

Ask the Advisor

Q. Should I sign a TSA when I sell my business?



A: A transition services agreement (TSA) is a legal contract in which a business buyer agrees to pay the seller a fee to maintain specific services for the business after the deal closes. TSAs typically are used to keep acquired companies running smoothly while buyers integrate them into their existing business operations. The TSA is separate from the sale agreement.

TSAs generally appeal to both buyers and sellers. They free the buyer from immediate responsibility for all of an acquisition's day-to-day operations, making the integration process easier. And they can help speed up the deal process, meaning sellers get paid faster. A TSA generally is a short-term agreement, mostly because sellers rarely have an incentive or desire to provide these services on an ongoing basis.

Breaking it down

A standard TSA will contain several key sections, including:

A list of services. This is a breakdown of the services the seller will provide for a set period of time. Services can range from managing employee health care insurance plans to maintaining IT equipment.

Performance standards. Buyers generally require a set of standards to ensure the seller will provide services at a consistent, high-quality level. A TSA, for example, could specify that a selling company maintain company vehicles or manufacturing equipment at premerger performance levels.

Time limits. Typically, services are provided for three to six months. But it's possible for TSAs to extend as long as 18 months. TSAs also may contain language determining when and for how long the buyer can request a service extension.

Rates. Service rates can be tricky to negotiate. Typically, sellers are paid a flat fee when the contract is

completed. But sellers might also receive a variable fee based on factors such as unit performance.

Valuable tools

Although TSAs can be a valuable tool for any type of M&A, they're essential in carve-out deals — transactions in which a seller divests a formerly dependent business unit. Many carved-out units don't have their own IT support or benefits programs, for example, so buyers typically need sellers to maintain such functions until the company is fully integrated into the new owner's company.

If you decide to take advantage of a TSA, be sure to work with legal and M&A advisors to make the agreement as specific as possible. Don't get locked into a TSA that doesn't directly state which services are in question and precisely how long they'll be provided. Treat a TSA as you would any contract, ensuring that, before you sign, it actually benefits you. ■

