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60 Seconds on Sourcing: Reassessing Sourcing Projects During the Pandemic

After initially working with suppliers to modify service delivery (including work-from-home and other alternate work arrangements) and implement plans to maintain service continuity during the global COVID-19 pandemic, customers are now shifting their attention to reassessing ongoing and planned IT/sourcing projects. And they are coming to the conclusion that the key aspects (including feasibility, scope and/or timing) of many projects are no longer realistic.

Key Takeaways

- In reassessing and reprioritizing current and planned projects and services, customers and key suppliers need to engage in meaningful discussions to address the needs of both parties, taking into account the realities of financial and operational impacts and resource availability.
- Customers should take stock of the overall landscape of their sourced projects and services, and both parties should understand the applicable terms and conditions of the related contracts.
- Since the contract terms may not always be directly on point, the parties should also have a solid understanding of the business realities, which will help facilitate negotiations related to any changes outside of the contract terms.

Taking Stock

In reassessing sourcing projects during the pandemic, customers should first take stock of the overall landscape of their ongoing and planned services and projects. This includes understanding the status, scope and criticality of ongoing services; the upcoming phases of services (e.g., services in the midst of transition or transformation); and new planned projects. Faced with grim economic realities and fewer available resources, customers should prioritize mission-critical projects that require the most immediate attention. This requires coordination and cooperation between customers and their suppliers, as well as among key stakeholders, including sourcing, IT, operations, finance, legal and risk management.

As part of this prioritization exercise, customers need to identify the current phase of sourced services and determine which are in an early stage (e.g. due diligence, scoping, negotiation, transition) and which are in a more mature stage (e.g., steady state). The relative maturity of services will likely impact a customer's decision regarding how to proceed. For instance, it may be easier to consider postponing, modifying or not proceeding with projects in an early stage than ongoing services in steady-state.

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Contractual Terms

The decision to postpone, terminate or modify a sourced project or service will often implicate key business terms in the contract, including service scope, service levels, termination rights and/or charges. Contract terms addressing these types of changes may ultimately impact that decision. For example, many sourcing arrangements address the impact of extended force majeure events, including adjustments to charges, the right to source third-party services, step-in rights and/or termination rights. Despite efforts to anticipate unforeseen occurrences and address those in contract documents, however, the scale and degree of the impact of this pandemic has been unexpected by most.

Business Realities

Contract terms may not specifically address the types of significant changes being contemplated, however, in which case business realities come into play. For example, how much lead time is needed in this pandemic environment to implement the desired changes? Will a change to one service impact the delivery of related services? What knowledge transfer is needed from the supplier in order to terminate or modify the supplier's services? If a customer wishes to terminate or reduce services before a service failure has occurred, will that termination or reduction result in termination fees? Suppliers and customers should also consider how to most effectively negotiate

new commercial terms where the existing pricing model does not readily allow for modification or unbundling of services (e.g., fixed-fee transactions).

Personnel Considerations

In determining whether to postpone or change the scope of services during the pandemic, the parties also need to address the realities related to personnel for particular projects. The need for specialized or key personnel for any projects or services that are postponed or modified may have implications for the continued availability of these types of resources and/or lead times for restarting projects at a later date. This, in turn, may result in a lack of knowledge continuity of the supplier team or the supplier not having adequate qualified resources available when they are needed.

Related Professionals

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