

CMAMatters

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For small arts groups, organizing as a 501(c)(3) not-for-profit corporation is not necessarily the way to go. There's also the "fiscal sponsorship" alternative.

The Other Route— Fiscal Sponsorship

by DIANNE DEBICELLA

You're an artist with big plans. Rather than sitting around and waiting to be "discovered," you're going to start a company and make your own opportunities. It's not going to be easy, but fortunately your work is strong enough to attract philanthropic support. Time to start a 501(c)(3) and apply for some grants, right?

For generations, the conventional wisdom has been that individual artists and new arts groups should organize themselves as non-profit corporations and apply for 501(c)(3) status from the IRS. Given the economics of our industry, exemption from most taxes and the ability to solicit tax-deductible contributions have historically been vital survival skills. Yet operating as a 501(c)(3) incurs substantial financial and administrative overhead. Fortunately, an increasing number of alternative models offer many of the benefits of 501(c)(3) status with few of the drawbacks. One of the most attractive options for an individual artist, ensemble or an organization to consider is fiscal sponsorship.

Before you take the plunge, though, it's important to do a little due diligence. This article will attempt to sort through the



pros and cons of independent 501(c)(3) status vs. fiscal sponsorship.

First, some definitions

501(c)(3) is a tax status granted by the IRS to nonprofit corporations that are organized and operated exclusively for charitable, educational, or religious purposes. Once your organization applies and is approved by the IRS for such status, it is exempt from paying federal income tax. Furthermore, any donations made to your organization are generally tax-deductible for the individual making the contribution. Keep in mind that many people use the terms "non-profit" and "tax-exempt" interchangeably. They are not the same thing. Nonprofit status depends on state law, while tax-exempt status comes from the IRS. This means that you may incorporate as a nonprofit on the state level, but not yet be recognized as a tax-exempt charity on the federal level.

Fiscal sponsorship is an arrangement between a person or group (project) and an IRS-approved 501(c)(3) organization. The project is interested in getting funding from private foundations, government agencies, individuals, or corporate donors. Most institutional funders are either required by law, or simply prefer, to make their contributions to organizations with 501(c)(3) status. Individual donors, meanwhile, are more likely to give when the donation is tax-deductible. When a 501(c)(3) organization fiscally sponsors a non-exempt project, it agrees to receive funds on behalf of the project, funds that are then passed along to cover project expenses. Models for sponsorship relationships differ, but in general the project must fall within the organizational mission of the sponsor and be charitable in nature.

PROS AND CONS OF 501(c)(3)

Oh yeah, the good stuff

Forming and applying for tax exemption from the IRS can be a tedious task, but the documents you complete will cause your group to be clear about your mission and set up operational rules and procedures that will facilitate future decision-making. Your organization will be exempt from federal income tax, federal unemployment tax, and most state taxes. You'll be able to apply for any government or foundation grant under the sun as long as you meet the eligibility criteria. Individual donors

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will appreciate the tax deduction you offer.

Formalizing your organization as a 501(c)(3) corporation also provides a credibility boost. Going through the application process and instituting a board of directors that is accountable for the work your organization produces can inspire confidence in donors, grantors, and audiences.

Finally, there are myriad minor perks that come from having 501(c)(3) status. You'll have access to lower postal rates on bulk mail. You'll receive discounted rates from some vendors. You'll have access to services like Network for Good and Facebook Causes that accept online donations on your behalf, along with affinity programs that give you a percentage of the sale whenever a purchaser mentions your name.

Ugh, I have to do what?

There are three words that you should ponder before spending your time, energy, and money on applying for 501(c)(3) status: Paperwork. Paperwork. Paperwork.

Applying for 501(c)(3) status can take anywhere from six months to a year or longer. You'll need to hire an accountant and attorney who can help with the forms and advise you on the application. You'll also need to pay a filing fee that can range from \$350 to \$750. That doesn't include legal or accounting fees, which can be ten times that much.

The red tape doesn't end when you triumphantly receive your determination letter from the IRS. In fact, it's only just begun. At the conclusion of each fiscal year you'll need to file form 990 with the IRS. You'll also be required to file annual reports with your state's Secretary of State and Attorney General. As a corporation you're required to hold regular board meetings and record official minutes. You'll need to institute an accounting system and keep your books in accordance with nonprofit accounting standards. Most institutional funders will require that your annual financial statements be audited, which takes an enormous amount of time and for a small organization can cost \$5,000 or more. There are rules for how to solicit contributions, how to acknowledge contributions, and how to record contributions.

For large organizations with the budget to hire a dedicated staff to handle this stuff, none of this should be particularly intimidating. But as an individual artist or

even a small group of artists, you'll need to decide how much of your creative time and finances you're willing to invest to become a 501(c)(3). You'll be building a formalized organization from the ground up and will need to make sure you and the others involved have the stamina and know how to keep it together.

Another consideration is that corporations are designed to exist in perpetuity. Regardless of what happens to you or your co-founder or your chairman of the board, the organization will live on. Everyone you work with could get hit by a bus, but the organization will still be there and the IRS will still expect a 990 at the end of the year. There's an undeniable appeal to this kind of immortality, but it's important to make sure your organization is committed to the idea of a permanent existence and has the infrastructure to sustain it.

PROS AND CONS OF FISCAL SPONSORSHIP

Oooh, an alternative!

You're an artist, not a business. Fiscal sponsorship exists so that you can spend your time creating instead of balancing the books and filing reports. As a fiscally sponsored project, you have access to many of the benefits of 501(c)(3) status without the accompanying migraine.

Fiscally sponsored projects are eligible to apply for most government and foundation grants through their sponsoring organization. Applying through a reputable sponsor can even lend your project credibility, since the funder will likely be familiar with your sponsor even if the project itself is a complete unknown. The sponsor will also accept tax-deductible donations from individuals and corporations in behalf of your project and then pass those funds along to you.

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“Every sponsor is a little different, but the reputable ones will all want to know how the money they re-grant to you is being spent.”

Working with a fiscal sponsor can provide you with a built in support staff that wants your project to succeed. Your sponsor can help you navigate the fundraising world, carry some of the administrative burden, and help you get organized. Many sponsors also provide ancillary services like networking, accounting and bookkeeping, consulting, human-resources management, employee benefits, shared office space, technology support, legal advice, or management training.

Having a fiscal sponsor will also eliminate the legal and filing fees that go along with 501(c)(3) status. This makes particular sense for short-term projects that do not need to be in perpetual existence. It can also be a great place to start if you think you might eventually want to apply for 501(c)(3) tax-exemption.

Something else to keep in mind, a corporation owns the rights to its creations in perpetuity (or in the case of copyrights, for 95 years). Some fiscal sponsors retain an ownership stake in whatever you create using sponsored funds, but most do not.

It's not 100 percent carefree, but it's close

Fiscal sponsorship does not mean you can grab the money and run. It's a legal agreement between your project and the sponsor (if it's not you should find another sponsor!). The sponsoring organization is required by law to exercise a certain amount of oversight over your activities. Every sponsor is different, but the reputable ones will all want to know how the money they re-grant to you is being spent, which inevitably means some recordkeeping and periodic reporting. You'll also need to adhere to a contract and guidelines set forth by the sponsor, so make sure to review them carefully.

At times, funding conflicts may arise between you and the sponsor. For example,

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some institutional funders have strict rules that they can only make one grant to a given organization in a single year. If that funder has already made a grant to another of the sponsor's projects, or to the sponsor itself, then you'll be ineligible to apply. This is a rare occurrence, but an important consideration nonetheless.

You could also be prevented from applying to certain funders (such as the National Endowment for the Arts) that have policies prohibiting applications from fiscal sponsors in behalf of their sponsored projects.

Finally, fiscal sponsors charge fees for their services. Some charge a flat fee per year, while others deduct a percentage of the funds you raise (usually ranging from 5–10 percent).

Which one? How to choose....

Talk to others who have done it. Don't be afraid to call up an organization to find out what worked for them. Make a list of what is important for you. Start a dialogue with your attorney, accountant, staff, and potential fiscal sponsor before deciding which is the right option for your ensemble. If you decide to go the fiscal sponsorship route, the San Francisco Study Center (<http://www.fiscalsponsordirectory.org/>) has a comprehensive directory of fiscal sponsors to help you find one that is right for you.

Dianne Debicella is the program director of fiscal sponsorship at Fractured Atlas, a non-profit organization providing services and support to artists and arts organizations.

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CMA Grant Opportunities

CMA Commissioning Program—Support to ensembles, presenters and festivals for new ensemble works. The grant provides funds for the composer's fee, ensemble honorarium and copying costs. **DEADLINE: April 3, 2009.** FMI: www.chamber-music.org, Susan Dadian (212) 242-2022, ext. 13 or sdadian@chamber-music.org.

New Works: Creation and Presentation Program—Support for the creation and performance of new works in the jazz idiom. These three-year grants offer commissioning funds, support for performances and recordings of the commissioned work, travel, and professional development. **DEADLINE: May 1, 2009.** FMI: www.chamber-music.org, Jeanette Vuocolo (212) 242-2022, ext. 17 or jvuocolo@chamber-music.org.

Other Grant Deadlines

Access to Artistic Excellence—Provides funding to encourage and support artistic excellence, preserve our cultural heritage, and provide access to the arts for all Americans. **DEADLINES: March 12 and August 13, 2009.** FMI: www.nea.gov.

Commissioning Music/USA—Support for works that involve music, multimedia and other visual or performing art forms. **DEADLINE: March 13, 2009.** FMI: www.meetthecomposer.org.

ArtsConnect Touring Fund—Provides support for projects in which at least three performing arts presenters work collaboratively to present a single artist or touring company. **DEADLINE: March 30, 2009.** FMI: www.midatlanticarts.org.

Creative Connections—Provides support for American composers to participate in public activities related to specific performances of their original music. **DEADLINE: April 1, 2009.** FMI: www.meetthecomposer.org.

Challenge America: Reaching Every Community Fast-Track Review Grants—Offers support for projects that extend the reach of the arts to underserved populations. **DEADLINE: May 28, 2009.** FMI: www.nea.org.

Learning in the Arts for Children and Youth—Offers funding to advance arts education for children and youth in school-based or community-based settings. **DEADLINE: June 11, 2009.** FMI: www.nea.org.

Pennsylvania Performing Arts on Tour—Opportunities for professional, Pennsylvania-based performing artists to obtain successful touring engagements. **DEADLINE: June 15, 2009.** FMI: pennpat.org.

Aaron Copland Fund for Music/Performing Ensembles Program—Supports organizations whose performances encourage and improve public knowledge and appreciation of serious contemporary American music. **DEADLINE: June 30 2009.** FMI: www.coplandfund.org.

Trust for Mutual Understanding—Grants to nonprofits conducting cultural exchanges with institutions and individuals in Russia and Eastern/Central Europe. Letter of inquiry required prior to application. **DEADLINE: August 1, 2009.** FMI: www.tmuny.org.