



AN INTRODUCTION TO FISCAL SPONSORSHIPS

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What is a Fiscal Sponsorship?

A fiscal sponsorship is an arrangement in which a 501(c)(3) tax-exempt entity (the “Sponsor”) agrees to accept donations on behalf of another entity or program that is not tax-exempt (the “Program”). In a fiscal sponsorship, the Program can accept tax-deductible donations through the Sponsor. Depending on the terms of the arrangement between the Sponsor and the Program, the Program can also apply for grants and conduct fundraising activities. The Sponsor can also provide other services to the Program, such as administrative support.

A fiscal sponsorship can be a great option for an organization that needs to develop its programming and infrastructure before becoming an independent 501(c)(3) entity, or for a Program that feels its mission is limited enough that it does not need to become an independent 501(c)(3) entity (for example, a scholarship fund). Any group that is considering a fiscal sponsorship should keep in mind some key points:

- 1) A fiscal sponsorship arrangement is defined by an agreement between the parties. The Sponsor and the Program should create a contract that clearly lays out the terms of the fiscal sponsorship. These agreements will also be subject to relevant contract laws.
- 2) Fiscal sponsorships are not concretely defined under the Internal Revenue Code or by most state laws. However, there are two legal criteria described by the IRS that a fiscal sponsorship must meet:
 - a. The Sponsor needs to exercise supervision and control over funds raised for the Program. *The Sponsor cannot simply act as a pass-through conduit for funds intended for the Program.* Fiscal sponsorship is not the same as fiscal agency.

- b. The funds are to be used by the Program in a manner that is consistent with, and in furtherance of, the Sponsor's charitable mission. The Sponsor's board must make an independent determination that by giving funds to the Program, the Sponsor is furthering its own mission.

Why Have a Fiscal Sponsorship Arrangement?

A fiscal sponsor can offer many valuable services and guidance to a new Program. Fiscal sponsorships are tailored to meet a Program's particular needs, and the primary service of the Sponsor is most often providing the Program with the ability to accept tax-deductible donations. A Sponsor can provide a wide variety of other services, including fundraising assistance, administrative support, and even insurance coverage.

For example, fiscal sponsorship can:

- a. Allow a new or preexisting Program to concentrate on building its activities and services, without having to spend resources on administrative and organizational issues. Emerging or very small organizations often have great programming ideas but do not have the corporate infrastructure (such as staff, accounting and recordkeeping procedures, fundraising capabilities, and other organizational expertise) necessary to ensure that the organization will be able to operate independently.
- b. Provide a new Program the opportunity to receive tax-exempt funds while it is establishing itself or waiting for its own 501(c)(3) tax-exempt status to be approved by the IRS.
- c. Allow a temporary Program (one that only plans to exist for a specific period of time and do not need the "perpetual existence" that comes with incorporation) to receive tax-exempt funding and operational support during its existence.
- d. Give credibility to a new Program, making it easier to attract funding. Donors and other funding sources may be wary of funding a new independent organization without a performance record.

It is important to remember, however, that in order to obtain a fiscal sponsorship and meet the legal criteria, the Program may have to cede some control of its activities to the Sponsor. Again, the Sponsor maintains some control over the Program and its funding.

What Does a Fiscal Sponsorship Look Like?

A fiscal sponsorship arrangement can take many forms, but Pro Bono Partnership usually sees two common types of arrangements.

In the first arrangement, a Program is not incorporated into a separate entity and does not have 501(c)(3) tax-exempt status. It becomes one of the programs of the Sponsor organization and is wholly governed by the Sponsor organization. This arrangement can be temporary or ongoing.

In the second arrangement, a Program is independently incorporated already but does not have 501(c)(3) recognition of its own. The Program enters into an arrangement with the Sponsor to receive a grant or grants from the Sponsor. What most often differentiates this from a typical grantor-grantee relationship is the fact that either the Sponsor or the Program can solicit the funds, which go to the Sponsor and are then re-granted to the Program. This relationship also usually involves continual grants.

It is extremely important in this case to make sure there is a detailed fiscal sponsorship agreement in place. There are many variables that can impact this type of arrangement, and it is important to remember that the Sponsor is not just a pass-through entity here, but must maintain discretion and control over the funding for the Program. This is typically achieved by requiring the Program to provide periodic reports regarding its expenditures and activities.

What Goes Into a Fiscal Sponsorship Agreement?

As we've said above, fiscal sponsorships are contractual arrangements, and like any good contract, they should be in writing, negotiated by the parties and reviewed by an attorney. While each arrangement will include different issues, there are a number of items that a potential Program and Sponsor should consider and address in their written agreement. Below are some (but certainly not all) of the questions that the parties should consider.

- a. Is the Program unincorporated or incorporated? Will it stay that way, or does it plan to incorporate later on? Similarly, does the Program plan to obtain its own tax-exempt status at some point?
- b. How long with the fiscal sponsorship arrangement be in place? Is it temporary or ongoing? Is there a start date and end date? In the event that the arrangement terminates, how will this occur (this last question is a key one that many organizations overlook)?

- c. Who will be responsible for fundraising for the Program's activities, the Program and/or the Sponsor?
- d. How will the Sponsor control and disburse the funds for the Program?
- e. What are the reporting and disclosure obligations of the Program to the Sponsor?
- f. What type of supervision will the Sponsor want over the Program's activities? While the Sponsor has to maintain some control, the type of control and supervision can be negotiated.
- g. Will the Sponsor provide other support or services, such as administrative or payroll services, or even physical space, to the Program?
- h. If a Sponsor provides additional services, it is common for the Sponsor to charge an administrative fee, often between 5 and 10%. Sometimes a Sponsor charges a fee even if no additional services are provided. A fee might be higher if the Program receives government grants, due to heightened reporting and compliance obligations. This is another point to be negotiated.
- i. Are the Program's workers employees of the Program or the Sponsor (or are they another category of workers other than employees)? Bear in mind that applicable employment laws will also apply here.
- j. Who owns the curriculum, materials, trademarks, equipment, etc. of the Program?
- k. Whose insurance covers the Program?

Finding a Sponsor

There is no definitive guideline for how to find a fiscal sponsor. Any 501(c)(3) tax-exempt organization (including a religious organization) can serve as a Sponsor (as long as its mission is aligned with that of the Program). Often, a Program will identify several potential sponsors by looking at local organizations whose missions are consistent with the Program's mission. There are also organizations that are "in the business" of acting as fiscal sponsors. For instance, organizations dedicated to improving life in a particular geographic area often sponsor smaller organizations in that area. Some fiscal sponsor organizations also specialize in sponsoring programs or projects in a specific subject area, like the arts, or even nonprofit newspapers.

Two good places to start are the Fiscal Sponsorship Directory at www.fiscalsponsordirectory.org and the National Network of Fiscal Sponsors at www.fiscalsponsors.org. Both have comprehensive lists of regional and national sponsoring organizations.

For more information on fiscal sponsorships, please [contact](#) the Pro Bono Partnership.

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