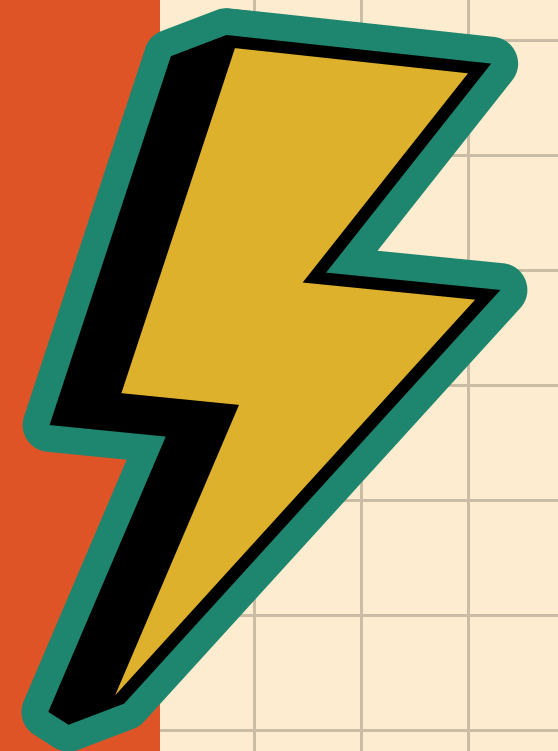




Nonprofit Compliance: Navigate with Confidence



About Me



**Libby V. &
Associates**
Nonprofit Champions



libbyv@libbyv.com

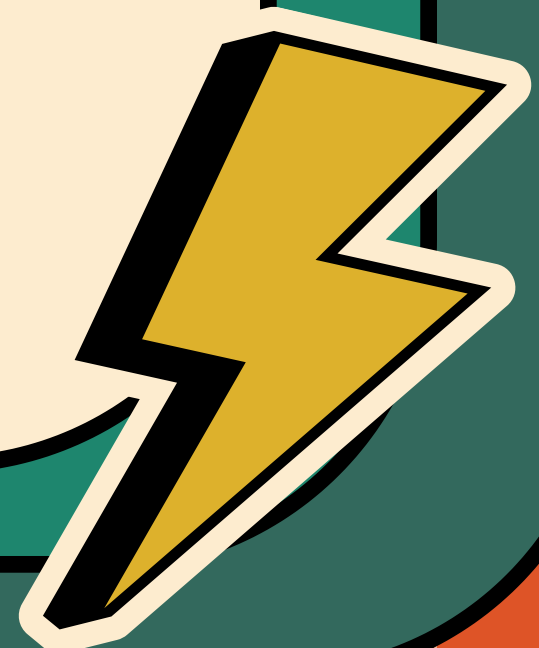


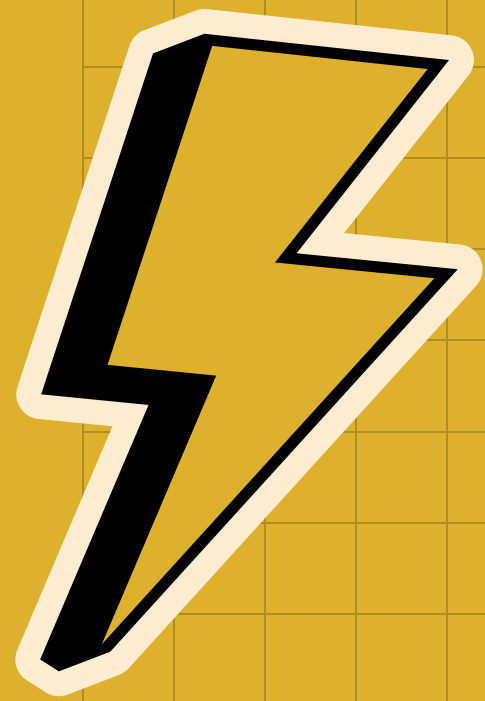
www.libbyv.com

Libby V.

Today's Agenda

- 1. Establishing a Nonprofit**
- 2. Ongoing Compliance**
 - a. IRS Requirements**
 - b. State Requirements**
- 3. Corporate Processes**
- 4. Fundraising Legal Requirements**
- 5. Insurance/Indemnification**
- 6. Intellectual Property**
- 7. Financial Practices**
- 8. Human Resource Processes**

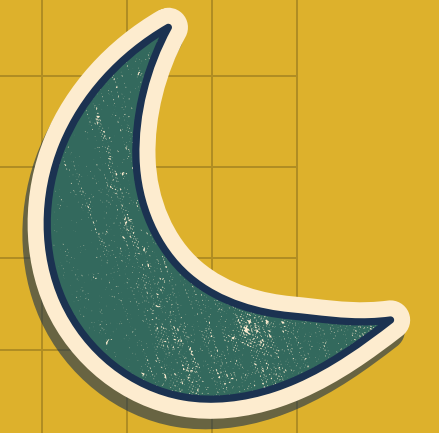




Sustainability



*Compliance is a crucial pillar for
organizational success and
sustainability.*



People

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**Systems &
Processes**

What you'll walk away with

A comprehensive understanding of the regulatory landscape governing nonprofits, empowering them to safeguard their organizations against risks and pitfalls

1

Legal obligations

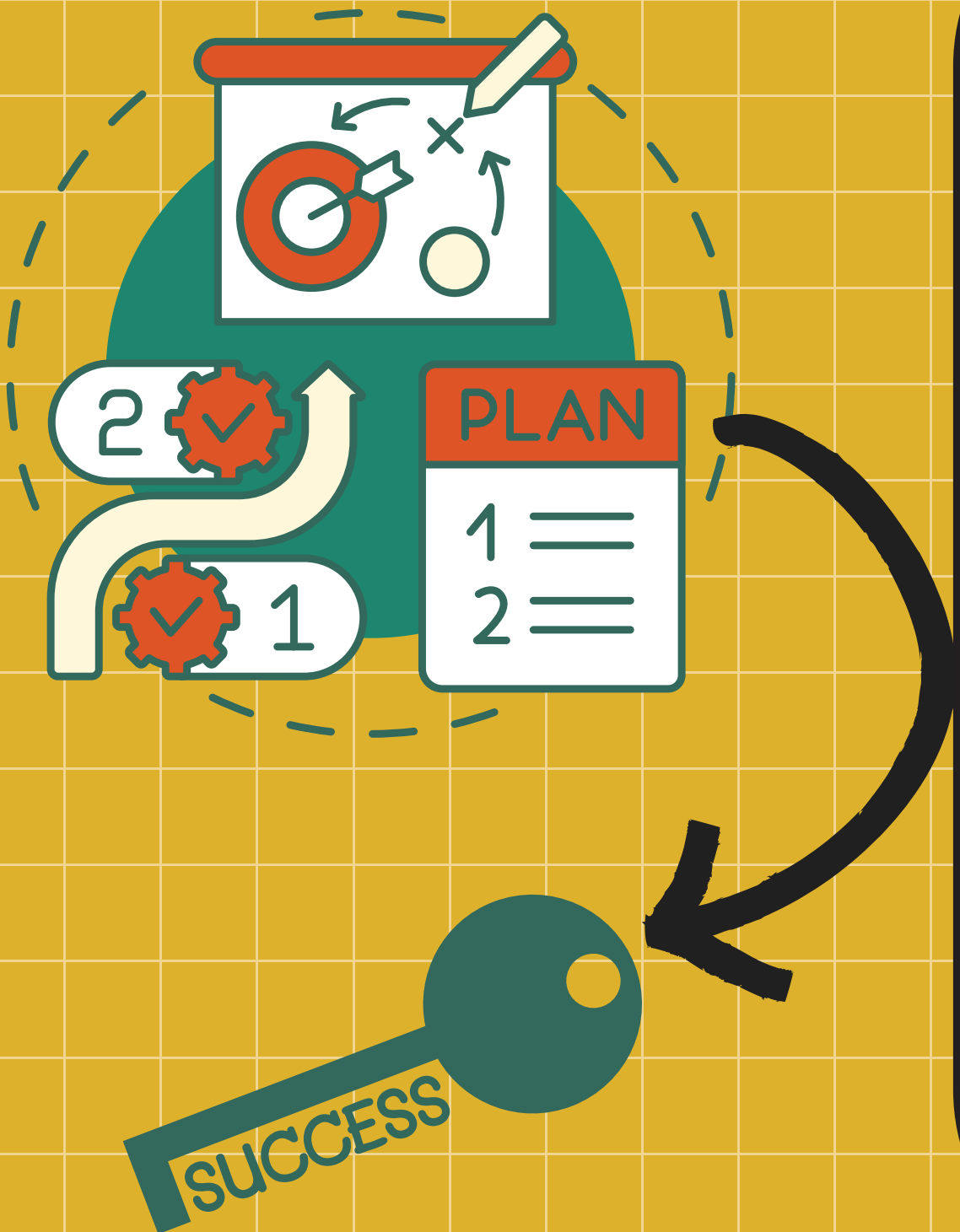
2

Financial
reporting
requirements

3

Best practices for
maintaining
transparency and
accountability

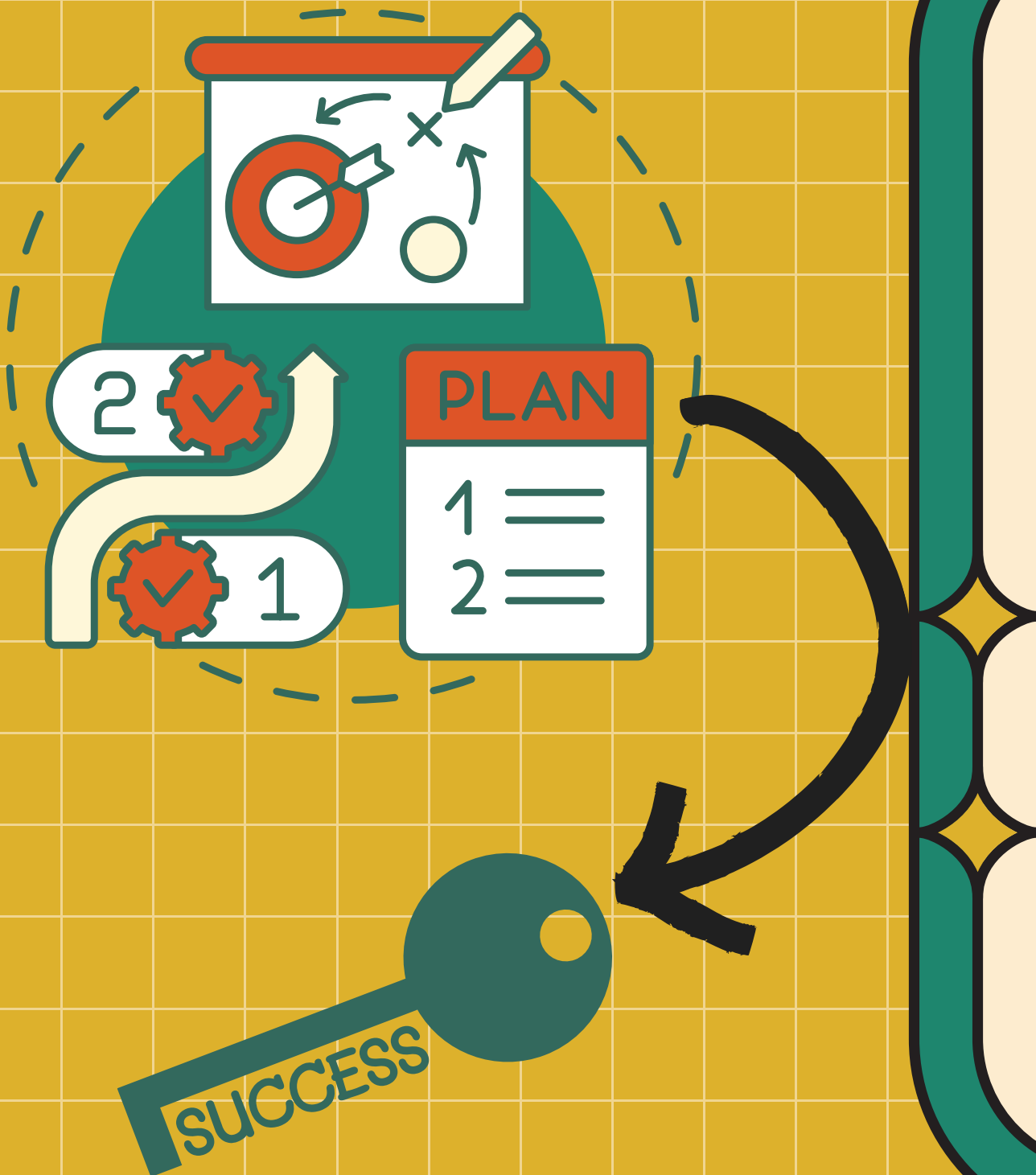
Establishing a Nonprofit



1. Incorporation: Register as a nonprofit corporation with the appropriate state authority. This step triggers the need to establish a governing board with at least 3 members who fill these offices: Chair, Secretary, and Treasurer.
2. Contact the IRS and secure an EIN
3. Using EIN, register with your state Attorney General
4. Register (or confirm you are registered) with your state Department of Taxation
5. Other State Registrations: Comply with state-specific nonprofit regulations and register with relevant state agencies.
6. Complete & submit a Request for Determination (IRS Form 1023) to IRS to secure recognition as tax-exempt (501c3).

[instructions for 1023](#)

Establishing a Nonprofit



1. Bylaws (aka Code of Regulations): establish bylaws that define the organization's structure, operations, and governance.
2. Board of Directors: Develop a fully functioning board of directors responsible for governance and decision-making.
3. Put in place policies and procedures
 - a. Whistleblower
 - b. Conflict of Interest
 - c. Code of Ethics
 - d. Document Retention
 - e. Confidentiality/nondisclosure Agreement
 - f. Social Media Policy
 - g. Code of Conduct
4. Financial Records: Set up an accounting system to maintain accurate financial records.

Ongoing Compliance

IRS Requirements

- Has your structure, purposes, or activities changed substantively since receiving your IRS tax-exempt recognition letter? (check Form 1023, your application to the IRS for tax-exempt status)
- Did the organization file its required Form 990 for the last fiscal year - make sure you are filing the correct form (postcard or long form).
- Do you have a written procedure for the review and approval of Form 990?

IRS Requirements

State Requirements

Corporate Processes

Financial Practices

Ongoing Compliance

IRS Requirements

- Is the organization in compliance with IRS guidelines related to executive compensation?
- Is the organization in compliance with IRS prohibitions on political activity?
- Are the organization's income-producing activities directly related to the organization's mission?

IRS Requirements

State Requirements

Corporate Processes

Financial & HR Practices

Ongoing Compliance

State Requirements

- Have the following:
 - Articles of Incorporation
 - Bylaws
- Policies
 - Whistleblower
 - Conflict of Interest
 - Written procedure for the conflict of interest policy
 - Officers, directors or trustees, and key employees disclose annually, their interests which could give rise to conflicts
 - The organization regularly and consistently monitors and enforces compliance with the policy

IRS Requirements

State Requirements

Corporate Processes

Financial Practices

Ongoing Compliance

State Requirements

- Policies continued
 - Document retention and destruction policy
 - Confidentiality Agreement
 - Code of Ethics
 - Social Media Policy
 - Code of Conduct
- Charitable Solicitation Registration License
- Sales Tax Exemption
- Profit & Loss Statement, Balance Sheet, Cash Flow (previous FY)

IRS Requirements

State Requirements

Corporate Processes

Financial Practices

Ongoing Compliance

State Requirements

- Do your bylaws accurately describe your current purposes, organization, and procedures?
- Is your registered agent still at the address filed with the Secretary of State?
- Can you rely on your registered agent to give you the email and/or mail that comes to the corporation?
- Are you filing Annual Reports with the state Department of Charitable Organizations?
- Are you required to apply for Charitable Solicitation?

IRS Requirements

State Requirements

Corporate Processes

Financial Practices

Ongoing Compliance

Local Municipal Requirements

- Check with your local municipality for requirements
- Are you required to apply for Charitable Solicitation?

IRS Requirements

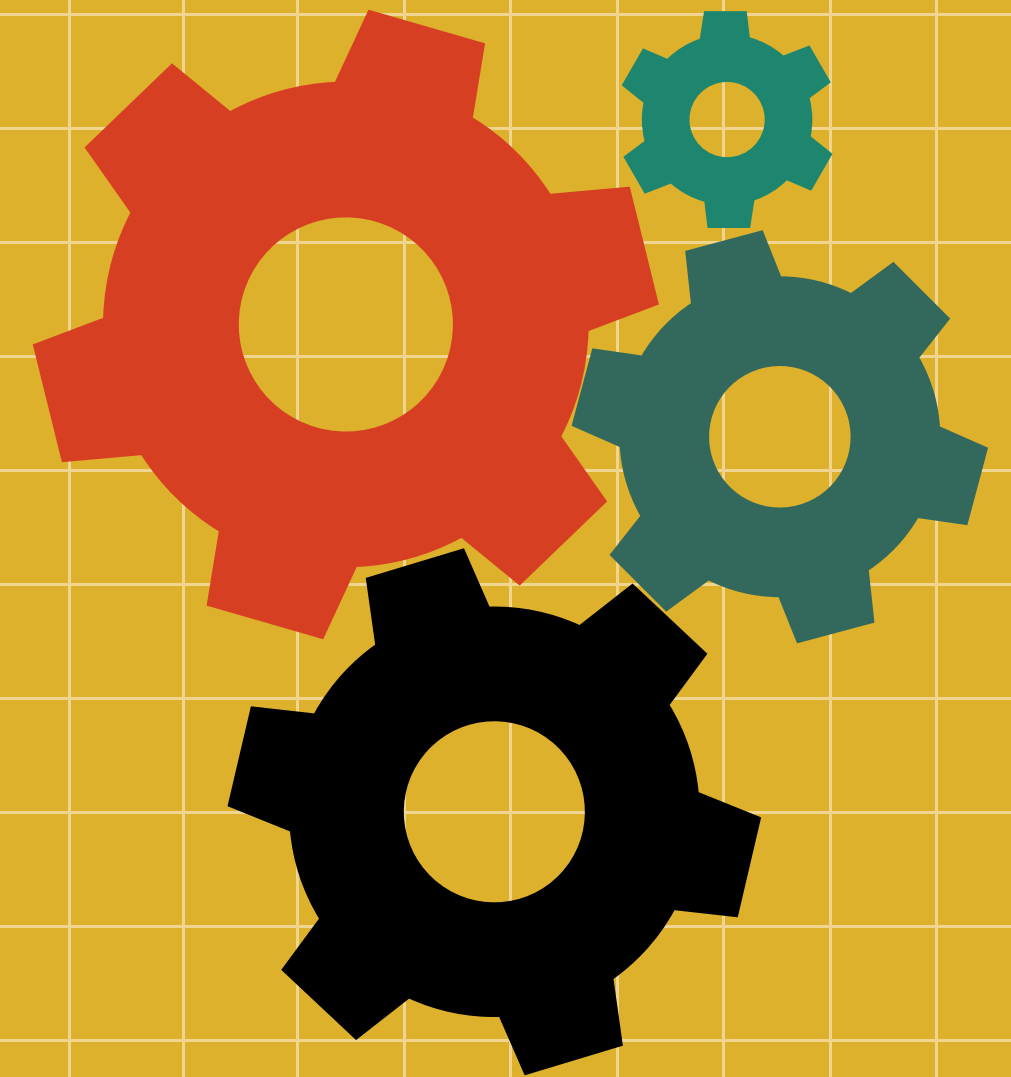
State Requirements

Local Requirements

Financial Practices

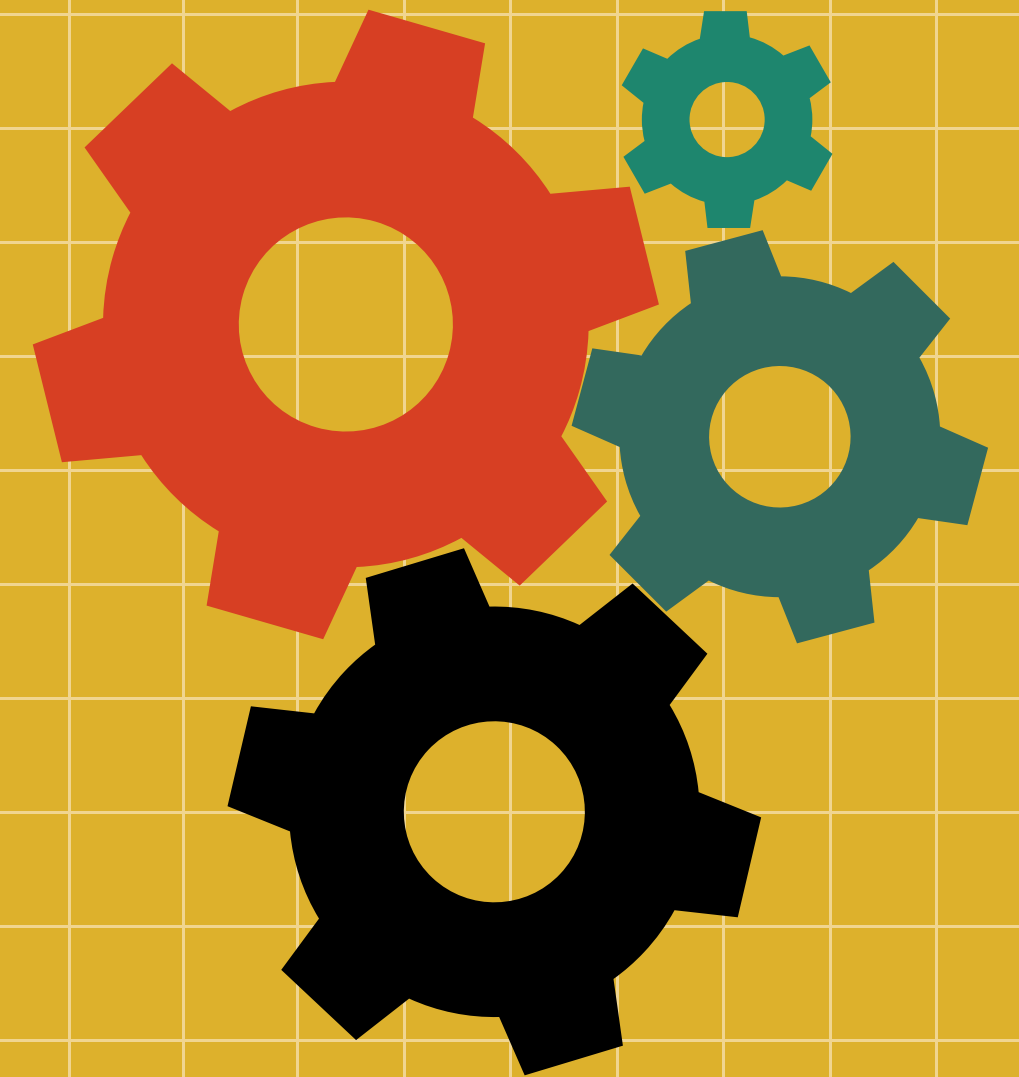
Corporate Processes

- Does the organization keep minutes of all meetings of the board and committees, including resolutions and other formal actions?
- Do minutes reflect actions taken by the board, for example, to elect or reelect current board members, and the resignation or termination of former board members?
- Are they available to your board members, for inspection?
- Does the organization have a current list of names, addresses, and terms of office of your board members?
- Does the organization save lists of members, annual reports, and all correspondence with members for at least three years?

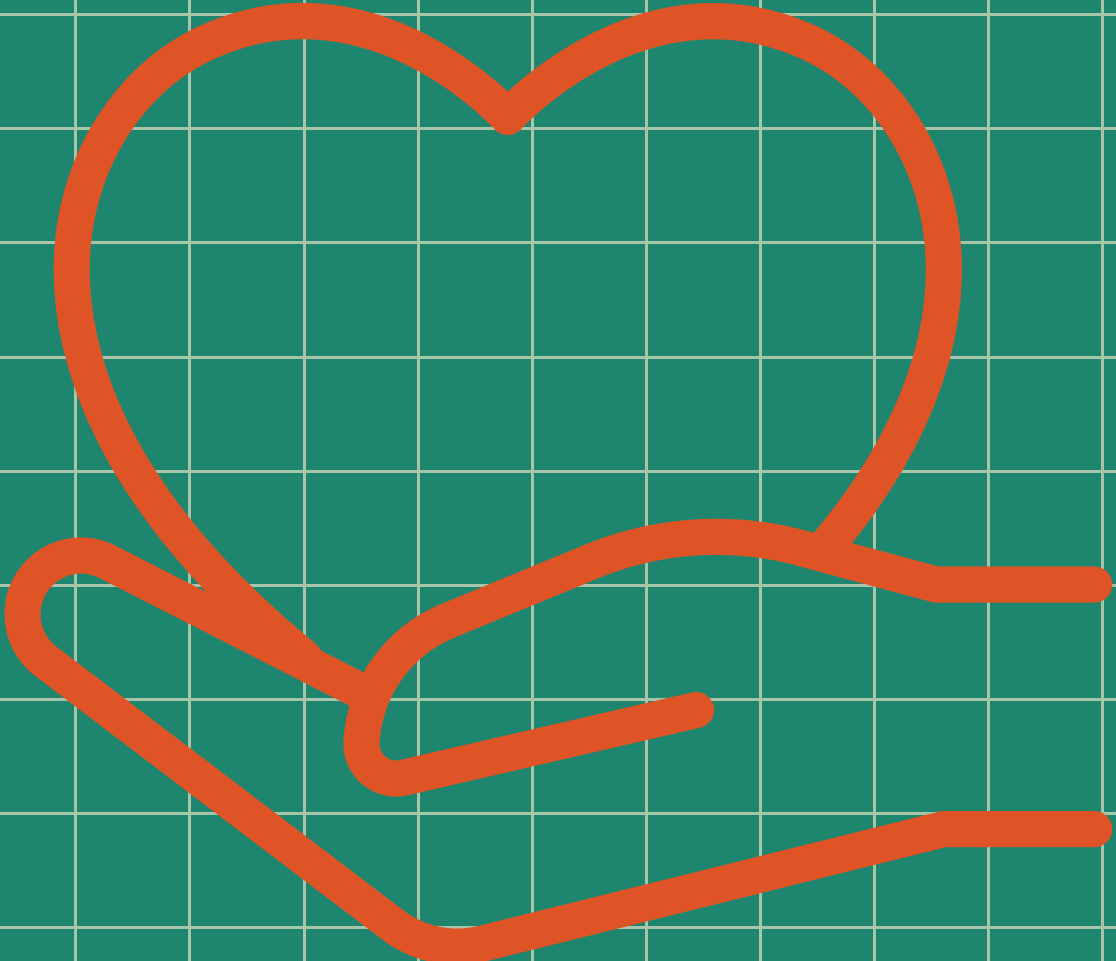


Corporate Processes

- Does the organization prepare an annual financial statement or audit?
- Does the organization save financial records for at least seven years?
- Has the organization revoked the check-signing authority of former staff or board members?
- Does the board of directors conduct a periodic evaluation of the performance of the organization's executive director?
- Does the organization have job descriptions for the Board of Directors?



Fundraising Requirements

- 
- Does the organization acknowledge, in writing, gifts over \$250? (it's a best practice to do this for all gifts)
 - If the organization receives gifts of vehicles, (cars, boats, etc.) are you in compliance with current IRS regulations governing such gifts?
 - Is the organization registered to solicit charitable donations in each state and municipality (if required) that you are fundraising in?
 - Does the organization track and document all donations, including funding contracts/grants/agreements?

Insurance/Indemnification

- Does your organization have appropriate insurance coverage for:
 - General liability
 - Directors and Officers

<https://insurancefornonprofits.org/>



Insurance/Indemnification

- Does your organization own any patents, trademarks, service marks or copyrights?
- If so, do they require renewals?
- Is your organization using anyone else's patents, trademarks, service marks, or copyrights?
- If so, do you have permission?



Financial Practices



- Does the organization's Board of Directors approve an annual budget?
- Does the board have a policy and procedures for internal controls of financials (for example, limits on how much the staff can spend without board approval)?
- Does the organization require that bank statements be mailed to or opened and reviewed by someone who does not write or sign the checks?
- Does the organization have a policy that blank checks are maintained under lock, out of public view?
- Does the organization require that a person who writes or signs checks is not the same person who reconciles the bank statements?

Financial Practices



- Does the organization require that the person who's responsible for preparing checks for payment of a vendor's invoice is not the same person who signs the check?
- Does the organization require that one person should open the mail and make a list of cash and checks received before receipts go to a second person who keeps the books?
- Does the organization have an audit committee? If so, does a member of the board of directors work independently with the auditor?
- Does the organization have a written retention policy for its accounting records?

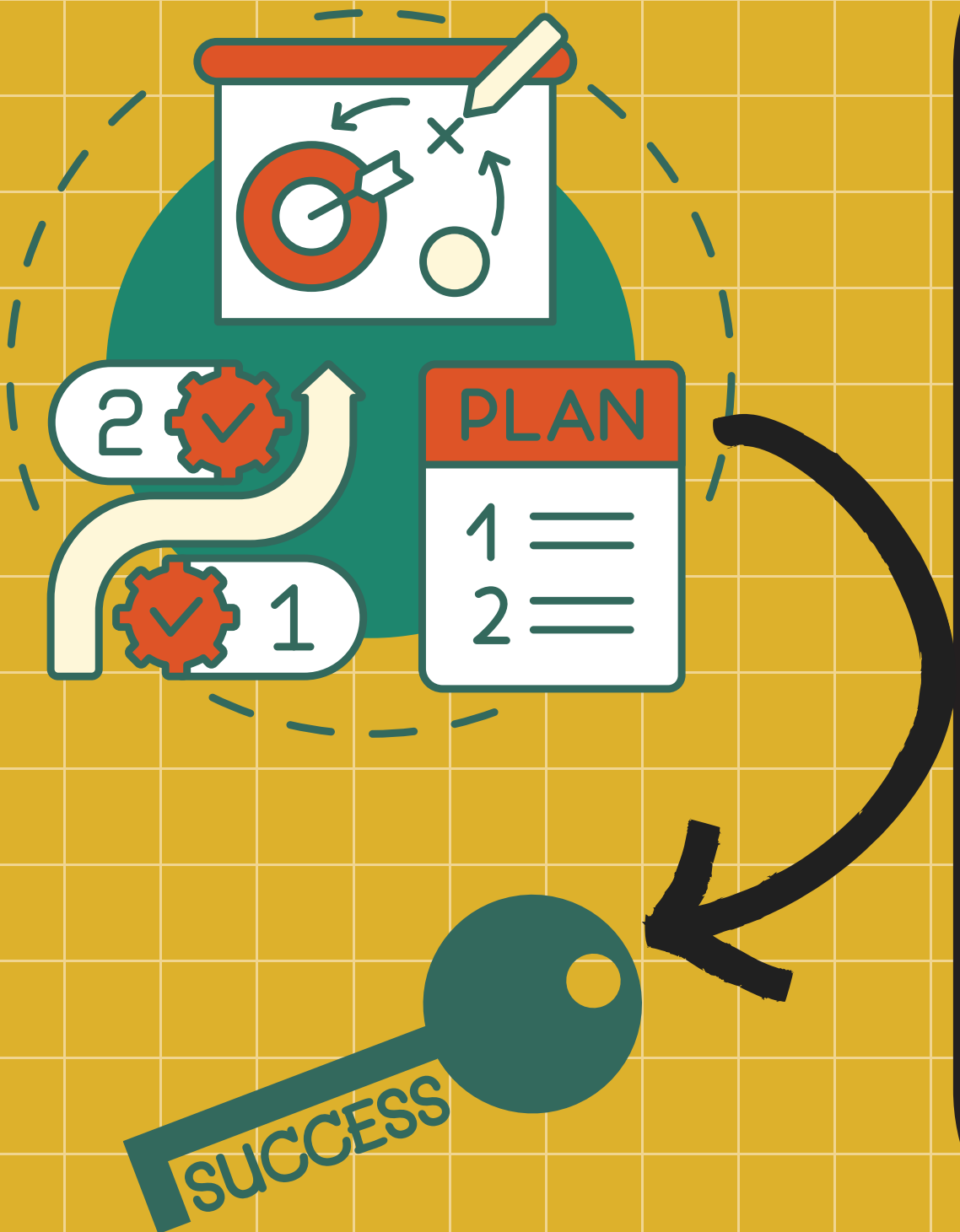
Financial Practices



- Do Board members regularly review these 4 financial statements?
 1. Statement of Financial Position
 2. Statement of Activities
 3. Statement of Cash Flows
 4. Statement of Functional Expenses

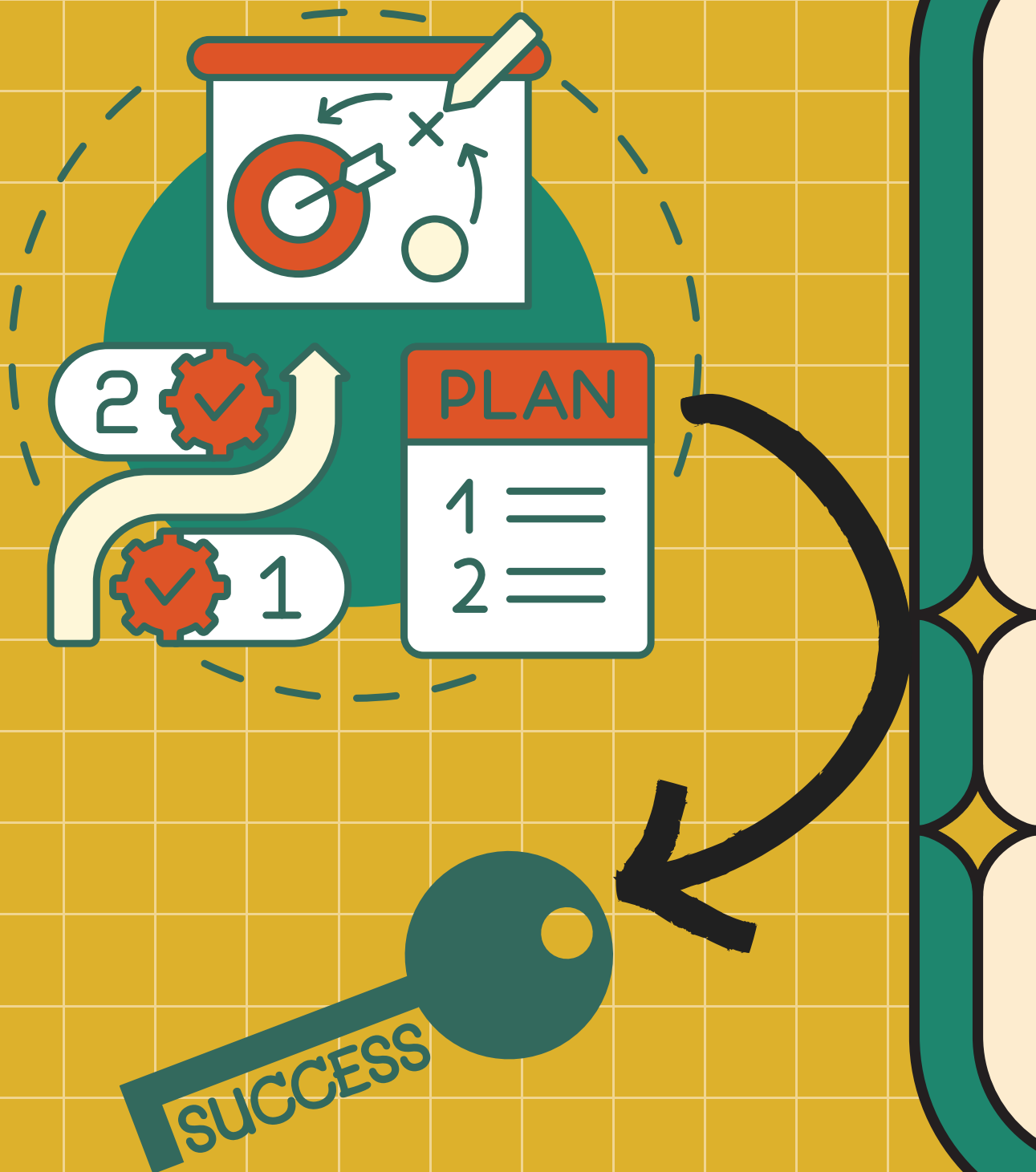
Brady Ware: 4 Pillars of Nonprofit Financial Transparency.

Human Resources Processes



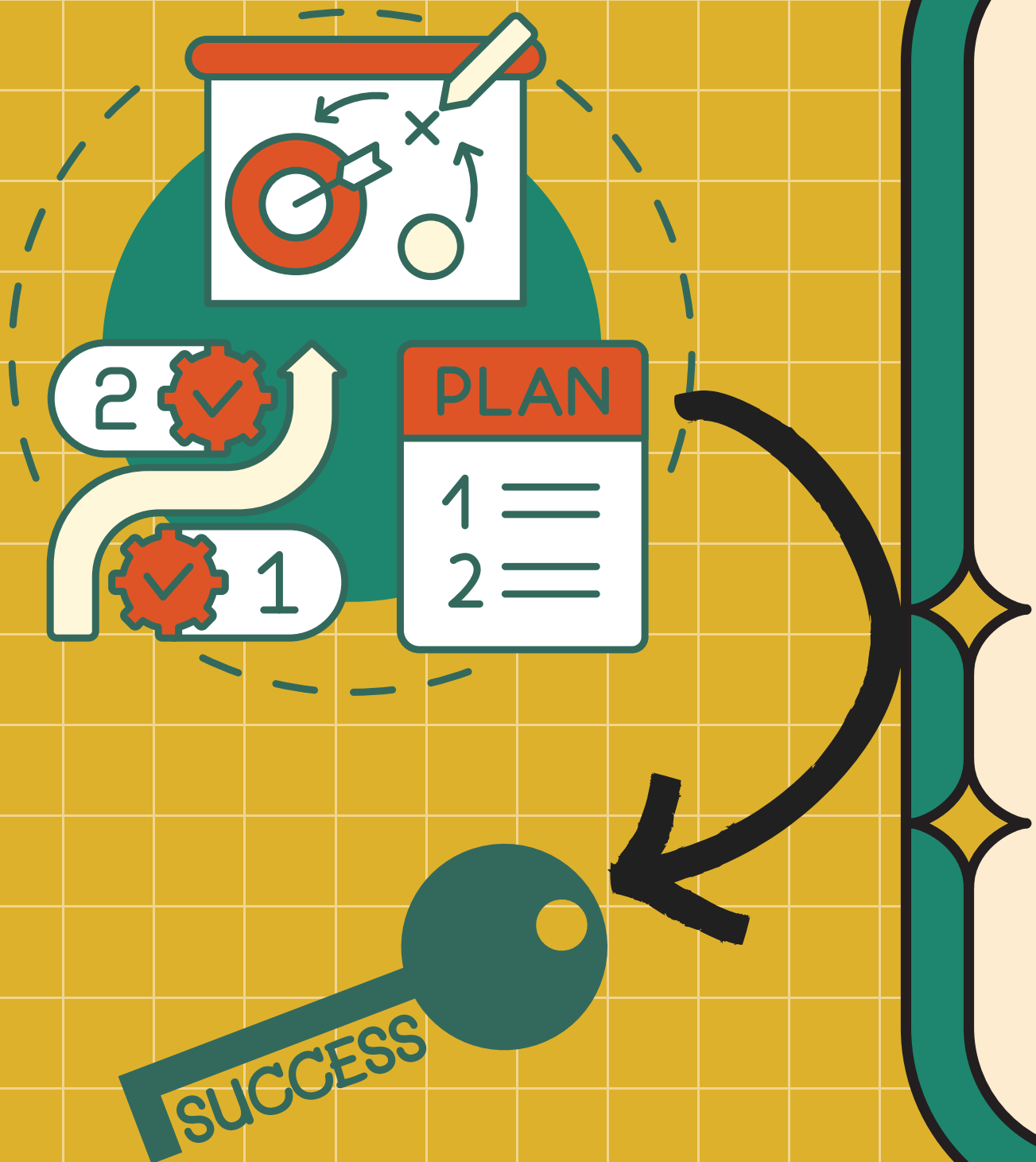
- If you have workers you classify as independent contractors, are you complying with deferral standards that govern how to distinguish between contractors and employees?
- Do you have a formal process for determining staff salaries?
- Is the financial officer making timely deposits of federal payroll taxes?
- Does the organization report new hires?
- Is the organization making timely unemployment insurance payments (if applicable)
- Is the organization in compliance with Workers' Compensation law requirements?

Human Resources Processes



- Does the organization classify each of your employees as exempt or nonexempt?
- If so, has the organization specified the specific provision that you rely on in making the classification?
- Do you have the following:
 - Personnel files for each employee
 - An Employee Handbook
 - An employment contract or written terms of employment
 - Progressive disciplinary procedures
 - Evaluation and appraisal procedures
 - Standard of Unacceptable Behavior

Human Resources Processes



HR Policies

- Nondiscrimination
- Sexual Harassment
- Non-disclosure
- Conflict of Interest
- Whistle-blower
- Document Retention/Destruction
- Family and Medical Leave Act
- Compensation
- Other policies or benefits for employees

Questions?

