Contract Visibility in Times of Remote Working

Commercial and Contracts

One of the most crucial sources for the decisions your business makes is its contracts. But what happens when those contracts are inaccessible or can only be viewed in segments, depending on the department involved? Panic sets in.

That's what happened when widespread lockdowns first started occurring across industries in March of this year due to COVID-19. Suddenly, remote working was not a flexibility option offered as a perk to employees; it was mandated. Being disconnected from the office meant processes would become even more fragmented than they already were.

The [Survey of Business Uncertainty](#), conducted by Stanford Economist Nicholas Bloom in conjunction with the Atlanta Federal Reserve and the University of Chicago, found that only 51 percent of survey respondents — mostly managers, professionals, and financial workers who can carry out their jobs on computers — reported being able to work from home at an efficiency rate of 80 percent or more. And approximately 35 percent reported that their internet connection was not reliable enough for effective telecommuting.

Disruption in remote management of Contract Lifecycle Management (CLM)

Particularly disrupted by the sudden shift to remote working were those organizations that still use manual processes for developing, filing, and storing their contracts. According to the [2018 Litigation Trends Annual Survey](#) from Norton Rose Fulbright, 87 percent of surveyed businesses expected the number of litigation and legal disputes to remain the same or increase.

Across several industries, contracts were ranked as the number one or two reason for disputes. Layer a global pandemic on top of businesses already struggling with a lack of visibility into the contract population, and you have a crisis of Contract Lifecycle Management (CLM).

With its labor force shifted to remote working, businesses first needed to understand if there were force majeure clauses in effect with customers. Force majeure clauses, or unforeseen circumstances that prevent someone from fulfilling a contract, were of critical relevance to the operation in terms of risk mitigation.

By mid-year 2020, every business was also looking at their contract process to determine how much risk they were exposed to with the following issues.

- Manual contract processing: Extends the contract cycle time of both authoring and execution.
- Multiple contract repositories: Ineffective tracking of rebates and contract price compliance, plus, no visibility into enterprise-wide contracts already negotiated.
- Inability to extract value: Not capturing accurate spend data with effective supplier leverage and negotiations and no feedback on lessons learned.

Full contract visibility requires that all employees involved in the contract process be able to not only surface the agreement but to look at the impacted clauses in terms of jurisdiction, choice of law, and whether they have clauses like the Business Continuity Checklist or others.

Cross-departmental approaches to contract visibility

Contracts house valuable data needed for companies to remain compliant with regulations and prevent or respond to legal disputes. But the number of contracts, their complexity, and the volume of data associated with them have grown beyond what companies can manage without the assistance of technology.

However, for many businesses, complex technology infrastructure had already created an impediment to streamlined contract processing. Essentially, managing CLM from remote locations initially required an assessment of the current state of the systems or lack thereof.

CLM initiatives often start with legal, but the terms are often integrated with finance, IT, supply, and procurement departments. This multi-divisional involvement requires a multi-level response. Even many companies that had CLM in place pre-COVID were hampered because the various departments were fragmented across the enterprise. To get data extracted quickly was not possible because of all the different systems.

When you are in crisis, CLM deployments can seem so daunting, especially when working remotely. There will be business that needs to be done immediately, and many businesses are still dealing with this crisis of fragmentation.

But as you move into a stabilization phase, the data from assessing these processes will need to be gathered into one location so that informed decisions can be made across the enterprise. Each department will need to contribute their learnings, including: *What would I have done differently? How could I have done this faster? What data will help me to address these crises more effectively?*

Most importantly, there will need to be standardization across business units. Every group may have its own master data, and it is that lack of standardization that obscures contract visibility. Business continuity planning, experienced partners, and reliable technology will continue to be of utmost importance for the efficient functioning of business.

Your ability to conduct business, maintain strong relationships with your customers, and keep employees connected to what's happening in the business will depend on technology, reliable processes, and a steady flow of data to enable intelligent decision-making.

The importance of continuity planning in times of a pandemic

Implementing a cohesive strategy for contract negotiation and visibility will be increasingly important as businesses continue to support remote working. A BCP can stipulate how the employees and the organization need to respond, where they can access documents, and how to deploy updates.

Since the start of the pandemic, 88 percent of businesses surveyed in a [Forrester study](#) noted that they planned to provision employees with remote access technologies so that they can work remotely from a location with internet access. And according to the Forrester Disaster Recovery Journal 2018 Global Business Continuity Preparedness Survey, 75 percent of organizations have invoked a BCP in the past five years.

Key considerations for a [business continuity plan](#):

1. **Digital transformation:** Make your business processes digital (i.e., eliminate the reliance on paper as much as possible).
2. **Software as a Service:** Use solutions which can be accessed from any location with Internet access.
3. **Agility:** Ensure that you have the right people, processes, and tools to be able to reach the right decision as quickly as possible related to various disruptions.

Overall, the business needs to look at how contracts are conducted today and where and why access

is limited to employees who need visibility. Do you have a pandemic planning team? The goal should be to create a holistic plan that takes into account all of the departments that touch on the CLM process, such as legal, finance, IT, supply, and procurement.

Consider a third-party risk management role. You may currently transact this role internally, but what happens if key personnel get sick? Do you have someone else who can step in as a backup? You still need that human component — to facilitate processes using technology and abiding by plans.

Primarily, however, all of these necessary steps can be managed and implemented most effectively with a cloud-based CLM provider that will centralize data, monitor contract lifecycles, and connect the various departments via a single, cohesive, automated system.

Start off in stages: Assess your departmental learnings, replicate them, and keep your teams connected to CLM planning. When you have the right confidence, good partners, good technology, and champions across the enterprise who feel integrated even when working remotely, you can continue to build and deploy efficient contracts.

[Deena Williamson](#)

General Counsel

Corcentric, Inc.

Deena Williamson is the general counsel of Corcentric, Inc., a leading provider of SAS procurement and finance solutions that transform how companies purchase, pay, and get paid. At Corcentric, Williamson manages all domestic and international legal matters for the company. She has also served as general counsel of several public and private international outsourcing and technology companies, where she has been recognized by American Corporate Counsel Association as Outstanding In-House Counsel and DC's Top Corporate Counsel.