

An effective Memorandum of Understanding (MOU) prevents misunderstandings and disputes by clarifying the expectations of the partners. There are a number of elements that should be contained in a typical MOU. Since each project and its partners are unique, the following suggestions are provided as an example. As with any contract it's critical to obtain legal counsel before obligating your nonprofit.

If you need additional assistance, send an email to losscontrol@insurancefor nonprofits.org

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Memorandum of Understanding

- 1. Overall Intent:** Begin with a brief description of the overall intent of the parties that accurately reflects what the parties are intending to do. Ulterior motives have no place in effective partnerships. For example:

Whereas the mission of We CARE is to provide hot meals to homeless persons living in Virginia, and the mission of We DELIVER is to deliver food to homeless persons living in Virginia, the organizations hereby agree to collaborate in developing an integrated food preparation and delivery system beginning September 1, 2007.
- 2. The Parties:** Describe the parties to the agreement. Be specific and indicate the types of organizations (e.g. "a nonprofit corporation headquartered in Virginia").
- 3. The Period:** Specify a time period for the partnership.
- 4. Assignments/Responsibilities:** This important section describes the duties and responsibilities of each partner. It is generally more effective to describe each organization's responsibilities separately, beginning with the items that are an organization's sole responsibility. List each group's sole responsibilities, followed by a description of shared responsibilities, if any. In many cases, this section of the agreement will be the most detailed and lengthy. Clarifying responsibilities is the number one purpose of a written agreement.
- 5. Disclaimers:** Many MOUs will contain one or more disclaimers, including one indicating that employees of Organization A are not to be considered employees, borrowed or otherwise, of Organization B and vice versa. It may also be worthwhile to disclaim what the partnership is not intended to do, guarantee, or create.
- 6. Financial Arrangements:** A typical partnership will have financial implications. These should be spelled out in detail including which entity will pay for each item and when payment is due.
- 7. Risk Sharing:** Another critical element of an MOU is a description of who will bear the risk of a mishap. An important tenet of risk management is that an organization should never assume responsibility for something over which it does not have control. For example, a nonprofit renting a building to hold a dinner meeting should not assume responsibility for the damage caused by a leaky roof. A formal MOU may include an indemnification provision, promising that Organization A will pay for losses suffered by or caused by Organization B.

Ideally, indemnification provisions should be mutual in that each party will be responsible for its own negligent acts or omissions. Remember, an organization's agreement to indemnify your nonprofit without the financial resources (including insurance) to meet this responsibility is a hollow promise. Make certain your partner is not only willing but also able to pay for losses it causes.
- 8. Signatures:** A representative from each partner with authority to bind their organizations contractually should sign the MOU. Each partner should retain a copy of the signed agreement.