

Types of Joint Ventures

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The structure of the joint venture should set out the nature of your partnership. There are two main types of agreements:

1. If the joint venture is a business, it will be an incorporated joint venture. This type is not recommended when one wants to respond to a competitive bid or a request for quotation.
2. A co-operative arrangement between two existing parties that keep their separate identities is called a contractual joint venture. This type of joint venture is the safest option to use in responding to tenders.

In both types mentioned above a Joint Venture Agreement (JVA) is crucial in managing the joint venture.

The joint venture agreement should include:

- Objectives: keep it simple and try to have no more than five objectives.
- Funding: both parties need to specify how much funding they will put into the venture, and for how long.
- Assets: list any assets or employees that will be transferred throughout the duration of the joint venture.
- Intellectual property: state who owns any intellectual property created during the joint venture and how any financial benefits will be distributed.
- Roles: clearly indicate who has responsibility for the processes involved during the joint venture. If you are setting up a new company, the composition of the Board – e.g. Chief Executive and Chief Financial Officer - should be identified and voting rights agreed.
- Agreement: incorporated joint venture agreements may also need to include a shareholders' agreement, covering issues such as dividend policy and how the management accounts will be produced and made available.
- Third parties: any consents or approvals needed from third parties should be explained in the agreement.
- Finances: state how any profits or losses will be divided between parties. Liabilities must also be clearly listed.
- Disputes: specify a mechanism by which any disputes can be resolved, such as arbitration by an agreed third party.
- Duration: specify how long the joint venture would last. If it is open-ended the agreement should state the period of notice that each party should give if they want to withdraw.
- Confidentiality: you may wish to consider a confidentiality or non-disclosure agreement.
- Principles: include a statement that is not legally binding on the two parties. Instead it should be a statement of principles – enabling the parties to negotiate a final, legally definitive agreement in good faith.

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