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**Testimony of United Way of America's Brian Gallagher  
Before U.S. Senate Committee on Finance**

**WHO:** Brian Gallagher, President and CEO, United Way of America

**WHAT:** Testified before the U.S. Senate Committee on Finance, chaired by Senator Charles Grassley (R-IA), on the topic of "Charities and Charitable Giving: Proposals for Reform."

Mr. Gallagher represented the United Way system as well as the general non-profit sector. Full written testimony attached.

**WHEN:** Tuesday, April 5, 2005

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***About United Way of America***

*United Way of America is the national organization dedicated to leading the United Way movement in making a measurable impact in every community across America by focusing on the root causes of the most serious problems. The United Way movement includes approximately 1,350 community-based United Way organizations. Each is independent, separately incorporated, and governed by local volunteers. For more information about United Way of America, please visit:*  
[www.unitedway.org](http://www.unitedway.org).



**Statement of Brian A. Gallagher  
President and CEO**

**United Way of America**

**April 5, 2005**

**United States Senate Committee on Finance**

Thank you, Mr. Chairman, Senator Baucus, and distinguished members of this Committee. I welcome the opportunity to speak to you today about issues of governance, accountability and performance in the nonprofit sector.

I am Brian Gallagher, President of United Way of America. I am here today representing my organization and 1,348 local, independent United Ways across the country that are working hard to improve people's lives and have a measurable, positive impact in communities across America.

When I first came to United Way four years ago, I was hired to change the organization's mission—to get United Way to focus on work that would show results. But traumatic world events interceded. We had the attacks on 9-11 and the response of the charitable community to that event. There were corporate scandals at Enron, WorldCom, and Tyco. And then a scandal erupted here, right in our own backyard, at United Way of the National Capital Area.

I was embarrassed by that scandal and it made me sick. Soon after it broke in the Washington Post, we got a letter from Chairman Grassley asking how we monitor our local United Ways and what changes we would recommend to improve the way nonprofit organizations work.

It became clear to me that no matter how many United Ways operate ethically and do great work, a handful can make us all look bad and erode the confidence people have in us. I realized that if I didn't focus on accountability first we would never get to our real work around mission.

So I took advantage of the opportunity this request from Chairman Grassley gave us to accelerate changes within United Way. First, I put pressure on the National Capital Area United Way to make significant changes – and they did. United Way of the National Capital Area has taken the necessary steps since then to institute real reform.

Next, I called for a review and an overhaul of our existing membership standards, which was adopted overwhelmingly by our members in less than a year. We moved fast and aggressively. The revised standards (see Attachment 1) have successfully brought other United Ways into line and as a result, we disaffiliated over 50 United Ways for failure to meet one or more of our new membership

requirements. But for every United Way that remained in the system, we reaffirmed the values of transparency, accountability, and disclosure through compliance with these new, higher standards.

We at United Way needed a wake up call and have taken the necessary steps to restore trust, but the entire non-profit sector also needs to wake up on this issue. If we in the sector can't make meaningful, common sense reforms that will promote greater accountability, then there should be legislation—because changes in nonprofit accountability must be made in order to restore trust.

Last summer the staff of the Senate Finance Committee circulated a White Paper containing a number of options for improving accountability in the nonprofit sector. For the record, we agree with the overall thrust of this paper. In fact, some of the language used in the paper, especially related to the IRS Form 990 reforms, was taken verbatim from United Way's new membership requirements. I had personally reviewed these requirements with Chairman Grassley before they were implemented within our system.

Specifically, we agree with the proposals around responsibility, disclosure and effective operations – key elements of trust – including:

- That the Chief Executive Officer – not just the Chief Financial Officer – of a nonprofit should be required to sign and be responsible for the information on the IRS Form 990.
- That the IRS should review every nonprofit's tax exempt status every five years to ensure that they continue to operate exclusively for charitable purposes.
- That Congress should increase funding for IRS enforcement – and we support this increase even if funding must be provided through increases in fees assessed on our sector, as long as we can be certain that the new fees will be used for their intended purpose.

But we don't agree with everything included in the White Paper. For example, we disagree:

- That the size of nonprofit boards of directors should be limited by federal law.
- That there should be government-mandated accreditation for nonprofits. Government regulation should focus on whether operations are legal, accountable, and transparent, not on micromanagement.

But while we disagree on some of the details, we agree overall. We need to look seriously at fundamental changes if we plan to change the operation and culture of our sector. This is a great opportunity to address the trust issues that are facing us.

Finally, if I ended my remarks now—after addressing financial and legal accountability only—I'd be doing our sector a huge disservice.

In a recent Internet poll conducted by United Way, we found that while trust in nonprofits is low, regulation isn't what people are looking for. Only 35% of respondents said that they thought there should be more regulation of charities by the Federal government.

The number one reason that people don't have faith or trust in the non-profit sector is that donors don't know how charities spend their money. It's overwhelming — 71% of respondents that don't trust charities said that their trust in non-profits would be greater if they knew how the money was spent.

Financial accountability is just table stakes. You have to get that right first. But ultimately, the American public should hold our sector accountable for delivering on our missions. Unlike the business world, we don't have market forces in play that directly reward the creation of value or punish the lack thereof.

To address that concern, I respectfully suggest that nonprofit organizations be asked to report concrete results annually that are tied directly to their missions, not just the level of activity. Perhaps a results section such as that can be added to the annual Form 990.

We should be asked to report concrete results that are tied directly to our missions, not just the level of activity we produce. When you're asking people to contribute, you're asking for an investment in your mission. And like a for-profit business, you are then accountable to your investors, not just for keeping good books, but for creating value and offering a concrete return.

For those of us in human development, that means efforts that lead to measurable improvements in people's lives ought to be the ones rewarded with public or private investment. In other words, the organizations that produce the greatest results should grow and be rewarded. Those that do not should be forced to change or go out of business.

Producing results has become the major focus for United Way—we're looking at the conditions that exist in the world today and we're transforming our business – what we do, how we do it and most importantly how we define success.

Why should we change? Because our helping systems were built for a different economic time and a different set of social conditions. In the U.S. we have evolved from an agrarian economy to an industrial economy, to a service economy, and finally an information and technology economy. And we are now in a global marketplace which changes how money is earned and how wealth and income is accumulated and distributed. It is why during one of the longest macroeconomic expansions in our history during the 1990's we did not make real progress on some of our most difficult social issues.

Our systems were built for a time when economic good times would lift all boats. It just doesn't work that way anymore. So unless we get a laser beam like focus on real results our health systems, education systems, child protection systems, and United Way systems will not create different strategies, work with different partners, invest our resources differently, use the right metrics of success, and therefore make progress which will satisfy donor and taxpayer aspirations, and thereby earn their trust and confidence.

Getting results is a huge part of rebuilding and maintaining trust. We know from our research that when people see their local United Way as a leader in getting results in the community that their trust is significantly higher than our national average. In addition, these local United Ways also

outperform our system averages in the amount of money they raise. I believe that if we applied the same logic to the entire nonprofit sector, we'd find the same thing.

The American public doesn't give us money just because our operations are clean. They expect that they are clean, and they should have every right to do so. Why they really give us money, however, is because they want to make a difference. They want to improve lives. And we—at United Way and throughout the sector—owe it to them to be able to demonstrate that their money, invested through us, is indeed making a difference and getting results.

Thank you for your time and consideration. I would be happy to answer any questions that you may have.

### Attachments

1. United Way of America Membership Standards
2. United Way of America Standards of Excellence

## ATTACHMENT 1

### UNITED WAY OF AMERICA MEMBERSHIP STANDARDS

#### STANDARD A: TAX-EXEMPT STATUS

Be recognized as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code as well as from corresponding provisions of other applicable state, local or foreign laws or regulations and files IRS Form 990 annually in a timely manner. *Annually, all Metro 1 and 2 members will submit entire IRS Form 990 to United Way of America.*

**Purpose:** Donors have an expectation that their gifts will be an eligible deduction on their tax returns. It is essential for all United Ways to be recognized by the IRS as tax-exempt 501(c)(3) in order to meet donors expectations.

#### STANDARD B: LEGAL REQUIREMENTS

Comply with all other applicable legal local, state, and federal operating and reporting requirements (e.g., nondiscrimination).

**Purpose:** The leadership of a United Way must be aware of its obligation to meet legal requirements.

#### STANDARD C: GOVERNANCE

Have an active, responsible, and voluntary governing body, which ensures effective governance over the policies and financial resources of the organization.

**Purpose:** This standard ensures that United Ways maintain strong governance practices and embrace accountability.

**Resource:** BoardSource, [www.bourdsources.org](http://www.bourdsources.org), 800-883-6262.

#### STANDARD D: DIVERSITY

Adhere to a locally developed and adopted statement to ensure volunteers and staff broadly reflect the diversity of the community it serves.

**Purpose:** United Ways must welcome, reflect and engage the full range of their constituency. This is achieved by ensuring that the staff, volunteer and donor base is diverse.

**Resource:** Diversity Toolkit, available on United Way Online.

#### STANDARD E: TRADEMARK

**Represent itself as a United Way in accordance with all United Way of America trademark standards and requirements, including those contained in the licensing agreement.**

**Purpose:** To preserve the integrity of the United Way brand, and to ensure consistent presentation of its brand identity and accurate representation of United Way's mission and values.

**Resource:** United Way of America's Creative Studio.

#### STANDARD F: MEMBERSHIP INVESTMENT

Provides financial support to United Way of America in accordance with the agreed upon membership investment formula.

**Purpose:** To ensure quality products, services, and research are available for members of United Way of America (UWA).

**Due Date:** June 30, 2004.

#### STANDARD G: CODE OF ETHICS

Adhere to a locally developed and adopted code of ethics for volunteers and staff, which include provisions for ethical management, publicity, fundraising practices and full and fair disclosure. *All Metro 1 and 2 members will submit a copy of their current code of ethics to United Way of America.*

**Purpose:** A code of ethics will serve as a resource to guide United Ways with questions of conflict of interest, personnel issues or even United Way practices in general. A code of ethics will foster an ethical environment and maintain public confidence in the organization.

**Resource:** Code of Ethics Toolkit, available on United Way Online.

#### STANDARD H: AUDIT

**Have an annual audit conducted by an independent certified public accountant whose examination complies with generally accepted accounting standards and GAAP. (Organizations with annual revenue totaling less than \$100,000 may have their financial statements reviewed by an independent public accountant.)** *Annually, all Metro 1 and 2 members will submit a copy of their most recent audit to United Way of America.*

**Purpose:** To ensure financial responsibility and accountability, all United Ways must be subject to the standard of an independent audit or review (depending on level of revenue).

**Resource:** CFO Deskbook, available on United Way Online.

#### STANDARD I: SELF-ASSESSMENT

**Conduct and submit to United Way of America every three years a volunteer-led self-assessment of their community impact work, financial management, and organizational governance and decision making.**

**Purpose:** To support performance excellence by a periodic, internal, volunteer-led review.

**Resource:** Operational and Governance Self Assessment Tool and the Community Impact Survey, available on United Way Online.

**Due Date:** To be completed every three years beginning in 2004 or 2005 or 2006.

#### STANDARD J: DATABASE II

**Annually submit Database II Survey and Amounts Raised Card to United Way of America.**

**Purpose:** To provide system-wide, accurate campaign results.

**Resource:** UWA's Research Services Team and the NPC Policy for Reporting Total Resources Generated.

**Due Date:** May 15, 2004 (Database II Survey) and March 1, 2004 (Amounts Raised Card).

#### STANDARD K: INCOME AND EXPENSE SURVEY

**Biennially submit Income and Expense Survey to United Way of America.**

**Purpose:** To measure operating efficiency, particularly cost ratios (overhead).

**Resource:** UWA's Research Services Team.

**Due Date:** March 31, 2004.

#### STANDARD L: CAMPAIGN REPORTING

**Adhere to standard reporting guidelines contained in Database II Survey for reporting campaign revenue and resources generated to United Way of America.**

**Purpose:** To ensure standardized, comprehensive campaign results for the United Way System, with no duplication in count of amounts raised.

**Resource:** NPC Policy for Reporting Total Resources Generated.

#### STANDARD M: COST DEDUCTION STANDARDS

**Adhere to the following cost deduction standards on designations (agency transactions):**

- a) fees charged will be based on actual expenses
- b) will not deduct fundraising or processing fees from designated gifts originating by or from another United Way organization.

**Purpose:** Assure the public that: 1) donors are charged no more than the actual cost incurred to process and transfer gifts, 2) there are no duplicate charges or redundant services to the donor, and 3) United Ways have a consistent, fair and understandable methodology for calculating and allocating fundraising, processing, disbursement and management and general expenses to designations.

**Resource:** The Financial Issues Committee will put forth implementation guidelines in June 2004.

## ATTACHMENT 2

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of America

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## UNITED WAY STANDARDS OF EXCELLENCE

### BACKGROUND

United Way of America (UWA) first published its Standards of Excellence in 1973. The last update of the Standards was in 1988. The new Standards, which provide a comprehensive description of benchmark standards and best practices, reflect the organization's strategic shift from its traditional role as strictly a fundraiser to a new mission focused on identifying and addressing the long-term needs of communities. The Standards also represent a proactive effort by UWA to maintain an extraordinarily high standard of accountability and transparency. Developed in conjunction with the National Professional Council, a leadership forum of local United Way professionals from throughout the country, the standards are designed to enhance the effectiveness of the 1,350 United Way affiliates.

The new Standards of Excellence were developed by and for United Way leaders to help their organizations—and, therefore, the entire system—to be more successful in achieving the community mission. The purpose of the Standards is four-fold:

- To define how to be a “great” United Way, pursuing and achieving community impact;
- To establish aspirational benchmarks for individual United Way and system performance;
- To provide clear definitions and a common language to describe United Way's business today; and
- To provide a vehicle to help enhance stakeholder understanding of the “new” United Way.

The Standards will help local United Ways by providing the following benefits in their respective communities:

- Staff and volunteer leaders will increase their knowledge of what is required to fulfill the United Way's mission in local communities.
- Leaders will have an effective framework for organizational assessment, planning and performance improvement.
- Staff, board members and volunteers will understand and use common terms when communicating about the United Way.
- Partners and other stakeholders will have an increased awareness of the United Way's work and, therefore, an increased desire to support its efforts.

## STANDARDS OVERVIEW

A comprehensive document of more than 100 pages, the new Standards provide highly detailed descriptions for five key areas of operation. Each includes multiple standards for performance:

### Component 1: Community Engagement and Vision

This component focuses on engaging and inspiring communities to create a shared vision for the future and set goals for collective action. The Standards include:

- **Knowledge of the Community.** United Way identifies, understands and engages existing and emerging communities and builds relationships with community leaders and people of influence in all sectors.
- **Community Engagement and Mobilization.** United Way listens to, learns from and motivates diverse individuals, groups and sectors to better understand, become involved in and take action on priority issues.
- **Shared Community Vision.** United Way and the community establish a shared vision for the future by creating a collective understanding of key community interests, aspirations, assets and concerns which represent the perspectives of diverse groups, individuals and sectors.
- **Public Policy Engagement.** Because the government is a critical decision-maker and the major provider and funder of health and human services, United Way must actively engage in public policy and develop partnerships that include local, state and federal governments along with the private sector and nonprofit sector.

### Component 2: Impact Strategies, Resources & Results

The scope of Component 2 includes development of “impact strategies” that will achieve measurable and lasting change in community conditions and mobilization of necessary resources by putting them to work to produce positive results and improve lives. The Standards include:

- **Impact Strategies.** United Way and other partners engage the community in developing a comprehensive plan for impacting selected priority issues and identifying the lasting changes sought and specific strategies needed. All those with an interest in the outcomes are included. United Way determines its role in the plan and focuses on selected strategies.
- **Partner Engagement.** United Way deliberately and actively builds quality relationships with traditional and non-traditional partners and involves them every step of the way. United Way engages partners around priority community issues, shared strategies and corresponding resource development.
- **Resource Development and Mobilization.** United Way mobilizes the many community assets—money, people, knowledge, relationships and technology—needed to implement strategies and achieve meaningful results. United Way builds personal relationships with donors/investors, segments markets based on interests and recognizes all contributions.

- **Implementation and Action.** United Way recognizes that community impact cannot be achieved through any single strategy, action or investment. United Way implements a diverse array of impact strategies and actions to achieve desired results and improve lives (beyond merely funding agencies, programs or services). In all activities, United Way strives to include those individuals most affected by an issue. United Way explores strategies that go beyond our traditional service orientation and address root causes, as well as system-level barriers and challenges.
- **Measure, Evaluate and Communicate Results.** United Way and its partners evaluate the effectiveness of impact strategies in order to continuously improve. They identify appropriate measures, collect and analyze results, and assess progress toward desired outcomes. Outcomes may be measured at multiple levels (i.e., programs, systems and community). What is learned may cause United Way and partners to re-think, change or adjust strategies, actions and investments.

### **Component 3: Relationship Building and Brand Management**

This component focuses on the development, maintenance and growth of relationships with individuals and organizations, in order to attract and sustain resources to support United Way's mission. The Standards include:

- **Relationship-Oriented Culture.** United Way culture (i.e., norms, values and work practices) supports building relationships that help achieve its mission.
- **Market Intelligence.** United Way collects, analyzes and uses critical information about the market and target audiences, in order to better respond to market trends and customer requirements.
- **Segmentation and Prioritization.** United Way identifies and prioritizes key customer segments and partners to build relationships important to achieving community impact goals.
- **Active Cultivation.** United Way actively cultivates, maintains and grows key relationships to increase loyalty and convert ambivalence or inertia, where it exists, to passionate support.
- **Unique, Positive Brand Experience.** United Way aspires to be the ideal partner for people who want to make a real difference in the community. We deliver results, engage, communicate and create a consistent brand experience for our corporate and individual investors and key partners.
- **Prominent Stature and Reputation.** United Way has impeccable standing in the community and is recognized as a key leader on selected priority issues, as well as a strong partner on a range of other community issues.

### **Component 4: Organizational Leadership & Governance**

The scope of Component 4 is leading local United Ways to successfully fulfill its mission, and in doing so, garner trust, legitimacy and support from the local community and the United Way system. The Standards include:

- **Mission.** United Way has a clearly stated mission, approved by the board, in pursuit of improving lives by strengthening local communities. All organizational activities

are consistent with the mission and all who work for or on behalf of United Way understand, articulate and support its stated purpose.

- **Staff and Volunteer Leadership.** United Way’s CEO and volunteer leaders provide visible, active and effective leadership for the United Way and the community. The CEO and volunteer leaders hold themselves accountable for achieving community impact and organizational goals and fulfill the responsibilities described in the practices below.
- **Governance.** United Way’s volunteer board of directors is effective in setting direction for the organization, ensuring necessary resources (i.e., human, financial, relationship) and providing oversight of programs, finances, legal compliance and values.
- **Strategic and Business Planning.** United Way establishes short and long-term goals and identifies strategies to accomplish them. Strategies are based on data and analysis, address United Way’s selected priority issues and drive resource development, marketing, financial and operational plans (collectively, a “business plan”), as well as staff work plans (i.e., accountability). United Way assesses progress annually and makes changes as needed.
- **Alignment.** Leaders align all organizational elements and resources (functional areas, systems, skills, staff, board, volunteers, structure, culture, mindset and investments) to support United Way’s mission and community impact and organizational goals. United Way measures group and individual performance against these goals. Adjustments are made as needed.
- **Organizational Learning and Talent Development.** United Way continuously improves performance by: 1) anticipating and reacting to change, complexity and uncertainty, 2) cultivating a culture committed to the innovation of products and services and 3) facilitating the development, growth and succession of talent. United Way leaders create the optimal culture, processes and infrastructure for continuous learning at organizational and individual levels. United Way staff, volunteers and partners translate new learning into action that achieves results.
- **Inclusiveness.** United Way recognizes that in order to effectively engage communities to achieve goals, the staff, volunteers, donor/investors and community partners should include the communities United Way serves. The organization’s culture, recruitment, partnerships and other business practices demonstrate inclusiveness. Formal policies and practices promote and measure inclusiveness in all aspects of internal and external functions.
- **System Citizenship.** Local United Way’s relationships with other United Ways, state associations and UWA acknowledge that each member bears responsibilities toward the others. The successes and failures of any one member impact the entire system. Local United Way fosters a high level of trust, information exchange and mutual help with others in the system to further our community impact mission, create a consistent brand experience and support a strong network of United Ways locally, regionally and nationally.

## Component 5: Operations

Component 5 deals with providing efficient and cost-effective systems, policies and processes that enable the delivery of United Way’s mission-related work and ensure the highest levels of transparency and accountability. The Standards include:

- **Strategic Back Office.** United Way provides high-quality and cost-effective operational support of all core business functions through internal capacity, national and regional solutions, United Way collaboration, external professionals, or a combination thereof.
- **Administrative Back Office.** United Way provides high-quality non-core business functions (i.e., human resource administration, finance, information technology and procurement) through internal capacity, national and regional solutions, United Way collaboration, external professionals, or a combination thereof.
- **Cost Analysis.** United Way utilizes its resources effectively and efficiently, yielding maximum value while incurring minimum cost.
- **Risk Management.** United Way is intentional and comprehensive in the protection of the organization's assets (brand, financial, property and people).
- **Business Continuity.** United Way has a comprehensive business continuity plan to ensure appropriate and timely internal actions following major crises, disasters or loss of key staff.
- **Facilities.** United Way provides a safe, welcoming physical environment that is accessible, practical, recognizable and expressive of the organization's mission.
- **Financial Policies.** In order to maintain the public's trust, written policies and procedures are in place to ensure strong financial management, compliance with legal and regulatory requirements, compliance with all UWA's membership requirements and internal controls over all United Way resources.
- **Internal Controls.** To properly ensure the accuracy of financial statements, safeguard assets and maintain an appropriate separation of duties for all financial transactions and functions, United Way maintains effective internal controls, policies and procedures, which are reviewed by auditors and approved by the audit committee of the board of directors.
- **Sarbanes-Oxley Legislation (SOX).** Although SOX legislation primarily applies to publicly traded companies and the audit firms that serve them, two provisions of the law apply to all corporate entities, including nonprofits.
- **Public Reporting and Transparency.** United Way is open and candid about its activities and operations. It provides public access to appropriate documents to ensure transparency in governance, finance, allocation and ethics matters.
- **Investment Policies.** United Way has board-approved, sound and prudent investment policies and financial practices that adhere to fundamental fiduciary duties of loyalty, impartiality and prudence in maintaining overall portfolio risks at a reasonable level.