

STARTING AN ALAS STATE AFFILIATE BEST PRACTICES TOOLKIT



This toolkit will provide you specific steps to begin an ALAS State Affiliate with helpful tips on starting a 501c3, the benefits of ALAS membership, and how to develop your first conference to generate necessary ongoing funding for operations and sustainability.

This toolkit will cover the following and should be applicable in each state:

A. Fiscal Sponsorship: As a start-up State Affiliate, ALAS will provide funds up to \$2,500.00 to establish a bank account as necessary for your state 501c3 status. In addition, an accountant will be necessary to file your annual taxes. It is highly recommended to seek an accountant as pro-bono service with a maximum retainer fee of \$500.00 for the purpose of filing State Affiliate taxes. ALAS will support the founders of the State Affiliate with recommended and possible accounting agencies if requested.

B. Steps to Incorporation

- Business Plan Development: For technical, economic and financial feasibility (**template included**)
- Mission Statement: Purpose for State Affiliation
- Recruit Board Members
- Legal Support
- Accounting Support
- Articles of Incorporation (**501c3 template included**)
- Bylaws (**ALAS support in the development, samples included**)
- Business Name Application
- Federal EIN# Application (**Form included**)
- File Incorporation with State
- Federal Tax-Exempt Status Application (**Form included**)
- Right to Solicit Donations Application (**Form Included**)

C. Response from the IRS: (Include in submission of State Affiliate paperwork above)

D. Advanced Ruling: (the written interpretation of tax law, included)

E. Public Support Test: Includes all funds received from gifts, grants, contributions, donative membership fees, and the value of taxes levied and other government facilities or services furnished to the organization without change.

Nonprofits are tax exempt under the 501c status of the Internal Revenue Service. There are two types of nonprofits that fall under the 501c3 status--**Public Charities and Private Foundations**. Most folks who start their own nonprofit apply for 501c3 tax status which allows their nonprofit to receive tax deductible donations and not pay taxes. There are two options to start your own nonprofit organization.

A. Fiscal Sponsorship

Fiscal Sponsorship is an option an organization can choose to follow before becoming an official 501c3 nonprofit. Fiscal sponsorship is good for individuals or groups in a hurry to begin operations and accept tax-deductible donations. However, many funding sources-foundations will not fund new groups.

Fiscal sponsorship usually involves a contractual agreement between a sponsoring organization and the organization being fiscally sponsored also known as the **fiscal project**. Fiscal Sponsorship gives the fiscal project's donors an opportunity to receive tax deductions for the donations that they provide for program support. In many cases the fiscal sponsor organization makes specific requirements for an organization to be fiscally sponsored. Some of these requirements involve the fiscal project to engage in strategic planning, fiscal reporting, and accountability activities. There are many ways an organization can be fiscally sponsored, for example one organization can be a project of another organization, or the fiscal project is separate entity with a Board of Directors. "Fiscal Sponsorship: 6 Ways To Do It Right," by Gregory L. Colvin, goes into more details about the different types of fiscal sponsorship.

It is helpful if new organizations that are looking for a fiscal sponsor do a little research before they jump into a fiscal sponsorship relationship. This really helps during the contract negotiation. Since the IRS is really particular about how fiscal sponsor relationships are set up there are a lot of rules about ownership of funds, for example in most cases the new organization doesn't have any control over the money that the donors give to the fiscal sponsor. So, it is challenging when new organizations add clauses in the contract to try to control their funds. It is helpful if new organizations not only learn about the benefits of being fiscally sponsored but also the limitations to being fiscally sponsored. However, once a new organization is fiscally sponsored they can generate donations and funds until they are ready to separate from their fiscal sponsor and apply for 501c3 nonprofit status.

Steps to Incorporation

There are specific steps to create an official 501c3 nonprofit organization.

Business Plan Draft

A nonprofit is like any business and requires a good plan to get started. Sample plans can be found on the Small Business Administration's website <http://www.sba.gov>. A good plan includes these components:

- Mission statement
- Description of activities
- Marketing plan

- Need for your nonprofit in the community, evaluation of what is already out there.
- Board and Staff bios showing their capabilities to perform the duties of the nonprofit.
- 3 year budget including realistic income and expenses. Some of these expenses are:
 - Start-Up Costs
 - Pre-incorporation expenses
 - Incorporation & filing fees, board recruitment
 - Office, furniture, equipment, legal, accounting, marketing, logo, technology
 - Initial Operating costs
 - Recruitment & Training, insurance, postage, and utilities

Mission Statement Draft

Your mission statement states what you do and why you do it. It is short and to the point and conveys passion. A mission statement is usually accompanied by a vision statement and goals, which shows what your organization wants to accomplish in the future.

Recruit Board Members

You are required to have a minimum of 3 board members to start. Recruit people you can trust and can bring three things to the table - knowledge, funding and/or contacts. It is important to be **diverse** in board member selection. While some board members may be able to give money, others may have expertise in an area that is needed. As an example, if an organization is recruiting 9 board members, it will want to recruit a lawyer, a teacher, an entrepreneur, two constituents (someone who benefits from the organization's services), a local community leader, a businessperson, a member of the nonprofit community, and a psychologist. In some states the Board Chair and the Board Secretary cannot be the same person.

Legal & Accounting Support

It is not a requirement for nonprofits to use a lawyer during the incorporation process; however it is helpful to receive both legal advice and accounting advice from the start. In some cities and states, start-up nonprofits can receive pro-bono legal advice from their local bar association or other legal services and accounting organizations. Look hard to find a Latino owned Law Firm and Accounting Firm. They are out there.

Articles of Incorporation Draft

- Must be a tax-exempt purpose
- No profits can benefit any individual
- Cannot be a political organization
- Upon dissolution, all assets must go to another tax-exempt organization of similar service

Bylaws

The bylaws are a very important document for a new nonprofit. Nonprofits must follow what is stated in their organizational bylaws so it is important to work with trusted board members and advisors when creating the bylaws for your organization. The bylaws describe your organization's corporate rules, behaviors, and actions and include the following sections:

- Powers of the board
- Meetings information
- Directors (numbers, elections, tenure, vacancies, removal, quorum, compensation, voting)
- Officers
- Committees
- Operational Staff
- Fiscal Year
- Conflicts of Interest
- Amendments

Business Name Application

Applying for a business name is another important step in the incorporation process. Check on www.Guidestar.org to see if name isn't already being used by a nonprofit. Think twice about including Foundation in the name of your organization because many assume foundations already have endowed or existing funds. Names are approved on a state by state basis; however some nonprofits choose to also trademark their name to avoid potential future law suits. Here are the requirements for applying for a name with the Secretary of State:

- Name must not already being used in the state
- Name availability search with Secretary of State
- Reserve name with Secretary of State

Federal EIN# Application

National application SS-4 with IRS.

This is a permanent identity for all government reports and documents.

File Incorporation with State

Nonprofit status requirements vary from state to state, however many states provide nonprofits with exemption from sales tax. In addition, each state's Attorney General and Secretary of

State's website list nonprofit specific filing requirements. It is also helpful to consult a nonprofit attorney to find out the specific state filing requirements.

California requires nonprofits to fill out form 3500 Franchise Tax Exemption application. Additional documents required with this application are:

- Financial Statements/Budget
- Articles of incorporation
- Bylaws
- Supporting Documents including statement of activities

Federal Tax-Exempt Status Application

Form 1023

You will also need to include the minutes of first board meeting
Most nonprofits can also apply for sales tax exemption; however this is not the case in the state of California.

Right to Solicit Donations Applications

This is done with your state's Attorney General's office and is an annual filing requirement.

Response from the IRS

Once you submit all your paperwork to the IRS it generally takes between 8-12 months to receive a response. While your application is pending, you may start receiving tax-deductible donations, however nonprofits be cautious because if their application is not approved then they are required to return the money from their donors.

Public Support Test

In order to be considered a 501c3 public charity, nonprofits must prove they are a public charity by following a public support test. This means over a five year period more than 2/3rds of their funds must come from a variety of sources. Generally nonprofits that have been fiscally sponsored can pass the public support test, however new organizations that don't have very much funding or funding from just two sources may not be granted permanent 501c3 status. The public support test information is included in the 1023 IRS exemption application.

Advanced Ruling

For those organizations that cannot pass the public support may be awarded an advance ruling period. This is a five-year period and gives the affiliate nonprofit an opportunity to get donations

from a variety of sources. For more information about the advanced ruling period check out information on the IRS's website. Nonprofits should carefully track their funding during this advanced ruling period and work to receive donations from a variety of public sources.
<http://www.irs.gov/charities/charitable/article/0,,id=123155,00.html>.

Notes: