

TOOL #12: NEGOTIATE A MEMORANDUM OF UNDERSTANDING

Once the case statement is completed, the Joint Negotiating Committee (JNC) moves on to create the Memorandum of Understanding (MOU), a blueprint for how the merger will proceed. The MOU becomes your agenda; the topics are listed in outline form; each meeting, you will be drafting responses for each topic.

Issues to be resolved in an MOU are listed below. The JNC decides the order of the topics. As you move along, the MOU will become longer and longer. Don't forget to label each version by number and date.

Before the Boards vote on the MOU, it is also important for an attorney for each organization to review the MOU.

Governance:

1. What legal structure have the organizations chosen for their merger?
2. What will be the effective date of the merger?
3. Which corporation should dissolve?
4. Who will be on the merged Board of Directors?
5. How many Board Members will there be?
6. Who will be the officers in the first year?
7. What committees will there be?
8. What will be the name of the merged organization?

Finance/IT Issues:

1. Which accounting system will be used?
2. Will new software or hardware be needed?
3. What is the plan for integrating IT systems?
4. Are there any outstanding lawsuits which need to be reported?
5. Do both groups have adequate insurance, including directors and officers coverage?
6. What do the donors think about the merger, particularly those who fund both organizations?
7. What are the terms of the endowments relative to a merger or dissolution?

Human Resources Issues:

1. Who will be the Executive Director?
2. What is the plan for the management team in the new structure?
3. What and when should the employees be told about the merger?
4. Will anyone lose his/her job? Will severance be provided? What is the policy?

5. What are the salary and benefits differentials between the organizations, and how will they be addressed?
6. Which human resources policies will be used?
7. How will staff morale be maintained throughout the process?
8. Is there a union in one or both organizations? What is the potential impact of the union on the other organization?
9. For purposes of retirement vesting, will time worked in the other organization count?
10. What is the new organization chart for all staff? for management?

Capital Issues:

1. What will happen with the current space when the lease expires?
2. What is the plan for where to locate staff?
3. What is the real estate status for each organization?
4. Is there a duplication of equipment? How will this be addressed? (e.g., Do we have too many copiers?)
5. Which office will be headquarters?
6. What is the condition of the current property? What would it cost to improve it?

Programmatic Issues:

1. Will all programs still be offered?
2. Will any sites be consolidated, closed, or expanded?
3. Are program approaches philosophically aligned?
4. Can program training be leveraged for each partner?
5. How will programs be improved or expanded as a result of the merger?

Marketing/Communication Issues:

1. What will be the logo of the merged organization?
2. How should stakeholders and the public be informed of the merger?
3. What is the marketing plan to leverage the merger?
4. If the merger doesn't happen, what will be the joint statement to the public?