Managing Subcontractors

The Right Way to Manage Subcontractors

Although there are myriad things that can go wrong with a fourth-party outsourcing arrangement, there are many steps a company can and should take before the original contract is signed with the primary service provider, to prevent many from occurring.

The first step is making sure your contract is ironclad, thorough, and, most importantly, gives you the right to approve or reject any proposed subcontractor in writing prior to any subcontractor being hired by the outsourcer.

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>
> — Ashok Syal, Managing Director, Sumpraxis

"To avoid surprises, it's critical for the contract to specify that the service provider obtains prior written consent from the customer before any subcontracts are let," says William B. Bierce, Principal, Bierce & Kenerson PC, a law firm specializing in outsourcing representation. "In addition, it should say that all subcontractors have to follow the rules you set up for your outsourcer. Basically, everything applicable to the supplier has to flow down to the subcontractor. And you should include the right to audit how well the subcontractors are following the service provider's obligations."

Other clauses that should flow down from outsourcers to all subcontractors include conditions related to liability, non-disclosure, intellectual property, data privacy and termination.

Clients should also consider putting language into the agreement stipulating that although an outsourcer can select a supplier to deliver some subset of requirements, that subcontractor cannot do business with any of the client's competitors. They can also obligate their service providers to use specific subcontractors based on the client's specifications, notes Jeff Romano, a principal at The W Group, a consulting firm.

In addition to ensuring that your contract is ironclad, companies also should make a concerted and repeated effort to ensure that they know exactly what is going on at all contractor locations through periodic site visits and data audits.

"In setting up the governance, they should factor in what audits and reviews they need, if they need additional monthly conferences with the vendor as a checkpoint, and make sure to bring the subcontractor into that conversation," says Global Cyber Risk's Westby. "When you add in a subcontractor, everything expands and it's another layer you have to absorb."

Relationships Are Key

Trusting your primary outsourcer can also make a difference.

"Our selection criteria for subcontractors is that we have to have had a working relationship with them for at least 15 years," says Syal. "That way we know how they work and we can pretty much circumvent any problems related to lack or work ethic or other issues. In that time span, you know how much you can depend on that subcontractor."

Trust is crucial, but so is knowing when subcontracting makes sense and when it can cause more trouble than it's worth, says Dmitry Loschinin, CEO, Luxoft, a Moscow-based service provider.

"We start every outsourcing engagement by customizing our processes to satisfy the needs the client, and sometimes, that customization can be significant," says Loschinin. "When the customization is significant, or when the interaction between our team and the client's team is very intense, it doesn't tend to be a good situation for subcontracting," he says. "On the flip side, if the work relies primarily on standard processes and the work is neatly packaged into different parts with well-defined specifications, subcontracting can be a good option," he says.

But even if subcontracting turns out to be a good move, trust is still key. "It has to be a trusted partner you have confidence in. You have to check them out thoroughly," says Loschinin. "We always make sure our partner is well-trained and using the same tools we're using, and that they are adhering to the same standards we have developed for our customer."

"Because communication between client, provider and subcontractor is so critical to maintaining a good working relationship, provider-subcontractor relationships also tend to work best when both are located in the same geographical region — even the same office," says Charles Spinosa, Group Director, Vision Consulting, an IT consulting firm.

"If the outsourcer and subcontractor are co-located, you can get a lot of seamlessness," says Spinosa. "When you get people working close to the business, they form a team and have the same goals and intentions, and are less likely to go wrong. Just a few months ago we worked with a specialty outsourcer that wanted to subcontract to another party to

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