

## Nonprofits Should Be Wary of Consultants' Pay Data

*By Ben Gose*

In the 1990s, the Internal Revenue Service inadvertently started what has become a bull market for compensation consultants when it advised charities to examine pay at similar organizations to help set salaries for their own top executives.

Today, large charities routinely hire these advisers to produce compensation reports before they hand out raises to their leaders.

But some compensation consultants are creating reports that may reflect too closely what their client wants to hear.

And Jeffrey Tenenbaum, a Washington lawyer who focuses on charities, says he has seen the IRS stepping up efforts to crack down on groups that are using such studies to elevate salaries.

"The IRS is not accepting the comparability data on its face—they're scrutinizing it," Mr. Tenenbaum says. "It's putting the onus on the tax-exempt organizations to really be sure that their data is justifiable."

Grant Williams, an IRS spokesman, said the agency would not comment on its handling of such cases or say whether numbers were on the rise.

Mr. Tenenbaum and other lawyers are advising charity boards to be careful when they make decisions about salaries.

Any charity that intends to "push the envelope" on compensation should avoid off-the-shelf studies and pay for an individually tailored one, which costs anywhere from \$25,000 to \$100,000, Mr. Tenenbaum says.

He also suggests that charities use a lawyer to commission the compensation study so that "if the results don't turn out the way you want, then you can effectively bury the study under attorney-client privilege" and start again, hoping for a more-favorable result.

### **'Cherry-Picking' Salaries**

Ken Berger, president of the nonprofit watchdog Charity Navigator, who has held leadership positions at several human-service and health-care organizations, says that in his earlier jobs he witnessed plenty of questionable behavior designed to drive the comparison numbers higher.

"The firms that were hired were cherry-picking the highest salaries," Mr. Berger says.

Brian Vogel, a compensation consultant in Washington, says that while the IRS may be stepping up scrutiny, its focus is likely to remain on the extreme outliers. "They've been saying for several years that they're going to look more at this, but they don't have the resources to do a full-court press," he says.

Mr. Vogel's advice to boards that want to push the envelope? Reconsider.

"You don't want to be sticking out in a local area as being much higher than everyone else," he says.