

Purpose

To provide guidance on roles and responsibilities of a fiscal agent in relationship to a coalition or other outside group.

What is a Fiscal Agent?

Fiscal Sponsorship. The term “Fiscal Sponsorship” describes an arrangement between a non-profit organization with 501(c)(3) tax exempt status and a project, often a new charitable effort, conducted by an organization, group, or an individual that does not have 501(c)(3) status. Fiscal sponsorship permits the exempt sponsor to accept funds restricted for the sponsored project on the project’s behalf. The sponsor, in turn, accepts the responsibility to ensure the funds are properly spent to achieve the project’s goals. This arrangement is useful for new charitable endeavors that want to “test the waters” before deciding whether to form an independent entity as well as temporary projects or coalitions that are looking for a neutral party to administer their funds.

Fiscal Agency. The term “Fiscal Agency” similarly refers to an arrangement with an established charity to act as the legal agent for a project, but a fiscal agent does not retain the discretion and control that is a required element of a fiscal sponsorship. Under agency law, the agent (tax-exempt organization) acts on behalf of the principal (project) who has the right and legal duty to direct and control the agent’s activities. This arrangement makes sense when a small nonprofit that has its own tax-exempt status wishes to contract with another organization to provide back office or administrative support. The important distinction between a fiscal sponsorship and a fiscal agency arrangement is that funds contributed to a non-exempt project that has a fiscal sponsor are tax deductible to the donor and those that are contributed to a project with a fiscal agent are not. ¹

What are the typical Responsibilities of a Fiscal Agent?

The fiscal agent is typically the legal grantee for funds applied for in their name. As such is their responsibility to²:

- Monitor expenditure of funds for legality
- Adherence to grant fiscal guideline
- Budget oversight (with the sponsored entity) including but limited to:
 - Monthly financial statements;
 - Copies of all financial reports;
 - Year-end reconciliation and
 - Other reports/documentation deemed necessary and appropriate by the coalition.
- Provide accounting services to prepare and distribute payroll, pay invoices, prepare and submit the appropriate forms for employment, wages and payroll taxes on behalf of the coalition.

¹ <http://charitylawyerblog.com/2010/09/17/fiscal-sponsorship-vs-fiscal-agency/-access> 3/13/2017

² Epiphany Community Services, Fiscal Agent MOU Sample, 2015

- Maintain all records pertaining to costs and expenses to reflect costs of labor, materials, equipment, supplies, services, and other costs and expenses when reimbursement is claimed or payment is made.
- Oversight of employees (on behalf of the sponsored entity)
 - Responsible for withholding, payment and typical employment obligations
 - Obtain Workman's Compensation Insurance and liability coverage for the project staff
 - Maybe shared with sponsored entity (based on MOU)
 - Other items which may include
 - Provide the project staff with office space and furniture, computer, phone, fax, copier.
- Other duties as agreed to between fiscal agent and sponsored entity detailed in a memorandum of understanding (MOU)

What are typical responsibilities of a sponsored entity²?

The sponsored entity is purchasing services from a fiscal agent for items they are unable to accomplish because of not being eligible for funds being managed on behalf of the sponsored entity. As such the sponsored entity gives up some responsibility and control to the fiscal agent. Depending on the funding and arrangement much of this can be detailed and accounted for in a strong MOU that details expectations, roles and responsibilities. Typical responsibilities include:

- Management of the funded project
- Setting and overseeing programmatic direction for the funded project
- Staff and contract management (hiring, supervision etc.) within the confines of the funded project
- Typically detailed in the MOU
- Budget development and approval in conjunction with the fiscal agent

How to create an effective fiscal relationship³?

As with all relationships, clear expectations and communication are keys to success. This should be detailed in a written agreement that provides hard edges of the relationship inclusive of do's and don'ts, how to amend the relationship and how to resolve conflict when it arises. Before entering a fiscal agent relationship, be sure to determine if it is a good fit for all parties that will be involved. Do so by asking the following:

- What is the motivation to engage in this relationship?
- Is the fiscal agent going to be reimbursed financially because of the relationship?
- Is there a mission fit between the potential project and fiscal agent?
- Does the fiscal agent have the capacity to engage in this process?
- Does the fiscal agent can view/treat this project differently than other agency projects i.e. hiring, supervision etc.
- Does the fiscal agent have experience with such processes, if yes were they successful?

³ 2012, March Doing Right by the Projects: Fiscal Sponsorship after IHC, www.fiscalsponsorship.com accessed 3/13/2017

Other key elements to consider when developing an MOU include:

- The sponsored entity is not a “program” of the fiscal agent
- Staff assigned to the funded project are not fiscal agent staff
- Supervision of the project staff is the responsibility of the funded project, except for employment functions i.e. hours, documentation etc.
- Both parties have the right to sever the relationship
- The relationship is reviewed and updated annually
- Who can refuse or allow certain items and for what reasons i.e. expenditure of funds or raises to project staff.
- There is adequate insurance for sponsor with the sponsored entity named.
- Conflict resolution process, what constitutes a conflict and who has the final word in disagreements.