Massachusetts Nonprofit Network

Nonprofit 411: Should Your Non-Profit Consider an Affiliation or Merger?

By Sheryl Howard, Associate, Krokidas & Bluestein LLP

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In the wake of the economic meltdown, many non-profits struggled to continue their work as funding sources in all sectors – corporate, public and private – were reduced, while competition for these funds increased. During this time, many non-profits sought affiliations, mergers and, as a last resort, asset sales. For struggling organizations, restructuring became a necessity, while stable organizations used mergers or acquisitions to expand into new service areas or geographic regions and to increase efficiencies and access to resources.

There are significant challenges for non-profit organizations seeking to partner. Though affiliations present obstacles in all industries, in the non-profit sector, where mission and values dominate, finding a match can prove daunting. If your organization is considering an affiliation, you should consider the following:

1. Evaluate your financial condition. Affiliations are most viable when pursued by a financially stable organization as a tool to assure future growth and strength. A non-profit with financial troubles has little bargaining power in negotiating an affiliation. If your liabilities are significant, your best option may be an asset sale.

2. Review your contractual commitments. Before considering a possible affiliation, conduct a careful review of corporate documents, compensation arrangements, major contracts and financing documents. This assessment will identify required approvals and consents and may uncover prohibitions that could scuttle the transaction. Identifying and addressing problems prior to commencing negotiations may streamline the process and enhance your bargaining power.

3. Find the right partner. Unlike the for-profit sector, there are few "matchmakers" for non-profit affiliations. Identifying the right partner may require research and creativity. Though you may seek a partner that shares your organization's basic culture and mission, you might also consider one that operates in a different geographic region or provides services that complement your own. A good partner might also help solve an institutional problem, such as providing new leadership for an organization with aging management.

4. Do your due diligence. Often the structure of the affiliation is driven by facts uncovered during due diligence. For an organization seeking to expand through acquisitions and mergers, effective due diligence is critical to ensure that the target organization will not bring with it unexpected liabilities. Be prepared to review items such as financial information, key management personnel, board membership, contracts and leases, donor base, restrictions on gifts, court dockets, title and property information, environmental reports, employment contracts, severance agreements – to name a few potential areas of concern – to smoke out issues.

5. Protect yourself. Not all possible affiliations materialize. During the due diligence phase, confidential or competitively sensitive information should be safeguarded through confidentiality agreements – or should be withheld until later in the negotiation. Publicity around a possible affiliation should be managed, and existing relationships with donors, employees and clients carefully protected. Non-disclosure agreements and agreements regarding publicity are essential to ensure that an announcement of the potential affiliation is not made prematurely.

The benefits of an affiliation can be considerable: increasing impact and reach, lowering costs, increasing operational efficiencies, and having access to additional resources. Careful planning is key to taking advantage of these benefits.

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