



**GLOBAL SOURCING PRACTICE GROUP**

# **Introduction to Outsourcing and Offshoring**

2010

## Table of Contents

<b>1. EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>2. BASIC OUTSOURCING PARADIGMS.....</b>	<b>5</b>
2.1 SINGLE TOWER: SINGLE SOURCING .....	5
2.2 SINGLE TOWER: MULTI-SOURCING .....	5
2.3 MULTI-TOWERS: "BEST OF BREED" VS. GENERAL CONTRACTOR .....	5
2.4 ONSHORING / INSOURCING.....	6
2.5 OFFSHORING.....	6
<b>3. CORE LEGAL ISSUES.....</b>	<b>7</b>
3.1 SCOPE .....	7
3.2 BUSINESS PROCESS TRANSFORMATION .....	7
3.3 BUSINESS CONTINUITY AND SUSTAINABILITY .....	7
3.4 RELATIONSHIP GOVERNANCE.....	8
3.5 PRICING.....	8
3.6 INTELLECTUAL PROPERTY .....	8
3.7 HUMAN RESOURCES.....	8
3.8 INSURANCE.....	8
3.9 INDEMNIFICATION .....	8
3.10 COMPLIANCE .....	8
3.11 FLEXIBILITY CLAUSES.....	9
<b>4. CORE OFFSHORING ISSUES.....</b>	<b>9</b>
4.1 FREE STANDING SIMPLE CAPTIVE .....	9
4.2 VIRTUAL CAPTIVES.....	10
4.3 ACQUIRING A CAPTIVE OVER TIME: BUILD-OPERATE-TRANSFER (BOT) .....	10
4.4 DIVESTITURE OR SPIN-OFF OF A CAPTIVE.....	11
4.5 JOINTLY-OWNED CAPTIVE .....	11
<b>5. EMERGING ISSUES .....</b>	<b>11</b>
5.1 CONSUMER PROTECTION; CONSUMER ENFORCEMENT .....	12
5.2 GOVERNMENTAL SCRUTINY OF FOREIGN CONTROL .....	12
5.3 WORKER PROTECTIONS .....	12
5.4 ENVIRONMENTAL IMPACT MANAGEMENT .....	12
5.5 GLOBALIZATION AND THE EXTENDED ENTERPRISE.....	12
<b>6. ROLE OF EXTERNAL LAWYERS ON A GLOBAL SOURCING TEAM.....</b>	<b>13</b>
6.1 THE GLOBAL SOURCING TEAM .....	13
6.2 PROCESS DESIGN AND LIFE CYCLE APPROACH .....	14
6.3 MODULAR CONTRACT DESIGN.....	14
6.4 COLLABORATION AND SYNERGIES.....	14
6.5 SPEED AND TIMELINESS.....	15
6.6 GLOBALIZING ENTERPRISES .....	15
6.7 INDUSTRIES SERVED .....	15
6.8 EXAMPLES OF SERVICES OUTSOURCED .....	15
6.9 FLEXIBILITY IN LEGAL FEE STRUCTURES.....	16
<b>7. FURTHER CONTACT .....</b>	<b>16</b>
<b>APPENDICES .....</b>	<b>17</b>
<b>A. GLOSSARY .....</b>	<b>17</b>
<b>B. DEAL FORMS .....</b>	<b>17</b>

**C. DEAL DIAGRAMS.....18**

- 1. CLASSIC OFFSHORE BPO.....18
- 2. VIRTUAL CAPTIVE PROVIDER.....19
- 3. CLASSIC DOMESTIC HRO .....20
- 4. MULTI-PROVIDER OPERATING AGREEMENT .....21

# 1. Executive Summary

In the last decade, the advent of cheap telecommunications fulfilled the promise of the WTO Uruguay Round of free trade agreements. Outsourcing (or “global sourcing”) is a business discipline based on principles of comparative advantage reflected in the “build-vs.-buy-vs.-ally” paradigm in this new global marketplace. By outsourcing, an enterprise hires the services of a specialized service provider, and the provider’s functions integrate into the enterprise’s operations. Like ganglia, this integration creates key interdependencies.

Many myths give a misleading impression on the sustainability of global sourcing. While foreign wage levels might be much lower than domestic “onshore” wage levels, the actual cost savings from outsourcing or offshoring may be much less due to the costs of operating a “project management office” (“PMO”) to structure, negotiate and manage the operations. Attrition rates of key foreign employees need to be managed to avoid turnover that could impair business continuity and increase replacement costs. Security, quality metrics, accounting management and audit controls need to be in place. The service provider needs to demonstrate an understanding of the globalizing enterprise’s regulatory environment and strategies for risk management.

Outsourcing is no panacea. It requires ongoing hard work and a willingness to take meaningful decisions on risk and to adapt to change.

Effective outsourcing requires careful project management. This includes planning and methodologies for management of risks to operations, security, customer relations, legal and regulatory compliance and ultimately brand value. In-house counsel skilled at the day-to-day oversight of ordinary day-to-day outsourcing transactions may need assistance from experienced outside counsel to accelerate enjoyment of intended benefits and, more importantly, to provide judgment, strategy and documentation developed through dozens of similar transactions and a focus on this area of legal practice.

Established in 1990, Bierce & Kenerson has been supporting service recipients and some select service providers in their quest for effective business operations using key performance indicators (“KPI”) in contract structuring, pricing and renewal. We offer this “Introduction to Outsourcing and Offshoring” to help globalizing enterprises and their sourcing consultants understand issues relating to global sourcing, the role of external legal counsel and considerations in the selection of individual law firms to support global sourcing transactions and operations. We believe that our key differentiators are:

- a holistic perspective based on extensive experience;
- a relatively modest cost structure, reflecting a limited hierarchy of team members and thus a “lean team” and collaboration with foreign law firms that either are the client’s existing firms or experienced sourcing counsel;
- a commercial understanding that allocations of risk need to be achieved when defining the scope of outsourced services, but that overall costs (and thus advantageous pricing) might best be managed by not shifting key risks that can be best managed by a client, who retains ultimate responsibility to their customers, suppliers, partners, regulators and shareholders;
- a focus on mid-market clientele that understands the value of money in legal services; and
- a recognition in the industry as savvy sourcing lawyers regardless of size.<sup>1</sup>

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<sup>1</sup> This brochure constitutes “attorney advertising.” This brochure is not intended to constitute legal advice and cannot be relied on as legal advice. Please consult a lawyer on your particular needs. Bierce & Kenerson, P.C. is a New York law firm.

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