

Avoid Legal Potholes with Your Website Launch

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Whether you're just starting out and need to develop a website for your new nonprofit, or you've taken a hard look at your current website and realized it's time for a serious update, you've got a process ahead of you that will take money and time.

What steps should you take to get the new website you need without turning your launch into a washout?

Step #1: Find the right website developer.

Finding a great website developer is Step #1, of course. Ideally, this is someone who can not only design and develop your site and offer you fresh ideas, but also provide ongoing troubleshooting and monthly maintenance support. If you can't find this all-in-one web wizard, then find design and user experience experts and a tech expert and introduce them to one another. Make sure you understand the key skills of each member of your team, and make sure each member knows that he/she is a part of your team.

Your tech expert should have an opportunity to give input on the design and functionality of your new site. Your user experience expert should take the lead in making your site an intuitive and pleasant experience for visitors. And your developer/designer should be receptive to the suggestions the others offer so that your site benefits from the collective wisdom.

As someone who failed to make these critical introductions when our firm's website was relaunched, I can attest to the cost- and sanity- saving importance of bringing your experts together. After a relaunch debacle, we hired Nancy Wolff Leary of Online Amplify to get us back on track. First, Nancy connected us to a far more sophisticated tech expert than we'd been working with. Then, she remained engaged with the tech guy, made us aware of potential pitfalls, and guided us through a disciplined restructure of the site architecture. In the process, she also worked with us to develop richer content. We don't make a move on our site now without checking first with Nancy.

Fast forward a year, our website maintenance guru, Jason Andreoni, proved his worth a hundredfold one day when he notified us urgently that our site had been hit with a malware attack from Ukraine. Jason instructed us on how to enable a two-factor authentication security countermeasure and monitored our site to make sure it was secure again.

A website is a work in continual progress, evolving as your organization evolves. And the environment in which it exists persistently raises new challenges. When you solicit recommendations for experts from colleagues and friends, be sure to ask whether their recommended experts have been accessible and responsive over time.

Step #2: Discuss expectations.

Once you've identified your developer or tech team, Step #2 is to spend time discussing with them the development and launch process you each envision. Developers and clients involved in projects that went badly generally agree that they should have agreed on a great deal more at the outset. There can be a considerable gap between the website you envision and the technical, design and cost realities that are feasible within your budget. If expectations between you and your developer or team are not aligned at the outset, the gap can widen as the process moves forward — and no one comes out ahead.

Typically a developer/designer will provide a list of the standard features and services they offer for a website. Such a list can be very helpful to get you thinking concretely about your site, but you should also

spend time doing your own homework—looking at many websites to see what kind of designs and features appeal to you and which don't. Specific, detailed information will be valuable in enabling your developer/designer to create a website that meets your needs and reflects the image you want for your organization.

Step #3: Seal the deal in writing.

Step #3 is to negotiate a written legal agreement that spells out the development process in detail and anticipates the issues that may lie ahead. You may be tempted to skip this step, assuming that “good faith” should suffice and that you'll offend the developer by insisting on a written agreement. The reality is to the contrary. Good faith is little help when you discover that you misunderstood one another and costs have already been incurred. Professionals expect to put contracts in place. Both your website and your relationship with the developer will benefit by taking this step seriously.

Address these key issues in your website development agreement:

1. **Deliverables** - describe the items that each of you will provide to the other in as much detail as possible.
2. **Content** - describe the content that will be needed, the person or people responsible for creating the content, and the point up to which the content can be modified.
3. **Time frames** - describe the time frame for completion of each deliverable, your agreed-upon response intervals. (For example, how quickly will you need to make a decision on a template so that your developer can finalize her design on time?)
4. **Designs** - decide on the number of design concepts that your developer will be expected to produce (from which you can choose) and the process you'll use for revisions.
5. **Changes** - decide how you'll manage any mid-course corrections and budget overruns. Even impeccable planning can't anticipate everything, so put in place a process that allows you both to reassess and make changes if necessary.
6. **Use of third party materials** - decide who will be responsible for selecting and purchasing (or licensing) images, fonts, plug-ins and other third party materials you'll need for the site.
7. **Trademarks** - if relevant, decide who will be responsible for designing, “[clearing](#),” and, if desired, [registering](#) logos, trademarks or service marks for use on your site.
8. **Confidentiality** – agree on standards for handling any confidential business or personnel information you may share with the developer.
9. **Testing** - decide who will be responsible for debugging and/or testing elements of the site both pre- and post-launch.
10. **Ownership** - be absolutely clear about who owns and will own the intellectual property that you and your developer each contribute to the site (e.g. text, images, software, video, music, graphic designs).
11. **Standards for completion** - agree on what will constitute completion of the development work, and whether the developer will have any ongoing responsibilities after the site is launched (and if so, what those responsibilities are).
12. **Termination** - agree on a process for orderly early termination in case things don't go well. What will happen to work-in-progress? What deliverables will be paid for?

Step #4: Focus ahead for a smooth ride.

If all has gone well and you've launched or relaunched your new site, Step #4 is to make sure you have an agreement with your developer or other team members for ongoing support, troubleshooting and maintenance of your site, including security updates.

[Ellen Lubell](#) works with nonprofit organizations and website developers to negotiate website agreements, collaborate on multimedia projects, and preserve valuable collections through digitization and licensing. She advises on a wide range of technology issues, confidentiality and data security, "fair use," open source licensing, and children's online privacy protection.