

Joint Venture Guidelines

Function:	Innovation and Partnerships
Procedure	Joint Venture Procedure
Contact:	Gregory O'Connor Director of New Ventures

Review of Potential Joint Ventures

As specified in the Research Foundation for the State University of New York's ("RF") Joint Venture Policy (the "Policy"), Operations Managers must notify the Director of New Ventures of certain types of contemplated Joint Ventures as dictated by the Policy. Once notified by the campus, the Director of New Ventures will review the subject proposed Joint Venture with the appropriate RF departments, including without limitation the RF General Counsel or its delegate. Where such Joint Venture requires the approval of the RF President or the RF Board, the Director of New Ventures shall ensure that the proposed Joint Venture is reviewed by the RF's Office of Innovation and Partnership's staff, RF Chief Financial Officer and RF General Counsel, or their respective delegates, prior to seeking approval from the RF President and/or the RF Board.

Examples of Common Activities Substantially Related to the RF's Exempt Purpose

As explained in the Joint Venture Policy, the RF should only participate in Joint Ventures which are substantially related to the RF's tax-exempt purposes. Examples of activities that are substantially related to the RF's tax-exempt purposes include:

- the administration of industry-funded grants for and on behalf of The State University of New York ("SUNY")
 - the conduct of sponsored and other programs to facilitate scientific research for public benefit at SUNY
 - the development of SUNY facilities to advance scientific research, teaching and public service
 - the establishment of strategic alliances with industry partners to provide scientific research for the public benefit and experiential learning opportunities to the SUNY community where such experiential learning is in furtherance of a degree or academic credit
 - the conduct of so-called "for benefit" drug testing which serves patient care purposes and adds to the body of available scientific knowledge concerning drug use, as opposed to mere drug testing for commercial pharmaceutical companies
- Always refer to the Director of New Ventures for resolution of any question or ambiguity as to whether a proposed activity is related to the RF's exempt purposes, or whether an activity qualifies as a Joint Venture.

Considerations for Joint Ventures with For-Profit Entities

As specified in the Joint Venture Policy, the creation of for-profit Joint Ventures structured as a separate legal entity (whether as a "C" corporation or as a pass-through entity, such as a partnership or limited liability company ("LLC") that has chosen to be taxed as a partnership), requires the approval of the RF President, followed by approval by the Board of Directors. In examining these transactions for approval, the RF will consider the following:

1. *"C" Corporations.* A Joint Venture that is structured as a "C" corporation pays an entity level tax. The structure of this type of Joint Venture offers flexibility; however, it must be structured so that the RF does not own more than forty-nine percent (49%) of the stock of the corporation in order to protect certain beneficial tax treatment of payments received by the RF from such corporation. The RF's Equity Participation Guidelines for Corporations must also be followed.
2. *Pass-through Entities.* A Joint Venture that is treated as a pass-through entity for tax purposes must be structured carefully since the activities of such entity (and the characterization of the income generated by the entity (e.g., unrelated business

income)) will be imputed to the partners or members of the entity, including the RF. Therefore, this type of Joint Venture must include safeguards to protect the RF's tax-exempt status including:

- sufficient control over the venture to assure that it furthers the RF's exempt purposes;
- priority for furtherance of the RF's exempt purposes over profit maximization for other member(s) of the venture;
- assurance that the venture will not engage in activities that would jeopardize the RF's exempt status (i.e., political intervention, substantial lobbying, or direct political contributions/support);
- require that debt of the venture not be guaranteed by the RF in a manner that could cause the RF to be responsible for more than its proportional share;
- require that sufficient operating controls be implemented at the Joint Venture level to assure that all contracts and transactions between the RF and the Joint Venture are on terms that are negotiated at arm's length or are more favorable to the RF; and
- other safeguards determined to be necessary to protect the exempt status of the RF.

Related Information

[Affiliated Corporation Policy](#)

[Joint Venture Policy](#)

Forms

None

Change History

Date	Summary of Change
March 2, 2017	Update on notice requirement and moved equity language to new policy./guideline.
September 10, 2015	New document

Feedback

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