

Article Information

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Wanting to collaborate with another NFP? Is a Joint Venture or Consortium right for your arrangement?

In the third in a series of Insights on structures to assist not for profits working together, Sarah Johnson considers joint ventures and consortium arrangements.

Even before COVID-19 began to have a profound impact on the Not-for-profit sector, NFPs faced increasing complexity in terms of legal compliance, attracting donor and government funding and the need for diversification of their service offerings. COVID-19 has exacerbated these factors by significantly increasing demand for services provided by NFPs and compliance costs whilst, in many cases, simultaneously reducing public donations.

Collaboration with other NFPs allows organisations to work together on a particular project, pool knowledge and resources, broaden the range of services they offer or the persons to whom they offer services and/or more easily attract government or donor funding.

One way in which NFP organisations can formalise their collaboration is using a joint venture or consortium arrangement.

Generally, a joint venture arrangement involves two parties whereas a consortium involves three or more parties. Joint ventures and consortia can be either:

1. incorporated, whereby a special purpose company is formed by the participants in the joint venture or consortium to carry out a specific project or provide specific services. The parties' relationship is typically governed by a shareholders' agreement and the constitution of the company; or
2. unincorporated, whereby the parties enter into a contract setting out the various services, assets and know-how they will each provide and the ownership arrangements for any assets generated by the arrangement.

Joint venture and consortia arrangements have a number of advantages and disadvantages.

As with Head Agency arrangements, joint ventures and consortia may enable participants to access government or donor funding, specialist resources and/or provide services which they would not otherwise have been able to access or provide.

An incorporated joint venture or consortium can involve significant costs in terms of establishment and winding up when the project has been completed and if the arrangement is to be not-for-profit, the joint venture company will need to separately apply for the relevant tax concessions. The advantage of an incorporated joint venture is that it allows the parties' liability to be limited. By contrast, an unincorporated joint venture or consortium is more flexible, however, the parties may incur additional costs in obtaining legal advice to ensure that the parties' rights, obligations and liabilities are adequately described in the governing contract.

Joint venture and consortia arrangements provide an important tool to assist NFP organisations to access funding which might not otherwise be available to them but need to be carefully documented to ensure the rights and obligations of the respective parties are adequately defined.

If you are planning on collaborating with another NFP and would like advice regarding the optimum structure for your arrangement, please contact [Sarah Johnson](#).

To read about whether a Memorandum of Understanding or Heads of Agreement is right for your arrangement? [click here](#)

To read about whether a Head Agency Agreement is right for your arrangement? [click here](#)