THE LEGAL NEEDS OF NONPROFITS SERVING LOW INCOME COMMUNITIES

January 2012

A report identifying the transactional needs of Washington nonprofits.

92% of nonprofits surveyed need legal help. WAACO conducted this study to determine the unmet transactional legal needs of nonprofits serving low income communities and suggest ways to leverage resources to address the gap.
THE LEGAL NEEDS OF NONPROFITS SERVING LOW INCOME COMMUNITIES

A REPORT IDENTIFYING THE TRANSACTIONAL NEEDS OF WASHINGTON NONPROFITS.

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Jodi Nishioka
Program Manager
Washington Attorneys Assisting Community Organizations.
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EXECUTIVE SUMMARY

92% of Washington nonprofits surveyed reported needing transactional legal services. WAACO studied the transactional legal needs of nonprofits that serve low income communities statewide, and we found overwhelming need for our services in low income communities and significant barriers to providing those services.

Nonprofits are the backbone of low income communities. Nonprofits that serve low income communities are generally started by the communities themselves to serve their particular needs. For example, most nonprofits created to serve refugee, immigrant, and Native American communities were started at the grassroots level by members of those communities. Similarly, organizations that provide specific services to a particular community -- such as domestic violence or youth organizations like Forks Abuse or Jefferson Teen Center on the Olympic Peninsula -- were all started by community members who recognized a need for those services locally.

WAACO’s mission is to advance community development and capacity building among community-based nonprofits in Washington through the provision of free transactional legal assistance. By providing legal support to nonprofits that serve low income communities, WAACO strengthens that backbone, building capacity within nonprofits so they can better support the low income communities they were created to serve. WAACO’s capacity building work through its pro bono legal services to nonprofits is unique in the State of Washington.

WAACO has long sought to systematically determine what the transactional legal needs of nonprofits serving low income communities are in order to better fulfill our mission and meet our statewide goals. WAACO’s seven years of experience in providing free business legal services to nonprofits has allowed us to understand that many, if not most, nonprofits have some business legal needs. But while WAACO has had a respectable track record of assisting nonprofits in King County, 75% of the organizations we serve have been in King County, we have not done enough to serve nonprofits outside of King County. Moreover, we are reaching only a portion of low income serving nonprofits, as low income serving nonprofits constitute approximately only 30% of WAACO’s clients. Based on such statistics, WAACO realized we needed to more deeply examine the legal needs of nonprofits serving low income communities throughout the state in order to help WAACO plan for effective provision of our free legal help to such nonprofits statewide. WAACO commissioned this study to explore these issues more fully and provide recommendations for further action.
Two major findings arose from this study:

1. With 92% nonprofits reporting they need transactional legal services, there are significant, unmet legal needs of nonprofit organizations serving low income communities throughout the state.

2. There are significant barriers to low income-serving nonprofits accessing transactional legal services across the state. The two most important barriers are:
   a) Many nonprofits serving low income communities are not able to identify legal issues and do not understand how transactional attorneys can help them; and
   b) Many low income-serving nonprofit organizations are unaware of WAACO and our free legal resources.

The study revealed that WAACO is virtually unknown outside of King County, and known, but not well-known, in King County. In addition, the study found that there is a significant need for WAACO’s services among nonprofits serving low income communities statewide. WAACO can further its mission to “promote community and economic development and organizational capacity building” by increasing its resources to better meet the significant unmet legal needs of these nonprofits. Specific recommendations are:

1. Increase WAACO’s resources to enable it to have a greater statewide presence.
2. Expand outreach to inform and assist more low income serving nonprofits statewide.
3. Help nonprofit organizations identify legal issues and make trainings available statewide.
4. Develop relationships with the private bar outside King County to identify more volunteer attorneys and increase WAACO’s statewide presence.
5. Develop stronger relationships with legal aid organizations and capacity building organizations.

Ultimately, if WAACO is going to fulfill its mission, it has to increase its own capacity to better reach and serve the full range of nonprofit organizations in Washington.
INTRODUCTION

A core belief underlying the founding of WAACO is that to achieve justice in our society, low income and disenfranchised communities need free legal support to enable them to have the power to meet their basic needs and advocate for themselves. To this end, WAACO’s mission “to promote community development and organizational capacity building in Washington State by assisting charitable and community-based nonprofit organizations...to obtain free legal assistance...” is designed to connect Washington’s corporate and transactional attorneys with nonprofit organizations in order to support low income communities.

Business legal services are services that are transactional in nature, such as incorporation, corporate governance, contracts, employment, real estate issues, or creative projects and programs that advance a nonprofit’s mission, such as developing a subsidiary for-profit business. This is the type of support that WAACO volunteer attorneys have been providing to primarily King County nonprofit organizations pro bono since its founding in 2004.

Since WAACO opened its doors in 2004:

- $1,925,000 worth of legal services have been donated;
- to 282 nonprofit organizations;
- by 205 WAACO volunteer attorneys from 94 different firms;

Although these achievements are significant for WAACO—a small nonprofit with one part-time staff person—we have the potential to do far more. We are barely tapping the wealth of legal resources in our state. There are currently 28,838 active attorneys in Washington, with about half (13,697 attorneys) located in King County. Approximately 200 of these are WAACO volunteers. That means that our volunteers make up less than 1% of the total number of active attorneys in the state. The potential for recruiting more volunteer attorneys statewide is enormous. If we could more effectively tap legal communities across the state for support, we could leverage a significantly greater amount of pro bono resources for low income serving nonprofit organizations.

WAACO has served 282 nonprofit organizations in Washington since 2004. Approximately 30% of those organizations serve low income communities. Approximately 75% of those are located in the King County region. At the same time, we know that only 38% of the

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1 Washington State Bar Association
54,000 nonprofits in Washington State are located in King County. WAACO knows that there are many more nonprofits serving low income communities that we can assist with the numerous (and generous) pro bono business attorneys we have in King County and around the state. As a threshold matter, an initial question needs to be answered: Do nonprofits serving low income communities across the state have transactional legal needs? If nonprofits serving low income communities across the state have transactional legal needs, then why aren’t more of them contacting WAACO for legal help? In addition, are there barriers to reaching clients outside of King County other than the lack of sufficient outreach?

This study was commissioned by WAACO to examine these questions and to recommend appropriate action. The research for this report involved gathering qualitative data from nonprofits in low income communities throughout Washington State. The findings and conclusions are based on the data collected.

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2 Nonprofits in Washington 2010, Northwest Nonprofit Resources.
METHODOLOGY

Interviews with 60 key informants working for nonprofits, capacity building intermediaries, and statewide and regional funders were conducted in 2010 and 2011.

Geographic Selection

To obtain a broad representation of findings from across the state, WAACO identified 5 main regions in which to conduct interviews. We identified these regions based on the criteria that 1) geographically, they cover a range of different areas of the state; and 2) these are regions that all have a concentration of low income residents. The regions contain multiple counties in all but one county (King County), as follows:

- Bellingham – including Whatcom, Island, Skagit, and San Juan counties
- Port Angeles – including Clallum and Jefferson counties
- Yakima/Wenatchee – including Yakima, Kittitas, Chelan, Douglas, Grant, Adams, and Okanogan counties
- Walla Walla – including Walla Walla, Columbia, Garfield, Asotin, Benton, and Franklin counties
- South King – while we have previously noted WAACO’s focus generally on King County nonprofits that does not necessarily apply to all parts of King County. WAACO selected South King County as another important region to study given South King County has one of the higher concentrations of low income populations within the state.

Nonprofit Selection

To identify low income serving nonprofits for our study, the following definition of “low income serving nonprofits” was used: “Low income serving nonprofits are those nonprofits that primarily serve low income persons or communities.” “Primarily” means that at least a majority of people served by the organization are considered low income. For most organizations interviewed, low income people were comfortably more than a majority of the total number of people assisted. Note that this use of the phrase “low income serving” allows for the inclusion of nonprofits that have offices physically located within
predominantly low income communities and also those whose offices may not be located within low income communities, but that primarily serve low income residents.

Nonprofits were identified using the following sources: United Way partner agency lists; community foundation grantee lists; personal referrals (“snowball sampling”) within the nonprofit sector; funders and capacity builders suggestions of nonprofits fitting some of the above criteria; NCCS, IRS 990N, and Washington Secretary of State charities databases; internet resources such as 4people.org, taxexemptworld.com, community action council and chambers of commerce sites; and other community nonprofit lists.

Data Limitations

While the methodology used provided much detail regarding the legal needs of low income serving nonprofits in Washington, it does have some limitations.

- The geographic regions studied include some of the state’s most populous counties, as well as a mix of urban and rural areas. However, less than half of the state’s counties are included.
- In choosing to conduct phone interviews, and in selecting interviews through internet research and snowball sampling, some community leaders and nonprofit organizations who have important opinions to offer may have been left out. A range of nonprofit leaders’ opinions were obtained, including those of funders and capacity builders in each geographic region.
MAJOR FINDINGS

Several themes emerged from our research. All of the findings cut across geographic lines statewide and apply to the various types of nonprofit organizations serving low income communities that were surveyed.

FINDING 1: There are significant unmet transactional legal needs among nonprofits serving low income communities that inhibit capacity building at both the organizational and community levels.

92% OF THE LOW INCOME SERVING NONPROFITS SURVEYED REPORTED NEEDING LEGAL ASSISTANCE NOW

The transactional legal needs of low income serving nonprofits interviewed broke down into nine subject areas:

1) Employment;
2) Contracts;
3) IRS 501(c)(3) filings and maintenance;
4) Board Governance, Bylaws;
5) Intellectual Property;
6) Real Estate;
7) Start-up;
8) Miscellaneous.
Notably, the most common transactional legal issue low income serving nonprofits have is in the area of employment law. Fifty-six percent of nonprofits surveyed reported they needed legal assistance on employment matters. Approximately one-third of all nonprofits surveyed reported needing legal assistance on risk assessment, governance, bylaws and contracts.

**Employment:**

Recent national research by nonprofit consultant Jan Glick, an expert on nonprofits in crisis, indicates that the most common issue struggling nonprofits face is related to employment. Indeed, 56% of nonprofits surveyed in this study reported needing legal assistance with employment related matters. A Jefferson County nonprofit reported needing information on what employment policies organizations should have, how to structure compensation
packages, and how to evaluate staff carefully and well. “There are a lot of legal issues around evaluating, especially if you have someone not performing well- [questions arise as to] what you can say or not and how to terminate someone.”

Contracts:

Funders cited nonprofit contracting as a common and growing source of legal questions and concerns, especially for nonprofits that are smaller and/or managed by refugee/immigrant residents. Thirty-three percent of nonprofits serving low income communities reported needing legal assistance with contractual issues. This assistance is particularly important in sub-contracting relationships. Increasingly, government entities such as school districts are subcontracting with community-based nonprofits because school districts realize nonprofits can provide services in the community more effectively than government entities can. Such contracts can involve a complicated web of institutional actors that can leave even a seasoned nonprofit administrator confused. Lori Guilfoyle of United Way King County noted, “It’s important for smaller organizations to understand…what they are legally bound by. Agencies of all sizes sign contracts without reading them or understanding what it means…[and] immigrants are the least likely to understand all the documents.” She noted a strong potential role for lawyers in “highlighting the complications possible in these agreements,” including basic memorandums of understanding and formal contracts. Attorneys can play an important role in helping nonprofits reach effective agreements with school districts and other government entities. Attorneys can help nonprofits understand the roles and rights of the parties involved and effectively negotiate for nonprofits’ interests.

The following example illustrates the kind of complexity that can arise for community-based nonprofits in such subcontracting. In Washington, federal funds, that support refugee youth development, are allocated to the state Office of Refugee and Immigrant Assistance (ORIA). ORIA in turn contracts with School’s Out Washington (SOWA) to award and administer grants for such youth service working in partnership with local school districts. SOWA awards grants to appropriate community-based nonprofits who deliver the services. SOWA’s Refugee School Impact Grant Project Director, Pang Chang, noted that small, grassroots, refugee-based groups commonly have questions regarding the roles and responsibilities involved in this complex web of relationships. These organizations tend to raise questions about the meaning of terms and conditions in agreements once the organization starts to hire employees.
Another area where legal assistance related to subcontracting is needed involves a slightly different context. Increasingly, capacity building nonprofits are subcontracting with small community-based nonprofits in situations where the capacity builder seeks to parcel out a large source of funds—such as federal funds—to bring much needed capacity building support to several community based nonprofits. For example, the Seattle-based Nonprofit Assistance Center, a nonprofit-capacity building resource center, received federal funding with which it has entered into subcontracting agreements with 15 small nonprofits. Again these can be somewhat complicated subcontracting agreements. In this case, WAACO volunteer attorneys could help on both sides of such transactions.

**Confronting Cultural Barriers: Somali Youth and Family Club**

**Target population:** Somali youth and families in the Creston Point Apartments and other areas in Kent, Burien, Tukwila, and North Seattle

**Main programs:** Educational programs for refugee youth and families

The Creston Point Apartments, situated near a main thoroughfare in the Renton/Skyway area, is a sprawling cluster of apartments. Many Somali families have settled here in recent years. Over 2,000 people live in Creston Point. There are an average of seven children per family, and a total of 1,000 school-age children, of whom 40% are Somali. Occupying a unit on the top floor of one of the buildings is the Somali Youth and Family Club (SYFC). Ninety-nine percent of SYFC’s clients are below the federal poverty line, and many still have refugee status.

In 2009, SYFC hoped to expand its services to refugees by subcontracting with the Department of Social and Health Services (DSHS) and the Office of Refugee and Immigrant Assistance (ORIA). For reasons Director Hamdi Abdulle did not understand at the time, both ORIA and DSHS required SYFC to obtain 501(c)(3) status to contract with them, although the language of the Federal grant unambiguously allows such a partnership to be run through a fiscal sponsor. With pro bono legal assistance from WAACO and Columbia Legal Services, SYFC was able to get their 501c3 status and soon after was able to contract with DSHS and ORIA.
IRS Filings and Maintenance of Section 501(c)(3) Status:

IRS requirements to file for tax-exempt 501(c)(3) status and to file annual tax returns can be confusing for a nonprofit organization. Twenty-three percent of the nonprofits serving low income communities surveyed reported needing help with their IRS filings and maintenance of their tax-exempt status. Similar to the “start-up” category discussed below, we know that this percentage is low. The reason it is low is that we surveyed nonprofits that had already obtained tax-exempt status from the IRS. At WAACO, 62% of our current caseload is made up of “start-up” matters, including obtaining 501(c)(3) tax-exempt status. In addition, nonprofits occasionally have more complex questions regarding different types of income, different types of activities and other 501(c)(3) related issues that lawyers can help navigate.

Governance/Maintenance of Bylaws:

This is a common area that almost all nonprofits will have to deal with at some point. Understanding board members’ legal responsibilities, potential liabilities, and the need for directors and officers insurance is critical to the health of any nonprofit organization. Thirty-three percent of the nonprofits surveyed reported needing help with these types of issues. Lawyers can help nonprofits to understand liabilities to which their organization and board can be exposed and suggest ways to protect themselves against such risks.

As a nonprofit matures, their bylaws must continue to reflect their growth and changes. Nathan Phillips of South King Council on Human Services reported that even midsize to large agencies can be out of compliance with their bylaws. The issue often does not come up until an agency is in a crisis. For example, an agency might have been out of compliance for years, and then when there is a huge budget cut, the bylaws get trotted out as a tool for the staff and board to argue their position.
Taking the Reins: Forks Abuse

Target population: Victims of domestic and sexual violence in Forks, WA
Budget: $390,000
Main programs: Advocacy, support groups, shelter program, basic needs, financial assistance

Forks Abuse is located in western Clallam County, a geographically isolated place and a small low income community. In the local school district, 75% or more of the students participate in a free or reduced lunch program. The agency’s geographic scope of service is home to three Native American reservations and includes western Jefferson County. Though the immigrant population in Forks is about 10-15% of the total population, most of Forks Abuse’s clients are from Spanish speaking countries such as Guatemala and Mexico.

When Ann Simpson took over as Executive Director a few years ago, it was a challenging time. As she recalls, when she started, it would have been helpful to “sit down with somebody for a couple of hours” to review all the different legal state and Federal filings and issues over which she had responsibility. She noted that there was no “cogent place where this [information] is documented” and “the ‘learn as you go’ method was not very efficient.” However, obtaining such assistance was not a realistic possibility. To deal with nonprofit law issues, the agency contracted with private attorneys who are all “out of [their] area.” The agency has never had a local attorney on contract, which Simpson states has “been a huge barrier.”

Intellectual Property:

With the growth of technology and the use of the web, intellectual property has become a significant issue for nonprofits. Our research indicates that 24% of the low income serving nonprofits interviewed need legal assistance in the area of intellectual property, including trademark and copyright issues, trade secrets, and website best practices, among other issues.
Risk Assessment/Insurance:

Over a third of the low income serving nonprofits interviewed reported needing legal help on risk assessment and insurance issues. For less sophisticated nonprofits, this can be an area where legal help can untangle murky issues of what are the main liability issues to protect against and how best to protect them. Help with analyzing potential liability issues and obtaining appropriate insurance is a significant concern for nonprofits serving low income communities.

Real Property:

Most nonprofits have real property issues that arise. Nonprofits have offices that they either lease or own. Some shelters or other housing-related nonprofits have to manage multiple locations. Twenty-six percent of nonprofits surveyed reported needing legal assistance with real property issues. Several nonprofits WAACO surveyed reported that while they do not need legal assistance currently, they have plans to either lease or buy a property in the future, and will need legal assistance in the future.

Start-up/Entity Formation:

Although only 13% of the nonprofits we surveyed reported needing legal assistance with start-up tasks such as incorporation and bylaws drafting, the need for start-up legal assistance in low income communities is much higher. The reason this percentage is low is that we interviewed low income serving nonprofits that were already established. From our experience, there is a great demand for start-up legal assistance. As we mentioned above, approximately 62% of WAACO’s current caseload consists of start-up matters.

Choice of entity issues are common during the start-up phase. Questions of whether a nonprofit corporation or other type of corporate entity is the right choice for a community group, and what kind of nonprofit entity is the most appropriate must be examined. The issue can be complicated for groups from diverse cultural backgrounds. A member-based or cooperative form of nonprofit may be better suited to the community structure of certain groups. Member rights in a member-driven organization may typically include voting rights for actions such as electing the board, approving governance structures and policies, and authorizing major transactions. Ken Gorden, Executive Director of the Potlatch Fund, a foundation that works exclusively with native tribes and 501(c)(3) nonprofits in the Northwest, emphasized the importance of educating Native residents seeking to start a nonprofit on “[the differences] between a member versus non-member organization, what
the two structures mean, what their strengths and weaknesses are, and [how to choose to] do one and not the other.” A capacity-building consultant observed that “a lot of ethnic organizations take [a cooperative or membership-based] form,” which can raise questions regarding who is legally accountable for the organization.

Finding the Right People at the Start: Vista Youth Center

**Target population:** Lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth in Kennewick, WA (Benton County); of the youth served, about 1/3 are homeless, and there is a greater proportion of Hispanic youth than in the overall county population.

**Budget:** $65,000 per year

**Main programs:** Leadership and drug prevention programs, weekly dinners, mainly a safe space for “youth to hang out”

Since its founding in 2007, the youth center has been operating under the fiscal sponsorship of a local church. It is now in the process of incorporating as its own 501(c)(3) nonprofit. Prior to opening the youth center, the director unsuccessfully attempted to find a local lawyer to be the center’s pro bono attorney and instead had to utilize an accountant. The organization had to repeat the incorporation process they started two years prior because the IRS Form 1023 was not sent in by the accountant. Executive Director Mark Lee noted that “with a lawyer, we would feel much more confident about the incorporation process.”

Founders of community organizations making choice of entity decisions should understand the requirements of maintaining 501(c)(3) status before incorporating their organizations as nonprofits, and the founders should consider whether they have the long-term community support and internal capacity to meet those maintenance requirements.

**Miscellaneous:**

The miscellaneous legal issues cited include among others confidentiality, regulatory compliance, volunteer liability, wills and trusts, and endowments. Twenty-eight percent of the low income serving nonprofits interviewed reported needing legal assistance in one of
these areas. In other words, almost one-third of the low income serving nonprofits had other issues that are unique to their work.

**Long-Term Legal Relationships:**

Developing long-term relationships and providing ongoing legal services to one or a group of nonprofits is a service that few law firms or public interest legal organizations perform. Our research reveals there are partnerships between community groups working on social change issues that WAACO’s pro bono legal services could provide critical support to. For example, WAACO volunteers can help nonprofits structure partial mergers or establish innovative structural forms to use resources more efficiently. WAACO volunteers can also help guide the formation of community-building efforts and provide stability for organizations to participate in coalition-based efforts.

For example, WAACO pro bono legal services could strengthen community-building efforts as they get off the ground, particularly in South King County. Organized efforts to improve areas such as Skyway and Auburn are often incubated through organic processes of dialogue around how to strategically address community problems. Nathan Phillips of South King Council on Human Services noted that if attorneys could participate in these discussions helping participants incorporate legal considerations into their discussions as strategies take shape and nonprofits form, it could be “really empowering,” as such processes “do produce community-wide change.”

Legal assistance can help organizations foster internal stability. Organizational stability of partners is a key factor in successful coalitions working for broad community change. Another factor is having a strong intermediary organization. One key difference between community-building efforts taking place at White Center and in Skyway, (where the Creston Point Apartments are located), is that the White Center Community Development Association (“WCCDA”) serves as an intermediary organization to bring both small and large organizations to the table in efforts to build the community and take advantage of larger initiative funding. In Skyway, the Somali Youth and Family Club has emerged to serve the African immigrant and refugee community at Creston Point and other housing complexes. Skyway Solutions is another emerging organization working to build leadership and community in Skyway. However, these organizations are still growing and building their own capacity. Legal assistance can help with everything from researching regulations that impact community goals to establishing a clear working relationship among a number of collaborating nonprofits. Judy de Barros, a nonprofit consultant, and
Program Consultant for Neighbor to Neighbor, a grants program of the Seattle Foundation, noted that having an intermediary like WCCDA or another community development group would be helpful for communities like Skyway, Kent, and Auburn. WAACO’s transactional legal services are important to both allowing nonprofits to achieve the stability necessary to take part in collaborative initiatives, and to supporting the collaborative efforts.

**FINDING 2: There are significant barriers to accessing WAACO’s legal services for nonprofits serving low income communities.**

Across the state, funders, capacity builders and nonprofits identified common barriers nonprofits encounter when trying to access legal services generally, and WAACO’s services specifically:

A. **Many nonprofits are not able to identify legal issues and do not understand how transactional attorneys can help them.**

Nonprofits cited limited legal expertise, lack of knowledge of legal options, and an inability to identify legal issues as barriers to program growth, stability, and efficient use of organizational resources. For example, a Yakima nonprofit wanted to buy a particular building to expand their program, but cited a lack of negotiating expertise as the main challenge to acquiring the property. The real estate transaction would also likely involve contractual agreements for which legal assistance would be beneficial, but the organization did not have access to free legal counsel. Several other nonprofits reported a lack of understanding legal issues as a major hindrance to taking bold steps to better serve low income communities.

B. **Many nonprofit organizations are unaware of WAACO and do not otherwise have free or affordable legal services available to them.**

The study identified a key problem for WAACO to address: WAACO is virtually unknown outside of King County and is known, but not well-known, in King County. Thirty-three percent of nonprofits surveyed reported being unaware of WAACO. WAACO has had a website since 2004. While we have done some outreach to areas outside of King County, those efforts have been limited and clearly not effective in reaching many nonprofits. Even in King County, small nonprofits reported being unaware of the existence of WAACO’s free legal resources for nonprofits.
Challenges and Opportunities: Ellensburg Community Health Clinic

Target population: Low income, uninsured patients in Ellensburg and Cle Elum (Kittitas County)

Budget: $12,000/ year

Main programs: Treat routine, chronic, and mildly acute medical conditions

A significant portion of the Kittitas County population consists of migrant farm workers who have limited English language proficiency and no medical insurance. While the clinic provides an essential link to basic health care for this segment of the population, it has also seen a surge of new patients from middle-income backgrounds, as layoffs have increased amid the recession.

The Ellensburg Clinic has encountered a variety of challenges because of their lack of access to legal advice. A larger concern is not knowing what questions to ask as issues arise. On a broader scale, free clinics in Washington have recently become a more cohesive group by forming the nonprofit Washington Free Clinic Association. The association’s goal is to develop a strong network of providers and to organize regular events, such as annual conferences, to share information among member organizations. Legal support could bolster the association’s structure to expand free clinic services, by providing sample legal forms associated with starting up a free clinic, and by conducting legal trainings.

The study also highlights the fact that many low income communities across the state are rural, relatively isolated from urban areas, and have little or no legal resources. We continue to hear from nonprofits in rural areas that they have very small or no legal communities in their area, and thus have little if any access to affordable or free legal services. With small legal communities, there are not only few attorneys, but no intermediary capacity-building organizations that have legal support or knowledge of WAACO’s services.

Moreover, in rural communities in Central Washington, funders interviewed were not aware of local free or affordable legal counsel for nonprofits. They reported that nonprofits
would likely obtain legal services from a private attorney who charges fees if a nonprofit manager did not personally know an attorney.

C. Perception that all legal services are unaffordable and that there is a fee associated with an initial inquiry call to a law firm or legal organization, including WAACO.

Funders cited fear and reluctance associated with the anticipated cost as the primary hindrance to seeking legal assistance. For example, one funder suggested to a nonprofit group that they consult with an attorney regarding the tax consequences of compensating an employee rather than an independent contractor, and never heard from the group again. She observed that in such instances, nonprofit managers are afraid because they don’t have the resources to pay an attorney. She also noted that paying for an attorney to help start-up a nonprofit presents a financial hardship for small nonprofit organizers.

In Walla Walla, a United Way funder explained that the financial piece is the biggest barrier. Nonprofits need legal services but if they have to pay for it, it makes it extremely difficult. They will undoubtedly try to get by without legal assistance or try to get it by having an attorney on the board of directors.

In South King County, an organization that serves refugee and immigrant communities faced a number of barriers to accessing legal services. The organization believed that the cost of legal and other capacity-building services would consume at least 6 months’ worth of members’ fees. They stated that they would rather try to read free resources on the internet. For WAACO, these are all examples that are concerning, and point to the need for increased pro bono transactional legal services generally, and the need to market WAACO more effectively to reach low income serving nonprofits.

D. There are cultural barriers to accessing legal services.

Groups serving refugee communities often believe they are ineligible for services and have an inherent distrust of attorneys, because attorneys are often perceived as community outsiders who work with the government. Native Americans can also have difficulty accessing lawyers. One funder noted that many Native Americans live in small, rural communities far from the resources of big cities, and often have preconceived notions of their eligibility to receive such services given previous experiences in the justice system or cultural experiences of racism and oppression.

Trust is often a barrier for some nonprofits in accessing legal assistance. Our interviews revealed that some grassroots nonprofits may be wary of lawyers’ ability to address their
basic organizational support needs, perhaps based on cultural and media perceptions of attorneys.
Organizations rooted in cultures different from mainstream, dominant American culture have different perceptions about their eligibility for free assistance. For example, one refugee/immigrant advocate warily asked, “How is WAACO going to help an organization like ours? We are small [and serve] immigrants who have limited [knowledge] of everything, like [knowledge of] how the system works, the language, resources. The majority are under poverty level, working for ten dollars an hour. Life is hard, and we see if we can help each other. The majority are not even high school graduates; they are dropouts.” Pro bono attorneys assisting such organizations need to be mindful of such perceptions and the need for sensitivity, cultural competency and patience in building lawyer-client relationships with nonprofits serving low income communities.

In small rural communities, it can be difficult for nonprofits to confront their legal issues. One capacity builder observed in Walla Walla that often nonprofits are isolated and do not feel comfortable discussing issues they think are unique to them. Thus, it can be difficult for nonprofit managers lacking sufficient legal knowledge to identify and cope with legal issues. One funder suggested creating a forum for people to discuss issues and concerns, without feeling like they are being singled out.
RECOMMENDATIONS

The study revealed that WAACO is virtually unknown outside of King County, and known, but not well-known, in King County. In addition, the study found that there is a significant need for WAACO’s services among nonprofits serving low income communities statewide. WAACO can further its mission to “promote community and economic development and organizational capacity building” by increasing its resources to better meet the significant unmet legal needs of these nonprofits. Specific recommendations are:

**Recommendation 1: Increase WAACO’s resources to enable it to have a greater statewide presence.**

With a staff consisting of only one part-time Program Manager, WAACO currently does not have the resources to increase its reach and work more systematically and intensely in low income serving communities statewide. To be able to do this work, WAACO will need to increase its funding, through grant writing and expanding its donor base. Funders who support capacity building should consider supporting WAACO and its collaboration with other statewide capacity builders, such as Washington Nonprofits, to provide support to nonprofits throughout the state.

**Recommendation 2: Expand outreach to inform and assist more low income serving nonprofits statewide.**

With more resources, WAACO could increase its outreach to nonprofits that serve low income communities across Washington. Increased knowledge of WAACO’s services would increase the utilization of free pro bono legal resources and strengthen the nonprofits’ efforts. Methods to efficiently expand outreach may include: identifying nonprofits through meetings with larger regional nonprofits serving low income communities such as United Way, Goodwill etc.; connecting with local community foundations to identify nonprofits; arranging nonprofit trainings outside of King County; attending community meetings of nonprofits; conducting one on one conversations with nonprofit leaders across the state, and partnering with statewide capacity building organizations and local capacity builders throughout the state.
Recommendation 3: Help nonprofit organizations identify legal issues and make trainings available statewide.

A significant barrier for low income serving nonprofits to access WAACO’s free legal services is the fact that nonprofits are often unable to identify their own legal issues. WAACO has developed a training tool of a nonprofit checklist available for free on WAACO’s website. This is a useful and comprehensive tool that could be shortened to be made more accessible. WAACO can also address this gap by designing and offering nonprofit trainings on identifying legal issues, and making this and other trainings available statewide. All of WAACO’s nonprofit trainings to date have been conducted in the King County area. While setting up webinars and remote accessibility is possible and should be explored by WAACO, nonprofits often prefer trainings in person as a more effective way to obtain information.

Recommendation 4: Develop relationships with the private bar outside King County to identify more volunteer attorneys and increase WAACO’s statewide presence.

WAACO needs to build relationships with the private bar outside of King County to recruit more volunteer attorneys from those areas and to increase WAACO’s presence. Most of WAACO’s volunteer attorneys are from the King County area. Nonprofit organizations generally prefer local attorneys over remote attorneys, to develop deeper lines of communication and trust between lawyers and community organizations. Stronger relationships with bar associations and attorneys outside of King County could also be an effective part of increased awareness of WAACO across the state. WAACO should reach out to Bar Associations outside of King County to discuss opportunities for partnering with them, including co-hosting Continuing Legal Education workshops and submitting articles to bar association newsletters and websites.

Recommendation 5: Develop stronger relationships with legal aid organizations and capacity building organizations.

Legal aid organizations and capacity building organizations are ready allies for WAACO in the efforts to improve conditions in low income communities by supporting nonprofits that serve these communities. For example, Northwest Justice Project and Columbia legal Services—the two largest legal aid offices in the state—are focused on eradicating poverty and providing access to legal services in low income communities, and have offices spread statewide. Legal aid organizations collaborate with nonprofit organizations across the state.
to fulfill their mandate. Capacity building organizations and consultants also have a goal to enable nonprofits to stabilize and thrive as a means to improve conditions in low income communities, and are found statewide. Partnerships with statewide capacity builders, like Washington Nonprofits, and local capacity builders throughout the state are a natural fit to leverage resources for the good of nonprofits serving low income communities.

CONCLUSION

WAACO commissioned this study to give it the information it needs to better serve low income communities in Washington through assisting the nonprofits that serve those communities. We looked at several different geographical areas known to have significant low income communities. We found that nonprofits serving those communities had significant legal needs on a similar range of issues. We found that there was a general lack of awareness of WAACO among such nonprofits, and that such nonprofits experienced similar barriers to access. Ultimately, if WAACO is going to operationalize its mission “to promote community development and organizational capacity building in Washington State,” it has to increase its own capacity to better reach and provide services to low income serving nonprofit organizations.
Appendix A - Map of Washington Nonprofits

Map of Washington Nonprofits Serving Low Income Clients Interviewed
APPENDIX B - INTERVIEWEES BY NAME


Augustine, E. (2010). Executive Director, Tanza Seattle Community. King County.


De Barros, J. (2010, 2011). Capacity Building Consultant, South King County. King County.


(2010). Executive Director, "Food Bank". Yakima/Wenatchee.


Gishuru, N. (2010). Community Organizer, Kenyan Women's Association/Burst for Prosperity. King County.


Howard, E. (2010). Executive Director, Youth Media Institute. King County.


Ito, A. (2010). Program Officer, Marguerite Casey Foundation. King County.


Martin, J. (2010). Program & Donor Services Officer, Seattle Foundation. King County.


Moss, J. (2010). Executive Director, United Way of Clallum County. Port Angeles.


Phillips, N. (2010). Project Director, South King Council of Human Services. King County.


Thompson, P. (2010). Executive Director, The Yes Foundation. King County.


## APPENDIX C - INTERVIEWEES BY REGION

### King County

<table>
<thead>
<tr>
<th>Funders/Capacity Builders</th>
<th>Nonprofits</th>
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<tbody>
<tr>
<td>Marguerite Casey Foundation</td>
<td>The Movement</td>
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<tr>
<td>Social Justice Fund</td>
<td>Youth Media Institute</td>
</tr>
<tr>
<td>Potlatch Fund</td>
<td>YES Foundation</td>
</tr>
<tr>
<td>United Way King County (Seattle and Renton offices)</td>
<td>Kenyan Womens Association/Burundian Refugee Farmworkers Project</td>
</tr>
<tr>
<td>Seattle Foundation</td>
<td>Tanza Seattle Community</td>
</tr>
<tr>
<td>South King Council of Human Services</td>
<td>Somali Youth and Family Club</td>
</tr>
<tr>
<td>Judy De Barros</td>
<td>The Corridor/Genesis Project</td>
</tr>
<tr>
<td>School's Out Washington</td>
<td>Trusted Advocates</td>
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<tr>
<td></td>
<td>International Drop-in Center</td>
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<td></td>
<td>Iraqi Community Center</td>
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### Port Angeles/Aberdeen

<table>
<thead>
<tr>
<th>Funders/Capacity Builders</th>
<th>Nonprofits</th>
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<tbody>
<tr>
<td>United Way of Clallam County</td>
<td>Boiler Room</td>
</tr>
<tr>
<td>Jefferson County Community Foundation/Nonprofit Alliance</td>
<td>Jefferson Teen Center</td>
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<tr>
<td>Jefferson County Community Network</td>
<td>Concerned Citizens for Special Needs</td>
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<td></td>
<td>Forks Abuse</td>
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<td></td>
<td>New Beginnings</td>
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<td>Jumping Mouse</td>
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### Bellingham

<table>
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<tr>
<th>Funders/Capacity Builders</th>
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<tbody>
<tr>
<td>Whatcom Community Foundation</td>
<td>Bellingham Childcare &amp; Learning Center</td>
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<tr>
<td>Northwest Training Institute</td>
<td>Lummi Cedar Project</td>
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<tr>
<td></td>
<td>Whatcom County Re-Entry Coalition</td>
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<td></td>
<td>Womencare Shelter</td>
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<td></td>
<td>Lydia Place</td>
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<td>Ferndale Resource Center</td>
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<td>“X”</td>
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<td></td>
<td>Communities in Schools of Whatcom County</td>
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<td></td>
<td>Whatcom Literacy Council</td>
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<td>Whatcom Dream</td>
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### Bellingham cont’d

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<td>Communities in Schools of Whatcom County</td>
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<td></td>
<td>Old Town Christian Ministries (Amy’s Place)</td>
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<td>Refugee Forum of Snohomish</td>
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### Yakima/Wenatchee

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<th>Funders/Capacity Builders</th>
<th>Nonprofits</th>
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<tbody>
<tr>
<td>Yakima Valley Community Foundation</td>
<td>Hope Source</td>
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<tr>
<td>Community Foundation of North Central Washington</td>
<td>YWCA</td>
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<td></td>
<td>“Food Bank”</td>
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<td></td>
<td>Ellensburg Community Health Clinic</td>
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<td></td>
<td>Wellness House</td>
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<td></td>
<td>Interfaith/La Casa Hogar</td>
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<td>Nuestra Casa</td>
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### Walla Walla

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<th>Funders/Capacity Builders</th>
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<tbody>
<tr>
<td>Sherwood Trust</td>
<td>Vista Youth Center</td>
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<tr>
<td>United Way of Benton Franklin Counties</td>
<td>Community Center for Youth Council</td>
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<td></td>
<td>Safe Harbor Crisis Nursery</td>
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Walla Walla Cont’d

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<tr>
<th>Funders/Capacity Builders</th>
<th>Nonprofits</th>
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<tbody>
<tr>
<td></td>
<td>Blue Mountain Action Council</td>
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<td></td>
<td>Friends of the Children of Walla Walla</td>
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<td></td>
<td>DV Services of Benton/Franklin</td>
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<td></td>
<td>Children's Developmental Center</td>
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<td></td>
<td>Grace Clinic</td>
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<td></td>
<td>Lincoln Health Center</td>
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APPENDIX D - INTERVIEW QUESTIONS

NONPROFIT QUESTIONS

Your organization:

1. When was your organization founded?

2. What type of population does your organization serve? (by ethnicity, income, and geographic scope of service)

3. What are your main programs?

4. Approximately how many clients does your organization currently serve?

5. What is your approximate operating budget?

6. What types of funding does your organization receive?

7. *At what stage of maturity is your organization? [Please see attached word document briefly describing stages in the nonprofit life cycle. If you find that more than one stage describes your nonprofit, please choose the one with the most characteristics describing your organization.]

8. How do you currently access legal information and services related to running your nonprofit?

9. If you have access to free legal counsel for such purposes,

   a. Are you limited in how much you can consult with that attorney, either by legal issue or budget?

   b. What types of legal issues do you consult with them about/what was the most recent legal issue for which you consulted free legal counsel?
Your work

1. What are the most significant challenges you face as a nonprofit in achieving your mission/goals?

2. What is on your wish list of things you would like to do to expand your programs or your organization’s work in general to better fulfill its mission? [Currently, WAACO’s more commonly used services address issues such as incorporation and compliance, but they are also able to provide more complex services geared toward community development. This question is intended to identify those potential needs.]

If it is difficult to identify bigger projects you would like to undertake, please consider whether you would like to:

- Set up a new program or service?
- Acquire additional space or move to a bigger space?
- Buy a building with a mortgage to turn into a multiservice center?
- Partner or collaborate with another local nonprofit on a particular project (if so, please indicate if you can the name and contact of the organization)?

If any of these or other circumstances apply, please describe how they apply.

3. What are specific challenges you have in starting such a project?

4. *Looking at the legal services checklist, can you identify any particular legal services that your organization would find useful, either now or recently?

For example:

- Incorporation-state law/501c3 application-IRS
- Fiscal Sponsorship
- Contract (ex., drafting service contracts)
- Real Estate
- Corporate governance/due diligence
- Intellectual property
- 501c3 compliance/fundraising
- Employment
- Tax
- Regulatory/statutory issue/ADA
- Corporate Restructuring/Dissolution
- Bylaws revisions
- Endowment
- Risk assessment/insurance

5. If none of these seem to apply, please describe your most recent legal issue(s) relating to the management of your nonprofit.

Your preferred education/outreach opportunities

1. What kinds of educational services/programs would you like to see offered by WAACO [For example, how to protect your presence on the web, and other areas that may require expensive consultation but with which a lawyer could easily assist.]

2. What is the best means for your organization to participate in such programs- ie, webinar and video/remote access training?

Are there other nonprofits serving low income residents in your area that we should talk to?

FUNDER/CAPACITY BUILDER QUESTIONS

About your organization

1. What kinds of capacity building services do you provide?

2. What types of nonprofits does your organization serve (ex., by size and service area)?

3. For funder: Do you fund capacity building efforts, and if so, what kinds/some examples?

Characteristics of your nonprofit sector
1. What kinds of capacity building needs generally exist in nonprofits you work with? *Funder:* What needs should capacity builders address?

2. What do you think is and/or should be the role of legal services in building the capacity of nonprofits in your cohort? What kind of impact would that have?

3. Where do nonprofit leaders in your area go to obtain legal information or assistance on nonprofit issues? To start a nonprofit?

4. What barriers exist for local nonprofits in accessing and/or utilizing (ie, staff development) capacity-building resources? Legal services?

5. What else do you think is unique about the capacity building needs of these NPs?

6. Are there particular service delivery practices you recommend that capacity builders adopt to address those needs?

7. Currently, WAACO’s more commonly used services address issues such as incorporation and compliance, but they are also able to provide more complex services geared toward community development. To what extent do you see an interest among nonprofits in your area to engage in community development-oriented efforts, for example:

   - Setting up a new program or service?
   - Acquiring additional space or move to a bigger space?
   - Buying a building with a mortgage to turn into a multiservice center?
   - Partnering or collaborating with another local nonprofit on a particular project?