

Understanding the Differences between Partnerships with For-Profit and Nonprofit Partners

Collaborating with other nonprofits is different from collaborating with for-profit companies. This fact sheet highlights some of those differences and how to evaluate them.

Collaborations with For-Profit Entities

Nonprofit organizations are organized and operated for the benefit of the public or some segment of it. Board members of nonprofits do not share in any profits the organization may realize, and nonprofits must disclose their financial dealings to the IRS and, when requested, to the public. As a result, when two nonprofits collaborate, the purposes and the scope of the shared goals raise few concerns from a regulatory perspective.

When a nonprofit collaborates with a for-profit organization, it must consider that the for-profit was organized for a very different end goal: to provide profit to its owners and shareholders. This doesn't mean that a nonprofit can't collaborate with a for-profit! It must, however, be sure that it is not inadvertently causing the owners of that business to benefit in excess of the benefit received by the charity in fulfilling its mission.

On its annual information return, the Form 990, all US-based nonprofits must report to the IRS any new program services performed. If any financial contributions were made in furtherance of the collaboration, that must also be listed. In order to protect itself, the nonprofit should require that the agreement reflect the nonprofit's authority to prevent any use of the collaboration's assets for purposes inconsistent with its charitable purposes.¹

The bottom line is that, to the extent that the collaboration will result in fulfillment of the nonprofit's mission and purposes, the fact that the collaboration may provide incidental benefit to the for-profit partner will not cause a problem with the IRS.

Questions an Executive Director should ask before collaborating with a for-profit²:

- 1. Does the for-profit share the same goals for this collaboration as we do?**
- 2. Will this collaboration, if successful, provide a financial benefit to the owners of the nonprofit?**
- 3. If so, will our goals accomplished by this collaboration be substantial?**

Collaborations with Nonprofit Partners

Working with another nonprofit is easier: because you both are organized and operated for the benefit of the public, your relationship will generally not result in improper private benefit to a person or for-profit entity. But you should still proceed thoughtfully and carefully, and clearly document the relationship and relative responsibilities. See Fact Sheet #9, Legal Aspects of Collaboration.

Sources:

1. Pro Bono Partnership, June 2011, Section 501(c)(3) Tax-Exempt Entities Forming Affiliations With Other Entities: Benefits, Risks, and Structural Considerations.
2. Pro Bono Partnership, 2009, Checklist: For-Profit Ventures