August 8, 2002

MEMORANDUM

TO: Deputy Ethics Counselors
Ethics Contacts

FROM: Edgar M. Swindell
Associate General Counsel for Ethics
Designated Agency Ethics Official

SUBJECT: Co-Sponsorship Guidance

In an era of increased reliance on public-private partnerships to accomplish government objectives in public health and social services, the Department of Health and Human Services (HHS) has recognized the benefits of co-sponsoring events with non-Federal entities. Proper use of the co-sponsorship mechanism benefits HHS by providing the opportunity to combine non-Federal experience and resources with HHS expertise and capabilities. On the other hand, improper use of the co-sponsorship mechanism can raise legal, ethical and public relations problems.

This office addressed these problems in a seminal guidance document issued in March 1995. That document gained acceptance throughout the government ethics community and was adopted by other Federal agencies and the White House. After seven years and a change of Administrations, we thought it appropriate to update and reissue the guidance. Although edits have been made, the substantive content has not changed. Deputy Ethics Counselors should distribute this document and the attached model co-sponsorship agreement to program offices that are interested in conducting co-sponsored events.

I. Definitions

At the outset, two terms require definition. First, the term "co-sponsorship" needs explanation. Not every joint effort between HHS and a non-Federal entity is properly viewed as a co-sponsorship. Many relationships between HHS and non-Federal entities are governed by different legal requirements than those set out in this Memorandum. **As used in this Memorandum, the term "co-sponsorship" refers to the joint development of a conference, seminar, symposium, educational program, public information campaign, or similar event related to the mission of the Department, by HHS and one or more non-Federal entities**

that share a mutual interest in the subject matter. For reasons discussed below (under "Legal Requirements"), this definition excludes prospective co-sponsors that would provide only funding for an event, as well as prospective co-sponsors that do not have a demonstrable substantive interest in the subject matter of the event.

Second, for the purposes of this Memorandum, the term "HHS" refers to the Department as a whole or any component or subdivision thereof. In the past, co-sponsored events have been developed by OPDIVs, STAFFDIVs, Regional Offices, PHS Agencies, and various other subdivisions of the Department. (This Memorandum is not intended to establish which offices in the Department are authorized to conduct conferences and other public information events; offices with questions about the scope of their authority to conduct such activities should consult with their corresponding Division of the Office of the General Counsel.)

II. Basic Principles

The co-sponsorship guidance set forth here embodies several important principles. It is particularly important to avoid the appearance that co-sponsorship of an event with an outside entity constitutes an HHS endorsement of the general policies, activities, or products of that entity. Likewise, there must be no appearance that the co-sponsor's support of an event will improperly influence the Department or any HHS employee in other official matters in which that entity may have an interest. It is also crucial that HHS abide by all legal restrictions on the use of Federal funds and all applicable appropriations law requirements.

In part, the provisions that follow reflect specific statutory and regulatory requirements (see "Legal Requirements"). However, some of these provisions may exceed legal requirements as a matter of ethical policy (see "Additional Guidance"). Adherence to this additional policy guidance will hold the Department and those employees associated with a co-sponsored event to a high ethical standard and avoid appearances of impropriety.

Therefore, subject to the restrictions below, HHS may enter into co-sponsorships with non-Federal entities.

III. Legal Requirements

As a Federal agency, HHS is subject to certain legal constraints on its co-sponsorship of events:

(1) **Funds-Only Contributors.** HHS may not enter into a co-sponsorship with a non-Federal entity that would contribute funding, logistical services, or other material support for an event, but would not participate in the development of the substantive aspects of the event. Such a contribution might constitute an augmentation of appropriations and may not be accepted, unless authorized by an applicable agency gift acceptance statute or other statutory authority.

(2) **Substantive Interest of Co-Sponsor.** HHS may not enter into a co-sponsorship with a non-Federal entity that does not have a demonstrable substantive interest in the subject matter of the event. Although such an entity is not a permissible co-sponsor, HHS may be able to accept a contribution of goods or services under an applicable agency gift acceptance statute or other statutory authority.

(3) **Registration Fees.** Unless otherwise provided by statute, any registration fees collected by HHS must be deposited in the Treasury of the United States, without deduction for any charge or claim. 31 U.S.C. § 3302 (Miscellaneous Receipts Act). However, a non-Federal co-sponsor may collect fees to cover its share of the expenses of the event.

(4) **Free Attendance for HHS Employees.** If HHS and the non-Federal co-sponsor agree that HHS employees will be allowed to attend the event for free, then HHS employees may do so, at the discretion of their supervisors. However, in the absence of an agreement covering this issue, employees may accept individual offers of free attendance, on a case-by-case basis, only if such acceptance would not improperly augment the agency's appropriations or violate the Standards of Ethical Conduct for Employees of the Executive Branch. See, e.g., 5 C.F.R. § 2635.204(g) (widely attended gatherings). Ordinarily, the issue of free attendance for HHS employees should be settled at the outset of the planning for the event.

For these purposes, free attendance includes the waiver of all or part of any registration fee, and the provision of food, refreshments, entertainment, instruction, and materials, furnished to all attendees as an integral part of the event. Free attendance does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees, although such benefits may be accepted in certain circumstances under other authorities.

(5) **Government Property.** HHS equipment, supplies, penalty (franked) envelopes, or other property or personnel resources may not be made available for use by a non-Federal co-sponsor unless used to assist in the development or presentation of the co-sponsored event.

(6) **Independently Sponsored Portions of An Event.** Occasionally, a non-Federal co-sponsor may want to sponsor a discrete portion of an event independently. HHS staff may not assist a co-sponsor in planning or otherwise organizing any discrete portion of an event that is exclusively sponsored by the co-sponsor, except to the extent necessary to coordinate the overall program. Furthermore, HHS staff may not use or provide HHS equipment, supplies, or penalty envelopes to promote an independent portion of the event that is not sponsored by HHS. However, official announcements and brochures may contain factual references to the existence and scheduling of the entire event, including those portions of the event that are sponsored solely by a non-Federal co-sponsor, and HHS may participate in the preparation and distribution of such materials.

(7) **Fundraising by HHS.** HHS staff may not engage in fundraising, or solicitations for donations of any kind, to support an event, except as may be authorized by law. HHS staff may not solicit any gifts for the Department, for any purpose whatsoever, absent statutory authority. Furthermore, although HHS may have authority, under limited circumstances, to assist in certain fundraising efforts of non-Federal entities, see 5 C.F.R. § 2635.808(b), HHS should not assist in any fundraising efforts designed to meet a co-sponsor's share of the costs of an event; such efforts too easily may be perceived as--and may in fact become--attempts to raise funds to benefit the Department itself.

(8) **Internal Government Events.** HHS may not co-sponsor an event where attendance is limited to Federal employees. If a non-Federal entity contributes to an event that is attended solely by Federal employees, the arrangement should be viewed as a gift, not a co-sponsorship; such contributions may be accepted only pursuant to an applicable agency gift acceptance statute or other statutory authority.

(9) **HHS Payment for Food and Refreshments for Employees at Their Official Duty Station.** HHS may not spend appropriated funds to pay for the costs of food and refreshments for HHS employees attending a co-sponsored event at their official duty station, unless:

(a) the payment is for "light" refreshments as defined in 41 C.F.R. § 301-74.11;

(b) the event is an authorized training program, pursuant to the Government Employees Training Act, 5 U.S.C. § 4101 et seq., and the provision of food and refreshments is considered necessary to achieve the objectives of the training program;

(c) the event is a meeting, under 5 U.S.C. § 4110, that involves matters of interest to governmental and nongovernmental participants; the food and refreshments are incidental to the event; the partaking of the food and refreshments is necessary for HHS employees to participate fully in the event; and the HHS employees attending the event would miss essential formal discussions, lectures, or speeches concerning the purpose of the event if they took their meals or refreshments elsewhere;

(d) the event is a meeting under 5 U.S.C. § 4110; HHS is charged a single registration fee covering both attendance and meals for employees; and there is no separate charge made for meals; or

(e) the payment is specifically authorized by other legislation.

(10) **HHS Payment for Food and Refreshments for Non-Federal Attendees.** HHS may not spend appropriated funds to pay for the costs of food or refreshments for non-Federal attendees at a co-sponsored event, unless:

(a) the event is an authorized training program, pursuant to the Government Employees Training Act, 5 U.S.C. § 4101 et seq., and the non-Federal attendee is officially participating as a speaker at the event;

(b) the payment is authorized by 5 U.S.C. § 5703, because the non-Federal attendee has been invited by HHS to serve without pay as a speaker or official participant at the event (mere attendance at the event without direct service to HHS is not sufficient), and the non-Federal attendee is away from home or regular place of business;

(c) the payment is authorized, by an applicable appropriations act, to be made from a Reception and Representation Fund;

(d) the payment is authorized, by section 505 of Public Law 102-394 (see note to 31 U.S.C. § 1345), to be made from HHS appropriations, in order to defray the expenses of attendance by non-Federal personnel at meetings that are concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of those functions or activities; or

(e) the payment is specifically authorized by other legislation.

(11) **HHS Payment for Travel of Non-Federal Attendees.** HHS may not spend appropriated funds to pay for travel expenses of non-Federal attendees at a co-sponsored event, unless:

(a) the payment is authorized by 5 U.S.C. § 5703, because the non-Federal attendee has been invited by HHS to serve without pay as a speaker or official participant at the event (mere attendance at the event without direct service to HHS is not sufficient), and the non-Federal attendee is away from home or regular place of business;

(b) the payment is authorized, by Section 505 of Public Law 102-394 (see note to 31 U.S.C. § 1345), to be made from HHS appropriations, in order to defray the expenses of attendance by non-Federal personnel at meetings that are concerned with the functions or activities for which the appropriation is made or that will contribute to improved conduct, supervision, or management of those functions or activities; or

(c) the payment is specifically authorized by other legislation.

(12) **Social Events.** HHS may not co-sponsor an event that would be primarily social in nature. HHS may co-sponsor an event that has a social component (such as a modest reception), as long as the event has a primarily educational or informational purpose that is related to a mission of the Department.

(13) **Co-sponsored Conferences Involving Employee Travel.** Internal agency directives must be consulted regarding the number of employees that are permitted to attend. In general, HHS must limit travel costs by authorizing only the minimum number of attendees necessary to accomplish the Department's mission. 41 C.F.R. § 301-74.18.

(14) **Fiscal Responsibility and Conference Planning.** HHS shall exercise strict fiscal responsibility by, among other things, selecting conference sites that minimize administrative costs, travel costs, and time costs. 41 C.F.R. § 301-74.5. For further details about fiscal responsibility requirements, consult 41 C.F.R. Part 301-74 and Appendix E to Part 301 ("Conference Planning").

IV. Additional Guidance

There are additional restrictions which, while not strictly required by statute or regulation, also apply to events that HHS co-sponsors with a non-Federal entity:

(1) **Co-Sponsor Created for Event.** As a general rule, HHS should not co-sponsor an event with an entity created solely for involvement in that particular event. In exceptional cases, however, special circumstances or agency needs may reasonably require a co-sponsorship with an entity that is newly created for the purpose of developing the event. In such cases, HHS must exercise special caution to ensure that the new entity is not merely a vehicle for other persons or organizations that would be inappropriate co-sponsors themselves.

(2) **Agreements and Records.** Unless there are exceptional circumstances, HHS and its co-sponsors should complete a written co-sponsorship agreement and should do so well in advance of an event. Agreements and records concerning co-sponsored events should account fully and accurately for each party's programmatic and financial responsibilities and activities. Agreements and records should describe separately any discrete portion of an event that will be exclusively sponsored by HHS or exclusively sponsored by a non-Federal entity. Agreements and records concerning the amounts, sources, and uses of funds should be made available to the public upon request. HHS shall not co-sponsor an event with an entity that will not make information concerning funding publicly available. A model co-sponsorship agreement is attached to this Memorandum.

(3) **"Prohibited Sources."** Any proposed co-sponsorship with an entity that would be deemed a "prohibited source," under the Standards of Ethical Conduct for Employees of the Executive Branch, should be reviewed with particular care. A "prohibited source" is any person or entity that: (a) is seeking official action by the agency planning the event; (b) does business or seeks to do business with that agency; (c) conducts activities regulated by that agency; (d) has interests that may be substantially affected by the performance or nonperformance of the official duties of an employee of that agency; or (e) is an organization the majority of whose members are described in (a) through (d) above.

HHS must weigh the appearance of a conflict of interest against the importance of working with a given prohibited source as a co-sponsor. HHS should consider any facts that have a bearing on either the severity of the apparent conflict or the degree of benefit to the agency from working with a particular prohibited source, including the following factors:

- Is the event one which serves an important mission of the Department?

- Is there another available co-sponsor that is not a prohibited source, or does the prohibited source have a special expertise or status that would make it the preferred co-sponsor of the event?

- What would be the nature of the prohibited source's involvement in the event? To what extent will the prohibited source take an active and important role in the development of the substantive portions of the event?

- Would co-sponsoring an event with the prohibited source create the appearance of partiality toward that source or the appearance of an endorsement of that source with respect to other matters that it has pending before the Government?

- Does the prohibited source regularly apply for contracts, grants, or other financial relationships with the HHS component co-sponsoring the event? Do grants, contracts, or other financial relationships with the HHS component represent a significant percentage of the source's overall budget? If either of these is the case, the HHS component may not co-sponsor an event with that prohibited source unless the benefits to the Department clearly outweigh any potential appearance of undue influence or preferential treatment.

- Are significant activities of the prohibited source regulated by the HHS component co-sponsoring the event? If so, the HHS component may not co-sponsor an event with that prohibited source unless the benefits to the Department clearly outweigh any potential appearance of undue influence or preferential treatment.

(4) **Fundraising By Non-Federal Co-Sponsors.** Often, a non-Federal co-sponsor will want to raise funds from various donors in order to help meet its allotted share of the costs of an event. As a practical matter, HHS cannot become involved in scrutinizing the fundraising activities of its co-sponsors. However, a non-Federal co-sponsor must give the following assurances: (a) that any solicitation will make clear that the non-Federal co-sponsor, not HHS, is asking for the funds; (b) that the non-Federal co-sponsor will not imply that HHS endorses any fundraising activities in connection with the event; and (c) that the non-Federal co-sponsor will make clear to donors that any gift will go solely toward the expenses of the non-Federal co-sponsor, not HHS.

(5) **Commercialized Events.** HHS may not co-sponsor an event that is developed by the co-sponsor as a profit-making endeavor. Any registration fees charged to attendees should not be designed to exceed the co-sponsor's costs for the event. Educational materials related to the event may be sold to attendees at cost. Also, transcripts and recordings of a co-sponsored event may be sold at cost.

(6) **Promotion or Sale of Products.** HHS may not co-sponsor an event that is primarily devoted to promoting or selling a co-sponsor's products or services.

(7) **Event Publicity vs. General Endorsement.** Once a co-sponsored event has been approved, the co-sponsor may use its name in connection with HHS only in factual publicity for that specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with the event. Such factual publicity should not imply that the involvement of HHS in the event serves as an endorsement of the general policies, activities, or products of the co-sponsor; where confusion could result, publicity should be accompanied by a disclaimer to that effect. (Note, however, that HHS may have authority, in certain circumstances, to give an endorsement to an organization whose activities further the mission of the Department. E.g., 5 C.F.R. § 2635.702(c)(1 & 2).) Non-Federal co-sponsors must agree to clear all promotional materials for the event with HHS to ensure compliance with these restrictions.

(8) **Seeking Qualified Co-Sponsors.** HHS actively may seek out qualified co-sponsors for a contemplated event. There are, however, two areas of concern with respect to the recruitment of potential co-sponsors:

(a) **Appearance of Coercion.** HHS must be careful to avoid any appearance that it is coercing an outside entity to become a co-sponsor. This appearance is most likely to arise when the agency solicits potential co-sponsors who have interests that could be affected significantly by pending agency action. Therefore, great care should be taken when HHS actively solicits "prohibited sources" (see above) to become co-sponsors. Where practicable, for example, HHS personnel who participate substantially in official matters affecting a non-Federal entity should not be the ones to make overtures toward that entity about a possible co-sponsorship.

(b) **Appearance of Favoritism.** HHS must be careful to avoid the appearance that it is showing favoritism by approaching only certain entities, when other qualified entities could derive a benefit from entering into the particular co-sponsorship with HHS. Where practicable, HHS should make the opportunity for a co-sponsorship known to all similarly situated entities. In some instances, for example, HHS has published a Federal Register notice to announce the opportunity for a co-sponsorship. For some events, it may not be feasible to engage more than one co-sponsor or even to make the opportunity for a co-sponsorship known to all qualified entities; at the very least, however, HHS must be able to articulate a reasonable basis for limiting its field of prospective co-sponsors.

V. Examples

This section provides hypothetical examples to illustrate how the guidance above may be applied to some typical co-sponsorship proposals:

(1) The Substance Abuse and Mental Health Services Administration (SAMHSA) and the California Conference of Local Mental Health Directors (CCLMHD) propose to co-sponsor a symposium focusing on mental health issues concerning the homeless in the United States. SAMHSA proposes to provide speakers from SAMHSA and will mail fliers advertising the theme of the symposium and the scheduled speakers. CCLMHD would provide speakers from its own organization and select qualified speakers from various private sector groups and academic institutions. CCLMHD also would pay for refreshments and the facilities for the one day symposium. This proposal would be approved because it represents a true joint effort in which the co-sponsor is not merely responsible for providing funds to defray the costs of the event, but is also involved in the substantive development of the event. Moreover, the CCLMHD is an organization with an obvious substantive interest in mental health matters, and, therefore, it is an appropriate co-sponsor for the symposium.

(2) The Administration for Children and Families (ACF) and the National Association for the Education of Young Children (NAEYC) propose to co-sponsor a one day seminar for child care providers, titled "Providing Quality Day Care for Low Income Families." The seminar would include a variety of government and private sector experts in the field. ACF and NAEYC would share responsibility for assembling speakers and developing the seminar agenda. NAEYC would be responsible for the promotional materials and a lunch. NAEYC plans to charge private participants a registration fee, but has agreed to admit ACF employees free of charge. This proposal would be allowed, provided the fees collected by NAEYC are not expected to exceed its costs for the event. Furthermore, it would be proper for ACF employees to be admitted free of charge, because NAEYC and ACF included free attendance for ACF employees as part of their co-sponsorship agreement.

(3) The National Association of Hospital Executives (NAHE) proposes to co-sponsor a gala dinner with HHS to celebrate the 50th anniversary of the creation of the Department of Health, Education and Welfare. Unless there is a bona fide educational or informational component that constitutes the primary purpose of the event, HHS would not be allowed to co-sponsor this social function with NAHE.

(4) The New York Regional Office of the Centers for Medicare and Medicaid Services (CMS) proposes to co-sponsor a conference on reducing health care costs with the Health Insurance Foundation (HIF), a non-profit organization that promotes research and education on health insurance issues. The conference includes speakers from CMS, various health insurance companies, and academic institutions. In addition to participating with CMS in the joint presentation of several sessions, HIF plans separately to organize and present two other sessions focusing exclusively on the concerns of the insurance industry. This proposal would be allowed. However, the costs paid by CMS and by HIF should be separated clearly in the records of the proposed event. CMS must ensure that it does not provide HHS staff, equipment, supplies, or penalty envelopes for those portions of the conference independently organized and presented by HIF. The official brochure for the conference may refer to the independently sponsored sessions as part of the overall schedule for the event, but CMS may not be associated otherwise with the promotion of those sessions.

(5) The National Institutes of Health (NIH) and the Association of Biotechnology Companies (ABC) propose to co-sponsor a two day conference on Federal technology transfer. ABC would arrange and pay for the conference rooms, lunches, and all promotional and informational materials. ABC also would be responsible for promoting the conference to other private organizations, while NIH would be responsible for contacting other Federal agencies. NIH would provide speakers, although representatives of several ABC member companies would serve as panel moderators. The agenda for the conference would be developed jointly by NIH and ABC. This event could be approved, even though ABC is a prohibited source. Any appearance of a conflict of interest would be outweighed by the benefit to the Department from co-sponsoring this event with ABC. ABC would be making a significant contribution to the planning and presentation of the event. Moreover, technology transfer is an important part of the mission of NIH, and ABC represents many member organizations that could benefit from technology transfer arrangements with the Government. ABC would be particularly well-suited to co-sponsor a conference on this subject.

(6) The National Institute of Child Health and Human Development is developing a conference on emerging child health issues. Science Productions of America (SPA), a company that specializes in providing logistical support for scientific conferences, would like to contribute to the event. SPA is expert in handling the technical equipment that is involved in producing conferences, as well as in arranging for promotional materials, catering, facilities and other logistical details. SPA proposes to provide these services for the child health conference at no charge. However, SPA would not be making any substantive contribution (such as the development of the conference agenda or the selection of qualified speakers), and has no history of involvement or interest in the field of child health. Therefore, SPA is not a permissible co-sponsor. The services SPA wants to provide might be procured pursuant to a contract, or they might be accepted as a gift pursuant to an applicable gift acceptance statute.

(7) XYZ Corporation, a large manufacturer of oil drilling equipment, proposes to co-sponsor a workshop on "Aging Issues in the Workplace" with the Administration on Aging (AOA). XYZ representatives frequently have participated in AOA activities concerning aging issues in business. XYZ also has implemented a well-recognized corporate program for dealing with aging issues that arise in the workplace. With respect to the proposed workshop, XYZ would arrange for qualified speakers from the private sector and take responsibility for promoting the workshop within the private sector. Although XYZ is a for-profit corporation whose main business is unrelated to the mission of AOA, XYZ would be an appropriate co-sponsor of this workshop, in light of the corporation's history of commitment and leadership with respect to aging issues in the private sector.

(8) The Pharmaceutical Research and Manufacturers of America (PhRMA) is sponsoring a two day conference titled, "The Challenge of International Harmonization of Drug Approval Standards." The conference will be attended primarily by industry representatives, and it will be developed and financed entirely by PhRMA, whose members are all regulated by the Food and Drug Administration. PhRMA has invited FDA to send a speaker to address FDA's role in international harmonization on the first day of the conference. Although FDA may send a

speaker to present the views of the agency, this would not be a co-sponsorship, because FDA has not participated in the development of the event. The FDA speaker may accept PhRMA's offer of free attendance at the conference on the day of the speech, pursuant to 5 C.F.R. § 2635.204(g)(1). However, any additional benefits (such as free attendance at the next day's events, meals taken other than in a group setting with all other attendees, payment of travel expenses, etc.) would have to be judged according to any applicable provisions of the Standards of Ethical Conduct for Employees of the Executive Branch, gift acceptance statutes, and travel payment authorities.

Attachment

cc: Deputy General Counsels
Associate General Counsels
Chief Counsels, Regions I-X

Revised by: ems:COSPONSORSHIPmemo.wpd:8/8/02:corrected:8/9/02
Subject Matter: Co-sponsorship

MODEL CO-SPONSORSHIP AGREEMENT

The Department of Health and Human Services (HHS) [or name of subcomponent] and [name of co-sponsor] agree to co-sponsor [name of event], according to the terms expressed below:

1. Background

[Provide the following information: (a) the nature and purpose of the event; (b) the identity and background of the co-sponsor(s); (c) the importance of the event to both HHS and the co-sponsor; (d) the substantive interest and special expertise of the co-sponsor in the subject matter of the event; (e) any other relevant background information that may explain the mutual interest of HHS and the co-sponsor in working together on the event.]

2. Responsibilities for Developing the Event

[Provide the following information: (a) the respective responsibilities of HHS and the co-sponsor for developing the substantive aspects of the event, such as the agenda and speakers; (b) the respective responsibilities of HHS and the co-sponsor for logistics and finances, such as arranging and paying for conference facilities, advertising, food, and any other event expenses. **Note**: this is the core paragraph of the co-sponsorship agreement, and it should reflect as much detail as HHS and the co-sponsor reasonably can provide.]

3. Registration Fees and Other Charges

[Provide the following information: (a) state whether the co-sponsor intends to charge registration fees, and, if so, state that the co-sponsor agrees to set a fee no higher than necessary to recover its share of the costs of the event; (b) state whether HHS and the co-sponsor agree that HHS employees will be allowed free attendance at the event; (c) state whether the co-sponsor intends to sell educational materials pertaining to the event or transcripts or recordings of the event, and, if so, state that the co-sponsor agrees to sell such items at cost.]

4. Independently Sponsored Portions of Event

[Provide the following information: (a) state whether either HHS or the co-sponsor intends to sponsor any discrete portion of the event independently; (b) describe any separately sponsored portion; (c) state that HHS resources, including staff, will not be used to develop, promote or otherwise support a portion of the event that is independently sponsored by the co-sponsor, although official announcements and brochures may contain factual references to the schedule of the entire event, including portions sponsored solely by the co-sponsor.]

5. Fundraising

[Name of co-sponsor] will make clear, in any solicitation for funds to cover its share of the event costs, that it, not HHS, is asking for the funds. [Name of co-sponsor] will not imply that HHS endorses any fundraising activities in connection with the event. [Name of co-sponsor] will make clear to donors that any gift will go solely toward defraying the expenses of [name of co-sponsor], not HHS.

6. Promotional Activity

[Name of co-sponsor] will not use the event primarily as a vehicle to sell or promote products or services. [Name of co-sponsor] will ensure that any incidental promotional activity does not imply that HHS endorses any products or services. [Name of co-sponsor] will make reasonable efforts, subject to HHS review, to segregate any incidental promotional activity from the main activities of the event.

7. Event Publicity and Endorsements

[Name of co-sponsor] will not use the name of HHS or any of its components, except in factual publicity for the specific event. Factual publicity includes dates, times, locations, purposes, agendas, fees, and speakers involved with the event. Such factual publicity shall not imply that the involvement of HHS in the event serves as an endorsement of the general policies, activities, or products of [name of co-sponsor]; where confusion could result, publicity should be accompanied by a disclaimer to the effect that no endorsement is intended. [Name of co-sponsor] will clear all publicity materials for the event with HHS to ensure compliance with this paragraph.

8. Records

Records concerning the event shall account fully and accurately for the financial commitments and expenditures of HHS and [name of co-sponsor]. Such records shall reflect, at a minimum, the amounts, sources, and uses of all funds.

9. Public Availability

This co-sponsorship agreement, as well as the financial records described in paragraph 8, shall be publicly available.

10. Co-Sponsorship Guidance

HHS and [name of co-sponsor] will abide by the legal memorandum of August 8, 2002, entitled "Co-Sponsorship Guidance," issued by the HHS Designated Agency Ethics Official.

Revised by: ems:COSPONSORSHIPmodelagrmt.wpd:8/8/02
Subject file: Co-sponsorship