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An Analysis of Outsourcing and a Comprehensive Guideline to a Successful Transaction and a Smooth Transition

Robert H. Moss

AN ANALYSIS OF OUTSOURCING AND A COMPREHENSIVE GUIDELINE TO A SUCCESSFUL TRANSACTION AND A SMOOTH TRANSITION

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An Abstract Presented to the Faculty of the Graduate School of Lindenwood College in Partial Fulfillment of the Requirements for the Degree of Master of Arts

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ABSTRACT

Background

Information Services (IS) outsourcing is a new industry. Beginning in the late 1980's, corporations began to view the in-house IS departments as being excessively expensive due to the difficulty in controlling costs, the constantly changing technology, and a general unfamiliarity with inner workings of the systems and processes that made IS delivery work. Other corporations began to see that this niche could be filled by establishing large processing centers and selling the capacity to those corporations whose core businesses did not include IS and to those who believed costs could be reduced by simply getting out of the IS business.

As with anything new, there is uncertainty and possible risk. Very few guidelines exist that allow the interested party to begin the journey into a new frontier. Even fewer exist that allow for the successful completion of the journey. Outsourcing is no exception. Outsourcing has become a multibillion dollar a year industry in a very short time and the figures are expected to continue to grow well into the 1990's and beyond. There is obviously a need for information on this rapidly growing industry and, in this the information age, a lot of information is available. The problem is, all the available information is provided by many diverse sources that share no common link.

Proposed Topic

This culminating project will give some insight into outsourcing and provide comprehensive guidelines by which a corporation can investigate, evaluate, and successfully complete an outsourcing effort. Much of the available information from a variety of sources will be brought together. This body of information will then be analyzed for its content, benefits, and drawbacks.

This project also focuses on the best information available, including interviews with experts in the industry, to provide sound advice on undertaking an outsourcing effort.

After reviewing the information, a comprehensive set of guidelines will be established that will allow any corporation with an interest in outsourcing to begin the effort with a better understanding of the elements and processes involved. Armed with these guidelines and this understanding, a corporation will have an improved chance of completing a successful transaction and a smooth transition from in-house services to those same services being provided by an outsourcer.

Finally, a discussion of the strengths and weaknesses of the comprehensive guidelines by individuals associated with outsourcing will be presented. This will bring the project full circle from introduction, to results, to analysis of the results.

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COMMITTEE IN CHARGE OF CANDIDACY:

Professor Michael Castro,
Chairperson and Advisor

Adjunct Professor Michael Kramer

Adjunct Instructor Eric Zitelli

DEDICATION

This work is dedicated to my ex-teammates from MDAIS, to my current teammates on the Oversight Team, and to those who have not yet undertaken the journey into outsourcing.

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Chapter I

Introduction

In December of 1992, McDonnell Douglas Corporation (MDC) outsourced the component known as McDonnell Douglas Aerospace Information Services (MDAIS) to Integrated Systems Solutions Company (ISSC), a subsidiary of IBM. The transaction affected over 1,000 MDAIS employees, will last ten years, and is worth $3 billion dollars over that time. This simple statement, consisting of only two sentences, captures the essential facts of the transaction, but does not begin to suggest the issues, efforts, and actions related to it.

To begin to understand the issues, efforts, and actions involved in outsourcing, it is necessary to understand what "outsourcing" is. Only when the entire event is understood, can comprehensive guidelines for a successful transaction and a smooth transition be formulated.

Definitions of Outsourcing

The *American Heritage Dictionary* has no definition of outsourcing. Neither does Webster's. Even spellchecker kicks it out every time it appears. That may be true for now, but outsourcing will be a well-defined and much accepted term in the very near future, by many industries, domestic and international.

Outsourcing does not carry a single definition in the industries where it exists. Each outsourcing transaction reflects the unique goals and objectives of the parties involved. The fundamental element of outsourcing is the transfer of data processing, telecommunications, business management, or some other key element of a company's business, collectively termed Information Services (IS) -- or all of these elements -- to a third party, with the expectation that the third party will provide those services to the company for at least the next five to ten years, thus allowing the company to focus on its core business (Zahler and Glasspiegel, E20-2).

Another view is that outsourcing is an effort to mitigate the risks of technological obsolescence and the cost of keeping in step with rapid technological change (Halvey, 1).

Outsourcing as an Industry

Analysts estimate that by 1994, all of the American Fortune 500 companies will investigate outsourcing their IS groups and fully twenty percent will follow through. And America is not alone. The European outsourcing market is expected to expand from the current $1.5 billion to over $10 billion by 1996. The Japanese are not far behind in this trend (Lacity and Hirschheim, 73).

Industry analysts also estimate that as of 1992, the outsourcing industry was doing approximately $40 billion dollars a year in revenue world-wide. They expect revenues to be in the $50 billion range annually by the end of 1994. (Halvey, 1).

Too Critical to Outsource or Too Expensive to Keep?

The in-house IS groups, particularly the application software developers and programmers, were always thought to be too critical to a company's success to be allowed to be taken over by someone outside the company because of the importance of the programs and systems they support. But, upon closer review and over time, many managers began to wonder just how critical the in-house IS expertise really was. As IS costs went up, so did more and more of management's eyebrows. Data processing is expensive, staff is hard to keep, and technology changes before the "new" machine is on the floor and running. Management began to be ask questions about the need for the in-house IS groups. If someone outside the company can be hired to competently provide legal services, travel services, vehicle maintenance, cafeteria operations, as well as providing other types of products and services, why not IS?

Although outsourcing is not new, service bureaus have been around for almost as long as business, the scope and criticality of the operations being outsourced has grown substantially. Corporations like Kodak, General Dynamics, McDonnell Douglas, and many others have outsourced most, if not all, of their data processing and telecommunications requirements, not just the ancillary ones. The anticipation of focusing on the core business, the promise of the projected savings, and the immediate cash infusion have expanded the scope of third party participation in a corporation's business from what was once inconceivable to one that is quite palatable.

Benefits of Outsourcing

The decision to outsource is usually based on anticipated cost savings and cash infusion. Outsourcers say that they can save a company 10 to 30 percent over the in-house IS groups and can provide the company with an up front cash infusion for the sale of the computing and telecommunication assets. Anticipated cost savings from the outsourced data operations and other information management services will also contribute to the company's bottom line. The value added by the outsourcer contributes to overall corporate profits stemming from improved computer automation, technology, and processes. In many cases, outsourcing allows an opportunity to improve the quality of data processing and the access to new computing and telecommunications technologies (Merrill Lynch, 2).

There are tax benefits, as well. Computing and telecommunication hardware is depreciated over three to ten years, whereas outsourcing fees are deductible as a current business expense. Companies may save 20-24 percent over ten years on total computing cost in taxes alone, again contributing to the bottom line (Kirkpatrick, 27).

In addition to improved economics, many contend that the decision to outsourcing can be strategically viable as well. Companies, in the time of recession or extremely competitive situations, are required through necessity to focus on their core business or competencies and leave the extraneous efforts that support those businesses or competencies to those who can handle them most effectively (Restructuring & Outsourcing).

Kodak, General Dynamics, McDonnell Douglas, and many other companies did not consider data processing or telecommunications core businesses or competencies and found alternative providers for those services.

Drawbacks to Outsourcing

Outsourcing does, however, come with some drawbacks that must be considered. There will be a loss of control over how the services are to be delivered, which vendors are used to deliver the services, and the corporation's "normal" way of doing business will be disrupted. An important aspect to consider is that after ten years of being under the contract, it will be difficult and expensive to bring the services back in-house.

Also, because of the length of the contract, complexity of the services and economics, and the ever changing IS environment, it is impossible to accurately predict and quantify the expected long term benefits of outsourcing in real terms. Financial and technological benefits of outsourcing are difficult to assess.

The impact on the employees that will be transferred as a result of the outsourcing is also difficult to predict. Employees are any corporations most valuable resource. After the outsourcing transaction has been completed, some of the employees will turn against their old company, others will leave, and many will retire before they themselves or either company had anticipated. No matter what path they choose, they will no longer be a resource for the outsourced company and may not be resources for the outsourcer (Lacity and Hirschheim, 78).

<u>MDC's Other Outsources</u>

Outsourcing is not new to MDC. When James S. McDonnell started the corporation in 1939, most of the manufacturing work was done by third parties. Parts were manufactured by other businesses, in machine shops, and even some in garages. Mr. McDonnell did well by outsourcing. By the end of his second year in business, Mr. Mac had $2.5 million in business on the books (Yenne, 70).

Subsequent to beginning the business on an outsourcing basis, MDC has often called upon Account Temps, Kelly Girls and hosts of other outside agencies to facilitate the business. Ernst & Young, in addition to providing audit services required to meet reporting obligations to the government, the Security Exchange Commission, and stockholders, have provided consultation within the corporation on a variety of projects.

Then why the upheaval and surprise of outsourcing a function that is not a part of the core business of the corporation? The answer certainly lies in the scope and complexity of the portion outsourced. Hiring a Kelly Girl or Bob from Account Temps is a far cry from selling a division comprised of over 1,000 people and the data processing and telecommunications resources that support the entire corporation and the manufacture of the aircraft, weapons, and space systems.

Outsourcing Issues

Considering the scope and time limitations of this paper, there are far too many issues related to outsourcing to list, but some do stand out. These are:

the people involved, the services to be provided, the amount to be paid for the services, the price performance curve of hardware and software, the performance levels expected of the services, remedies if performance is not attained, incentives if performance is exceeded, who has responsibility for the provision of the various elements of the services, what are the future directions of the corporations involved, the potential for culture clash, profit, length of the contract; and, perhaps the most important issue of all; should the outsourcing even take place? These are but a few of the multitude of issues involved in considering and executing an outsourcing arrangement.

Prospects

The prospective client for the outsourcer's services and the events and conditions lead to the possible outsourcing are quite diverse. As previously touched on, economic recession, competitive situations, cash infusion, sale of assets, and focusing on the core businesses and competencies of the corporation are all reasons. Reasons are as unique as the company considering the move to outsource. With the change of attitude toward having a third party handle more than just the filing and the audits, many situations could lend themselves well to the consideration of an outsourcing agreement.

Expectations

Expectations of the company seeking to outsource are as diverse as the prospects considering outsourcing. The expectations are usually straightforward and somewhat naive. The outsourced company expects significantly lower IS costs in the early years and lower costs overall, equal to or better service in all areas, less management involvement, state of the art technology over the life of the contract, and perhaps the most important, a strategic partnership with a leader in the world of IS. The outsourced company expects to partner with a corporation that can be trusted and that holds their best interest foremost in the relationship.

Outsourcers by Name

The following gives a representative sample of the corporations investing in their future as outsourcers. The companies are described in order of their current prominence in the world of outsourcing.

Electronic Data Systems (EDS) is a company started by H. Ross Perot in 1962 and subsequently purchased by General Motors Corporation (GM). EDS's current stable of outsourced companies is estimated at $10 billion, excluding the services provided to GM. Some of their major clients include SAAB, Continental Airlines, ENRON, and National Car Rental. EDS also has several megacenters, liquid funds for investment or acquisition, experience in facilities management, and a worldwide "EDS-NET" telecommunications system (Bender-Samuel, 3).

Computer Sciences Corporation (CSC) is another powerhouse in the industry, but is focused more on the governmental accounts. CSC provides services to the Air Force (Edwards Air Force Base), NASA, and the Environmental Protection Agency. CSC does have commercial accounts as well, with the total business base being in the $5 billion range (Bender-Samuel, 3).

ISSC is a subsidiary to IBM. ISSC plans to play a major role in the changing of IBM from an equipment manufacture to a "services company". ISSC has 20 large data centers, with megacenters on Lexington, KY and Boulder, CO. ISSC is concentrating on industries in banking, insurance, retail, manufacturing, and aerospace. As of December of 1992, ISSC had won five major contracts totalling $6.7 billion. ISSC's major clients include Eastman Kodak, Continental Bank, Zale Corporation, Bank South, and McDonnell Douglas. ISSC has ready capital and is extremely aggressive when competing against EDS. Once a contract is signed, ISSC has a tendency to subcontract out much of the business that has been won (Bender-Samuel, 3).

Perot Systems, a private company comprised of former EDS leaders, currently has over $100 million in annual revenue and consults IBM on outsourcing as well as having its own clients. Ross Perot started this company in 1988 when he re-entered the computer business. Perot estimates revenue to be in the $1 billion range by the year 2000 (Hayes, 1).

Andersen Consulting started outsourcing through its Systems Management Services in 1987 and has over forty clients around the world with an estimated business base of over $100 million. The company provides computer operations, applications development, support, maintenance, back up, recovery, network services, and business planning and strategy. Although Andersen claims to focus on health care and financial services institutions, they have clients in energy, education, government, and product manufacturing (Bender-Samuel, 4).

Who these corporations are not: they are not magical mythical beasts from the east, although there are myths involved. One of the most important aspects of outsourcing, and one of the biggest myths, is the view that the outsourcer is a "strategic partner" to the client. Few things in outsourcing could be further from the truth. They also are not the omnipotent masters of IS or of savings. The outsourcer is there to increase its profit. Outsourcers are large commercial corporations. They embrace hard times, recessions, and free enterprise. They are out to make a buck.

Chapter Summary

The premise has been laid and the players have been identified. Some assumptions and myths have been presented. Chapter II will look at the literature on the outsourcing transaction. Chapter III will focus on the best information resources available. Chapters II and III will contribute to the establishment of comprehensive guidelines that can be followed to improve the outcome of an outsource and to smooth the transition for all the parties involved -- corporations and employees alike.

Chapter II

Review of Literature

Author's Note

This particular chapter, as well as Chapter IV, will contain much of what the author of this paper considers to be the "truth". The MDC/ISSC deal is the largest and most complex outsourcing effort to date. As the lead negotiator for the telecommunications and the disaster recovery portions of the MDC/ISSC agreement, and as one of the participants to develop the contractual terms and conditions that govern the agreement between MDC and ISSC, I am somewhat of an "expert" on the subject of outsourcing. For two months prior to the outsourcing and since the contract signing, I have dealt full time with issues related to outsourcing. I am currently a member of the MDC team whose responsibility is to ensure the world-wide execution of the MDC/ISSC contract. I work with the end users of MDC and the highest management levels of both corporations to see that all aspects of the deal are implemented, documented, and transacted in accordance with the terms and conditions established in the contract. In addition, I have real-time access to the outsourcing consultants and to other industry sources in the field of outsourcing and can refer to them on critical elements in this paper. This access is important to the paper due to the lack of comprehensive literature available on the subject of outsourcing.

Information Resources

There are no books on outsourcing. According to Joe Auer, head of International Computer Negotiations, Inc., this can be attributed to three main reasons: 1. Outsourcing is a relatively new industry and a topic with a limited scope of interest. 2. Each deal is unique and a "primer" would be too general to be of use in an individual transaction. 3. Those that could write the books find it more profitable to sell their expertise and experience, in the form of billable consulting hours, to the corporations who are about to embark on the outsourcing journey. This does not mean that there is not an abundance of information on the subject.

Newspapers carry stories on the major outsourcing efforts. There are many trade publications that contain articles dealing with the issues related to outsourcing. Many internal communications are generated by corporations going through outsourcing. Other documents are generated by corporations that are trying not to be displaced by outsourcers. Outsourcers have in-house publications that are distributed to the employees and make their way out to the outsourcing public. Seminars that provide outsourcing information are also available. Another source of information is from the corporate and individual consultants that sell their time and expertise to the corporations, part of which is directed at those that are seeking to outsource. Even the employees going through an outsourcing are a source of information, although their input is much different in nature from the types mentioned before. In this chapter, all of these sources will be studied for their content, benefits, and drawbacks.

Newspaper Articles

Newspaper articles usually contain the least specific information on outsourcing, but can be a source for the general trends in outsourcing and to find out who is currently undertaking the effort. They can also provide a high level insight into how a particular transaction turned out. The real advantage to a newspaper article falls to the outsourcer itself -- in the form of advertising (Hayes, 1,6).

Generally, the reporter working on a computer or outsourcing article is versed in the field of journalism, but not in the particular industry being reported on. As an example of the mis-match of the reporter and that which is being reported on is the fact that the average age of a Wall Street Journal reporter is 25 years old and, therefore, is unlikely to know about the processes, trends, and technological revolutions that have gone into the creation of the computer age or the complexities of the outsourcing transaction. These factors contribute to the brevity and the banality of the newspaper articles. A major drawback to these articles is the tendency of management to read the article, approve of its content, and pass it along to subordinates as fact along with the expectation that the advice overtly present or implied in the articles be followed (Smith).

Because of the lack of substance in newspaper articles and their inherent advertising connotations, they will not be discussed further.

Trade Publications

A better source of information comes from the trade publications that are published for a particular industry. Some examples of these types of publications are Computerworld, Bank Operations Management Service, Information Week, Mainframe Journal, American Banker, Journal of Systems Management, and Sloan Management Review. These publications focus on the industry to which they cater and utilize reporters that are not only journalists, but also familiar with the industries they are reporting on. All of these industries have been impacted by outsourcing, have had their interest piqued, and want more information. Knowing that, a good editor gives the audience what they want.

Even with all the focus trade publications have, their purview into outsourcing is limited. The articles are, on average, 2.5 pages long and are often accompanied by charts, pictures, and large print quotes that take up a lot of space and impart little information. Informational value is further restricted due to the non-disclosure agreements in place between the company being outsourced and the outsourcer. Non-disclosure agreements prevent either company from making public announcements about any of the details that make up the transaction and are, therefore, not available to the reporter or the reader.

These types of publications are another source for a high level view of the trends in outsourcing and of who is outsourcing. Some insight can be gained from the trade publications, but the scope is limited. Occasionally, as in the Sloan Management Review article, "The Information Systems Outsourcing Bandwagon", written by Mary C. Lacity and Rudy Hirschheim in the Fall 1993 issue, there is a bright spot in the trade publication's articles and a quantity of quality information can be gained on a variety of issues related to outsourcing, so they shouldn't be given up completely.

Recycled Information

Information of value, but which is often just regurgitated from other sources, is available from the corporation that is in the process of considering an outsourcing effort. The project manager, or other key executive that is assigned the task of pursuing the possibility of outsourcing, usually has no prior history on the subject and seeks information from any source. Once obtained, the information is rephrased or reprinted for dissemination to the members of the team so that they may begin to understand outsourcing and how to go about accomplishing their task. The sources utilized are the same ones that are being discussed in this chapter and are, therefore, better discussed in depth elsewhere as they appear.

The Outsourcer's Competition

Some of the best information on the trends and major players in outsourcing is also the hardest to get. The in-house memos and documents from the outsourcer's competitors can give a new perspective to outsourcing. These sources too, are limited in their scope and availability. They usually have restrictive markings that prevent disclosure outside the corporation. The main drawback to these documents is that the entire focus is on how not to have the authoring corporation's services or products displaced should an outsourcing effort ensue. These, by their nature, cannot be discussed in detail, but deserve to be mentioned.

The Outsourcer's In-House Organ

In-house publications from the outsourcer are probably the worst source of information on outsourcing. By their very nature, they are biased toward the publishing corporation and filled with fluff. News of the latest triumph and who the particular corporate heros are dominate the pages. The information contained in the pages is benign and entirely comprised on in-house morale building. The only benefit that can be gained from these types of publications is a glimpse within the outsourcer's organization. This glimpse may give an understanding of what the outsourcer expects from its employees and how the employees are rewarded for living up to those expectations (ISSC Compass).

Seminars

Seminars are viable tools for the corporations that want to educate their employees on outsourcing without spending too much money. Seminars are usually staffed by experts in the field of outsourcing and often come from the outsourcers themselves, or from a corporation that has just undertaken and completed an outsource. A wide variety of professions are usually represented and bring legal, financial, and technical expertise to the classroom. Seminars cover a select group of topics that are relevant to the process of outsourcing. Information is presented by the staff and is also generated and added to by the attendants. Costs range from $700.00 to $1,500.00 per person and cover only the seminar, not the travel, meals or lodging (Auer).

The main benefit of seminars is the ability to have interactive learning. An article in a newspaper or trade publication may hint at a key point or issue, but that is the extent of it. In a seminar, questions can be formulated and concepts pursued until the issue has been completely explored. Additionally, the person asking the question and the one providing the answer can be supplemented by the perspectives of other members attending the seminar or other seminar staff. If the seminar lasts more than one day, after hour gatherings can be arranged between participants and staff to provide a less formal, more open form of communications. The less structured atmosphere of dinner will sometimes elicit more candid opinions and can be of equal or more value than the more structured classroom seminar topics (Auer).

Seminars have their drawbacks. If there are multiple topics being offered in the same time frames, more than one employee will need to attend so that all the available information can be gathered and brought back to the corporation. Staff can also be a problem. If the staff consists of too many representatives from outsourcers, the information can be extremely one sided. If the staff consists of too many of those who have just experienced an outsource, but who have not yet lived with the outcome, the information can not only be one sided, but incomplete and possibly naive. The staff may also consist of those who are looking to further their careers through consulting services. Some of these future consultants will provide just enough information to stimulate an interest in hiring them to handle or advise the listener on their corporation's outsourcing effort.

Consultants

The best possible information comes from the experts in the field of outsourcing. Experts come in two distinct types -- corporate and individual. The corporate experts are corporations whose staff gathers information on issues, emerging technologies, and business trends and then publishes the information as a subscription service to its customers. The individual "hired gun" consultants are brought in as legal advisors for the contract itself, financial analysts to concentrate on the economics involved, or to provide the technical expertise to determine what services are required and the metrics to measure the delivery of those services. The Gartner Group is an example of the corporate consultant and Joe Auer is an example of the individual consultant. As with the best of most things, expert advice comes at a high price. The subscription services can cost over $100,000.00 per year. Individual consultants can make up to $600.00 per hour plus expenses.

Picking the right subscription service is less difficult than choosing the right consultant. The subscription services of merit have good reputations and long track records of valuable information. Copies of reports can be requested from the service as samples of their work. In the event that the subscription service is not what you expected, cancel or do not renew (Michael).

The main benefit to the subscription service is that they have large staffs with backgrounds in the computer industry. The information gathered is credible, focused, and in depth. With the weekly or monthly publishing schedule of most subscription services, the information is also current. Again, the main drawback to the printed information is that it is not interactive and individual questions may not be answered in the text.

In order to get an individual consultant worth the price, it is imperative that a company consult other corporations that have outsourced and have demographics that closely match its own. The expert that worked on a single computer transaction may not bring a lot of help to the table if multiple computer centers and other diverse services are to be negotiated. However, if the deal only involves one mainframe, there is no need to pay the higher price for the more versatile expert. Additionally, if the in-house staff has great technical skill, but little legal background, seek a resource that has a focus in the area in which you are weak. In doing so, needless expense and the inevitable conflict between the in-house expert and the hired gun will be avoided (Jones).

The main benefit of the hired gun consultant is having someone who went through and understands the outsourcing process "living" with you through your particular transaction. The main drawback to experts is that there are a lot of them out there, but only a few who are credible and can earn their keep.

If a consultant is hired and is subsequently found to be inadequate or doesn't want to remain in the role on the team that they are paid to play, cut the corporation's losses, and get rid of them. The cost of the initial mistake will be less than the subsequent mistake of allowing the situation to linger (Herbst).

<u>Employee Communiques</u>

The last category, employee communiques, provides information of an entirely different nature. Usually, when a corporation is going through an outsource, there is a lot of confusion and uncertainty among the employees. This leads to many rumors about the transaction and the resulting "corporate graffiti" can provide an insight into the employees feelings on about how they think they are being treated.

By their nature, large corporations seldom communicate well between management and the layers of employees that make up the corporation. This is magnified by the flurry of activity and tight deadlines often associated with an outsourcing. Little insight is provided to the employees about the transaction that will ultimately and intimately effect them. Information about the employee's morale can be gained from reading the informal communiques that circulate in the underground of a corporation. These communiques can, if used by the corporation effectively, show areas of employee concern and provide an avenue to facilitate the corporation in stopping rumors and getting out the facts. These documents are often overlooked and their existence may even go unacknowledged by management. The authors of these communiques, if found, can be subjected to termination (Herbst).

To recap the content of the employee input here would be an injustice. The "best of class" in the employee communique area from the MDC outsource has been included in this paper as Exhibit 1.

Chapter Summary

There are many sources for information that a corporation can turn to try and help it in its outsourcing effort. All have their benefits as well as their drawbacks. To get the most useful information at the most reasonable cost, the corporation has to know and understand its needs and adequately assess the sources it is seeking out.

In Chapter III, this paper will focus on the experts in the industry -- the experts whose staffs gather the information and disseminate it through paid subscription services and the individuals that are the hired guns of the outsourcing industry.

Chapter III

Selective Review and Evaluation of Research

As shown in the last chapter, there is an abundance of information available on the subject of outsourcing. The sources of this information, as well as the content and value, cover a wide range. In this chapter, the focus will be on the two most valuable resources in the industry today -- the corporate and the individual consultant.

MDC relies on the information presented by a corporate consultant known as The Gartner Group, as do numerous other technology driven corporations. Gartner has been serving the computer using industries with quality information and predictions on trends in the industry for thirteen years. Although there are many subscription services available, the information presented by Gartner is in depth, analytical, and researched by one of the best educated, most experienced staff of any of the subscription services. Rick Smith, Group Vice-President, has been with Gartner for twelve years and working in the computer industry for thirty. Smith has 55 analysts and eleven services within Gartner reporting to him. Three of Gartner's analysts collaborated on an effort that went to Gartner subscribers in December of 1993 in the form of a Gartner

Group Strategic Analysis Report, "Outsourcing Is Here to Stay". That report is one of the most in depth and analytical assessments of outsourcing presented to date. That report, supplemented by an interview with Smith, will contribute to this chapter and represent the whole perspective of the corporate consultants.

MDC also relies on individual consultants. The individual consultants that will make up the remaining portion of the chapter are Joseph (Joe) Auer, Wendell O. Jones and John K. Halvey.

Auer is a consultant and president of International Computer Negotiations, Inc. (ICN). Auer's company provides consultants to the industries on every aspect of outsourcing from legal to technical and has negotiated several outsourcing transactions himself. Additionally, ICN conducts numerous seminars on outsourcing, high tech procurement, and other IS related topics annually.

Jones is the former General Manager of MDC-West and led much of the outsourcing effort for MDC. Jones is also the former chair of the computer science faculty at West Point. While at West Point, Jones headed the largest software design and development center in the

Department of Defense. Jones is now the vice-president of IS with Nasdaq in New York.

Halvey is an attorney at Milbank, Tweed, Hadley & McCloy in New York. Halvey was the outside legal consultant for MDC during the outsourcing effort. He has also acted as outside legal support for other outsourcing transactions.

These three consultants have collectively been on the forefront of many outsourcing transactions since 1989 and are frequent speakers at seminars and corporations on the subject. For the purposes of this paper, these three consultants will represent the whole perspective of the individual consultants to the industry.

It is important to note that the three consultants chosen have similar contract/legal/business backgrounds. Not all consultants follow this pattern. Many consultants are from technology backgrounds and can detail the actual processing and storage requirements, or other specific components critical to the technological side of a transaction. Because of the complexity of the information they provide and the individual nature of each outsourcing transaction, their choice as representative consultants for the purposes of this paper would have had a limited benefit. The technology consultant does have a critical role in the outcome of an agreement and must be brought in if that expertise is not available in-house.

The Corporate Consultants

The Gartner report provides an overview and background of outsourcing. The report also predicts that over the next five years the promise of added value and reduced IS expenses will continue to drive companies to evaluate the outsourcing of data processing facilities, wide area and local networks, applications development and other related IS functions. According to Gartner, outsourcing is here to stay (i).

This longevity of outsourcing is reinforced by Smith. Smith believes that eighty percent of all Fortune 500 computer users will outsource at least one IS function by 1996. The key issues to investigate outsourcing will begin to move away from a desire to reduce operating expenses and move toward the more strategic reasons of focusing on the core business.

When historians look back on the information age, the period between the 1920's and the present, three major milestones will be used, and they will not be the wars of the twentieth century. Those milestones will be the economic environments of the 1930's, the 1960's, and the 1990's. A major part of the 1990's discussion will include advancements in computing and the advent of outsourcing. Outsourcing has been called the single biggest revenue opportunity in technology and technology's last frontier (Smith).

Technology's biggest revenue opportunity has not gone unnoticed. All of the major outsource deals struck between 1989 and 1991 are currently being re-negotiated. This is because of the perceived high costs of the outsourcer. The savings the outsourced company expected to receive have not materialized. The cash going out of the corporations to the outsourcers has been a constant source of contention and has brought the two sides back to the table (Smith).

The issue that causes this problem is inherent in the financial analysis that takes place before the signing of the contract. The difficulty of the financial analysis is assessing the in-house costs and evaluating them against the supplier's proposed cost model. The savings appear to be there when the deal is inked, but are hard to find as time goes by. This is due in part to the supplier's model showing less than the whole financial picture. Often, the vendor's model will not take into account the effect of inflation, pass through costs, charges that remain with the user, and charges that go into effect with the corporation goes beyond the original baseline that was used as the foundation for the pricing model (4). These omissions will ultimately make the bill higher than the original proposal or the final negotiated and agreed to costs (5).

This financial revelation is especially critical to corporations with large IS budgets and processing power. Such corporations would be unwise to depend solely on the outsourcer's financial analysis of the transaction. These large centers should be able to process information as cheaply as an outsourcer (9).

The report does support the outsourcing decision if the reasons are strategic, meaning a long term focus on the core business and not tactical, meaning a short term cash infusion. Many benefits can come from a successful outsourcing deal. IS employees generally will have a better career path with the outsourcer than with the core business company. The outsourced company can focus on the core business. Operations should improve, as well as response times and customer satisfaction. Costs should go down and productivity should go up (12).

In the report, other key elements of a successful outsourcing are presented. A particular emphasis is placed on the need to follow a structured process during the bidding and the resulting negotiation. Critical to this effort is the development of a sound Request for Proposal (RFP) (18).

The RFP should be the starting point of the transaction. RFPs outline the elements that are being considered for outsourcing and the environment that currently provides the services in detail. The RFP establishes the foundation for all that will follow. RFPs can also define the management's expectations of what the outsourcer should be able to accomplish. It also fixes in the outsourcer's mind that the company presenting the RFP knows the business and is seeking competitive bids for the services. This competitive element improves the pricing in the responses to the RFP (19).

The remainder of the bid process and negotiations are as critical as a well written RFP. The process needs to be controlled and have focal points for contacts. Those that are going to administer the contract should be involved in the negotiation process. Negotiations should not be hurried because of the long term nature of the contract and the amount of money at risk (21).

The information contained in the 27 pages of the Gartner report is concise, clearly stated, and usable. It doesn't answer all the questions concerning a particular outsourcing transaction, but it does provide a stable foundation to build from.

What will the future of IS hold in relation to outsourcing? Smith believes that the financial and procurement models will have to change. By that Smith means, rather than demanding the highest discount possible, which takes cash out of the supplier's pocket, which in turn reduces the R&D budget, companies should ask for value added items in the form of training, technical consulting, and other related areas. Smith believes that will provide a healthier environment for both organizations and contribute to the overall success of the relationship.

Sound information from a report, like the one from Gartner, can be supplemented and complimented by an experienced consultant from outside the corporation. A consultant that is experienced in the type of transaction that the individual corporation is undertaking will be worth the asking price. Many pitfalls can be avoided and time can be saved by not having to re-invent the wheel. In addition, the bolstering of the troops numbers will be welcomed, as will the expertise and counsel brought to bear by "their expert", as long as it is in an area that needs bolstering.

The Hired Guns

Auer stresses one point over and over when it comes to outsourcing: "If it's not in the contract, it's not part of the deal." This one piece of information can save time, money, and many late nights in the office. So simple and so true, but so often overlooked or forgotten. Auer also believes that it is critical to know your outsourcer, but not too well. Sometimes, familiarity with the outsourcer can lead to being too content or complacent to see that fairness is shifting over to one side. No corporation should become too dependent on the outsourcer for information, either. That dependency will cost the corporation money over time. Auer recommends that independent evaluations, either by in-house staff or an outside firm, be used to validate the outsourcer's data whenever possible. A good relationship is important, but total dependence on a vendor for critical information or on a reasonableness of costs is irresponsible. The single most important element of an outsourcing transaction is a tight, clear, and understood contract. The second most important element is having competent knowledgeable people administer it (Auer).

Jones' focus is on the elements that are required to start out correctly and how to make the contract work over time. Getting outside help for the legal issues is at the top of his list. Outsourcers know more about their trade than the corporation that is looking to outsource. Keeping the employees informed about the transaction is essential. Those employees may soon be the supplier's employees and will deliver a better service if they don't feel they have been mistreated. Recognizing the fact that an outsourcing contract is a long term commitment will help in managing it. This reduces the viewing of every transaction independently, and promotes looking at them in light of the whole scope and duration of the contract. Including performance measures in the contract is imperative. Those measurements will provide the ability to track and measure the vendor's performance (James, 72-77).

The critical factors in a successful long-term relationship with the outsourcer include having an excellent contract to work from. That contract is the document that will govern the relationship and provide the groundwork for its entire term. A contract administration team is required to administer and amend the contract. This team will be the direct link between the outsourcer and the corporation. The function of this team is critical and cannot be overstated. Keeping the relationship in harmony also depends on the clear statement and understanding of how the relationship will be managed. Change is inevitable, so there must be a clear and managed process for it to take place in, both in the form of personnel and of the contract (Jones).

Halvey's expertise is in intellectual and technology law. Although Halvey has been from start to finish on numerous outsourcing contracts, his focus is on the contractual document itself. A reasonable contract should be the goal of both parties. However, the goal for the party being outsourced is to contractually preserve the anticipated advantages of outsourcing and mitigate the associated risks. The achievement of that goal is often made more difficult because the very people negotiating the contract are likely to be employees of the outsourcer once the deal is signed. This creates a potential conflict of interest for the employee and an area of concern for the corporation. As a result of this situation, the corporation's negotiators may not want to be overly protective of the corporation's interests and may even be convinced to side with the future employer on key issues (Halvey, 16-9).

All clauses in a contract are important and none should be glossed over. It is better to have a clause and not need it than to need a clause and not have it. The areas of the contract that have the greatest concern and highest probability of being enforced or litigated deserve the most time and least compromise. Key areas include the description and measurements of the services to be provided, the ownership and return of data, personnel, software, confidential information and its treatment, financial commitments, liability and indemnifications, liquidated damages, disaster recovery, and termination. This list, as extensive as it may seem, represents one tenth of the clauses and provisions that go into an outsourcing agreement (Halvey, 16-9 - 16-30).

Chapter Summary

It is evident that the outsourcing transaction has many risks to be considered along with the benefits. The entire process needs to be controlled and handled with the utmost care and attention to detail. The value of a clear and concise contractual document cannot be overstated. Pertinent and reliable information must be available to and understood by the corporation that is considering an outsourcing effort. This information is currently provided by many disjointed sources and at a cost. In Chapter IV, a comprehensive and objective guideline will be developed for the successful investigation of outsourcing, the completion of the outsourcing contract, and the smooth transition into an outsourcing arrangement.

Chapter IV

Results

Outsourcing, as a whole, can be a "jello-elephant". That means that outsourcing is big and sparkles but is also hard to get your arms around and can be a real mess if not handled carefully. To avoid the mess, outsourcing needs to be broken down into manageable pieces.

There are eight basic elements required to initiate and complete an outsourcing effectively. The time and effort that needs to be expended on each depends on the scope of the project and the objectives of the corporation. The eight elements are:

1. An in-house study to determine the services to be outsourced and the current cost of those services to determine the feasibility or potential to outsource.
2. Establishment of an agreement on the objectives to be accomplished as a result of outsourcing.
3. Consolidation.

4. The development of the Request for Proposal (RFP) and its distribution.
5. The evaluation of the responses to the RFP.
6. The negotiation and resulting contract.
7. The transition of the services and employees from one corporation to the other.
8. The on-going contract administration

All of these elements are inter-related. All are critical to the outcome. Some can be concurrent, while others are chronological.

The in-house study establishes a baseline, reveals areas of consolidation, and acts as a point of reference against which the external bids can be evaluated. The corporation's objective, derived after the in-house study and subsequent consolidation efforts, will determine the content of the RFP. The RFP will influence the form and content of the bidder's proposals. The content of the RFP will determine the evaluation criteria of the bidder's proposals. The evaluations of the proposals, and the corporation's objectives, will determine the negotiating strategy. The bidder's response and the follow-on negotiations will determine the contract's content. The content of the contract will determine the effort required in the on-going contract administration and, in large part, the relationship of the parties.

Understanding and coordinating these elements is essential to a successful outsourcing agreement. In this chapter, each of these elements will be analyzed for content, pitfalls, and execution.

The In-house Proposal

An outsourcing effort cannot effectively and objectively be undertaken until the corporation knows the services to be outsourced and the cost to provide those services. Most corporations know what its direct data center costs are and what services are provided. What is probably unknown is where those costs are actually being allocated, what burdens they pick up along the way, and the underlying efforts that go into providing the services. In most corporations, much of what goes on is undocumented and resides in the form of "tribal knowledge." If the right person is not asked the right question, significant portions of services and their costs can be overlooked. Desk top procedures, process manuals, and corporate policies contain only a fraction of the elements that actually make the corporation run. These omissions will undermine the outsourced corporation after the deal is consummated and contribute to reducing the savings that were projected by the analysis.

An in-house study must be undertaken to assimilate and assess all of the data regarding the services and their costs. The focus needs to be on the people and technology that deliver the services, the costs of the services, and the accounting that handles the billing and chargeback to users. If there is no chargeback mechanism in place, one must be established; otherwise, the users perceive that the services are being provided at no cost. That perception is false and will cause problems should the outsourcing arrangement be consummated. Those "free" services will be provided to the user by the outsourcer, but at a cost. The cost was always there, just not allocated correctly. This chargeback mechanism could also lower the corporation's overall costs for the services. When department heads see the extra budget required for those services, many reports, processing runs, and other services are no longer "necessary" and are stopped.

Part of the study must include corporate direction relating to technology upgrades. The budgeted costs may reflect the upgrading of hardware and software on an annual, semi-annual, five year, or other strategic basis. Missing this point is easy to do and can be detrimental to the corporation in the long run. Without the scrutiny of all of these pieces, the entire picture will not be seen. Costs may be exaggerated or understated. In either case, problems will surface with the corporation's stockholders or with the outsourcer.

Communication and honesty with the employees is essential at this point. So is taking the time to do the study correctly. A corporation's most valuable assets are employees and time. Do not alienate one and squander the other, as the misuse of either or both will harm the resulting transaction.

Most corporations have published ethical guidelines and business practices. During the in-house evaluation and all subsequent efforts, it is imperative that these guidelines and practices be clearly understood and stringently followed by everyone involved in the transaction.

The Corporation's Objective

The long term nature of an outsource and the potential cost must force the corporation that is considering the move to thoroughly understand the objectives it expects to achieve. These objectives are critical to the entire process and will color the RFP, the negotiation, and the final outcome. The objective cannot be determined without the full knowledge of the current services and their costs as determined by the in-house study. If an immediate cash infusion is the objective, then assets and people must be part of the deal. If assets are not the concern, but the on-going people costs are, then the transaction will probably be for services only. If the avoidance of technological obsolescence is the driver, then the price/performance side of the equation will be a more critical factor than if the objective is to simply lower costs. If the objective is to focus on the core business, then the corporation must understand what ramifications the loss of control of the other services will have on that business. The corporation's objectives must be evaluated as thoroughly as any element of the entire process.

Consolidation

An outsourcer, over time, will consolidate, streamline processes and procedures, and reduce costs wherever possible. These same measures can be accomplished by the corporation that is considering outsourcing, provided that politics and kingdom building are not allowed to interfere. If, through the in-house study and the candor that is generated from management and workers by the consideration of outsourcing and the possibility of unemployment, areas are identified that can be improved, improve them. If two help desks are in operation and the corporation can get by on one, consolidate them and reap the benefit or the outsourcer will. If the corporation's processing is being handled by many small decentralized computers, causing more costs to be incurred due to additional labor, software licenses, and maintenance costs, consolidate them into one or more larger centralized computers and incorporate those savings into the financial models for the in-house study. Which is more frightening to employees or a corporation; change or extinction? Most people who have lost their jobs due to outsourcing would certainly prefer change, even at the cost of a kingdom.

The Request for Proposal (RFP)

With the exception of the final contractual agreement, the RFP is the single most critical element to an outsourcing effort. The RFP is the opening vehicle of communication between the company seeking to outsource and the potential outsourcers. This is where the negotiation actually begins. This document will set the tone for the remaining actions that are required to complete the outsourcing arrangement. From this document, the bidders will assess the services involved, the current service environment, the probable costs of the services, the labor involved, the criticality of the services, and how to best respond to meet the needs of the soliciting corporation and to meet their own business and profit objectives.

A focal point, or project coordinator, must be established during the formulation of the RFP. All participants must ensure that all requests for information or modification, from either side, are channeled through that person. Just as too many cooks will spoil the soup, so will a haphazard way of funnelling information to and from the participants spoil the process. If many people are providing a variety of information in an inconsistent manner, one outsourcer may get an unfair advantage over another, or many could get misleading or incorrect information and undermine the value of their bid responses. A project coordinator will provide useful and accurate information in a consistent and timely manner to all of the appropriate parties.

An RFP needs to be as complete and accurate as possible. This will cut down on telephone calls for clarification, better responses to the RFP, and better initial pricing. The better the RFP, the better the response, and the better the corporation's opening negotiating position.

The RFP must contain the elements of the services to be provided, but it will also contain much more information than just that. The RFP will establish the format and rules that the bids must follow so that evaluations can be handled efficiently, the deadlines for questions and bid submittal, project coordinator identification, objectives of the corporation, expected benefits, and even the number of copies of the proposals to be submitted by the vendor. Again, the importance of this document's contents cannot be overstated.

To save time, the RFP should include a section that details the terms and conditions that will make up the contractual portion of the agreement. It is recommended that the RFP incorporate the buyer's terms and conditions, not a request for the outsourcer's terms and conditions. While the outsourcer's technical experts review and engineer the technical requirements, the legal and contractual entities can begin to review and accept, reject, or modify the proposed terms and conditions. There is little value in receiving an attractive response to an RFP, entering into negotiations, and then deadlocking over the terms and conditions. It is better for both corporations to know the other's position up front. Part of the bid evaluation criteria should be how the potential outsourcer responded to the requested terms and conditions. The corporation can strategically take the "high ground" by requiring bidders, in the midst of a competition, to respond to its terms and conditions and not to simply offer their own.

In any circumstance, a corporation must protect its information. Before allowing a RFP to be given to a potential outsourcer, ensure that a non-disclosure agreement is in place between the two corporations. A mutual non-disclosure, one that protects both party's interests, should be given to, signed by, and returned from the potential outsourcer before the RFP is given out. A simple rule to follow on this point is, no non-disclosure, no RFP.

<u>A Subset to the RFP</u>

At the same time that the RFP is being written, a negotiating team should be assembled. With the majority of outsourcings, employees are usually part of the transaction. As mentioned in Chapter III, this can be a concern for the corporation and a potential conflict of interest for the employee. In establishing the negotiation team, the corporation should be, in effect, also establishing the on-going contract administration team. The people that are chosen to facilitate the formulation of the RFP, the evaluation criteria, and to the negotiate the contract, should be retained by the corporation as the contract administration group. This will allow those individuals to focus on the job to be accomplished for themselves and the corporation and to alleviate the worry about their future job situation or dealing with conflicts of interest. This team will also have the most knowledge about the terms and conditions, the intent of the contract language, and the discussions that frame them. This knowledge will reduce disputes throughout the term of the contract. The on-going contract administration is equally important as any of the steps that lead up to the contract itself. The people involved with the contract from start to finish will be critical to the long term success of the relationship.

The Evaluations

Before the bid responses are returned by the bidders, an evaluation criteria, by which the merits of each proposal will be judged, must be established. It is important to have the criteria established and have corporate approval prior to the return of the bids. If the criteria is established after the bids have been submitted, the corporation opens itself to the appearance of unfair competition and/or bid stacking. Again, it is critical to the entire effort that established ethical guidelines and business practices be followed in accordance with the corporate directives. In all competitive situations, some vendors win and some lose. Those that lose could possibly seek avenues to discredit the process or to cry foul. Do not allow them the opportunity to do so. Protect the corporation. Set the ethical example and the employees and the bidders will follow or suffer the consequences.

Establish teams for the evaluation of the bids. Use your best people to get the best results, but keep the team's number to a minimum. Allow the team to concentrate on the area that they are dealing with. Do not spread the people on the teams too thin. The evaluations are rigorous and time consuming. To have the same people responsible for many areas will burn them out and lead to a poor evaluation of the proposals. Establish milestones that are realistic for the teams to achieve, but that force a concerted effort to accomplish. Time is critical to both the corporation and the outsourcer. The bid responses and their evaluations are equally effected by the passage of time.

During the evaluation process, keep the number of copies of the bids and their evaluations to a minimum. Use proper document control. Appoint and support a focal point for document control and distribution. Use a control log that is centralized and supervised by the project coordinator or their designee. If a copy of the bid or its evaluation is given out, sign it out to an individual, not to a business unit or a department. Force the recipient to be accountable for the handling of the document. Keep the recipient's name, telephone number, department number and the date of issue on record. If that person leaves the project or the company, make sure that the documents are returned. Prohibit the photocopying of any documents without the prior permission of the project coordinator. Ensure that all documents are marked "CONFIDENTIAL", "SENSITIVE", or whatever the corporation's internal restrictive markings are. Ensure that no one can receive or provide information without the prior knowledge and permission of the project coordinator.

The evaluations should take place on three fronts; technical, financial, and contractual. These elements should be kept separate with no overlap of team members or of information. This will help in the formulation of objective evaluations. Each team should independently assess the value of the proposals on the proposal's own merit, without concern for the other team's input. The technical team should choose the most viable technical alternative without being influenced by cost or contractual considerations. The financial determinations should be made without regard to the proposal's technical excellence, shortcomings, or to the contractual implications. The contractual assessment should be made without being swayed by the technical or financial considerations. Only after all of the evaluations have been completed should the various elements come together and allow management to decide the best possible proposals at the lowest possible cost. The teams should act as data gatherers and presenters and not as decision makers. Senior management should make it clear that the decisions regarding the outsourcing will be made at the appropriate level. That level may be the Executive Committee, the Board of Directors, or the Chief Information Officer. Leave the decision making to the empowered level of management. That is what senior management is paid to do and what the corporation has authorized them to do.

Technical Evaluations

The in-house study has identified what the services are and how they are delivered. The technical evaluation team's concern should be focused on the services and their delivery and how effectively the outsourcer has designed the proposal to meet or exceed those baseline requirements. Processing power, storage, back-up procedures and frequency, performance metrics, technology upgrade cycles, software upgrades, error rates, print output capabilities, data reconstruction in case of loss, and the availability of documentation and manuals are just the surface of the criteria that need to be evaluated.

An outside consultant may be needed to supplement the evaluations, depending on the experience and expertise of the in-house staff. The technical solvency of a proposal is critical to the long term well being of the corporation. If a consultant is required, get one who is experienced, not just in the general subject area, but with the types of issues that arise related to outsourcing. It falls back to the old maxim; pay now or pay later. Generally, it is cheaper and more palatable to pay in advance than to wait for the proposal's deficiencies to surface on their own and pay after the fact.

It is quite possible, if not probable, that the technical team will express the opinion that they cannot do an adequate job of evaluating the technical merits of a proposal without knowing the costs. This is not true.

A technical proposal either will work or it will not work, whether it is free or comes at the cost of several million dollars. Keeping the evaluations separate will contribute to them being objective.

Financial Evaluations

The in-house study has quantified and validated the current operating expenses of the services that are provided to the corporation. Tax implications are known. Technology upgrades and their frequency have been factored in. The salaries and fringes for the employees have been identified. Financial models must now be created to allow the bidder's numbers to be plugged in and compared to the baseline in-house assessment.

Financial evaluations must be handled by extremely competent and well-versed individuals, preferably with experience in outsourcing. Hidden costs must be uncovered and factored in. The knowledge of price/performance curves and inflation factors also must be considered in the financial picture.

The accounting and financial teams will probably not care to know about the technical proposals, but may have some questions on some of the terms and conditions that could effect their analysis. Clauses that relate to invoice dates, payment terms, and price increases are a few that stand out, but each transaction could have some that have their own unique financial implications. This information must be available to the financial team from the project coordinator.

Terms and Conditions Evaluations

The responses to terms and conditions that were included as part of the RFP will need to be evaluated just as the technical and financial responses were. In most cases, no vendor will comply with all of the terms and conditions as stated in the RFP. Some terms and conditions will be accepted, some rejected, and others will be modified. The legal and contracts people should have assessed the value of each of the terms and conditions after the RFP was agreed to by the appropriate parties and prior to the bids being returned. The terms and conditions would have been divided into three categories; 1. Must have 2. Would like to have. 3. Can do without. The evaluation must take those categories into account and determine how long and hard the negotiation will be to achieve what is required based on the outsourcer's response. If the terms and conditions rejected by the outsourcer are primarily in the "must have" category, the negotiation will be determined to be a long and hard one and time schedules will have to be adjusted accordingly. If the outsourcer's response mainly modifies the terms and conditions to the benefit of each party by making the clauses mutually protective, then a shorter time frame for agreement on the terms and conditions can be projected. In any case, the acceptance, rejection, and modifications of the terms and conditions must be rated as part of the overall evaluation of each bidder's response.

The Negotiation

When the evaluations have been completed and the final outsourcing candidates have been identified and notified, the negotiation can begin in earnest and at the table. The contract that is put into place as the result of the negotiation will provide the framework for the relationship for the next five to ten years and drive both corporation's success. The negotiated agreements that comprise the contract are critical to the economics and to the relationship. Time, care, and the right people must be dedicated to this task. Negotiation is not the time to skimp or compromise. The risks and rewards of the outsourcing effort are dependent on the successful outcome of this critical activity.

The people that make up the negotiating teams must, as stated previously, be retained by the corporation at the completion of the outsourcing. This will limit corporate concerns and potential employee conflicts of interest. The RFP and corporate objectives have laid the foundation. The focus must be on the elements that make up the contract -- the service requirements and the terms and conditions.

To recall Auer: "If it is not in the contract, it is not part of the deal". That simple concept must be at the forefront of the negotiation.

The number of negotiating teams and the number of participants on the teams will be influenced by the number of services that are under consideration to be outsourced. If there are five distinct services, then six distinct negotiation teams will need to be established. If telecommunications, shared, and dedicated processing services are under consideration, then a team for each of these is required. A team for applications development may be required if that function is to be outsourced. Similarly, a team to lease or sell computer assets, including the transfer of software licenses, is also needed. In addition, another team will always be needed for the terms and conditions that will make up the legal portion of the contract. If there is a real estate transaction that is a part of the entire deal then another team will need to be assembled, and so forth.

A central administrative support team will also need to be established. As the negotiation progresses, many changes will take place from the RFP language to the language used in the contract. Competent secretarial help must be available to key in the changes, keep track of the revisions, make copies, and distribute them back to the negotiating teams. Many graphs, charts, and tables can become a part of the final contract and require a familiarity and skill with a number of software programs that are used to generate those types of documents. This administrative support team will be required to work long hours and often past the time when the other teams have left for the evening. This is so the changed documents will be available to the negotiating teams in the morning. No documents can be discussed, agreed to, or signed off on until they have been generated. The members of this support team, like all of the other teams, must be dedicated to the outsourcing effort and freed from their regular daily duties.

The negotiating teams should consist of a mix of the appropriate disciplines. A representative from the technical, financial, processes, accounting, and contractual professions is optimum. A legal representative must be available to the teams, but not necessarily on each of the teams. The one exception to this rule is the team working on the terms and conditions for the legal arrangement between the parties. Since each outsourcing is unique, the corporation's standard terms and conditions will not cover the transaction without substantial additions and modifications. The additions and modifications can only be responsibly made with input from competent counsel.

Attention to detail is never more important than during the negotiation. The clauses of the contract, the definition of the terms used in it, the description of services, the financial commitments, the technological advancements, the liquidated damages, the performance metrics, and all of the other criteria that govern the deal, the relationship, and the overall results come together in this effort. Do not shortchange the negotiation process to save time or to meet arbitrary deadlines. Go the full distance, whatever that may be, to get a contract that is as clear, concise, and as free from subjective interpretation as possible. Remember, changes in the contract and those who administer it will take place. The clearer the contract, the less time will be spent in the interpretation, the renegotiation of clauses, the revisiting of concepts, and the sharing of the direction on which agreement has already been reached.

One key area is the defining of the terms that are used in the contract. Put them in a separate section so that no matter where they appear in the text they have a consistent meaning. Define everything that has the potential to be questioned in the future. Define the "corporation and its affiliates", then define "affiliates". Define "transition", the "services", the "cost savings", the "inflation rate" and the indexes that govern the "inflation rate". Do not allow any vague terms to reside in the contract. Avoid subjective words like "reasonable", "timely", "best effort", and "substantially". These words have no meaning in the context of a contract, are subject to interpretation by anyone who reads it, and may be detrimental to the corporation if any clause containing them goes to third party arbitration. If the corporate time-line allows one week to define a certain element, process, or service and it will actually require two, adjust the time line and not the definition. The adjustment to the time will cost less than an adjustment to the definition at some later date. Negotiation is not the time to cut corners.

There are so many areas involved in the formation of a contract and so many are transaction dependent, it is impossible to address them all, but certain key points will transcend all agreements. Definitions is just one them. Another is termination. What will happen if the relationship does not work out or simply ends after the defined term? Protect the corporation with clearly defined termination provisions, time-lines, costs, notifications, and end points. It could happen. Remember, all outsourcing contracts signed between 1989 and 1991 are being renegotiated. Protect the corporation against the event that a renegotiation is unsuccessful and the contract must be terminated.

Another key area is the welfare of employees and their transition from one corporation to the other. Do everything possible to leverage the best deal for them. In terms of continuity, the best deal for the employees will probably be the best deal for the corporations. Insist on at least one year of guaranteed employment. Take care of the older employees that are within two years of retirement. Negotiate to allow them to work for the original corporation until retirement and then for their transition over to the new corporation. Not only will that make the transition easier for the employees, but it could help to avoid lawsuits for the outsourced corporation. All of the employees that are affected by the transition will be invaluable to both corporations in the long run.

A checklist of terms and conditions that should be considered in any outsourcing effort has been included in this paper as Exhibit 2. Not all of the terms and conditions will apply in every situations, but the list does provide a valuable starting point for any outsourcing agreement.

The Transition

The transition period is both critical to the success of the relationship and difficult for all involved. The employees that remain with the outsourced corporation will have mixed emotions, as well as those employees that are with the new service provider. The job may be the same, but the environment and management will be different, as will the focus, goals, and objectives. Confusion of what is expected from the contract, the management, and the employees will abound and responsibilities and commitments of all will fall through the cracks created by the uncertainties.

The outsourced corporation's established processes and procedures should be followed until new and improved ways of doing business have been formulated, agreed to, and implemented. Milestones, established in the contract, will provide key points in the transition period and give employees and management a sense of accomplishment when met and a sense of urgency when they are about to be missed. Management and employees on both sides must keep open lines of communication in order to track what is going well and what needs attention. When problems do arise, aggressively seek to solve them in a joint effort. Regardless of "whose fault" a problem is, both sides have a stake in getting the problem resolved and must work together to do so.

The more open and honest the communication has been with the employees throughout all of the activities that have led up to the transition period, the smoother the transition will be. When employees know where they stand, who they will be working for, what guarantees they have, the benefits they will be covered by, and reasons that the outsourcing took place in the first place, the more at ease they will be. Stress the positives, but be honest about the drawbacks.

On-Going Contract Administration

Critical to the relationship and the benefits of the outsourcing transaction is the on-going contract administration. No matter how thoroughly and clearly all of the other elements were completed, there will always be issues that arise and that will require resolution. A core group that has been with the process from start to completion will benefit both corporations. Those individuals will have an overall understanding of where the corporations were headed and, in turn, a better understanding of how to resolve the issues that arise over time.

Unless a legal partnership or alliance has been contractually agreed to, it is important that the on-going contract administration team remember that the outsourcer is a supplier and not a partner, despite verbal statements to the contrary. The outsourcer wants to make a profit and the outsourced company does not want to spend its money in excess of its anticipated cost or price for contract tasks. Disputes often arise about whether a task was contemplated or is required within the basic contract, or whether a price adjustment is due.

Keep all transactions on an ethical business level. Even though the people across the table used to be co-workers and are possibly personal friends, keep in mind that sound business practices apply and must be exercised. Document all requests for changes to the services or the contract. Document all changes that actually occur. Have a clear delegation of authority for the on-going contract administration team and make sure the team is familiar with the delegation of authority of the outsourcer. Negotiate and close issues only with those who have the authority to do so.

The on-going contract administration team's size will be dependent on the scope and complexity of the services transitioned. The fewer and less complex the services, the smaller the administrative team. Again, the team should have all the required representatives; contractual, technical, financial, and administrative. The on-going contract administration team truly needs to be a team. Open communications, coordination of changes, and consistent understanding of the objectives and contractual arrangements is imperative to this effort.

Chapter Summary

Each outsourcing is unique and no paper, article, report, study, consultant, or combination of all of these resources can address every possible situation that a corporation may have, but there are commonalties that carry over from situation to situation. Each corporation must know what it is considering to outsource, the costs, the benefits, and the drawbacks. Each corporation must know the objectives to be reached through the decision to outsource. Each outsourcing must begin with an RFP. Each response to the RFP must be evaluated on three fronts; technical, financial, and contractual. Each outsource must be negotiated before the deal can be signed. Each signed deal is governed by the contract. In each outsourcing, people and/or services move from one corporation to the other. Each deal has on-going contract administration requirements. Only by understanding the unique elements that a particular corporation's situation has and by understanding the outsourcing process itself, can a corporation attain the short term and long term benefits for itself and its employees that outsourcing has to offer.

Chapter V

Discussion

The objective of Chapter V is to analyze and interpret the guidelines developed in Chapter IV. To do so, five people with knowledge of outsourcing have reviewed and commented on that chapter. The five individuals involved in the review are from legal, managerial, contractual, and financial backgrounds. By name, they are; Stephen E. Seele, Jeffrey P. Rohm, Steven L. Mercer, Michael G. Reilly, and Jack A. Gehrin. Seele and Rohm are attorneys. Mercer is managerial. Reilly is contractual. Gehrin is financial. All, except Reilly, work for MDC and went through the MDC/ISSC outsourcing effort on one team or another. Reilly is the author's counterpart at ISSC and a former teammate at MDAIS who was instrumental in the outsourcing effort while with MDC. For the same reasons offered in Chapter III, no one with a technical background in IS has been asked to review the chapter.

Rationale for Chapter IV

Outsourcing needs are unique to every corporation considering the move, but all have certain aspects that are common. Those common elements were outlined in

Chapter IV. Over time and through practical application, the eight basic elements outlined in Chapter IV stand out as the fundamental activities required to investigate, pursue, and complete a successful outsourcing effort and a smooth transition into the new arrangement.

The guidelines' strenghts and weaknesses are better evaluated by objective and knowledgeable third parties than by the author. The remainder of Chapter V is devoted to the comments offered by those third parties.

Steve Seele

Seele is a contract law attorney. He provided counsel on various aspects of the MDC/ISSC agreement, including the terms and conditions and the governmental aspects of the arrangement. Seele focused on four main areas of Chapter IV: 1. The inherent imbalance between the outsourcer and the outsourcing corporation in outsourcing expertise. 2. The critical role outside consultants can play in offsetting the inherent imbalance between the corporations and the contributions consultants can make to the successful outcome of an outsourcing agreement. 3. The time involved to produce a quality product in the form of a contract. 4. The need to consider that "one stop shopping" may not be a requirement in an outsourcing arrangement.

To the first point, Seele commented that although a corporation may be represented by competent counsel, veteran contracts writers and administrators, experienced technical support, and capable financial minds, the outsourcer's personnel will still have the advantage. That advantage was gained through previous outsourcings and the benefit of having "lived" with those resultant contracts. Those experiences give the outsourcer a tremendous advantage over the corporation seeking to outsource. One corporation's maiden voyage is the other corporation's main shipping lane. The outsourcer knows what is important, what can be compromised, which ambiguities in which clauses will work to its advantage, and when to sit back and simply say, "no". Seele feels that to understate the advantage held by the outsourcer in this situation was a weakness in Chapter IV.

To offset the advantage held by an outsourcer, Seele believes the need for a consultant, in an area in which the outsourcing corporation is weak, is useful if not critical. He also noted, that when it comes to outsourcing, any area can be weak no matter how well versed the particular individuals are in their particular field of expertise. Collectively or individually, the outsourcer has the advantage in almost, if not every, area. To even the field and to better insure a successful outcome, a consultant should be employed wherever and whenever possible.

As a side note, Seele pointed out that the consultant can work to the benefit of both parties. As an objective member of the team, a consultant can help both parties understand and interpret areas that may not be clear to either. This role will help prevent the "blind leading the blind" syndrome and contribute to the overall success of both parties in the long run. As an example, the outsourcing corporation may be stalwart in having "X" as part of the contract and the outsourcer may be equally adamant about "X" not being in the contract without either side knowing why the other has taken their position. A consultant may have insight into both party's concerns and may be able to mitigate and resolve the issue without compromising either party's strategy or position. Seele felt that the acknowledgement of the available consultants was one of the strengths of the paper, but that it had not been fully developed, indicating a weakness.

Another area that Seele felt needed to be expanded was the time required to complete the various elements that make up an outsourcing transaction. Although he agrees that each transaction is unique and will have its own time frames, he felt it was important to note that certain elements could take months, not just days, to complete. No element is independent and no element is an easy task to accomplish if done well and the focus is on quality. Negotiation alone could easily take six or more months, depending on the size and scope of the outsourcing effort. Added to the in-house study, RFP formulation, bid evaluation, and all of the other factors, an outsourcing effort could last well beyond a year. Time is a critical element to the outsourcing effort and can only be shortened at the expense of quality.

The final area that Seele focused on was whether or not a single vendor was needed to complete the outsourcing agreement if a variety of services were to be outsourced. He felt that the chapter lead one to believe that all services had to go to one vendor. Seele pointed out that MDC had often outsourced before the sale of MDAIS, but usually individual pieces to companies that had a particular expertise in a particular field. To use an analogy, Seele noted that for a seafood dinner, White Castle was never the first place to come to mind and for a cheap hamburger, Red Lobster didn't make the list. Seele felt that focus on one vendor for a number of diverse services may not be the best way to approach outsourcing.

Jeff Rohm

Rohm is an attorney with fifteen years experience in contract law. Rohm, too, participated in the negotiation of the terms and conditions and was instrumental in various other aspects of the MDC/ISSC transaction, including how the transaction may impact the corporation's relationship with the U.S. Government. Rohm's comments focused primarily on the corporation's external customers and the importance of understanding how the outsource may affect them. Rohm felt that a section that dealt with those significant customers would improve Chapter IV.

Rohm's concerns dealt specifically with the U.S. Government, but the need to understand how the outsourcing may affect the corporation's delivery of products and/or services to any of its customers or its relationship with those customers cannot be overlooked. In the case of the Government, so many issues arise that to try and capture them in this paper would be futile, but some simple aspects can be captured and applied to any customer.

During the outsourcing process, most of the attention is focused on the teams that are participating in the data gathering, evaluations, negotiation, and the other associated activities. The pace is usually furious, the days are long, and emotions are running high. In the midst of all of this, it is important to not forget the customer. When the outsourcing transaction has been completed, a new company may be answering the phone number that the customer has always called. A new name may replace the old one that usually answered. Customers need to be made aware of these simple changes in advance, as well as the more complex and critical ones.

Rohm's other comments were on the importance of established pricing for increases and decreases in service utilization, software license transition, and ensuring the agreement can fairly accommodate technology changes and innovations.

Steve Mercer

Mercer is the director of the team that administers the MDC/ISSC contract for MDC and participated in the negotiation of the telecommunications portion of that agreement. Mercer's comments focused on a key area that Chapter IV completely overlooked; customer buy-in to the concept of outsourcing. In many of the larger corporations, divisions or components of the corporation are the customers of the IS organization. To take steps to outsource the computer and telecommunications services, or any other critical services that support those customers, without their complete awareness, input, and agreement to do so will cause innumerable difficulties in the future. Mercer felt that not acknowledging customer input and impact was a critical omission.

The customers must be part of the teams that initiate and complete the in-house study, have input into the objectives to be accomplished as a result of outsourcing, and be allowed to review the final agreement prior to signing. Without this participation, areas may be overlooked that are important to the customers. These areas could cost the customers unforeseen and unbudgeted dollars to have them included as part of the agreement. Unexpected increased costs, unexplained decreases in service, and omissions of the customer's requirements will create friction between the customers, the contract administrators, and the outsourcer. Many of these problems can be avoided by inviting the customer to participate and to buy into the process as it progresses. Without customer participation and buy-in, the success of the contract and the relationship is doomed, or at least unnecessarily jeopardized.

Mike Reilly

Reilly participated on the terms and conditions team for MDC throughout the outsourcing process. Since the contract was signed, he has worked for ISSC. At ISSC, Reilly has acted both as an administrator of the MDC/ISSC contract and as a solicitor of new business. Reilly critiqued Chapter IV in a more global and a less MDC oriented fashion.

In the section on "Consolidation", Reilly felt that the main weakness was that the effort had been oversimplified and the benefits of consolidation had been overstated. He noted that politics play a major role in any undertaking by a corporation. Many "kingdoms" are threatened by efforts to pursue cost containment, either through outsourcing or through in-house measures. Those kingdoms can prevent in-house measures from being effective or from even taking place. Kingdoms can also skew the results of in-house studies, be slow to respond in providing needed input, and utilize various avenues to disrupt the process overall.

Reilly's other comments focused on the need to be realistic. In print, the eight basic elements are simple and straightforward, but in actual practice they are difficult to initiate, to control, and to complete within allotted time frames. Equal realism needs to be given to the expectations of the benefits to be gained from outsourcing. To believe that all aspects of the transaction and transition will go smoothly and that all of the savings and benefits will materialize overnight is more than just naive, it is inconsistent with the concepts of mankind, machines, and Murphy.

Jack Gehrin

Gehrin's background is solidly financial, complete with a CPA, but his remarks did not strictly focus on the financial elements of the transaction. Gehrin also commented on the importance of the corporation's understanding of its primary business and its objectives when considering the move to outsource.

Gehrin reinforced the necessity of the corporation to identify its "core critical" products and/or services. He felt this basic element had not been discussed in enough depth to fully stress its relationship to the decision to outsource. Unless a corporation understands what products or services are core critical and which are contributory or ancillary, it will not be clearly known what portions to consider offering to an outside supplier. In the case of MDC, aircraft, weapons, and space systems were clearly the core products, while IS was not. Each corporation must reach agreement on what is to stay and what can go.

The comments Gehrin made on the financial aspects of the chapter restated the need for models to be created and all costs associated with the services be clearly identified, whether the costs were to keep the services in-house or to outsource. To this end, Gehrin noted that not all corporations would agree that a chargeback methodology for IS is required to be put into place. He stated that some corporations would argue that the IS costs should be booked to overhead. The critical piece that is missing if IS charges are booked to overhead is accountability. Without a chargeback methodology, one that directs costs back to users, IS can be considered, erroneously, to be "free". Without accountability for costs, which are identified to users through chargeback, IS can cost a corporation more in dollars than is returned in value.

All Five

All five of the reviewers questioned whether consolidation was a "basic" element to the outsourcing process. All felt that consolidation was an option, dependent on the circumstances, that a corporation could exercise, but not a mandatory action. All felt that overall, the essence of what an outsourcing transaction requires was captured by the basic elements of Chapter IV. All were also in agreement that each outsourcing transaction was unique and that each required a careful and thorough approach to be taken. All agreed that if an outsourcing effort was to be pursued, time and resources should not be squandered or withheld. Agreement was also uniform on the need to bring in consultants to bolster areas that the outsourcer may have an advantage in.

Chapter Summary

It is, hopefully, apparent that no matter how in-depth a paper or an article is, or how much knowledge a consultant may have, an outsourcing arrangement is partially dependent on the situation and the circumstances that a corporation finds itself in at the time it is seeking to pursue an outsource. The transaction is equally dependent on the objectives a corporation expects to achieve through the outsource. Certain similarities do exist from outsource to outsource and those common elements need to be captured and exploited to their fullest extent whenever and wherever possible. Competent staffs are critical to the successful completion of an outsourcing effort, but unless the field is evened through the addition of consultants well versed in the issues associated with outsourcing, the outsourcer will always have the advantage. The transition will be difficult, not only in terms of the business, but also in terms of the people that will go through it. The care and nurturing of the contract over time will be critical to the success of both corporations.

Outsourcing contracts are long, the effort to establish an outsourcing arrangement is monumental, and the benefits to be garnered from the relationship, unless clearly defined in the contract, are questionable. Only by following the eight steps outlined in Chapter IV, combined with the elements that define the uniqueness of each corporation's individual circumstances, can an outsourcing effort be successfully undertaken and completed and a smooth transition be accomplished.


DICK
JOE
CAP
HERB
JOHN
DON
JIM BROWN
STEALTH PRES

DUE TO THE CURRENT FINANCIAL CONSTRAINTS, THE LIGHT AT THE END OF THE TUNNEL WILL BE TURNED OFF UNTIL FURTHER NOTICE.

OUR NEW LOGO

A COMPANY OF:

"NO!!! IT'S NOT A DONE DEAL!!!

MCDONNELL DOUGLAS

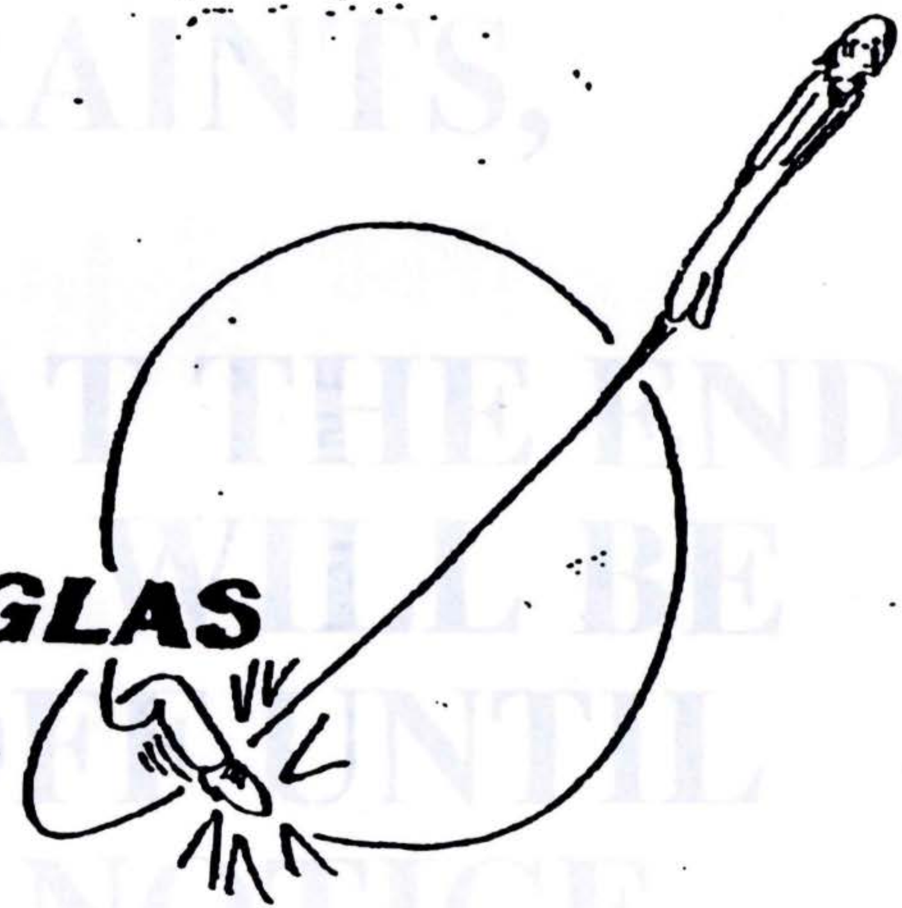


Exhibit 1
Page 84

DUE TO THE CURRENT FINANCIAL CONSTRAINTS,

THE LIGHT AT THE END OF TUNNEL WILL BE TURNED OFF UNTIL FURTHER NOTICE.

ATTENTION

MDAIS INTERNAL POSTING 23 OCTOBER 1992

OFFICIAL NOTIFICATION:

DUE TO THE RECENT COST CONTAINMENT MEASURES UNDERTAKEN BY MDC, IN PARTICULAR THE "RIF" AND OUTSOURCING ACTIVITIES, IT IS IMPORTANT THAT EACH TEAMMATE PROVIDE AS SPECIFIC AN ANSWER TO A QUESTION AS POSSIBLE. THIS COMMUNICATION EFFORT IS CRITICAL TO THE TOTAL QUALITY MANAGEMENT PHILOSOPHY THAT MDC HAS ADOPTED AND TO THE "TRUTH IN NEGOTIATIONS ACT". TO THAT END, WHENEVER A TEAMMATE IS ASKED, "HOW MANY PEOPLE WORK AT McDONNELL DOUGLAS?", THE ANSWER, "ABOUT HALF" IS NO LONGER ACCURRATE. THE APPROPRIATE RESPONSE SHOULD BE, "ABOUT 70%".

TEAMMATE, THANK YOU FOR YOUR ATTENTION TO THIS MATTER.

THE McDONNELL DOUGLAS CORPORATION


SHOVEL YOUR WALK?
SURE, BUT YOU HAVE TO SIGN THIS CONTRACT
MDC
YOU WILL WORK FOR A FLAT FEE, PROVIDE YOUR OWN LUNCH AND PAY YOUR OWN INSURANCE
ISSC
MDC
IF IT SNOWS WITHIN TWENTY FOUR HOURS THE SIDEWALK MUST BE CLEANED AGAIN WITHOUT CHARGE...
WE ALSO HAVE EXCLUSIVE RIGHTS TO YOUR SHOVEL...WE RESERVE ALL TV, MOTION PICTURE, RADIO AND VIDEO CASSETTE RIGHTS IN PERPETUITY!
M
IF YOU WHISTLE WHILE YOU WORK. ALL RECORDINGS BECOME OUR PROPERTY.
ISSC
THE AREA TO BE SHOVELED RUNS FROM THE PORCH TO THE STREET.. HERE, SIGN ON THE BOTTOM LINE...
ISSC
FUCK YOU!
ISSC
MDC

Exhibit 1

(To be read with an attitude.)

MAC-RAP

We been workin at MAC
Far too long
In a few more days
We'll all be gone

They're runnin outta money
For all those planes
So their makin out a list
And takin down names

If you think your lucky
Cause ain't been cut
In a few more weeks
They'll get your butt

So join the party
And stand in line
The checks in the mail
The very last time

Then fill out the papers
See if they care
Your next line of work
Is on welfare

When your kids grow up
And run the rat race
Remind them to stay
Out of Aerospace

Produced and written by
The Two Dead Crew

-ENTRY NOTIS TO CONTRAKTERS-

1. The work we want did is clearly showed on the attached plans and speserfactions. Our inginear, whose had plenty of college, done spent hell of a lot of time when he drawed up these here plans and speserfactions. But nobody cannot think of everything. Once your bid is in, that's it Brother. From then on, anything wanted by our inginear, or any of his friends, or anybody else (excep the contrakter) shall be considered as showed spesified, or emplied and shall be pervided by the contrakter without no expense to nodboy, but hisself (meanin the contrakter).

2. If the work is did without no extry expence to the contraker, then the work will be tookdown and did over again until the extry expence to the contrakter is satisfactory to our inginear.

3. Our inginear's plans is right as drawed. If sumthin is drawed wrong, it shall be discuvered by the contrakter, kerected, and did right with no extry expence to us. It won't cut no ice with us or our inginear if you point out any mistakes our inginear has drawed. If you do, it will be one hell of a long time before you do any more work for us of him (meanin the inginear).

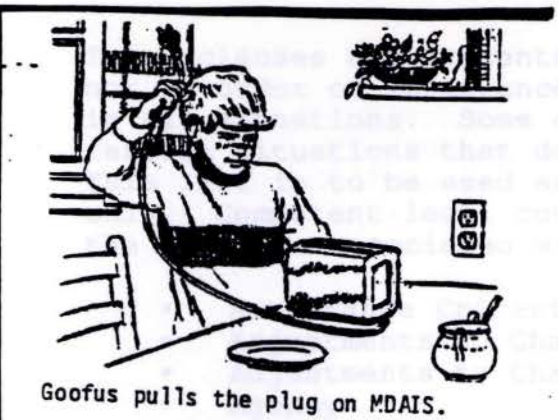
4. The contrakter is not sposed to make fun of ur inginear, his plans, or the kind of work we're havin did. If he do, it's just too bad for him (meanin the contrakter).

5. Any contrakter walkin around the job with a smile on his face is subject to the revue of his bid.

6. If the contrakter don't find all our inginear's mistakes before he bids this job, or if the contrakter ain't got enuf sence to know that our inginears goin to thinkup a bunch of new stuff thats goin to have to be did before the job is completely did, then it's just too bad for him (meanin the contrakter).

7. The contrakter gotta use all good stuff on this job -- none of this crap from Japan.

Goofus and Gallant



Goofus pulls the plug on MDAIS.

Gallant tries to keep MDAIS operating.

Goofus refuses the In-House proposal.

Gallant accepts the In-House proposal

Goofus signs the contract before all the details are worked out.

Gallant signs the contract after all the details are worked out.

Goofus takes the money and runs.

Gallant makes sure that every stockholder gets some of the money in their pocket.

- Force Majeure
- Governing Law
- Headings Not Controlling
- Hiring of Employees
- Indemnification
- Insurance and Risk of Loss
- Key Personnel
- Limitation of Liability
- Liquidated Damages for Delay
- List of Facilities
- Maintenance
- Management Committee
- Media Ownership
- Miscellaneous Expenses - Paper, Supplies, Messenger, Duplicating, Binding, Etc.
- Miscellaneous Services to be Provided
- Most Favored Customer
- No Solicitation
- Non-Compete
- Notice of Automatic Renewal
- Notices
- Ownership of Data Center Assets
- Payment Schedule
- Performance Review
- Price Protection
- Processing Priority
- Project Manager
- Prorations
- Publicity
- Quality Standards
- Relationship
- Reliability Parameters
- Reliability Standards
- Representations and Warranties
- Reruns
- Response Time
- Right to Change Staff
- Rights to Security Inspection
- Rights to Set Off
- Security Procedures
- Service Levels
- Severability
- Site Access
- Site to be Used
- Staff Caliber
- Staff to be Assigned
- Survival
- Taxes
- Term of the Agreement
- Third Party Service Contracts
- Transfer of Personnel
- Transitional Services
- User Responsibilities
- Verification of Costs

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