

Three Stages in a Buyer's Process

Stage 3

Part 2: Seller CLOSING ACTIONS

Once you have signed a Purchase and Sale Agreement and have performed any and all seller's due diligence (accountant, lawyer or agent reviews) outlining the terms and conditions of a sale, the seller will have a series of actions or activities that should be accomplished. The following are provided as a "general reference" but the list is not all inclusive.

Purchase and Sale Agreement

Meet with the agent and the buyer to discuss each contingency and/or condition of sale and discuss the methods and requirements for accomplishing each detail. Assign dates and/or actions to individuals. Select the closing agent.

Due Diligence

The buyer should not begin internal due diligence until we have a letter from the bank or proof of financing. However certain documents will be required by the bank, as listed below:

- Last three (3) years income tax statements
- Current year income statement
- Final list of all assets being sold, to include serial numbers of major items and a cost or value of each item being sold
- Sign a Federal tax verification form (if required by the lender)
- Provide a complete copy of your leases
- Billings/payable receipts

Contract of Sale or Similar Documents

Contracts need to be written and approved as legal documents. Legal advice is recommended at this stage; however, there are draft documents available.

Leases

When the financing contingencies have been removed (buyer's ability to purchase), contacting your lessor is required. Review any and all "Letter of Intent to Lease" from the buyer. If an assignment is required, be prepared to have a final review and approval.

Closing Your Business / Transfer of Stock or Assets

- Determine any/all tax due and forward information to closing agent. Pay all tax liabilities.
- Contact your accountant and/or determine the final asset values to be assigned to the new buyer.
- Make a list of vendors/payers and notify them of new owner and the date of transfer.
- Organize inventories for buyer's final accounting.
- Locate all contracts/warranties/titles or written agreements to be transferred.
- Prepare all your business records for review by buyer. Set a date and time for review.
- Expedite any collections on outstanding receivables. Do not take extraordinary measures to collect.
- Check all equipment. Make a list of inoperative items. Be prepared to repair or negotiate, if necessary.
- Make a list of all prorated or pre-paid accounts (i.e., Yellow Pages, rents, etc.)
- Locate all keys
- Make a list of utility companies. Contact and close your accounts as of the date of sale.
- Clean premises and remove all personal property not being sold.
- Submit all license, tax or permit removals from federal, state, city and county agencies.
- Pay all personal property taxes or require the closing agent to prorate and pay at closing.

Two to Three Days Prior to Closing

- Conduct an actual inventory with the buyer and agree upon value; make adjustments.
- Conduct the inspection and approval of equipment with the buyer.
- Contact the title company and review the closing documents.
- Have all your forms for removing business licenses, regulations, etc., prepared (removal of Assumed Business Name, Federal tax EIN, corporation, etc.)
- Introduce your staff to the new owner, if you have not already done so.

At Closing

- All owners/signers and assigns must be present or have pre-signed the agreements.
- If you wish to have your proceeds deposited into a bank account, bring a deposit slip to the closing agent.
- Make sure that you have read and understand the terms and conditions of all agreements and acknowledge that understanding.

This information is provided as a **general** guide for the processes in buying an existing business. The steps indicated are placed in a chronological order to indicate procedure that should be completed prior to closing and taking over ownership. Some of the steps are **required by law**. The list is **not all inclusive** and other steps may be necessary.

STAGE 1 (Parts 1, 2 and 3)

Finding and Valuing, Offering, Due Diligence

This is a series of actions that allow you ample time to review all information PRIOR TO BUYING. It is a right of the buyer to obtain information and seek disclosure of facts already presented by the seller. It is your right as a buyer to be informed. Take the necessary time to complete the process to your satisfaction.

STAGE 2

Financing

A separate series of actions is required to obtain the financing. Some of the required information for banks is included in the due diligence processes and will "overlap". Usually the financing steps will take place prior to accomplishment of full due diligence, but remember that obtaining necessary financing is usually a prerequisite before a seller is willing to disclose all operational information. If you cannot finance the business, the seller is not willing to share all the information with you.

STAGE 3 (Parts 1, 2 and 3)

Operational Licensing and Closing

The legal transferring of ownership, title and equity in the business. Includes all of the necessary steps prior to your first day of ownership so that you can operate legally in Idaho. The steps should take place during the financing and due diligence stages and do overlap in both areas. As an example, you must have your federal identification number prior to accepting any SBA loans; therefore, you will need to file for the number early in the process so that you can close on the indicated date of closing. Another example is insurance. It is necessary to obtain insurance information for financial proforma as well as liability protection during ownership.

This information is provided by Kip F. Moggridge of Arthur Berry & Company for general use. For questions you may contact Kip at 208-336-8000. Please consult an attorney or accountant for legal or financial assistance.