



Transaction Due Diligence Checklist

Feb. 13, 2019

At the request of several members, OHA has put together a checklist for hospital administrators and trustees to use in reviewing proposals. This checklist is not meant to take the place of legal advice, but instead to spur the collection of information for determination if a financial transaction is appropriate for your hospital.

Why due diligence?

It is **important** to clarify that a **due diligence** review is not an audit. Financial **due diligence** in particular allows an entity to assess all financial aspects of a potential acquisition to determine the benefits, liabilities, risks and opportunities to the institution. A checklist helps to organize the due diligence process as well as to guarantee that all issues are covered, bringing potential red flags to the surface early. Sometimes the due diligence process can be revealing in itself. If the target entity is reluctant to provide information with respect to its operations, for example, it raises the perception that something is wrong or that there is something to hide. That reluctance is worth noting before deciding if the transaction should be completed.

What do you need from the other entity?

A. Organization and Good Standing.

- The Company's [Articles of Incorporation](#), and all amendments thereto.
- The Company's Bylaws, and all amendments thereto.
- The Company's minute book, including all minutes and resolutions of shareholders and directors, executive committees, and other governing groups.
- The Company's organizational chart.
- The Company's list of [shareholders](#) and number of shares held by each.
- Copies of agreements relating to options, voting trusts, warrants, puts, calls, subscriptions, and convertible securities.
- A Certificate of Good Standing from the Secretary of State of the state where the Company is incorporated.
- Copies of active status reports in the state of incorporation for the last three years.
- A list of all states where the Company is authorized to do business and [annual reports](#) for the last three years.
- A list of all of the Company's assumed names and copies of registrations thereof.

B. Financial Information.

- Audited [financial statements](#) for three years, together with Auditor's Reports.
- The most recent unaudited statements, with comparable statements to the prior year.
- Auditor's letters and replies for the past five years.
- The Company's credit report, if available.
- Any projections, capital budgets and strategic plans.
- Analyst reports, if available.
- A schedule of all indebtedness and contingent liabilities.
- A schedule of [accounts receivable](#).
- A schedule of [accounts payable](#).
- A description of depreciation and amortization methods and changes in accounting methods over the past five years.
- Any analysis of fixed and variable expenses.
- Any analysis of gross margins.
- The Company's general ledger.
- A description of the Company's internal control procedures.
- A schedule of sales and purchases of major capital equipment during the last three years.

C. Employees and Employee Benefits.

- A list of employees, including positions, current salaries, [salaries and bonuses](#) paid during the last three years, and years of service.
- All employment, consulting, nondisclosure, nonsolicitation or noncompetition agreements between the Company and any of its employees.
- Resumés of key employees.

D. Licenses and Permits.

- Copies of any governmental licenses, permits or consents.
- Any correspondence or documents relating to any proceedings of any regulatory agency.

E. Taxes.

- Federal, state, local, and foreign income [tax returns](#) for the last three years.
- State sales tax returns for the last three years.
- Any audit and revenue agency reports.
- Any tax settlement documents for the last three years.
- Employment tax filings for three years.
- Excise tax filings for three years.

- Any tax liens.

F. Material Contracts.

- A schedule of all subsidiary, partnership, or joint venture relationships and obligations, with copies of all related agreements.
- Copies of all contracts between the Company and any officers, directors, 5-percent shareholders or affiliates.
- All loan agreements, bank financing arrangements, line of credit, or promissory notes to which the Company is a party.
- All security agreements, mortgages, indentures, collateral pledges, and similar agreements.
- All guaranties to which the Company is a party.
- Any installment sale agreements.
- All other material contracts.

G. Litigation.

- A schedule of all pending litigation.
- A description of any threatened litigation.
- Copies of insurance policies possibly providing coverage as to pending or threatened litigation.
- Documents relating to any injunctions, consent decrees, or settlements to which the Company is a party.
- A list of unsatisfied judgments.

H. Insurance Coverage.

- A schedule and copies of the Company's general liability, personal and real property, product liability, errors and omissions, key-man, directors and officers, workers' compensation, and other insurance.
- A schedule of the Company's insurance claims history for past three years.

I. Articles and Publicity.

- Copies of all articles and press releases relating to the Company within the past three years.

Now that you have the information, what do you do with it?

In addition to covering the issues listed herein, a due diligence checklist should allow for status notes to be inserted to track the progress of outstanding due diligence items. It is not sufficient to request information for robust due diligence. The information must be thoroughly reviewed by the appropriate advisor to the hospital, whether it be a financial advisor, an accountant or an attorney.

Questions? If you have any questions about this document, please call Sandra Harrison at the Oklahoma Hospital Association, 405-427-9537, or sharrison@okoha.com.