PRO BONO PARTNERSHIP®

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 that is not tax-exempt (the “Project”). In a fiscal sponsorship, the Project can apply for grants, conduct fundraising activities, and accept tax-deductible donations through the Sponsor. The Sponsor can also provide other services to the Project, such as administrative support.

While fiscal sponsorships are not mentioned anywhere in the Internal Revenue Code, they are regarded as lawful arrangements so long as:

(1) The Sponsor exercises supervision and control over funds raised for the Project; <u>and</u>

(2) The funds are used by the Project 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 Project, the Sponsor is furthering its own mission. The Sponsor cannot simply act as a pass through.

Why Have a Fiscal Sponsorship Arrangement?

A fiscal sponsor can offer many valuable services and guidance to a new project.

Fledgling organizations often do not have the infrastructure (such as staff, accounting and recordkeeping procedures, fundraising capabilities, and other organizational expertise) necessary to ensure ongoing success as an independent nonprofit. Fiscal sponsorship allows a project to concentrate on building its programs and services, without having to spend resources on administrative and organizational issues. It is particularly beneficial for groups that only plan to exist for a short period of time and do not need the “perpetual existence” that comes with being a separately incorporated entity.

In addition, donors and other funding sources may be wary of funding a new organization without a performance record. Having an established sponsor can lend credibility to a new project, making it easier to attract funding.

There are some downsides to fiscal sponsorship. The Project may have to cede some control of its activities to the Sponsor. By operating under the umbrella of the Sponsor, the Project may also suffer a loss of identity.

What Services Are Provided by a Fiscal Sponsor?

Fiscal sponsorships are tailored to meet a project’s particular needs, but a sponsor can provide a wide variety of services, including:

(1) Fundraising assistance;

(2) Administrative and office support;

(3) Payroll services;

(4) Insurance coverage; and

(5) Providing the Project the ability to accept tax-deductible donations. The Sponsor will issue letters to donors, substantiating their contributions, and will report those donations as income for the Sponsor on the Sponsor's IRS Form 990.

The services to be provided by the Sponsor are usually negotiated and set forth in a written agreement between the Sponsor and the Project.

Finding a Sponsor

Any 501(c)(3) tax-exempt organization (including a religious organization) can serve as a sponsor. Often, a project will identify several potential sponsors by looking at local organizations whose missions are consistent with the Project's mission. Alternatively, a national organization can serve as a fiscal sponsor. There are even some organizations that are "in the business" of acting as fiscal sponsors.

Terms of the Agreement between the Project and the Sponsor

The terms of a fiscal sponsorship should be in writing and reviewed by an attorney. While each arrangement will include different issues, there are a number of items that a potential Project and Sponsor should consider and address in their written agreement. For example:

(1) Will the Project be incorporated or unincorporated? Some sponsors may only agree to work with incorporated entities; others prefer to work with unincorporated groups.

(2) How does the Sponsor plan to maintain the funds? A separate account for the Project is the clearest way to segregate funds on the Sponsor's books.

(3) What process will the Sponsor require for release of monies to the Project, including the documentation required to confirm that the expenses are legitimate?

(4) What type, extent, and frequency of reporting will the Sponsor require of the Project?

(5) Which entity will have primary responsibility for writing grant proposals? The Sponsor may want to direct that process, or may prefer that the Project prepare the proposal and submit it to the Sponsor for review.

(6) What other support, if any, will the Sponsor provide the Project? For example, will the Sponsor allow the Project to utilize the Sponsor's state tax exemption? Will the Sponsor provide administrative services, office space, or technical assistance?

(7) Will the Sponsor charge an administrative fee? Such fees are negotiable and usually range between 5% and 10% of donations received on behalf of the Project.

(8) Will Project staff be employees of the Project, or employees of the Sponsor?

(9) What type of supervision will the Sponsor want over the Project's activities?

(10) Which entity will own any intellectual property that results from the Project's activities during the fiscal sponsorship?

(11) How long will the sponsorship last?

(12) Whose insurance will cover the Project's activities? Will the Project indemnify the Sponsor for any claims related to the Project's operations?

For more information on fiscal sponsorships, please contact the Pro Bono Partnership.

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