

WINNING GOOD BUSINESS WITH A LIGHT TOUCH

Years ago, outsourcing contracts were negotiated like mergers in an iterative process that began with term sheets and could take months. No longer. Budgets and timetables are tight. Proposed contracts must be marked and submitted with bidders' proposals, then scored – evidently by counting rather than reading suggested edits. In the background suppliers hear predictable, calculated whispers that they are 'hard to work with' and there are 'too many redlines.'

It seems silly to fault professionals for thoroughness, but it's reality – a tactic calculated to alarm sales teams and deter objections to lopsided terms. Suppliers led to think that they have been singled out may take comfort from confidence that all bidders hear the same pre-recorded lamentations.

What to do?

- Begin, as always, by reviewing documents thoroughly, noting all potential issues.
- Then, working with business clients, focus on the issues that matter – the ones that affect cost, revenues, risks and margins. Some are low probabilities with large risks (such as security breaches); others are higher probabilities with corrosive, cumulative effects (such as margin erosion from scope creep). Perennial issues may matter more or less, depending upon the service, solution, customer and risks.
- In general, if risks are bearable, live with them. If language is tolerable, live with it. But stand firm where it matters.
- Keep edits as few and succinct as reasonably possible. Whatever need be said can usually be said in a few words, though there is greater latitude to mark terms that are always contentious (benchmarks, for instance) or beyond the pale.
- On contentious issues, move quickly to or near the 'bottom line.' Movement by the millimeter is rarely effective. Where possible, position the supplier as a leader in competition (not a laggard) while leaving some room for movement during negotiation.
- Where the answer must be 'no,' propose a sensible, market-competitive alternative that respects the customer's interests. Explain business reasons for those alternatives and other key positions in footnotes, cover letters or other means likely to be read by business decision-makers.
- Where possible, relegate technical, operational and financial details to other documents less prone to legal scrutiny (such as statements of work or pricing) or reserve them for discussion by experts in such topics as taxes, audits and insurance.

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COMMENTARY | WINNING GOOD BUSINESS WITH A LIGHT TOUCH

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- Do not, however, ‘sandbag’ real issues, let them pass unmentioned or enshrouded in generalities. Doing so imperils credibility and lays up trouble for the future, after selection.

Light touch methods change the dynamics of negotiation. There are fewer cards to play, and less room for maneuver; but limiting discussion to a short list of key issues expedites negotiation and reinforces the supplier’s credibility. Customers may surmise (correctly) that ‘no’ means what it says, rather than ‘perhaps’ or ‘eventually.’

More important, light touch methods remove a distraction, quiet the whispers and position business teams to win on the merits by permitting the customer’s counsel to advise his or her client that there’s a deal to be made, easily and without fuss on market terms should our client be chosen.