



NYLPI NONPROFIT TOOLKIT



# FISCAL SPONSORSHIP

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For more information, please consult qualified legal counsel.



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# SO YOU'RE CONSIDERING FISCAL SPONSORSHIP?

## WHAT IS FISCAL SPONSORSHIP?

Fiscal sponsorship is a formal arrangement in which an existing U.S. tax-exempt organization typically in the form of a public charity (the “Fiscal Sponsor”) enters into an agreement with an individual, group or organization seeking to raise tax-deductible funds to conduct a charitable project (the “Sponsored Project”) either prior to or without incorporating or obtaining recognition as a tax-exempt organization from the Internal Revenue Service (the “IRS”). A Fiscal Sponsor will only accept an individual, group or organization as a Sponsored Project if the charitable project furthers the Fiscal Sponsor’s own charitable purposes.

In the typical fiscal sponsorship arrangement, a Fiscal Sponsor accepts donations for the Sponsored Project and makes periodic grants to the Sponsored Project in response to specific funding requests, with the Sponsored

Project required to report back to the Fiscal Sponsor periodically about the use of the granted funds. This kind of arrangement is known as the “Preapproved Grant” model of fiscal sponsorship. Under another kind of fiscal sponsorship arrangement (not discussed in this guide), a Fiscal Sponsor conducts the Sponsored Project directly using its own employees and volunteers and by directly paying expenses of the Sponsored Project.

The key requirement of a legitimate Preapproved Grant model of fiscal sponsorship is that the Fiscal Sponsor must maintain “discretion and control” over any funds received from donors for the Sponsored Project to ensure that those funds are used exclusively for charitable purposes.



To that end, funding proposals, inquiries about funding and reports on funding should come from the Fiscal Sponsor, not directly from the Sponsored Project. In addition, the Fiscal Sponsor must have the right to reasonably determine whether the Sponsored Project is able to carry out the charitable project in a manner that furthers the Fiscal Sponsor's own charitable purposes and, if it determines that the Sponsored Project does not have that ability, to withhold funding from being granted over to the Sponsored Project, rather than just pass along funds from donors automatically to the Sponsored Project.

Stated differently, the Fiscal Sponsor cannot act as a mere conduit from donors to the Sponsored Project. If the

Internal Revenue Service views the Fiscal Sponsor as a mere conduit, that could cause an individual or corporation making a donation to the Fiscal Sponsor in support of the Sponsored Project to lose the ability to claim a charitable income-tax deduction for federal tax purposes or a private foundation making a grant to the Fiscal Sponsor in support of the Sponsored Project to be subject to an excise tax under federal tax law for having made what is known as a "taxable expenditure." Although these adverse tax consequences would directly affect the donors and not the Sponsored Project itself, they would result in donors viewing the Sponsored Project skeptically and severely hamper fundraising efforts for the Sponsored Project.

## WHO SHOULD CONSIDER FISCAL SPONSORSHIP?

### **Fiscal sponsorship is advisable for:**

- Groups or organizations that want to test the viability of their charitable projects. In general, because there is no need to create and administer a separate tax-exempt public charity, fiscal sponsorship can be a time-efficient and cost-effective way for a group or organization to determine whether sufficient funds can be raised so as to justify applying for tax-exempt status;
- Groups or organizations intending to operate charitable projects only for a short time. Instead of spending time and money obtaining tax-exempt status, these groups or organizations can get their projects underway more quickly and at less cost through fiscal sponsorship;



- Groups or organizations lacking administrative experience or “back office” capacity; and
- Individuals seeking grants and donations for discrete charitable projects (e.g., independent filmmakers).

## WHAT ARE THE BENEFITS OF FISCAL SPONSORSHIP?

### Benefits to a Sponsored Project:

Fiscal sponsorship allows a Sponsored Project to focus on the development of its project and activities, while the Fiscal Sponsor provides administrative expertise and accepts donations for the Sponsored Project’s benefit.

Fiscal sponsorship can bring the following benefits to a Sponsored Project:

- Ease in creation, administration, and termination of the Sponsored Project;
- Tax deductions for individual and corporate donors (because donations are made to the tax-exempt Fiscal Sponsor);
- Processing and acknowledgment of donations for federal tax purposes;
- Access to fundraising expertise and additional funding opportunities; and

- Increased credibility of the Sponsored Project.

On the other hand, fiscal sponsorship brings:

- Loss of identity for the Sponsored Project: The Sponsored Project may be perceived as a program run by the Fiscal Sponsor;
- Loss of legal ownership over donations: The Fiscal Sponsor maintains ownership and control over all donations it receives (donors are permitted to request, but not direct, that their donations be used for a Sponsored Project); and
- Potential source of concern for supporters: Some donors may not want to provide financial support through a Fiscal Sponsor due to the “conduit” risk discussed above.



**Benefits to a Fiscal Sponsor:**

Fiscal sponsorship can bring the following benefits to a Fiscal Sponsor:

- Attract new donors because of a Sponsored Project;
- Share attention and honors from a Sponsored Project’s success;

- Leverage existing administrative capacity; and
- Further and highlight the Fiscal Sponsor’s own mission.

**WHAT OTHER SERVICES CAN A FISCAL SPONSOR PROVIDE TO A SPONSORED PROJECT?**

The Fiscal Sponsor may also provide the following services to a Sponsored Project:

- Financial services (e.g., accounting/bookkeeping, tax filings, etc.);
- Administrative/Human resources services (e.g., staff, payroll processing, employee benefits, training services, insurance, legal advice, etc.);

- Office space;
- Publicity; and
- Capacity building (e.g., assist a Sponsored Project in developing the necessary organizational capabilities to ultimately become independent).



## HOW MUCH DOES A FISCAL SPONSOR CHARGE?

A Fiscal Sponsor typically charges a monthly or annual administrative fee based on the amount of donations received to support the Sponsored Project. This fee is

often calculated as a percentage of donations received (generally no higher than 10%). A Fiscal Sponsor may also charge an initial “set-up” or due diligence fee.

## HOW DO I FIND THE RIGHT FISCAL SPONSOR FOR MY PROJECT, GROUP OR ORGANIZATION?

An individual, group or organization looking for a Fiscal Sponsor should consider tax-exempt public charities meeting the following criteria:

- Mission consistent with the project that you are planning to develop;
- Experience in sponsoring projects similar to your project;
- Sufficient financial resources and staff to fulfill its responsibilities; and
- Established and tested sponsorship policies and procedures.

Attached to this guide as Appendix A is a list of New York City Area Fiscal Sponsors.

What questions should I ask a potential Fiscal Sponsor?

1. Does the Fiscal Sponsor currently sponsor other groups?
  - a. If yes, can I talk to one of those groups about their experience with the Fiscal Sponsor?
  - b. If no, has the Fiscal Sponsor sponsored other groups in the past?
2. Are there any restrictions on the Fiscal Sponsor’s ability to seek donations from foundations, government, or individuals? Does the Fiscal Sponsor need to review grant proposals for the Sponsored Project before I submit them to potential donors?



3. How much control will I have over the way money is spent by the Sponsored Project?
4. How will I be notified when funds are received for the Sponsored Project [assuming the Preapproved Grant model is used] and what is the system for keeping the funds for the Sponsored Project segregated from the Fiscal Sponsor's general funds? Will the Fiscal Sponsor use a separate bank account for the Sponsored Project and, if so, does the Sponsored Project retain the interest generated by that account (if there is any)?
5. How does the Fiscal Sponsor handle the reporting process to donors and what parts will the Sponsored Project be responsible for? How much advance notice does the Fiscal Sponsor need to provide the Sponsored Project with financial reports for donors?
6. What reports will the Sponsored Project receive from the Fiscal Sponsor and how frequently and timely are the reports?
7. What is the process for submitting bills and expenses for the Sponsored Project that will be paid by grants from the Fiscal Sponsor to the Sponsored Project [assuming the Preapproved Grant model is used]? And how long does it take once the Sponsored Project submits a bill for the check to go out from the Fiscal Sponsor?
8. What other services does the Fiscal Sponsor provide?
9. What is the Fiscal Sponsor's fee and how/when is it assessed?
10. What is the application process for my project to be fiscally sponsored? Once accepted for fiscal sponsorship, how soon can my project be sponsored?

## WHAT DOES A FISCAL SPONSORSHIP AGREEMENT TYPICALLY INCLUDE?

Although a fiscal sponsorship agreement is not required, it is strongly recommended in order to formally outline the rights and liabilities of both parties.

Fiscal sponsorship agreements should cover:

- Solicitation of funds;
- Maintenance and release of funds to the Sponsored Project;





- Grant requests by the Sponsored Project;
- Use of funds by the Sponsored Project;
- Recordkeeping and reporting by the Sponsored Project;
- Fees charged by the Fiscal Sponsor;
- Support services provided by the Fiscal Sponsor;
- Liability/indemnification;
- Duration and termination of the fiscal sponsorship; and
- Use of names and other intellectual property.

## DO I NEED AN ATTORNEY TO ENTER INTO A FISCAL SPONSORSHIP AND/OR FISCAL SPONSORSHIP AGREEMENT?

A Fiscal Sponsor often has a standard fiscal sponsorship agreement. As the terms and conditions of the fiscal sponsorship arrangement, including the rights and liabilities of the parties, will be set forth in the agreement, it is advisable to have qualified legal counsel review the

agreement before you sign it. To assist in the review of a fiscal sponsorship agreement, attached to this guide as Appendix B and Appendix C, respectively, are (a) a list of the elements of a fiscal sponsorship written agreement and (b) two examples of fiscal sponsorship agreements.

## IF I USE A FISCAL SPONSOR AND LATER CHOOSE TO BECOME INDEPENDENT, WHAT STEPS WILL I NEED TO TAKE?

If your group or organization decides to become independent and seek tax-exempt status for the Sponsored Project, you should consult qualified legal

counsel. Obtaining tax-exempt status involves forming an organization under state law (if that has not already been done) and filing complex forms with the IRS



(including the IRS Form 1023 referenced below). Once exempt, the organization will need to comply with annual filing requirements and satisfy other administrative responsibilities going forward.

If your group is not yet incorporated, the first step would be incorporation. After incorporating, and taking a number of other organizational actions, your organization would then seek to obtain recognition from the IRS of its tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

## NEED A LAWYER?

New York Lawyers for the Public Interest works with nonprofits and community groups in the New York City area and beyond to connect them with the resources of expert law firms. Contact NYLPI's Pro Bono Clearinghouse at 212-244-4664.

To do this, an organization generally must prepare and file IRS Form 1023 (Application for Recognition of Exemption) and pay a \$600 filing fee. Organizations whose annual gross receipts are not expected to exceed \$50,000 in any of their first three years may be eligible to file the much shorter and simpler IRS Form 1023-EZ (Streamlined Application for Recognition of Exemption) and pay a \$275 filing fee.

More information on incorporating and seeking recognition of exempt status can be found in the New York Lawyers for the Public Interest's Community Guide So You're Thinking of Forming a Nonprofit Organization.



# APPENDIX A

## NEW YORK CITY AREA FISCAL SPONSORS

### **Brooklyn Arts Council**

20 Jay Street, Suite 616  
Brooklyn, NY 11201

(718) 625-0080

<http://www.brooklynartscouncil.org>

Issue Areas: Artistic projects (in any discipline) that are undertaken by Brooklyn-based individual artists or collectives (projects can take place in Brooklyn or elsewhere); Artistic projects that are undertaken by individual artists or collectives who are not Brooklyn-based, but take place in Brooklyn or benefit Brooklyn residents; Activities of Brooklyn-based cultural organizations that are in the process of incorporating as nonprofits; Specific cultural projects undertaken by for-profit organizations that are nonprofit in nature and demonstrate strong benefit to Brooklyn residents. Projects and emerging organizations must have a minimum budget of \$5,000. Student projects are not eligible.

### **Center For Transformative Action**

119 Anabel Taylor Hall  
Cornell University  
Ithaca, NY 14853

(607) 255-6202

[ctaoffice@cornell.edu](mailto:ctaoffice@cornell.edu)

[www.centerfortransformativeaction.org](http://www.centerfortransformativeaction.org)

Issue Areas: Project must be located in New York State, although programming can occur outside of the state. Project must demonstrate an innovative approach to addressing a social issue.



**Cine Qua Non**

463 West Street #646B  
New York, NY 10014

info@incite-pictures.com  
<http://www.incite-pictures.com>

Issue Areas: Arts and culture; Education; Festivals and events; Political advocacy/social justice.

**The Field**

75 Maiden Lane, Suite 906  
New York, NY 10038

(212) 691-6969  
fiscalsponsorship@thefield.org  
<http://www.thefield.org>

Issue Areas: Anything that is artistic in nature and has public benefit (i.e., the product of the artistic work is accessible to the public). All artistic disciplines will be considered for sponsorship; most current members are performing artists. Applications are accepted on a rolling basis.

**FJC — A Foundation Of Philanthropic Funds**

520 Eighth Avenue, 20th floor  
New York, NY 10018

(212) 714-0001  
fjc@fjc.org  
<http://www.fjc.org/>

Issue Areas: Education; Inter group relations; Health services; Social services; Religion; Science; Arts and Culture; Environment and any other project that is operated exclusively for any purpose within section 501(c)(3) of the Internal Revenue Code.

\*go-to sponsor

**Fractured Atlas**

248 W. 35th Street, 10th Floor  
New York, NY 10001

(888) 692-7878  
support@fracturedatlas.org  
<http://www.fracturedatlas.org>

Issue Areas: Artists, art project, and arts organizations. Fractured Atlas is non-curatorial - as long as the proposed project is artistic in nature and to the benefit of the general public, then it should be a good fit. Applications are accepted on a rolling basis.



**Fund For The City Of New York**

121 Avenue of the Americas, 6th Floor  
New York, NY 10013

(212) 925-6675

mmccormick@fcny.org

<http://www.fcny.org/fcny/core/ip/>

Issue Areas: The Incubator/Partner Project Program provides support to: (i) start-up organizations so they can concentrate their energy and resources on program and fundraising; (ii) organizations that are already incorporated but find themselves diverted from their mission because of unrelenting back office and administrative demand; or (iii) organizations that want to “outsource” their fiscal, administrative and human resource functions.

**The Global Center — The International Center For Global Communications Foundation, Inc.**

PO Box 677  
New York, NY 10035

(212) 246-0202

roc@globalvision.org

Issue Areas: Arts and culture; Education; All projects Global Center sponsors must fit with their mission to use media to educate and advance global communication and well-being.

**Independent Filmmaker Project Inc. (Ifp)**

30 John Street, Ground Floor  
Brooklyn, NY 11201

(212) 465-8200 (ext. 236)

creekers@ifp.org

<https://www.ifp.org/apply/fiscal-sponsorship>

Issue Areas: documentary films and other works of nonfiction; short films; low-budget fiction/narrative features (50 minutes+) that are either: a) able to be fully financed by donations and grants alone (generally projects under \$3 million); or, b) fundraising only for a discrete portion of the project’s budget (usually development); transmedia/multi-media/VR/web-based projects with film/video/electronic media as a primary component of the work.



**New York Foundation For The Arts**

20 Jay Street, 7th Floor  
Brooklyn, NY 11201

(212) 366-6900  
sponsorship@nyfa.org  
<http://www.nyfa.org>

Issue Areas: Open to all artists with a U.S. Tax Identification Number (TIN). Applications are accepted for Artist Projects or Emerging Organizations with a minimum budget of \$15,000 (this money does not need to be committed before applying). Projects must be arts-related, have a public benefit, and not be commercial in nature. Emerging Organizations must be incorporated, or in the process of incorporating, as a nonprofit at the state level.

**New York Live Arts**

219 W 19th St.  
New York, NY 10011

(212) 691-6500 ext. 380  
bbailey@newyorklivearts.org  
<http://www.newyorklivearts.org>

Issue Areas: Movement and body based performance and educational projects – this includes theater projects

as well as visual arts projects that may have a movement/performance component.

**New York Women In Film & Television – Nywift**

6 East 39th Street, Suite 1200  
New York, NY 10016  
(212) 679-0870 ext. 39

info@nywift.org  
<http://www.nywift.org/fiscal-sponsorship-program/>

Issue Areas: Arts and Culture; Women; Support of educational, artistic or charitable purposes.

**Open Space Institute Inc. (Osi)**

Citizen Action Program  
1350 Broadway, Suite 201  
New York NY 10018

(212) 256-4288  
jwatson@osiny.org  
<https://www.openspaceinstitute.org/what/grassroots-efforts/citizen-action>

Issue Areas: Land Use & Protection and Environmental Education.

\*go-to sponsor



**Pentacle**

75 Broad Street, Suite 304  
New York, NY 10004

(212) 278-8111 ext. 3433  
kimberlym@pentacle.org

<https://www.pentacle.org/artist-services/fiscal/sponsorship/>

Issue Areas: Any artistic endeavor (performing arts, visual arts, written or other).

**Neo Philanthropy (Formerly Public Interest Projects)**

45 West 36th Street, 6th Floor  
New York, NY 10018

(212) 378-2800  
fiscalsponsorship@neophilanthropy.org

<https://neophilanthropy.org/>

Issue Areas: Focuses on a variety of social justice issues, including civic participation, environmental justice, investigative journalism, LGBTQ justice, racial justice, arts and culture, reproductive rights and sexual assault and domestic violence.

**Rockefeller Philanthropy Advisors**

6 West 48th Street, 10th Floor  
New York, NY 10036

(212) 812-4330  
info@rockpa.org

[www.rockpa.org](http://www.rockpa.org)

Issue Areas: Projects must be aligned with RPA’s mission, expertise, values, and policies. In addition, projects generally need to have a duration of at least one year and have an annual budget of \$1 million or more.

**Tides Center**

55 Exchange Place, Suite 402  
New York, NY 10004

(212) 509-1049

<http://www.tides.org/>

Issue Areas: Primarily civic engagement, community development, economic opportunity, education and training, environmental sustainability, health services/ healthcare reform, housing and homelessness, human rights, human and social services, international development, social justice, sustainable food and agriculture, violence prevention, and youth development and organizing. NOTE: Projects should plan to be with Tides for at least two years, and have an expected annual budget of at least \$250,000 with confirmed support and formal grant commitments for 100% of the budget for the first year at Tides. They also need at least one full time employee who will be employed through Tides.

\*go-to sponsor

**Additional Resources For Finding A Fiscal Sponsor**

Fiscal Sponsorship Directory

<http://www.fiscalsponsordirectory.org/>





# APPENDIX B

## ELEMENTS OF A FISCAL SPONSORSHIP WRITTEN AGREEMENT

### Status of charitable project

- Will the charitable project be legally incorporated?
- What model will be used to sponsor the charitable project — preapproved grant model or direct project model?
- Will managers of the charitable project be employees or independent contractors of the Fiscal Sponsor?
- What level of oversight will the Fiscal Sponsor have over the charitable project?
- Will intangible property (for example, copyrighted works created by managers of the charitable project) and charitable project results be owned by the Fiscal Sponsor or by the managers of the charitable project?

### Maintenance of sponsored funds

- Will project-specific funds be kept in a separate bank account by the Fiscal Sponsor?
- Will any or all project funds be commingled with the Fiscal Sponsor’s general assets?

NOTE: Special attention should be used when using the preapproved grant model so that the fiscal sponsorship is not viewed as a conduit from the funder to the charitable project which does not have separate Internal Revenue Code section 501(c)(3) tax-exempt status.



**Processes for flow of funds from the Fiscal Sponsor to charitable project**

- Will the managers of the charitable project be required to request a new grant for each payment of funds from the Fiscal Sponsor?
- How much detail is necessary in reporting/describing the need for cash to the Fiscal Sponsor?

**Charitable project reporting requirements**

- How often will managers of the charitable project be required to report and update results to the Fiscal Sponsor?
- What level of detail will be required in reporting?
- What are the consequences for failure to report?

**Fundraising**

- Which party will have responsibility to fundraise?
- Which party will bear the burden of writing grant proposals?

**Services offered**

- Besides sponsorship, what other services will be performed by the Fiscal Sponsor for the managers of the charitable project?

**Fees**

- How will the Fiscal Sponsor charge the managers of the charitable project for the sponsorship? Flat fee, budget based, hourly?

**Duration of relationship**

- How long will the fiscal sponsorship last?
- How will the fiscal sponsorship be unwound or dissolved?



# APPENDIX C

## EXAMPLES OF FISCAL SPONSORSHIP AGREEMENTS

The following examples of fiscal sponsorship agreements were generously provided by FJC and Fractured Atlas, as examples of what Fiscal Sponsors generally expect from sponsored projects in terms of documenting their relationship in a written agreement. Please note that these are examples only and may not reflect the current agreements used by either organization. Please contact

prospective Fiscal Sponsors directly and ask to see a copy of their fiscal sponsorship agreement. The most up-to-date agreement for Fractured Atlas can be found at [https://www.fracturedatlas.org/site/fiscal/download\\_contract](https://www.fracturedatlas.org/site/fiscal/download_contract).

[Insert PDFs of Contracts for FJC and Fractured Atlas here]



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