

Risk Mitigation:

The X Factor in Contingent Workforce Management

In this perspective article, Bartech—the leading contingent workforce management solutions provider—examines the pivotal role of risk mitigation in contingent workforce management. Exploring key issues and threats to stability, Bartech provides both strategic insight and practical recommendations for mitigating contingent workforce risk.

Businesses of all industry and size rely on the skills, experience and flexibility of today's contingent workforce. Given the value provided by this flexible talent pool and changing workplace demands, the numbers of contingent workers continue to rise. The Bureau of Labor Statistics (BLS) reported that 68% of all hiring in 2010 was contract-based employment.¹ Most experts estimate contingent labor constituting approximately 30% of the overall workforce, a number the BLS projects will swell to over 40% before 2020.²

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A rich talent reserve, today's contingent workforce is comprised of professionals of all skill, experience and education. Engaged as consultants, temporary employees, independent contractors,

service workers and even student interns, contingent laborers and professionals can be found at all levels and in all titles of the modern organization. Today's most competitive industries employ flexible talent in large numbers, and they benefit from that flexibility in big ways, including cost savings, increased productivity, maximum flexibility and on-demand access to talent.

Without doubt, the contingent workforce can be a key element in achieving operational excellence in a global marketplace where competition and constant change are status quo. It is hard to imagine any enterprise succeeding without access to the skills, flexibility, scalability, cost effectiveness and competencies of today's contingent labor pool.

As the usage, sophistication and benefits of the flexible workforce grow, it is important businesses take note of something else that is rising: risk. Any organization employing substantial volumes of contingent workers faces increased risk—from operational and productivity risks to financial, security and regulatory hazards and complexities. Managing threats to workforce stability is a familiar concept for most employers, whether or not they employ contingent workers. However, given increasing penalties for employers found guilty of violations and the high cost of poor performance, it is critical for businesses that leverage contingent talent to understand the steps they can take to prevent unnecessary exposure to risk.

The Rising Risks: What They Are and What to Do

A business' capacity to fully optimize contingent resources depends on how well it can manage and mitigate the threats associated with this labor force. In other words, risk mitigation is quickly becoming the “X factor” in a company's contingent workforce strategy. In the following pages, Bartech will examine frequently encountered risks while also outlining successful mitigation strategies and recommendations.

¹ Lewis, Regina (2011, June 2). Where America's Real Job Growth Is Happening: In Your House. Daily Finance. Retrieved from <http://www.dailyfinance.com>

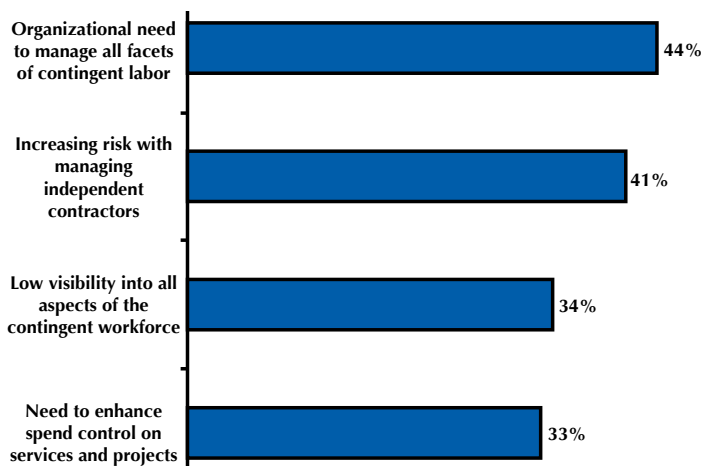
² Revell, Janice; Bigda, Carolyn; Rosato, Donna (2009, June 12). The Rise of Freelance Nation. Money Magazine. Retrieved from www.cnn.com

Worker Integrity, Quality and Productivity

Many businesses rely on third-party suppliers when it comes to overall administration of the contingent workforce, including recruitment, screening and selection. These elements are central to the value proposition presented by firms that provide staff augmentation services. However, a complete hands-off approach to a staffing engagement (one without appropriate awareness, guidance and standards) can quickly lead to inconsistent worker quality and efficiency.

Unfortunately, this is a fairly common state of affairs. Many organizations simply do not take the time to provide guidelines and instruction to staffing end users (buying managers) and third-party talent providers. As a result, policies/guidelines, supplier expectations and processes are undefined. Out of necessity, all parties must create their own processes and systems and they do—often without regard for minimizing enterprise threats. In companies of all sizes, this decentralized and haphazard approach to engaging contingent talent can quickly result in chaos with significant implications to the enterprise.

Top Contingent Management Labor Pressures



Source: Aberdeen Group, April 2011

To help ensure worker integrity, quality and productivity, Bartech recommends businesses partner with their staffing and service suppliers to document and communicate the rules of engagement for both end users and service providers. This can be done through the establishment of policies for governing the onboarding and managing of contingent workers. Effective policies include appropriate candidate screening, qualification, testing and selection criteria. It is important to note that candidate screening and qualification may vary based on worker skill level, area of responsibility and systems access. In addition to these documented contingent workforce onboarding policies, businesses should consider incorporating supplier expectations into service agreements along with expectations of involvement during the assignment. It is a proven way to hold suppliers accountable for their actions.

Standardizing job titles and documenting job descriptions can help end users more effectively determine the level and skill of resources required. Even today, it is quite common to find limited or inconsistent use of terminology and descriptions to identify workers and their responsibilities. The thoughtful classification of contingent labor not only streamlines the talent acquisition process, but also has the ability to boost the quality and consistency of contingent worker performance.

Although the development and implementation of appropriate policies represent the building blocks of a quality contingent workforce program, it is the ongoing compliance that will drive quantifiable results for the enterprise. Therefore, Bartech recommends regular policy, process and contract auditing of both end users and service providers to ensure processes are being followed and continually improved.

Worker Access to Facilities, Systems and Intellectual Property

Businesses today cannot function without data and the varied IT systems and technologies necessary to generate, deliver, maintain and protect this valuable asset. Likewise, workers require access to perform their functions properly. This access requirement includes not only those directly employed by the corporation, but those employed on a temporary basis as well.

Though companies have become progressively better at securing their data stores and the intellectual property, trade secrets and information within them, the fact that more and more non-employees require access to this priceless asset is reason to increase vigilance and oversight. Failure to do so could result in serious damages. Take for example the case of a victim of identity theft in Virginia. After a contingent employee stole her identity from a workplace database, the victim sued both the staffing agency and the hospital where the temporary worker was placed for \$60 million. Workplace theft is nothing new—the Chamber of Commerce estimates that U.S. businesses lose up to \$50 billion each year due to employee theft and fraud. Add to those losses damaging litigation related to data breaches, lost intellectual capital and exposed trade secrets and it's easy to see how vital it is to ensure the integrity of all people who access company and customer data.

What can corporations do to limit their exposure to data breaches, theft and loss? First and foremost, Bartech recommends taking the appropriate steps upfront to ensure a high integrity workforce. This requires best-in-class candidate qualification, appropriate background screening and selection processes along with compliance to documented onboarding policies and procedures to drive quality. Such practices will help to ensure both the caliber and character of the individuals being introduced to the organization.

In addition, Bartech strongly recommends the establishment of security authorization approval processes and the careful tracking of security credentials as well as systems and data access. Many businesses accomplish this through the use of contingent worker checklists maintained either internally or via a third-party provider. Once established, these lists are typically introduced during the worker onboarding process, maintained throughout the work assignment and closed during the offboarding process. Given that people come and go in a business, it is strongly recommended that this important worker data remain an asset of the organization so unique records can be maintained on each individual and his/her entire relationship with the company.

Onboarding checklists are not only an effective way to track access to assets and systems, but also a way to ensure the delivery of critical information to contingent workers such as safety policies and security protocols. Offboarding checklists are also vital during the end of assignment process, aiding in the collection of tangible assets (such as security cards and keys) and helping to ensure system, data and facility access points are re-secured once a worker leaves the organization.

Co-employment and Worker Misclassification

While leveraging contingent talent offers increased operational flexibility, businesses must still be stringent when it comes to regulatory requirements. Businesses risk big financial penalties and legal troubles if they do not pay careful attention to co-employment and employee misclassification.

Co-employment, the shared employment of a worker between the staffing provider and the business, is a precarious state that puts the business at risk for legal action by contingent employees. Businesses found to be co-employers

of some or all of their contingent talent populations will see their legal responsibilities and costs rise, decreasing both the economic and operational advantages of a flexible workforce. The important line between employer (the staffing or service provider) and procurer of services (the business) in a contingent staffing engagement can be easily blurred if management practices are not well managed.

Like co-employment, worker misclassification can also be a costly mistake. In recent years, the U.S. government has increased enforcement efforts around employee misclassification in order to recoup billions in tax revenue believed to be lost annually as employers either intentionally or unintentionally misclassify W-2 workers as independent contractors (or 1099 workers). Employers that classify workers as independent contractors do not pay nor withhold the relevant employment taxes.

In one of the first and most famous worker misclassification lawsuits in the U.S., Microsoft spent nearly a decade in court after the IRS reclassified its independent contractor population as common law employees. After a Federal court ruled the company should have offered the same pay and benefits to the contractor population, the company finally settled a misclassification lawsuit for \$96.9 million.³

Today, misclassification lawsuits are widespread and affect businesses large and small. The costs of a misclassification suit or a co-employment challenge are high. With the government carefully examining how businesses classify their workers, companies must be extra cautious and continuously vigilant when it comes to acquiring, managing and classifying contingent talent.

To reduce the threat of co-employment and worker misclassification, a business must develop thorough contingent workforce policies and processes that outline and govern how flexible

labor is acquired and administered by the organization and managed by the service provider. The key to the effectiveness of such a practice does not simply lie in its existence, but in its practice and practicality. Many businesses today have painstakingly and with good intentions developed and implemented comprehensive contingent workforce policies that prove ineffective due to end user non-compliance. In short, buying managers often ignore or work around established processes in acquiring the talent needed. Although this could be the result of a lack in enterprise discipline, it is often the result of policies and processes that seem to encumber versus assist the end user in completing the task at hand.

The objective of policy makers should be to develop contingent workforce policies that provide buying managers with reasonable, practical guidelines for acquiring contingent talent while taking care to protect business assets and interest. To accomplish this, Bartech recommends the joint development and rigorous, regular communication of the policies used to acquire and manage contingent workers. Including and benefiting all vested parties, this approach should result in the development of a useful, well understood structure that meets the overall risk mitigation objectives of the enterprise in regards to contingent labor co-employment and worker misclassification.

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³ Prencipe, Loretta W. (2001, January 25). Microsoft Workers Settle Lawsuit. InfoWorld. Retrieved from www.itworld.com

Consideration of Third-Party Providers

Businesses might consider working with third-party experts to assist in the development of an end-to-end contingent workforce solution. The market is filled with qualified Managed Service Providers (MSP) and Vendor Management Software (VMS) providers willing and able to share their in-depth experience regarding the development, implementation and management of comprehensive solutions designed to improve quality while mitigating enterprise risks throughout the contingent worker lifecycle.

Conclusion and Key Takeaways

“You get what you pay for,” the old saying goes and for good reason. Part of the cost of securing reliable, skilled and trustworthy contingent workers and professionals must include risk mitigation. If not, a business could pay a much higher price down the road in the form of productivity slowdowns, revenue losses, security breaches, safety incidents or even intellectual capital and trade secret losses.

As this article has outlined, there are four core considerations for businesses to keep in mind as they approach contingent workforce risk mitigation:

1. To ensure consistently high contingent worker quality, performance and integrity, businesses must play an active role in establishing rules of engagement for both suppliers and users of contingent talent.
2. The increased risk and cost of data, intellectual capital and trade secret losses puts added emphasis on the need for best-in-class contingent worker screening and background check processes.
3. When it comes policies designed to eliminate co-employment risk and ensure proper worker classification, ease of user compliance needs to become a primary goal. By keeping users' needs in mind, businesses are able to provide buying managers with talent acquisition guidelines that are stringent yet practical enough to implement.

4. The right MSP/VMS providers offer businesses in-depth experience in the development, implementation and management of contingent talent solutions that will improve workforce quality and mitigate enterprise risks.

Businesses eager to take advantage of the efficiency, skills and flexibility of today's more experienced and sophisticated contingent talent must be equipped to manage and mitigate the risks that come with it. For those that don't, contingent workforce advantages become liabilities. For those that do effectively mitigate risk, the skills and adaptability of the contingent workforce become a powerful and ever-expanding competitive advantage.

About Bartech

Established in 1977 and among the largest Managed Service Providers (MSP) in the staffing industry, Bartech is a leading provider of Contingent Workforce Management solutions that drive quantifiable value throughout the enterprise. Our vendor neutral approach to workforce needs provides clients the advantage of solution objectivity and integrity through the complete elimination of conflicts of interest. With an emphasis on risk mitigation, Bartech specializes in policy development and compliance, process standardization, workflow automation, supplier administration and rate management strategies.

Visit www.bartechgroup.com to learn more about Bartech and our award-winning contingent workforce management solutions.





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