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Fiscal Sponsorship Up Close: Understanding the Benefits and Pitfalls

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Colorado Nonprofit Association
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Overview



What Is Fiscal Sponsorship?

A formal relationship in which ...

Sponsored Project

A group or organization raises funds or undertakes a charitable endeavor ...

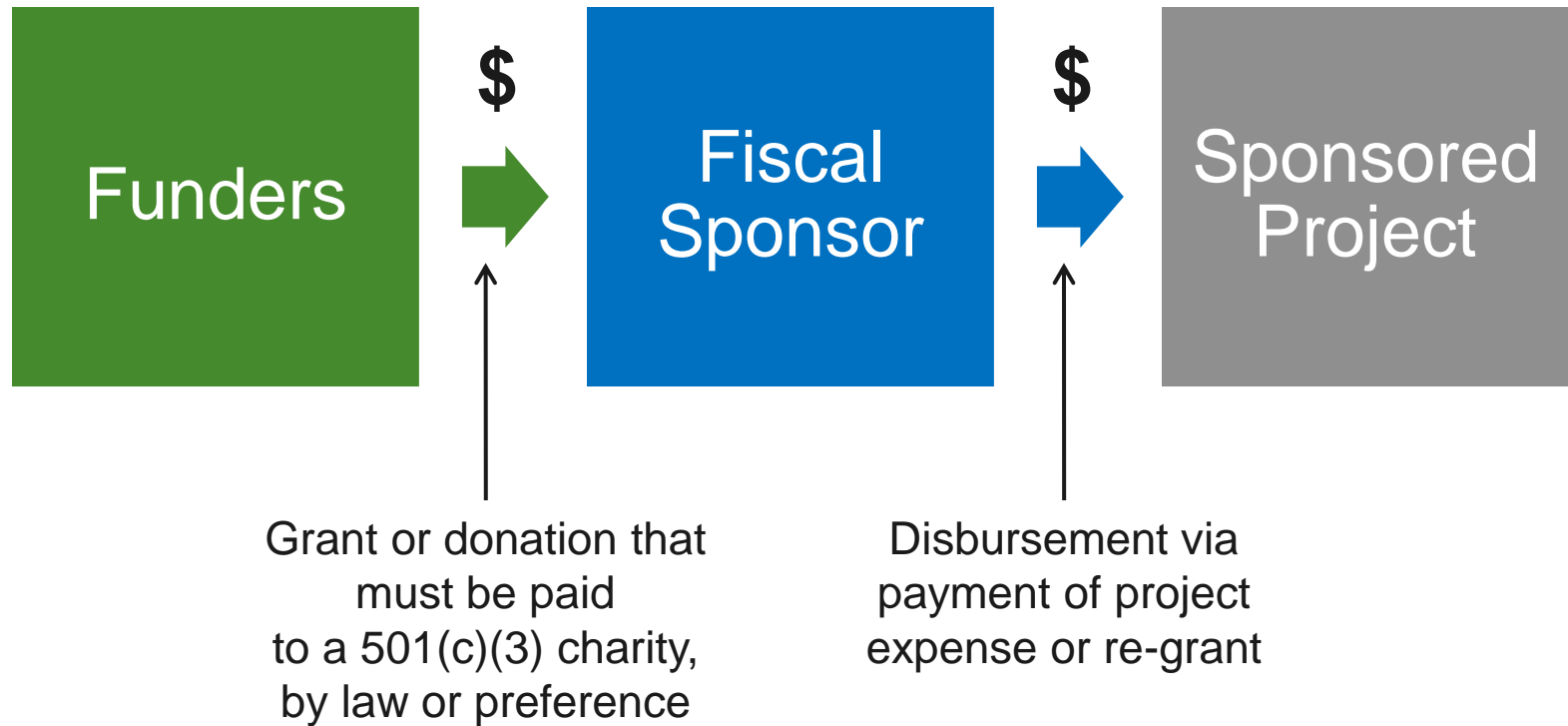


Fiscal Sponsor

... under the umbrella of a 501(c)(3) public charity, which retains discretion and control



How Does Fiscal Sponsorship Work?





Who Does What in Fiscal Sponsorship?

- **Sponsored Project** provides project planning and boots-on-the-ground to make mission / vision a reality (e.g., mission/strategy, budgeting, fundraising, direct activities)
- **Fiscal Sponsor** provides oversight, support, operating platform (sometimes) and 501(c)(3) umbrella (e.g. back office administration, training, reports to grantors)
- **Funders** provide capital and accountability



Fiscal Sponsorship Is *Not* a Pass-Thru!





Core Principles of Fiscal Sponsorship

Alignment of Mission
between Project
and Sponsor



Sponsor has Full Discretion and Control
over Project or
Project funds



Sponsor has Legal / Financial Responsibilities
for Project or
Project funds





Benefits of Fiscal Sponsorship

■ Sponsored Project

- Access to support and experience of Sponsor
- Efficiency, economies-of-scale
- Focus on programs, not back-office
- Immediate access to funds

■ Fiscal Sponsor

- Expand mission reach
- Encourage innovation and new projects
- Increase probability of success

■ Funders

- Greater funding opportunities
- Simplify grant underwriting and oversight





Fiscal Sponsorship – The Wrong Way



Remember: Fiscal Sponsorship Is *Not* a Pass-Thru!





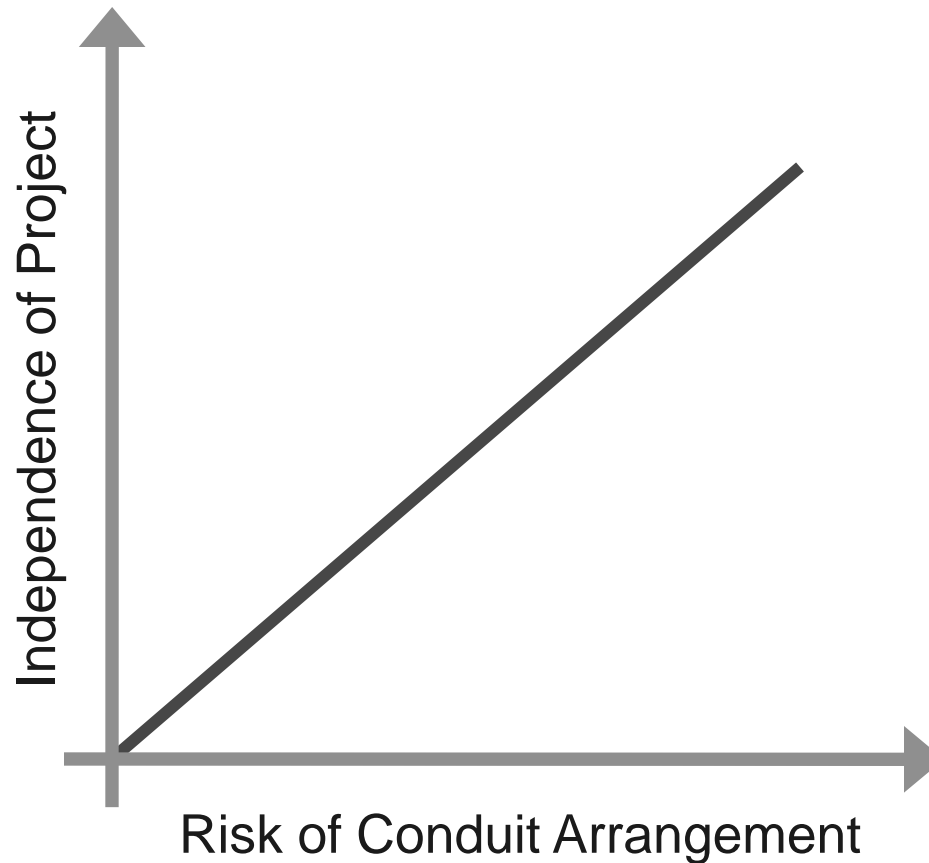
The Wrong Way ...

- **Fiscal sponsor *cannot* be mere conduit**
 - Earmarking for particular group or organization is not allowed (versus project or purpose)

- **Fiscal Sponsor *cannot* be “Fiscal Agent”**
 - Must be “principal,” not “agent”
 - Must have ultimate control and authority over Project or Project funds

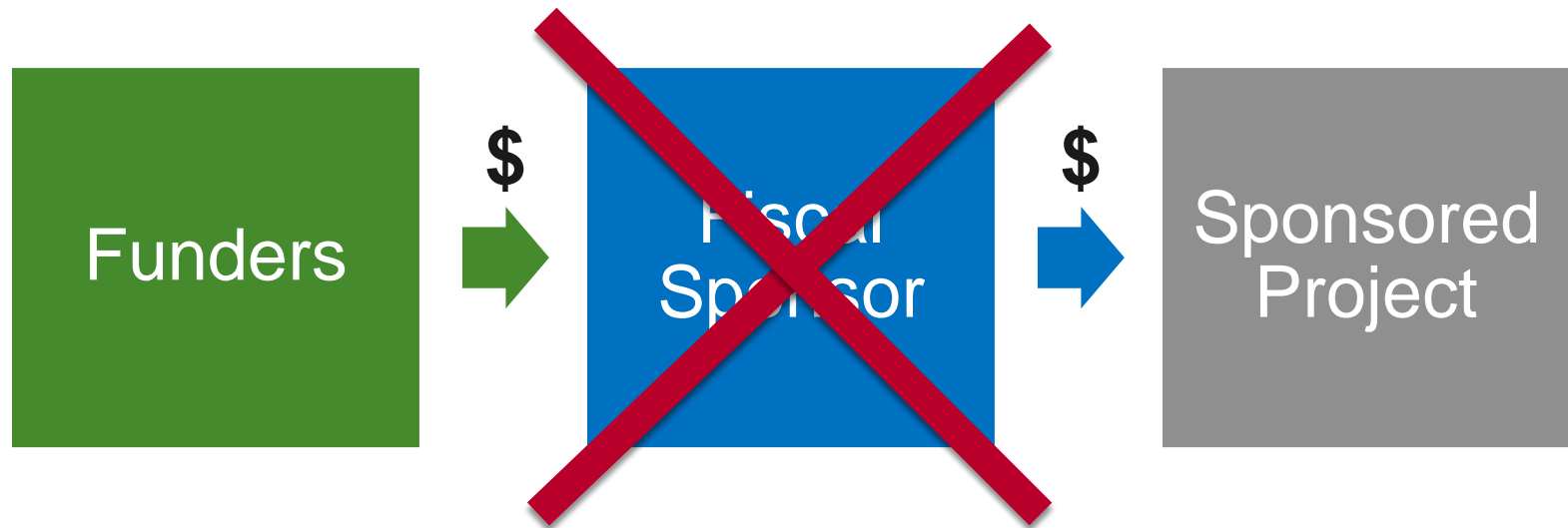


Project Independence v. Conduit Risk





What Will Happen?



The IRS Will Disregard!



And Ugly Things Will Follow!

■ Funders

- Tax penalties (private foundations)
- Loss of charitable deduction (individuals and businesses)

■ Fiscal Sponsor

- Adverse impact on credibility and reputation
- Possible loss of 501(c)(3) status
- Civil liability

■ Sponsored Project

- Loss of funding
- Negative PR and donor relations
- Civil liability





What Else Can Go Wrong?

- Sponsor goes bust or closes shop
- Misappropriation of funds for other purposes
- Project goes rogue
- Sponsor goes rogue
- No exit strategy!



Fiscal Sponsorship – The Right Way



Remember:

Core Principles of Fiscal Sponsorship

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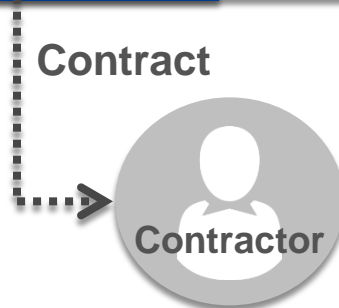
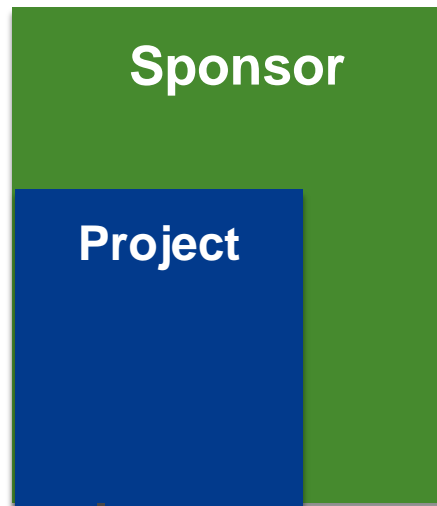


Common Fiscal Sponsorship Models

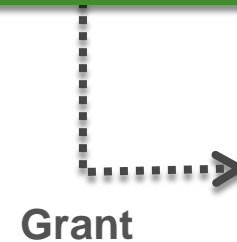
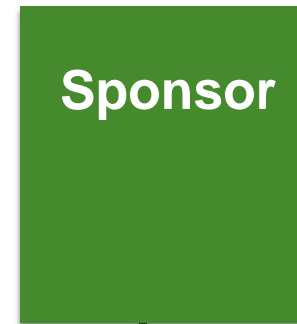
Project | Model A



Project | Model B



Re-Grant | Model C





Project v. Re-Grant

Project Model A	Project Model B	Re-Grant Model C
Sponsor owns / controls Project	Sponsor owns / controls Project	Grantee owns / controls Project
Sponsor brings Project in-house	Sponsor outsources Project to Contractor	Sponsor supports Project via pre-approved grant
Sponsor has legal / financial oversight over Project	Sponsor has legal / financial oversight over Project	Sponsor has legal / financial oversight over Grant
Sponsor can select and replace Project staff	Sponsor can select and replace Contractor	Sponsor can re-direct Grant
Project staff work under Sponsor's supervision	Project staff work under Contractor's supervision	Project staff work under Grantee's supervision



Project v. Re-Grant

Project Model A	Project Model B	Re-Grant Model C
Sponsor pays Project expenses	Sponsor pays Project expenses	Sponsor makes Grant payments
Sponsor usually owns work product and property	Sponsor usually owns work product and property	Grantee usually owns work product and property
Sponsor signs all project and grant agreements	Sponsor signs all grant and many project agreements	Sponsor signs only grant agreements
Disbursements reported as expenses on Sponsor's Form 990	Disbursements reported as expenses on Sponsor's Form 990	Disbursements reported as grants on Sponsor's Form 990



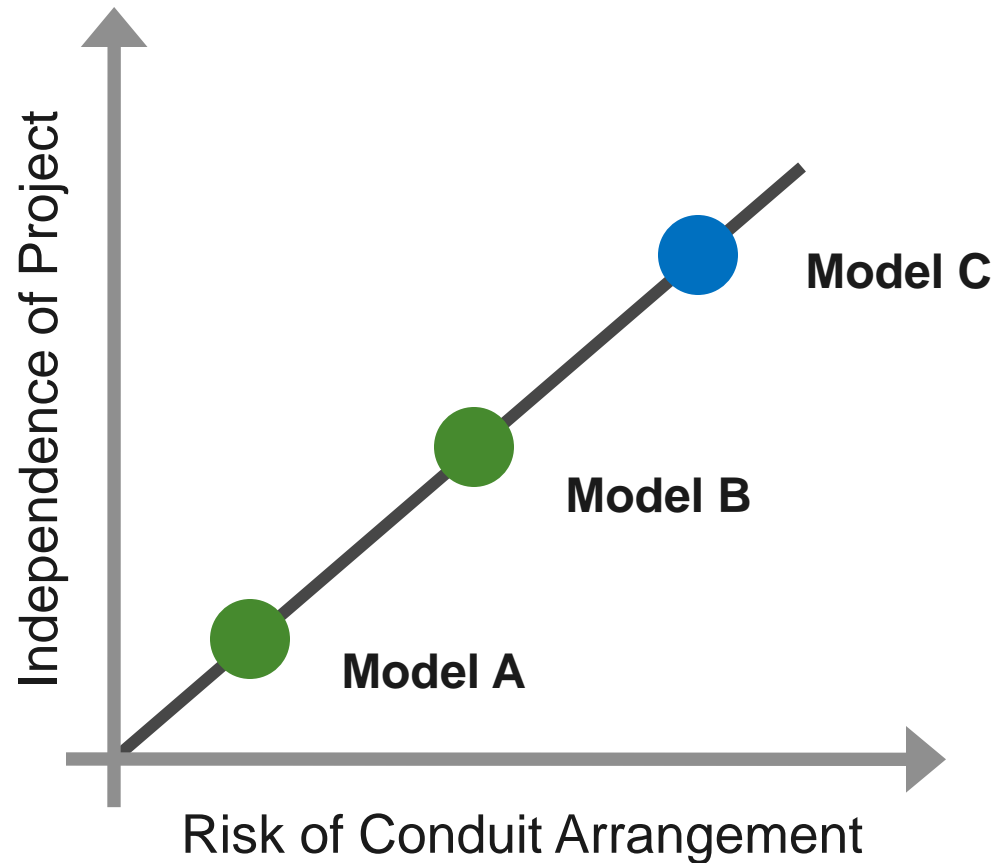
Re-Grant Model – A Few Caveats!

- **Two** grants are involved:
 - Grant from **Fiscal Sponsor** to **Sponsored Project**
(payable from funds raised)
 - Grant from **Grantor** to **Fiscal Sponsor**

- Highest risk for mere conduit / pass-thru
- Good process and documentation is key



Project Independence v. Conduit Risk





Model A →

← **Model C**

Model B →



Fiscal Sponsorship in Practice



Best Practices

1. Sponsor has clear program and mission focus

- Clear, written mission statement
- Mission *aligns* with Project's

2. Sponsor is compliant with applicable laws and tax regulations

- Good standing where incorporated, and registered to do business where operates
- 501(c)(3) public charity status, current in tax filings



Best Practices

3. Sponsor displays fiscal integrity

- Financially solvent, evidenced by financial statements
- Board-approved budget, with system for monitoring
- Process for handing funds, with separate fund accounting

4. Sponsor displays administrative / operational integrity

- Sufficient staffing and insurance
- Adequate systems and operational policies



Best Practices

4. Sponsor has leadership accountability

- Board is engaged, operates ethically, with robust governance policies and structure in place
- Board *approves* new projects *in advance*
- Leadership fits well with Project's leadership

5. Sponsor assesses Projects consistently

- Established system for vetting new Projects
- *Written agreement* between Sponsor and Project (either grant agreement or project agreement)!



Best Practices

7. Sponsor displays commitment to Project

- Regular communication with Project, funders as needed
- Financial oversight of Project and Project funds
- Project training, where possible

8. Sponsor sets out expectations for Project

- Operate ethically, fundraise actively
- Regular reports to Sponsor and funders
- System for requesting funds, approving disbursements
- *Exit plan!*



Documentation – Key Provisions

Sponsorship Agreement (Sponsor and Project)

- ❑ Project description, approval and leadership
- ❑ Project ownership and control (including work product)
- ❑ Fiduciary oversight
- ❑ Creation of restricted fund
- ❑ Disbursement of funds
- ❑ Required reports
- ❑ Exit strategy

Grant Agreement (Funder and Sponsor)

- ❑ Project description
- ❑ Approval of project or grant by Sponsor
- ❑ Restriction of gift to Project purpose (no earmarking)
- ❑ Power to change Project leadership or redirect grant
- ❑ Fiduciary oversight by sponsor
- ❑ Reports from Sponsor

Note: key provisions will differ depending on model used!



Areas to Watch Your Step!

- Poor understanding of fiscal sponsorship relationship
- Absence of sponsorship agreement
- Agreement that “blends” models
- Pass-thru of funds without independent review
- Non-routine or “one-off” sponsorships
- Fiscal sponsorship as a “favor”
- Failure to address key issues
(property ownership, exit strategy)





Conclusion



**Thank you
for all your good work!!!**



Resources



Resources: Fiscal Sponsorship

■ Websites

- Leaffer Law Group Nonprofit Law Blog, at leafferlaw.com/category/fiscal-sponsorship
- National Network of Fiscal Sponsors, at fiscalsponsors.org
- Tides Foundation, at tides.org
- Foundation Center, at grantspace.org

■ Books

- Gregory Colvin, *Fiscal Sponsorship: 6 Ways to Do it Right*



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