

# Fiscal Sponsorship and the Siskiyou Arts Council

## Introduction

Below is basic information about Fiscal Sponsorship provided by the Shasta Regional Community Foundation in their booklet “Fiscal Sponsorship: A Technical Assistance Paper.” This information is intended to inform and educate you on the meaning and reality of Fiscal Sponsorship, and covers many aspects of this relationship between a project and its sponsor. Although we are using the term sponsorship, we regard this relationships much more of a partnership, as can be seen in the following...

### **Fiscal Sponsorship is for you...**

1. If you are currently a sponsor or sponsored organization or activity; or if you're considering the possibility of sponsorship;
2. If you're an unincorporated group or an incorporated organization without a 501(c)(3) status and are planning to provide services for which you're seeking funding – from public sources, from foundations, from individuals who will want tax deduction for their gifts to your project;
3. If you're a 501(c)(3) organization that wants to focus on the mission rather than the administrative detail or would appreciate the support of strong/developed administrative systems;
4. If you're a potential donor to a sponsored project and you want assurance that your contribution will be considered a charitable one for tax purposes.

Fiscal sponsorship is a great way to provide support to an emerging organization, to a relatively small organization that wants to focus on the mission of the organization rather than the administrative details, to an unincorporated coalition, to an individual or group without organizational auspice. Fiscal sponsorship relationships are also utilized by very large organization. For example, a large organization might use a sponsor to manage a specific grant. Although organizations often assume responsibility for just “passing through” funds for sponsored entities, the relationship of fiscal sponsor is clearly defined as a legal relationship, and acting in a “pass through” manner can result to negative tax consequences for the sponsor.

The basic relationship defined by fiscal sponsorship is one in which a 501(c)(3) sponsor organization assumes responsibility and public accountability under its corporate structure for a sponsored project or organization. As referenced above, there are a number of ways in which fiscal sponsorships may be crafted. The following format in which the sponsor provides administrative services for the sponsored organization or project, is that adopted by organizations that provide fiscal sponsorship as their primary service. [It is possible for a sponsor to receive and then transfer all funds to the project, which then pays the bills and provides detailed accounting back to the sponsor. It is possible for the project to be legal employer with federal ID number and responsibility for filing tax returns. Such arrangements must be crafted very carefully not to jeopardize tax status of the sponsor and deductions of donors.]

In a typical well-crafted sponsorship relationship, the fiscal sponsor assumes responsibility for all of the work and operations of the sponsored organization or project. Essentially, the program and the business of the sponsored entity becomes the program and business of the sponsor. Although the term fiscal agent is often used to refer to this relationship, “fiscal agent” is a misnomer. An agent

works at the behest of the other party. In fiscal sponsorship, legally the sponsored entity is a functionary of the sponsor. The term “fiscal sponsorship” is also a bit of a misnomer to the extent it indicates that the relationship is essentially fiscal in nature. The more inclusive “sponsorship” is a more accurate reference to the depth and breadth of the relationship.

What does this mean for practical purposes? If the sponsored activity has staff, those staff operate as staff of the sponsor; need to be treated as staff of the sponsor and covered by the sponsor’s insurance and personnel policies. The sponsor is liable for activities conducted by the sponsored entity and therefore should include any program sites and activities in risk management programming and insurance coverage. The sponsor is responsible to the public for the charitable status of the work performed and funds spent by the sponsored organization. A strong sponsor relationship includes the sponsored entity in the sponsor’s organizational chart, with attendant supervisory and consultative relationships identified and pursued.

**Why be a sponsor?** What’s in this for the sponsor besides considerable added risk? Sponsorships are a great way to support the cutting edge of charitable work in the community, to strengthen the administrative support, and reduce expenditure of resources on development of duplicative administrative structures. For sponsored organizations, this relationship allows them to have the advantage of a well-developed systems (fiscal, human resources, legal, contract reporting and compliance) and to focus on their missions without the distraction of trying to establish and maintain systems, or functioning without the safety net of well established administrative support. The Siskiyou Arts Council has determined that it will be a fiscal sponsor for programs that are compatible with the Siskiyou Arts Council’s mission.

**Why not be sponsored?** As described above, sponsored projects/organizations can reap many benefits of administrative support. But, as the sponsor is legally responsible for everything the project does, so is the sponsor responsible to comply with terms of funding contracts and the law. If the project and sponsor disagree, the project may be forced to “do it their way”. There is an implied loss of self-determination in the relationship.

**Mission Congruence:** In terms of legal compliance – Articles of Incorporation and By-Laws and the sponsor’s public accountability – the mission and activities of sponsored projects need to be consistent with those of the sponsor. With regard to the above referenced professional sponsor organizations, their missions are to be sponsors. On a smaller scale, the mission of the sponsor should be inclusive of the missions of any sponsored programs. This consideration relates to legal compliance issues and the public charter obtaining corporate and tax-exempt status of the sponsor organization. For example, income to a program extraneous to organizational mission might be determined unrelated business income.

At a very practical level, sponsor support, management systems, responsibility, risk management, and supervision are more effective when the sponsor has a passion for the mission of the sponsored project and understands the basic business; the work and work environment within which the sponsored organization is functioning.

**Sponsoring, the process:** If you’re looking for a sponsor, look for a strong organization with administrative systems in place. Look for an organization that has sponsorship history, and organizational goal to foster the growth of new charitable activities in the community. Look for an organiza-

tion whose mission is, at a minimum, consistent with yours. Look for staff with whom you want to work. And, then, look for clarity and definition in the development of your sponsorship agreement.

**Applications:** Sponsor organizations may request applications from potential sponsored projects, asking for outlines of program activities, lists of advisory committee members, draft first year budget, service expectations, etc. See following pages for the application used by the Siskiyou Arts Council.

**Agreements:** All sponsorship relationships should be defined within an agreement, which includes processes for ending the relationship. (See following pages for the sponsorship agreement used by the Siskiyou Arts Council.) In recognition of the work and responsibility involved in being a good sponsor, unless the sponsor specifically wants to subsidize the sponsored activity, sponsorship agreements should include funding to support the work of the sponsor. Sponsorship rates historically range from 0-40%. Currently the most common payments to fiscal sponsors range from 10% to 15% of budget of the sponsored organization/project, with minimums established for small projects. Technically these funds are not fees, but retention of income to cover overhead and administrative costs. Sponsorship funds typically cover bookkeeping, human resources support, and insurance. See the list of services available from the Siskiyou Arts Council. The Siskiyou Arts Council is projecting sponsorship rate of 20% in terms of the services we will be providing.

Basic legal services may be covered by the agreement, but extensive work is usually charged at cost of counsel. Salaries and benefits costs are above and beyond sponsorship "fees". Sponsorship services may include reporting functions to project funders.

### **Services Typically Provided by Fiscal Sponsors \***

The services available from sponsors vary from none to those listed below.

#### **Financial**

- Federal, state, and local tax and informational returns
- Receipt and acknowledgement of tax-deductible donations and grants
- Payroll tax remittance and filings
- Monthly financial statements
- Financial record keeping
- Independent audit
- Check processing and issuance for expenses, I-9's 1099s

#### **Insurance**

- Directors' & Officers' Insurance
- Volunteer Insurance
- General Liability
- Workers Compensation
- Umbrella
- Commercial Automobile

#### **Human Resources Administration**

- Payroll processing, W-2s
- Personnel policies in compliance with federal, state, and local laws

Comprehensive benefits package  
Benefits administration, 5500  
Technical assistance on personnel issues

**General Administration**

Bulk postal rate permit  
Resale permit  
Sales tax reports  
Legal advice  
Grant progress reports

\* The above listing of “Services Typically Provided by Fiscal Sponsors “ is taken from Nonprofit GENIE, written by David Barlow, CPA, and Executive Director of the San Francisco Foundation Community Initiative Funds. The Nonprofit GENIE is a web site developed by CMAP (the California Management Assistance Partnership) and maintained by CompassPoint. See [www.genie.org](http://www.genie.org).

Attached to this material from the Siskiyou Arts Council is the original booklet “Fiscal Sponsorship: A Technical Assistance Paper” from the Shasta Regional Community Foundation.

# Fiscal Sponsorship and the Siskiyou Arts Council

## Getting started:

The following pages include two checklists to help guide the process of crafting a fiscal sponsorship relationship with the Siskiyou Arts Council. The agreements provide an outline of critical elements.

**A final reminder: one of the most important considerations at the beginning of the process is development of a common understanding regarding long term expectations and details related to how the relationship will end.**

### Fiscal Sponsorship Planning Checklist

- Budget:** Do the Siskiyou Arts Council and the project agree that the project income and expense budget is realistic?
- Confidence:** Given that the sponsorship relationship is essentially a hiring relationship, do the Siskiyou Arts Council and the project have confidence in the respective skills of the other? Have they determined they want to work together? In some ways, this is even more important than just straightforward hiring because although good sponsorship relationships involve frequent contact, by virtue of “separate organizational structures”, the sponsorship relationship has a sense of greater distance than regular staff relationships.
- Finance:** Has the Siskiyou Arts Council identified costs associated with sponsorship, and is the sponsored entity prepared to pay for the service? Does the agreement clearly acknowledge the Siskiyou Arts Council’s ultimate control of the funds and the project’s responsibility for accountability?
- Longevity:** Do the Siskiyou Arts Council and the project agree about the potential for an ongoing relationship or is the sponsorship intended to be time limited? Have they developed an out clause or description of processes by which the relationship may be ended?
- Mission:** Is the Siskiyou Arts Council’s mission inclusive of the work of the sponsored project/organization? Does the Siskiyou Arts Council have a passion for the work of the sponsored project?
- Personnel policies:** The Siskiyou Arts Council has personnel policies. Is the sponsored project prepared to be covered by those policies?
- Parties to the agreement:** If the sponsored project/organization is not incorporated as a legal entity, who signs, and is therefore responsible for keeping, the agreement? This may be a paid project director or volunteer chair of an advisory board.
- Reporting:** What is the plan for reports from the Siskiyou Arts Council (e.g., financial reports), and from the project (e.g., program reports).
- Risk management & insurance:** Have the project and Siskiyou Arts Council identified risks, and does it have plans for managing them? What coverage does the sponsored project have? Has the Siskiyou Arts Council affirmed with its agent adequacy of coverage including general liability, bonding, errors and omissions, directors’ and officers’?
- Services:** What services will the Siskiyou Arts Council provide to the sponsored project? Accounting: with what frequency will your project need check writing and statements back? Will there be extra charges for on-demand check writing? Human Resources: to consist of what? Legal Services: what are the limits of legal services provided by the Siskiyou Arts Council? Will legal services incur additional charges to the project? What other services would possibly be needed by the project?
- Supervision:** The Siskiyou Arts Council will allocate staff time to maintain close contact with the sponsored project. Are there other vehicles for ongoing contact (e.g. cross over membership on advisory committees, etc.)?

# Fiscal Sponsorship and the Siskiyou Arts Council

## **Sponsorship Agreement/Memorandum of Understanding Checklist**

- ❑ Name, address and all pertinent contact information of both organizations
- ❑ Description of the relationship
- ❑ Description of services provided
- ❑ Roles of participants – Sponsor, Sponsor’s Board of Directors, Projects, Project Advisory Councils
- ❑ Time period covered by the agreement
- ❑ Exit clause and plan for termination of the agreement
- ❑ Description of administrative policies and practices to which the project will be subject

# Fiscal Sponsorship and the Siskiyou Arts Council

## Application Guidelines for Becoming a Project of the Siskiyou Arts Council

In applying to be a sponsored project of the Siskiyou Arts Council, please follow these steps:

- Review the criteria listed below to assess whether or not your organization is an appropriate candidate.
- Answer the application questions listed below. Applicants are encouraged to answer each of the questions as described but may instead submit a short (approximately 10 pages) previously written document or proposal, ensuring that all of the questions are answered. Please limit the amount of supplemental materials you submit and be sure to number the pages.
- Submit a Completed application to the address listed below.

Criteria:

1. Organization's activities must contribute to the mission of the Siskiyou Arts Council.
2. Organization must have a need for, and the potential to benefit from the services provided by the Siskiyou Arts Council.
3. Organization must be willing to work in collaboration with the Siskiyou Arts Council.
4. Fiscal sponsorship is for long-term projects. Organization must plan to stay with the Siskiyou Arts Council for at least one year.

Organizations which have funding of approximately 50% of their total first year budget will be given priority.

Please, in your own words, write a letter answering the following questions and including any other documentation you feel is necessary.

1. How did you hear about the Siskiyou Arts Council?
2. How did this organization or project start?
3. Describe why your organization is needed and how this was determined.
4. What is the mission or primary goal of the organization?
5. What is your initial strategy for achieving the mission or primary goal?
6. Describe your strategy for raising funds to support the organization (please include a list of any existing or confirmed funding).
7. How is the organization connected to a community or network?
8. How is diversity prioritized in your organization's work?
9. Describe the leadership and overall organizational structure and, if applicable, please describe:
  - The roll of different staff
  - The role of an advisory board or steering committee. In each case, please include a brief biographical description of any individuals who have been identified for these positions.
10. Please submit an annual budget.

# The Siskiyou Arts Council

## Memorandum of Understanding

MISSION STATEMENT HERE

### Participants

This memorandum sets forth the understanding of \_\_\_\_\_, who shall serve as Project Director for Project \_\_\_\_\_ (Name), located at \_\_\_\_\_ (Address of Project) and the Siskiyou Arts Council

### Purpose of Memorandum of Understanding

The purpose of this Memorandum of Understand is to provide an overview of the basic policies of the Siskiyou Arts Council and to describe the authority and role of The Siskiyou Arts Council Administrative Offices.

### Structure of Relationship

The Siskiyou Arts Council is a nonprofit public benefit corporation under the laws of the State of California and is tax exempt under sections 501(c)(3) of the Internal Revenue Code. The Siskiyou Arts Council accomplishes its mission primarily through its network of projects. After approval of the Siskiyou Arts Council Board of Directors, sponsored projects are direct activities of the Siskiyou Arts Council.

### Roles of Participants

***Siskiyou Arts Council Administrative Offices:*** The Siskiyou Arts Council exercises full legal and managerial control over projects and has the authority to set and change policies at any time. **The Siskiyou Arts Council will manage all monies collected for the project via the SAC's 501(c)(3) non-profit status. The SAC will retain an administrative fee of \_\_\_\_\_% of all monies received (amount to be specified for each sponsored project).** To support the programmatic activities of its projects, Siskiyou Arts Council provides project management, financial, and human resources services. Siskiyou Arts Council is the employer of all staff members of all projects, with full decision-making authority for hiring and termination of project employees. Siskiyou Arts Council has the responsibility for all activities of its projects and, as part of this role, must review and approve all contracts loans, publications, copyrights, and other legal documents. When conflicts arise, projects are expected to keep Siskiyou Arts Council informed of the issues, and Siskiyou Arts Council will get involved if the situation demands. Each project is assigned a Project Coordinator who monitors project activities. The Project Coordinator conveys necessary information and resources and responds to questions raised regarding Siskiyou Arts Council systems

***Siskiyou Arts Council Board of Directors:*** The Siskiyou Arts Council Board of Directors has full governing authority over and full legal and fiduciary responsibility for all projects. The Siskiyou Arts Council Board of Directors delegates the authority to manage Siskiyou Arts Council activities to the President of The Siskiyou Arts Council.

***Sponsored Projects:*** Projects carry out programmatic activities which contribute to Siskiyou Arts Council's mission. A project of The Siskiyou Arts Council is not a discrete entity; rather it is a constituent part of The Siskiyou Arts Council corporate structure. The

Siskiyou Arts Council's President delegates responsibility for day-to-day operations to the Project Director. Projects must comply with all federal and state regulations. Projects are also fully responsible for raising sufficient funds to cover operating expenses as well as for keeping track of revenues and expenditures. It is understood that projects will have a substantial part of your projected budget (which SAC have reviewed and accepted) in hand before making any expenditures or commitments. And that you will only spend or commit moneys on hand to avoid accumulating debt.

***Sponsored Projects Advisory Boards:*** Advisory boards are recommended for all projects and may be required when a project has more than two staff members and/or a budget greater than \$100,000. While these boards have no legal or governing authority, they provide an important mechanism of accountability and support for projects. Advisory boards are responsible for providing assistance in areas not covered by Siskiyou Arts Council services, such as fundraising and organizational development. They also monitor and evaluate the performances of Project Directors. In addition, advisory boards play an important role in facilitating communication between projects and Siskiyou Arts Council; they may provide Siskiyou Arts Council with advice and recommendations regarding personnel, financial, and administrative matters as well as other issues related to their projects.

#### Terms

This Memorandum of Understanding remains in effect for one year from the date of signing by the Project Director. If this Memorandum of Understanding expires without renewal, the policies set by The Siskiyou Arts Council Board of Directors will apply to the project and will remain in effect until the relationship is terminated or a new MOU is approved by the Siskiyou Arts Council.

#### Project Closure

Siskiyou Arts Council may elect to close the project at the date of the annual review. If the project would like to spin-off into an independent entity, the project must notify Siskiyou Arts Council as soon as possible. Siskiyou Arts Council reserves the right to terminate the project at any time if Siskiyou Arts Council determines that project staff has engaged in unauthorized or illegal activities or the project has violated any Siskiyou Arts Council policies. In the event that the project is financially inactive for a period of one year or longer, The Siskiyou Arts Council President with approval from The Siskiyou Arts Council Board of Directors may decommission the Project.

#### Terms of Understanding

Each of the undersigned has read and understands the foregoing and all policies and procedures described in the *Siskiyou Arts Council's Policies and Procedures*.

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for the Siskiyou Arts Council Date

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, Project Director for Date

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PROJECT ADVISORY BOARD\* for Date

