

Outsourcing / Offshoring : Götterdämmerung für die westliche IT Branche?

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Lessons to be learned ...

- Goals & Drivers
- Risiks & Benefits
- Best Practice

Goals & Drivers

- Reduce Costs
- Flexibility to Add/Reduce Services
- Flexibility to Add/Reduce Staffing
- Focus on Core Competencies
- Establish Local Presence
- Provide Overnight Coverage
- Shorten Implementation Time

Risks & Benefits

- Cultural Differences
- Distance
- Legal Risks
- Logistical Risks
- 30% Savings
- Flexibility
- Overnight Coverage

Risks in Detail (I)

- Intellectual property rights and enforcement
- Tax implications (VAT)
- Currency and Exchange Rates
- Regulatory issues and changes to those regulations
- Customs and duties or other licensing requirements
- Export restrictions on technology
- Data Security/ Data Export laws
- Limitations or restrictions on import licenses
- Local insurance coverage
- Labor laws

Risks in Detail (II)

- Setting up Joint Venture Structures
- Limitations on ownership structures (i.e., are 100% owned subsidiaries permitted?)
- Transfer of Revenues
- Desinvest

Risks in Detail (III)

- Assignment / Placement of Work Force
- Social Security / Social Insurance

Risks in Detail (IV)

- Duty to Disclose?
- Sub-Contractor Control Clauses
 - Access to Live Systems
 - Access to Customer Data
 - Transfer of Key Tasks (Development/ Project Management)

Best Practice (I)

- Conduct Due Diligence
 - Assets/ Systems/ Processes to be transferred
 - Statement of Work
 - Clearly Define Service Levels
 - Tax
 - Applicable Foreign Laws and Regulations
 - Financial

Best Practice (II)

- Outsourcing Agreement

I. RIGHTS IN WORK

PRODUCT

- A. Work Product
- B. Ownership**
- C. Waiver/Grant**
- D. Assistance**
- E. Excluded Inventions
- F. Third Party Software
- G. Escrow

II. SECURITY AND ACCESS

- A. Security Generally**
- B. System Access**
- C. Network Connections**
- D. Financial Services Security**
- E. Security Breach**
- F. Business Continuity Plan**
- G. Data Safeguards**

III. Confidential Information

Best Practice (II)

IV. Background Checks

**V. Financial Solvency, Material
Changes**

VI. Audit

VII. WARRANTIES

A. Compliance

B. Performance

C. Disabling Codes

D. No Infringement

E. Continuing Warranties

F. DISCLAIMER

VIII. INDEMNIFICATION

A. General Indemnification

B. Remedy for Infringement

Best Practice (II)

IX. Disaster Recovery

X. Force Majeure

A. Force Majeure Event

B. Excused from Performance;
Notice

C. Continuation of a Force
Majeure Event

D. Allocation of Limited
Resources

XI. Termination Assistance Services

A. Infrastructure

B. Training

C. Third Party Agreements

D. Other Actions

E. Return of Property