust fund when the original purpose of the trust could not be achieved. The court would award such funds for the "next best" use, which was usually a donation made

to a charitable organization as closely aligned as possible to the original trust purpose. *Cy pres* awards are most frequently found in class action cases, where accounts are set up to hold payments made by defendants to go to injured class members. A court will set a particular time period during which eligible class members can identify themselves and claim their part of the funds from the account. Typically, however, only a small percentage of those class members eligible to receive funds actually submit claims. Because the defendants usually have no right to receive back any excess unclaimed funds, a large amount of funds can remain undistributed after the time period for submitting claims has expired.

The *cy pres* doctrine enables a judge to order that unclaimed class action funds be paid to a charitable organization. Such an award is usually made pursuant to a stipulation or recommendation of both plaintiff and defense counsel in an action. The OBF has been fortunate in recent years to receive more than \$2 million in residual class action funds under the *cy pres* doctrine.

THE GRANTS AND AWARDS PROCESS

As a grant-making organization, the OBF Board of Trustees has options when exercising its fiduciary duties regarding how to distribute funds it raises, to whom it distributes them, in what amounts, and under what conditions. In the grant-making process, OBF trustees must exercise discretion, and must be prudent and reasonable stewards of OBF funds.

The OBF administers three types of grant offerings. The first is the regular OBF Grant Program utilized strictly for law-related charitable programs and projects. These grants fund delivery of civil legal services to the poor and elderly throughout Oklahoma, and they also fund educational programs. Grants totaling \$559,297 were approved by the OBF trustees in 2011 to 15 different organizations, just a few of which were Legal Aid Services of Oklahoma Inc., Oklahoma and Tulsa Lawyers for Children Inc. and the Center for Children and Families Inc. The OBF also funded education programs in 2011 in the total amount of \$79,500, including donations to Teen Court Inc. of Comanche County, the OBA YLD High School Mock Trial Program and several other programs.

The second OBF grant offering is the Court Grant Program designed to benefit Oklahoma district and appellate courts for court purposes

and expenditures that are not normally funded through existing sources. The primary purpose of the Court Grant Program is to fund capital improvements and extraordinary expenditures necessary to promote the administration of justice, including courtroom improvements such as computer equipment, court reporting equipment, other furniture and fixtures, and extraordinary expenditures necessary for the proper administration of complex litigation. Since the inception of the Court Grant Program in 2008, more than \$270,000 has been awarded to courts across Oklahoma to meet these needs.

The third grant offering is for out-of-cycle grants, which fund emergency requests that do not fit within the scope of the normal grant cycle and do not recur from year to year. To qualify for an out-of-cycle grant, the applicant must show that its need is highly meritorious, it fits within the charitable purposes of the OBF, it could not have been anticipated and no other funds exist to meet it. Such grants cannot exceed \$2,000 per grantee per year, other than in exceptional cases which cannot exceed \$5,000, as determined by the Board of Trustees following review and recommendation by the Grants and Awards Committee.

The Grant-Making Process

The OBF grant-making process is a long and thorough — and absolutely necessary — process. Each trustee takes the fiduciary duty and commitment to properly award foundation funds very seriously.

The grant-making process has several steps, each of which is critical to ensuring OBF funds are properly spent. The OBF must first provide information regarding its programs to all potential grant recipients. The foundation staff and the Grants and Awards Committee then analyze each application received and meet face-to-face with every qualified applicant to hear from them directly. The committee ultimately makes recommendations to the entire OBF Board of Trustees on the grants it believes should be made, and the entire board votes on final grant decisions. Once the grants are made, the Grants and Awards Committee supervises a monitoring process of the grants throughout the year. Grantees must submit periodic reports to the OBF, who perform site visits to evaluate the grant recipient's use of OBF funds.

The Grant Application

The first step in the process requires the OBF to provide guidelines to inform potential appli-

cants about the OBF and the funding opportunities it offers. The applicants then prepare and submit specific information about themselves and their proposals for use of OBF funds. OBF grants are awarded on an annual basis. Court Fund applicants must submit applications by March and regular grant applicants by June to receive consideration. Each applicant, if not a court, must be organized as a nonprofit recognized by the IRS as a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, or as an organization that will provide a charitable public service that would qualify as tax-exempt under Section 501(c)(3). If the organization is not such an entity, the applicant must fully describe the nature of its tax-exempt status. OBF does not fund activities or organizations that fall outside IRS guidelines or the scope and mission of the foundation.

The OBF requires that each applicant submit a brief description of its grant request, including a narrative that defines the organization and programs to be funded, its goals and objectives and a timetable for completion. It should also specify the community or clients to be served, the program's quality and distinctiveness, how it serves the mission of the OBF, how the work would be carried out, expected outcomes if the program is successful, the organization's previous fundraising record of accomplishment, other sources of funding for the program, potential matching opportunities, and how the organization will measure its effectiveness in applying the grant funding to the proposal's goals.

Particularly important in this part of the process is an OBF trustee's fiduciary duty to ensure the financial stability of grantee organizations. The OBF trustees thus request submission of an applicant's financial statements, audit statements and budgets for both revenue and expenses. The OBF also requires a copy of the applicant's tax determination letter and two most recent IRS Form 990s as part of the application packet.

The OBF is also able to gather information about potential grantees by attending events of the grantee organizations, obtaining relevant information through websites such as Guidestar, and through direct contacts with the applicant.

Assessing The Grant Application

The OBF's committee structure calls for the Grants and Awards Committee to review applications and to make recommendations to the full OBF board as to which grants should be funded.

The applications are first thoroughly reviewed by foundation staff, then every committee member reviews and assesses the applications.

The OBF annually receives and reviews grant requests from many different nonprofit legal services and education-related organizations serving Oklahoma. Proposals demonstrating promise of contributing to the welfare and education of, and meeting the legal service and law-related educational needs of the residents of Oklahoma, are given careful consideration by committee members. This consideration extends to include other law-related nonprofit programs such as educational and public awareness, and access to and improvement of justice for exclusively public purposes.

Priorities considered by the committee for legal services or education grants include: 1) the track record of the applicant, such as fiscal responsibility and program stability; 2) other funding sources that could sustain the program; 3) development and expansion of pro bono services; 4) special needs of the applicant; 5) the potential of matching grant funds from another source; 6) the benefits that will be derived from the project or program by the state, county or service area; and 7) non-duplicative services.

Priorities for Court Grant funds include those where other funding sources are not generally available, special needs of the court not addressed by normal funding processes, and whether matching grant funds may be available.

After the committee reviews each grant proposal and staff summary report, and evaluates the viability of each proposal, it determines funding recommendations for each proposal to be presented to the board. It also identifies and informs the board of the current Oklahoma community legal service needs, legal educational needs and service gaps.

Grantee Reporting and Tracking Requirements

Following the successful disbursement of funds to grantee organizations, the responsibilities of the OBF Grant and Awards Committee shift to oversight of the recipients to ensure OBF funds are used for the purposes set forth in their proposals. The committee is responsible for timely follow-ups to ensure compliance with the described proposal upon which the awards were made.

All grant recipients are required to submit written quarterly reports on the progress of the funded project. The OBF also requires annual reports, which include items such as restatement of the plan outlined in the original request, the measurable outcomes as originally outlined, progress made toward achieving those outcomes, methods or strategies used to gather data on the program, any findings of interest, concerns facing the program, whether the grant been instrumental in attracting additional resources, any plans for ongoing funding or expansion, and other funding sources and amounts received during the period.

Due to the long-term commitment OBF makes in granting funds, the Grants and Awards Committee members also conduct site visits to see grantees in action and to obtain a greater understanding of the needs and capacity of the recipients. The committee meets in February each year to plan and review the monitoring activities and organize the upcoming grant cycles. Site visits assigned at the February meeting must be completed by committee members by May, along with a written report. Site visits enable committee members to better evaluate grant fund usage and outcomes, adequacy of facilities and to evaluate other needs and accomplishments of grantees. All site visits reports are discussed and reviewed at the committee level and then presented for discussion and review by the entire Board of Trustees.

Finally, the Grants and Awards Committee ensures that all OBF grant recipients recognize the foundation in their written materials, during program presentations and on their websites and other media forms and venues. Grant recipients are also periodically asked to participate in OBF presentations.

CONCLUSION

The OBF, run by and for Oklahoma lawyers, has operated as a successful nonprofit organi-

zation for 66 years. It serves as the charitable arm of the OBA, and all licensed lawyers in Oklahoma are members. Through the generous support of attorneys who make charitable donations and participate in fundraising programs including the Fellows Program, IOLTA and *Cy Pres*, the nonprofit OBF works behind the scenes for Oklahoma's most vulnerable citizens. The OBF's success began with the original mission created by Oklahoma lawyers and the legal principles they established long ago to guide the OBF through the years. The Oklahoma Bar Foundation provides a perfect organizational example for any nonprofit organization desiring to succeed.

1. "The Oklahoma Bar Foundation: Executive Council of the Oklahoma Bar Association Creates Oklahoma Bar Foundation," by OBA Executive Secretary John G. Henry, 17 OBJ 1367, *Oklahoma Bar Journal*, Sept. 28, 1946.
2. *Ford v. Board of Tax Roll Corrections*, 1967 OK 90, 431 P.2d 423.
3. ORPC 6.1
4. *The Complete Guide to Bar Foundations*, Chris Newbold (First Ed. 2007)
5. *Corporate Directors Guidebook*, ABA Corporate Laws Committee (6th Ed. 2011)
6. ORPC 5.1
7. *Phillips v. Washington Legal Foundation*, 524 U.S. 156, 161 (1998).
8. 12 U.S.C. §1832(a)(2).
9. ORPC 5.1
10. *Phillips v. Washington Legal Foundation*, 524 U.S. 156, 172 (1998).
11. *Brown v. Washington Legal Foundation*, 538 U.S. 216, 221 (2003).

ABOUT THE AUTHOR



Renée DeMoss served as president of the Oklahoma Bar Foundation in 2008. An attorney with the Tulsa law firm of GableGottwals, she has more than 26 years of legal experience. She currently sits on the board of directors for the Oklahoma Attorneys Mutual Insurance Company and the National Bar Foundation. She chairs the OBA Litigation Section and the OBA Women in Law Committee. She is a 1984 graduate of the OU College of Law.