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# What Nonprofits Need to Know About Fiscal Sponsorships

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July 25, 2024

Presented by:



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# Legal Disclaimer

The speakers are not attorneys and cannot give legal advice. We are here to discuss the construct of fiscal sponsorship, nonprofits, and related insurance issues and concerns.

The presenters do not warrant or guarantee the legal effect or the appropriate use of the content presented. We strongly recommend that you consult with legal counsel when considering contractual language prior to signing a contract.

All opinions and comments made during this presentation are based on the knowledge and opinions of the presenters, and not their companies.

# Fiscal Sponsorship: What it is and What it is Not

- It is a tool — a practical construct — for furthering an existing tax-exempt organization’s tax-exempt purposes
- It is sponsorship
- It is not “fiscal agency,” and it is not “letting someone else use” an existing organization’s exempt status
- What’s the difference? Why does it matter?

# What Does it Mean for an Organization to Become a Fiscal Sponsor?

**An arrangement between an established 501(c)(3) public charity (sponsor) and a project entity or leader in which:**

- The sponsor determines that someone else's project will further its own mission
- The sponsor receives tax-deductible donations and grants as restricted funds to be spent for the charitable purposes of the project
- Sponsor typically provides admin support
- For services rendered, sponsors typically charge a fee that is a % of donations

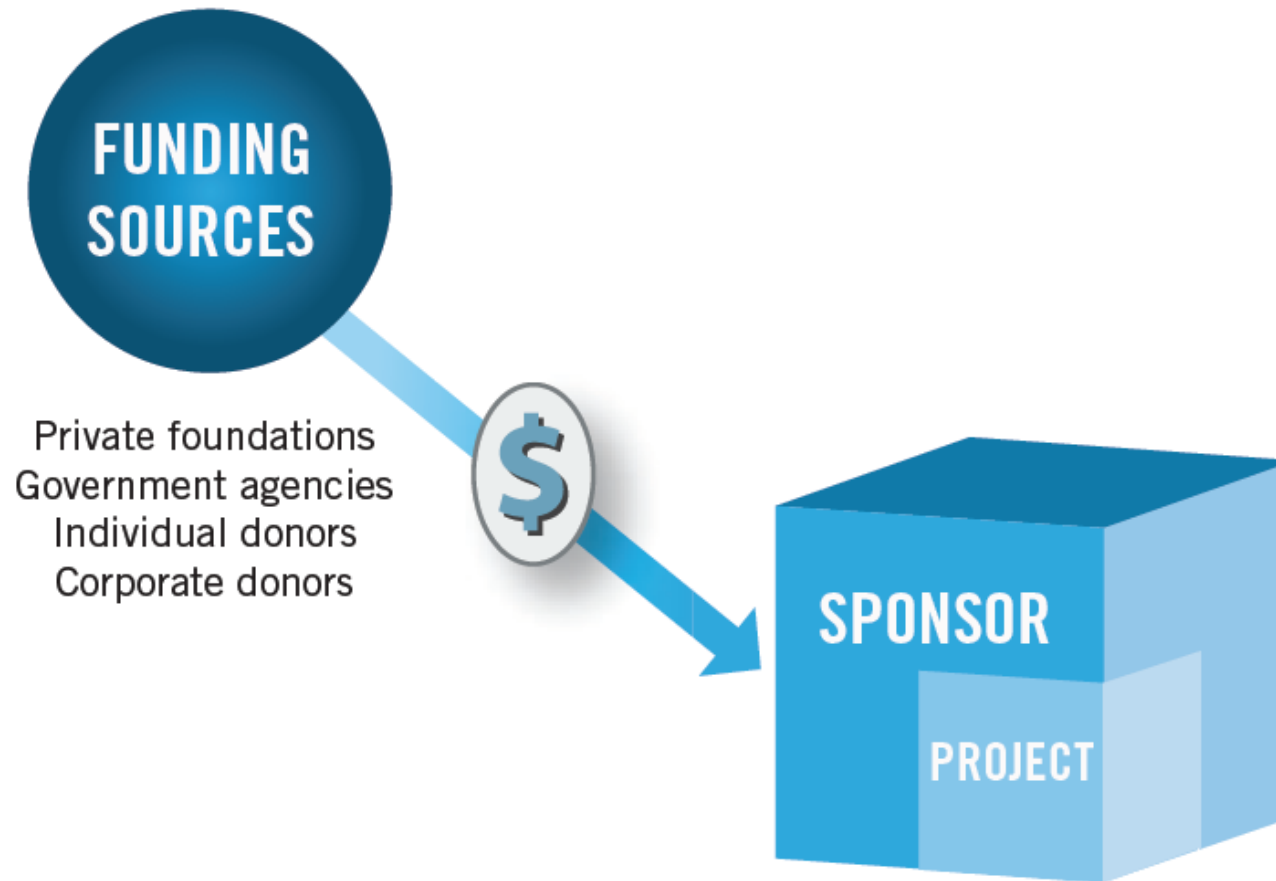
# More Than One Way to Do Fiscal Sponsorship

- **Employees (and/or volunteers) = Model A, direct project**
- **An independent contractor = Model B**
- **A grantee = Model C, pre-approved grant relationship**
- **Other ways a 501(c)(3) can facilitate projects:**
  - **Group exemption = Model D**
  - **Single-member LLC = Model L**
  - **Technical assistance = Model F**

# Model A: One Entity / Direct Project / Comprehensive

- Project is not usually a separate legal entity
- Project belongs to sponsor
- Sponsor is liable
- All employees/volunteers of the project are employees/volunteers of the sponsor
- Contributions belong to sponsor
- Sponsor reports the revenue and expenses
- Project may have an advisory committee
- Project leader(s) contract with sponsor
- Sponsor's board has oversight responsibility and decision to become a sponsor of each project

# Model A: One Entity / Direct Project / Comprehensive



# How Does Fiscal Sponsorship Impact Insurance? (Direct Model)

- Unless a project is a separate legal entity (a partnership, LLC, corporation, etc.), it cannot obtain insurance in their name
- Project personnel are employees and volunteers of the sponsor
- Advisory board decisions can impact Directors & Officers and Employment Practices Liability
- Risk management



# MOU Considerations

- Agreement between sponsor and project leaders/group
- Confirm assets held by sponsor on behalf of project
- How are personnel handled (at-will employees?)
- Sponsor policies and procedures (accounting, reports, disbursements, contracts with vendors, insurance, etc.)
- How are solicitations for donations/grants coordinated?
- Governance (roles of project leader, project committee)
- Guidance on lobbying to meet (c)(3) lobbying requirements
- Sponsor administrative fees and expenses
- Termination/potential spin-out of project to successor charity

# Model C: Two Entities / Pre-approved Grant / Indirect

**Project is a by separate legal entity: Another charitable organization waiting for IRS recognition; or a different type of nonprofit org; or a for-profit (project entity).**

**Usually directed through written grants.**

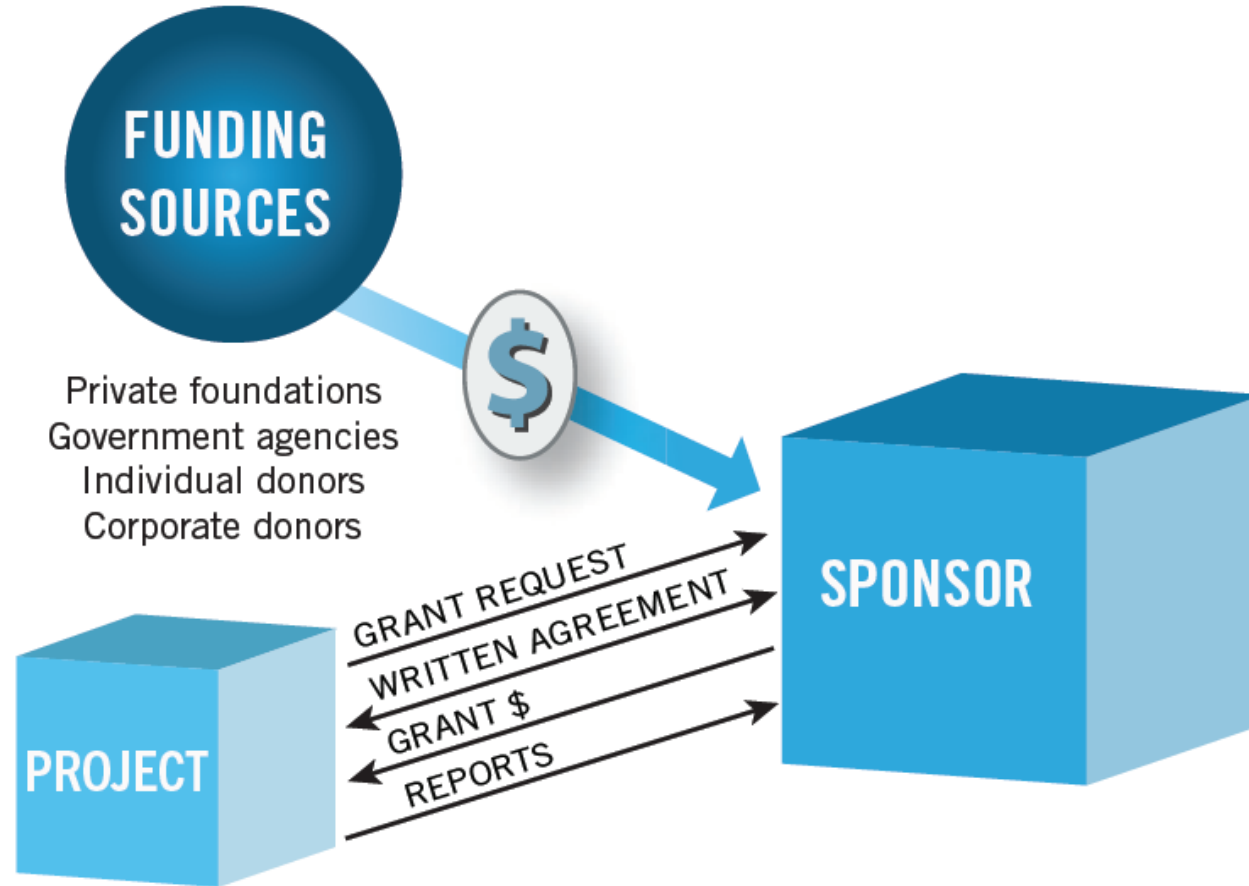
## **Sponsor:**

- Evaluates proposals from potential projects
- Board is responsible for approving projects
- Reports contributions in and grants out
- Proper solicitation and accounting of exempt funds

## **Project:**

- Conducts services from proposal and reports back to sponsor
- Personnel are employees/volunteers of project entity
- Project entity reports grants in and expenses out
- Project entity is usually liable for project
- Grant outcome reporting to sponsor

# Model C: Two Entities / Pre-approved Grant / Indirect



# MOU/Grant Considerations

- Sponsor holds donation in restricted fund and makes grants to project entity from time to time
- Specific-purpose grants to project entity; reports from project entity
- How are solicitations for donations/grants coordinated?
- Guidance on lobbying to meet (c)(3) lobbying requirements
- Sponsor administrative fees
- Termination/potential transfer of balance of assets to successor charity

# What Types of Insurance Should be Considered When Reviewing the Exposures Related to a Project?

## Direct model sponsorships impact:

- General Liability
- Directors & Officers
- Professional (E&O)
- Employment Practices Liability
- Workers' Compensation
- Accident Insurance (volunteer and/or participant)

## Grant model sponsorships impact:

- General Liability
- Directors & Officers Liability

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