

Compliant or Competitive

—How About Both?

Don't let becoming compliant hinder your competitive advantage.

BY ASHIF MAWJI

About the Author

ASHIF MAWJI is president and CEO of Upside Software, Inc. (Alberta's Fastest Growing Company of 2004), a profitable market leader in enterprise contract life cycle management software. He is also a member of the Financial Executives International and was recently awarded the Queen's Golden Jubilee Medal. Send comments on this article to cm@ncmahq.org.

Are you less competitive due to compliance obligations?

The "S" word has caused and continues to cause corporate America to lose its competitive advantage, due to increased compliance burden and a need to instill processes that ensure

effective governance. The costs to instill effective corporate controls and governance models are significant, and furthermore, precious human time involvement is taking away from productivity. Meanwhile, China, India, Dubai, and other foreign nations are capitalizing on this and overtaking the U.S. economy on several fronts.

If you have read any newspaper since 2002, you know that the "S" word refers to the Sarbanes-Oxley Act, also known as "SOX." In this article, I hope to provide you with some information on increasing your competitiveness, while ensuring you are at the top end of the compliance spectrum.

Sarbanes-Oxley's Followers

In Canada, a new bill is set to come into legislation: Bill 198 is the Canadian equivalent (with certain modifications) of the U.S. Sarbanes-Oxley Act. Other jurisdictions around the world are also following suit. I don't know what plans China, India, and Dubai have—although I am willing to bet that these countries will not adopt legislation like the Sarbanes-Oxley Act, and as such, will not face the same rigor that U.S. and Canadian corporations do. Therefore, we need to devise systems, tools, and processes that will not only improve our corporate controls but will also provide us with a significant edge to compete globally.



The Truth About Contracts

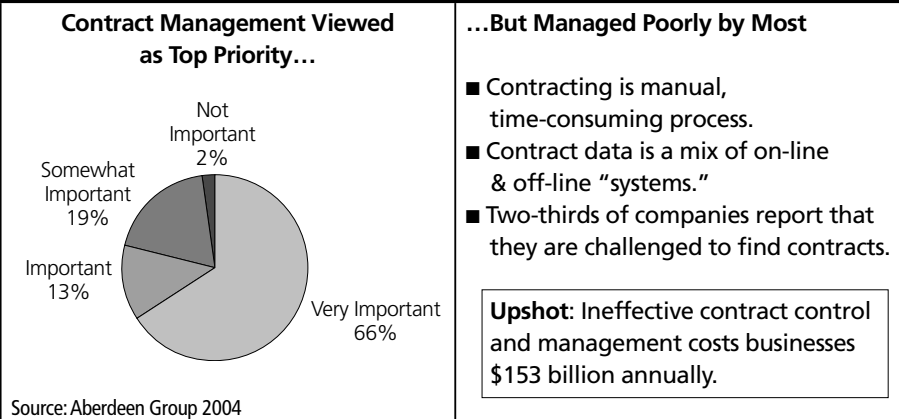


Figure 1.

may sound too good to be true and easy. But, it does take time, effort, and a willingness to instill such a system into your organization (and yes, it will also take some of your money).

Start Governing from the Bottom

Don't take the title of this section to mean that contracts are considered the "bottom" in a negative context. My belief is that a contract is the beginning and thus a very important part of the business life cycle.

All the important information, terms, conditions, deliverables, compliance objectives, approaches, and other information are stored there in the contract. A lot of time is spent getting to that contract, and then much more time is spent in negotiating and finalizing it. That does not mean you're done, however. The bulk of the time is now spent on managing the contract and also most likely in litigating or resolving various issues.

Conclusion: There is considerable activity to manage and maintain as part of running your business. Thus, ensuring that you are effectively managing the contract is not only key to how you are meeting your corporate compliance directives but also how competitive you are globally. Fortunately, contract management (CM) software has continued to mature since 2000 and is providing industry leaders the ability to effectively manage all aspects of the business

cycle—especially pertaining to compliance and deliverable management. **Figure 1** (on this page) shows that contracts are becoming more critical to and thus noticed in corporations of all kinds and sizes. Corporations (both public and private) are learning to use CM software in a manner where their business processes, compliance directives, and objectives (as well as rules and regulations) are included as part of the automated workflow.

This process automation results in improved efficiencies and reduced cycle time (meaning time and money savings), and also yields system governance that is highly regarded by the audit and risk groups (as well as external auditors). Leveraging systematic processing of business rules and ensuring that detailed and accurate audit trails are maintained, companies satisfy one of the key components of Sarbanes-Oxley compliance: monitored controls.

Finally, the rules and regulations instilled by companies can be tracked by a sophisticated CM software package and provide the audit staff with reliable systematic information on how a process was followed as directed. Controls inherent in the CM software ensure that policies are not violated, which provides a high level of assurance to all stakeholders, including the chief financial officer (CFO) and the chief executive officer (CEO). These controls can also eliminate those nightmares where these

Now, you probably have been exposed to several dozens of software applications that claim to solve your SOX headaches (and also resolve the problem of world hunger). You have most likely been approached by SOX consulting firms that will help ensure you are fully compliant—and they are happy to take some of your money (which you have to account for) do help you do it!

Here is a pragmatic approach that will help you become more compliant and also decrease your workload, reduce risks, better your negotiation life cycle, provide an improved audit trail, minimize expenses, and help increase your revenue. Perhaps it

Contract Automation: Why You Should Care

Improvement Area	Performance Impact
Compliance management	Improve compliance 55%
Rebates/discount management	Improve 25–30%
Renewal rates contracts	Improve 25%
Contracting cycles	Cut contracting cycles in half
Standard procedures and clauses	Mitigate risk, ensure proper approvals, and enforce policies
Contract analysis	Analyze and maximize performance across contracts
Administrative costs	Reduce 20–30%

Source: Aberdeen Group 2004

Figure 2.

top executives are handcuffed in a jail cell in the Bahamas.

As you know, contracts do have a wealth of information contained within them, and typically several hundreds of hours are spent in creating and finalizing them. So, why do more than 63 percent of North American companies rate their contract management processes between 1–3 on a scale of

7—with 7 being best?¹ Probably because they have not been enlightened with the knowledge that there are effective CM software packages available that can help them streamline their processes, reduce their risks, increase revenues, and fulfill their compliance obligations.

Ensuring that you have a good handle on your contracts and are using auto-

mated and regulated tools, processes, and systems to manage these contracts will virtually *guarantee* you a much improved and efficient business life cycle and will put you far ahead of the curve when it comes to your SOX audit.

Happy Lawyers

Is there really such a thing as happy lawyers? A trend that you have no doubt seen is that our workloads keep getting bigger and our staffing, and budgets remain the same or decrease. This trend is not changing anytime soon.

Here’s a secret in the meantime: CM software deployments have quite often resulted in “happy lawyers.” Why is this true? Lawyers are also a key part of the compliance process and have an obligation to ensure that corporate policies pertaining to document and contract governance are instilled, monitored, and reported. The legal community is getting on board with CM software deployments as they are seeing value. It is evident that they can now instill the controls and processes that they often commu-

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nicate (written or verbal) within the CM tool. This means that they can let the CM software police their controls and processes and get accurate reporting, assuring them that there are no “maverick” contracts.

CM software allows organizations to lock down specific clauses in given contract types and also provide the flexibility to change specific clauses with the ability to report and be part of the approval workflow when changes are made. In addition, clauses that have a direct bearing on Sarbanes-Oxley, revenue recognition, and other legislation can be tagged, tracked, and audited, to ensure that when changes are made, they are sanctioned and kept within corporate governance controls. So the lawyers do become happier—which is a great thing!

Leverage CM Software

Being competitive means that you ultimately do more with less—this is critical in any business. In this era of stringent regulation and governance, organizations are being tasked to

significantly overhaul their compliance measures.

Deploying technology in an effective and pragmatic manner will ensure that you not only can handle the increased compliance measures but also streamline your processes and reduce process time. In addition, the technology should also be able to help you identify revenue leakage and control expenditures by ensuring you are only paying what you are contractually obliged to pay. Statistics show how much organizations lose annually to ineffective expenditure control—it’s *\$153 billion USD*² on an annual basis. **Figure 2** (p. 40) shows the areas where you can control those expenditures and create more savings.

Wrapping Up

If you are serious about making your organization more competitive in this global economy, I encourage you to look at the various CM software packages available.

Have the suppliers prove to you how the software can help your

organization fulfill its compliance obligations and at the same time increase your competitiveness. Not all CM software is the same (of course), so do your homework and be thorough. Make sure you talk to the vendor’s references and check that the provider is financially sound (the last thing you want is great software that you end up maintaining yourself). There are many independent case studies available at www.upsidesoft.com, www.aberdeen.com, and other sources on the Internet that will help with your review. **CM**

Endnotes

1. “So Where Do We Stand on Contract Management,” Tim Cummins, Upside Software and IACCM survey of 2004. Accessed from IACCM Web site.
2. “Contract Optimization,” Tim Minahan, Aberdeen Group. Accessed at www.aberdeen.com.

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