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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Susan Pollard, Department of Law

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081

A handwritten signature in blue ink, appearing to be "SM", located to the right of the "FROM:" line.

DATE: February 22, 2016

RE: Filed Permanent Regulations: Department of Law

Department of Law Regulations re: Charitable Organizations, Paid Solicitors, and
Telephonic Sellers (9 AAC 12.010 - .890, 14.010 - .900)

Attorney General File:	JU2013200876
Regulation Filed:	February 19, 2016
Effective Date:	March 20, 2016
Print:	217, April 2016

cc with enclosures:

Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF LAW


The attached 13 pages of regulations, dealing with the registration of charitable organizations, paid solicitors, and telephonic sellers in Title 9 of the Department of Law regulations are adopted and certified to be a correct copy of the regulation changes that the Department of Law adopts under the authority of AS 09.80.150, 45.63.010, 45.63.080, 45.63.090, 45.63.100, 45.68.010, 45.68.020, 45.68.055, 45.68.130, and 45.68.150, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Law paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor.

Date: 1/22/16



Craig W. Richards
Attorney General

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on February 19, 2016, at 2:40p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: March 20, 2016

Register: 217, April 2016

9 AAC 12.010 is repealed and readopted to read:

9 AAC 12.010. Charitable organization registration statement. (a) To file a registration statement or registration renewal statement, a charitable organization must use a registration statement or registration renewal statement on a form or in a format issued by the department. Information provided on the statement must include

- (1) the full legal name and federal taxpayer identification number of the charitable organization;
- (2) the charitable organization's mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address;
- (3) the names under which the charitable organization does business or solicits contributions;
- (4) the place where, and the date when, the charitable organization was established or incorporated, and the type of organization;
- (5) the charitable organization's tax exempt status with the United States Internal Revenue Service and whether the organization's tax exempt status has ever been denied, revoked, or modified;
- (6) the names and addresses of the members of the charitable organization's governing body, including officers, directors, trustees, and principal employees;
- (7) the general purposes for which the charitable organization is organized and for which contributions are solicited;
- (8) the methods by which the charitable organization solicits

contributions;

(9) the names and addresses of any paid solicitors that solicit contributions on behalf of the charitable organization;

(10) the dates on which the accounting or fiscal year of the charitable organization begin and end;

(11) a statement containing financial information for the charitable organization's most recent fiscal or accounting year; the statement must include

(A) the total dollar value of revenue received from all sources;

and,

(B) total expenditures;

(12) a list of other states where the charitable organization is registered to solicit contributions; and

(13) a statement explaining whether the charitable organization has ever been enjoined or prohibited by a government agency or court in any state or jurisdiction from soliciting contributions.

(b) If the department considers submission of the information necessary to verify information provided on the registration statement or registration renewal statement or to review the charitable organization's compliance with AS 45.68 and this chapter, and on the department's request, the charitable organization shall provide a complete copy of

(1) the most recent Form 990, Form 990-N, Form 990-EZ, Form 990 PF₁ and Form 990T that the charitable organization filed with the United States Internal Revenue Service, including all schedules and statements; however, a charitable organization that files Form 990 or

Form 990-EZ is not required to provide Schedule B in response to a request made under this subsection;

(2) the charitable organization's most recent audited financial statement; and

(3) any contract or written agreement between the charitable organization and any paid solicitor identified in the registration statement or registration renewal statement.

(c) An authorized employee of the charitable organization or member of the organization's governing body must sign the registration statement or registration renewal statement.

(d) The department will not accept a registration statement or registration renewal statement from a charitable organization if

(1) the statement is not complete;

(2) the statement contains material misrepresentations or false information;

(3) the statement is not legible;

(4) an authorized employee of the charitable organization or member of the organization's governing body has not signed the statement; or

(5) the charitable organization has not complied with requirements of AS 45.68.010 or this section.

(e) A charitable organization registration or registration renewal is complete for purposes of AS 45.68.010 on the date the department sends notice to the charitable organization that the registration is complete.

(f) Nothing in this section relieves a charitable organization of the obligation to provide documents to the department under AS 44.23, AS 45.50, AS 45.62, AS 45.63, or another ^{AS 45.68,}

Register 217, April 2016

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provision of law. (Eff. 3/19/94, Register 129; am 8/6/2006, Register 179; am 3/20/2016, Register 217)

Authority: AS 45.68.010

AS 45.68.020

AS 45.68.130

Editor's note: [THE UNIFIED REGISTRATION STATEMENT (URS) FOR CHARITABLE ORGANIZATIONS AND] ^{The} [the] Department of Law's **registration form** [STATE OF ALASKA, CHARITABLE ORGANIZATION ANNUAL REGISTRATION FORM, ADOPTED BY REFERENCE IN 9 AAC 12.010, ARE] **is** available from the Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: **<http://www.law.alaska.gov/department/civil/consumer/charityreg.html>** [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12.020 is repealed and readopted to read:

9 AAC 12.020. Paid solicitor registration statement. (a) To file a registration statement or registration renewal statement, a paid solicitor must use a registration statement or registration renewal statement on a form or in a format issued by the department. Information provided on the statement must include

- (1) the full legal name and federal taxpayer identification number of the paid solicitor;
- (2) the paid solicitor's mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address;
- (3) any additional addresses that the paid solicitor uses to solicit contributions in

this state;

(4) the names under which the paid solicitor does business or solicits contributions;

(5) the place where, and the date when, the paid solicitor was established or incorporated, and the type of organization;

(6) the names and addresses of the paid solicitor's owners, officers, directors, and principal employees;

(7) the names, addresses, electronic mail addresses, and telephone numbers of individuals responsible for the activities of the paid solicitor in this state;

(8) a list of other states where the paid solicitor is registered to solicit contributions;

(9) the methods by which the paid solicitor solicits contributions; and

(10) a statement explaining whether

(A) the paid solicitor has ever been enjoined or prohibited by a government agency or court in any state or jurisdiction from soliciting contributions; and

(B) the paid solicitor or any of its owners, officers, directors, or principal employees has ever been convicted of a crime involving charitable solicitations in any state or jurisdiction.

(b) A paid solicitor registration statement must be signed by

(1) the paid solicitor; or

(2) an authorized owner, officer, director, or employee of the paid solicitor, if the paid solicitor is an organization.

(c) The department will not accept a registration statement or registration renewal statement from a paid solicitor if

- (1) the statement is not complete;
- (2) the statement contains material misrepresentations or false information;
- (3) the statement is not legible;
- (4) the statement is not signed by

(A) the paid solicitor; or

(B) an authorized owner, officer, director, or employee of the paid solicitor, if the paid solicitor is an organization; or

(5) the paid solicitor has not complied with requirements of AS 45.68.010 or this section.

(d) A paid solicitor registration or registration renewal is complete for purposes of AS 45.68.010 on the date the department sends notice to the paid solicitor that the registration is complete. (Eff. 3/19/94, Register 129; am 8/6/2006, Register 179; am 3/20/2016, Register 217)

Authority: AS 45.68.010 AS 45.68.130

Editor's note: The Department of Law's registration form [STATE OF ALASKA, PAID SOLICITOR FOR CHARITABLE ORGANIZATION ANNUAL REGISTRATION STATEMENT, ADOPTED BY REFERENCE IN 9 AAC 12.020,] is available from the Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: <http://www.law.alaska.gov/department/civil/consumer/>

[charityreg.html](http://www.law.state.ak.us/department/civil/consumer/charityreg.html) [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12.065 is repealed and readopted to read:

9 AAC 12.065. Paid solicitor financial report. (a) To file a financial report required under AS 45.68.055, a paid solicitor must submit the report on a form or in a format issued by the department. Information provided in the report must include

- (1) the name of the paid solicitor as registered with the department;
- (2) the name of the charitable organization;
- (3) the start and end dates of the fundraising campaign;
- (4) the dates covered by the report;
- (5) the total gross receipts from residents of this state during the time period

covered by the report; and

(6) the distribution of gross receipts from the fundraising campaign in this state during the time period covered by the report, including itemized lists of expenses, commissions and other costs, and the net amount paid to the charitable organization.

(b) The department will not accept a paid solicitor financial report that is not complete, is not signed, is not legible, or does not comply with the requirements of AS 45.68.055 or this section. (Eff. 8/6/2006, Register 179; am 3/20/2016, Register 217)

Authority: AS 45.68.010 AS 45.68.055 AS 45.68.130

Editor's note: The Department of Law's **paid solicitor financial report form** [STATE OF ALASKA, PAID SOLICITOR FOR CHARITABLE ORGANIZATION SOLICITATION

CAMPAIGN FINANCIAL REPORT, ADOPTED BY REFERENCE IN 9 AAC 12.065,] is available from the Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, or at the following Internet address: <http://www.law.alaska.gov/department/civil/consumer/charityreg.html> [HTTP://WWW.LAW.STATE.AK.US/DEPARTMENT/CIVIL/CONSUMER].

9 AAC 12 is amended by adding a new section to read:

9 AAC 12.890. Electronic filing and signatures. A filing required under AS 45.68 or this chapter may be filed electronically in a manner and format that the department prescribes, if the department makes electronic filing available. The department may accept an electronic signature on an electronic record that is filed with the department and that requires a signature under AS 45.68 or this chapter in accordance with AS 09.80.150. (Eff. 3/20/2016, Register 217)

Authority: AS 09.80.150 AS 45.68.020 AS 45.68.130
 AS 45.68.010 AS 45.68.055

9 AAC 14.010 is repealed and readopted to read:

9 AAC 14.010. Registration of telephonic sellers. (a) To register, a telephonic seller must file a notice of intent to engage in a telephonic solicitation campaign on a form or in a format issued by the department. Information provided in the notice must include

(1) the telephonic seller's full legal name and the names by which it does business, and the telephonic seller's federal taxpayer identification number;

(2) the telephonic seller's mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address;

(3) any additional addresses and telephone numbers from which the telephonic seller will solicit sales;

(4) the form of the telephonic seller's organization and when and where it was incorporated or legally established;

(5) the identity and contact information for the principals, officers, owners, and managers of the telephonic seller;

(6) a detailed description of the goods or services to be offered in the telephonic solicitation campaign;

(7) the mailing address, physical address, telephone number, facsimile number, electronic mail address, and Internet address for any affiliated entity;

(8) the form of the affiliated entity and when and where it was incorporated or legally established;

(9) a list of other states where the telephonic seller is registered to conduct telephonic sales;

(10) a list of states where the telephonic seller's registration to conduct telephonic sales has been denied, suspended, or revoked;

(11) information about criminal convictions, civil judgments, orders, consent decrees, bankruptcy proceedings, and administrative determinations relating to the telephonic seller or its principals, officers, owners, or managers; and

(12) a statement describing how the telephonic seller will comply with

AS 45.50.475(a)(2) - (4).

(b) With the notice of intent the telephonic seller must submit documents related to the solicitation campaign as requested by the department, including

(1) the script containing the required representations under AS 45.63.045;

(2) if the telephonic seller does not require its salespeople to use a script,

(A) the outline, materials, or information that the telephonic seller uses or refers to when contacting the buyer; and

(B) a statement describing how the telephonic seller will comply with AS 45.63.045;

(3) a sample of the written contract required under AS 45.63.020, including

(A) the notice of the rights of the buyer under AS 45.63.030(a); and

(B) the information required in 9 AAC 14.040; and

(4) copies of promotional materials associated with the telephonic solicitation campaign.

(c) The principals, owners, officers, managers, or other individuals with similar ownership or supervisory responsibilities must sign the notice of intent, and certify under the penalty of unsworn falsification under AS 11.56.210 that the information provided is true and correct.

(d) The department will not accept a notice of intent from a telephonic seller if

(1) the notice of intent is not complete;

(2) the notice of intent or accompanying documents contain material misrepresentations or false information;

(3) the information provided is not legible;

(4) the appropriate representatives of the telephonic seller have not signed the notice of intent; or

(5) the telephonic seller has not complied with requirements of AS 45.63.010 or this section.

(e) A registration is complete for purposes of AS 45.63.010 on the date the department sends an acknowledgement to the telephonic seller that the telephonic seller has complied with AS 45.63.010.

(f) Nothing in this section relieves a telephonic seller of the obligation to provide documents to the department under AS 44.23, AS 45.50, or another provision of law. (Eff. 3/19/94, Register 129; am 3/20/2016, Register 217)

Authority: AS 45.63.010 AS 45.63.090

Editor's note: The Department of Law's Notice of Intent to Engage in Telephonic Solicitations is available from the [THE ADDRESS FOR FILING THE TELEPHONIC SELLER'S REGISTRATION FORM OR OBTAINING INFORMATION ABOUT THOSE FORMS IS THE ALASKA] Department of Law, [FAIR BUSINESS PRACTICES SECTION] 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994, **or at the following Internet address: <http://www.law.alaska.gov/department/civil/consumer/telemarketreg.html>**

9 AAC 14.030 is repealed.

9 AAC 14.030. Confirmation of information. Repealed. (Eff. 3/19/94, Register 129;

Register 217, April 2016 LAW

repealed 3/20/2016 Register 217)

9 AAC 14.050 is repealed and readopted to read:

9 AAC 14.050. Affiliated entities. If a telephonic seller is conducting a solicitation campaign for an affiliated entity, the telephonic seller is exempt to the same extent under AS 45.63.080 as the affiliated entity would be if the affiliated entity were directly conducting the solicitation campaign. (Eff. 3/19/94, Register 129; am 3/20/2016, Register 217)

Authority: AS 45.63.080 AS 45.63.090

9 AAC 14 is amended by adding a new section to read:

9 AAC 14.890. Electronic filing and signatures. A filing required under AS 45.63 or this chapter may be filed electronically in a manner and format that the department prescribes, if the department makes electronic filing available. The department may accept an electronic signature on an electronic record that is filed with the department and that requires a signature under AS 45.63 or this chapter in accordance with AS 09.80.150. (Eff. 3/20/2016, Register 217)

Authority: AS 09.80.150 AS 45.63.010 AS 45.63.090

9 AAC 14.900(a)(1) is amended to read:

(1) "affiliated entity [COMPANY]" means any individual or entity [COMPANY] that will engage or attempt to engage in [BUSINESS] transactions with buyers relating to the telephonic solicitation campaign [SALES SOLICITED BY THE TELEPHONIC

SELLER], or **that is responsible** [WHICH ACCEPTS RESPONSIBILITY] for the acts or statements made by the telephonic seller relating to **the telephonic solicitation campaign** [SALES MADE OR SOLICITED BY THE TELEPHONIC SELLER];

9 AAC 14.900(a)(3) is repealed:

(3) repealed 3/20/2016;

9 AAC 14.900(a) is amended by adding a new paragraph to read:

(5) "telephonic seller" has the meaning given "telephone seller" in AS 45.63.100.

The introductory language of 9 AAC 14.900(b) is amended to read:

(b) In **AS 45.63** [AS 45.] and [IN] this chapter, the sale of "property or services" does not include a transaction [:]

...

(Eff. 3/19/94, Register 129; am 3/20/2016, Register 217)

Authority: AS 45.63.010 AS 45.63.090 AS 45.63.100