

Profitable **Solutions** *for* **Nonprofits**

Winter 2010

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While the going is good . . .

How to negotiate a real estate lease

The commercial real estate scene varies from region to region, but chances are a large amount of office space in your area is currently waiting for its next tenant. With more leasable office spaces than creditworthy tenants to take them, many landlords are offering lower rates and other incentives.

IS IT THE RIGHT TIME FOR YOU?

If your not-for-profit organization has good credit, there's a real chance you can find a more suitable — perhaps even larger — space with attractive lease terms. Just keep in mind that leasing companies and landlords want to firm up an arrangement fast. So poise yourself to act quickly once you find the deal that's best for your organization.

Conversely, if your nonprofit is currently in a space it loves, it's probably a good time to try to negotiate better lease terms.

WHAT WILL IT COST?

Before taking the plunge, you'll want to be sure that your nonprofit has the financial capacity to incur the new leasing expenses and is comfortable with the long-term projections. You'll also want to calculate what a move will cost your organization. Some costs that typically accompany the signing of a new lease (or sublease) are:

- * Moving expenses,
- * Construction costs for building out your new space,
- * Legal fees for a review of the lease, and
- * Paying the first month's rent and a security deposit.



A less calculable cost is the manpower hours it takes to find a new place, conduct lease negotiations and prepare for the move. On the plus side, in a tenant-friendly market a landlord may be willing to pay for some of your upfront construction and moving expenses.

WHAT ARE THE TERMS?

Many considerations go into negotiating a lease agreement, and there's a great deal you need to find out before signing a lease. Here are some questions to ask:

- * Is the lease payment calculated on usable square footage instead of rentable footage?
- * Does the agreement allow your organization to assign the lease to another party?
- * Does your organization get a few months' free rent at the start of a lease?
- * Does the agreement allow you to sublet the leased space?
- * Is a grace period allowed between the lease's signing and commencement dates?

- * Does the lease shift the burden of paying for subsequent government compliance to the landlord?
- * Does the agreement include an option for expansion and at a stated price?
- * Is the first year of occupancy used as the base year for calculating common area maintenance (CAM) charges?
- * Does the lease renewal option have a fixed rate?
- * Is a holdover option and a stated price included in the agreement in case your organization needs to stay for a short time after your lease expires?

These are only some of the matters you'll want to address during lease negotiations. Your CPA can help you with financial projections. And whether you negotiate a new lease — or extend your current one — it's important to have an attorney review the lease before you sign it.

AND IF YOU DON'T WANT TO MOVE?

Maybe you don't really want to move, but your nonprofit is focusing on cutting short-term costs immediately. If so, consider negotiating with your current landlord to stay in your current space.

If you do decide to stay put, find out if your lease can be refinanced to lower your monthly payment. But if you go this route, consider that the real estate market is likely to be higher when your new lease term is up, and that the real estate environment could be quite different — you may be missing your opportunity to lock into a bargain.

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FINANCIALLY SAVVY

Whether you find a new home for your nonprofit or renew the lease you have, exploring options in the current market is what's important. Office space likely is one of your top expenses, so keep a close eye on it. *

Time well spent

10 requirements for effective board meetings

Time is money, it's often said, and perhaps the most valuable time a nonprofit "owns" is at its board meetings. Good organization plus sensitivity to the people and issues involved can ensure that your meetings are productive.

Here are 10 requirements for before, during and after board meetings:

1. Agenda prep. The board president (or chair) and executive director (ED) typically plan the agenda

together. The board president should first contact each committee chair to find out the committees' needs for the upcoming meeting. For each item you place on the agenda, include an "anticipated action." Examples: "Finance Committee, Anticipated action: approve or reject organizational investment policy." "Casino Day report, brief questions and answers, no action needed."

2. Background info. Supply the board with the information it needs to make informed decisions. You may want to include the minutes of the last board meeting,

active committee reports related to agenda items, current financial reports, the ED's statistical "state of the organization" report, relevant memoranda and so on.

3. Financial facts. Provide your board with good financial information in a format that doesn't overwhelm them. For instance, in the ED's report you may want to include a simple list of income categories, expense categories, balances, investments with performance noted, and issues of concern. The finance committee can request more information if they need it, of course.

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4. Priority items. Don't try to cover every issue your nonprofit is facing in every meeting. One two-hour meeting, for example, may be only enough time to discuss one key issue (such as a decrease in donor contributions) and take a related action (replacing an ineffective fundraising event with a new, more promising one). Make sure your nonprofit's most pressing and significant matters are handled.

5. Sensitivity to controversial issues. Be aware of issues that might prompt a strong difference of opinion, and never begin or end a meeting with one. Good boards can weather heated discussions — and the best results often follow a good understanding of both sides of an issue. But you need to foster unity at the start and the end of your gatherings.

6. Two-way communication. Don't let communications from your staff to the board be dictatorial. For example, if the ED presents a monthly report, solicit board opinion and allot time for member response. If a response isn't needed, simply put a copy of the report in the board packets.

7. Ongoing education. Use a segment of the meeting time to educate board members. For example, a staff member could present how to read a financial statement one month, and the ED could present a summary of the board's legal responsibilities another time. Be sure to allot some time for questions and answers.

8. "Dumb" questions permitted. Board members need to feel safe asking relevant questions to get the information they need for intelligent decision-making. Some questions about how the organization works and its history may be necessary.

9. No shrinking violets. Make sure that each board member talks at least once during the meeting. Example: "Audrey, at the last meeting you mentioned you were going to talk to your friend at MegaCompute Corp. about program sponsorship. How did that go? Do you have any other suggestions for potential sponsors?"

10. Follow-up. Follow up on the meeting with a summary of the key matters discussed and the conclusions. Include individual assignments and the next scheduled meeting date. *



A gift in hand ...

Know the right way to report donations of services and gifts in kind

With a recession lingering, your supporters may be unable to come up with the cash contributions of previous years. But supporters can still help your nonprofit without writing a check or putting cash in the coffers.

Donations of services and gifts in kind can be useful to your organization during tough economic times. But should you book them in your financial statements? And, if so, what amounts should you assign?

SERVICES THAT ARE DONATED

Formerly Financial Accounting Standards Board (FASB) Statement of Financial Accounting Standards (FAS) No. 116, *Accounting for Contributions Received and Contributions Made*, specified when a nonprofit should recognize the fair value of services in its financial statements. Now that guidance is provided primarily under FASB Accounting Standards Codification™ (ASC) 958, *Not-for-Profit Entities*. (See the sidebar “What is ‘codification?’” on page 6.)

There are two types of donated services a nonprofit can recognize:

1. Services creating or enhancing a nonfinancial asset. If the service creates or enhances a nonfinancial asset, you can recognize the donation. Such services are capitalized at fair value on the date of the donation. These types of services either create a nonfinancial asset (in other words, a tangible asset) or add value to an existing asset.

Donated services that create or enhance a nonfinancial asset don't necessarily need to be specialized to be recognized. For example, the value of a carpenter's time (a specialized service) to build an addition to a building would be capitalized as part of the building, as would the value of a volunteer's time to paint the interior



walls (a nonspecialized skill). But routine equipment maintenance shouldn't be recognized, because it doesn't enhance the nonfinancial asset.

2. Services needing specialized skills. You also should recognize the donation if the service requires specialized skills, is provided by people with those skills, and would have been purchased if it hadn't been donated. Account for this service by recording contribution income for its fair value. Also record it as a related expense, in the same amount, for the professional service provided.

“Specialized skills” refer to services provided by attorneys, accountants, architects, carpenters, electricians and the like. Developing these skills usually requires specialized schooling or training.

Normally, this would exclude general volunteer time at your facilities and your events. These volunteers typically don't need specialized skills to perform their

assigned tasks. Nonetheless, your nonprofit may want to disclose the total number of volunteer hours it received during the year in its financial statement footnotes. Such a contribution emphasizes the commitment made by the community to your nonprofit.

GIFTS IN KIND

Gifts in kind generally involve the receipt of a piece of tangible property or property rights. They may take many forms, including the free or discounted use of facilities; free advertising; collections, such as artwork to display or sell; and other tangible property, such as office furniture or supplies. While this isn't an all-inclusive list, it's a good representation of the types of gifts in kind a nonprofit may receive.

To account for these, you first need to determine whether the item can be used to carry out your mission or sold to help fund operations — in other words, does it have a value to your nonprofit? If so, it should be recorded as a donation and a related receivable once it's unconditionally pledged to your organization.

Next, use fair value to measure gifts in kind. Base the value on what it would cost if your nonprofit were to purchase that item outright from an unrelated third party.



WHAT IS "CODIFICATION"?

According to FASB, the Accounting Standards Codification™ (ASC) is now the single source of authoritative nongovernmental U.S. Generally Accepted Accounting Principles (GAAP). It was released July 1, 2009, and goes into effect for financial statements issued for interim and annual periods ending after Sept. 15, 2009. The ASC replaces the patchwork of FASB Statements of Financial Accounting Standards (FASs), Staff Positions (FSPs), Interpretations (FINs) and other guidance that previously defined GAAP.

It's fairly easy to assign a fair value to property, such as furniture, equipment or inventory — you can look up the going price for a similar item in the marketplace. But when the gift is a collection, a donated facility, donated advertising — or something that doesn't otherwise have a readily determinable market value — its fair value is more difficult to assign.

Without an independent appraisal to substantiate the gift's value, you may need to rely on a good-faith estimate from the donor. So, you should obtain all corroborating evidence that the donor can provide. If the value is more than \$5,000, the donor is required to obtain an independent appraisal for tax purposes, which will give you documentation for your records. Then, through research, evaluate whether that amount was reasonably set and adjust as needed.

MONEY ISN'T EVERYTHING

In a downturned economy, you may receive fewer and smaller cash donations. But there may continue to be a steady stream of donated services and gifts in kind that your nonprofit can put to use. Reported properly, these contributions can help your organization's financial picture, even if it's in an unconventional way. *

Newsbits

MASTERING FORM 990

If you're stumped filling out new IRS Form 990, take advantage of some of the agency's new tools. An online document, *Form 990: Getting started — a case study*, uses practical examples to show nonprofits how to address key areas of the redesigned form and its schedules.

Getting started includes a sample filled-in Form 990 and Schedules A and O. These forms offer prepared information about a hypothetical organization's mission and its board of directors, financial information and policies.

A related series of seven short online videos explain how to complete key sections of the Form. The videos highlight some of the Form's changes and are built around the following topics:

- * Overview;
- * Revenue and expenses;
- * Balance sheet, supplemental financial statements and Schedule D;
- * Program services, other IRS filings and tax compliance;
- * Compensation;
- * Governance; and
- * Summary, schedules and signatures.

The new online resources for Form 990 filers can be found on IRS.gov. *

AN IRS CHANGE BENEFITS SUPPORTING ORGANIZATIONS

New IRS procedures (IRS Announcement 2009-62) allow certain not-for-profit organizations that receive public support to request a change in their public charity classification.

The change can be beneficial to supporting organizations because normally private foundations are restricted from making distributions to certain types of supporting organizations. By changing their status, supporting organizations can be eligible for such distributions.

An organization using the process might still functionally "support" another exempt organization. But that entity would have an independent nonprivate foundation status based on its own public support.

Supporting organizations, per IRS Code Section 509(a)(3), can use this procedure if they either:

- * Receive sufficient contributions from the public to meet the public support criteria of Sec. 509(a)(1)/170(b)(1)(A)(vi) or
- * Sell sufficient exempt purpose goods or services to meet the public support criteria of Sec. 509(a)(2).

The new procedures are consistent with the revised Form 990, *Return of Organization Exempt from Income Tax*. *

HELP DONORS DONATE

A "Top 10" list from the IRS gives taxpayers 10 important tips on making charitable donations and is something you might want to post on your Web site to help — and encourage — your potential donors to make a tax-deductible gift to your charity. The list, "Ten Tips for Taxpayers Making Charitable Donations" (IRS Summertime Tax Tip 2009-21), can be found at IRS.gov.

Among the things the IRS wants taxpayers to know before they donate is that charitable donations must be made to *qualified* organizations to be deductible. So, make sure that you let the public know that your 501(c)(3) organization is so qualified on your Web site and in your fundraising materials. *