Merger and/or Acquisition

Due Diligence Checklist

I. Governance
   a. Articles/Certificate of Incorporation and all amendments
   b. Bylaws and all amendments
   c. Corporate Minute Book
   d. Annual Reports

II. Policies
   a. Conflict of Interest Policy
   b. Investment Policy
   c. Whistleblower Policy
   d. Document Retention/Destruction Policy
   e. Form 990 Review Policy
   f. Other governance-related policies

III. Organizational and Registration Information
   a. Organizational chart
   b. Membership roster (if voting membership organization)
   c. Good standing certificate
   d. Schedule of states where organization is doing business or raising funds, or owns property
   e. Foreign qualifications
   f. Charitable solicitation registrations

IV. Tax:
   a. Forms 990, 990-T
   b. State tax returns
   c. Local tax returns
   d. Employment tax filings
   e. Communications with IRS, State tax authorities
   f. Tax liens

V. Real and Physical Property
   a. Schedule of all real property owned or leased
   b. Title policies, deeds, mortgages, security agreements, guaranties
   c. Leases
   d. Surveys, zoning approvals, variances, use permits
   e. Environmental reviews
   f. Schedule of hazardous wastes used, disposal methods employed
   g. UCC Filings
   h. Equipment Leases
VI. Legal
   a. Permits, licenses
   b. Communications with EPA and other regulatory agencies
   c. Schedules of related litigation, investigations
   d. Schedule of contingent environmental liabilities

VII. Intellectual Property:
   a. Schedule of significant IP, including trade secrets (e.g., donor lists, fundraising plans)
   b. Registrations and applications
   c. “Work for hire” and consulting agreements, nondisclosure agreements

VIII. Financials
   a. Financials, audited (if available) – 3 years
   b. Budgets, projections, strategic plans
   c. Analyses of debt and contingent liabilities
   d. Analyses of A/R and A/P
   e. Analyses of fixed and variable expenses
   f. Depreciation/amortization methods
   g. Internal controls

IX. Contracts
   a. Subsidiary, partnership, joint venture, affiliation agreements
   b. Agreements with directors and officers
   c. Loan agreements, lines of credit, promissory notes
   d. Security agreements, mortgages, indentures, collateral pledges
   e. Grant agreements, enforceable pledges
   f. Restricted gift agreements
   g. Sales and service agreements
   h. Program-related agreements
   i. Nondisclosure and noncompete agreements (applicable to the organization)
   j. Letters of intent, memoranda of understanding

X. Human Resources
   a. Employee information – position, titles, compensation, benefits, years of service, contracts, background checks
   b. Nondisclosure and noncompete agreements (applicable to the employees, contractors)
   c. Key employee information – resumes
   d. Workers’ compensation, unemployment, and other HR-related claims
   e. Employment policies and handbooks
   f. Retirement plans (qualified and nonqualified)
   g. Collective bargaining agreements (if applicable)
h. Description of significant employee problems, including alleged wrongful termination, harassment, discrimination
i. Insurance policies (H/R-related)
j. Employee-independent contractor categorization

XI. Risk Management:
a. Litigation – actual, pending, threatened
b. Settlement agreements
c. Injunctions, court orders, consent decrees
d. Unsatisfied judgments
e. Insurance policies
f. Schedule of claims
g. Risk management policies, practices, known violations

XII. Other
a. Licenses, permits, accreditations
b. Program-, service-, and product-related due diligence
c. Marketing research