



CSR Compliance and Readiness for NGOs

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Speaker Profiles



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Agenda

#	Topic	Speaker	Duration
1	Context Setting	Srikrishna Sridhar Murthy	5 minutes
3	Overview of CSR law and new amendments	Srikrishna Sridhar Murthy	10 minutes
4	Implication of the law on NGOs: CSR compliance & best practices	Hemanth Kumar	45 minutes
5	Questions from the audience		30 minutes

CSR law in a nutshell

The companies on whom the provisions of the CSR shall be applicable are contained in Sub Section 1 of Section 135 of the Companies Act, 2013. As per the said section, the companies having Net worth of INR 500 crore or more; or Turnover of INR 1000 crore or more; or Net Profit of INR 5 crore or more during immediately preceding financial year shall be required to constitute a Corporate Social Responsibility Committee of the Board "hereinafter CSR Committee" with effect from 1st April 2014.

On whom are the provisions of CSR applicable?

Qualifying norms:

- Net worth of INR 500 crore or more; or
- Turnover of INR 1000 crore or more
- Net Profit of INR 5 crore or more

What is section 135?

Section 135 of the Companies Act was notified from 1st April 2014. This made CSR mandatory for qualifying companies.

What is Companies Act 2013?

It is an Act, in the constitution of India, that mandates that qualifying companies spend 2% of their average net profits from 3 immediately preceding FY on social activities.

What is Corporate Social Responsibility Committee of the Board?

CSR Committee of the board is a three-member committee, consisting of 3 or more directors with one as independent director (honorary post).

Key areas of recommendations by the recent High Level Committee (HLC) on CSR



Thrust on Budgeted Spending



Annual CSR Survey



Utilization as Spend



Reporting / Disclosure



MCA – DPE
Collaboration



Impact Assessment



CSR Expert in the
Board



SDG alignment



Implementing Agencies
as Partners, not Vendors/Service Providers

Recent amendments under the Companies Act, 2013 based on the recommendations of HLC

On 18th March 2020, the Ministry of Corporate Affairs invited public comments on the Draft Companies (Corporate Social Responsibility Policy) Amendment Rules 2020. The Draft rules projected the Government's shift from a 'comply or explain' stand towards 'comply or pay'. Based on the public feedback, the Government recently amended the Companies (Corporate Social Responsibility Policy) Rules, 2014 and Section 135 of the Companies Act, 2013, **effective 22nd January 2021 (Amendments)**.

Incorporating many recommendations put forth by the High-Level Committee on CSR 2018, the Amendments

- ▶ implicitly highlight the Government's deeper intent to push corporates to be more strategically involved with the CSR initiatives and on an ongoing basis
- ▶ explicitly lay out CSR functions and responsibilities of the corporates, and
- ▶ implement the Government's intention to penalise corporates breaching CSR provisions through monetary penalties.



CSR Compliance & Best Practices

Broad areas of CSR compliance

1

Statutory/ Legal Compliance

- NGO registration
- 80G, 12AB and MCA registration
- MoA/ AoA/ Trust deed

2

Finance and accounting

- GST and PAN number
- IT returns
- Documentation, Financial and utilization reports
- Break-up of Budget

3

Planning and reporting

- Annual reports
- Program plans and budget
- Self-audited project reports

4

Registrations and declarations

- FCRA registration and account maintenance
- Third-party accreditation
- Self-declaration statements

5

Governance and MIS

- Quarterly donor meetings
- MIS systems and personnel

6

Volunteering and branding

- Volunteering opportunities
- Branding opportunities

Finance & Accounting



Essentials of a Good Financial Policy

- Mention the proposed users of the policy
- Should be updated periodically - at least once in 2 / 3 years. Year in which prepared and version number to be mentioned in face page
- Layout structure of the Finance / Accounts Department
- Define steps involved / process for making payments - for expenses, reimbursements, procurement of goods/services
- Process of staff and or program advances and settlements
- Define formats of Payment Vouchers, Receipt, Indent, Purchase Order, Reimbursement Claim, Contract to be provided as annexure
- Budgeting process for projects and the organisation and approvals and sign off
- Define donor reporting process - timelines, persons responsible
- Internal Audit process, if any
- Statutory Audit arrangements. Management Letter and Response

Today's session will focus on understanding the finance and accounting best practices for three key cost heads

- NGO partners are to have certain policies and submit them to the appointed consultant prior to the disbursement of the grant & during the submission of the initial budget estimates.
- The NGO is expected to draft any missing policies within the first quarter of the grant.

Key Cost heads



Procurement



Human Resource



Travel and Reimbursement

Procurement Policy - Best Practices

- A clear procurement policy to be defined on vendor selection, on-boarding & a plan with outputs, outcomes & milestones.
- Estimates are expected to be backed by quotations unless justified
- Unit wise breakdown of material and consumables costs that is directly attributable to the project deliverable and the timing of the spend.
- For purchase above certain limits 3 quotes, purchase committee (with fixed tenure)
- Purchase need not be from lowest bidder, single source for specialised items
- For very large purchases , ensure board approval
- For consumables etc - annual shortlisting of vendors based on quotes.
- Ensure comprehensive contracts, agreements, MOU copies with vendors
- Procured assets such as laptop, mobiles as part of materials, are to be used exclusively by/for the project beneficiaries and shall be tagged/maintained in a fixed asset register.
- Vendor invoice where payment is to be released on work completion basis, and the project is obtaining a work completion certificate from an expert in the field to support the validity of the payment.
- Invoices as per tax invoice guidelines of the GST Act.
- Bank payment advice for disbursement of vendor payments.

HR Policy - Best Practices

- Define Overhead Allocation Policy - for sharing of common expenses amongst multiple donors
- Breakdown of the no, of resources and period
- Costs of services like manpower consultant services for hiring resources should not be a part of project cost
- Services like manpower, accounting & finance, M&E that are not directly linked to the project shall not form part of staffing costs and should be included only as OH absorption
- In case of apportionment of a salary cost, provide % allocation to each project in order to maintain transparency. Ensure confidentiality at any level of data sharing w.r.t salary costs.
- CEO expense approvals - policy / procedure - monthly/Quarterly,post facto
- Bank payment advised for disbursement of salaries & salary expenses and payment vouchers from the books of accounts.
- Changes in staff has to be timely communicated to the donor. Underspent staffing costs cannot go to cover additional OH absorption
- Any attrition of project members is to be notified to donor with a replacement w.r.t vacancy, adequate communication to be done with donor.

Travel and Reimbursement - Best Practices

- Define a detailed Travel reimbursement policy
- Define what expenses qualify for reimbursement, timeline for claiming expenses, claim procedure
- An exhaustive list of other costs that are expected to be spent shall be provided (project travel to the field for supervision)
- Travel reimbursement sheet from all the employees claiming a reimbursement along with necessary approvals
- Supporting petrol bills, toll tax receipts etc to be attached with the voucher
- Vendors contract for air, train, bus, cab bookings along with comparative quotations obtained
- Hotel lodging bills and other details

Other Relevant Policies

- Whistle Blower Policy
- Policy on Fraud, Corruption and Anti Bribery
- Conflict of Interest
- Data Privacy

Recent trends on Finance & Accounting

- Accounting Automation - various third party plugins and apps to automate accounting. Over time accounting as a function may cease to exist in its present form
- Outsourcing accounting - Fee based on deliverables.
- Outsourced CFOs - CFO on Hire
- Old issue - Donation in Kind-how accounted?
- Crypto Donations to NGOs - Crypto Relief, Save the Children, etc
- At Individual level - with apps like Perfios - accounting is totally automated
- Paperless / Digital Office - better IT infrastructure and integration and need to reduce Carbon Footprint



Compliance / Statutory Requirements

Statutory Compliances Required

Income Tax

- Tax Deduction at Source and remittance to Govt. Quarterly returns
Investment declaration from staff and obtain proof in time for appropriate TDS on staff Salaries
- IT returns annually
- Issue of TDS Certificates
- Renewal of 12 A Approval AND 80G once in 5 years
- Form 10B to mention payment to related parties - CEO salary and allowances

FCRA

- Quarterly upload of foreign donations received
- FC annual returns
- Changes in objects, Governing Body, Bank accounts to be intimated online
- Renewal once in 5 years

Provident Fund - 20 or more employees. For employees with Basic salary of Rs.15,000 / month. Higher salaried can choose to opt out

Employees State Insurance- 10 or more employees drawing upto Rs.21,000 / month

Statutory Compliances Required- Contd..

- Profession Tax - State law.To be deducted from staff and remitted as per slab prescribed
- Gratuity - For staff who have completed more than 5 years of service
- Shops and Establishments Act - State law.NGOs exempt in most states
- Maternity Benefit Act - 6 months leave,creche facility if more than 50 staff- to be mentioned in appointment letter of new women staff
- Minimum Wages Act - not to be below minimum wage prescribed by the state
- Societies Registration Act - Filing of annual statements and GB members
- 80 G - Upload of details of donations received and issue of certificate,to be prescribed
- Sexual Harassment Policy and required compliances thereunder
- Registration with MCA for receipt of CSR Funds

Service Income & GST

- If organization is engaged in Relief of Poor / Education / Medical Relief / Yoga / Preservation of Environment / Advancement of any other object of General Public Utility
- Then any trade, commerce, business or consulting is exempt if it is carried out for and as part of above activities
- If not, such income should not exceed 20% of total receipts
- If Income is not exempt then the entire income and not just the business or consulting income would be taxable
- If an NGO has considerable Consulting / Contract / Business Income it is advisable to have a separate entity with GST registration. This would also enable to enjoy the benefit of Input Tax Credit (GST on inputs is set off against GST payable), making them more competitive
- Wherever possible the consulting income could be routed as a grant but the contracts must be clear and specific - viz., Fees for Training or Capacity Building

Major changes in FCRA Act, 2020

- No sub grant by Foreign Grant Recipients - impact of this change.Larger INGOs taking on staff and all work of partner NGOs. Contract mechanism with GST (for larger grants) would increase costs substantially and may be viewed as violation of the requirements of the Act (sub granting)
- Reduction on cap of Administrative Expenses from 50% to 20% of Grant receipts
- Designated FC Account with SBI, New Delhi
- Time limit of power to suspend registration increased from 180 to 360 days
- Aadhar Numbers of all Governing Body members to be provided
- Option to surrender Registration - in such a case the assets cannot be disposed off by the surrendering NGO but will vest with the Government

Key Risks & Mitigations

Risks

- Non Compliance with revised laws attracting heavy fines and penalties
- Wrongful interpretation or ignorance and that it is an Industry practice- is NOT a valid excuse
- Constant focus of the Govt. on the Sector
- Credibility risk due to mistakes and wrong decisions

Mitigation

- Engage professionals
- Be well networked and be up to date with changes
- Be Engaged and Pro active

Key Resources



Accounts and related software

Tally and Quickbooks

Bank statements can be uploaded in pre defined formats and Bank Reconciliation done automatically

Standardisation of chart of accounts - donor and MIS reports can be generated from the software itself

Third party applications like **Fyle and Zoho Expenses** where staff can capture travel and other expenses along with photograph of the bill and it would automatically go to defined persons in the order mentioned for approvals and then to finance for accounts- most expenses can be directly imported to the accounting software

Project management softwares- **Trello, Wrike, TickTick, Asana, Air Table etc**

Forums and Networks

- Financial Management Service Foundation (FMSF)- <https://www.fmsfindia.org.in/>
- AccountAid -<https://accountaid.net/>
- Social Research & Reform Foundation (SRR) - <http://www.srr-foundation.org/index1.htm>
- VANI - <https://www.vaniindia.org/>
- Credibility Alliance - <https://credibilityalliance.org/>
- Guidestar - <https://guidestarindia.org/>
- Networking4Development (WhatsApp Group by Tamuku)
- Big Tech at Nasscom Foundation for several free or highly subsidised software-
<https://bigtech.nasscomfoundation.org/>
- Devcreative Google Group
- Sattva - [CSR Compliance overview](#)