

Nonprofit Strategic Restructuring Due Diligence Check Lists: Financial and Legal

Financial Due Diligence

It is recommended that the following documents be compiled and submitted for financial due diligence review:

Organizational Documents

- A. List of subsidiaries, joint ventures, partnerships with other organizations

Tax Documents

- A. IRS tax exemption letter
- B. State tax exemption letter
- C. Last three years' federal information returns (e.g., forms 990, 990-T, etc.)
- D. Most recent year's state information return (i.e., the state equivalent of the above)
- E. Other federal and/or state tax records agreed upon:
- F. Information related to sources of unrelated business income
- G. Tax-exempt bond financing
- H. Property tax exemptions

Finance / Funding

- A. Last three years' audited financial statements, or year-end statements if no audit available
- B. Accountant's Management Letter
- C. Most current financial statements
- D. Operating and capital budgets for the current year
- E. The names & addresses of the organization's financial institutions
- F. A listing of all liabilities
- G. A schedule of all assets
- H. Copies of any loans or liens against any assets
- I. Copies of other debt financing arrangements including purchase agreements, sale and leaseback agreements
- J. A statement confirming whether any interested party (board member, employee, their spouse or close relative) has an interest in any asset owned by the corporation
- K. A description of the terms, conditions and status of all current grants & contracts

- L. A description of the terms, restrictions, and agreements for all restricted funds, including any endowment
- M. Fundraising program summary and any fundraising agreements
- N. A description of all obligations relating to gift agreements
- O. Aging schedule for Agency's accounts receivable and accounts payable (most recent)
- P. A breakdown of revenues and expenses for each of the Agency's programs.
- Q. Copies of any guarantees by the Agency of obligations or by other parties of obligations of the Agency

Capital / Real Estate

- A. Deeds
- B. Leases (for all buildings and equipment)
- C. Mortgages
- D. List of significant equipment and vehicles
- E. Zoning and use permits
- F. Other real estate records agreed upon (i.e., preliminary title report of each property)

Identify any other documents or information which, in your judgment, are significant with respect to any portion of the Agency or its programs which should be considered and reviewed for financial due diligence.

Legal Due Diligence

The following documents are recommended to be exchanged between the parties in a negotiation. Clients entering into legal due diligence are advised to consult with an attorney regarding the items to be exchanged and reviewed in legal due diligence.

Organizational Documents

- A. Articles of incorporation
- B. By-laws
- C. Organizational Chart
- D. Copies of any affiliation agreements, partnership agreements, or joint venture agreements in effect
- E. A list of all current officers and directors
- F. Conflict of interest statement
- G. Minutes of the Board of Directors for the past three years
- H. List of subsidiaries, joint ventures, partnerships with other organizations

Tax Documents

- A. IRS tax exemption letter
- B. State tax exemption letter
- C. Last three years' federal information returns (e.g., forms 990, 990-T, etc.)
- D. Most recent year's state information return (i.e., the state equivalent of the above)
- E. Other federal and/or state tax records agreed upon:
- F. Information related to sources of unrelated business income
- G. Tax-exempt bond financing
- H. Property tax exemptions

Insurance Documents *(A description of all insurance policies/coverages, copies of all policies.)*

- A. Public liability, including automobiles
- B. Officers and Directors
- C. Fire and extended coverage property
- D. Workers compensation
- E. Professional Practice
- F. Volunteers Coverage
- G. Other: _____

Personnel Documents

- A. A listing of all current employees, their job descriptions, and their annual pay levels
- B. Copies of all employment contracts or agreements
- C. Copies of personnel policies

- D. Copies of all collective bargaining agreements
- E. A description of all employee benefit programs, including vendor contact information
- F. Copies of volunteer policies, including job descriptions and agreements
- G. A list of consultants currently engaged or used by the Agencies and copies of consulting agreements.
- H. A list and copies of plans, policies and arrangements with respect to qualified pension plans
- I. A description and copies of any other deferred compensation arrangements and funding arrangements

Finance / Funding

- A. Copies of any loans or liens against any assets
- B. Copies of other debt financing arrangements including purchase agreements, sale and leaseback agreements
- C. A statement confirming whether any interested party (board member, employee, their spouse or close relative) has an interest in any asset owned by the corporation
- D. A description of the terms, conditions and status of all current grants & contracts
- E. A description of all obligations relating to gift agreements
- F. Copies of any guarantees by the Agency of obligations or by other parties of obligations of the Agency

Capital / Real Estate

- A. Deeds
- B. Leases (for all buildings and equipment)
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- F. Other real estate records agreed upon (i.e., preliminary title report of each property)

Other

- A. Copies of all operating licenses, accreditations, etc.
- B. Copies of marketing pieces, and any other literature distributed to the public about the organization and its activities
- C. A statement describing any threatened or pending litigation
- D. A statement describing any threatened or pending government investigations
- E. Description and outcome of actions, suits, investigation which has been before any court, arbitrator or administrative or regulatory body to which the Agency was a party or which were binding on any of its properties at any time with the past three years
- F. List of regulatory agencies to which the business of the Agency is subject
- G. List of current accreditation of the Agency and a list of any accreditation which the Agency has had during the past three years which it no longer possesses.

- H. Copies of correspondence between Agency and any licensing, regulatory or accreditation body during the past three years which relates to the Agency's licenses, permits; compliance with regulations or accreditation
- I. Copies of provider agreements between the Agency and federal, state or county agencies
- J. List of agreements or commitments which would terminate or become in default or give rise to cancellation rights as a result of the transaction

Any other documents or information which, in your judgment, are significant with respect to any portion of the Agency or its programs which should be considered and reviewed by the other party in connection with the transaction.