



# A BRIEF OVERVIEW OF FEDERAL PARTNERSHIPS

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## **PARTNERSHIPS: WHAT IS OUR SHARED MISSION?**

- Partnerships with outside organizations help federal agencies do more with less by building on the capabilities of others, leveraging collective action, and innovating new ways to understand and solve problems.
- Benefit community organizations by opening access to different populations or professional groups, access to technical expertise and funding, and by adding community perspective to public health tools and resources.



## EXAMPLES OF FEDERAL COLLABORATIVE ACTION

- **Technical assistance:** commonly defined as the transfer of knowledge, expertise, and skills to people, organizations, and communities.
- **Technology transfer:** Co-development and/or evaluation of commercial products such as vaccines, prevention tools, diagnostic tests, computer software, or media tools.
- **Public education:** Examples include mass media campaigns, production and dissemination of educational materials, and direct client or patient intervention programs.
- **Professional education:** conference co-sponsorship and publication of proceedings, continuing education events, recommendations, or other materials
- **Applied research or evaluation:** development or assessment of non-pharma interventions, investigations of etiology, evaluation of health protection and promotion activities, engineering control measures, and dissemination of results.



# FEDERAL ENGAGEMENT MECHANISMS, PART 1

- **Memoranda of Understanding (MOUs):** Document that formalizes a partnership by describing in very broad terms, the mutual understandings, concepts, goals, intent, and plans shared by the parties to the agreement. Part of the value of these documents lies in the process of creating them with partners. **Are not legally binding agreements and must not involve payment or the transfer of funding.**
- **Data Use Agreements (DUAs):** DUAs are **legally binding documents** which describe confidentiality requirements of the relevant legal authorities of each party, necessary security safeguards, and organization data use policies/procedures. DUAs serve as methods to inform partners of data use requirements, confirm their agreement to abide by requirements, and as a control mechanism to track how data are used.



## FEDERAL ENGAGEMENT MECHANISMS, PART 2

- **Grants:** Financial assistance mechanisms which transfer federal funds, resources, technical assistance, and/or expertise to affected communities in exchange for their contributions to improving public health.
- **Cooperative Agreements (CoAgs):** A specialized form of grant. Used when the awarding agency (i.e., CDC) anticipates substantial agency staff involvement in the project during the period of performance.
- **Contracts:** An acquisition mechanism to procure goods and services for the direct benefit of the Agency.



## OUTSIDE FUNDS: CDC FOUNDATION AND GIFTS

- Creates partnerships between CDC and private entities to support projects that facilitate the agency's public health work. CDC and HHS policy allow CDC employees to propose project ideas to CDCF and cultivate partnerships around program opportunities.
- CDCF looks for potential donors and/or collaborating partners who are interested in working on project ideas proposed by CDC staff. CDCF fields project ideas from private entities to see if they are in line with CDC's mission.
- CDC and CDCF screen all potential partners through a rigorous ethics review process for any conflicts of interest or history of past misconduct.
- **Examples of conditions where gifts cannot be accepted:** tobacco industry, gifts offered to secure an implied or direct endorsement from CDC/HHS, donors who express an expectation of receiving a future benefit, such as a contract award from CDC.



# LAWS AND STATUTES WHICH SHAPE FEDERAL PARTNERSHIPS

- **Federal Advisory Committee Act (FACA):** Regulates and establishes oversight of committees or related external groups which advise the federal government.
- **Paperwork Reduction Act (PRA):** Intended to avoid burdening the public with unnecessary requests for information. Info intended to be collected or sponsored by the federal government must be approved by the White House Office of Budget and Management.
- **Anti-Lobbying Act (18 U.S.C. 1913) and Byrd Anti-Lobbying Amendment (31 U.S.C. 1352):** Prohibition against lobbying government officials using appropriated moneys.

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# FACA: FORMAL ADVICE AND RECOMMENDATIONS TO THE EXECUTIVE BRANCH

- FACA are developed when there is an essential need for deliberative, formal advice from a group of experts outside of the federal government. **Examples:**
  - **Advisory Committee on Immunization Practices:** Writes recommendations on the use of vaccines to the CDC director
  - **United States Preventive Services Task Force:** Insurance companies must cover preventive services graded highly by the USPSTF, with no additional charge to patients.
- Groups assembled to provide **individual** advice as opposed to **collective or consensus** advice are not subject to FACA. **Examples:**
  - Town hall meetings, forums, or roundtables assembled to exchange facts, information, or views.

## FACA SCENARIO

A CDC program administrator wants to meet with directors of clinics who specialize treatment of ME/CFS and other post-infectious diseases, in order to learn more about barriers to care (financial, educational, available staff, etc.). The CDC administrator's goal is gaining experiential and anecdotal information from each director on challenges faced by clinics, how the clinic met challenges, and the successes or failures of approaches. Attendees may or may not change from session to session. The specific agenda subjects will likely change and may be set in advance or be free form. No collective advice or recommendations resulting from group deliberation or interaction is expected or will be solicited.

### FACA regulation does not apply because:

- The intent is to obtain information or viewpoints from individual attendees as opposed to advice or recommendations from the group acting in a collective mode.

### FACA compliance could become an issue if:

- Rather than seeking information on individual clinic experiences, the administrator created a fixed committee of clinic directors who met regularly to interact, deliberate, and advise the administrator on agency actions.
- The more static the group composition, (the same attendees at each meeting) the more likely an issue of FACA's applicability will arise

# PAPERWORK REDUCTION ACT (PRA): COLLECTING DATA TAKES TIME

- Clearance process can take several months (even on project eventually determined to be exempt), as it passes through several layers of agency (CDC) and department (HHS) review before reaching OMB.
- **What defines sponsorship?** *Generally*, an agency is sponsoring data collection if they:
  - Require another organization to collect the data, *or*
  - Develop a contract with another entity to collect the data.
  - *However*, there are exceptions to this rule of thumb. Bottom line is that federal data collection requires planning and deliberation before approval.
- **Notable exemptions:** Facts or opinions obtained through direct observation, submitted in response to general solicitations of comments from the public (e.g. Federal Register), obtained or solicited at or in connection with public hearings or meetings

# LOBBYING VERSUS INFORMING

- **A Lobbying definition:** contacting or encouraging others to contact a member of Congress, a jurisdiction, or an official of any government (Federal, state or local) in an attempt to influence the enactment or modification of legislation or other specified activities, such as the award or extension of a contract or financial assistance agreement. Lobbying is not permissible with appropriated funds.
- **To support Administration or Agency positions, federal staff may communicate to inform:**
  - Members of Congress and their staff
  - The public through published writing (website, social media, speeches, etc.)
  - Individual members of the public, as long as communications are not part of a grassroots lobbying campaign.
- **Byrd Amendment:** extends prohibition of lobbying with appropriated monies to any person who applies for or receives a federal contract, grant, loan or cooperative agreement.
- **CDC Policy AR-12:** How CDC implements the Byrd Amendment. “CDC funds given to award recipients cannot be used to grass-roots lobby, or to encourage members of the public to contact their elected representatives at the federal, state, or local levels to urge support of, or opposition to, proposed or pending legislative proposals.”



## RESOURCES

- <https://www.cdc.gov/partners/partnering.html>
- General Services Administration FACA guidance: <https://www.gsa.gov/policy-regulations/policy/federal-advisory-committee-act-faca-management-overview>
- Overview of PRA: <https://pra.digital.gov/about/>
- Additional Requirement – 12: Lobbying Restrictions: <https://www.cdc.gov/grants/additional-requirements/ar-12.html>