



Community Foundation of Orange and Sullivan **Policy for Serving As Fiscal Sponsor of Tax-Exempt Projects**

The Community Foundation of Orange and Sullivan (Foundation) may choose to provide fiscal sponsorship for tax-exempt, charitable projects that further the purposes of the Foundation. Sponsorship services include the receipting and management of contributions, and the authorization and payment of grants and expenses from the fund created for the project. Sponsorship services do not include extensive administrative or fundraising support, financial support or project implementation.

The primary beneficiaries of sponsorship services are typically new charities without an IRS determination letter and community groups planning a specific, finite project that is clearly charitable in nature and in furtherance of the charitable purposes of the Foundation.

Procedures: The Foundation will be guided by the following guidelines, which are designed to protect the interest(s) of both donors and the Foundation. The Foundation reserves the right to accept or decline any fund. It also reserves the right to close out a fund. *The Foundation will consider each situation individually.* Exceptions to this policy may be made in extenuating circumstances and upon approval by the Foundation's Board.

1. The Foundation requests that interested groups complete a detailed application form that includes (a) a description of the project; (b) its tax-exempt purpose, goals, and expected life span; (c) fundraising plans; (d) a list of advisory group members; (e) current and future budgets, bylaws and other organizational documentation; (f) and a concise statement of how the proposed fund meets the charitable purposes of the Foundation. The application should also explain if any feasible alternative is available for the fund, i.e. why does the donor believe it is necessary to use the Foundation as a fiscal sponsor, and what are the alternatives. Applicants are encouraged to discuss their projects and applications with Foundation staff prior to submittal. (See Attachment A - "Application for Fiscal Sponsorship" attached).

2. The Executive Committee of the Foundation will review the application and decide whether to create a simple “special project” fund or if it is necessary to adopt the project as a Foundation project. Depending on what the Board decides, an appropriate fund agreement between the applicant and the Foundation will be completed and a fund bearing the project’s name will be established. If it is a sponsored project, then the project is accounted for as “*The XYZ Fund, a project of The Community Foundation*” for IRS auditing, financial reporting, marketing, and fundraising purposes. The Foundation may require credit in publications and news releases or stories concerning the project. Likewise, the Foundation may give the project mention in newsletters, press releases, annual reports and similar publications of the Foundation.
3. When the Board resolves to adopt the project, it retains the right to approve all payments from the fund created to carry out the purposes of the project. The project advisory group makes recommendations for the specific expenditures. The Foundation staff reviews the recommendations, and if staff concurs, authorizes payments. Payments may be made solely in furtherance of the project’s approved tax-exempt purposes.
4. The Foundation prepares receipts and acknowledgments for donations and gifts to the project fund in accordance with the IRS requirements.
5. The Foundation will accept funds from private foundations and individual donors in furtherance of the project with the understanding that as long as the Foundation is the fiscal sponsor for the project, disqualified individuals, as defined by the IRS, will not have any expectation of advising on expenditures from the fund.

Groups may apply to other funding sources under the auspices of the Foundation, but the Foundation is not in any way responsible for actual fundraising or for providing financial support for the project. Foundation staff must review in advance all fundraising plans and requests for funding. In addition, all copy used in marketing or fundraising must be approved by Foundation staff.

If there are project funds remaining on hand after a project is completed or abandoned, such funds may be used by the Foundation for a similar tax-exempt purpose or, if there is none reasonably available, for any tax-exempt purposes designated by the Foundation.

For more information, call the Community Foundation of Orange and Sullivan at (845) 769-9393.

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Compensation: See Attachment B - “Administrative Fee Schedule” for administrative costs associated with handling a fiscal sponsorship fund. The Foundation reserves the right to modify this fee, should administration of the Fund prove to be more time-consuming than anticipated.

The Basic Legal Rules: When any donor makes a gift or grant to a secondary grantee (such as a charitable project), by first routing it through an intermediary grantee (such as the Foundation), the IRS, the Internal Revenue Code and the relevant Treasury regulations consistently apply a basic legal principle.

If the gift or grant is “earmarked” and the intermediary grantee does not “exercise control” over the funds, then the gift or grant is treated as if it had been made directly by the donor to the secondary grantee.

A gift or grant is “earmarked” if it is subject to an agreement, either written or oral, whereby the donor binds the intermediary grantee to transfer the funds to the secondary grantee (or to use the funds to assist a specific individual). To say it another way: a donor cannot do indirectly what he or she cannot legally do directly. The intermediary grantee (the Foundation) must, by law, be vigilant to confirm the charitable nature of the secondary grantee(s) and all project expenditures, and not simply be a passive conduit for such funds.

Improper Use of Fiscal Sponsorship: While this list is not exclusive, improper use of a fiscal sponsor, or intermediary grantee, includes making gifts or grants: to individuals; by a private foundation to a new charity without an IRS determination letter; to a foreign charity; from one private foundation to another, or designed to avoid the two percent limit on private foundations. *Misusing fiscal sponsorship can result in: denial of donor’s tax deduction; penalty tax on private foundations; loss of fiscal sponsor’s public charity status; damage to public reputation of donor(s) and fiscal sponsor; and liability to directors and officers.*

Warranty and Indemnification: The project must warrant and represent to the Foundation that the project does not violate any applicable laws, and agree to defend and indemnify the Foundation in the event of any loss or damage to the Foundation caused by participation in the project.

Endowment Fund: The primary purpose of the Foundation is to establish long-term endowment funds for tax-exempt and charitable projects and entities. You may determine that continued utilization of the Foundation is efficient and consistent with your goals and purposes. In that event, we would be happy to work with you to create

a permanent endowment fund. If you choose to do that, you will not need to form a not-for-profit corporation or obtain 501(c)(3) recognition. You will be able to devote all your time and efforts to your fundraising and charitable activities while the Foundation does all of the administrative work.

ACKNOWLEDGEMENT:

While serving as your fiscal sponsor, the Foundation must ensure that the outcomes of your project are tax-exempt and charitable. By signing this request, you are agreeing that, to the best of your understanding, the outcomes of your project are tax-exempt and charitable, that you will provide the Foundation with prompt written notice of any material changes to the project, and will promptly respond in writing to questions from the Foundation regarding the project. You will obtain approval from the Foundation of all communications naming the Foundation.

Organization: _____ (Dated) _____

Signature: _____

Name: _____

Position: _____

**Attachment A - Application for Fiscal Sponsorship
with Community Foundation of Orange and Sullivan**

Organization Information

1. Individual, organization or group submitting request:

Organization Name: _____

Mailing Address: _____

Phone: _____ Fax: _____

Contact: _____ Position: _____

Employee ID No. (Tax ID) _____

2. What type of group is this and what is its tax-exempt purpose? _____

3. For what period of time is CFOS being asked to serve as fiscal sponsor; how long do you expect the project to last? Begin date: _____ End date: _____

How did you arrive at that "end date"? _____

4. Has your group incorporated as a separate legal entity? (Check one) Yes
No

If not, please explain your organizational structure in an attachment and attach a list of your advisory group members, their affiliations, and contact information.

5. Does your group plan to become recognized as a non-profit organization by the IRS by obtaining its own 501(c)(3) status? (Check one) Yes No

If you checked "no" above, why not? _____

If you checked "yes" above, what has been done to date in preparation for securing 501(c)(3) status? _____

6. Do you have liability insurance? (Check one) Yes No
Do you have workers comp insurance? (Check one) Yes No

If so, please attach a copy of the policies.

7. **Please attach a pro forma revenue and expense budget for the current year of operations.**
8. **Please attach a business plan, including a schematic flow of funds, with detail (e.g. if real property involved, be specific with contact information of business owner, how and by whom the building is owned if owned by more than one person or entity, common charges, etc.)**
9. If you have a written plan of activity and fundraising for your program, please attach a copy. If you do not, please explain why. _____

Project Description

10. What specific, measurable charitable or educational outcomes does your group hope to bring about and when? (The *lives of how many* people will be better, *in what specific, measurable ways* and *by when*?) _____

11. Who else is currently providing this service to the community? _____

12. CFOS's primary service area is the State of New York. What geographic "community(ies)" do you expect to benefit? _____

13. CFOS strives to work with all sectors of the community. Please describe the specific group(s) of citizens you expect to benefit. _____

14. What other individual or groups have been involved in planning this effort? When did they begin? (Please include approximate number of people and tell why they have been involved.) _____

15. A primary objective of CFOS is to encourage endowment-building. If your plans include an endowment-building component to help assure long-term attention to your charitable objectives, please describe them. _____

CFOS Services Requested

16. How much money do you anticipate being directed to this fund within the first twelve months after the first deposit has been made? \$ _____
How much over the life of the fund (or the next three years, whichever is shorter?) \$ _____

17. When do you expect the first deposit to be made? (month and year) _____

18. How do you plan to raise the money? Will you hold an event? If yes, are you going to serve alcoholic beverages? Operate contests, raffles or other games of chance? Conduct a "50-50"? _____

19. How many checks to you think CFOS will be asked to process as fiscal sponsor?

Per month _____ or Per year _____

20. When do you expect to ask CFOS as fiscal sponsor to make the *first* disbursement? _____

When do you expect to ask CFOS as fiscal sponsor to make the *last* disbursement? _____

21. Who will submit invoices or requests for reimbursements to CFOS (as fiscal sponsor) for payment, and why does this person or group of people have this authority? _____

22. If you need (or may need) services from CFOS beyond accepting, managing and disbursing funds, please tell us what those services are: _____

23. If CFOS does not serve as fiscal sponsor for this effort, please explain which other non-profit, governmental or religious organization(s) could be a likely candidate to do so, and your reasons for not making this request to them. _____

Approved by the Executive Committee of the Community Foundation of Orange and Sullivan on _____.

Josh Sommers - Chairman, Board of Directors

Attachment B - "Administrative Fee Schedule" for administrative costs associated with handling a fiscal sponsorship fund.

CFOS will provide anticipated Administrative Fee Schedule after application is reviewed.