Michael Wigley

New deals for **tough times**

TOUGH ECONOMIC TIMES can see CIOs wishing they weren't stuck with contracts negotiated with suppliers in better times. Can they do anything about it?

Quite often they can and usually in a way that sees the vendor benefit too.

Good contracts should give the CIO the leverage to deal with the challenge, with flexibility, review, transition and governance provisions. But in good times it can be easy to overlook the reality that technology and business drivers change, and that contracts can be critical. Often, key terms are left insufficiently covered, with a view that: 'The relationship will see us through and no-one really uses the agreement sitting in the bottom drawer'.

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Virgin's Richard Branson for one would disagree. As he said in his new book, *Business Stripped Bare*: "Back in 1971, when I was more gung-ho, I wrote in my notebook: 'We don't need lawyers'. But over the years, stating our agreements in clear and unambiguous terms has proved, time and again, to have been vital to our success.… The lesson of all this is that you need to get your basic business contracts properly sorted out. It's always worth getting the contract right in the first place."

Outsourcing adviser Technology Partners International (TPI) has undertaken research on restructuring outsourcing agreements. They found one of the key drivers for change is that 'Handshake agreements' — or agreements whose terms aren't carefully circumscribed in advance — have not lived up to expectations in many cases.

TPI found that a substantial proportion of agreements are renegotiated before their terms end, due to fundamental business and technology changes. Usually, vendor service delivery problems are not a reason (although there can be niggles, for example, with the B team doing the work after the A team sold the client on the services). This means that the original vendor typically keeps the business after the deal is restructured.

Forrester Research in North America and Europe concluded that 70 per cent of senior IT managers say they are likely to negotiate lower rates with suppliers in this environment. Often, an agreement will not seem to be particularly conducive to achieving better services and/or pricing for the organisation. However, a close review and careful tactics, may enable the organisation to get favourable outcomes under the contract.

Even if the organisation is legally locked in — say in an outsourcing or software agreement — renegotiation is a real possibility. And the vendor could gain too. For a reduced price or services in one area, the vendor might end up supplying more up-to-date services in place of legacy services (which suits both the vendor and customer), and have the contract term extended.

As Forrester's principal analyst, Paul Roehrig said: "The smart service providers understand that this is the worst economic crisis since the Depression, and ultimately they are hurting too. If they can offer enterprises a way to contain costs while improving businesses, they will be able to prove their worth in the long haul."

Sometimes, the organisation's predicament in these financial times will be such that it has to seek — say — a lower price for the services simply to survive. Whatever the strict words of the agreement, this may be a reality that a vendor will accept. There are reports of customers negotiating significant price reductions with Indian outsourcing companies, for example.

Renegotiating the agreement can be a great opportunity to patch up issues such as the governance model (and the all important implementation of that model) and alignment of service levels with the real needs of the organisation. This doesn't just have to be about price.■

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