

Vera Institute of Justice

SPIN-OFF TOOL KIT

NEIGHBORHOOD DEFENDER SERVICE OF HARLEM
BUREAU OF JUSTICE ASSISTANCE

JOB PATH

ADDICTION RESEARCH AND TREATMENT CORPORATION

NEIGHBORHOOD YOUTH & FAMILY SERVICES

NEW YORK CITY CRIMINAL JUSTICE AGENCY

PROJECT RENEWAL

WILDCAT SERVICE CORPORATION

ESPERANZA

CINNATI INSTITUTE OF JUSTICE

LEGAL ACTION CENTER

SAFE HORIZON

CENTER FOR EMPLOYMENT OPPORTUNITIES

CENTER FOR ALTERNATIVE SENTENCING & EMPLOYMENT SERVICES

FAMILY JUSTICE

POLICE ASSESSMENT RESOURCE CENTER
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Letter From the Director

The Vera Institute of Justice spun off its first demonstration project in 1967. Since then, 16 additional Vera projects have been incorporated as independent nonprofit organizations. Many of these organizations have gone on to be nationally and internationally recognized for continuing to advance best practices in their fields. Together, Vera and its spin-offs provide nearly \$200 million in services annually to hundreds of thousands of people in New York City and beyond, offering a range of services that would be impossible for any single organization to match.

Spinning off successful demonstration projects is one way Vera makes a lasting and positive impact on the administration of justice. But turning a successful project into a thriving new organization requires time, energy, knowledge, and stamina.

This Spin-off Tool Kit documents the process by which Vera projects are transformed into independent organizations. It is intended for Vera employees engaged in spinning off a demonstration project, for other organizations interested in launching a new nonprofit, and for anyone who wants to better understand the history of our spin-offs and the spin-off process.

By sharing this knowledge and experience, we hope to contribute both to the overall productivity of the nonprofit sector and also to Vera's core mission: to help leaders in government and civil society improve people's lives and the systems we all rely on for justice and safety.



Michael Jacobson, *Director*

Spinning off successful demonstration projects is one way Vera makes a lasting and positive impact on the administration of justice.

Introduction

The Vera Institute of Justice is a nonprofit organization that develops, operates, and studies innovative, affordable criminal and social justice demonstration projects.¹ Vera also conducts research and evaluations and provides public officials and civic leaders with expert assistance to advance justice and safety. Although Vera’s core mission has not changed in the 46 years since its inception, its projects and focus have evolved in concert with the needs of the people and government agencies it serves. One reason Vera is able to remain flexible is that it does not operate projects for the long term. If a demonstration project proves successful, Vera will spin off the demonstration, often by transforming it into its own independent nonprofit organization.² This process can be complex, but it ensures that Vera has the resources and energy it needs to stay focused on its core mission—spearheading innovation—while positioning the project to continue to serve its clients and grow its services and knowledge as a separate independent entity.

More than half of Vera’s successful demonstration projects have spun off as their own incorporated nonprofit organizations.

Not every demonstration project is destined for spin-off. Some accomplish their goals and close down. Others end as a result of changes in financial, political, or other circumstances.³ Since its creation in 1961, Vera has spun off 29 projects. Five merged into other organizations.⁴ Seven merged into government agencies.⁵ Seventeen became independent nonprofit organizations.⁶

In short, more than half of Vera’s successful demonstration projects have spun off as their own incorporated nonprofit organizations. This tool kit provides an overview of the spin-off process, focusing on the critical areas that must be addressed when turning a U.S.-based demonstration project into a separate and independent nonprofit organization. In all cases, the future spin-off and Vera encounter difficulties along the road to independence. Spin-off staff are nervous about the changes and may be tempted to leave the project in search of more “stable” employment, clients and funders may be wary that spin-off will affect the quality of services, and Vera remains contractually responsible for the performance of an organization it no longer manages. These and other challenges, some expected and some not, are sure to arise during the spin-off process.

This tool kit is intended as a guide for Vera staff members who are part of a spin-off team and others in outside organizations who are considering or already engaging in a similar process.⁷ The tool kit does not specifically address the process of merging

a project into another nonprofit organization or government agency, the process of spinning off international projects, or the creation of a wholly new organization not affiliated with a parent organization, all of which raise unique operational, legal, and strategic issues. However, many of the topics covered in this tool kit will be of interest and have applicability to those undertakings. This tool kit assumes spin-off is in the best interest of the parent organization, the soon to be spin-off organization, and the clients receiving the spin-off services. For a perspective on the advantages of spin off, see Christopher Stone’s article, *Spinning Off the Best: A Distinctive Strategy for the Nonprofit Sector*, in the Appendix.

¹ Demonstration projects provide direct services to vulnerable populations. Vera works with government to design these projects and then tests them to ascertain whether they work to address the identified problem and whether they have a positive impact on people’s lives.

² Spin-off can occur in one of three ways: projects can be merged into other organizations, be merged into government agencies, or become independent nonprofit organizations.

³ Projects that closed down upon completion of their work or for other reasons include the Alternative Youth Employment Strategies Project (1980-1983), Staten Island Day Fines Project (1987-1989), Bronx Bail Bond Supervision Project (1991-1994), Delta Drug Treatment Program (1992-1994), Appearance Assistance Program (1997-2000), Safe and Smart (1998-2002), Project Greenlight (2002-2003), and Affirm (2002-2003).

⁴ Job Site (became part of Lighthouse in 1988), Nassau County Bail Bond Supervision Project (became part of Education and Assistance Corporation in 1992), Essex County Bail Bond Supervision Project (became part of Volunteers of America in 1993), Citizen’s Jury Project (became part of the Fund for Modern Courts in 2000), and Center for Justice Assistance (became part of Indem Foundation, Moscow, in 2004).

⁵ Manhattan Bail Project (became part of the New York City Probation Department in 1964, then returned to Vera as the Pretrial Services Agency in 1973), Manhattan Summons Project (adopted throughout New York State, pursuant to a new state statute in 1971), Criminal Court Bail Project (adopted by the United Kingdom in 1976), Community Patrol Officer Program (adopted by all precincts of the New York City Police Department in 1988), Pretrial Services Demonstration (became part of South African Ministry of Justice and Constitutional Development in 2000), Prosecution Task Force on Car Hijacking (became part of South African Ministry of Justice and Constitutional Development in 2000), and Project Confirm (became part of New York City Administration for Children’s Services in 2001).

⁶ The independent nonprofit organizations and their spin-off dates are: Project Renewal (formerly the Manhattan Bowery Corporation, 1967), Addiction Research and Treatment Corporation (1969), Center for Alternative Sentencing and Employment Services (a significant expansion, in 1989, of Court Employment Project, which spun off from Vera in 1970), Neighborhood Youth & Family Services (formerly Neighborhood Youth Diversion Project, 1971), Wildcat Service Corporation (1972), Legal Action Center (1973), Cincinnati Institute of Justice (created in 1976 and merged into local government agencies in 1987), New York City Criminal Justice Agency (formerly Pretrial Services Agency, 1977), Safe Horizon (formerly Victim Services Agency, Inc., 1978), Housing and Services, Inc. (1987), Neighborhood Defender Service of Harlem (1990), Center for Employment Opportunities (1995), Job Path (1998), Family Justice (2000), Police Assessment Resource Center (2001), Bureau of Justice Assistance (created in 2004, currently dormant), and Esperanza NY (2006).

⁷ This tool kit is not intended to provide legal advice to specific individuals or organizations, but should serve as a general guide to the spin-off process. If an outside organization has a specific legal concern or question, competent counsel should be sought. You may also contact Vera’s General Counsel, Karen Goldstein, with questions about this tool kit, or to engage Vera to provide specific advice or assistance.

A Look at Vera's Spin-offs

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Phases and Timing of Spin-off

The circumstances of each demonstration project ready for spin-off vary greatly. Nonetheless, there is a typical progression of the spin-off process, which we divide into three phases. The process starts with mapping out the benchmarks for independence, includes setting a plan to achieve them, and culminates in Vera's total withdrawal from governance of the spin-off. During this process, the spin-off team works toward completing a core set of tasks that fall into three broad categories: operational capacity, public image, and legal infrastructure.

There is a general order for the completion of the tasks and each is usually completed in a particular phase. (For example, the project finds its own space in the demonstration phase and the Independence Agreement is signed in the spin-off phase.) However, many of the tasks may be completed concurrently and the order of completion may vary. For this reason, the phases of spin-off cannot be neatly marked by the completion of a particular set of tasks. Still, thinking of spin-off as three distinct phases is a useful way to conceptualize and organize the process.

PHASE ONE: DEMONSTRATION (Typically three to five years)

During this phase, the project is operating as part of Vera. Project staff are Vera employees and the project gets all the legal, operational, and managerial support the relationship affords.

In contrast to Vera’s research and technical assistance projects, from the moment a demonstration project is conceived, Vera begins considering whether spin-off should be pursued. The answer is not always clear at the outset. But as a demonstration project matures and the demand for its services grows, its effectiveness and value are recognized and spin-off may become a natural next step. In fact, a successful project often begins to take the shape of an independent entity well before the formal spin-off process begins: it is known by a separate name that may become the name of the spin-off;

it begins to generate stable revenue; it acquires its own work space, suppliers, personnel, key advisors, and supporters; and it develops its own organizational culture and identity. Such natural development facilitates the spin-off process, but the first real steps toward spin-off are creating a plan and timeline for completing the tasks that will be undertaken during the next phase and separately incorporating the project.

PHASE TWO: SPIN-OFF (Typically one to three years)

In this phase, Vera staff and the spin-off director work together to move the spin-off toward total independence. Early in this phase, the new corporation files for federal tax-exempt status, and enters into an Independence Agreement with Vera.

Measuring growth with dollars

Safe Horizon began in 1978 as the Victim Services Agency, an outgrowth of Vera’s Victim/Witness Assistance Project, with a budget of approximately \$2 million. Today, Safe Horizon has a budget of \$57 million and each year helps more than 350,000 people touched by violence to move from crisis to confidence, making it the nation’s leading victim services organization. Whether Safe Horizon is responding to child abuse, domestic violence, stalking, or other violent crimes, it provides the practical tools, emotional support, education, and advocacy to help victims and their families heal and rebuild their lives.

The spin-off begins operating as an independent organization: it has its own legal identity, employees, board, banking relationships, and accounting systems, and the spin-off director, rather than Vera's management, handles its day-to-day operations. To ensure the spin-off's success and to protect Vera's remaining interests, Vera continues to exercise some control over the spin-off by reserving for itself the role of "sole member" of the spin-off.⁸ Through this mechanism, which is specified in the spin-off's bylaws, Vera retains the authority to appoint and remove trustees⁹ and to modify certain sections of the bylaws. Only Vera can remove itself as the sole member of the board. In addition, Vera's director sits on the board and as a trustee works to encourage strong relations between the spin-off director and the spin-off board. The director also brings to the spin-off board Vera's experience and knowledge about guiding newly-created organizations.

The Independence Agreement, executed during this phase, lays out the steps the spin-off has taken toward independence, the obligations of Vera and the spin-off going forward, the ways they will cooperate during this period, and the benchmarks the spin-off must meet before total independence can be achieved. Although the needs and strengths of each spin-off vary, benchmarks such as diversifying funding streams, obtaining all contracts and grants in the spin-off's own name, and building operational, administrative and legal capacity typically appear in all Independence Agreements.

PHASE THREE: TOTAL INDEPENDENCE

Once a spin-off has met the goals set out in the Independence Agreement, Vera removes itself as the sole member of the spin-off board. The newly independent organization can then elect its own trustees and fully govern itself. Most organizations created by Vera maintain close ties with Vera well into the future. Joint projects between Vera and its spin-offs are common, especially as each spin-off grows and develops its portfolio of work. In most cases, it is not long before a spin-off's knowledge in its area of work has surpassed Vera's.

⁸ A nonprofit corporation can have two governing bodies; it is required to have a "board" (which is made up of at least three individuals, called "trustees" or "directors," who are in charge of overseeing the day-to-day operations of the organization), and it may also choose to have one or more voting "members" who are responsible for electing the board.

⁹ Throughout this tool kit, the individuals who make up the governing board of the spin-off are referred to as "trustees." The term "director" is reserved for the chief executive of either the spin-off or Vera.

Building Operational, Administrative, and Legal Capacity

To become totally independent, a demonstration project must assume responsibility for all its operational and administrative functions and for meeting its legal needs. Along with continuing to satisfy its substantive obligations to clients and funders, the project must plan to manage its fiscal operations, handle human resource requirements, maintain office space and supplies, execute a communications strategy, support its technological needs and access legal services as needed. Establishing these capacities is one of the critical benchmarks indicating a spin-off is ready for total independence.

Although a spin-off requires the same services and must establish the same infrastructure as any new organization, its relationship with Vera offers particular opportunities. Most new organizations have to find vendors and build administrative capacity before they can focus on delivering services; a spin-off can continue to deliver client services without interruption, while slowly developing its capacity to operate separately from Vera. Often the spin-off chooses to continue to use—and pay for—at least some of Vera’s services during the spin-off phase. These services may be less expensive than those a new, small organization could buy, and using them allows the spin-off additional time to search for affordable and reliable alternatives.

The following subsections describe specific tasks that need to be accomplished before a spin-off can operate separately from Vera and suggest some strategies for building operational, administrative, and legal capacity in the spin-off context.

Newly on its own

Recently spun off in 2006, **Esperanza** aims to reduce the use of placement in the juvenile justice system by advancing direct services, structural reform, and technical assistance. Its direct services component operates as a dispositional option for placement-bound youth by providing individual and family counseling in the neighborhoods and homes where the clients reside. Esperanza counselors help to ensure that youngsters have enough support and supervision to become engaged in school and other productive activities. Through its structural reform and technical assistance efforts, Esperanza is working to achieve systemic change that will reduce the use of custodial placements for youth. To date, Esperanza has served more than 500 clients and helped save New York City millions of dollars in placement costs. Esperanza plans to increase its system reform and technical assistance work and explore the possibility of expanding to other jurisdictions.

SPACE

Project/spin-off directors¹⁰ oversee the process of finding office space with the advice of Vera’s counsel’s office, its chief operating officer, a realtor, and in some cases outside counsel. Once a space is identified, Vera’s counsel’s office will work with the project/spin-off director to negotiate a lease, which is put in Vera’s name because the space is typically obtained when the demonstration project is still a part of Vera. In some cases the space might be secured after the spin-off is incorporated, but before it has the assets or credit history to induce a landlord to rent to it. In either event, it is important to find a space that is affordable, able to absorb staff growth, and located in an area that suits the project’s work and client population.

The factors that determine geographic desirability vary, depending on the individual project/spin-off. Esperanza, a Vera spin-off that provides direct services to youth on probation, wanted a location that would be welcoming and accessible to youth and their families. Therefore, it bypassed a location in lower Manhattan near one of the courts that supervises Esperanza’s

clients for a site farther uptown that was easily accessible by public transportation and in a commercial, non-institutional setting. In contrast, the Center for Employment Opportunities (CEO), which provides paid work and job placement for persons just released from prison, selected a space in the bustling financial district to inspire in its clients a feeling of participation in the city's work force.

There are two provisions that Vera's counsel's office tries to negotiate into every lease for a project/spin-off. These provisions protect both Vera and the spin-off in the long term. The first is a cancellation clause that allows for termination of the lease, preferably without a penalty, if program funds are cut. For example, Vera's counsel's office negotiated a cancellation clause in the Esperanza lease that allows Vera to cancel the lease with six months' notice in the event the project loses more than 33 percent of its funding or if funding falls below a pre-set dollar amount. The second provision allows Vera to put the lease in the spin-off's name when the appropriate time arrives (see Contract Assignments on page 28).

HUMAN RESOURCES

During the demonstration phase, project staff are employees of Vera. After the spin-off has been incorporated as a separate legal entity, the staff will become employees of the spin-off and the spin-off becomes responsible for managing and administering human resources.

BUILDING THE HUMAN RESOURCES FUNCTION Among the Vera services that a spin-off must begin to provide on its own are recruiting, hiring, managing payroll and benefits, and handling everyday employee issues. The way a spin-off manages these tasks will depend on its staff size, structure, and resources. Although it may be necessary to hire human resources staff, some spin-offs already have an employee who has been responsible for some of the project's human resources needs or is experienced in the area and able to take on the tasks. At spin-off, CEO had a staff of more than 90, making a full-time experienced human resources person essential. A CEO staff member had been responsible for some of the project's human resources needs during the demonstration phase. Thus, it was a natural transition for this person to take on additional human resources responsibilities at the time of spin-off.

IDENTIFYING CAPACITY GAPS The project/spin-off director must consider the full range of staffing needs for the new organization. Because spin-offs rarely have the

resources to hire specialized fiscal staff, an office manager, a communications director, and a technology officer, staff with other responsibilities or consultants may have to perform these functions.

As a demonstration project at Vera, La Bodega de la Familia worked with families of parolees and probationers, many of whom struggled with substance abuse, and their community correction officers. La Bodega quickly grew and by the time planning for spin-off began it was clear La Bodega would need a full-time senior-level staff person to manage operational matters, including human resources. With Vera's assistance, the project conducted a search and hired a chief operating officer with substantial experience. She played an active role as La Bodega transformed into Family Justice, an independent organization with a focus on providing training and technical assistance nationally.

THE PERSONNEL MANUAL With the help of the spin-off team, the project director will make a number of human resource policy decisions in preparation for Vera's project employees becoming the spin-off's employees. Many of these will be codified in a personnel manual. The personnel manual will document pay practices, employment policies, benefits, and other relevant work-site information. It may also be used to satisfy the legal requirements for notifying employees of policies, procedures, and rights; to communicate policies and procedures clearly; and to address issues of risk management for the organization. A complete and understandable manual distributed to the entire staff early in the spin-off process will keep employees informed of any changes from Vera's policies and may help reduce their anxiety about becoming spin-off employees.

THE BENEFITS PACKAGE The project director must select the employment benefits the spin-off will offer employees beyond those legally required. With the help of the spin-off team, the project director will assess which benefits employees use and value and will design the most favorable package within the identified budgetary limits. The spin-off may decide to offer benefits equivalent to those provided by Vera so as not to reduce the benefits employees are receiving. However, the number of employees on staff and budgetary concerns may require the spin-off to make changes to its benefits package. For example, although tuition assistance was a valued benefit, Family Justice reduced the annual amount from Vera's \$2,000 a year to \$500 a year. This decision allowed the spin-off to continue to offer the benefit but at a cost it could afford.

By "pooling" with Vera, a spin-off may be able to provide better benefits than it could otherwise afford. Throughout the spin-off process and after becoming independent,

Family Justice, CEO, and Job Path, which assists people with developmental disabilities to work in the mainstream economy and become part of community life, continued to use Vera's Employee Assistance Program, which provides counseling services to employees. Each spin-off reimbursed Vera for the service. Pooling is not possible, however, for some benefits, such as health insurance.

Another important consideration for all spin-offs is how to handle the sick and vacation hours employees have accrued while employed by Vera. Typically, as part of the Independence Agreement, Vera and the spin-off agree that employees will retain their accrued sick and vacation hours upon becoming employees of the new organization. In this case, Vera will transfer to the spin-off funds equal to the value of the employees' accrued vacation hours, and the spin-off will absorb the cost of the accrued sick time.

Once decisions about benefits have been made, in addition to being described in the new personnel manual, the benefits package should be explained to staff through a detailed memo and/or in a meeting. When CEO spun off, Vera's counsel's office worked with the project director to draft a letter to staff that explained how benefits would change when they became CEO employees. The letter also addressed other issues of concern to employees, such as what would happen to their accrued sick and vacation time. Providing employees with as much clear information as possible will ease anxieties and encourage a healthy employer/employee relationship.

RETIREMENT SAVINGS The spin-off will also have to provide employees the opportunity to save for retirement through pre-tax deductions from salary. With the help of a knowledgeable broker, Vera's human resources staff, and Vera's counsel's office, the project director should investigate the available options for creating a plan that offers the features that the spin-off's employees find most useful.

It may not be possible or desirable for the spin-off to offer the same arrangements for retirement savings that had been offered at Vera. Some types of plans (such

Growth through the diversification of funding sources and populations served

In the ten years since the **Center for Employment Opportunities** spun off from Vera, it has placed 10,000 former prisoners in full-time jobs. During this time, CEO's budget has grown from \$6.8 million to \$16 million, and its number of funding sources has grown from two to 30. It placed more people in full-time jobs in fiscal year 2006 than in any other year in its history and its job retention rates increased dramatically. In 1994, CEO served only boot camp graduates returning to New York City. Now, in addition to continuing to serve all such graduates, it serves 1,000 parolees a year returning from a variety of state prisons, and it is in the fourth year of a large-scale experiment that involves engaging city-sentenced inmates leaving Rikers Island, New York City's largest jail facility, with transitional work experience and job placement support.

as the 403(b) and 401(a) plans that Vera offers its employees) are only available to organizations that have already received a determination letter from the IRS finding them to be a 501(c)(3) organization, which a spin-off may or may not have received by the time it has responsibility for its own employees. On the other hand, the options available to nonprofit organizations are more flexible now than when Vera started offering this benefit. One important consideration, regardless of which type of plan the spin-off offers, is whether the spin-off can afford to match employees' contributions

Providing employees with as much clear information as possible will ease anxieties and encourage a healthy employer/employee relationship.

at the same rate that Vera does, if at all. The spin-off director for Esperanza worked with a broker who was able to set up a 401(k) plan for Esperanza's employees that had enough flexibility to allow Esperanza to continue to mirror Vera's plan in important ways, such as by offering matching contributions, employee borrowing, and roll-over from the employees' Vera accounts, even though the organization had not yet received tax exempt status.

The spin-off's retirement savings plan should be made available to employees as soon as the employees are on the spin-off's payroll.

TECHNOLOGY

Vera provides all demonstration projects with comprehensive information technology (IT) services. When planning for spin-off, a project works with Vera's IT staff to devise a plan that will make it possible for the spin-off to take over maintenance, service, and management of its own IT system. Knowing that a demonstration project may at some point become an independent organization, Vera's IT director designs a "child-parent" network system for demonstration projects. This design allows the demonstration project to operate an independent network and e-mail system without compromising Vera's ability to easily access those systems so that they can be managed, serviced, and upgraded. The greatest benefit of the child-parent network design is that the connection between the child system and parent system can be easily severed without any disruption in service to either.

While the project's network and e-mail system are ready at any moment to operate independently of Vera, project staff must do some work to prepare for the task of managing the spin-off's technology system. Vera's IT staff assist with the transition by providing the project director with a detailed list of every task they perform and services

they provide and at what intervals (daily, monthly, etc.). For example, IT staff check that nightly system back-ups run, change back-up tapes, ensure virus protection systems are operating, troubleshoot day-to-day computer and network problems, perform software installation and upgrades, address new network needs (such as granting an employee user rights), and manage the purchase and upgrade of hardware.

Once the project director has a clear understanding of the project's technology needs, he or she can determine whether certain tasks can or should be taken over by spin-off staff and what services and tasks will have to be outsourced. Vera's IT director may provide support and advice during a search for a spin-off's IT consultants and/or staff. Finally, Vera's IT staff provide the project with a blueprint of the project's network, which will facilitate a new service provider's understanding of the network layout.

FISCAL OPERATIONS

Vera's fiscal department provides all projects with comprehensive services ranging from accounting to managing banking relationships, the annual audit, and budgets. As the project begins to separate from Vera, it must establish new fiscal systems and hire staff to maintain them. Vera staff work with the project/spin-off director to develop fiscal capacity and to create a long-term plan that ensures the financial health and stability of the spin-off.

LONG-TERM PLANNING The project director and the fiscal department will work together to determine the status of the project's finances, the available funds left in grants and contracts, and any available discretionary funds the spin-off can rely on going forward. In addition, Vera will determine, with the project director, whether to transfer ownership of any fixed assets to the spin-off. A clear understanding of the spin-off's finances is important as the spin-off works toward long-term financial stability. Vera assists the spin-off by participating on its board and incorporating financial benchmarks into the

A lasting local impact

Vera's staff began working with the Cincinnati Police Department's Criminal Justice Planning Section in 1972. As the project grew and attracted local personnel for new staff positions, it became less reliant on Vera, and in 1976 it became the wholly independent **Cincinnati Institute of Justice (CIJ)**. CIJ conducted planning, program development, and assessment activities with funding from the City of Cincinnati, as well as the Hamilton County Sheriff's Department and the federal government. It had a significant impact on Cincinnati and Hamilton County's criminal justice system through its creation of a bail project, a station house release program, and an alcohol treatment program, all modeled after Vera programs. Although CIJ closed its doors in the late 1980s, local government agencies absorbed much of its staff, who continued the work of CIJ in senior management positions within the government itself.

Independence Agreement, which may require that the spin-off meet with Vera's director or chief financial officer periodically to discuss the spin-off's financial health.

ESTABLISHING FISCAL SYSTEMS AND RECORD KEEPING A spin-off must take on three main fiscal functions. The first is the general accounting function—the tasks required to keep financial records up-to-date and accurate. This includes keeping a chart of accounts that records assets and liabilities (the balance sheet) and revenues and expenses (the income statement). It also includes producing cash flow statements and the general ledger, a chart that maintains a year-to-date balance for each account. Together these are known as “the books.” It is critical to keep accurate books for at least two reasons. First, these records will be the basis for producing the financial reports

that are required by law and by governmental and non-governmental funders. Second, accurate books facilitate the production of internal reports, essential tools that help both management and staff monitor the budget.

The other two fiscal functions are accounts payable and accounts receivable. The accounts payable function involves paying the organization's bills. This requires corresponding with vendors to ensure that services being billed were received, and managing cash flow so there is enough cash available to pay the bills. The accounts receivable function focuses on collecting money owed to the organization. Its primary tasks are making bank deposits, keeping track of outstanding debts, and collecting funds that have been billed. For both payables and receivables, it is necessary to obtain supporting documentation for audit purposes and to prevent fraud.

With Vera's assistance, the spin-off will purchase and install a software package to assist with these functions. For example, Vera's fiscal staff helped the Police Assessment Resource Center (PARC), which advances effective, respectful, and publicly accountable policing, to select and install an appropriate and

Continuing innovation by responding to changing needs

Since 1978, **Job Path** has helped people with developmental disabilities find and excel in mainstream jobs by providing employment services, community supports, service coordination, and supported living programs. Building on Vera's tradition of innovation, Job Path has started a life-coaching program that includes college mentoring and job placement for intellectually capable people with the significant social and communication deficits that are characteristic of some forms of autism. Unlike most efforts which focus on research for a cure or interventions for young children, Job Path's program stands out by focusing specifically on the needs of adults with Asperger's and other “high functioning” autism spectrum disorders. In doing so, Job Path is responding to the current and compelling rise in the incidence of autism and supporting a population that is not being served elsewhere.

affordable software package that met its needs. Vera also helped PARC develop its chart of accounts and design an accounting structure.

Although one person might be capable of handling all fiscal functions, spin-offs—regardless of their size—should create a system of internal controls to prevent fraud. If possible, responsibilities should be segregated. For example, the same person should not be opening invoices, entering information into the computer system, cutting checks, obtaining signatures, and mailing checks. If one person must be responsible for all these functions, there should be consistent oversight by a different person. A written set of policies and procedures for handling financial transactions should be drafted as well. Vera’s fiscal staff will help to develop these policies as part of the spin-off process.

A clear understanding of the spin-off’s finances is important as the spin-off works toward long-term financial stability.

DEALING WITH FUNDERS During the demonstration

phase, Vera’s fiscal department is responsible for helping projects develop budgets for use in grant applications and contract negotiations. The fiscal department also helps projects file funder-required reports and keep track of spending after a grant has been received. A project director therefore must decide how to handle these functions after spin-off. He or she may decide to create a department or designate a person responsible for the tasks, or to decentralize these functions and have individual project staff handle them with periodic reports to a supervisor. In either case, Vera’s fiscal department is available to help the project director determine which approach will work best.

Figuring out how to charge for administrative costs is another challenge for spin-offs. Vera uses a federally approved indirect cost (IDC) rate to calculate each project’s share of overhead and administrative costs such as payroll administration, fiscal services, executive supervision, and legal services. A federally approved IDC rate also eliminates the need to negotiate a rate for each new contract or grant with a federal agency and provides a basis for negotiating the same rate for non-federal contracts. But a spin-off will not have an approved IDC rate and will be able to apply for one only if it has a federal contract in its own name. Therefore, the spin-off will likely have to select and implement some other budgetary method for covering overhead costs.

Family Justice, which had several funding sources at the time of spin-off, chose to track the time that each administrative staff member spent on each Family Justice project, charging each project’s funder for the hours the administrative staff spent on that project. Where a project had more than one funding source, a staff member’s time on

that project was allocated in proportion to each funder’s portion of the budget. Thus, if half of Project X was funded by Grantor A and half of it was funded by Grantor B and the bookkeeper spent two hours working on the project, Grantor A was billed for one hour and Grantor B was billed for one hour.

Another option—for spin-offs that intend to contract with the federal government—is to apply to the U.S. General Services Administration (GSA) to be listed on the MOBIS (Mission Oriented Business Integrated Services) schedule, which allows the federal gov-

ernment to purchase services from the spin-off at rates that include administrative overhead and a 10 percent “profit” over actual costs. Having established this rate, spin-offs can attempt to negotiate a similar rate into subsequent contracts with agencies that do not order services through the MOBIS schedule. Applying to be listed on the MOBIS schedule is a lengthy and complicated process, but spin-offs that anticipate significant work with the federal government will likely find the effort worthwhile.

During the spin-off process, Vera will continue to provide some budgeting services for spin-offs that have grants and contracts in Vera’s name. The precise division of budgetary responsibilities and other fiscal matters will be set forth in the Independence Agreement. Generally, the spin-off will provide Vera with all the documentation and information necessary for Vera to bill funders for the services provided by the spin-off. This division of responsibility presents a risk for Vera, which will no longer be able to closely monitor the spin-off’s completion of activities required under Vera’s contract or grant.¹¹ Once all agreements have been assigned to the spin-off or renewed in the spin-off’s name, budgeting and other tasks that are part of the relationship with a funder will become the exclusive responsibility of the spin-off (see Contract Assignments on page 28).

Once all agreements have been assigned to the spin-off or renewed in the spin-off’s name, budgeting and other tasks that are part of the relationship with a funder will become the exclusive responsibility of the spin-off.

AUDIT While a demonstration project is part of Vera, its revenues and expenses are included in Vera’s audited financial statements. When Vera is the sole member of a spin-off, the spin-off must be considered a related entity on Vera’s consolidated audited financial statements. After a spin-off achieves independence, Vera will decide, in consultation with its auditors, how long it should continue to include the new organization’s revenues and expenses in Vera’s own audited financial statements.

Once the spin-off is producing its own annual financial statements (which might happen even while Vera continues to include the spin-off's revenues and expenses on its own consolidated audited financial statements), the spin-off must have those statements independently audited. Prior to selecting an auditor, the spin-off director should interview a small pool of auditors to learn what services they provide and at what cost. When the pool has been screened and winnowed, the director should work with the spin-off's board of trustees to make the final selection.

Audited financial statements are produced annually. Before they can be produced, the spin-off will need to set its fiscal year. Spin-offs generally tie their fiscal year to that of their main funders—usually city, state, or federal government.

FILING FORM 990 After it receives its exemption from federal tax, the spin-off must file an exempt organization information return with the IRS (see Tax Exemption on page 49). This form is called Form 990, or the Return of Organization Exempt From Income Tax. On this form the spin-off must detail financial information; describe the achievements the organization has made with respect to its exempt purposes; list its current trustees, officers, and key employees; and cover other miscellaneous information, such as whether the organization conducted any lobbying activities. The Form 990 is due on the 15th day of the fifth month after the end of each fiscal year. For example, a spin-off whose fiscal year ended June 30 would be required to file by November 15, although extensions of the due date might be available. Because the accounting methods that must be used to report information on Form 990 differ significantly from those that are used for the audited financial statements, the spin-off's fiscal staff should work closely with a knowledgeable tax accountant to assist with the preparation and filing of the 990. The organization's Forms 990 are public documents and must be available, by federal regulation, for public inspection. Most organizations meet the public disclosure requirement by posting their Forms 990 on a web site maintained by GuideStar.¹²

Responding to changing circumstances

The **Police Assessment Resource Center** (PARC) is the sole organization in the United States whose principal purpose is to work both inside and outside law enforcement to advance civilian oversight of policing. At its founding in 2001, PARC leaders expected that a large part of the organization's work would focus on supporting the monitoring of jurisdictions that were subject to federal consent decrees as a result of policing abuses. When that did not come to pass, due in part to changing federal priorities, PARC began concentrating on work with other entities, including city councils, mayors, and auditors, looking at the accountability of their police services to try to ameliorate problems they may be experiencing. PARC has, for example, studied officer-involved shootings for the City of Denver and the City Auditor in Portland, Oregon, and supported the monitoring of the Los Angeles County Sheriff's Department and the Town of Walkkill (NY) Police Department.

BANKING After the spin-off has been incorporated, the spin-off director will select a bank and open accounts for the new organization. In choosing a bank, the spin-off director should consider the level of service the bank will provide to the spin-off, such as a line of credit, and what services it will offer to spin-off employees, such as free checking, direct deposit, and check cashing. When Family Justice spun off from Vera, a branch of an established bank was opening in the neighborhood and wanted to develop relationships with local businesses. Family Justice was able to secure more benefits and better service by selecting this bank instead of one of the bank's competitors.

Before it will establish any new accounts for the spin-off, the bank will require the spin-off's board of trustees to pass a banking resolution, which will specify who is authorized to take actions such as signing checks or opening new accounts. Generally,

the bank will provide a template of the resolution with blank spaces for the spin-off to fill in and will not permit the would-be account-holder to change the language of the resolution. The spin-off should immediately establish two separate bank accounts—a general operating account and a payroll account—as a check on accuracy and to reduce the risk of fraud. All revenue and expenses flow in and out of the general operating account. The payroll account receives only enough funds from the general operating account to cover each payroll. It disburses funds only for employee compensation.

The spin-off also will need to establish a line of credit so it can borrow money in the event of cash-flow problems. When setting up a line of credit, the spin-off should consider how much it may need to borrow, the interest rate, the payment schedule, and whether the bank charges an annual fee for maintaining the line of credit. Spin-offs may have difficulty finding a bank that will grant a line of credit because of the risks associated with brand new organizations. Vera usually will agree to be a co-signer or a guarantor for a specified period of time, as it did for Esperanza and the Neighborhood Defender Service of Harlem

Local direct service and national influence

Family Justice began in 1996 as the Vera demonstration project La Bodega de la Familia to provide support to families with a loved one under community justice supervision and to enhance family well-being. While the work continues at La Bodega on New York's Lower East Side, Family Justice has opened another direct-service learning center, Family Bodega, which serves Brooklyn's Brownsville and East New York neighborhoods. Family Justice also provides technical assistance to local, state, and federal government and nongovernmental organizations on incorporating family strengths to break cycles of incarceration. Family Justice has collaborated with entities ranging from the Chicago Housing Authority to groups that work with small rural and indigenous populations. By teaching them how to use proven, cost-effective tools, Family Justice is changing practice and policy to improve the lives of families facing complex issues such as addiction and mental illness in addition to criminal justice involvement.

(NDS), which offers criminal defense and related services to people living in Harlem who cannot afford to hire legal counsel.¹³ One of the spin-off's goals and a benchmark of the Independence Agreement will be the removal of Vera as a guarantor on the line of credit (see Independence Agreements on page 35).

PAYROLL Prior to staff becoming employees of the spin-off, the project director must decide whether to handle payroll duties internally or to hire an external service. In addition to cutting checks, the payroll function includes arranging direct deposits, producing reports, and filing annual payroll tax and information returns. It also involves recording tax liability in the general ledger, handling garnishments, and generating year-end tax reports (W-2s and 1099s) for employees and consultants.

RISK MANAGEMENT AND INSURANCE

A plan for regular and ongoing risk management and review should be implemented as soon as the spin-off is incorporated. Managing risk is pivotal to protecting an organization and ensuring its long-term success. Adequate insurance coverage is an essential tool for protecting an organization's assets. However, it is only one element of a comprehensive risk management strategy.

RISK MANAGEMENT AT VERA AND AFTER SPIN-OFF Examples of risks that need to be managed include loss of funding, accidental disclosure of confidential program participant information, and physical injury to staff or others. Some risks are managed by implementing comprehensive policies and procedures and training staff to comply with those procedures. For example, Vera's counsel's office trains staff on confidentiality laws relevant to each project. Vera's counsel's office will similarly help spin-offs to identify risks and develop and implement appropriate risk-management strategies that are practical, given their needs and resources. Spin-offs may also want to consider joining one of the many professional groups that are good sources for advice. Groups such as the Personnel Association of Nonprofit Organizations can share their expertise with new organizations facing challenging personnel issues. A risk management plan should always include the option of obtaining expert advice from pro bono or paid legal counsel when complex or more serious issues arise (see Obtaining Legal Counsel on page 31).

Through its Institutional Review Board (IRB) Vera also seeks to manage, if not eliminate, risks to participants which may be presented by its research. Harm to a research

participant is serious in its own right and could result in consequences for Vera as well. The study could lose funding, and Vera’s reputation could be damaged. This independent board determines whether or not the research protocols for a project adequately identify and minimize potential risks to participants. IRB review is *required* for federally funded research; as a matter of policy, however, all Vera research, regardless of funding source, undergoes IRB review unless an exemption is available under federal rules. Although an IRB is an effective risk-reducing tool, not all spin-offs will create an IRB, especially if they do not engage in much research. Spin-offs that only occasionally conduct research may request that their projects be reviewed by Vera’s IRB. Family Justice, for example, received funding from the federal Substance Abuse and Mental Health Services Administration for a research project that required IRB review and approval.

Forging partnerships to promote job opportunities for all

The **Wildcat Service Corporation** has served New York City for over thirty years. It was founded in 1972 by a group of public, civic, and business leaders to test the effectiveness of supported work programs for hard-to-employ individuals. Since that time, Wildcat’s successful model has been replicated around the country. Wildcat itself has adapted the program for particular populations and developed worksites across a range of public and nonprofit agencies. It has also pioneered private industry partnerships and worked with some of New York’s leading firms, such as IBM, which lent its support to Wildcat’s training center. It founded the John V. Lindsay Wildcat Academy, an alternative high school, and provides comprehensive creative workforce development services to formerly incarcerated individuals, people in recovery, mothers who are welfare recipients, and youth who have dropped out of school.

Family Justice had no IRB and no means of quickly creating one, so its project was reviewed and approved by Vera’s IRB. A spin-off that engages in more than occasional federally funded research should consider appointing its own IRB.

Finally, Vera manages risk by taking a proactive approach to ensure accountable and efficient board governance. Vera’s counsel’s office will suggest to the project/spin-off director that the spin-off board adopt a conflict of interest policy, a “Whistleblower Policy” to protect individuals who report wrongdoing within the organization, and a policy that governs the retention and destruction of corporate documents (a “Document Retention Policy”).

The spin-off board should adopt a conflict of interest policy at its organizational meeting, prior to its submission of its application for tax-exempt status to the Internal Revenue Service (see Bylaws on page 48). The conflict of interest policy is designed to protect the interests of the spin-off when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a spin-off officer or trustee or that might benefit another organization to which that officer or trustee also owes a

fiduciary duty. Every new organization that is applying for tax exemption must tell the IRS whether it has such a policy and, if not, explain why. In addition, the IRS will ask every organization that files a Form 990 whether it has such a policy. A sample policy suggested by the IRS can be found as an appendix to the packet of instructions for Form 1023 on the IRS web site.¹⁴ This basic policy addresses only financial conflicts of interest, such as when one of the spin-off's trustees owns a piece of real estate that the organization is interested in purchasing or when the organization is interested in hiring a trustee, or a trustee's company, to provide services to it. Vera encourages each spin-off also to address, in its conflict of interest policy, what Vera calls "positional" conflicts, which may arise when a member of the spin-off's board is also on the board of, serves as an officer of, or is a high-level employee of another organization with similar goals, projects, funders, or constituencies. This type of conflict is common in spin-offs, particularly because of their relationships with Vera and with other justice organizations.

Managing risk is pivotal to protecting an organization and ensuring its long-term success. Adequate insurance coverage is only one element of a comprehensive risk management strategy.

Both the Whistleblower Policy and the Document Retention Policy respond to the Sarbanes-Oxley Act of 2002 (SOX). While most of the accounting reforms and corporate responsibility initiatives mandated by SOX apply only to publicly traded companies, SOX provides that all corporations, whether for-profit or nonprofit, must refrain from retaliating against employees who make complaints about financial mismanagement and that no corporation may destroy documents that are material to an ongoing investigation. By establishing that the spin-off has a policy against retaliation, and that there is a mechanism for the uniform treatment of these complaints, the board will be providing additional protection to the organization in the event of a complaint claiming that the organization has retaliated against an employee in violation of SOX. Similarly, by adopting a policy for the retention and periodic destruction of documents, it will be easier for the spin-off to show that it took a methodical and carefully administered approach to document destruction, should the spin-off become the subject of an official investigation.

INSURANCE If a financial risk materializes, adequate insurance coverage can be critical to prompt recovery at minimal cost. Many contracts and state laws require specific types, levels, or ratings of coverage. Sometimes, the organization that will

be doing the work (Vera or, later, the separately incorporated spin-off organization) will have to provide proof of insurance before the other party will sign a contract. In such cases, insurance coverage is often a prerequisite to conducting business independent of Vera.

To obtain coverage, a project director will need to select an insurance broker. Vera's insurance brokers, like its real estate and benefits brokers, are valuable resources because they have experience with the risks facing nonprofit organizations and are likely to be familiar with the spin-off's work. Vera's counsel's office will work with the project director to assess the packages that the broker presents and determine the appropriate levels of coverage and deductibles.

Generally, the following types of coverage should be included in the package:

- commercial general liability (CGL) coverage, which protects a nonprofit against claims alleging property damage or bodily injury caused by its operations;
- directors' and officers' liability (D&O) coverage, which protects against claims alleging harm attributable to the management of the organization;
- professional liability (PL) coverage, which protects against claims arising from delivery of services, such as acts by a social worker that cause harm to a client;
- property coverage, which protects against loss of, or damage to, property the organization owns or leases; and
- workers' compensation coverage.

If separate coverage proves unduly expensive, Vera may name the spin-off on Vera's policy for a few years and arrange for the spin-off to pay its proportional share of the cost. This will require the consent of Vera's carrier. PARC initially shared Vera's policies for its directors' and officers' liability insurance and some of its ancillary coverage (enhanced disability, accidental death and dismemberment, and life insurance). However, obtaining its own insurance as a condition of independence was set forth in PARC's Independence Agreement with Vera.

CONTRACT ASSIGNMENTS

While projects are still part of Vera, their grants and contracts are all in Vera's name. A government agency or foundation makes its grants to Vera; a landlord signs a lease with Vera; companies that maintain office equipment sign agreements with Vera and so on.

Once the spin-off is incorporated, Vera and the spin-off work together to put all grants and contracts in the spin-off's name before the spin-off becomes fully independent. Assignment of existing grants or contracts is the preferred method for making the transfer from Vera to the spin-off. Grants and contracts almost always require both parties (the grantor and Vera, or the vendor and Vera) to consent to assignment. A clause in the grant document or the contract will determine when (if ever) assignment is permitted and who must authorize it.

Agencies use different methods to accomplish assignment. For example, the New York City Department of Health and Mental Hygiene (DOHMH), one of Job Path's funders, sent Vera a letter approving the assignment of its contract after the Vera and Job Path boards of trustees approved the assignment and the Vera and Job Path executive directors signed a written agreement to, respectively, assign and accept the DOHMH contract. In contrast, the State Education Department's Office of Vocational and Educational Services for Individuals with Disabilities simply amended its contract with Vera to assign the contract to Job Path.

Vera may be eager for the assignment to occur, both to foster the spin-off's independence and to relieve Vera of the responsibility to provide or pay for services. The agency or vendor, however, may not be willing to contract with a newly formed spin-off with no history of conducting business. Even when assignment makes sense to a government agency, its contracting procedures may make assignment so unwieldy that the agency decides not to consent. Assignment is treated for many purposes as equivalent to contracting with a new organization, which is always harder than contracting with an organization that has already provided services to that government agency. When assignment is not possible, Vera will maintain the contract in its name until the spin-off is able to enter into the contract on its own or until the contract expires. This will be reflected in the Independence Agreement.

Demonstrating best practices through community connection

The Neighborhood Defender Service of Harlem (NDS), a community-based law office that provides legal representation to residents of Upper Manhattan, was created in 1990 to address long-standing problems facing indigent defense practice. Its innovations—including location in the community, early intervention in the case, team representation, and working with clients to address long term needs—are now considered “best practices” and are being replicated in defender offices throughout the country and around the world. In addition to providing criminal defense, NDS offers civil representation and social service assistance to its clients. It also conducts a comprehensive youth leadership development program that seeks to give adolescents the skills to prevent their interaction with the criminal justice system and to advocate for positive change in their communities. Through this holistic approach, NDS aspires to make the constitutional promise of justice a reality for those farthest from its reach.

One way to facilitate assignment is to provide for it explicitly in the original contract between Vera and the government agency, foundation, landlord, or vendor. Assignment could be tied to a specific event (such as the spin-off's receipt of its tax exempt status determination letter from the IRS) or to Vera's decision to make the assignment. The other party's signature will still be necessary for the actual assignment document, but the original contract will, in effect, require the government or the vendor to give its consent. Vera was able to get such a provision into a lease for warehouse space for CEO. A fallback position is to mention in the original contract or grant award that the demonstration project is going to become a separate legal entity and continue the work it did as a Vera project. Such a provision puts the agency on notice of the impending transformation and may make it easier, or even automatic, to obtain the agency's consent.

Vera's contract with the New York State Division of Parole, which funded the Neighborhood Work Project (NWP), took a different approach. Through that contract, Vera could provide any or all of its services through CEO. When NWP spun off as CEO, Vera needed no additional permission from Parole. However, Parole still held Vera

responsible for ensuring that services were provided in accordance with the Parole-Vera contract.

Contracts involving equipment—leases for cars or copiers, for example—are likely to prohibit assignment. The probable reason is that the lessor relied on Vera's credit history and assets, which cannot be matched or even approached by a spin-off in its early years.

SUBCONTRACTS When assignment is not possible, a subcontract between Vera and the spin-off is highly desirable. Vera remains responsible to the original grantor or vendor, but the spin-off becomes responsible to Vera. In an auditor's or grantor's eyes, the subcontract may be essential because it provides the legal basis for Vera to pass funds to the now-separate spin-off. Long after CEO spun off from Vera, a city agency that had funded the work of CEO while it was a Vera project raised the absence of an approved subcontract as possible grounds for disallowing all

From one site to many

The Addiction Research and Treatment Corporation (ARTC) started with one clinic in Fort Greene, Brooklyn, in 1969. Since then, ARTC has grown into one of the largest non-hospital-based methadone treatment organizations in New York State. Its seven community-based methadone maintenance treatment programs and two outpatient drug-free chemical dependency programs have served more than 30,000 patients throughout Brooklyn and Manhattan. In the past decade, ARTC added primary care, HIV/AIDS care services, and nutritional counseling to its offerings so patients can receive comprehensive health care and substance abuse treatment services in one location. ARTC also provides vocational and educational programs to help its patients find and maintain employment.

of Vera's payments to CEO. The agency even raised the prospect of seeking to recoup payments it had made to Vera in the past. The agency later dropped these claims when Vera pointed out that the agency was well aware that CEO was doing the work under a subcontract that Vera and CEO had signed, that Vera had asked repeatedly for approval of the subcontract, and that Vera had been told repeatedly that the agency would approve it. That experience illustrates how important it is to negotiate into the language of the contract a right to assign or subcontract work to a spin-off. However, it might not be possible to get this language. Whether it is or isn't depends on the particular agency's history (it is easier to get an agency to agree to the language if the agency has done so before) and on the agency's personnel (who might be willing to do it because it makes sense when spin-off is in the works, even if the agency hasn't done it before).

Experienced counsel can be invaluable when the organization is negotiating agreements, responding to legal challenges, or otherwise managing risk.

If the contract requires specific authorization by the government funder, and if the agency is willing to give the required authorization, it is important for Vera and the spin-off to obtain the agency's *written* consent. As government employees came and went at one city agency that funded Job Path, the existence of a simple letter from the agency saved Vera and Job Path staff endless hours of tracking down old files and notes to demonstrate that the assignment had been approved.

OBTAINING LEGAL COUNSEL

A new nonprofit organization is unlikely to have the financial resources for or the need to hire a full-time in-house attorney. However, experienced counsel can be invaluable when the organization is negotiating agreements, responding to legal challenges, or otherwise managing risk. There are ways to obtain counsel on a less than full-time basis. One option is to hire a part-time attorney. Job Path has an annual budget of approximately \$3.5 million and employs an attorney for approximately 20-25 hours each week, with some portion of that time devoted to program management activities.

The amount of time for which a part-time attorney is needed will depend on the range of tasks that the organization assigns to him or her. At Job Path, for example, in addition to providing legal counsel, the part-time attorney assists in writing grants and performing other program-related work. The advantage of hiring an in-house attorney

is that the individual will be more available than attorneys obtained other ways and is more likely to develop an understanding of the organization's programs and gain the trust of its staff. The disadvantage, beside the cost, is that an individual is unlikely to have expertise in all of the legal issues faced by an organization and, therefore, may not be a complete solution to the need for legal counsel.

A second option is to obtain *pro bono* legal counsel. Free legal advice can be found through a variety of sources. Many organizations have board members who are also practicing attorneys and who may be able to help access legal resources, either by providing legal advice personally, through their firms, or through other contacts in the legal profession. Keep in mind that a trustee may be ethically bound to recuse him- or herself from voting on a matter on which he or she has also provided legal advice. Staff and board members of the spin-off may know attorneys who would be willing to provide either one-time or ongoing legal counsel for a good cause.

For example, NDS uses *pro bono* counsel on an ongoing basis for issues relating to employment law. Organizations such as Lawyers Alliance for New York and New York Lawyers for the Public Interest offer free or low-cost legal representation to nonprofit organizations and assist in finding *pro bono* counsel at large firms. Although most *pro bono* counsel are committed and responsive, one possible disadvantage of *pro bono* counsel is that the attorney may not be in a position to give the same level of priority to a *pro bono* client as to a paying client. A third option is to hire paid outside counsel as the need arises or enter into a longer-term retainer agreement, as CEO does for labor law matters. Although more expensive, this option may provide the organization with the best level of service and most expertise in a particular area.

A spin-off may also employ a combination of these types of legal services. It could, for example, rely upon *pro bono* counsel or a part-time attorney for basic legal services—reviewing contracts and personnel manuals, filing tax forms, obtaining insurance, identifying risks—and employ paid counsel for specialized

When demonstration projects combine

In 1989, the Court Employment Project merged with another Vera demonstration project, the Community Service Sentencing Project, to become the **Center for Alternative Sentencing and Employment Services (CASES)**, with a mission to increase the understanding and use of community sanctions that are fair, affordable, and consistent with public safety. CASES continues to develop sentencing alternatives that respond to justice system needs today. The Court Employment Project is celebrating its 40th year alongside newer programs that serve placement- and jail-bound young women, youth newly released from custodial schools, adult misdemeanants, technical parole violators, and adults with mental illness who are charged with felonies. In all, CASES's ten programs currently serve more than 10,000 clients a year.

areas such as litigation, intellectual property, and real estate. When working with outside counsel—paid or *pro bono*—it is helpful to have another attorney who knows the organization well, such as in-house counsel or a board member, work with the outside lawyer.

Regardless of which legal counsel plan is chosen, the spin-off will be required by the Independence Agreement to implement a plan that meets its legal needs.

¹⁰ Because the course of spin-off is different for every project and certain tasks may be undertaken in either the demonstration phase or the spin-off phase, this tool kit sometimes uses the terms “project/spin-off director” and “project/spin-off” to indicate a situation in which a task may be completed in either phase.

¹¹ One way Vera protects itself against this risk is to include a clause in the Independence Agreement that makes clear that the spin-off must cooperate with Vera to make certain that Vera is receiving and reporting timely and accurate information. For more on reducing risk, see Risk Management and Insurance on page 25.

¹² For more information, visit www.guidestar.org.

¹³ If Vera becomes a guarantor, Vera’s board must approve the arrangement, which will be set forth in an agreement between Vera and the spin-off. Terms of the agreement would require the spin-off to notify Vera when it uses the line of credit, would set forth how the spin-off will make Vera whole in the event that Vera must pay back the line of credit on the spin-off’s behalf, and may require the spin-off to obtain approval from Vera before using the line of credit.

¹⁴ Visit www.irs.gov.

Independence Agreements

All spin-offs enter into a formal Independence Agreement with Vera. The details of each agreement and the appropriate time to execute it will vary, but execution of the agreement generally follows closely after incorporation. Drafted by Vera's counsel's office in consultation with Vera's director, senior operations staff and the spin-off director, the agreement describes the tasks that have been completed to date, sets forth Vera's obligations to the spin-off, clarifies roles and responsibilities, and establishes benchmarks that must be met before the spin-off achieves independence.

Most agreements contain the same basic elements. They describe the status of the employees, specifically when they became employees of the spin-off, what employee management functions (such as payroll services and benefits) Vera will continue to provide, how long Vera will provide them, and the costs the spin-off must cover for these services. They also will set target dates for when the spin-off will take over these functions.

Agreements will address the status of contracts and efforts that will be made to transfer any contracts still with Vera to the spin-off. A key indicator of independence is that contracts and leases are in the spin-off's name. However, if a contract prohibits assignment or a contractor or grantor refuses to approve an assignment, Vera will keep the contract in its name until it can be renewed in the spin-off's name (see Contract Assignments on page 28).

The Independence Agreement will also set operational and financial benchmarks, based upon the objectives that the spin-off must achieve before becoming fully independent. An example of an objective is ensuring the financial viability of the spin-off.

The agreed-upon benchmarks could include obtaining a line of credit with a bank and securing a certain level and mix of funding. These financial benchmarks are often the most difficult to meet, as a spin-off is considered a new organization and is still establishing a reputation and track record. Obtaining a line of credit solely in its own name will be a particular challenge for a spin-off, as banks typically require a certain number of annual independent audits before they will even consider a spin-off's request to remove Vera as a guarantor.¹⁵ Obtaining funding in its own name can also be difficult because funders may feel more comfortable making grants or signing contracts with an established organization like Vera.

The spin-off's ability to grow the organization is another important indicator of independence. Currently, Vera is encouraging spin-offs to plan for future growth and development by requiring in the Independence Agreement that the spin-off go through a strategic planning exercise with its board of trustees.

Expanding services while staying in the neighborhood

Neighborhood Youth and Family Services (NYFS) began in 1971 as Vera's Neighborhood Youth Diversion Program, which aimed to divert young people from the conventional police-probation-Family Court processes to a community-based program of assistance and mediation. As it continues operating in the East Tremont section of the Bronx, NYFS has greatly expanded its programs to include after school programs, early childhood services, services to prevent the placement of children in foster care or detention, domestic violence services, legal services, and permanent housing. Today, NYFS employs professionals in a racial, ethnic, and multilingual composition that reflects the communities it serves and cares for not only youth, but their families as well.

The strategic planning effort requires the spin-off's management and board to consider the organization's future by identifying opportunities for growth, both financial and programmatic, and ways to pursue those opportunities. A strategic or business plan also gives the spin-off an opportunity to identify potential hurdles and strategies for overcoming them.

Another common benchmark for independence is the implementation of a comprehensive risk management policy that requires the spin-off to consider and take steps to protect its overall health and reputation. Risk management always requires adequate insurance coverage; this is especially critical as the spin-off embarks upon new projects or new areas of work. It also requires policies and procedures to ensure that the spin-off's clients are protected against risks they encounter by participating in its projects and that staff are protected against risks as they deliver program services. Finally, risk management requires the spin-off to ensure that the organization and its board are protected against risks arising from staff conduct and program operations. A strong risk management policy protects a spin-off for the long term and must be in place before total independence can be achieved (see Risk Management and Insurance on page 25).

The purpose of the Independence Agreement is to set tasks and establish goals that will encourage the spin-off's long-term growth and success, to protect Vera as it continues to be responsible for the spin-off's contractual obligations but exercises less control over it, and to enhance both the spin-off's and Vera's reputations generally. Once all the benchmarks for independence have been met, Vera will relinquish its membership status and the authority to elect and remove trustees, resulting in a totally independent spin-off.¹⁶

¹⁵ See Banking on page 24 for a discussion of Vera's guaranteeing a spin-off's line of credit.

¹⁶ See Bylaws on page 48 for a more detailed discussion of Vera's governing authority and how it relinquishes that control.

Establishing an Independent Public Image

Much of the work of spinning off a project focuses on the details inherent in building operational capacity and creating a separate legal entity. However, a spin-off must also consider how it will establish its independent identity among participants, funders, government partners, and in the larger field within which it operates. As a demonstration project, it probably operated under a separate name since inception, and may have a separate graphic identity, but it has likely been closely associated with Vera in the public eye. Thus, each spin-off must work toward building a unique identity distinct from Vera's.

Spin-offs with independent identities may find it easier to raise funds, attract clients, launch new projects, and establish themselves as experts and leaders in their fields. A strong name and unique graphic identity, selected and developed either in the demonstration or spin-off phase, and a formal announcement that a spin-off is independent all contribute to the development of an independent public image.

A NAME FOR THE SPIN-OFF

A project's name is chosen before the decision to spin off is made.¹⁷ Many projects initially use a name that describes their work and then replace the original descriptive name with one that is catchy and original. For example, the Juvenile Home Placement project was eventually renamed Esperanza, and the Neighborhood Drug Crisis Center became La Bodega de la Familia. The selected name should be easy to remember and appropriate to the work of the project. La Bodega de la Familia is located in and

serves a predominately Spanish-speaking community; its name, which translates to “the family store,” emphasizes the importance of family involvement in drug treatment in the first language of most clients.

At the same time, the name should accommodate a potential expansion of services and client base. For a short period of time, PARC was called the Police *Auditors* Resource Center. However, it soon became clear that PARC's services might be provided to people and entities beyond auditors. In addition, there was a concern that the word “audit” had a negative connotation and might alienate police departments. For these reasons, the word *auditors* was replaced with *assessment*, giving PARC a more inclusive and accurate name.

No matter how much time and effort is put into the initial selection of a project name, circumstances may change over time and the spin-off may desire a new name. The start of the spin-off planning process is a point at which a project's mission and work are closely examined; as a consequence, the project's name is also likely to be reassessed. La Bodega, for example, was the right name early on, but as it developed, the

An evolving mission

The **Legal Action Center (LAC)** was established in 1973 to address the intersecting problems of addiction and crime by advocating for sound public policies on behalf of people with histories of addiction or involvement in the justice system, initially through a strategy of litigation to fight discriminatory barriers to employment, housing, and social services. In the mid-1980s, LAC expanded its work to include public policy advocacy and, because it found that the HIV/AIDS epidemic was beginning to have a major impact on its clients, added AIDS discrimination to its mission. Today it stands at the forefront of the fight against discrimination against people with criminal records, addiction histories, or HIV/AIDS and serves as an expert on privacy and confidentiality laws. LAC promotes sentencing reform and alternatives to incarceration and advances sound public policies such as expanding addiction and AIDS research, prevention, and treatment.

project began to engage in a variety of activities beyond delivery of direct services to families at its storefront location. La Bodega staff were providing technical assistance, training, and research to government entities and nonprofits around the country. Thus, the new organization adopted the name Family Justice, which more accurately describes its expanding services, and retained La Bodega to describe the arm of Family Justice that continues to provide storefront services.¹⁸

GRAPHIC IDENTITY

As with name selection, a graphic identity is initially developed during the demonstration phase and then reexamined during the spin-off phase. This involves working with Vera's communications department and a designer to create a logo that will appear on stationery, business cards, and other materials the project uses to communicate with the outside world. Shorter names lend themselves more easily to the development of a logo, but a longer name also can work, especially when an acronym is used. When selecting logos, projects and spin-offs hope to project a particular feeling or sentiment—or they may want to avoid a particular reaction. For example, PARC was concerned, given its acronym, that the public would assume it was an environmental organization. Thus, the colors green and brown were purposely avoided. Family Justice wanted to project hope and energy, so its logo and its colors are bright and cheery. In all cases, the logo is different, in color and style, from Vera's.

COMMUNICATIONS STRATEGY

The project director will also want to develop a strategy for announcing the birth of the new entity. Depending on the unique circumstances of the project, the director might choose to mark the spin-off with a launch event—making very public the transformation from nurtured program to robust organization. Funders, government partners, participants, and the press might be invited to an event to symbolize the start of the new entity. Other spin-offs choose a more low-key approach, allowing time to solidify gains and build goodwill and reputation. Regardless, the spin-off must begin to assure its stakeholders that it remains viable, competent, and committed to its intended mission and goals.

Building a new and separate identity will also involve traditional means of communication such as identity brochures and a web site. All will need to be updated to describe the new entity and its changed relationship with Vera. Communications needs are ongoing, and the spin-off director should consider which members of the staff will

be responsible for vetting media calls, coordinating outreach, and ensuring progress and successes are accurately reported. If funding is available, a spin-off should consider hiring a person with communications experience in the nonprofit world to manage these tasks. While this may not be possible for most young organizations, the spin-off should make sure that all staff members are familiar with the communications strategy and should consider putting one staff person in charge of coordinating all media requests and outreach. A thoughtful and varied communications strategy should be established early on because the higher an organization's profile, the more support and opportunities it is likely to attract.

¹⁷ For a discussion of how to determine whether a name is available, see *The Corporate Name* on page 46.

¹⁸ Even if staff find a name that meets all the criteria above, there may be legal reasons precluding its use. See *The Corporate Name* on page 46.

Creating a Separate Legal Entity

While building its operational, administrative and legal capacity and developing an independent public image, the demonstration project will also work toward establishing itself as an independent tax-exempt legal entity. Until it becomes separately incorporated, the project legally remains a part of Vera and can enjoy the benefit of Vera's tax exempt status. This section addresses the legal requirements for creating a tax-exempt organization based in the United States and incorporated in New York, where Vera incorporates its domestic spin-offs.

THE CORPORATE NAME

DETERMINING WHETHER A NAME IS AVAILABLE Before a name is selected, Vera's counsel's office determines whether the name is already taken by another organization.¹⁹ It first searches the Corporation and Business Entity database on the web site operated by the New York Department of State's Division of Corporations to determine if another organization is incorporated in New York under the name. Counsel's office will then confirm that the name has not been registered with the U.S. Patent and Trademark Office (USPTO), which has an online database of protected service marks. (A service mark is the name under which an entity provides services.) Next, a thorough internet search will be conducted, which may uncover that the name is being used by another organization not incorporated in New York and/or an organization that is using the name but

that has not registered it with the USPTO. The internet search should incorporate both the proposed name and common variations (such as the plural of the name, if applicable) and alternate spellings.

A name that is listed in the New York database, registered with the USPTO, or being used by another organization with an internet presence in all likelihood cannot be used by a spin-off unless the other organization is doing work in a completely different field than the spin-off.

PROTECTING THE NAME Once a name has been selected and determined to be available, the project may want to reserve it with the state so that no other organization can incorporate under that name before the project completes the incorporation process.²⁰ Reserving the corporate name is not required, but it is advisable because incorporation in New York always takes some time.

Registration of the name as a service mark with the state and/or federal governments also should be considered.²¹ Registration is considered notice to others that the name has been claimed and thus sets the stage for an infringement claim in the event another

From a detoxification program to a model for ending homelessness

Project Renewal, first known as the Manhattan Bowery Corporation, began in 1967 as an alcohol detoxification program at a men's shelter. In its 40 year history, Project Renewal has influenced New York State to decriminalize public inebriation and set the national standard for non-medical urban detoxification units and other solutions to homelessness. It has also greatly expanded its services to include mobile health care, a free dental clinic, supportive housing, and job training. Since 1995, its Culinary Arts Training Program has helped nearly 90 percent of its graduates obtain food service jobs. Project Renewal now reaches out to 13,000 homeless men and women each year and has a staff of 600, 35 percent of whom were once homeless too. In 2003, it was one of 11 organizations nationwide to be awarded a federal grant to create innovative programs for the hardest-to-reach homeless individuals struggling with substance abuse.

organization starts to use the spin-off's name.²² State registration provides protection within the state. Federal registration with the U.S. Patent and Trademark Office provides national protection but is available only if the spin-off conducts business in interstate commerce (between two states).²³ Spin-offs can register with the state once incorporated. Federal registration, however, is not likely to be available immediately, given the business in interstate commerce requirement. A service mark application can be filed with the U.S. Patent and Trademark Office based on the spin-off's intent to use the mark in interstate commerce, but the application will not be registered until use of the mark in interstate commerce commences. The application provides important benefits including notice to others and an effective first use date as of the application filing date, once the registration is filed. Even if a spin-off does meet the interstate commerce requirement, it may decide not to register its name with the USPTO because registration is costly and can be time-consuming. Spin-offs considering service mark registration may want to seek legal advice to determine the best course of action.

INCORPORATION

PREPARING THE CERTIFICATE OF INCORPORATION In order to conduct business as an independent organization, rather than as a project of Vera, the spin-off must be an incorporated entity.²⁴ Becoming such an entity requires the preparation and filing of a certificate of incorporation.²⁵ Vera's counsel's office drafts the certificate of incorporation with input from the project director. The most challenging section of the certificate is the description of the spin-off's purpose or mission. This description must be broad enough to authorize the organization to conduct its current activities as well as any activities it may wish to conduct in the future. If the mission is described too narrowly, the corporation will lack the authority to conduct any activity that was not part of its original certificate of incorporation. A certificate can be amended, but amending is a somewhat lengthy process that may require the spin-off to put the unauthorized activity on hold. On the other hand, a mission or purpose must not be drafted too broadly because the language must not be inconsistent with the requirements for federal tax exemption set forth in the Internal Revenue Code (see Tax Exemption on page 49).

The certificate of incorporation must include the names and addresses of at least three initial trustees and at least one incorporator. The incorporator may be any person over the age of 18, and his or her sole responsibility is to ensure that the certificate of incorporation gets filed. Vera's director usually serves as the incorporator. One person can act as both the incorporator and an initial trustee.²⁶ The initial trustees for Vera

spin-offs are usually the director of Vera, the future board chair of the spin-off, and one to three additional future board members. (Additional trustees will be formally elected after the spin-off has been incorporated.) The initial trustees are the persons who are officially and legally responsible for forming the organization.

The certificate of incorporation may need to be approved or a waiver of approval obtained from certain state agencies prior to filing. In New York, only agencies that potentially have regulatory authority over the activities of the corporation need be consulted. For example, Job Path was required to obtain approval from two state agencies: the Office of Mental Retardation and Developmental Disabilities and the Department of Education. Vera's counsel's office will determine whether or not the new corporation needs to request any approvals; if it does, counsel's office will assist with the applications. The state agency may approve the certificate or it may grant a waiver (certifying, in effect, that its approval is not necessary).

FILING THE CERTIFICATE AND WAIVERS The proposed certificate of incorporation, along with the appropriate agency approvals or waivers and filing fee, is then sent to the state's Secretary of State. In New York, the review process can take several weeks.²⁷ Upon approval, the Department of State will file the certificate of incorporation and send a receipt of filing to the spin-off. The receipt of filing date is the new entity's incorporation date. It is the point at which the state recognizes the spin-off as a corporation. From this date forward, the spin-off will be responsible for complying with a number of reporting and filing requirements. For example, it must file state and city tax forms and report annually on its activities to the New York Attorney General's Charities Bureau.

BYLAWS

After the Department of State files the certificate of incorporation, the spin-off holds its "organizational" meeting. In addition to adopting bylaws, the initial trustees will adopt resolutions that permit the organization to begin operations.

The bylaws provide an overall framework for the interactions between the board and spin-off management. By assigning specific powers and responsibilities to officers, committees, and the board as a whole, bylaws allocate authority among board members and between the board and management of the spin-off. They should be drafted with the strengths of the board and management in mind in order to make the most of board involvement, which is critical at the early stages of spin-off (see Board Governance on page 51).

Consider, for example, the role of the president of the corporation. Two Vera spin-offs have chosen different approaches to defining that role. The bylaws of Family Justice describe the president as the executive director of the corporation. In contrast, the NDS bylaws define the role very broadly, involving few, if any, day-to-day responsibilities and describe the position as exercising “such duties as pertain to the office of President,” as determined by the Board of Trustees. NDS saw this as a way to attract a person of stature to the board who would actively participate in board governance and lend his or her name and reputation to the fledgling organization.

Whether to make the spin-off director a voting member of the board is another strategic consideration. Vera’s bylaws provide for its director to be a non-voting trustee, and this practice has generally been adopted by the spin-offs.

As explained earlier, the bylaws of the spin-off provide that Vera is the sole member of the spin-off and retains the authority to amend certain parts of the bylaws and to elect and remove trustees. This structure is designed to give Vera a level of control and also keeps Vera engaged in governance during the early years of spin-off. The usefulness of having Vera closely involved with its recent spin-offs was proven when a spin-off director unexpectedly needed to take an extended leave. During the leave, Vera’s director assumed responsibility for the spin-off’s day-to-day management and it was able to continue working on its strategic plan, expand its client base, and move toward independence from Vera.

TAX EXEMPTION

After the spin-off has been incorporated, it should apply to the Internal Revenue Service for recognition of federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (the “Code”). Organizations that are determined by the IRS to qualify for exempt status under Section 501(c)(3) of the Code are exempt from federal taxation on income that is related to their exempt purposes. Some donations and contracts will only be available to organizations that have been determined by the IRS to qualify under Section 501(c)(3) of

From capacity building to direct services

When **Housing and Services, Inc.** (HSI) spun off in 1987, it built upon a successful track record of developing housing for New York City’s nonprofit sector. As needs emerged and programs developed, HSI created four residential programs which it manages directly: Kenmore Hall, The Narragansett, The Cecil Hotel, and Scattered Site Program. Through these four programs, HSI provides permanent, supportive housing and services to 535 formerly homeless individuals and families each day. In 2000, HSI expanded its development mission to include affordable housing preservation, leading to the successful preservation of 1,865 affordable homes in the Bronx. HSI’s programs serve low-income seniors, low-to-middle income minority families, youth aging out of foster care, and those with HIV/AIDS, mental illness, and substance abuse issues.

the Code. Individual donors who make contributions to qualified 501(c)(3) organizations may deduct all or part of those contributions from the income that they report to the federal government. Private foundations are required to make grants to charitable organizations, and some government and private agencies will contract for services only with 501(c)(3) organizations. Thus, obtaining federal tax-exempt status is critical.

To qualify for exemption, the spin-off must be organized for one of the purposes specified in the Internal Revenue Code. Vera spin-offs usually qualify as charitable or educational. The organization's purposes, as described in its certificate of incorporation, must be consistent with the purposes under which the project wishes to qualify for tax

exempt status. The spin-off cannot submit the application for recognition of tax exempt status under Section 501(c)(3) of the Code until the certificate is approved by the state Secretary of State.

Vera occasionally engages *pro bono* counsel to prepare and file the application for exemption. The amount of time from submission of an application to receipt of a determination letter from the IRS varies, as the IRS uses a two-stage system to approve applications. Applications that provide a great deal of information to the reviewing agent and which raise no unanswered questions may be approved in as few as 90 days, while approval of more complicated or less complete applications currently averages about seven to nine months, although the approval process occasionally takes longer. The IRS issues its decision in a determination letter, which should be kept on file and readily available as it must be provided to grantors, donors, and regulatory bodies frequently. The letter is also required when applying for state and local tax exemption, and organizations are required to publicly disclose this document, along with the organization's original application for tax exemption, when requested.²⁸ Provided that the application for tax exemption is filed within 27 months after the date of incorporation, the organization will be considered tax

Moving forward with technology

Vera's Manhattan Bail Project, a groundbreaking reform effort that pioneered the concept of release on recognizance and offered an alternative to pre-trial detention for defendants who could not afford bail, became the Pre-trial Services Agency and spun off in 1977 as the **New York City Criminal Justice Agency (CJA)**. Today, CJA interviews approximately 350,000 defendants a year and utilizes technology to substantially improve the way it collects and shares information within the criminal justice system. CJA interviewers now record their notes on handheld computers, which are later synched with a central computer so the information can be used by arraignment judges to make more informed release decisions. CJA partners with the New York Police Department and the Office of Court Administration to receive arrest and court calendar information daily and is currently working with the City of New York on an "E-Arraignment" system, which will link all of the criminal justice agencies together to streamline the process of compiling documents used at arraignment.

exempt retroactively to the date of incorporation. If the application is filed more than 27 months after the date of incorporation, the tax exemption will only be retroactive to the date that the application for tax exemption was filed.

Federal tax-exempt status is a privilege that can be withdrawn. In order to maintain the exemption, the spin-off must comply with certain regulatory and reporting obligations. Most importantly, the spin-off must submit Form 990 to the IRS annually.²⁹

FILING WITH THE CHARITIES BUREAU Not-for-profits must register with the New York State Attorney General's Charities Bureau within six months of acquiring property for charitable purposes. The Charities Bureau is the state office responsible for oversight of tax-exempt organizations incorporated in New York. The application to register is straightforward, requiring basic information about the organization's fundraising practices and financial status. A nominal application fee is required. After the initial registration, the spin-off will have to file annual updates with the Bureau.

Although the spin-off is a membership corporation and Vera, as the sole member, retains certain authority, in all other ways the spin-off board has the rights and responsibilities of any board of trustees.

BOARD GOVERNANCE

Together, the project/spin-off director and Vera's director assemble a board that can lead the spin-off as it grows and begins to manage itself. Generally, Vera takes an active role in identifying potential board members, as the spin-off benefits from Vera's experience and connections with outsiders and its ability to attract individuals to serve. Once Vera has appointed the board, Vera's counsel's office will provide each trustee with a memorandum describing the general duties and specific statutory responsibilities that trustees owe to the spin-off and to third parties, the potential penalties that trustee may face if he or she fails to perform any of these duties, and the protections from liability that are available to the trustees.

Although the spin-off is a membership corporation and Vera, as the sole member, retains certain authority, in all other ways the spin-off board has the rights and responsibilities of any board of trustees. The trustees have ultimate responsibility for assuring that the organization fulfills its mission and uses its resources appropriately. The board guides the spin-off and works to ensure efficient and accountable board governance. In addition, the board exercises its oversight responsibilities by review-

ing and approving budgets and financial statements, reviewing financial controls and any statements by independent auditors about these controls, employing and reviewing the performance of the executive director, and approving certain key employees' compensation arrangements.³⁰

The full board may take on some or all of these tasks or it may delegate the tasks to committees. At the outset, Vera spin-offs generally do not create board committees other than an executive committee. Having the full board address all the issues keeps the trustees engaged and aware of the challenges that the new entity faces. Either in the bylaws or by board resolution, the board may delegate to the executive committee the authority to take any action between meetings that the board can take or to take only certain kinds of actions.

Growth through government replication

In 1997, Vera partnered with South Africa's Ministry of Justice and Constitutional Development to establish the **Bureau of Justice Assistance** to help public officials there design, implement, and evaluate projects that would make the country's criminal justice practices more effective and humane. One such project, the Thuthuzela Care Centre, changed the way police officers, prosecutors, and medical practitioners treat rape survivors and prosecute this crime in the Cape Flats section of Cape Town. Women and girls who come to Thuthuzela receive medical examinations and treatment, counseling, and a chance to bathe and change into fresh clothing before speaking with police and prosecutors. In addition to providing better treatment, this model has strengthened rape investigations by police and increased prosecution rates. It has since expanded to more than ten sites around South Africa, drawn visits from representatives of other African countries and the United Nations, and inspired government officials in Chile to replicate the model in their own country.

As the board expands, it may decide that working through committees will make the best use of the trustees' time at full board meetings and will allow greater attention, by particularly qualified trustees, to certain issues, such as audit, finance, and investment.

Because the spin-off staff is smaller than Vera's, spin-off trustees may take on more of the legal, financial, and human resources functions. For example, the Neighborhood Defender Service of Harlem asked a board trustee with an M.B.A. to review its accounting systems with an eye to switching to a new system or adopting new procedures. By contrast, Vera has a finance department suited to its larger and more complex budget and, thus, is able to evaluate the need for such changes without directly involving its board.

It is generally advisable to appoint a person with financial expertise as treasurer and a person with legal or governance-related expertise as secretary of the spin-off. On occasion, Vera employees have filled these officer roles. In addition, at least one Vera trustee is typically appointed to the spin-off board. Spin-off trustees who are also Vera trustees are encouraged to exercise their powers in the interest of the spin-off and to disclose any potential conflicts of interest that

may arise due to their service on both boards. When there is a conflict or potential conflict between Vera's interest and the interest of the spin-off, any spin-off trustee who is also a Vera trustee should recuse himself or herself from the discussion of, and voting on, the matter. (See Risk Management and Insurance on page 25 for more on managing conflicts.)

¹⁹ The same name search process is conducted at the time a project selects a name and then later when a project is incorporated.

²⁰ To reserve a corporate name in New York, Vera's counsel's office will file a form with the New York Department of State and pay a small filing fee. The Department of State will reserve the name for 60 days and issue a certificate of reservation, which can be renewed for two additional 60-day periods.

²¹ In New York, the spin-off can obtain application materials for state service mark registration from the New York Department of State's web site or by writing to the department's Miscellaneous Records Division. Federal materials can be found on the U.S. Patent and Trademark Office's web site.

²² Service mark infringement occurs when an organization uses a name registered by another organization in a manner that is likely to cause confusion, e.g., by providing the same or similar services under that name.

²³ Services that are offered in more than one state are considered to be rendered in interstate commerce even if the spin-off only has an office in one state, e.g., if the spin-off has clients from other states.

²⁴ There may be advantages to incorporating in a state other than New York, depending on developments in the law, the urgency of receiving nonprofit status, or other circumstances. If the organization will incorporate in another state, the laws on incorporation in that state will have to be researched. In addition, it is possible to incorporate in one state and register as a foreign corporation in another state.

²⁵ The format of this document in New York (Form DOS-1511) is standardized and must include certain information specified by the Not-for-Profit Corporation Law.

²⁶ Under the New York Not-for-Profit Corporation Law, the initial trustees are actually called initial directors. However, as explained in an earlier footnote, in this tool kit we use the word trustee in place of director to avoid confusion because the word director is reserved for the chief executive of Vera or the spin-off.

²⁷ For an additional fee, the form can be processed within 24 hours of receipt.

²⁸ A spin-off should apply for exemption from state and local taxes in any state in which it will be purchasing goods and services. Under New York State law, for example, certain nonprofits are exempt from state franchise taxes, certain state and local sales taxes, and real estate taxes. Each project should assess which taxes will apply to its organization and file for exemptions where available. A spin-off will not be permitted to apply for exemption from New York State sales tax until either: a) it has its determination of federal tax exempt status from the IRS; or b) it has been incorporated for at least six months and can report to the State Division of Taxation on its revenues, expenditures, and activities during that time. If the spin-off needs to make purchases in New York State before it has received state sales tax exemption, it may apply for a refund of the sales taxes that it paid, from the date of its incorporation to the date that it received state sales tax exemption. For more information, see the web site of the New York State Department of Taxation and Finance: www.tax.state.ny.us. In addition, after the spin-off has its 501(c)(3) determination letter from the IRS, it will need to apply for exemption from the New York State corporation franchise tax by filing a one-page application (Form CT-247) and submitting the IRS determination letter to the New York State tax department.

²⁹ See Fiscal Operations on page 19.

³⁰ The titles of these key employees will vary from organization to organization, but the board should approve the compensation of any employee who exercises executive powers or control similar to an officer or trustee.

Conclusion

Spinning off a demonstration project is a dynamic process that requires planning, patience, and hard work. When successful, the result is a thriving new organization that provides valuable services to vulnerable populations or government agencies while also advancing collective knowledge in an important field of work. Today, Vera spin-offs are providing job placement services to people leaving prison, offering services to crime victims, assisting police departments instituting reforms, providing defense services to people accused of crimes, and helping families overcome drug addiction. Many Vera spin-offs are known nationally and some internationally for having established and continuing to advance best practices in their fields.

Ultimately, the spin-off process delivers two fundamental returns. First, it allows the demonstration project to grow to scale and continue innovating according to its particular mandate and vision. Second, it allows Vera to remain focused on its own mandate and vision: exploring and developing new avenues for innovation in justice. Spin-off is not merely a set of tasks to complete or challenges to overcome. It is a process for maximizing the development and dissemination of ideas and practices that improve people's lives and the systems we all rely on for justice and safety.

Spinning Off the Best:

A Distinctive Strategy for the Nonprofit Sector

by Christopher Stone

Large corporations may not, as Sir Edward Coke famously observed, have souls, but they most certainly have children. Spin-offs from both for-profit and nonprofit corporations can be found among the most familiar public companies and public charities in the United States. Yet, as in any parent-child relationship, the moment of emancipation—or spin-off—should be carefully prepared if both parent and child are to thrive thereafter.

For parent companies in the for-profit sector, there are numerous guides to the discipline required to spin-off a business unit, but for their cousins in the nonprofit sector there is little professional guidance.

As a consequence of this lack of attention, nonprofits can easily miss opportunities to advance their missions through spin-offs. In this paper, I draw on the experience of the Vera Institute of Justice and its spin-off of seventeen separate nonprofit organizations over the last 46 years to argue that nonprofit institutions can advance their own missions through more disciplined thinking about spin-offs, and do so in ways distinctive to the nonprofit sector. Specifically, in contrast to for-profit corporations, nonprofits should routinely consider spinning off the *best* of their operating programs.¹

From the perspective of the children—the organizations spinning off—the challenges and opportunities of independence are similar in the for-profit and nonprofit sectors. No longer under their parents' control, these corporate off-spring must make their own way in the world: raising funds, finding new markets, and eventually entering new lines of work. In some cases, independence itself presents opportu-

nities. For example, when Lucent Technologies had been part of AT&T in the early 1990s, it found that many telephone companies, especially outside the United States, would not buy the equipment Lucent produced. Executives at Lucent surmised that their potential customers were declining to buy their products, not based on price or quality, but because these potential customers were competing with other divisions of AT&T. After its spin-off in 1996, Lucent quickly grew its business, particularly internationally, selling to precisely these companies.

The same phenomenon occurs in the nonprofit world, even if on a smaller scale. When the Vera Institute of Justice operated a community service sentencing program for the New York City courts in the 1980s, its relatively small government contract was regularly opposed by the president of one of the city's boroughs when it came up for a vote. But when the program spun off in 1989 and the new nonprofit sought a larger contract to greatly expand the identical service, the borough president supported it. Her earlier opposition, it turned out, had sprung from a longstanding gripe with the parent organization, not any concern about the cost, quality, or importance of the service itself.

From the perspective of the parent corporations, however, spin-off represents a very different strategic move in the for-profit and nonprofit sectors.

In for-profit companies, spinning off a business unit is a way of shedding a part of the organization that is dragging down overall profits. Or the problem may be that the business unit, although still profitable, no longer fits with the vision of how that com-

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pany is going to maximize its profits. In either case, the decision by management to divest itself of a business unit is first approached by analyzing that unit's contribution to the parent company. If the contribution is poor—either financially or strategically—and it is likely to remain poor, management decides to divest.

The for-profit parent company will choose the method of divestiture that is best for its own profitability: selling the unit to another company, liquidating its assets, or spinning it off as a newly independent company. The spin-off itself is accomplished either by giving away the new company to the parent's existing shareholders, or, as AT&T did with Lucent, selling some of the subsidiary's stock in an initial public offering, and then giving the remaining shares to the parent's shareholders.²

Lucent, for example, was always profitable, but, as AT&T's chairman, Robert Allen, explained in announcing the spin-off in 1995, it no longer fit with the core business to which AT&T was committed: long distance telephone service and its digital and wireless innovations. Allen correctly foresaw dramatic change coming in the communications industry, and he concluded that AT&T needed to focus to stay strong in this increasingly digital and wireless service. Manufacturing the equipment itself was a distraction.³ Indeed, from the parent's point of view, whether the problem with the subsidiary is a bad fit with the parent's core business, low profitability, or poor cashflow, spin-off in the for-profit sector is simply one way among many to get rid of an unwanted business.

In nonprofit organizations, by contrast, spinning off a business unit can and should be an entirely different experience. Where for-profit companies must focus their attention on what is financially best for their owners, nonprofits should focus on what is best for the people whom they serve, for the field in which they work, and for the public at large. Of course, managers in both sectors should also attend to the economic survival of their own organizations; but in one case the survival of these organizations is a means to private wealth or shareholder value, in the other case it is a way of doing good or creating public value.

This difference in perspective gives parents in the nonprofit sector the ability to advance their own mis-

sions—creating more public value—by spinning off their most successful units. This may seem counterintuitive, especially in a world where we are conditioned to think like for-profit directors, but spinning off successful units may be a great way to advance the public purposes toward which nonprofits strive.

Consider the potential in many nonprofit business units, whether they are services to the poor, cultural programs, or research institutes that sit today within larger nonprofits. If freed to run on their own, successful operations might be able to expand more aggressively, to survive longer, or to raise their performance to a higher level of quality. Why? Because such an operation might recruit a board more closely tailored to its work and political environment. It might attract funding unavailable within the present parent organization. And it might provide opportunities for leadership and entrepreneurship unavailable in a mere business unit, thereby attracting and retaining more talented people. And the resulting growth, longevity, quality enhancement, and leadership development might allow the unit to serve more people in the present and over a longer period, thereby advancing the mission of the *parent organization*. If spinning off an operation seems likely to achieve these results, including advancing the mission—if not the financial bottom line—of the parent organization, then spin-off may be the right strategy not only for the unit but *for the parent's mission*.

Unfortunately, few nonprofit boards or managers seriously consider the benefits of spinning off their most successful operations. Continued ownership of the operation or unit usually brings in substantial revenue and provides promotional benefits to the parent organization. In other words, the proprietary value of the unit to the parent may blind the management and board to the lost opportunity to create public value.

Of course, spinning off a successful operation might be the worst thing one could possibly do for the public good. The once-successful operation might be starved of capital financing, lose economies of scale, or disappear from view. Spin-off is not always the right answer; but it should always be an option to consider.

This is not to say that the nonprofit parent should commit organizational suicide. Spinning off a successful unit generating large surpluses can be frightening

as well as difficult work. But if the public good would be advanced by the spin-off, the parent ought at least to consider how it might take advantage of its own new freedom to develop new work or focus more fully on other, poorer performing programs in its portfolio.

In short, the analytic steps followed by the parent should be reversed in the nonprofit sector. The for-profit parent first analyzes the contribution of its subsidiary to its own future, decides to divest, and then considers the merits of a spin-off against some other method of disposal. The nonprofit parent should first consider the merit of spin-off for the public good, decide to spin-off the program, and then consider various ways to replace the lost revenue and make best use of the managerial resources that had been consumed by the now independent operation.

Spin-off, for the parent, will always appear to be the more difficult choice, but it may also hold prospects of making the parent itself a stronger organization. The parent may find its reputation boosted by the success of its spin-off, without the need to manage the operation. The spin-off may also help the parent's recruitment of top managers, who now know they may be tapped to run their own spin-offs some day. Most important, the parent will lose whatever complacency may have crept into its culture, always aware that it must be prepared to replace proven programs with new ones.

In the experience of most nonprofit boards and executives, spin-offs rarely flow from this kind of strategic thinking. As I will discuss later, spin-offs more often resemble divorces, in which the director of the new organization is hoping to get away as quickly as possible and prove that he or she can independently thrive. Still, spin-offs need not have this unpleasant connotation. The same desire for independence can be harnessed not only for the good of the spin-off's mission, but the good of the parent and the field as a whole.

THE PARADOX OF SUCCESSFUL INNOVATION

When, in 1988, I arrived at the New York offices of the Vera Institute of Justice, my colleagues had a problem.

Then-Governor Mario Cuomo and many state legislators had become enamored of prison boot camps: prisons that emphasized military-style exercise drills, discipline, and barrack living as the solution to crime. Indeed, when prisoners left the best of these prison boot camps, they were highly motivated to find a job and go straight. But that motivation did not last very long if they could not find an honest job, and few of these men and women were equipped to find a job quickly. Then, as now, it was easiest to get a job if you already had a job; and it was perhaps hardest to get a job if you were unemployed, had a criminal record, and were just home from state prison. Criminal justice officials in New York, as elsewhere, needed a reliable way to get lots of people jobs as soon as they got home from boot camp.

That was not Vera's problem. Vera's problem was that it had found a great solution for the boot camp graduates. Vera had built a pilot program that employed the boot camp graduates immediately upon their release, putting them to work on minor maintenance jobs at government facilities. Vera's program paid the boot camp graduates minimum wage on these subsidized jobs for up to four days a week, and on the fifth day sent the participants out on job interviews so that they could get better paying, unsubsidized jobs, freeing their subsidized jobs for the next boot camp graduates. The program proved so successful that state officials soon wanted Vera to enlarge it and run it under a long-term contract. In today's terms, the government wanted Vera to take its pilot program to scale.

The temptation to accept the long-term contract was great. It would have provided stable funding of several million dollars annually, including its share of overhead expenses. Vera could have built a stable workforce of job supervisors and employment counselors to operate the program, and tried, in time, to expand the program into other parts of New York State or into other states. To managers weary of chasing short-term grants and contracts to design and test small projects, and frustrated by the ebb and flow of work that had them hiring up one year only to lay off their employees the next, the prospect of a large, long-term service contract to operate a single program that they invented seemed very attractive indeed.

But thirty years of experience in building innovations for the justice system had taught Vera's directors to be wary. In theory, of course, there is no reason why an organization like Vera cannot be both an innovator and an operator. In theory still, the steady revenue of the stable programs provides the security that allows a board and management to take risks, and the long-term programs serve as laboratories in which researchers can test their new ideas. In practice, however, either the pace of innovation slows or the quality of the operations deteriorates. Or both. A board of trustees suited to govern and guide an innovating organization rarely has the political experience, professional expertise in the field, and inclination to protect and build a service operation. And stable, long-term service contracts are never as stable as they first appear. Innovations that need investment, guidance, and risk management are postponed whenever managers must attend to the inevitable problems presented by the "stable" operations. Because it begins to provide the core financial support, the long-term operation becomes the essential work of the organization, and innovation becomes a luxury to be pursued when, if ever, emergencies are resolved and surpluses are reliable.

Vera chose to spin-off its successful program, creating a new organization to operate it: the Center for Employment Opportunities, Inc. Starting in 1995 and continuing over a five year period, as the new nonprofit corporation built greater capacity, Vera granted it greater independence, until all formal control was ended.

At the time the spin-off decision was made, the Vera project was supported by about two million dollars in government contracts, all from two state agencies, and it received no foundation support. It was known only in New York City.

Today, in 2007, CEO, Inc. is one of the top providers of employment to ex-offenders, with a national reputation and a diversified budget more than six times its original size. Achieving that growth has not been easy. CEO's management had to negotiate a new contract and financing mechanism with state officials, lobby other officials for additional work, create an entirely new information system and performance measures, steer the organization through the unionization of its line staff, benchmark itself against

leading organizations across the country, and build its own culture of participatory innovation and program improvement.⁴

Had Vera retained these operations, it would have wanted to follow the same path, but Vera was ill-equipped to manage these processes. Even if successful, the effort would have prevented Vera's management from focusing on new innovation in other areas. As it turned out, while CEO's management and board were building their new service organization, Vera's management and board were having an equally successful period, beginning new work on the treatment of asylum seekers, reform of juvenile justice and school safety, and the provision of drug treatment in the criminal justice system, among other projects.

THE BURDENS OF A SPIN-OFF STRATEGY

A successful spin-off does not happen all of a sudden; it is a gradual process, beginning a year or more before the moment of corporate independence, and continuing for another year or two. Throughout that process, management of the two organizations must work together, but there are at least five burdens that inevitably fall most heavily on the parent.

MANAGING COMPETITION Like any parent, the larger organization must restrain itself from competing with its spin-off, at least in the short term. The parent will gain in reputation with the success of the spin-off, and so the parent should support the spin-off in its search for funds, board members, staff, and attention. Vera's experience is that donors are often eager to find worthy organizations to support, and may be willing to support both the spin-off and the parent at a combined higher total.

SUPPORTING THE STAFF THROUGH SPIN-OFF

Management of the parent organization needs to help the staff of the spin-off experience the move as a personal opportunity for growth. The staff of the spin-off will inevitably fear that the young spin-off is unstable, but the parent can calm the staff leaving with the spin-off if there is continuity in seniority,

if there is stability or even improvement in fringe benefits, and if the move is cause for mutual celebration.

RESISTING THE DEVELOPMENT OF A SINGLE BRAND While spin-off is inevitably hard on management and staff of both organizations, it should be made as easy as possible on customers. Continuity in the name of the program is a simple way to start, but that requires that the parent has given the program its own name from its beginning, distinct from the name of the parent company. In my first spin-off for the Vera Institute, the program leaving the organization was known among its customers simply as “Vera,” and it took almost two years to accustom them to a new name.

SMOOTHING THE IMPACT OF THE LOST REVENUE In the year of formal spin-off, the parent organization almost inevitably takes a loss on the project, incurring extra expenses in the management of the separation itself. Nonprofits cannot account for these costs in the same way as for-profits. Anticipating these costs in advance, building up funds to meet them, and weaning the parent organization from the overhead revenue contributed by the program are among the steps that can mitigate the impact of the loss of the spin-off on the organization’s fund balance.

PROTECTING THE PARENT’S STAKE FROM A DISTANCE The parent’s reputation is always at stake in the spin-off, but so too are the parent’s funds. The parent’s name may be on contracts and leases, lines of credit, and loans. All of these interlocking liabilities may take years to disentangle. Throughout that time, the parent needs simple mechanisms to protect its stake in the spin-off. Vera uses an “independence agreement” between the parent and the spin-off to establish the right of the parent to monitor the performance and finances of the new organization and to take various actions to safeguard its stake there.

Managing these and other burdens requires that the parent organization be fully committed to the success of the spin-off. This is not always the case. Indeed, the biggest threat to a successful spin-off is a

personal antagonism between the leaders of the two organizations. Unfortunately, the desire of the parent organization to rid itself of an unwanted but powerful manager, or the desire of a program manager to flee an overbearing executive director, is sometimes the hidden motive behind spin-offs in the nonprofit sector. These are spin-offs pursued not to increase public value, but to achieve what amounts to a nonprofit, corporate divorce. The parties to such a divorce may insist publicly that they are undertaking the spin-off in the interests of the field; but the lack of commitment to the success of both organizations can make the parent reluctant to bear the burdens that a successful spin-off imposes.

A FAMILY OF INDEPENDENT ORGANIZATIONS

If bad spin-offs mimic divorces, good spin-offs join together in extended families. One of the great pleasures of leading the Vera Institute of Justice is membership in a family of non-profit organizations that began life as Vera spin-offs.

When I became Vera’s executive director in 1994, the longstanding directors of three separate spin-offs went out of the way to welcome me to this family, and I did my best over the years to reciprocate. When a fight between the Mayor of New York and the President of the City Council held up the municipal budget, creating a cashflow crisis for several nonprofits, Vera used its endowment to make cashflow loans to several of its spin-offs, all guaranteed by a consortium of New York foundations recruited by Vera. Similarly, in 2001 with the incumbent mayor term-limited, the directors of several of the Vera spin-offs joined together to jointly brief each of the mayoral candidates about issues of crime and criminal justice, advancing a single, discrete set of initiatives.

Beyond these moments of crisis or special opportunity, the family of non-profit organizations that have left Vera since 1967 finds other ways to remain connected. The directors of Vera have always encouraged trustees to join the boards of one or two spin-off organizations, and the resulting interlocking governance network facilitates the exchange of in-

formation and strengthens the performance of all the boards. The good relations among most of the executive directors also facilitate continuing joint ventures. During my tenure at Vera, for example, we conducted research on projects at Safe Horizon (a 1978 spin-off originally known as the Victim Services Agency, Inc.), and received invaluable research assistance from the Criminal Justice Agency (a 1977 spin-off). Perhaps more important, several of the spin-off organizations have worked together without their common parent on policy initiatives and fundraising.

Not every spin-off from Vera has proceeded amicably. After hearing me talk about the spin-off process in positive terms, the director of a large spin-off from Vera telephoned me to ask if I knew how fraught and contentious the spin-off process had been in their case. Fights about how much money the spin-off organization should take with it, and about how the board of the spin-off would be constructed were only two of several issues that divided the two executive directors. Had this been the only spin-off experience for these organizations, the feeling of a hostile divorce might have persisted. Instead, the existence of a larger family of related organizations helped me establish a friendly relationship with this cousin. When the spin-off is unpleasant, the relationship with the parent may never fully recover, but value of a larger family in which all can feel at home becomes even greater.

This family of nonprofit organizations also strengthens the field in its own right. Wholly apart from how the family helps its members, the cause of justice—the common element in the missions of all of these organizations—is strengthened by the combined power of these organizations. They may not fit

together in any formal structure, but the commitment to spin-off as a badge of success, not dislike, helps create a successful community of organizations eventually extending well beyond the family itself.

CONCLUSION

Few nonprofit organizations will spin-off every successful project they undertake, as Vera attempts to do, but large nonprofits should consider the strategy more frequently than they do now. Until they do, nonprofit organizations will continue to find themselves in the middle of a spin-off process once or twice in a generation, with few sources of disciplined guidance to make the process succeed.

Routine consideration of spin-off as a strategy to advance the mission of large nonprofits would produce more spin-offs, allowing successful programs to grow more quickly, and keeping their parent organizations entrepreneurial. Although the parents would assume a range of new burdens, they could find rewards in greater reputation, recruitment power, and dynamism. The central characteristic of organizations in the nonprofit sector—their freedom from the imperative of ever-greater profits—makes spin-off of the most successful programs a distinctive strategy to advance the mission of those nonprofit organizations. It is a strategy the sector should embrace.

¹ More specifically, I am drawing on eighteen years that I spent at the Vera Institute of Justice, the last eleven as its director. Vera was founded in 1961 to advance reform of the criminal justice system through empirical research and innovative demonstration projects. The first Vera spin-off—the Manhattan Bowery Project—left the Institute in 1967 and continues today as Project Renewal, Inc. During my years at Vera, I personally participated in the creation of six new nonprofit, spin-off organizations, and in the merger of three other Vera operations into pre-existing nonprofit organizations. In addition to serving as chief executive of the parent organization from 1994 through 2004, I served as the founding director of two of those spin-offs, and I sat on the boards of five of them. I have also been able to discuss these issues with people involved in the formation of nine other spin-off organizations that grew from Vera projects. I am grateful in particular for the insights of Molly Armstrong, Norborne Berkeley, Joel Copperman, Daniel Cunningham, Lucy Friedman, Ed Geffner, Karen Goldstein, Claire Haaga, Lowell Johnston, Jerry McElroy, Leonard Noisette, Susan Rai, Fredda Rosen, Paul Samuels, Fritz Schwarz, Carol Shapiro, Marjorie Singer, Michael Smith, Herb Sturz, Mindy Tarlow, Julia Vitullo-Martin, and the late Haywood Burns, Arthur Liman, and Burke Marshall.

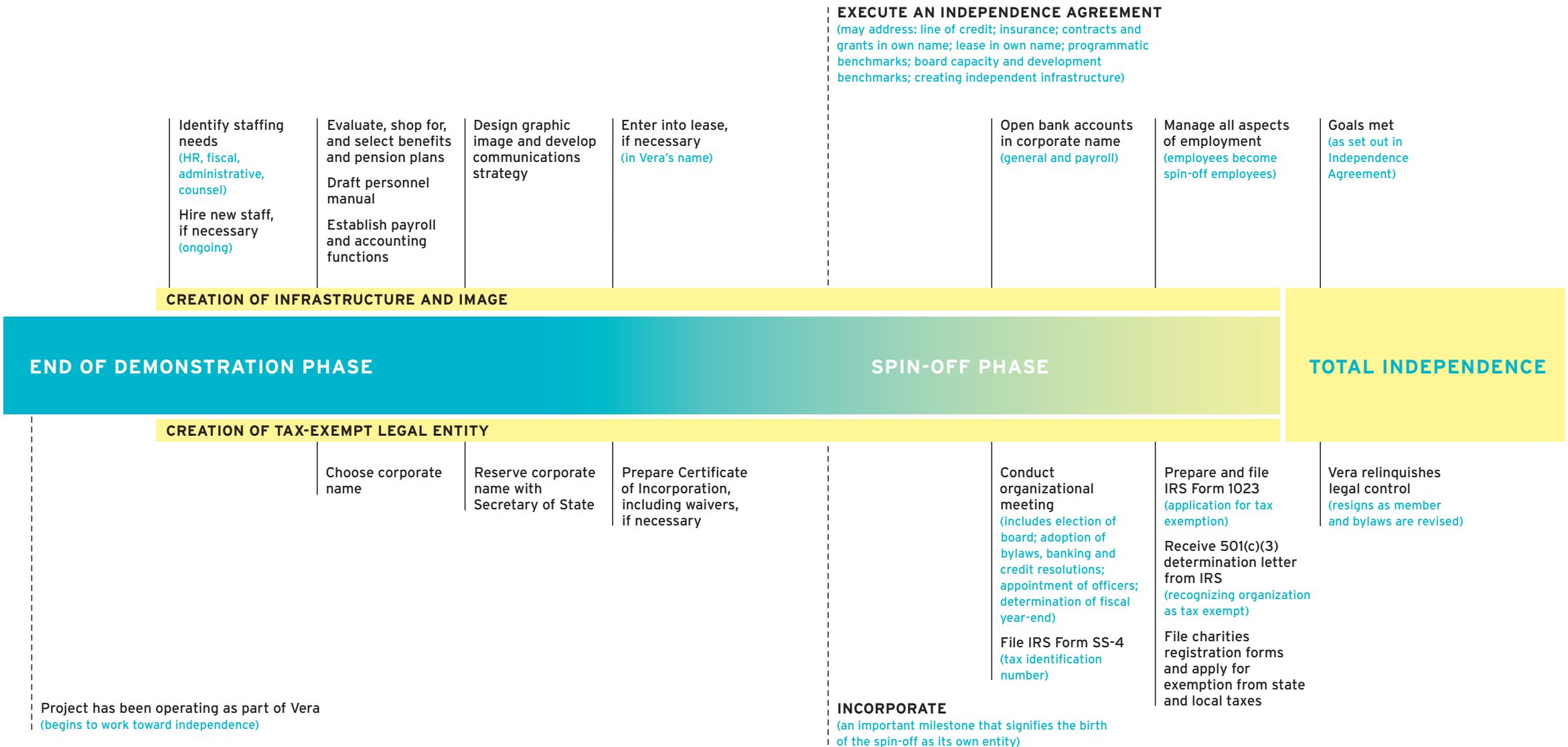
² Examples of each of these two methods are discussed in Toddi Gutner, “Pick Your Moment—And Catch a Rising Spin-Off” in *Business Week*, May 13, 1996, pp. 156ff.

³ Howard R. Gold, “Brave New AT&T” in *Barron's*, March 11, 1996, 33-39.

⁴ For more information on the Center for Employment Opportunities, Inc., surf to www.ceoworks.org.

Phases of Spin-off

Key Steps



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Without spin-offs, there would be no tool kit. We therefore want to acknowledge Herb Sturz, Vera's founding director, who first had the idea of sending our successes out into the world. In the tradition that he created, Herb tested his idea and found that it worked: the successful projects developed independently, and Vera was able to move on to the next new idea. The spin-offs, Vera, and the reform process itself, are all better for his contribution.

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