

April 2014

Business and CDC

CDC's Guiding Principles for Public-Private Partnerships:

A Tool to Support Engagement to Achieve
Public Health Goals



Centers for Disease Control and Prevention
Office of the Associate Director for Policy

www.cdc.gov/policy

CDC's Guiding Principles for Public-Private Partnerships

I. INTRODUCTION

Public-private partnerships are hardly a new concept, and the federal government prioritizes enhancing its ability to build these types of partnerships as a means to address the nation's most pressing problems.¹ Federal agencies like the Environmental Protection Agency, the Department of Defense, the U.S. Agency for International Development, and the Veterans Administration actively leverage these types of partnerships.² As government budgets shrink, public-private partnerships help federal agencies do more with less, build on the capabilities of others, leverage collective action, improve performance, and realize cost savings.^{1,2}

The purpose of this document is to provide guidance to CDC staff to build mutually beneficial public-private partnerships through a framework that maximizes the health impact of such partnerships. This document replaces previous guidelines for collaborating with the private sector.

Definitions and Policies

Private sector partners include: for-profit businesses, professional organizations that represent businesses, philanthropic arms of private corporations, other philanthropic entities, and private individuals and/or groups.

Public-private partnerships may involve financial considerations, but they can extend far beyond resource sharing. For the purpose of this document, public-private partnerships are defined as relationships between CDC and the private sector that are not legally binding where skills and assets are shared to improve the public's health and each partner shares in the risks and rewards that result from the partnership.^{3,4} Often, a Memorandum of Understanding or Memorandum of Agreement (MOU/MOA) is created. Read more about MOU/MOAs in Section V of this document and by accessing CDC's "[Development and Execution of Memoranda of Understanding and Memoranda of Agreement](#)" [Operational Policy](#). The policy includes a template.

Based on guidance from the White House, partnerships can provide access to more resources, goods, services, intellectual capital and expertise, cutting-edge technology, audiences, networks, physical presence and infrastructure, markets, financial capital, venture funding, and capabilities, creating opportunities for greater health impact, cost reductions, and efficiencies to accelerate health impact.¹ They can also provide public or professional education, applied research or evaluation, or public health services.

Public-private partnerships are powerful tools that can help CDC:

- Extend the reach of messages and programs;^{1,5}
- Speed up response and innovation cycles;^{1,6,7}
- Connect with organizations that share CDC's goals;^{1,8}
- Gain insight and perspective from businesses;
- Solve problems through new technology;^{6,7}
- Develop CDC's workforce;⁷
- Raise awareness about CDC's lifesaving work.¹

The guiding principles put forth in this document are meant to facilitate sound planning for programs and serve as a resource for staff operating with a variety of partnership arrangements. This document does not replace or supersede any organizational policies, and staff must maintain awareness of, and abide by, all

appropriate CDC policies. The following are just some of the relationships for which CDC has explicit rules, policies, and procedures:

- [Grants and Cooperative Agreements](#)
- [Contracts](#)
- [Gifts](#) (both directly to CDC and via the CDC Foundation)
- [Cooperative Research and Development Agreements \(CRADA\)](#)
- [Material Transfer Agreements](#)
- Non-Disclosure Agreements
- Research Collaboration Agreements
- [Conference Co-Sponsorships](#)
- Collaborations on Contests

Note: While this lists the majority of CDC relationships not covered by the guiding principles, it is NOT exhaustive.

II. WHY PARTNER?

Partnering with the private sector helps CDC to:

Increase Support and Reach of CDC's Work

- Generate broad societal support;
- Reach a large segment of the public;
- Access specific populations (including professional groups);
- Enhance programmatic credibility by involving reputable partners.¹

Facilitate Innovation for the Public Good

- Inspire creative ideas and greater potential for innovation and game-changing solutions through partnership with those who have different experiences and perspectives;¹
- Increase the agility, nimbleness, and efficiency of efforts since partners frequently can adapt and execute in ways that are difficult for the federal government;¹
- Improve decision making and risk management as a result of information sharing among partners.¹

Impact Industry

- Support industry in aligning their efforts to health-for-all principles;⁹
- Assist organizations in an industry to set an example for other organizations;
- Accelerate research and development in appropriate fields;⁹
- Support industry to develop products that are less harmful to society and in ways that are less harmful to workers and the environment;⁹
- Address the needs of at-risk worker populations.

Build Internal Capacity

- Acquire knowledge, expertise, and skills from the private sector to enhance CDC programs and projects.

Common Myths:

“CDC can’t accept money from the private sector.”

While CDC cannot solicit funds from outside sources, the gift policy outlines how to receive gifts offered voluntarily.

“CDC, in general, resists working with the private sector.”

We have a long history of collaboration with private partners including businesses. The recent establishment of a Business Engagement function within the OD is intended to increase agency capacity to partner with the private sector.

“CDC employees cannot participate in discussions about financial gifts.”

CDC employees are prohibited from soliciting gifts; however, it IS appropriate to answer questions and discuss legal mechanisms for granting a gift to CDC when a partner initiates an interest.

III. GUIDING PRINCIPLES FOR PARTNERSHIPS

There are many things to consider when first approaching a partnership opportunity, and it can be a bit overwhelming to decide if, or when, to proceed. The first step is to conduct background research—consider the potential partner’s areas of interest, image and motivation for partnering, track record for social and environmental responsibility, and financial soundness. Detailed questions to assist with this background research can be found in "[Building Partnerships: A Best Practices Guide](#)," published by the 2013 White House Community Partnerships Interagency Policy Committee.

Initial Assessment

At the earliest stages, conducting an initial assessment will help determine potential viability of longer term discussions and negotiations. The following questions may be reviewed at the earliest stages before proceeding with detailed project discussions. They should also be revisited throughout the lifecycle of a partnership:

- Do mutual benefits exist for all potential partners? If so, they must be explicit and transparent.¹⁰
 - Would the benefit to society be greater than the benefit to either partner?
 - Is there a well-defined and substantial public health benefit based on sound science and public good?¹¹
- Is there mission alignment? Could shared objectives and/or mutual programmatic goals be established?¹
- Is there a clear, identifiable, substantial leadership role for CDC, and is there a designated lead and champion within the agency?¹¹
- Could partnering with the private entity present a conflict of interest (real or perceived)? (see below for further detail)
- Would the potential partner receive direct monetary benefit from the partnership? If so, consult the Office of the General Counsel.
- Do the potential benefits outweigh the risks associated with a partnership? (see Kraak's¹² benefit-risk decision-making pathway for further assessment)

Additional Considerations

If the initial informal assessment reveals this to be a viable opportunity with demonstrable value to the public’s health, you are ready to more formally consider the following factors:

Impact/Value

- The partnership should have a large impact relative to the resources required.
- There is opportunity for return on investment for public health, CDC, and its partners.¹¹
- Expected benefits are clearly defined and made explicit by all potential partners.¹¹

Feasibility

- CDC is able and willing to devote staff time and funding to support the partnership process.¹
- Activities have been outlined that have a manageable size and scope with specific timelines and milestones ([CDC Foundation Guiding Principles for Partner Collaboration](#)).

Conflicts of Interest

- CDC's independence of scientific judgment, credibility, and reputation is retained. The potential partner has expressed no issues in deferring to CDC's final judgment on all matters of scientific findings, facts, or recommendations.¹¹
- No conflict of interest or appearance of a conflict exists. Conflicts to be considered include:¹

- Whether a potential partner has pending business before any agency that would be involved in a partnership, including contracts or grants, the size, timing, or nature of which would give rise to an appearance that the potential partner is trying to influence the outcome of that government action;
- Whether a potential partner is regulated by the agency that would be involved in the partnership;
- Whether a potential partner has recently met with an agency or has such meetings scheduled in the near future concerning other matters on which the potential partner is seeking favorable agency action such that the timing of a partnership arrangement would present the appearance of a conflict of interest.
- Whether such a partnership creates the appearance of favoritism, undermines CDC’s integrity or any CDC decision-making process.

IV. COMMUNICATING VALUE TO THE PRIVATE SECTOR

Once you have determined that a partnership should be pursued, preparing effective communication strategies can ensure clarity of expectations and establish a foundation of trust and open dialogue. This is critical in establishing a platform for transparent communication going forward.

Understanding a Business Audience

In addition to researching individual private entities, it is important to demonstrate awareness of their culture, similar to when engaging with a new population. Awareness of the fundamental differences between the public and private sectors (Table 1) will create more effective interactions. Each partner brings its own unique culture, values, mode of operation, responsibilities, and constituents.⁶ Understanding, accepting, and clearly communicating core differences (as early as possible) can lead to more rewarding and effective partnerships where all partners’ needs are addressed. Transparent, deliberate communication is key and will help build trust in the long term.

	Culture and Values of Private Entities and CDC		
	Accountability	Core Principles	Organizational Culture
Private Sector	<ul style="list-style-type: none"> • Answers to <i>shareholders</i> for financial gains and losses 	<ul style="list-style-type: none"> • Activities should advance the company's <i>commercial interests</i> • Corporate social responsibility priorities usually align with commercial interests 	<ul style="list-style-type: none"> • Innovation • The expected timeline for results may be shorter
CDC	<ul style="list-style-type: none"> • Answers to <i>American citizens, Congress, the HHS Secretary, and the President</i> for public health impact 	<ul style="list-style-type: none"> • Activities should advance <i>public health impact</i> • Maintains transparency of work and processes • Scientific and programmatic decisions must remain independent of any partnership 	<ul style="list-style-type: none"> • Adheres to U.S. government systems, procedures, and protocols, which may be perceived as rigid and cumbersome by businesses

Table 1. Adapted from PEPFAR’s Public Private Partnerships 101 presentation.¹³

Benefits to Partners

The benefits of partnering with a federal agency may not always be obvious, and/or the prospect of dealing with a bureaucracy may be off-putting to the private sector. To assist in articulating the value of a partnership with CDC, consider highlighting some of the following benefits to the private sector.

CDC offers:

- An effective outlet for corporate social responsibility;^{1,9}
- Increased ability to achieve greater outcomes;¹⁴
- Exposure to new markets, market share, and ability to attract new investors;¹
- Access to specific populations or professional groups;
- Opportunities to create and test new products to meet unmet social or individual needs;¹
- Improved supply chains for products and services;¹
- Improved operational or workforce efficiencies;¹
- Reduced business risks;¹
- Enhanced reputation, brand loyalty, and goodwill.¹

MOU/MOA:

A fiscally non-obligating and legally non-binding document.

Describes in very broad terms, the mutual understandings, concepts, goals, and plans shared by the parties.

V. HOW TO ENGAGE

Think you are ready for initial discussions? Be sure to do the following before scheduling a meeting:

1. Consider how the contribution of a private partnership will advance CDC’s public health mission;
2. Conduct initial background research about potential business incentives for partner(s);
3. Gain a sense of potential mutual benefits to discuss;
4. Review potential partners using Section III of this document, “Guiding Principles for Partnerships.”

Deciding to Continue

Creating partnerships is a process—the first phase is exploratory, which entails having informal conversations with potential partners and compiling background information about them. This is followed by development, commitment, and then careful support and management of the partnership until its conclusion. After the exploratory phase, you may want to consider developing an MOU/MOA. Part of the value of these documents lies in the process of creating them with partners. At any time, if you are unsure if an MOU/MOA is required and/or the nature of your partnership begins to change, consult your Office of General Counsel designee.

Knowing When to Pull Back

As you get to know each other, and discussions become more specific about a potential project or collaboration, you should continue to review the “Guiding Principles for Partnerships” section of this document. Sometimes, new information can alter the viability of a partnership. This does not imply a mistake or that the potential partner intentionally misrepresented itself. It does, however, require federal employees to pause discussions and take steps to ensure the partnership is still worth pursuing. Leadership from Centers, Institutes, and Organizations (CIOs) should be informed throughout the process and, ultimately, will need to approve partnership agreements. You can also consult the Office of General Counsel along the way to help you consider the value and parameters of a partnership.

Box 1. When Not to Engage

- CDC has an oversight function that would be in conflict (or perceived conflict) with a partnership;¹
- Potential partner represents any product that exacerbates morbidity or mortality when used as directed;¹¹
- Potential partner's goal is product endorsement or the appearance of product endorsement (CDC co-branding only with the approval of CDC review committee for this purpose);¹¹
- Potential partner's main focus is donor recognition.¹¹

Multiple tools are available to help guide you through the partnership lifecycle. A full tutorial on how to navigate the partnership process is beyond the scope of this document; however, at a minimum, review and ensure that you are following applicable CDC policies listed in Section I. In addition, the following resources provide useful information to help you carry out your partnership work.

Box 2. Helpful Partnership Tools

CDC:

- Office of Public Health Preparedness and Response, Office of Policy, Planning, and Evaluation. [A Structured Approach to Effective Partnering: Lessons Learned from Public and Private Sector Leaders](#).
- Renee Saunders, Division of Global HIV/AIDS. *The Survivor's Guide to Public-Private Partnerships* [PowerPoint slides].

External:

- The White House, Community Partnerships Interagency Policy Committee. [Building Partnerships: A Best Practices Guide](#).
- CDC Foundation. [Guiding Principles for Partner Collaboration](#).
- CDC Foundation. [Public-Private Partnerships and Conflict of Interest Guidelines](#).
- Sara Glass, Senior Alliance Advisor. USAID IDEA Global Partnerships. *Presenting PEPFAR to the Private Sector: What's Your Elevator Pitch?* [PowerPoint slides].
- The U.S. President's Emergency Plan for AIDS Relief. *Public Private Partnerships 101* [PowerPoint slides].

¹ The White House, Community Partnerships Interagency Policy Committee. (2013). *Building Partnerships: A Best Practices Guide*.

² *The National Council for Public-Private Partnerships*. Retrieved March 25, 2014 from <http://www.ncppp.org/ppp-basics/top-ten-facts-about-ppps/>

³ The National Council for Public-Private Partnerships. (2012). *Testing Tradition: Assessing the Added Value of Public-Private Partnerships*.

⁴ Majestic, E. (2009). Public Health's Inconvenient Truth: The Need to Create Partnerships With the Business Sector. *Preventing Chronic Disease: Public Health Research, Practice, and Policy*, 6(2), 1-8.

⁵ National Health Council Board of Directors (1999). *Partnership for Prevention: Guiding Principles for Corporate Relationships*.

⁶ McDonnell, S., Bryant, C., Harris, J., Campbell, M.K., Lobb, A., Hannon, P.A., Corss, J.L., Gray, B. (2009). The Private Partners of Public Health: Public-Private Alliances for Public Good. *Preventing Chronic Disease: Public Health Research, Practice, and Policy*, 6(2), 1-8.

⁷ Ezezika, O.C., Deadman, J., Murray, J., Mabeya, J., Daar, A.S. (2013). To Trust or Not to Trust: A Model for Effectively Governing Public-Private Partnerships. *AgBioForum*, 16(1), 27-36.

⁸ The United States Agency for International Development, The Office of Innovation and Development Alliances/Global Partnerships. (2012). *Partnering with USAID: A Guide for Companies*.

⁹ Buse, K. & Waxman, A. (2001). Public-private health partnerships: a strategy for WHO. *Bulletin of the World Health Organization*, 79(8), 748-754.

¹⁰ Mitchell, M. (n.d.). An Overview of Public-Private Partnerships in Health. Retrieved March 19, 2014 from <http://www.hsph.harvard.edu/ihsg/publications/pdf/PPP-final-MDM.pdf>

¹¹ Centers for Disease Control and Prevention Foundation. Guiding Principles for Partner Collaboration. *Cdcfoundation.org*. Retrieved March 18, 2014 from <http://www.cdcfoundation.org/content/public-private-partnership-policies-and-guidelines>

¹² Kraak, V.I., Harrigan, P.B., Lawrence, M., Harrison, P.J., Jackson, M.A., Swinburn, B. (2011). Balancing the benefits and risks of public-private partnerships to address the global burden of malnutrition. *Public Health Nutrition*, 15(3), 503-517.

¹³ The U.S. President's Emergency Plan for AIDS Relief. (January 2014). *Public Private Partnerships 101* [PowerPoint slides]. Slides not publicly available.

¹⁴ Centers for Disease Control and Prevention, Office of Public Health Preparedness and Response, Office of Policy, Planning and Evaluation.(n.d.). *A Structured Approach to Effective Partnering: Lessons Learned from Public and Private Sector Leaders*.

PUBLIC PRIVATE PARTNERSHIPS
AT THE
U.S. DEPARTMENT OF EDUCATION

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November 2008

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I. INTRODUCTION

Increasingly, government agencies are looking for ways to make the most of their resources by joining nongovernmental organizations (NGOs) in a variety of projects. In recent years partnerships among government agencies, private companies, and nonprofit organizations have received media attention – both positive and negative. These relationships have been praised for their innovation. However, critics have raised concerns about the commercialization of governmental functions and the misuse of the government’s resources and imprimatur.

The term “project” covers a variety of endeavors the Department might work on with an NGO. Possible projects include conferences, publications, initiatives, traveling exhibits, videos, websites or other discrete undertakings. The terms “partner” and “co-sponsor” are often used to describe just about any joint project between the Department and an NGO.

The purpose of this guidance is to provide practical advice concerning how the U.S. Department of Education (Department) can work with NGOs to further the Department’s mission. Although it covers many topics in detail, we encourage you to seek specific guidance prior to entering into a partnership with an NGO.

II. TYPES OF PROJECTS

Most projects with NGOs fall into one of three categories:

- Department projects supported by a gift from an NGO
- Joint projects with an NGO
- NGO projects with assistance from the Department

Each is discussed below.

A. Department Projects Supported by Gifts from NGOs

These are projects that the Department controls or owns, but an NGO supports the project through a gift either in cash or in kind. The issues that arise from these types of projects tend to revolve around the acceptance of the gift. The following discusses a variety of frequently asked questions concerning gifts.

Example: The Department conducts an award ceremony and invites teachers from throughout the country. A local supermarket chain provides light refreshments at the ceremony.

What’s a gift?

A gift is anything of monetary value. A gift may be cash, services, or other in-kind contributions.

May the Department accept gifts?

Yes. The Secretary has statutory authority to act on behalf of the Department “to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, and to accept donations of services, for the purpose of aiding or facilitating the work of the Department.” 20 U.S.C. Section 3481. The Department has used this authority to solicit and accept gifts of cash and other donations to support the work of the Department.

Are there criteria under which the Department determines whether it will accept a particular gift?

Yes. In determining whether to accept a particular gift, we look at the following factors to avoid the appearance that the Department is favoring organizations that donate funds or other items to the Department or that it is pressuring organizations that do business with the Department to donate to the Department.

1. Under its statutory gift acceptance authority, the Department may only accept gifts that aid or facilitate its work.
2. The Department does not accept gifts from certain organizations with which the Department does not wish to be identified – for example, the manufacturers of tobacco products, firearms, or alcoholic beverages.
3. The Department generally does not accept gifts from a “prohibited source.”

In some circumstances it may be appropriate to accept a gift from a prohibited source because none of the concerns mentioned above is raised. Therefore, the Department may accept a gift offered by a prohibited source when:

- Any actual or potential dealings with the Department by a prohibited source represent a relatively insignificant proportion of that source’s revenues or business;
- The prohibited source does not have a substantial or critical portion of its business regulated or affected by the Department; and
- There is nothing about the timing or circumstances of the gift that raises questions about its propriety.

A prohibited source is anyone who does or seeks to do business with, is regulated by, or has interests affected by the Department. Examples of prohibited sources include: universities, state or local educational agencies, education associations, banks that participate in the federal student loan programs, Department contractors and grantees, a textbook company, etc.

May the Department solicit gifts?

Yes. The Department's gift acceptance authority permits solicitation of gifts. However, as a matter of policy, the Department does not generally solicit gifts from prohibited sources of the Department. The Ethics Division must clear the solicitation of all gifts.

What is the procedure for accepting a gift?

Absent a delegation of authority, no Department employee may solicit or accept gifts on behalf of the Department.

While the Secretary retains authority to accept gifts on behalf of the Department, that authority is currently delegated to the Chief of Staff (COS) who in turn delegated the authority to the Director of Corporate Affairs for the Office of Communications and Outreach (OCO). This delegation is subject to change. Furthermore, the Office of the General Counsel must clear all solicitations and gifts. At present, if you are interested in soliciting or accepting a gift, you should contact the Department's Director of Corporate Affairs for further guidance.

May the Department acknowledge a gift publicly?

Common courtesy dictates that the Department will thank all donors. The Department may include the following statement – or a similar one -- in materials relating to an event or project supported by gift funds: “The Department of Education gratefully acknowledges support from ABC Company.” On the other hand, the Department should not include in its acknowledgements extraneous information about the donor or its products. For instance, we would not say “This project was made possible with a gift from ABC Company. For more information on how to order ABC products, call 1-800-555-1234.”

Requests (sometimes demands!) from donors may turn the “gift” into an offer to contract with the Department. For example, the ABC Association states that it will underwrite a portion of the cost of a Department conference if the Department agrees that a senior official will attend the ABC conference the following year. At that point, ABC is not offering a gift – it is trying to negotiate a quid pro quo (by the way, the Department could not agree to such an arrangement.)

B. Joint Projects

Sometimes it makes sense for the Department to co-sponsor events and other projects with one or more NGOs. An organization will be considered a “co-sponsor” of an event with the Department when it agrees to play a significant role in the design and/or implementation of the event. For example, an association may work with the Department to plan an agenda, determine the appropriate target audience, and provide speakers for a portion of a conference. The literature announcing the event would identify this association as a co-sponsor of the event along with the Department.

If, on the other hand, an organization’s only role in an event is to underwrite the cost of all or part of the event, then the organization’s contribution must be considered a gift, and handled as discussed above. This distinction is important because of the limits on the Department’s ability to accept gifts.

You should review the *Guide to Publishing at the U.S. Department of Education* before entering into any arrangement to publish materials. You may obtain a copy at <http://www.ed.gov/internal/wwwstds.html> or call 1-877-4ED-PUBS. This is particularly important if you are interested in having an NGO publish Department materials, or jointly produced materials. The Office of Communications and Outreach must clear these arrangements.

In deciding whether to enter into a joint project with an outside group, you should keep in mind the following issues:

- Co-sponsoring an event or project means that the Department does not have total control over the event. This is because the private party cannot simply underwrite the expenses associated with the event, but must have a real and visible role in the event.
- Co-sponsoring may raise concerns that the Department is showing preferential treatment to a particular organization, especially if the Department works with the same NGO on many projects and others are seeking similar opportunities. Therefore, the Department may consider providing similar opportunities to other NGOs when appropriate.
- When co-sponsoring an event, you should arrange for the co-sponsor to pay vendors directly and not accept any funds on the Department’s behalf. For example, a co-sponsor could pay a hotel, caterer, or other vendor directly.
- The Department must communicate certain requirements to potential nongovernmental sponsors from the outset. For example, the Department always maintains the right to withdraw from a project that is using the official seal. Also, any rules applicable to event planning must also be observed for co-sponsored events. For example, Department conferences must be held at locations that are accessible to persons with disabilities, and the Department may not arrange for, or advertise, tourist activities as part of an official conference.

May the Department enter into a joint project with a prohibited source?

Yes. Indeed, most NGOs with a substantive interest in education will also be prohibited sources. However, the Department should avoid co-sponsoring an event with an organization that has a sensitive matter pending before the Department. For example, we

should not co-sponsor a conference with an NGO at the same time that the NGO is the subject of a Department audit or investigation.

May the Department enter into a joint project with a non-educational organization?

Yes. However, when there is no obvious relationship between the nongovernmental co-sponsor and the Department’s mission, you should be satisfied that the project is not simply an advertising opportunity for the NGO. Also, it is not appropriate for the Department to have an “official airline” or “official hotel” in connection with government events—even when they are co-sponsored by an NGO. Finally, there are some categories of NGOs that – for policy reasons – the Department has traditionally declined to partner with, including manufacturers of tobacco products, firearms, or alcoholic beverages.

C. NGO Projects with Assistance from the Department

There are many ways in which the Department may cooperate with, and provide assistance to, an NGO without being a co-sponsor of that event or project.

May the Department assist an organization in developing materials for its own use?

When NGOs plan and launch initiatives in education that are compatible with Department programs and initiatives, it may be appropriate for the Department to provide assistance, though the Department does not provide assistance to NGOs to develop products that will be sold. On the other hand, where an NGO seeks to develop a product to be distributed to the public for free, we may provide information and advice because an NGO may be able to distribute information to a much larger audience that the Department can reach.

Example: the McDonald’s of the Tri-State Area, a member of the Department’s Partnership for Family Involvement in Education (PFIE), asked if the Department would assist in the development of a summer reading program. The Department ensured that information credited to the Department about reading in McDonald’s brochures and tray liners was accurate. Working with McDonald’s gave the Department an opportunity to get important information about reading out to millions of children and parents. The Department and PFIE were recognized as having provided assistance, and the PFIE logo was placed on the brochures and tray liners.

III. LIMITS ON PARTNERSHIPS

There are three major limitations:

- Partnerships must further the Department's mission.
- There are strict limits on endorsements and advertisements.
- There are limits on the Department's involvement in curricula.

A. Partnerships Must Further the Department's Mission.

While many projects and events are worthwhile, the Department may only spend its resources, including government property, staff resources, and appropriated funds, to fulfill its own mission.

B. Limits on Endorsements and Advertisements

Like all federal agencies, the Department may not specifically endorse the activities or products of NGOs. There are two bases for this limitation—one legal and one policy. The legal basis for the prohibition on endorsements derives from the Standards of Ethical Conduct for Executive Branch Employees. These regulations state, in relevant part, that:

An employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise except: (1) in furtherance of statutory authority to promote products, services or enterprises; or (2) as a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

5 CFR Section 2635.702(c). This rule is designed to implement the general ethics principle that "[a]n employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity. . . ." 5 CFR Section 2635.702.

In addition to the legal constraints discussed above, the Department—through the Secretary's office and through the administration of the ethics program—has had a long-standing policy of declining requests for endorsements. The reasons for this include the fact that it is simply not possible for the Department to respond to the hundreds of requests it receives every year for endorsements. In addition, the endorsement of one NGO may lead to inquiries from the public, including Members of Congress, questioning why one particular NGO has been singled out for praise to the exclusion of others. Finally, the Department is not in the business of dispensing a “seal of approval” for products and services that may or may not satisfy customer expectations.

What do you mean by “endorsement?”

In the context of this guidance, “endorsement” means any Department action that makes a qualitative statement about an NGO or its programs and services. For example, a statement by the Department that “the XYZ Association is excellent” and should receive support from a foundation is an endorsement. Placing the Department’s official seal on a product is another example of an endorsement.

There must be a way for the Department to promote successful programs. What may the Department do to highlight such programs?

There are certain actions that the Department may (and should) take to promote programs and other endeavors. When a Department official visits a particular school or program, participates in a conference, or delivers a commencement address, the Department is suggesting that this school, program or conference merits attention. Although these types of activities are an endorsement of sorts, they are permissible. There are many other ways the Department may highlight successful programs without an explicit endorsement. Some of these are discussed below.

Is it ever permissible to explicitly endorse an NGO or its products?

The Department may single out a particular product or institution for praise when it has specific statutory authority to do so. For example, the Department has an established program for recognizing Blue Ribbon Schools and American Stars of Teaching. In addition, pursuant to statute, the Department has run a series of expert panels to identify promising and exemplary programs in a variety of fields.

What are some examples of impermissible endorsements?

Here are a few examples of impermissible endorsements:

A Department employee, in an official speech, urges the listeners to join a particular professional association.

An employee provides a quote for the book jacket and permits the use of his or her official title.

The Department agrees to put its seal on an instructional CD on keeping guns and drugs out of schools.

The Department invites only one vendor of educational technology products to display its products at a Department conference.

The American Dairy Council and the Department decide to co-sponsor a booklet aimed at encouraging parents to read to their children. The Department agrees to use pictures of children drinking milk and eating ice cream throughout the booklet.

A Department official appears in the promotional materials designed to sell products to school districts.

May the Department prepare and distribute publications that include descriptions of nongovernmental programs and other resources?

The Department may share information about a wide variety of specific programs and resources available in a general subject matter area—it is consistent with its mission to do so. A representative list of programs and resources is considered permissible information sharing rather than an impermissible endorsement. This kind of information sharing is often done through the development and distribution of publications as well as on the Department’s Web site and in newsletters.

Example: “Start Early, Finish Strong” is a Department publication that provides many examples of programs aimed at getting children to read. It lists resources for communities trying to develop such programs. The examples and resources cover a wide range, the text of the document does not suggest the Department has made judgments about the relative quality of those included, and an appropriate disclaimer was included. Accordingly, “Start Early, Finish Strong” was considered permissible information sharing rather than an impermissible endorsement.

A few additional general rules:

1. The language used to describe the programs may not make qualitative judgments about those programs (i.e., it is all right to say “ABC Afterschool program provides recreational activities for children in grades K-5” but not “ABC Afterschool program successfully provides excellent recreational activities”);
2. When products or resources are for sale, the Department publication may not include an order form and generally should not list prices;
3. An appropriate disclaimer should always be used. (See Appendix I.); and
4. Even with its best efforts, the Department runs the risk of omitting an organization. Therefore, cast a wide net in seeking input on the names of programs or resources to mention in publications.

What is an advertisement?

Endorsements and advertisements in this context are similar. Advertisements usually relate to products or services that are for sale – whether by a for-profit or nonprofit entity. And, like endorsements, there’s a fine line between merely providing information and providing advertising space.

How can I tell if something is a prohibited endorsement or advertising?

Here are some things to look for. If the answer to any of the following questions is yes, you may have an endorsement or advertising problem:

- 1) If a member of the public does not know what the NGO does, will he or she be able to tell from your project? The Department is permitted to acknowledge an NGO it is working with on a joint project, but may not elaborate on the NGO’s products or services. For example, it is permissible to say “Big Candy Company” is our partner, but adding that they make “Gooley Chews” is impermissible advertising.

2) Is the size of either the Department's or an NGO's name or logo out of proportion with the actual degree of participation in the project? (See discussion of logos below.)

3) Are members of the public required to spend money to get a reward? For instance, the Department would not participate in a joint project with a fast-food restaurant that required parents to purchase that restaurant's products in order to participate.

4) Will the project include an order form, or other straight advertising piece, for items a sponsor sells to the public? For example, a phone company offered to provide free fixed value calling cards as a reward for participants in a Department summer reading program. The Department declined the offer because in order to use the card users were required to listen to several minutes of advertising.

5) Is the NGO seeking an exclusive relationship with the Department? The Department does not offer exclusive partnerships. For example, the Department partnered with Pizza Hut for several years on the Read-Write-Now program, and would do the same with Papa John's.

How do these rules apply to websites and URLs?

Web addresses included in Department publications or correspondences are essentially the same as an address or phone number. Therefore, if including a particular resource in Department materials furthers the Department's information sharing role, it is permissible to also include a web address. However, because web pages within a website can serve a variety of purposes, specific web address references must be reviewed before they are included in Department materials. Here are some things to look for when reviewing web addresses for inclusion in Department materials:

- Providing a web address directly to an order form for a product or service offered by an NGO is impermissible.
- Linking to any page on a website with the primary and exclusive purpose of marketing a product or service is impermissible advertising.
- Providing a web address to a web page that urges readers to contact their Members of Congress or State legislators about pending legislation violates the anti-lobbying laws.

The Department has an established policy governing links to NGOs from the Department's website.

That policy may be found at <http://www.ed.gov/internal/wwwstds.html>
(Linking to External Content)

When may the Department permit the use of its official seal or other Department logos on materials not published by the Department?

Generally, the Department may not permit use of the official seal or logos on materials produced by an NGO without prior clearance from the Office of General Counsel (OGC) and OCO. A good rule of thumb for determining when the presence of the Department’s official seal is appropriate information rather than an endorsement is that its size and location on the materials reflect the scope of the Department’s participation. For instance, if the Department is a full partner on a project with an NGO, it is appropriate for our official seal to appear in the same size and a similar location to our partner’s logo. On the other hand, if the Department has only provided assistance and advice on a project that is essentially not a government project, the official seal should be fairly small in size, and displayed only in a location that conveys information about the Department’s participation.

In addition to the official Department of Education seal, there are a number of logos associated with Department programs and initiatives, such as No Child Left Behind. However, the Department’s official seal is not program specific, and its presence signifies the participation of the Department as a whole. The purpose of the program logos, on the other hand, is to promote that particular program. Therefore, there may be circumstances where it is appropriate to use a program logo but not the official seal and vice versa.

C. Curriculum Issues

The Department may not “exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, over any accrediting agency or association, or over the selection or content of library resources, textbooks, or other instructional materials by any educational institution or school system except to the extent authorized by law 20 U.S.C. 3403(b). Over the years the Department has applied this provision cautiously to avoid creating even the appearance that the federal government is interfering with a state and local function.

Example: The Department worked with the Smithsonian on an edition of “Smithsonian in the Classroom” in connection with the Department’s Mars Millennium project. The publication, aimed at teachers, included a lesson plan on Mars. Including the lesson plan was permissible because it was for information only and the Department included a disclaimer that made this clear. (See Appendix I for a sample disclaimer.)

Nevertheless, there are situations—including projects with NGOs—when it furthers the Department’s mission to share information with the public, including schools, teachers, parents and students, that includes lesson plans or curricula provided for information only. Any questions regarding this particular issue should be directed to the Division of Elementary, Secondary, Adult and Vocational Education in OGC.

IV. ADDITIONAL USEFUL INFORMATION

Federal Advisory Committee Act (FACA): FACA is a law that governs how the government gets advice from groups of individuals. It is important to make sure that, in developing partnerships and other relationships with NGOs, the Department does not inadvertently violate FACA. If you are concerned about whether your partnership idea raises FACA issues, contact the Division of Business and Administrative Law in the Office of the General Counsel.

Anti-Lobbying: The “anti-lobbying” act and various appropriations riders, taken together, prohibit the use of appropriated funds – including money and human resources – for grassroots lobbying campaigns in connection with proposed legislation, and bar the use of Department appropriations for certain forms of “publicity and propaganda” designed to influence Congress or state legislatures. “Grassroots” lobbying means urging third parties to contact their legislators to support or oppose pending legislation.

As a practical matter, in the context of public-private partnerships, this means that the Department may not:

1. Tell our partners to contact Congress about proposed or pending legislation;
2. Link to partners’ web pages from the Department website when the linked page advocates that viewers contact Congress about pending legislation;
3. Forward e-mail messages received from NGOs to our Department colleagues when those messages urge readers to contact Congress about pending legislation; or
4. Participate in meetings with our nongovernmental partners when the purpose of the meeting is to strategize about how to lobby Congress on pending legislation.

These are just examples. If you have questions about how the anti-lobbying laws apply to your situation, contact OGC’s Ethics Division.

Copyright: In general, any product developed and published by the Federal government is in the public domain. This means that members of the public may use these products without getting our permission to do so. Sometimes, in a public-private partnership arrangement, the NGO is concerned that products it contributes to the joint effort will lose copyright protection by virtue of the partnership with a Federal agency. Generally, this is not the case. However, OGC’s Division of Business and Administrative Law should review all copyright issues.

Are Written Agreements Necessary?

If a joint project or partnership does not involve the expenditure of appropriated funds, a written agreement is not legally required. However, in some cases it is desirable, particularly when the partnership arrangement is either complex or long-term. For instance, the Department entered into a partnership agreement with USA Today under which USA Today agreed to host the Partnership for Family Involvement in Education website. Because this was viewed as a long-term partnership, and because USA Today was planning to expend significant resources to participate, both parties agreed that it was essential to document the agreement in writing. On the other hand, if the Department agrees to work with one NGO that is planning to reprint and distribute a Department publication, a written agreement is probably not necessary. OGC can help you determine whether a written agreement is necessary.

APPENDIX I.

SAMPLE DISCLAIMERS

A. Curricula/Lesson Plans

The U.S. Department of Education does not mandate or prescribe particular curricula or lesson plans. The information in this document is provided only as a resource that educators may find helpful and use at their option.

B. Examples of disclaimers clarifying that information about an NGO is provided for information only:

1. This document contains contact addresses and Web sites for information created and maintained by other public and private organizations. This information is provided for the reader's convenience. The U.S. Department of Education does not control or guarantee the accuracy, relevance, timeliness, or completeness of this outside information. Further, the inclusion of information or addresses, or Web sites for particular items does not reflect their importance, nor is it intended to endorse any views expressed, or products or services offered.
2. This document contains news and information about public and private organizations for the reader's information. Inclusion does not constitute an endorsement by the U.S. Department of Education of any products or services offered or expressed.
3. While these resources are relevant to the Department's mission, they are available from a variety of sources and their presence here does not constitute an endorsement by the U.S. Department of Education.
4. The content of this report does not necessarily reflect the views or policies of the U.S. Department of Education, nor does the mention of commercial products or organizations imply endorsements by the U.S. government. The inclusion of such information is for the reader's convenience and is not intended to endorse any views expressed, or products, programs, models or services offered.

APPENDIX II.

WORKING WITH THE ETHICS DIVISION

In order to help you figure out how to apply these broad rules to your situation, please review the following questions. If you answer "yes" to **any** of these questions, you should seek additional guidance or clearance from the Ethics Division.

1. Are you planning an event, publication, or initiative in partnership with an NGO?
2. Is an NGO seeking to use the Department's name or seal on any of its publications or materials?
3. Is an NGO seeking to use the Department's name in any fundraising effort?
4. Is an NGO seeking to have its name or logo placed on a Department publication?
5. Will the Department be linking to a web page on an NGO's website from the Department's website?
6. Is an NGO seeking permission to link to our website?
7. If an NGO is reprinting our materials, is it doing anything more than just acknowledging the Department as the source of the materials, i.e., using the seal or displaying the name of the Department prominently?

If you answered "yes" to any of these questions, you should call the Ethics Division at 202-401-8309.

APPENDIX III.

PHONE NUMBERS

For general partnership guidance:

The Ethics Division in OGC
(202) 401-8309

For guidance publishing any materials:

The Office of Communications and Outreach
(202) 401-0404

For guidance on curriculum questions:

Division of Elementary, Secondary, Adult and Vocational Education in OGC
(202) 401-8292

For guidance on copyright law:

The Division of Business and Administrative Law in OGC
(202) 401-6700

For guidance on the Federal Advisory Committee Act:

The Division of Business and Administrative Law in OGC
(202) 401-6700

VHA PUBLIC-PRIVATE PARTNERSHIPS

- 1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) Directive establishes new VHA policy and clarifies existing policy regarding Public-Private Partnerships (P3) between VHA and non-governmental organizations (NGO).
- 2. SUMMARY OF CONTENTS:** This directive sets forth policy, roles, and responsibilities for developing, maintaining and establishing public-private partnerships with non-governmental organizations. Compliance with this directive will apply to newly formed public-private partnerships with NGO partners, whether they are new partners or existing partners, beginning FY 2016. This VHA directive does not rescind any existing directives related to partnerships.
- 3. RELATED ISSUES:** None.
- 4. RESPONSIBLE OFFICE:** Office of Community Engagement (10A) is responsible for the contents of this Directive. Questions should be referred to 202-461-7008 or CommunityEngagement@va.gov.
- 5. RESCISSIONS:** None.
- 6. RECERTIFICATION:** This VHA Directive is scheduled for recertification on or before the last working day of September 2020.

David J. Shulkin, M.D.
Under Secretary for Health

DISTRIBUTION: Emailed to the VHA Publications Distribution List on 9/16/2015.

VHA PUBLIC-PRIVATE PARTNERSHIPS

1. PURPOSE: This Veterans Health Administration (VHA) Directive establishes new VHA policy and integrates existing practices regarding public-private partnerships (P3) between VHA and non-governmental organizations (NGO). The purpose of this Directive is to promote the growth of responsible, productive, and innovative partnerships at the national, regional and community level by integrating existing practices regarding P3s into this new policy. VA has a number of authorities, including 38 U.S.C. 513, 523, and 6306 to enter into P3s. Section 523 of title 38, United States Code, authorizes VA to develop P3s with NGOs to achieve the effective coordination of the provision of VA benefits and services (and information about those benefits and services) with appropriate programs (and information about those programs) conducted by NGOs. Partnerships already defined by existing regulation or authority, such as gifts, volunteering, grants, contracts, sharing agreements, enhanced-use leases, academic affiliations, and interagency joint ventures, are not covered by this Directive.

2. BACKGROUND:

a. Veterans, their families, and their survivors exist within the greater community and interact with various organizations for a variety of services and resources. It is crucial for VHA to collaborate and coordinate with other agencies and NGOs in order to increase efficiency and improve outcomes for Veterans. Responsible and productive P3s also bring the added benefits of potential cost savings, improved public relations, and enhanced community investment on behalf of our Veterans. P3s are an important tool for VHA leaders when addressing the varied opportunities in their communities.

b. The Strategic Plans of both the Department of Veterans Affairs and the Veterans Health Administration highlight the importance of partnerships. VA seeks to enhance and develop trusted partnerships. Additionally, the VHA Strategic Plan puts forward the following objectives for partnerships:

(1) Leverage current P3s to expand capacity, resources and access for services for Veterans and service members;

(2) Explore and launch promising new partnerships with public and private partners to enhance services, health professions and wellness education; and

(3) Participate with federal agencies, states, health professional schools and associations, and NGOs on national strategies to improve health and mitigate threats.

c. As VHA seeks to fulfill its strategic objective of strengthening collaborations and launching promising new partnerships, guidance is needed for how to go about achieving this goal.

d. P3s should be entered into after careful and thorough evaluation of the objectives at hand, the involved stakeholders, the efficiencies to be gained, and the benefit to Veterans. While all partnerships contain inherent risk in that some aspects of service

delivery fall outside VA control, the nature of P3s should enable local facilities to expand available services.

3. POLICY: It is VHA policy that development of a P3 by VHA medical facility staff is appropriate when the goals of the NGO are consistent with the Department of Veterans Affairs strategic and priority goals. When common goals are shared among VHA and NGO providers, collaboration should lead to improved coordination of policies, programs and/or service delivery.

4. RESPONSIBILITIES:

a. **Office of Community Engagement.** Office of Community Engagement (OCE) staff is responsible for:

(1) Supporting VHA staff by providing training, technical assistance and clarification regarding P3 policies contained in this Directive. This includes advising VA medical facilities and program offices when questions arise about how and whether to initiate, maintain or discontinue specific partnerships;

(2) Annually, or as otherwise required, gathering information regarding VHA P3s that will be analyzed and shared with VHA in the interest of sharing best practices, developing VHA's strategic direction regarding partnerships, and promoting the growth of more effective and responsible partnerships; and

(3) Serving as a VHA liaison and point of contact for community partnership related questions or issues.

b. **Veterans Integrated Service Network Director.** The Veterans Integrated Service Network (VISN) Director is responsible for:

(1) Ensuring partnerships at the VISN level develop a process similar to that which is described at the facility level (see below), so that the appropriate assets are allocated to ensure sufficient oversight and execution of partnerships developed at the network level;

(2) Providing oversight of facility level P3s, ensuring appropriate evaluation mechanisms as defined by the respective facility directors are in place, and ensuring that points of contact data remain current; and

(3) Submitting data periodically to the Office of Community Engagement (10A) reflecting field operations of P3s within the VISN.

c. **Medical Facility Director.** The medical facility Director is responsible for:

(1) Ensuring due diligence is completed before agreeing to collaborate or partner with an outside entity;

(2) Cataloging P3's that exist at the facility;

(3) Promoting current partnerships and available community resources, supporting the exploration and development of responsible and productive partnerships, and serving as an on-site resource to review questions about partnerships;

(4) Providing additional oversight of potential community partnerships among the medical facility and NGOs when due diligence efforts determine partnership is a possibility, but could pose excess risk to participating Veterans or VHA. The Director should consult with appropriate program offices, Regional Counsel, local VHA Privacy Officer, or the Office of Community Engagement if the medical Director deems additional review is appropriate;

(5) Ensuring that P3s comply with VHA policy;

(6) Establishing and distributing local medical facility policy and procedures consistent with this Directive; and

(7) Ensuring training is available and completed for new staff performing duties establishing relationships with nongovernmental organizations.

5. REFERENCES:

a. VA Directive XXXX, Developing Public-Private Partnerships with, and Accepting Gifts to VA from, Non-Governmental Organizations

b. VHA Handbook 1620.01, Voluntary Service Procedures

c. VA Directive 0311, Joint Ventures

d. VHA Directive 1400, Office of Academic Affiliations

e. VHA Handbook 1660.04, VA-DOD Direct Sharing Agreements

f. VHA Directive and Handbook 4721, General Post Fund

g. VHA Directive 2011-034, Homeless Veterans Legal Referral Process

h. VHA Handbook 1110.01, VA Fisher House Program

i. VA Guidance for Engaging in Public-Private Partnerships with Non-Governmental Organizations (VAIQ 7381698)

<http://vaww.pdush.med.va.gov/programs/oce/oceP3Guidance.aspx> **NOTE:** *This is an internal web site that is not available to the public.*

6. DEFINITIONS:

a. **Due Diligence.** Due diligence is the research and analysis of an organization prior to entering into a partnership that involves evaluating benefits and risks of the potential partnership.

b. **Non-Governmental Organization.** Any private, or commercial entity other than a Government agency (Federal, state, local, tribal), including but not limited to corporations, nonprofit organizations or associations, and international and multinational organizations.

c. **Memorandum of Understanding.** Memorandum of Understanding (MOU) is a formal written document between VA and an NGO that describes the agreement and each party's responsibilities for the agreement's success.

d. **Public-Private Partnership.** Public-Private Partnership is a voluntary, collaborative, working relationship between VA and one or more NGOs in which the goals, structures, governance, and roles and responsibilities are mutually determined to deliver the best possible services. A copy of the Veterans Health Administration Public Private Partnership Implementation Guideline can found on <http://vaww.pdush.med.va.gov/programs/oce/oceDefault.aspx> **NOTE:** *This is an internal web site that is not available to the public.*

APPENDIX A

PUBLIC-PRIVATE PARTNERSHIP IMPLEMENTATION GUIDELINES

Table of Contents

- a. Why Enter Into A Partnership.
- b. Considerations for Partnership Development.
- c. Initial Steps.
- d. Assessing the Viability of a Public-Private Partnership (P3).
- e. Partnership Development.
- f. When a MOU/MOA is Recommended.
- g. Tracking and Monitoring Partnerships.
- h. Sharing Space or Other Resources with Partners.
- i. Endorsements and Referrals.
- j. Raising Awareness of Available Community Resources,
- k. Raising the Community Awareness of Veterans Health Administration.
- l. Examples of Public Private Partnerships.
- m. VHA Partnership Training.
- a. **Why Enter into a Partnership:**

1. **Overview.** A P3 is a voluntary, collaborative, working relationship between VA and one or more Non-Governmental Organization (NGOs) in which the goals, structures, governance, and roles and responsibilities are mutually determined to deliver the best possible services. When optimized, P3s work to focus the creativity, strengths and resources of allied organizations upon a common goal. Conversely, a poorly conceived P3 may strain already limited capabilities and erode hard earned public good will. The following guidance has been compiled to ensure VHA enters into such endeavors with an understanding of best practices and potential pitfalls of P3s.

2. **Suitability.** VHA staff should first consider the value a P3 will create keeping in mind that collaboration with an NGO is a tool to enhance and expand healthcare services to benefit Veterans, family members, caregivers, survivors, and other beneficiaries. Four possible reasons for pursuing P3s are to:

- a. Advance a shared objective;
- b. Enhance impact through resource sharing;
- c. Improve programmatic reputation/visibility; and
- d. Achieve mutual programmatic goals.

b. Considerations for Partnership Development:

1. VHA staff venturing into P3s should:

(a) Develop a stable foundation for the membership, rationale, and activities of the partnership while allowing sufficient flexibility for these components to develop and evolve in response to external and internal demands;

(b) Understanding that partnerships go through a life cycle of development, from initial set-up stages through full-scale implementation to maturity; and

(c) Ensure that services resulting from the P3 are not required to be provided by appropriated funding.

2. The aforementioned considerations may be applied within the context of a P3 in multiple ways and it is recommended that these principles be revisited throughout the life cycle of such endeavors.

c. Initial Steps:

1. Partnerships may arise through new opportunities or from preexisting relationships between organizations. The designee as defined by the VA medical facility Director or as outlined in the local partnership procedures should be able to recognize these opportunities and evaluate them based upon their merits, organizational needs, and current strategic priorities. Following due diligence evaluation of a proposed partner organization will help to ensure that the partnership will work effectively and meet the needs of the partnering VA medical facility, while simultaneously introducing transparency to the partnership process. Paragraph D outlines best practices for assessing a P3 and includes examples of due diligence tools.

2. Common steps that may be beneficial for VA medical facilities to incorporate into their initial process of evaluating a potential partnership include:

(a) Identifying desired partnership goals or outcomes;

(b) Determining what service the partner is going to be provided;

(c) Identifying any barriers to the partnership or risks associated with collaboration, such as sharing personally identifiable information;

(d) Considering the organizations' past performance; and

(e) Evaluating the merits and potential disadvantages of associating with the specific organizations involved.

d. Assessing the Viability of a Public-Private Partnership:

1. Partnerships are developed to maximize the shared efforts of multiple groups. The goal of partnerships is to achieve more than individual organizations are capable of achieving independently. From VHA's perspective this would include maximizing the efficacy of, and access to, available resources, enhancing programs and services for Veterans, and leveraging community and stakeholder support. However, that is not to say that a partnership will always be the appropriate choice for addressing a given service need. There will be times when a binding contractual action or some other mechanism will prove to be a preferable option. Nevertheless, P3s are a potent instrument available to VHA for addressing the full range and varying needs of a particular Veteran community at the medical facility, Veterans Integrated Service Network (VISN) and national level.

Participating in a Discovery Meeting.

2. A discovery meeting is an opportunity to get to know the potential partner and to conduct an initial assessment of the organization's intentions in partnering with VA. VHA staff has discretion to convene and participate in discovery meetings. During the discovery meeting, VA employees can get answers to "common sense questions" such as who or what organizations will be participating; whether independent action, contracted services, or other mechanisms will prove to be more appropriate options; or if the partnership will enhance healthcare services to Veterans, family members, survivors, or other beneficiaries. VHA staff should ensure that appropriate staff and SMEs are present during discovery meetings to provide an initial assessment of the viability of a potential partnership and address "common pitfalls" such as:

(a) Miscommunication, whereby one or more parties leaves the meeting believing the other party has agreed to something that, in fact, the other party does not believe it has agreed to; and

(b) Procurement/contracting conflict of interest: Is the organization currently bidding on a contract with VHA or involved in a procurement or do they have plans to bid on one in the future? If so, VHA staff should not participate in the meeting until they have consulted with leadership or VA legal counsel.

Evaluating the Partner.

3. Evaluating and understanding the potential partner organization is a necessary step before entering any productive and responsible partnership. Such an evaluation can help predict the success or failure of a venture by providing an honest assessment of an outside agency's abilities, assets and track record. Consideration must also be

given to the fact that when VHA partners with an organization, the Department's reputation becomes associated with the reputation of that organization.

a. Due diligence should be completed before agreeing to collaborate or partner with an outside entity. VHA staff should become familiar with the potential partner's goals and objectives, look for similarities that overlap with VA and VHA's goals; and discern whether conflicts exist with VHA priorities and values. Before committing to work with an outside partner, it is highly recommended that VHA staff consider the following basic questions to help understand the potential partner and to assess the merits of the potential partnership.

(1) What type of organization is the potential partner, e.g., Veterans Service Organization (VSO), nonprofit, for-profit, faith-based, etc.?

(2) What are the prospective partner's mission and goals? Do they align with VHA's interests, mission, and goals?

(3) Whom does this organization serve (Veterans, caregivers, Service members, family members, survivors, etc.)?

(4) Does the partnership help to address an identified need for Veterans, their families, Survivors, or VHA?

(5) What is the organization's purpose and motivation for entering into the partnership?

(6) Does the prospective partner have any previous or current grants, contracts, or partnerships with VHA? If yes, does a real or potential conflict of interest exist, or could the appearance of a conflict of interest negatively impact the potential partnership?

(7) Does the prospective partner have the resources necessary to fulfill its contribution to the partnership?

(8) Is the organization fiscally responsible?

(9) What are the expectations of the partnership? What will the organization contribute to the partnership?

(10) What are the risks associated with a partnership with this organization, and if so, are these risks acceptable? What are the potential benefits to Veterans and their families and do they justify an investment by VHA in this partnership?

(11) What information do the potential partners in this effort need and is VHA confident that any risk to Veteran information can be addressed?

(12) How will the VA and the potential partner measure the success of the relationship? What are the expected outcomes and/or potential impact?

b. Other considerations should be addressed to ensure:

(1) Potential affect that the relationship may have on VA's image or reputation;

(2) Detrimental impact to programs and services

(3) Previous or current interactions between the partner and VHA do not create the appearance of preferential treatment, conflict of interest, or the appearance of conflict.

4. There are a variety of resources available for public use to aid in the assessment of a nongovernmental organization that may be easily assessed on the Internet. Such tools typically operate by making an evaluation based upon a variety of factors including publicly available IRS 990 tax statements, the agency's governance structure, asset allocation and more. These tools then assign a rating based upon their evaluation criteria.

a. Other due diligence tools includes charity websites such as GuideStar, Charity Navigator, and the Better Business Bureau. In addition, each state requires nonprofits to register before the organizations can engage in activities. The majority of the states have a searchable nonprofit and charity database. For example, the following links are provided for the state of California: <http://kepler.sos.ca.gov/> and Maryland: <http://www.oag.state.md.us/nonprofits/>. Other states have similar links.

b. This information may aid a facility during the evaluation process, however, meeting the standards set forth in these various tools is not the only way to judge whether VHA should partner with an organization. If an organization does not meet certain criteria, yet the potential gains for engaging in the partnership are significant, it is recommended that additional consultation be incorporated in the decision-making process to determine whether to move forward with the partnership. Because there are often numerous factors that affect the decision to collaborate, seeking guidance from multiple and varied sources is advised. VHA Staff may seek additional guidance from facility leadership, local facility Privacy Officer, Regional Counsel, and the VHA Office of Community Engagement.

Evaluating the Partnership.

5. The medical facility Director should ensure business processes related to P3s include due diligence prior to forming the partnership. Further, the medical facility Director should direct program officials to monitor the partnership to ensure fulfillment of the partnership expectations and responsibilities. When considering a P3, each medical facility Director should ensure the process for developing and tracking partnerships addresses the following:

a. What are the potential benefits to each of the proposed non-VHA partners?

b. What is there to be gained by the medical facility or VA at large should this partnership be implemented? Some examples include cost avoidance, increased

flexibility in service delivery, enhanced public interest, increased community investment in VA's mission, etc.

c. Are there other potential gains in entering into this partnership such as learning opportunities or improved access to other organizations?

d. What are the potential benefits for the entities seeking partnership with VHA and what is their interest in the issue being addressed by the partnership?

e. What are the short and long term benefits of this partnership; will it require a sustained effort?

f. Is there interest within VA, the community, or both to sustain the partnership?

g. What are the costs to VA associated with this partnership, and how do these costs compare to other potential solutions to the issue being addressed?

h. Does the potential partner have a demonstrable track record that conveys that the organization will be capable of delivering upon their commitments?

i. Is there a partnership or some other solution already in place that addresses the identified need?

e. Partnership Development:

1. Robust and successful partnerships are developed in an environment that recognizes the contributions and capabilities each entity brings to the table, and respects each entity's voice in the process; leadership and clearly defined roles are essential. A partnership is not an employer/employee relationship and participants should be alert to addressing any power dynamics as they arise.

2. Successful partnership development processes in general follow these five steps:

a. Potential partners come together and explore common needs and the viability of a partnership;

b. Targets and roles are identified;

c. The partnership is formalized with detailed assignments, defined responsibilities, and measurable outcomes; and

d. The partnership objectives has measurable outcomes;

e. The partnership is carried out as outlined in the agreement.

3. Every partnership must eventually consider issues of continuance, transition and termination.

a. A specified time for this consideration may have should be defined early in the relationship when the coalition decides upon its outcomes and targeted accomplishments.

b. In some cases, a partnership may need to come to an early conclusion due to unforeseen circumstances. Some partnerships may use this time to renew goals and commitments or it may be determined that continued partnership is no longer desirable for the parties involved.

c. It is recommended that during P3 development all parties involved engage in open discussion regarding the termination of the partnership and identify to the extent possible, when and how the partnership will end.

f. When a Memorandum of Understanding (MOU) is Recommended:

1. During the initial stage of a P3, processes are formalized and roles are delineated. Written agreements are used to clarify expectations and minimize the likelihood for future missteps and misunderstandings. There are several documents that can facilitate this process, including a Memorandum of Agreement (MOA), a Memorandum of Understanding (MOU) and a Letter of Intent (LOI). While it should be specified that these documents are not intended to be legally binding agreements (such as formalized contracts), they do provide a common understanding between the parties involved, provide a structure within which to work and help to prevent or alleviate conflict between P3 participants.

2. The Memorandum of Understanding (MOU) remains the most common of these documents. A MOU is an agreement between two or more parties that expresses an intended common line of action but does not amount to a binding legal contract. It is recommended that MOUs contain the following elements:

- a. Legal name, address and description of each partner's agency/organization;
- b. Statement of the purpose of the MOU;
- c. A clear description of the agreed upon roles and responsibilities each organization or agency will be providing to ensure project success. The roles and responsibilities should align with project goals, objectives and target outputs;
- d. Identification of the staff accountable for completing the specific responsibilities;
- e. Agreements must be compliant with all relevant Federal, privacy regulations. Consultation with VHA's Privacy Office is strongly recommended whenever personal identifiable information is involved in a partnership). Note, personal identifiable information should not be included in a MOU.
- f. Description of how the collaboration/partnership will benefit the project;

g. Description of the resources each partner will contribute to the project. This may include contributions of staff time or other in-kind contributions, delivery of services, offers of training or expertise, etc. Note- an MOU should not be used when there is any type of cost or obligation on VA involved. Whenever there is a cost involved or the exchange of services it should be considered a contract.

h. A clause that the MOU is non-binding.

i. Description of the duration in which this MOU will remain in effect and termination clause.

j. The MOU must be signed by all partners. Signatories must be officially authorized to sign on behalf of the agency and include title and agency name.

g. Tracking and Monitoring Partnerships: The medical facility Director should establish a process for tracking and monitoring community partnerships at the facility. This process does not have to be overly detailed or extensive but should be able to reflect the types of collaborations currently underway and the involvement of the medical facility's program staff in them. The following information should be used as a foundation for the facility's tracking process:

(1) Organization name.

(2) Contact information (NGO, VHA).

(3) Program office (mental health, homeless, etc.).

(4) Level of due diligence performed and date.

(5) Description of the partnership goals, outcomes, or metrics.

(6) MoU/ MoA / Lol / LoA date (if applicable).

(7) Noteworthy partnership activities.

(8) Status (active / inactive).

h. Sharing Space or Other Resources with Partners:

1. In some cases, VHA will be asked to contribute resources in the interest of a partnership, such as space at a VA medical facility, use of equipment or supplies, or staff time. For example, an NGO that offers a free class or service that benefits Veterans or their family members may request the use of some space at a VA medical facility on a recurring basis. Sharing these types of resources in the context of a partnership is permissible, but is at the discretion of the medical facility Director or according to whatever process he or she has delegated to review these requests. See VHA Handbook 1820.01.

2. In space sharing situations, as indicated in paragraph 2 above, due diligence of the NGO should be performed prior to permitting an organization to use facility space. It should be noted that the partner's presence does not constitute an endorsement or referral.

i. Endorsements and Referrals:

1. Federal regulations (see 5 CFR §2635.702(c)) state that an employee shall not use or permit the use of his/her Government position or title or any authority associated with his/her public office to endorse any product, service or enterprise except: 1) in furtherance of statutory authority to promote products, services or enterprises (e.g., Veterans Canteen Service); or 2) as a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission.

2. According to these regulations, while VHA staff cannot specifically endorse one NGO's products or services, VHA staff may offer community resource referrals.

3. Community resource referrals allow VHA staff to share information about available products or services that may be beneficial to Veterans or their family members. This is not an endorsement as long as VHA staff have made a good faith effort to provide information about equally beneficial and available services to the Veteran.

4. As an example, Organizations A, B and C all provide free asthma education classes to children of Veterans and their parents. If VHA staff were aware of Organizations A, B and C's services but only provided the name and contact information of Organization A to Veterans, it could be interpreted as an endorsement. However, VHA staff may provide information about the services of all three organizations without concern about violating the endorsement regulation. If VHA staff were not aware of Organizations B and C, there would not be an issue. Additionally, if Organization A charged for the educational classes but Organization B and C did not, the VHA staff could also share this information with interested Veterans.

j. Raising Awareness of Available Community Resources:

1. It is important for Medical Centers to maintain awareness of locally available community resources that could benefit Veterans, their families, caregivers or survivors. As previously stated VHA alone cannot meet all of the needs of Veterans or their families but by partnering with others, VHA can enhance and expand its ability to care for Veterans. The availability of resources varies greatly from community to community. For this reason, a medical facility Director should ensure that a process is in place for raising and maintaining awareness about currently available local community resources that benefit Veterans, as well as facilitating the dissemination of this information among community partners on behalf of Veterans. Processes that can support this include: a

website, electronic database, or even recurring meetings to share information among individual VHA staff who regularly work with community partners.

2. The process should ensure that information about local community partnerships is made available and in a format that:

(a) Is easily updated and disseminated (such as a web site or a regularly occurring town hall or staff meetings);

(b) Is easily accessible and understandable to medical facility staff and volunteers;

(c) Ideally, could be available publicly so Veterans and their families can access the information directly;

(d) Includes input from surrounding CBOCs and/or Vet Centers as appropriate;

(e) Is informed by partners in the community.

3. For support or guidance in establishing this process, VHA staff are encouraged to contact the Office of Community Engagement at CommunityEngagement@va.gov or at <http://vaww.pdush.med.va.gov/programs/oce/oceDefault.aspx>. **NOTE:** *This is an internal Intranet site that is not available to the public.*

k. Raising the Community Awareness of Veterans Health Administration:

While VHA is the largest integrated healthcare center in the United States, its facilities are nestled in communities where are Veterans, their families, caregivers, and survivors live and work. Responsible and productive partnerships not only expand VA's services to Veterans and their beneficiaries, they are also a direct reflection on the VA. P3s build interpersonal contacts that work to personalize what otherwise might be regarded an isolated outpost of an imposing national system, rather than a health center integrated into its community. Greater familiarity with VA enhances the efficacy of individuals and groups within the community who are committed to the well-being of Veterans by refining their abilities to match up Veteran needs with VA resources.

l. Examples of Public Private Partnerships:

1. The following are common examples of public private partnerships affected by policy contained within VHA Directive 1098:

a. a farmer's market held regularly on VA medical facility grounds;

b. VHA staff working with an organization to coordinate a service that VHA is statutorily authorized to deliver to Veterans or their families; or

c. An organization offering a free service regularly on VA medical facility grounds and seeking referrals for expanding the free service.

d. A nonprofit partnering with the VHA Homeless Office to provide furnishings for Veterans.

2. Partnerships affected by this policy may be better understood by defining what they are not:

a. A partnership is not a relationship based on “if...then” terms where one party can impose conditions or prescribe the terms of the relationship that the other party would not accept without compensation. Doing so would better describe a grant or contracting relationship.

b. A partnership is not simply a team activity where everyone has exactly the same interest. While VA and its partners are likely to have strong interests in common (e.g. serving Veterans), they are likely to have some divergent interests too. For example, a partnering organization may meet a gap in services for VHA, but Veterans may not be the only recipient for which services are offered.

c. A gift or donation to VHA does not necessarily constitute a partnership. Policy guidance for the solicitation of assets or funds is defined within VHA Directive and Handbook 4721, General Post Fund. For expanded instructions on gifts and donations, refer to VHA Handbook 1620.01, Voluntary Service Procedures.

3. Examples of what are NOT public-private partnerships as covered and defined by this Directive:

a. An individual volunteer at a VA medical facility;

b. A medical school affiliated with a VA medical facility;

c. VHA staff speaking at a conference;

d. VHA staff attending a networking event and meeting individuals from outside organizations; and

e. A contract with a corporation to provide services to a VA medical facility or program office.

m. VHA Partnership Training:

1. The primary goal of the VHA Directive on Public Private Partnerships is to promote the growth of responsible, productive, and innovative partnerships at the national, regional and community level by integrating existing practices regarding P3s into this new policy. A Talent Management System (TMS) VHA Public Private Partnership training module is designed to provide employees tips and tools for effective partnering.

2. Employees who perform duties establishing public-private partnerships should complete the online training module. A record of the training will be recorded in TMS.