



April 21, 2026

Acting Assistant Attorney General Omeed A. Assefi
Antitrust Division, U.S. Department of Justice

Andrew N. Ferguson, Chair
Federal Trade Commission

Concerning: Docket No. ATR-2026-0001

Submitted to Regulations.Gov

Dear Assistant Attorney General Assefi and Chair Ferguson,

The Institute of Hazardous Materials Management [IHMM] is pleased to submit comments concerning the docket cited above regarding the public inquiry launched on February 23, 2026.

Founded in 1984, the Institute of Hazardous Materials Management® (IHMM®) is a not-for-profit 501 [c][6] organization headquartered in Rockville, Maryland, operating in all 50 states and 85 countries. IHMM has been protecting the environment and the public's health, safety, and security through the creation of credentials recognizing professionals who have demonstrated a high level of knowledge, expertise, and excellence in the management of hazardous materials, dangerous goods transportation, environmental protection, health, and workplace safety.

IHMM Responses to the Inquiry

We strongly support the Agencies' effort to restore practical guidance in this area. We do not seek any exemption from the antitrust laws. Rather, we seek updated, administrable guidance that distinguishes lawful, procompetitive, and mission-serving collaborations from unlawful restraints. For nonprofit organizations, the greatest need is clear guidance regarding **information sharing**, especially where collaboration is intended to improve safety, quality, compliance, operational effectiveness, public education, training, credentialing, or service to vulnerable populations.

I. General observations

Nonprofit collaborations often generate substantial public benefits. Information sharing among nonprofits can improve fraud prevention, grant compliance, public safety, environmental stewardship, emergency preparedness, workforce training, and quality assurance. Such collaborations may reduce costs, improve service coverage, facilitate innovation, and help smaller organizations participate effectively in programs they could not sustain alone. Finally, frequently



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individuals are members of several organizations or credentialing bodies where information sharing is commonplace.

At the same time, the nonprofit character of an organization does not eliminate competitive effects. Nonprofits can be competitors in product markets, labor markets, service markets, procurement markets, and fundraising markets. Updated guidance should therefore make clear both that lawful collaboration is permissible and often desirable, and that the same core antitrust concerns remain applicable where nonprofits exchange competitively sensitive information or coordinate on matters that should remain independent.

Proposed Safe Harbor for Nonprofit Information Sharing. The Agencies should adopt a narrowly tailored safe harbor, or comparable enforcement safety zone, for nonprofit information-sharing arrangements that are designed to advance compliance, public safety, quality improvement, fraud prevention, credentialing, research, or other bona fide mission-related objectives and that do not facilitate coordination on competitively sensitive matters. Such a safe harbor should apply where shared information is reasonably necessary to the collaboration, limited in scope, historical or sufficiently delayed, aggregated or de-identified where feasible, and administered subject to written antitrust safeguards, including access controls, purpose limitations, and where appropriate, use of a neutral third party. The safe harbor should expressly exclude the exchange of current or forward-looking information concerning prices, fees, wages, salaries, staffing levels, bidding intentions, fundraising strategy, market allocation, output, or expansion plans. Clear recognition of a nonprofit information-sharing safe harbor would promote lawful collaboration, reduce unnecessary chilling of socially beneficial activity, and improve antitrust compliance without weakening enforcement against collusive conduct.

II. Topics that would benefit from additional guidance

The Agencies ask what subjects would benefit from additional guidance, including joint licensing arrangements and conditional dealing. In our view, the following subjects warrant specific treatment in any revised guidance.

A. Information-sharing arrangements among nonprofits

This is the area of greatest practical importance to our sector. Nonprofits routinely share information for legitimate purposes, including:

- compliance and regulatory updates;
- incident, safety, and near-miss reporting;
- benchmarking of quality and outcomes;
- public health and environmental monitoring;
- accreditation, credentialing, and continuing education;
- fraud detection and abuse prevention;
- cybersecurity threat indicators;
- disaster response and continuity planning; and
- collaborative research and grant administration.

The Agencies should provide concrete examples distinguishing **lawful mission-oriented information sharing** from **unlawful exchanges of competitively sensitive information**. In particular, guidance should address when sharing is less likely to raise concern because the information is historical, aggregated, de-identified, limited to a legitimate collaboration purpose, or administered by a neutral third party pursuant to written safeguards.

B. Joint licensing and shared use of intellectual property

Many nonprofits jointly develop and disseminate educational materials, standards, training content, databases, research tools, and credentialing resources. Updated guidance should clarify when joint licensing is ancillary to a legitimate collaboration and when licensing restrictions may cross the line into exclusionary or collusive conduct.

The guidance would be especially useful if it addressed collaborative licensing arrangements involving:

- training curricula;
- standards-development materials;
- software and data tools used for compliance or education;
- research platforms; and
- credentialing or assessment content.

The Agencies should explain the factors that distinguish lawful coordination necessary to commercialize or deploy a shared asset from impermissible restrictions on independent decision-making.

C. Conditional dealing and participation rules

Nonprofits frequently participate in networks, coalitions, consortia, and cooperative projects that impose eligibility or participation conditions. Such conditions can be legitimate and necessary. For example, a coalition may require adherence to privacy rules, cybersecurity protocols, data-quality standards, or conflict-of-interest safeguards. But participation conditions can also become problematic if used to exclude rivals, coerce alignment on unrelated commercial matters, or punish independent conduct.

The revised guidance should explain how to assess participation rules, interoperability conditions, access criteria, and membership requirements where competitors collaborate for limited purposes. It would be particularly helpful if the Agencies identified factors showing when such conditions are reasonably related to the venture's procompetitive objectives and when they may be pretextual or exclusionary.

D. Benchmarking and quality-improvement collaborations

Nonprofits often use benchmarking to improve efficiency and service outcomes. Yet many organizations remain uncertain about the line between lawful benchmarking and impermissible coordination. The Agencies should provide examples involving quality metrics, audit findings,

compliance performance, incident trends, and service-delivery measures, and should explain the circumstances under which such exchanges are less likely to create antitrust risk.

E. Emergency, public-safety, and resilience collaborations

The revised guidance should expressly recognize that limited information sharing may be essential during emergencies, cyber incidents, environmental events, public health crises, and continuity-of-operations disruptions. Guidance in this area should not immunize anticompetitive conduct, but it should explain how necessity, limited duration, defined scope, and documented safeguards affect the analysis.

III. New technologies and business models that need treatment

The Agencies also ask what new technologies and business models would benefit from additional guidance, including algorithmic pricing, information and data sharing, and labor collaborations. These subjects are especially important to nonprofits because digital platforms increasingly mediate collaboration.

A. Information and data sharing through modern platforms

Today, information sharing no longer occurs only through meetings or periodic reports. It occurs through shared dashboards, vendor-hosted portals, benchmarking platforms, APIs, cloud databases, collaborative software, and automated analytics tools. These tools can advance lawful and beneficial collaboration, but they can also increase the speed, granularity, and strategic value of shared information.

The revised guidance should address:

- real-time versus delayed data;
- granular versus aggregated data;
- identified versus de-identified data;
- direct peer-to-peer exchange versus neutral intermediary administration;
- operational, safety, or compliance data versus commercially sensitive competitive data; and
- access controls, governance, and audit trails.

The Agencies should make clear that risk increases when participants exchange current or forward-looking information about prices, fees, wages, staffing, fundraising strategies, competitive bidding, service expansion plans, output, or other competitively sensitive matters.

B. Algorithmic tools and vendor-facilitated coordination

Even where nonprofits are not using “pricing algorithms” in a conventional commercial sense, they increasingly rely on software that can influence rates, reimbursement recommendations, scheduling, resource allocation, staffing, capacity planning, and service prioritization. Guidance should explain how the antitrust analysis applies when competitors use common vendors, shared optimization tools, or pooled datasets.

We recommend that the Agencies clarify that lawful use of technology depends not on labels but on function. The critical questions are whether the tool facilitates alignment on competitively sensitive decisions, whether it uses rival data in ways that reduce independent decision-making, and whether appropriate safeguards preserve independence. The guidance should encourage governance practices such as data minimization, purpose limitation, human oversight, segregation of sensitive fields, and vendor restrictions against cross-client competitive signaling.

C. Labor collaborations

Nonprofits often collaborate on workforce development, volunteer mobilization, emergency staffing, training pathways, credentialing, continuing education, and shared recruitment for underserved areas. Many such arrangements are beneficial and necessary. But there is also substantial uncertainty about the line between lawful labor collaboration and unlawful coordination affecting wages, benefits, hiring, or mobility.

The revised guidance should distinguish clearly between:

- lawful joint training and workforce-development initiatives;
- legitimate collaborations necessary to perform a shared mission or funded program; and
- impermissible no-poach agreements, wage coordination, or exchanges of current or future compensation information not reasonably necessary to the collaboration.

Clear examples would be especially useful for nonprofits operating in health care, social services, education, credentialing, emergency response, and grant-funded program delivery.

IV. Legal, economic, and technological developments that should shape replacement guidance

The third question asks what legal, economic, or technological developments should be considered in revising the prior guidelines. We respectfully suggest several.

A. Modern guidance should reflect digital-speed coordination risks

The risk profile of information exchanges has changed. Data can now be shared continuously, at high frequency, and with far greater granularity than in 2000. That reality warrants updated guidance that addresses not just whether information is exchanged, but how fast, how detailed, and through what technological architecture.

B. Guidance should address mixed-motive, limited-purpose collaborations

Many modern collaborations are narrow and functional. They may involve shared compliance tools, cybersecurity alerts, credentialing standards, quality benchmarking, or emergency response protocols rather than broad operational integration. The Agencies should explain how to analyze limited-purpose collaborations and associated restraints that are ancillary to legitimate objectives.

C. Guidance should be practical, example-driven, and compliance-oriented

For nonprofit organizations in particular, the most valuable guidance would be concrete. The Agencies should include hypotheticals, examples, and compliance factors rather than only abstract doctrine. Updated guidance should help organizations design compliant collaborations in advance, not merely describe enforcement standards after the fact.

D. Guidance should recognize structured safeguards

The revised guidance should acknowledge that certain safeguards materially reduce risk in information-sharing arrangements. These may include:

- a written statement of legitimate collaboration purpose;
- antitrust counsel review;
- neutral third-party administration;
- aggregation and de-identification;
- historical rather than real-time reporting;
- restricted access and user permissions;
- limits on forward-looking information;
- meeting agendas and minutes;
- training and compliance certifications; and
- auditing and escalation procedures.

Recognition of such safeguards would promote compliance and help smaller nonprofits collaborate responsibly.

V. Recommended features of revised guidance

To maximize usefulness, we urge the Agencies to include the following in any replacement guidance:

1. **A dedicated section on information sharing**, including nonprofit and trade-association examples.
2. **Illustrative hypotheticals** involving lawful quality, safety, compliance, and benchmarking collaborations, contrasted with impermissible exchanges of competitively sensitive information.
3. **Guidance on modern data environments**, including shared dashboards, third-party platforms, benchmarking vendors, pooled datasets, and algorithmic decision tools.
4. **Clear treatment of labor-market issues**, especially distinguishing joint training and program delivery from wage-fixing, no-poach, or inappropriate compensation exchanges.
5. **Discussion of ancillary restraints**, including when participation conditions, access rules, confidentiality provisions, or data-use limitations are reasonably related to legitimate collaboration objectives.
6. **Recognition of safeguards and best practices** that reduce antitrust risk.
7. **Examples specific to nonprofit and mission-driven organizations**, which often collaborate for public-facing purposes but still require clear competitive boundaries.

VI. Conclusion

We appreciate the Agencies' decision to solicit public input before issuing revised guidance. Nonprofit organizations need clear, current, and practical direction on collaborations among entities that may cooperate in some respects while competing in others. Updated guidance can promote both vigorous antitrust enforcement and lawful collaboration that serves the public interest.

For nonprofit organizations, the highest-value contribution the Agencies can make is to provide concrete guidance on **information sharing**: what is ordinarily permissible, what safeguards matter, and what types of exchanges remain off limits. Such clarity would materially improve compliance, reduce unnecessary chilling of beneficial collaborations, and help organizations pursue mission-driven work without crossing competitive lines.

Sincerely,



Eugene A. Gullford, Jr., CAE
Executive Director

About the Institute of Hazardous Materials Management - <https://ihmm.org/>

Founded in 1984, the Institute of Hazardous Materials Management (IHMM), is a not-for-profit organization. IHMM has been protecting the environment and the public's health, safety, and security through the creation of credentials recognizing professionals who have demonstrated a high level of knowledge, expertise, and excellence in the management of hazardous materials, dangerous goods transportation, environmental protection, health, and workplace safety.

*Over 18,000 homeland security, environmental protection, engineering, health sciences, transportation, and public safety professionals have earned IHMM's accredited **Certified Hazardous Materials Manager**[®] (CHMM[®]) credential. IHMM also administers the **Certified Hazardous Materials Practitioner**[®] (CHMP[®]), the **Certified Dangerous Goods Professional**[®] (CDGP[®]), the **Associate Hazardous Materials Manager**[®] [AHMM[®]], and the **Certified Dangerous Goods Trainer**[®] (CDGT[®]) credentials. IHMM also works with colleges and universities throughout the United States and, to that end, offers the **Student Certified Hazardous Materials Manager**[®] (ST/CHMM[®]) and **Student Associate Safety and Health Manager**[®] [ST/ASHM[®]] credentials. In 2019, IHMM acquired ISHM and now manages the **Certified Safety and Health Manager**[®] [CSHM[®]], **Certified Safety Management Practitioner**[®] [CSMP[®]], **Associate Safety and Health Manager**[®] [ASHM[®]], **Certified School Safety Specialist**[®] [CSSS[®]], and **Certified School Safety Manager**[®] [CSSM[®]] credentials.*