

# PROBONO<sup>®</sup>

P A R T N E R S H I P

Volunteer Lawyers Strengthening Nonprofits & Our Communities

## Fiscal Sponsorship Basics

Priya Morganstern, Esq., CT Program Director

Pro Bono Partnership

Webinar June 22, 2022

Presented in conjunction with the Hartford Foundation for Public Giving  
and the Hartford Public Library

#PBPstrong | [probonopartner.org](https://probonopartner.org)

© 2019 Pro Bono Partnership. All rights reserved. No further use, copying, dissemination,  
distribution or publication is permitted without express written permission of Pro Bono Partnership.



# Disclaimer

This presentation is provided as a general informational service to clients and friends of Pro Bono Partnership. It should **not** be construed as, and does not constitute, **legal advice** on any specific matter, **nor** does this presentation create an **attorney-client relationship**. You should seek advice based on your particular circumstances from an independent legal advisor.



# What is the Pro Bono Partnership?

- Pro bono legal assistance for nonprofit organizations through the services of our staff and corporate and private attorneys
- To be eligible, the organization must be:
  - Nonprofit, tax-exempt (or seeking 501(c)(3) status);
  - Primarily serving the poor and disadvantaged;
  - Focusing on health and human services, community development, affordable housing, neighborhood revitalization, environmental protection, and the arts; and
  - Unable to pay for legal services without significant impairment of program resources.

More information at [www.probonopartner.org](http://www.probonopartner.org)

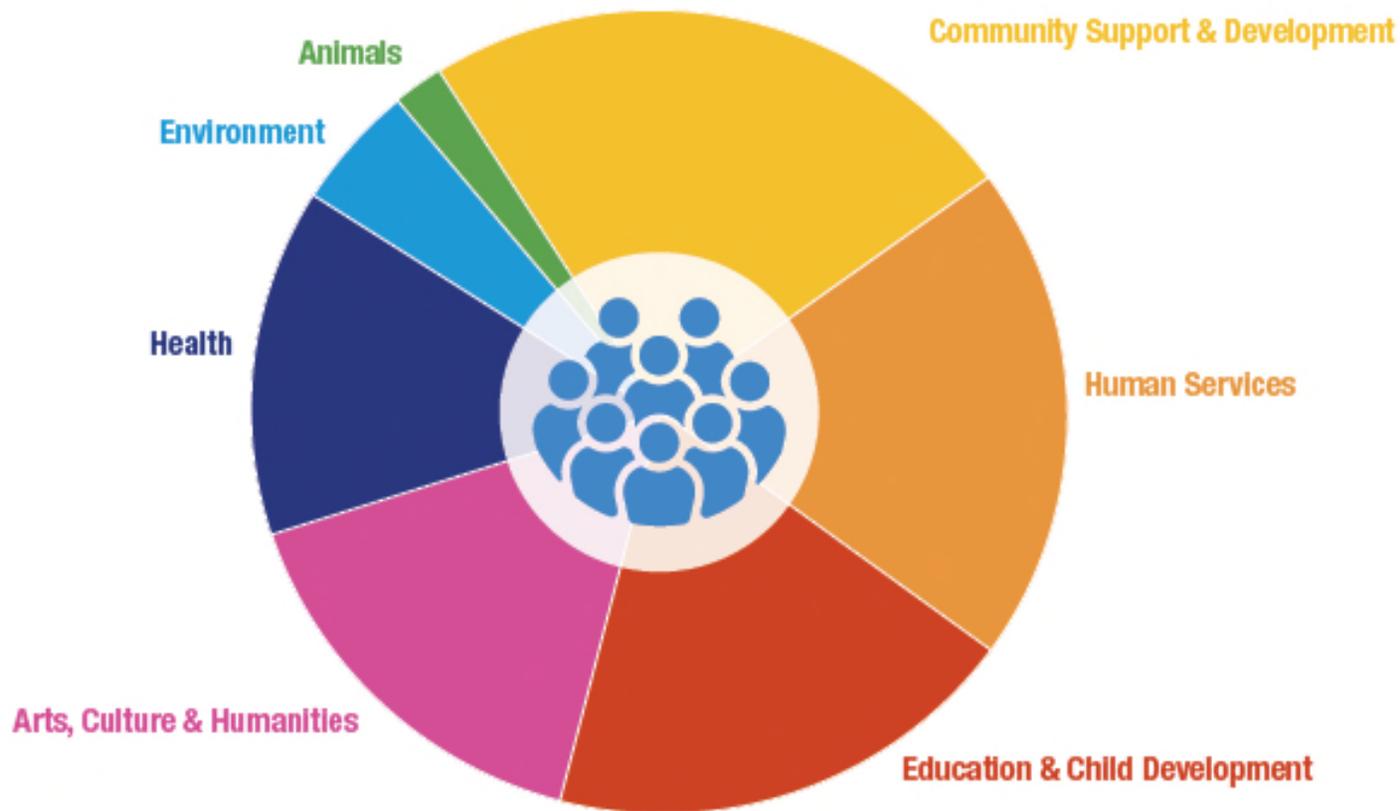


# What Assistance is Available?

- Non-litigation, business law matters, in areas such as:
  - Corporate structure and governance
  - Contracts
  - Employment law
  - Environmental law
  - Intellectual property law
  - Real estate (including lease reviews)
  - Regulatory compliance (e.g., registration, annual reporting, charitable solicitation, lobbying)
  - Tax law and tax exempt status



# 98% of the Partnership's clients serve low-income individuals & provide important services in our communities



# Overview of Program

- What is fiscal sponsorship; What is it *not*?
- Who can benefit from fiscal sponsorship?
- Different models of fiscal sponsorship arrangements
- Fiscal sponsorship services
- Advantages and disadvantages
- Written fiscal sponsorship agreements
- Ending a fiscal sponsorship arrangement
- Finding a fiscal sponsor
- Resources



# What is Fiscal Sponsorship?

An arrangement between a 501(c)(3) public charity and another entity or project in which the charity receives and provides funds to advance the project while retaining discretion and control over the funds

“The charity must be in the controlling position, and the nonexempt project must act so as to further the charity’s exempt purposes.” - Gregory Colvin, from his book *“Fiscal Sponsorship: 6 Ways to Do It Right.”*

- Increasingly common, but often misunderstood



# What Is a Fiscal Sponsorship?

An agreement between:

A Sponsor	A Program
<ul style="list-style-type: none"><li>An established 501(c)(3) public charity</li></ul>	<ul style="list-style-type: none"><li>A charitable organization, project or program</li></ul>
A Sponsor offers its resources (and usually its 501(c)(3) tax exempt status) and receives funds on behalf of the Program.	A Program utilizes the Sponsor's administrative resources and other services to develop or operate.
The Sponsor has control of the funds and some discretion over the Program.	The Program accepts some control from the Sponsor.



# Legal Requirements

- The fiscal sponsor must be a 501(c)(3) tax-exempt organization
- The sponsored program must serve a stated 501(c)(3) tax-exempt purpose, and that purpose must align with that of the sponsor
  - - Sponsor's board should adopt resolution reflecting this.
- Sponsor must retain control of and discretion over the funds and how the funds get used.
- Sponsor must maintain records demonstrating that the funds were used for 501(c)(3) purposes.
- Sponsor must have a legally binding agreement with the project



# Why Do We Have Fiscal Sponsorships?

Why is fiscal sponsorship an appealing alternative to independent 501(c)(3) status?

- Provides resources and the benefits of 501(c)(3) status to startup organizations, smaller programs or projects
- Provides sponsoring organizations with chance to expand programming
- Offers funders a way to fund new programs or projects



# What Fiscal Sponsorship is *Not*

- A “pass-through” financial arrangement
  - cannot do indirectly what you cannot do directly
- The fiscal sponsor is not a fiscal agent
- Not a donor-advised fund
- The sponsored organization (if a separate legal entity or individual) is not tax-exempt



# Who Can Benefit from a FS arrangement?

- Individuals: often see FS arrangements with artists, filmmakers, etc.
- Group that has a donor but does not yet have (c)(3) recognition (where donor insists on tax-deductibility or otherwise requires (c)(3) status)
- Group that wants to begin fundraising activities before it has its (c)(3) recognition/while it is in the process of applying for its tax-exemption
- Short-term projects
  - Disaster relief
  - Erecting playground, monument, etc.



# Who Can Benefit from a FS arrangement?

- For project: a way to get started quicker
- For sponsor: a way to further the exempt purpose of the charity
- An approach to capture and harness the wide variety of ideas and initiatives of people or groups
- Expands the charitable work of the nonprofit sector efficiently and cost-effectively
- A possible revenue generator for the fiscal sponsor



# Different Fiscal Sponsorship Arrangements

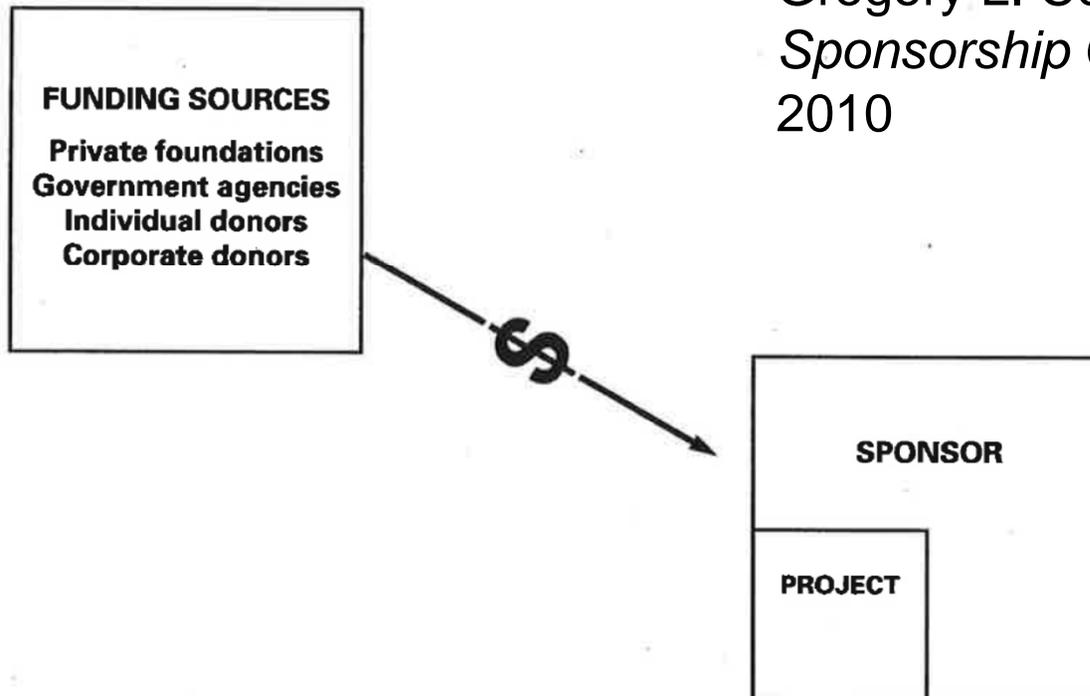
Are a spectrum of arrangements and permutations; we will focus on the two most frequently-used models:

- **Comprehensive Fiscal Sponsorship:** Project is not a separate legal entity; it becomes a program of the fiscal sponsor (referred to as “Model A” by Gregory Colvin)
- **Pre-Approved Grant Relationship Fiscal Sponsorship:** Project is a separately incorporated entity which has a contractual arrangement with the fiscal sponsor (referred to as “Model C” by Colvin)

Some fiscal sponsors have a preference for one model over the other; for example, TSNE primarily does Model A



# Model A (Direct Project)



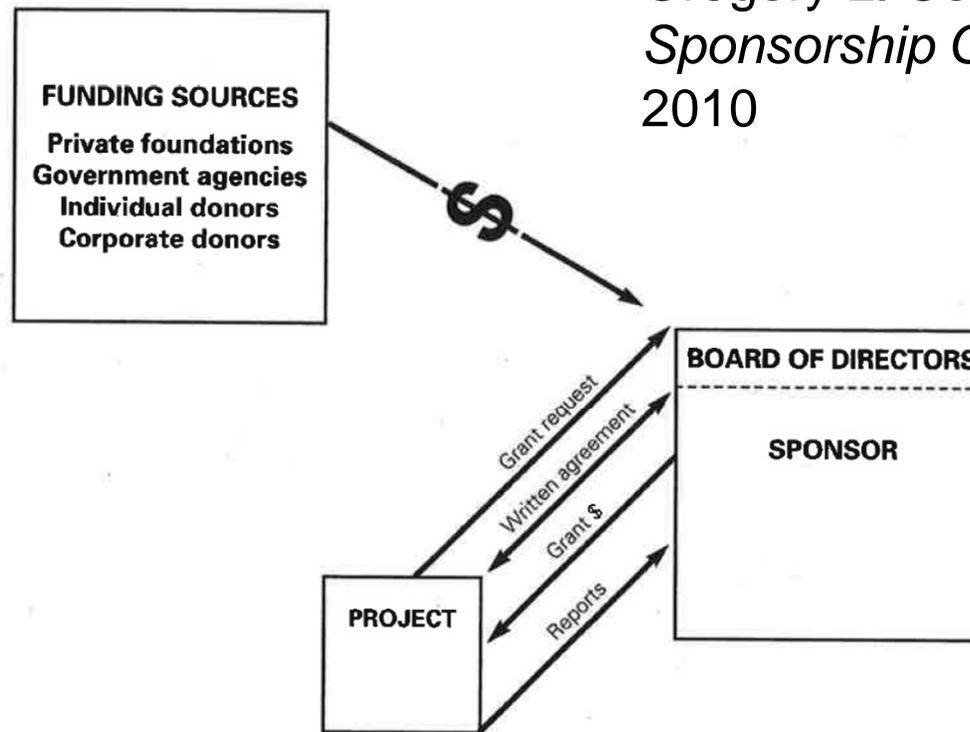
Gregory L. Colvin, *Fiscal Sponsorship Comes of Age*, 2010

---

**MODEL A — DIRECT PROJECT**

# Model C (Preapproved Grant Relationship)

Gregory L. Colvin, *Fiscal Sponsorship Comes of Age, 2010*



**MODEL C — PREAPPROVED GRANT RELATIONSHIP**

# What Services Does a Fiscal Sponsor Provide?

Ranges from simply enabling the project to benefit from tax-deductible donations to “comprehensive” services. FS will typically include (depending on form of sponsorship):

- Receiving and processing donations; forwarding money to project and/or direct payment of bills
- Providing IRS Determination Letter and cover letter for grant application purposes
- Acknowledgements to donors on sponsor letterhead
- Reporting to IRS
- Reports to donors



# What Services does a Fiscal sponsor Provide?

Fiscal sponsorship may also include:

- Financial/accounting services; budgeting
- Assistance with fundraising
- HR services; payroll services
- Insurance
- Corporate governance
- Office space/equipment
- Training
- Other back office/admin support

Note – this list is not exhaustive. Also, sponsored project or organization itself may have parallel responsibilities



Let's take a 5 minute break!



# Advantages of Fiscal Sponsorship

- Provides infrastructure for new organizations or projects; can act as an “incubator” – esp. Model A
- Allows a new project/program to start fundraising right away
- Can also provide infrastructure for organizations or projects that are *not* new
- Avoids cost, time and hassle of application to IRS
- Eliminates need for “official” corporate governance and other admin activities; frees you up to focus on mission
- Donors are reluctant to fund start-ups; fiscal sponsor provides instant credibility, reputation and track record
- If project is short-term, no need to do corporate dissolution



# Possible Disadvantages/Challenges of Fiscal Sponsorship

- May be difficult to find a sponsor
- Issues relating to control, autonomy, and identity (branding)
- Some institutional funders are uncomfortable with FS; prefer to fund only organizations that have “their own” (c)(3) charity status
- Potential competition for funding
- Potential for inconsistent messages/approaches as between project and sponsor
- If separate legal entity or individual, entity is not tax-exempt; may be required to pay income, sales and property taxes
- Potential risks to fiscal sponsor if it is not experienced with sponsorship, or does not have capacity to do it properly



# Fiscal Sponsorship Agreements

- Should always be in writing
- Will be unique to each FS arrangement
- Parties:
  - 501(c)(3) fiscal sponsor; and
  - Other legal entity (if incorporated); or individual or advisory committee if not incorporated



# Fiscal Sponsorship Agreements

Will typically include the following plus more:

- Introductory language: that the sponsor has determined that the FS arrangement furthers its own exempt purpose
- Description of project and budget
- Whether project is separately incorporated
- Limitations on use of funds by project
- Sponsor's obligations
- Financial procedures
- Required reports from project to sponsor
- Ownership of IP
- Length of agreement; renewal; termination
- Other services to be provided
- Service fee



# Ending a Fiscal Sponsorship Arrangement

- Written FS agreement will address this
- Typical bases for termination:
  - Mutual agreement of parties
  - Breach; failure of project to engage in activities consistent with sponsor's exempt purpose; project never happens
  - Project obtains (c)(3) public charity status
  - Expiration of agreement by its terms
- Follow notification procedures
- Subject to agreement, funds donated to sponsor for project will be conveyed the project upon termination
- IP ownership may also be conveyed
- Sometimes may enter into a Release and Separation Agreement



# How to Find a Fiscal Sponsor

- **Fiscal Sponsor Directory** – listings by state [https://fiscalsponsordirectory.org/?page\\_id=1768](https://fiscalsponsordirectory.org/?page_id=1768) (Note – fiscal sponsor does not necessarily have to be in the same state as sponsored project)
- **National Network of Fiscal Sponsors** - provides extensive resources, including guidelines and sample agreements <https://www.fiscalsponsors.org/>
- **Third Sector New England** – provide fiscal sponsorship services and a wide variety of supportive services to nonprofits <https://www.tsne.org/fiscal-sponsorship>
- **Tides Foundation** – provides fiscals sponsorship services and a wide variety of supportive services to nonprofits <https://www.tides.org/fiscal-sponsorship-at-tides/>
- **New Venture Fund** – sponsors public interest projects [www.newventurefund.org](http://www.newventurefund.org)



# How to Find a Fiscal Sponsor

- Consider other public charities
- What to look for:
  - A (c)(3) organization with mission constant or complimentary to your own (the Board of the sponsoring agency *must* determine that sponsoring your project furthers its own charitable mission)
  - Well established, reputable; has credibility and gravitas
  - Financially sound
  - Sufficient capacity and infrastructure; usually means has paid staff
  - Ideally, the organization has sponsored projects before
  - Ask to speak with other sponsored projects



# How to Find a Fiscal Sponsor

- Sometimes, you may have to “create” a fiscal sponsor; convince an organization to do it even if it has not before
- Some winning points:
  - Can create a new stream of revenue (service fee) or open up access to funding it previously did not qualify for
  - Enables the sponsor to extend its reach, expand programs, diversify, or otherwise further its charitable mission
  - Benefits of reflected glory
  - Enables your programs to be collaborators instead of competitors



# Fiscal Sponsorship Resources

- Third Sector New England - <http://www.tsne.org>
- Joshua Sattely, Esq., *A White Paper: On Comprehensive Fiscal Sponsorship*,  
<https://www.tsne.org/sites/default/files/White-Paper-Fiscal-Sponsorship.pdf>
- Candid (formerly, The Foundation Center) – has several links and other information about fiscal sponsorship:  
<http://grantspace.org/Tools/Knowledge-Base/Individual-Grantseekers/Fiscal-Sponsorship/Fiscal-sponsorship>  
(This link has a very extensive array of other resources)



# Fiscal Sponsorship Resources, cont'd

- National Council of Nonprofits- questions and answers about fiscal sponsorship arrangements:  
<http://www.councilofnonprofits.org/resources/resources-topic/fundraising/fiscal-sponsors>
- Website by Attorney Gregory Colvin that addresses fiscal sponsorship: <https://fiscalsponsorship.com/>
- Fiscal Sponsorship – 6 Ways To Do It Right, 3<sup>rd</sup> Edition:  
<https://fiscalsponsordirectory.org/?product=fiscal-sponsorship-6-ways-to-do-it-right-3rd-edition>
- National Network of Fiscal Sponsors -  
<https://www.fiscalsponsors.org/>



- Sample fiscal sponsorship agreement for Model A, from G. Colvin - <https://www.adlercolvin.com/wp-content/uploads/2017/11/Fiscal-Sponsorship-Model-A-agreement-2011-00363723xA3536.pdf>
- Sample fiscal sponsorship agreement for Model C, from G. Colvin - [https://www.adlercolvin.com/wp-content/uploads/2017/11/Fiscal\\_Sponsorship\\_Grant\\_Agreement\\_ModelC\\_Short\\_Form.pdf](https://www.adlercolvin.com/wp-content/uploads/2017/11/Fiscal_Sponsorship_Grant_Agreement_ModelC_Short_Form.pdf)



# Thank you!

- Our sincere thanks go to
  - Daniel Alexandre of the Hartford Public Library; and
  - Amy Studwell, Betsy Johnson, and Monica Kelly of the Nonprofit Support Program of the Hartford Foundation

for hosting this webinar and for all their planning and technical assistance



# For More Information

Priya Morganstern, Esq.  
Program Director  
Pro Bono Partnership, Inc.  
280 Trumbull Street, 28<sup>th</sup> Floor  
Hartford, CT 06103  
Phone: 860-541-4951  
[pmorganstern@probonopartner.org](mailto:pmorganstern@probonopartner.org)



Sara A. Taylor, Esq.  
Staff Attorney  
Pro Bono Partnership, Inc.  
[same address]  
Phone: 860-541-4952  
[staylor@probonopartner.org](mailto:staylor@probonopartner.org)



# Please Note

- IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.
- This presentation is provided as a general informational service to clients and friends of the *Pro Bono Partnership*. It should not be construed as, and does not constitute, legal advice on any specific matter, nor does this presentation create an attorney-client relationship. You should seek advice based on your particular circumstances from an independent legal advisor.

