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Collaborating with For-Profits

Agenda

- Who
- Possible collaboration methods
 - Contract for services
 - Joint venture
 - Combining entities (merger or acquisition)
- General charitable considerations
- Specific issues for each collaboration structure
- New partnership audit rules

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Definitions

- Charity =
 - Nonprofit corporation;
 - Tax-exempt under 501(c)(3); and
 - Public charity
- For-profits =
 - Individuals;
 - Corporations; or
 - LLCs or partnerships

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Possible collaboration methods

- Collaborate via contract
- Collaborate by forming a new entity (joint venture)
- Collaborate by combining (merger or acquisition)

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First some basics

- 501(c)(3) requires:
 - Organizational test
 - Operational test, including:
 - No undue private benefit
 - No inurement (insider profit sharing)
 - Section 4958 intermediate sanctions
 - No substantial lobbying
 - No electioneering
- Charities may be subject to tax on unrelated business income

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Private benefit

- Some private benefit is permissible
- Weighing of:
 - Benefit to charity and public
 - vs.
 - Benefit to for-profit

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First appeared as part of the conference materials for the
34th Annual Nonprofit Organizations Institute session
"Mergers, Joint Ventures, and For-Profit Subsidiaries"