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Charity's Best Kept Secret: Fiscal Sponsorships and the Future of American Philanthropy Abroad

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by

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ABSTRACT

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Many small nonprofit organizations based in developing countries struggle to raise money for their valuable work. Without any substantial connection to the United States – the world's largest philanthropic society – these organizations are not able to attract tax-deductable donations from well-meaning Americans. One possible solution to this problem is the mechanism of "fiscal sponsorship," a process by which an exempt charitable organization receives donations on another charitable project or group's behalf. In this project, I explore the viability of this option for small nonprofits abroad by reviewing the current literature and interviewing a group of individuals who manage fiscal sponsorship programs. I conclude that this mechanism may indeed be, for a number of reasons, a smarter way to distribute charity abroad.

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Introduction

The purpose of this project is to figure out how to best get donations from well-meaning Americans to those nonprofit organizations without 501(c)3 tax-exemption status working in developing countries. The most direct way is of course to send the organization a personal check, but for a number of reasons this is not a good solution. It is both risky and expensive to send a personal check overseas, subject to interference and/or mishandling and high bank fees once the check is deposited. From a macro perspective, it also does not provide the incentive typically at play for American donors, that is, tax deductibility ("the tax write off"). Personally delivering cash also suffers from these problems.[1]

Briefly, I should make clear three assumptions I make in this project. First, I assume that in the next several decades, Americans will increasingly want to donate directly to organizations working autonomously outside the United States. This is in line with the globalization trend and the young American generations that are more transnational than any other generation before them. Second, I assume that current 501(c)3 tax laws – at least in basic principle – will remain in place for the next several decades. And third, I assume that the United States will continue to be where most of the world's philanthropy derives from.[2] In other words, if a small nonprofit

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[1] It also caps the amount to be donated, determined by the maximum amount of cash allowed to be carried by someone into and out of the US.
[2] This is in absolute, not relative terms, as the US consistently lags behind other wealthy nations in their charitable donations-to-population ratio, but nevertheless generates the largest gross of philanthropy of any one country in the world.

in a developing country looks anywhere for donations, it may first be their local constituency, but eventually it will turn to the American market.

In this paper, I will briefly discuss four possible mechanisms for efficiently and safely getting donations to these nonprofits. These are (1) sister organizations, (2) Kiva-type arrangements, (3) Network for Good-type arrangements, and (4) fiscal sponsorships (each to be explained in detail later). Out of the four, I will explain why "fiscal sponsorship" is the best, and go into more detail how this mechanism works, provide some background, and present the results of a questionnaire I gave to those working in the fiscal sponsorship field. It is my hope that small nonprofits learn about smarter ways to secure funding, as they go forward trying to juggle the difficult job of running an underfunded, grassroots organization in oftentimes-strenuous circumstances.

There is also a section dedicated to the global nature of charity and nonprofit work today. By explaining the impetus to donate abroad, we can better understand why it is important to find the most efficient and smart mechanism. This discussion also ties into a personal motivation of mine to rid inefficiency and waste from the nonprofit sector.

I have chosen this project for two reasons. First, not many people know that this is a common problem, and even fewer know of the mechanisms that I will discuss. There is certainly a gap in the nonprofit literature today that directly addresses and compares these mechanisms. For a small start-up nonprofit working, say, in Kenya, there are few resources that point it in the right fundraising direction today. Second, this is a personal quest to assist some nonprofits that I've worked with in the past. After discovering myself how hard it can be to find donors when you exclude the American market, I was set to find a solution. Although this project is not all conclusive, I believe it is a step in the right direction, especially as globalization accelerates and Americans look more and more to donate directly to nonprofits in developing countries.

Background to American Philanthropy

Some argue that the modern form of charity in the US began with Andrew Carnegie and John D. Rockefeller in the late 19th century (Egger 3). A combination of noblesse oblige and confidence in empirical science led to their multi-million dollar charitable investment, groundbreaking for their time. The concept of "charity" – helping out someone – dates back to King Hammurabi, but "philanthropy" – the science of lifting up an entire society – became the passion of these wealthy businessmen (Egger 4).[3]

However, this distinction between charity and philanthropy is not at first clear. Robert Gross, a scholar of philanthropy, argues that charity is an older, more pervasive facet of human life, finding its American roots in the Puritans. Philanthropy separates itself from this more visceral impulse by its guiding Enlightenment principles of empirical science and efficiency. Whereas charity finds

[3] Interestingly enough, the definitions of the two words are almost identical, but American culture has given them their own connotations. According to Merriam-Webster dictionary, "charity" is defined as "benevolent goodwill toward or love of humanity; "philanthropy" is defined as "goodwill to fellowmen."

its American roots in a Christian tradition, philanthropy spawned from scientific reason and the desire to advance knowledge (Gross 30-31).

A distinct example of this is the American guiding principle of the "hand up," not the "hand out," or as many people have heard, the "teach a man to fish, don't just give him a fish" mantra. As Benjamin Franklin, another rational philanthropist, wrote, "…if you teach a poor young man to shave himself, and keep his razor in order, you may contribute more to the happiness of his life than in giving him a thousand guineas" (Gross 39). Combined with the amount of wealth generated by the Industrial Revolution and an organic culture of civil society organizations, the nonprofit sector took shape in the 19th and early 20th centuries.[4]

With the onset of the 20th century and the World Wars, philanthropists took on the challenge of preventing future global conflicts and horrors. As another scholar in the growing field of philanthropic studies, Judith Sealander, observes of these new philanthropists[5],

> Philanthropy should seek causes and cures. It should find a remedy for a disease, rather than build a hospital to treat its victims. It should root out the reasons for poverty, not give alms to the impoverished. It should expand knowledge and deal in new ideas, ones perhaps initially too risky for government officials or private organizations dependent on public approval to embrace (220-221).

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[4] As Gross notes, on his trip through young America, Alexis de Tocqueville was astonished by the "immense assemblage of associations" (29).

[5] Prime examples being Carnegie, Rockefeller, and Ford. Much debate could be given to the exact moral equation of these philanthropic actions, inevitably the result of great capitalist industrial wealth. Their acts of charity were in some way privately motivated redistributions of wealth, although certainly not equitable in the grand scheme of the Industrial Age.

The motivation to serve and donate was halted, however, by the hardships of the Great Depression and Roosevelt's New Deal, which introduced an entirely new institution, the income tax. This significantly reduced the incentive and ability of Americans to donate to charity. If anything, the big foundations were solely responsible for philanthropic work, which is clearly exhibited by the global operations of, say, the Ford Foundation in the decade after World War II.

Before outlining the American nonprofit sector in the second half of the 20th century, we should also examine the Puritan origins of American charity. The controversial nonprofit thinker Dan Palotta explains how Americans unfortunately find the roots of such selfless impulses in Puritan life in early New England. Palotta is not the first to recognize this; Amanda Porterfield, in her exposition on the same subject, argues that, "American Protestant missionary work provided the organizational and intellectual context out of which many other forms of American philanthropy have emerged" (49). As Pallota argues, the Puritan ethic to paradoxically strive for *and* reject self-love and profit has led to a frustrating and ineffective nonprofit sector today (19). Excerpts from John Winthrop's speech, "A Modell of Christian Charity," given on board the Arbella in 1630, best describes this seemingly self-contradicting Calvinist principle. Winthrop noticeably adds his own Puritan flavor to Moses' admonitions in Deuteronomy 30: 17-18 (his additions are in bold); first the King James Version,

> But if thine heart turn away, so that thou wilt not hear, but shalt be drawn away, and worship other gods, and serve them; I denounce unto you this day, that ye shall surely perish, and that ye shall not prolong your days

> upon the land, whither thou passest over Jordan to go to possess it (The Holy Bible, King James Version).

And now from Winthrop's conclusion,

> But if our heartes shall turne away, soe that wee will not obey, but shall be seduced, and worshipp and serue other Gods, **our pleasure and proffitts**, and serue them; it is propounded unto us this day, wee shall surely perishe out of the **good** land whither wee passe over **this vast sea** to possesse it (Winthrop).

One listening to this sermon might very well be confused, Palotta notes, given this contradictory piece of advice earlier in the speech: "A man must lay up for posterity, the fathers lay up for posterity and children, and he is worse than an infidel that provideth not for his own" (Palotta, 20). The "lesson" to be learned then is in actuality a cultural confusion, a paradox between selfish material accumulation and selfless material charity. This oddity still compounds the American public today, Palotta argues; one concrete example would be American outrage over a nonprofit's CEO six-figure salary, regardless of that specific nonprofit's annual revenue (which might be even greater than a comparable for profit company who has a CEO with an even higher salary).

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Since the 1950s, the nonprofit sector has entered into "the marketplace," a capitalist zone for exchanging ideas and allocating scarce resources. Most Americans are inevitably witnesses to nonprofit work through the everyday modes of advertisement, whether in print, radio, or television form. After World War II, with roughly 50,000 tax-exempt organizations in existence, the IRS had to redraft its tax code to include dozens of different types of "501(c)" organizations. Certain ones –

such as charitable, educational, and religious entities – were given special “501(c)3” status, which allowed for private donations to be tax-deductable, a major incentive for giving. In exchange for one’s charitable gift to a 501(c)3, the IRS would reduce that individual’s income tax due to the government. With the Roosevelt, Kennedy, and Johnson administrations, a number of policies gradually altered the incentives of Americans to help those less fortunate (for example, the New Deal and the War on Poverty). As volunteerism grew, organizations sprouted up to house the personnel operations required to manage this growing demand. Additionally, different levels of government began “sub-contracting” to poverty and relief organizations, both domestically and abroad. Rather than the government providing all of the management and staff operations, numerous grant programs incentivized those wanting to “do good” to apply to seed funding from the government. By the mid-1970s, there were almost 600,000 tax-exempt organizations in the US, about 12 times more than just 25 years earlier (Egger, 13). In 2010, there are roughly 1.5 million organizations, two-thirds of which are public charities. From a 2006 report from the National Center for Charitable Statistics, nonprofits account for 8.11% of all wages and salaries paid in the US (Blackwood, et. al., 2008).

Given this size, the nonprofit sector certainly has its critics, from both insiders and outsiders. Just as the IRS had to redraft its tax code to accommodate for nonprofit growth, many writers and social commentators call for another wave of reform. Private foundations now significantly drive the direction of funding, says Pablo Eisenburg, a respected voice in philanthropy, both as the director of the poverty-fighting organization Center for Community Change and a frequent columnist in *The Chronicle of Philanthropy*, a standard industry journal. Many foundations are incredibly selfish, he argues, and this manifests itself through their reluctance to provide general operating support to nonprofits, instead favoring special projects, which the foundation can easily associate its name with. Eisenburg estimates that 13 to 15 percent of foundation funding goes to just general support (10). With calls for specific grant-funded projects, nonprofits must now rearrange their work schedule to meet the individual needs of the grant application. Valuable time would be saved if those working in nonprofits didn't have to cater to the wishes of grant-making foundations. Eisenburg understands, however, why so many foundations only fund project-based ideas: foundations want to see results, and they want to see their dollars at work; this is not so easy to track once cash is flexibly deposited into the nonprofits general account. As a result of these reasons, Eisenburg concludes, nonprofits tailor their requests for money to look like "special project" funds. This shift in power – nonprofits are now shaped more by how foundations want to do business – jeopardizes the whole purpose of civil society actors (76-79).

Eisenburg also has some general concerns about the nonprofit sector in the United States. First, although there may be more nonprofits, collectively contributing 7% of US GDP, their influence today is weaker than ever. Too many groups with narrow foci have no incentive to join in with others to rally for a cause, perhaps helping low-income families. Second, it's a bad sign that the American public has disowned many advocacy groups, instead only applauding groups who "do things," whether it is emergency relief or medical supplies. Third, foundations are stagnant, and not caught up to the present. Their greatest error, he says, lies in their secrecy and elitism, especially noticed in Boards of Directors. Lastly, leadership is deficient: the nonprofit world has tried to act more like business, but in so doing it has taken on some of the worst features of corporate America: unsavory ethics, conflicts of interest, worship of the bottom line, and the cult of the CEO" (17).

Four US-to-abroad Donation Mechanisms

The purpose of this section is to present four possible options for small nonprofits working outside of the US who want to receive tax-deductable donations from Americans.

Sister Organizations

In most if not all countries, a nonprofit organization must be registered as such within the country it conducts its work. The same legal principle applies to for-profit businesses. For example, in order to operate in South Africa, the US-based nonprofit Conservation International must be registered with and recognized by the South African government. This sort of umbrella structure has allowed for much of the economic globalization witnessed in the last century. As businesses form and mature in developed economies – say Coca-Cola and McDonalds in the US for example – they slowly expand their consumer base by going to foreign markets where they have no previous experience.

Nonprofits expand internationally only when they are able to sustain a considerable amount of donations, year after year. In a study published in the *Journal of International Economics*, researchers determined that large non-governmental organizations (NGOs) "become multinational if the economies of scale in fundraising are sufficiently large" (Aldashev and Verdier, 198). They go on to note that "NGOs in the smaller country disappear," a worrisome conclusion at first glance (198). As many doom globalization theorists bring to the public's attention, the economic globalization of the past century has reduced the heterogeneity of markets within emerging economies. The global ubiquity of companies like Coca-Cola and McDonalds – and even nonprofits like Conservation International and Doctors Without Borders – has certainly come out of a competition. Whether or not this is a good thing, I'll leave for another debate.

The system I've just described is *not* the one that I mean by "sister organizations." From the perspective of a nonprofit in Country A, it wants to raise funds in outside Countries, B, C, and D to perform its mission in Country A (Scenario 1). In the umbrella structure described above, we are looking at a nonprofit or business in Country A going to outside Countries B, C, and D to perform its mission in those very countries, in addition to continuing its work in Country A (Scenario 2); it's not looking for funding to support its work in Country A alone. Coca-Cola doesn't go abroad asking for money to support its business and work in the US (although this implicitly happens through general support and investments).

This Scenario 1 is most commonly known as a "sister organization," or, by convention, a "Friends of" organization. In an article written for the Council on

Foundations, Bjorklund and Reynoso note that a “friends of” organization “generally exists to provide federal tax deductibility for charitable contributions to support a foreign charity by breaking a ‘conduit’ flow of funds to the foreign charity.”

For a small nonprofit based abroad, this option is the most coincidental and/or financially burdening. First, in many cases the result of a close family relation or friendship, a small nonprofit may be able to rely on the goodwill of others – notably those permanently residing in the US or Europe – to launch and manage a sister organization with the sole purpose to raise money for the small nonprofit. With this direct line of funding, a small nonprofit does not have to individually manage its diverse group of American donors, often a struggle across international borders. Instead, those Americans can donate to the sister organization, and then only one periodical and planned bank transaction is necessary. Second, if such human connections do not present themselves, then the nonprofit would have to go out on its own and recruit individuals with permanent residence in the US to launch and manage a sister organization. Not only would most foreigners – especially those from developing countries, feared by many in the US for a number of reasons – not know where to start, but also they would be wise to prioritize their resources to their charitable programs. For example, it’s hard to justify, no less plan, channeling a nonprofit’s funds away from its direct work, putting that on hold in order to recruit volunteer sister organization managers in the US. If there are no volunteers, then this option becomes even more prohibitive. Often times both of these factors – human networks and finances – are intertwined.

Of the four options provided here, this could be the cheapest or the most expensive option. Due to its circumstantial nature, this cannot be built into the management of small nonprofits working in developing countries, and therefore does not provide a systematic solution to this project's question.

Kiva-type Organizations

Internet-based micro-credit loan nonprofits have grown in popularity in the past decade. For the donor's benefit, nonprofits such as Kiva perform their own search of the most deserving and effective small nonprofits and business start-ups in developing countries around the world.[6] For the American sitting at their desk at home, this provides the opportunity to choose whom to give to, and even more importantly for a results-driven society, an option to track the performance of those who receive your donation. Other examples – besides Kiva – include Modest Needs Foundation, Accion International, Acumen Fund, and eBay's MicroPlace (which is not in fact a nonprofit). However, the ability to track your "loan" has been compromised in the past year, according to some microfinance critics. Since a late 2009 incident, Kiva has changed its website to reflect the fact that they can't guarantee that a donor's donation has specifically gone into the bank account of the recipient they chose (Lieber). Like any microfinance scenario, the lender expects a repayment, and Kiva comes through on this promise. Kiva and others have seen

[6] At least this is how Kiva first advertised itself. In actuality, Kiva finds microfinance institutions – not practicing nonprofits – in developing countries, and they are the ones they loan out the money.

great success in the American donor market because Americans tend to caution against "hand-outs," and more often prefer "something for something." It also encourages those who might not give to charity to help out, since there is the expectation that the loaned money is coming back someday. Nobody is trying to make a profit off of this situation – with the possible exception of eBay's MicroPlace – but rather make a difference without feeling a financial burden.

From the point of view of the nonprofit or small entrepreneur in a developing country, this option requires a great deal of time and energy, and does not allow for the flexibility that unconditional donations allow. For a nonprofit operating a project that has no financial return, this option does not make sense. It may also prove difficult to work with a microloan organization when a particular nonprofit or business is not located within a certain geographical zone or they don't have the personnel or technological capability (perhaps capital in some cases) to maintain the necessary connections to the microloan organization, such as due diligence and auditing.

Network for Good-type Organizations

Unfortunately, this option won't work for a nonprofit without legal designation within the US. Network For Good and JustGive are two Internet-based organizations that serve as intermediaries between American donors and American charities. Sometimes these are often called "donor-advised funds." Even if they allowed for overseas transactions – bound by strict IRS and Homeland Security rules – these organizations would be a tough sell to a small nonprofit. They all charge percentage-based fees on each donation made, as well as periodical subscription fees: Network For Good charges $199 for set-up, $29.95 per month, and 3% of every donation, while JustGive claims to only charge 3% of every donation.

The GlobalGiving Foundation is the possible exception here; they do not require that nominated organizations have 501(c)3 status. They have their own "due diligence" application process for non-US nonprofits, which is their way of performing a background check. Once approved, any individual can simply donate to the nonprofit through GlobalGiving's website via a credit card transaction. To provide this service Global Giving retains a 15% fee out of every donation. This is a significant negative, but out of the quick online options available today, this is the best deal.

One major positive that comes out of these organizations, however, is their ability to increase a nonprofit's visibility. Most struggling nonprofits are not able to advertise or market themselves to potential donors, but by succeeding in their work, they can quickly gain prominence on these frequently visited websites. The disappointment of having to pay out-of-pocket fees and charges perhaps doesn't loom as large when one considers how a nonprofit's own donations depend on the success of the larger intermediary. It is in the best interest of the nonprofit member on Network For Good, JustGive, or GlobalGiving to see them thrive and gain recognition. Unfortunately, for a start-up grassroots nonprofit, this benefit is often not a priority and still far off from covering week-by-week expenses.

Fiscal Sponsorship

The last type of funding mechanism for a small nonprofit overseas is a "fiscal sponsorship," a relatively unknown tool in the world of charity and fundraising. Roughly defined, it is a relationship between a 501(c)3 organization and a non-501(c)3 organization, whereby the exempt body accepts tax-deductable donations on behalf of the non-exempt body. Historically, this kind of arrangement has been most popular in the arts, where an individual artist or group of artists seeks funding for art projects, but does not have the long-term desire, expertise, and/or capacity to start and manage an autonomous 501(c)3. In 1993, Gregory Colvin, an attorney based in San Francisco, wrote the first edition of the only fiscal sponsorship handbook available today. A small number of articles and studies round out the rest of the dominant thinking in fiscal sponsorship work currently available. Before getting into the details of this field of literature, it is generally agreed that fiscal sponsorships provide three significant benefits to both a donor and the foreign nonprofit on the receiving end.

First, many fiscal sponsors cut out unnecessary fees and charges, as described in the various other mechanisms before. Second, many fiscal sponsors allow for the overseas nonprofit to decide how they want to use the money. No dollar is earmarked and every donation can simply be placed into a general operating account. Third, in many cases the donor barely notices that a fiscal sponsor is involved; in the case of GlobalGiving, for example, a donor will never forget that GlobalGiving is the point of connection. In a charitable situation, a donor wants to get that one-on-

one connection to those people he or she is trying to help. By having the ability to contact the overseas nonprofit directly, that donor can evaluate for him or herself whether that nonprofit meets their own expectations of accountability and appreciation.

Overview

There is no single definition of a fiscal sponsorship, although the principle is largely understood to be the same. Blair and Cheplick (2007) say that it is "when one entity agrees to accept and manage charitable funds for another." Krivkovich (2003) defines it as "the practice of nonprofit organizations offering their legal and tax-exempt status to groups engaged in activities related to the organizations' missions." Gorovitz, an attorney in the Adler & Colvin law firm, says that "(Fiscal sponsorship is) an arrangement between a 501(c)(3) public charity and a project (that does not have that tax status) in which, typically, the charity receives and expends funds to advance the charitable work of the project while retaining discretion and control over the funds."[7]

Two "state of fiscal sponsorship" reports have been published in the past decade, albeit by fiscal sponsors themselves. Krivkovich wrote "Fiscal Sponsorship: The State of a Growing Service" in 2003, originally as an internal document for the San Francisco-based environmental fiscal sponsor Trust for Conservation

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[7] The Tides Center report defines it as a "tax-exempt, nonprofit corporation that receives and disburses funds for programs that may or may not be incorporated. The fiscal sponsor often provides administrative and financial services to these groups, which may lack administrative or fiscal capacity" (Green, et. al.).

Innovation. More of a statistical survey was organized by Tides Center in 2006, another San Francisco-based sponsor, and written by Green, Kvaternik, and Alarcon (working for a consulting firm, LFA Group). The 2006 "field scan" provides the most comprehensive data on fiscal sponsors to date, compiled from a survey of over 100 fiscal sponsors. The 2003 study also provides its own unique conclusions and lessons learned. Together, they provide an accurate cross-section of fiscal sponsors and how they operate today; the following list highlights important characteristics a nonprofit or outsider should know when considering the fiscal sponsorship option.

- About a third of fiscal sponsors are community foundations, and another third are arts and media organizations. Only a fifth of organizations that offer fiscal sponsorship services are solely doing sponsorship (Green et. al., 5).
- About half of fiscal sponsors only sponsor eight or fewer projects at a time, while nine fiscal sponsors work with over 100 projects (Green et. al., 6).
- The average budget for a project with a fiscal sponsor is $135,160, but there is a wide range, as low as $5,000 and as high as $165,000,000 (Green et. al., 8).
- Organizations that sponsor 50 or more projects, compared to those sponsoring fewer projects, are more motivated by the potential to earn an income (Green et. al., 9).
- Fees for fiscal sponsorship vary greatly, but most charge a flat percentage fee based on the size of a project's budget. Most percentage fees fall between 1% and 5% (Green et. al., 13).

- Almost ¾ of fiscal sponsors also provide consultation on project management and implementation (Green et. al., 15).
- The most important piece of criteria for a fiscal sponsor considering taking on a project is how it aligns with its own missions and goals (Green et. al., 16).
- Most projects (63%) must apply for grants and funding by using the name of the fiscal sponsor (Green et. al., 22).
- Very few fiscal sponsors (less than 10%) have been contacted by the IRS or other regulatory agencies concerned about their sponsorship programs (Green et. al., 23).
- A fiscal sponsor managing less than $2 million cannot sustain itself in the long run. Successful sponsors accrue a core of projects that can ensure long-term funding cycles (Krivkovich, 7).
- Most of those involved in the field strongly desire the professionalization of financial management services; this is the greatest industry need (Krivkovich, 7).
- One of the most difficult tasks for a fiscal sponsor is when a project wants to separate from the sponsorship (Krivkovich, 8).
- Most fiscal sponsors agree that not enough information exists on how to correctly manage a fiscal sponsorship relationship. No handbook exists on the subject, although Gregory Colvin's well-known book does provide models for how such relationships can work within the boundaries of US law (Krivkovich, 8).

Fiscal Sponsorship Questionnaire

In March, April, and May of 2010, I received six responses (both verbal and written) to a questionnaire I designed regarding the field of fiscal sponsorship. Although this is obviously not representative of the industry, I thought that it gave some unique insight to questions that were not included in either of the studies described above. To protect the respondents and their organizations, I have cut out any identity-revealing parts from their answers. All of the respondents are managers of their respective employer's fiscal sponsorship program. I have summarized their answers to my questions below, along with my own commentary.

Question: How did you first learn about fiscal sponsorships?

The first question here sets the tone for those to come, in that I was not only interested in learning about organizational knowledge and practice, but also the commitment of individual managers to the field. By "you," I specifically meant the respondent, not the organization they work for.

Almost everyone said that they hadn't heard or worked on fiscal sponsorships before they started working for their organization. It was only when they arrived at their current workplace, did the organization brief them on what it is, and how the process of building fiscal sponsorships works. One respondent said that the organization didn't know about fiscal sponsorships at all until she researched necessary funding options for a particular project. Interestingly, in that case the organization needed just what a fiscal sponsorship provides; I suspect that if more nonprofits hear about fiscal sponsorship, they will share the same opinion, “why didn’t we know about this earlier?”

A respondent mentioned how the National Network of Fiscal Sponsors (NNFS) helped him find a fiscal sponsor out there that matched the type of charitable work he wanted to perform. The NNFS, housed online by the Tides Center website, is a support organization both for fiscal sponsors and those project or nonprofit leaders who are considering fiscal sponsorship for fundraising. They have two great guidelines for how a fiscal sponsorship should work, but as one respondent said, there still is no popular literature available – despite Gregory Colvin’s industry standard legal guide: “We know how to make the bucket, but there are no directions on how to get water into it.”

The same respondent mentioned how she had first heard about fiscal sponsorship as a young theater producer, unique amongst the group interviewed as the only person who had prior fiscal sponsorship experience before her current position. For a young artist, she emphasized just how ideal fiscal sponsorship can be: “Think about all of the things a young person wants to avoid, things that will just take them away from what they are passionate about, and probably dissuade them from nonprofit work – accounting, board meetings, payroll, etc.” Having centralized and shared services across charitable projects just makes more sense, she said, a sentiment many others have written about. Quotah (2007) argues that fiscal sponsorships could make charities more efficient and free up more money for programs, not administration.

Question: Has the nature of fiscal sponsorship work changed since you first got involved? In what way(s)?

Most of those interviewed had less than ten years of experience working with fiscal sponsorships, and given that they have really only gained prominence in the past two decades, I thought there might be some noticeable change in its early formation as a legitimate charitable practice. Several respondents noted the increase in governmental regulation, such as the USA Patriot Act of 2001, the Sarbanes-Oxley Act of 2002, and the California Nonprofit Integrity Act of 2004. Several respondents noted the increased use of fiscal sponsorship, which they saw as the main cause for increased regulation. To anticipate this, several also noted the increase in the systemization of the application process. One person mentioned the increase in publicity campaigns, while another observed the increased use of web-based communication (e.g. application is completed online) and account management (e.g. projects can view their account through an online interface).

Question: In your experience, what percentage of fiscal sponsorship arrangements are successful? What percentage are unsuccessful?

Question: In your experience, what factors lead to a successful fiscal sponsorship arrangement and what factors lead to an unsuccessful one? What are the legal and financial risks involved?

In these two questions, I implicitly meant to provoke a reaction that was common to all of the respondents: What is the definition of success for a fiscal sponsorship? While several agreed that there needs to be an industry standard, nobody had a sure-fire answer. Several outlined some important factors to the feeling of success in fiscal sponsorships: the project appeals to a public donor base, strong connections to a community (e.g. a university), popularity of the project's issue, appropriate scope for the project, and the level of impact a certain charitable project has. None of these factors differ greatly from the success of a nonprofit organization.

Everyone agreed that the one common denominator to a successful fiscal sponsorship was clear lines of communication before, during, and after the life of a certain charitable project (or the life of a nonprofit's sponsorship). This crucial element takes shape in the legal and financial contract signed by the sponsor and the project/nonprofit leadership. This contract outlines everyone's rights and responsibilities. It also makes clear to the project leadership that the project or work of the nonprofit is officially credited to the fiscal sponsor, ensuring the legality of accepting tax-deductable donations. Donated funds given to the fiscal sponsor and then given to the project/nonprofit must be used for their intended purpose. Several respondents noted that their organizations spell out before any contract is signed the rules regarding committed funding, one having a minimum balance requirement and another only taking on sponsorship if certain money has already been pledged for the project.

One respondent hypothesized why the arts have been so successful at forming fiscal sponsorships. The public are much more understanding of one artist not seeing the need to spend so much time and energy on creating his or her own nonprofit just to show some paintings in an art gallery or put on a performance over a weekend. Hence, anything project-based – for example, a campaign to raise money to run a sustainability workshop – fits the best with fiscal sponsorships. This respondent also argued that foundations and grant-making organizations should be glad to see more charitable projects going to fiscal sponsors; the due diligence that should be required to prove charitable purpose has already been carried out by the fiscal sponsor, eliminating the need for the foundation to do its own background check on the project or nonprofit.

Question: One reason why fiscal sponsorships have been popular is their flexibility: in some arrangements, the project/organization has almost complete autonomy; in others, the sponsor controls most of the operations. Whatever happens, it depends on the desires of those involved. But, in your experience, has it been "better" to have autonomy rest with the project/organization or the fiscal sponsor? Why or why not?

Most of the respondents said that different models (as described by Colvin) work for different situations, but the constant that must always legally remain is charitable purpose. Many elaborated that fiscal sponsorships not only have to ensure the "nonprofit" motive of a project (staying clear of any profit-making activity), but that the work of the project or nonprofit receiving the funding must stay within its original intended purpose, as required by law. For example, an environmental organization cannot start working on child labor rights without meeting with the fiscal sponsor and rewriting the contract. I wondered how this self-defining ability of a fiscal sponsorship might lead to some gray areas: let's say a human rights advocacy organization incorporates environmental health to be a basic human right; does that mean they can raise money to fight climate change?

Several respondents followed this with the admonition of avoiding the "fiscal agent versus fiscal sponsor" problem. As Nober (2004) explains,

> If we say that a charity is acting as fiscal agent for a new project or unincorporated group, we are implying that the charity is the agent of the project or group i.e., that the group or project controls the charity. This is the reverse of how a relationship between a charity and a non-charity must run: The charity must control the project or the group, or at least the funds that it is holding for benefit of the sponsored entity.

For this reason, many respondents recommend using the "comprehensive model" (see Appendix 1). One person emphasized how donors need to be informed before giving how their money will be funneled. Another observed that there is no single better way to "do" fiscal sponsorship, given how the industry is "an inch deep, and a mile wide" in variety.

Question: Why would a project/organization want to team up with a fiscal sponsor that shares a common mission (e.g. environmental, educational, health, arts, etc.), but charges a higher fee on donations received compared to other non-mission driven fiscal sponsors (that charge a lower fee)?

Fiscal sponsorships need their own funds to operate, and this is usually supported by a fee structure that they have agreed to with projects and nonprofits that sign on for a sponsorship. Several respondents voiced the concern that their current fee structure does not fully support the work to keep everything running. When I first learned about fiscal sponsorships, I wondered why there wasn't any regulated fee structure across all fiscal sponsors. The amount charged generally derives from the type of services provided, and/or the contacts and donor connections a particular fiscal sponsor might carry with it. If the sponsor gets involved with strategic planning or fundraising workshops, then they will charge a higher fee – either a percentage fee on each donation or a flat fee, or perhaps a combination of both – than a sponsor that only oversees the financial accounts.

I also noticed that in some cases, a fiscal sponsor that works in a particular issue area – we might call them "specialized" fiscal sponsors – charges more, which led to this question. Most of the respondents pointed out how important expertise could be for someone without a lot of fundraising experience and who was working on their own. The contacts and relationships that a specialized fiscal sponsor could pass along might be invaluable for someone starting out fresh on a charitable endeavor. One respondent saw the trade-off of a more expensive but topically relevant fiscal sponsor benefiting the project with its reputation, given the lack of publicity for a charity just starting out. Donors who might have doubts about a certain project or nonprofit might have no fear, knowing that it has the backing of a well-known and reputable fiscal sponsor.

One respondent noted how one fiscal sponsor might not charge the same amount for all of its projects, but instead decide on an individual basis how much to charge, according to the amount of "risk" the fiscal sponsor would be taking on. Working from the models of health insurance or credit-based interest rates, a fiscal sponsor might reduce or increase their rate based on several indicators: amount of initial seed money, rate of donations, social impact of nonprofit/profit, site visits, and many more.

Finally, returning to the previous question, another respondent reminded me that it is in fact illegal for a fiscal sponsor to align with a project or nonprofit that does not fall within the sponsor's own charitable mission. In my own observations, I've noticed that fiscal sponsors that charge the lowest rates usually cast the widest charitable "nets," that is, they lack specificity and instead strive to improve the human and global condition in general. Therefore, similar to banks and insurance companies which spread risk over a wide group of accounts, large fiscal sponsors are able to use economies of scale to cover the mistake of any one individual bad case. I was not, however, able to find this idea in any of the literature available on fiscal sponsorship.

Question: Many fiscal sponsors are actually organizations that do many other things than just sponsorship. In your opinion, does this at all affect the performance of the organization or the strength of the fiscal sponsorship? Why or why not?

Nobody commented that his or her organization suffered or compromised in any way its other operations because it had to spend energy on fiscal sponsorship. In several cases, either the fiscal sponsorship was housed in an entirely different unit of the organization, or it was the sole job of one staff member, preventing the work from spilling over to other employees' workloads. I was not able to conclude that organizations solely working on fiscal sponsorship were any better at what they did than those organizations with multiple operations.

Question: What are the greatest challenges for fiscal sponsorships today?

This question elicited a variety of responses. If there was any common answer, it was simply that not many people know any "standard" fiscal sponsorship rules. The laws in place frame the process, but the process itself is more or less up to the interested parties involved. This causes a number of consequential dilemmas: a project or nonprofit doesn't know how to compare fiscal sponsors, *ad hoc* accounting and software programs, and poor risk assessment when it comes to deciding whether to take on a project. One respondent voiced her frustration that nobody ever created a law or piece of software with fiscal sponsorships in mind. Several respondents remarked that they get many applications from groups that don't even come close to meeting their due diligence requirements.

Of course, several others mentioned how difficult it is to find sustainable sources of funding, not just for the projects and nonprofits they sponsor, but also for themselves, since, as was mentioned before, in many cases the sponsorship fees they charge do not pay for all of the services they provide. This does seem rather difficult to pitch: “Could you please donate to a nonprofit that allows other charitable projects to receive donations?” A common reaction would simply ask why not throw out the middleman, and just give to the end-user, but for the reasons I mentioned at the very start, we can see the problem with these sorts of questions.

As far as international fiscal sponsorships, I was unsure how the respondents felt for the road ahead. Several of them do have sponsorships with groups abroad, but they did not voice any special concern about new regulation, which could potentially sever their international connections. One respondent who only works domestically did say that donor-advised funds would be more appropriate for that arrangement.

Question: What changes do you foresee for fiscal sponsorships in the next several decades?

There was strong agreement that fiscal sponsorships will grow in notoriety and volume within the US and internationally. Most thought that with this growth would come additional regulatory attention from the IRS, perhaps in the form of a new federal piece of legislation mirroring the California Nonprofit Integrity Act of 2004. Included in this regulation, some suggested, would be a time constraint on how long a project or nonprofit could have a fiscal sponsorship. In my view, this makes perfect sense and won’t ruin the great advantage that fiscal sponsorships provide: with a few years of sustainable funding, nascent nonprofits could begin to solidify their US base, and perhaps develop a sister organization (as mentioned earlier).

As far as the cause of this predicted growth, one respondent thought that with the growing distrust over the lack of charitable integrity (e.g. fraud, corruption, misuse of donations, etc.), fewer groups would try to incorporate into 501(c)3s, and instead choose fiscal sponsorship. Another respondent thought that some fiscal sponsors might eventually be able to lend to projects under their system, essentially as a microcredit institution in addition to a financial clearinghouse. Another respondent predicted the imminent release of a "best practices" rulebook and perhaps some kind of handbook with a nationally standard application process.

Question: How do you think those in the field can better publicize the use of fiscal sponsorships, to make their utilization better known to the public and struggling nonprofits?

General guidebooks for managing and fundraising in the nonprofit sector simply do not mention fiscal sponsorships. Colvin's book is still the only available major print publication on the practice. The respondents agreed on the need for increased publicity, and most of them think the burden is on funders, nonprofits, and fiscal sponsors themselves to get the word out there. From what I've gathered, there is a certain sense of modesty in operating fiscal sponsorships, in fact giving truth to this paper's title, which is how one respondent put it. One respondent thought lawyers and tax advisors – who are almost always consulted when a nonprofit incorporates – could do a better job of recommending the fiscal sponsorship option. Another suggested taking advantage of new social media networks to spread awareness.

Recent Government Regulations Concerning Fiscal Sponsorship

The Patriot Act of 2001 and Holder v. Humanitarian Law Project

Following September 11, 2001, the US government passed a number of laws that allowed the government to monitor and obstruct terrorists that intend to harm American lives, both domestically and abroad. Most of these changes were part of the USA Patriot Act, or Unite and Strengthen America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act. Several of the new laws affected the nonprofit sector, in particular grant-making foundations, by criminalizing the act of financially contributing to questionable organizations abroad (Aube). Fiscal sponsors must now be especially sensitive to who they are providing services for abroad. Within the Department of Treasury, the Office of Foreign Assets Control periodically releases a list of "questionable persons and/or organizations," which currently totals 116 pages. Charitable organizations make up a sizable portion of that list. In order to help US-based foundations and grant-making organizations, the Treasury has released a "Voluntary Best Practices for US-based Charities" guide. Originally published in late 2002, the Treasury revised it in 2005 after several reports by advocacy groups criticized the guidelines for placing too much oversight on charities, who bear the extra cost of ensuring who benefits from the grants and funding they provide internationally. One such report – coordinated by the Council on Foundation's Treasury Guidelines Working Group – concluded that the Treasury Guidelines "are impractical given the realities of international charitable work and unlikely to achieve their goal of reducing the flow of funds to terrorist organizations, but very likely to discourage international charitable activities by US organizations."

In June 2010, the US Supreme Court played a key role in determining the limits of international charity. In *Holder v. Humanitarian Law Project*, the Court upheld 6 to 3 a US law that prohibits charities from providing "material support" to designated terrorist groups (Preston). The law in question was signed by President Clinton in 1996, but revised under the USA Patriot Act signed by President Bush in 2001. Several nonprofit groups reacted negatively to the ruling, which they fear will reduce the amount of charity and aid given internationally, especially in the wake of natural disasters. Many groups, they argue, will naturally fall back on their "risk-averse" principles, and not choose to assist in turbulent settings when there might be the future risk of prosecution from the federal government for supporting a terrorist group.

Sarbanes-Oxley Act of 2002

In the wake of such corporate scandals like Enron and WorldCom, the US government passed legislation that now holds publicly traded companies accountable to higher reporting standards. 501(c)3s, although holding no public stock, are now expected, but not technically required[8], to comply with new rules of what would be called the Sarbanes-Oxley Act[9], since they are entrusted by the public to be a charitable actor and working for the public good. A number of pamphlets and books have been published since 2002, specifically geared for new accounting practices in charities. Many industry groups have interpreted the passing of Sarbanes-Oxley as a warning from the federal government that it should have the power to regulate the same accounting practices of nonprofits. Several regional and national nonprofit membership groups have adopted their own principles and charters of "good governance," preempting any federal intervention in the future.

In March 2003, GuideStar released a report jointly written by BoardSource and The Independent Sector entitled "The Sarbanes-Oxley Act and Implications for Nonprofit Organizations." By following the new rules for accounting and board responsibilities, the report made several recommendations for nonprofits:

- A five-year rotating auditor or auditing firm.
- Auditing firms should be used only for auditing services, with the possible exception of tax preparation.
- The auditing process, including any critical decisions made between the auditing firm and the nonprofit's management, should be disclosed to a special Auditing Committee, comprised of board members from the nonprofit.

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[8] Some rules in the law apply to all corporate entities, including nonprofits, but most of the law is intended only for for-profit corporations.

[9] Officially titled the "American Competitiveness and Corporate Accountability Act."

- CEOs and CFOs should understand and approve all financial statements, but the board is ultimately responsible for the organization's financial reports.
- A nonprofit should not provide any loans to executive members of the management, and a conflict of interest policy should be in place.
- Nonprofits should file their taxes electronically, when that is available.
- Nonprofits must adopt a process to deal with formal complaints, both internal and external to the organization.
- Nonprofits must have a mandatory document destruction policy and must comply with the anti-obstruction rules in place when a criminal investigation is underway. Electronic information and voicemails are considered documents.

The report's conclusion echoed a common reaction from my questionnaire respondents:

> Regardless of whether this critical self-analysis is prompted by a set of *potential* laws ultimately governing the actions of nonprofit organizations, we have heard the wake-up call. For all of us in the sector, the Sarbanes-Oxley Act has caused a renewed realization that nonprofit organizations rely on—and must protect—the indispensable and unequivocal confidence and trust of our constituents. Self-regulation and proactive behavior will always prove more powerful than compulsory respect of laws.

Fiscal sponsors will certainly continue to formalize their niche in the nonprofit sector, especially as the NNFS meets more frequently. To date, the most significant publications detailing this formalization is the collaboratively authored "Guidelines to Fiscal Sponsorship," released by the NNFS. Seven organizations joined together in 2003 to form the NNFS and after conducting the field scan report (summarized earlier), they released these detailed guidelines (see Appendix 1).

California Nonprofit Integrity Act of 2004

Finally, this piece of state legislation in California follows the Sarbanes-Oxley Act in that nonprofits must comply with certain statewide ethics and accountability standards. It can be roughly divided into financial reporting and governance, and charitable fundraising regulation (Moerschbaecher). Several respondents commented that we might see a federally sanctioned cousin of this California-only Act in the next few years. With such a large portion of charities working in the US, this California law will pull enormous weight nationally. The California State Attorney General's office released a report shortly after the passing of the Act, "A Summary of Key Provisions." These include:

- Charities have 30 days, not six months, to apply for incorporation after they receive property.
- Charities with over $2 million in revenue must conduct an independent audit and maintain an audit committee.
- Executive compensation must be reviewed and approved by a governing board.
- The Attorney General must be notified before a charity starts a solicitation campaign.
- Commercial (for-profit) fundraisers must have written contracts with the charitable organization that hired them. Charities can cancel contracts with unregistered commercial fundraisers whenever they want.[10]

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[10] A good example of a commercial fundraiser would be Dan Palotta's company PalottaWorks, which folded when placed under high media and public scrutiny for

- Commercial fundraisers and charities are not allowed to misrepresent other people or organizations when soliciting donations.
- Records of solicitations must be on file for 10 years.

Of these rules, fiscal sponsors must pay particular attention to misrepresenting the transfer of money from donor to sponsor and then to the project or nonprofit under the sponsor's umbrella. Several respondents emphasized how donors are clearly told where their money goes when they want to contribute to a certain issue under the sponsor's responsibility.

Protest to this law came from several nonprofit associations. The California Association of Nonprofits argued that many of the new provisions would lead to unnecessary bureaucracy in the nonprofit sector. Many of the decisions – the make-up of boards of directors, language of contracts, and other mandates – they argued would be better off left to nonprofits to decide. Even Governor Schwarzenegger noted after signing the bill into law that,

> I am signing Senate Bill 1262 with the understanding that while I support transparency, accountability and curbing unscrupulous activities, I encourage the Legislature to ensure the non-profit community is not subjected to needless bureaucracy thereby potentially hampering the work and contribution made by non-profits who are serving California communities in need... Therefore, if this bill results in unnecessary expense to the non-profit community I encourage the Legislature to revisit this issue (Moerschbaecher).

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the profit it received for its fundraising operations for other nonprofits. Palotta (as mentioned earlier) still does not understand why Americans can't come to terms with rewarding those individuals who can figure out how to attract more charity. One of his examples is marketing: why aren't we surprised to see Fortune 500 companies advertising during the Super Bowl? Couldn't charities benefit just as well from prime time advertising?

The Future of American Philanthropy Abroad

A number of recent events have made Americans weary of international charitable donations, including September 11th, corporate scandals (like Enron), and the rebuilding of Iraq after the US invasion in 2003. All have their respective regulatory backlash, the USA Patriot Act, Sarbanes-Oxley, and *Holder v. Humanitarian Law Project*, respectively. Despite these setbacks, I still rest on the validity of my original assumption that Americans will continue to increase their philanthropy abroad in the coming decades. Increased global networks of friendly, academic, and business-related association will only lead to more interconnectedness, and a shared feeling of responsibility to the health of the entire planet. In the end, xenophobia will become extinct, and identities will be fundamentally transnational.

As this trend continues, certain barriers to altruistic monetary gestures will fall apart. With the growth of regulation, however, it's hard to tell how "efficient" philanthropy can get. Surely global communication systems are ubiquitous and now almost anyone can get access to the Internet. If fiscal sponsors are to provide appropriate due diligence and routine oversight of their projects, then this increasingly cheap form of communication and information sharing will make that operation easier.

Finally, the biggest question mark for fiscal sponsorships – according to my research – will be centered around my title's hint: "best kept secret." Of course, fiscal sponsorships shouldn't have any air of secrecy around them, but I got the sense that given its relative obscurity, fiscal sponsors feel flexible enough to adapt the work they do to the specific arrangements they have with their projects or nonprofits. I believe that in the end we are still stuck with the paradox that more small charitable projects should know about fiscal sponsorships, but fiscal sponsorships shouldn't be in the public spotlight too much, or else risk harsh public scrutiny and overzealous regulation.

Appendix 1: Fiscal Sponsorship on the Internet

National Network of Fiscal Sponsors (here you can find the NNFS official guidelines): http://www.tidescenter.org/fiscal-sponsorship/nnfs/index.html

Fiscal Sponsorship at Tides Center: http://www.tidescenter.org/fiscal-sponsorship/index.html

Fiscal Sponsorship Directory: http://www.fiscalsponsordirectory.org/

Fiscal Sponsorship – San Francisco Study Center: http://www.fiscalsponsorship.com/

Fiscal Sponsorship at Fractured Atlas: http://www.fracturedatlas.org/site/fiscal/

Foundation Center: http://foundationcenter.org/getstarted/tutorials/fiscal/

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