

Strategies

A business practices and ethics checkup for consultants, clients

Minneapolis/St. Paul Business Journal - October 6, 2006

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Most of us like to think we follow the Golden Rule – defined by most as – treat others as you want them to treat you. That's easy enough to understand, but it's sometimes hard to put into practice, especially in the relationship between consultants and their clients.

These relationships often have a hectic, deadline-driven quality. Results sometimes matter more than the means used to get there. Questions about good business practices and ethical behavior sometimes can go unexamined.

Consultants, however, should always be asking themselves questions about their client relationship ethics. And clients, of course, have a vested interest in the ethics of their consultants. The following questions and suggestions are by no means exhaustive, but if taken to heart, they can help both sides avoid some thorny ethical issues.

Following an industry code of conduct

In the information technology world, for example, good IT consultants and consulting firms adhere to a strong, industry-recognized code of conduct. Perhaps the best has been developed by the National Association of Computer Consultant Businesses (NACCB), which requires its members to:

- Practice equal opportunity for all regardless of race, religion, color, sex, creed, age, marital status, sexual orientation, or national origin.
- Abide by applicable international, federal, state and local laws with regard to the operation of their businesses.
- Not defame clients, consultants or competitors.
- Preserve all proprietary information relating to the business of their clients.
- Actively avoid misrepresenting a consultant's skills or experience.
- Not misrepresent a consultant's pay rate, contract terms, assignment duration or other subjects pertinent to the business relationship.
- Not have unreasonable non-competition clauses or unfairly prevent a consultant from pursuing other opportunities.
- Refrain from soliciting employees from active clients.

The IRS has its own code of conduct

The Internal Revenue Service has its own code of conduct for consultants and their clients – one where ignorance is not a viable defense for non-compliance. It has to do with the status of a consultant. It is relatively easy these days for the IRS to reclassify outside contractors and subcontractors as employees.

In fact, the Government Accounting Office estimates that 38 percent of the employers the IRS examines have misclassified workers as independent contractors. The IRS uses 20 guidelines to determine if someone is an independent contractor or an employee. Evidence suggests the IRS, not to mention the Department of Labor and other government units, are cracking down on the practice.

The financial penalties of reclassification can be stiff. You might be at risk for substantial back bills in overtime pay, workers compensation and employee benefits. We've seen evidence of such a crackdown on the Coasts. Now we're seeing signs that the government is turning its attention to the Midwest. Your risk potential can be especially high when working with IT consulting firms that haven't properly ensured the consultants they place on your projects will be considered their employees—not yours—if the IRS or other government agencies start asking questions.

The problem happens when consulting firms look at staffing contracts as financial transactions, not as full-service client service relationships. They may provide little or no benefits or support for the contractor they've placed. They merely pass on names and resumes and take their cut. When they operate this way, they may inadvertently expose you to some pretty serious risk.

Other important codes of conduct

Does the consultant present you with a clear plan of action—including when the engagement will end? With a consultant, the most important project milestone may just be the final one, when the consultant certifies his/her work as complete. This is something consultants should spell out explicitly at the onset of an engagement, in effect: Here's what I will do, and this is what things will look like when I'm done.

Does the consultant insist on regular communication? A capable consultant or consulting firm will present you with a project plan that includes regular decision points requiring your attention and cooperation. Unfortunately, too many executives say, in effect, "Don't come back to see me until you're done." Don't take a hands-off approach. You'll regret it when projects run over budget and take longer than anticipated.

Would you hire the consultant again?

According to Mark Roberts, NACCB CEO, there's one sure standard for evaluating both the competence and the ethics of a consultant or consulting firm: Would you hire them again? If the answer is yes, both you and they are on the same ethical wavelength.

Editor's note: To inquire about submitting a Strategies column, contact Senior Editor Steve LeBeau at (612) 288-2108 or slebeau@bizjournals.com. Scott Lien, CEO of DBI Consulting, has more than 20 years of IT consulting experience. Lien also has worked in technical and business leadership roles at Carlson Cos., Travelers Express (now Moneygram) and CICS. He can be reached at scottlien@dbiconsulting.com.