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NONPROFIT Coordinating Committee of New York

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Board Talking Points: Renegotiating Vendor Agreements

To bring a budget into balance there are two options: raise revenue or reduce expenses. Most nonprofits have more control over their expenses than they do their revenue and should, therefore, be reviewing their agreements with outside vendors to identify opportunities for cost-savings.

Questions regarding reviewing agreements with outside vendors:

1. Where do we begin?
2. What should we look for when reviewing these agreements?
3. How can we lower our vendor costs?
4. How do we identify reputable vendors who are willing to work with nonprofit organizations?

Below are answers to these questions:

1. Where do we begin?

Remember, a contract is a voluntary agreement between two or more parties that creates an obligation to do, or not to do, a particular thing. Contractual terms can usually be modified with both parties' consent. Contracts probably govern most of the organization's day-to-day operations and will include: government funding contracts, grant agreements, employment and independent contractor agreements, leases and vendor or service agreements.

Begin by gathering all of the organization's employee benefits and vendor and service agreements. Some examples include contracts relating to:

(i) health insurance;
(ii) 403(b) plans;
(iii) bank accounts;
(iv) corporate credit cards;
(v) communications carriers (e.g., phone, internet);
(vi) equipment rental; and
(vii) facilities maintenance (e.g., snow removal, cleaning service).

Many of these relationships are governed by agreements that were executed at the outset of the arrangement (for example, when the organization opened its credit card account) and, therefore, it is difficult to locate the written agreement or all the amendments. If that is the case, request a copy from the service provider.

2. What should we look for when reviewing these agreements?

<u>Term</u>: When does the contract begin and end? Are there increases in charges or fees within the term of the contract?

<u>Services</u>: Exactly what services are being purchased under the agreement? Are some services "standard" and additional services offered at added cost?

<u>Payment Terms</u>: When is payment due? Is the vendor entitled to charge a penalty for late payment?

<u>Renewal</u>: What happens at the end of the contract? Does the agreement automatically renew if one party does not terminate? Does either party have the right to renew the agreement? What is the cost of services during the renewal period? How long does the renewal period last?

<u>Termination Provisions</u>: Under what circumstances can the contract be terminated before the end of the term?

<u>Notices</u>: Where should notices relating to the contract be sent? How must notices be sent (e.g. regular mail, overnight, fax, email)?

3. How can we lower vendor costs?

Once you have reviewed all contracts group the services provided into three categories:

<u>Mission Critical</u> - This category should include all services that are critical either for the office to function or to fulfill the organization's mission.

<u>Optional</u> – This category should include all services that either increase office efficiency or enhance the ability of the organization to fulfill its mission.

<u>Not Necessary</u> – This category should include services that are not needed for the organization to function efficiently or to fulfill its mission.

For <u>Mission Critical</u> and <u>Optional</u> services, determine what the services would cost the organization to purchase were it starting from scratch. If there are less expensive services available: (i) make sure that nature of the services is the same, that it is an "apples-to-apples" comparison; (ii) research new service providers to make sure they are reputable; and (iii) if the organization is being offered an introductory rate lock in rates for the end of that period. For <u>Optional</u> services, the organization should engage in a cost benefit analysis to determine whether or not it wants to continue purchasing the service. Talk to current vendors about what can be done to lower cost they want to keep your business and might have creative solutions. For <u>Not Necessary</u> services, now is the time to end those relationships.

As to any contract you decide to terminate, either because there is a less expensive option or you no longer need the service, refer to your current contract to see if you can: (i) immediately terminate it without penalty; (ii) terminate in the near future without penalty; or (iii) terminate and pay a penalty. If the contract can be terminated immediately or in the near future without penalty, then check the original contract to see how notice of termination must be given and set up a calendar reminder to send the termination notice. If the contract can only be terminated under penalty then begin negotiations with the current service provider about the size of penalty. The amount the organization is willing to pay the current service provider to terminate the contract will depend on how much cost savings can be achieved by changing providers or doing without the service.

4. How do we identify reputable vendors who are willing to work with nonprofit organizations?

The good news is that bad economies offer good opportunities in identifying and negotiating favorable vendor agreements. Vendors, whether they are offering copier leases or payroll services, are more likely to be willing to discuss terms and conditions advantageous to nonprofits in a recession. Rather than negotiating on your own for services, first check out associations and umbrella groups that may have already negotiated favorable terms for their members. Organizations like the Nonprofit Coordinating Committee, the American Society of Association Executives, United Neighborhood Houses and Chambers of Commerce may have programs already established for the product you need. Look at services and products offered through technology- specific organizations such as TechSoup, Idealware and NPower for cost-effective tech solutions.

If you are looking on your own for a specific product or service, start by asking colleagues at other nonprofits for recommendations for companies as well as sales reps/brokers. If people love (or hate) their copier, for example, they won't be shy about telling you about their experiences.

Check out the ads that run in nonprofit trade publications such as New York Nonprofit Press, Nonprofit Times and the Chronicle of Philanthropy; these companies are already familiar with nonprofit marketplace. Finally, check a company's Better Business Bureau rating and history of complaints concerning any specific vendor you're thinking of using.

Lawyers Alliance and the Nonprofit Coordinating Committee of New York (NPCC) can help boards with questions about vendor agreements. For more information please contact:

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