

# CITY OF PORTSMOUTH

## LEGAL DEPARTMENT

### MEMORANDUM

DATE: SEPTEMBER 15, 2020

TO: ROBERT P. SULLIVAN, CITY ATTORNEY

FROM: TREVOR P. MCCOURT, STAFF ATTORNEY

RE: NONPROFIT ACTING AS A FISCAL SPONSOR

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Commissioner Gamester has asked whether a registered nonprofit organization can hold funds on behalf of another organization, which is in the process of becoming a registered nonprofit. After reviewing the applicable law and guidance from the Internal Revenue Service, it is clear that there is nothing inherently illegal or improper with the above-described arrangement, and that in the world of nonprofits it is a relatively common one.

When a nonprofit receives funds and holds those funds on behalf of another entity, it is acting as a fiscal sponsor. Fiscal sponsorships are contractual relationships, and are not addressed by federal or New Hampshire statute or code. The IRS has recognized the utility and legality of fiscal sponsors in the nonprofit world. Fiscal sponsors can fill the gap in situations where it would be unduly cumbersome or impractical to set up a standalone nonprofit organization, or to fill the gap when funds are available but registration is in process. In the wake of hurricane Katrina, the IRS encouraged the use of fiscal sponsors to quickly deploy funding using existing networks while the state government was preoccupied applications for nonprofit status were delayed. See Announcement IR-2012-87.

Even lacking an immediate crisis, fiscal sponsorships are relatively common, and several well-recognized nonprofits in New Hampshire advertise that they are willing to serve as fiscal sponsors for the right organizations, including Granite United Way, New Hampshire Charitable Foundation, New Hampshire Center for Nonprofits, and Art Speak.

While the entity acting as a fiscal sponsor does take on some additional reporting requirements, it is legal in New Hampshire for a nonprofit to serve as the fiscal sponsor for another entity awaiting confirmation of its own nonprofit registration.