

Best Practices for Business

Becoming a Preferred Supplier



ALLIANCE OF PROFESSIONALS & CONSULTANTS, INC.

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Preface

ALLIANCE OF PROFESSIONALS & CONSULTANTS, INC. (APC) is providing this *Best Practices for Business: Becoming a Preferred Supplier* document to assist you in the management and operation of your business. This document is designed specifically for private businesses, especially Native American and other American minority businesses.

It assumes that you have already started your business with all legal requirements completed, the infrastructure (accounting, human resources, information technology systems, sales, etc.) is in place, and you have an established business. If not, there are many information sources, organizations, and government agencies that can help you in these areas. Native American firms in North Carolina are encouraged to seek informational assistance from the American Indian Chamber of Commerce of North Carolina (see www.AICCNC.org.)

ISO 9001:2000 quality standards dictate that processes and procedures are documented to insure that firms have them and that everyone within the organization knows and understands what they are.

The following document discusses generic processes and procedures to be used for successful business operations.

Few of the practices and thoughts contained herein are original. They have come from numerous sources and experiences. It is not intended to imply that the processes and procedures stated are the only way but rather a recommended way and a consistent way to do business more successfully.

It may contain information that is out-of-date at the time of reading or may contain keying errors. Your notifying us of suggestions and corrections is encouraged (RRoberts@apc-services.com or 919-510-9696).

Do not copy this document. Key executives of approved firms may obtain copies by contacting APC at RRoberts@apc-services.com and providing complete contact mailing address information. Modifiable softcopy will not be provided.

This document is not for sale.

Roy Roberts
President and Chief Executive Officer

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1. DEFINITIONS

For the purposes of simplicity, clarity and consistency within this document, a few definitions are provided:

Core Supplier may also be referred as **Prime Supplier** or **Tier 1 Supplier**.

Customers vs Clients. **Customers** buy products. **Clients** buy services. (However, to increase the applicability of this document both terms will be used interchangeably in this document.)

Clients may be used interchangeably with **Prospects** - firms that we try to convert into clients.

Hire vs Engage - Employees are **hired**. Contractors are **engaged**. To assist in keeping the IRS from classifying contractors as your employees, ensure that your documentation uses the proper terminology concerning acquiring a worker's (employee vs subcontractor) services.

Subcontractor may also be referred as **Tier 2 Supplier**.

Subtier is a subcontractor to a Prime or higher tier (e.g. Tier 1) Supplier. Also, can be referred as a **Tier 2 Supplier**. In some situations a Subtier may refer to their subcontractor as a Tier 2 - a deeper tiered supplier, instead of a Tier 3. Most clients do not allow subcontracting more than three tiers.

Supplier vs Vendor - A **supplier** provides goods or services to a client. A **vendor** is a firm that *wants to be* a **supplier** but is not authorized by the client to do so.

2. RAISING YOUR ODDS

Most of an organization's success will depend upon its expertise and Best Practices.

You have the talent, skills, knowledge, and very strong desire - passion. Now, other than a little luck what else do you need. This document is an attempt to assist in raising your odds of success.

You've heard the statistics - up to 80% of new companies fail in the first two years! And if you make it past that, you are faced with 10% of all remaining companies failing each year in the U.S., even in the most successful economy in the history of the world. Consider that of the top 100 most successful companies in 1912 about half were gone completely by 1995, 33% were no longer in the top 100, and only 19 companies were still in the top 100. Today, it is even less.

One of these firms that has demonstrated phenomenal success for more than 125 years is General Electric. They claim their five top critical success factors to be:

1. Leadership - taking a team approach, sharing both power and rewards;
2. Adaptability - responding successfully to major market shifts;
3. Talent - developing their people on a career long basis;
4. Influencing - acknowledging the power of stakeholders; and
5. Networks - integrating management systems and financial policies.

There are a great number of academic studies showing that the pattern of extinction of companies is virtually identical to the biological world and to survive we must innovate, stay fit, and keep pace with the way the world is changing. Innovation and testing new ideas are key to survival.

Create competitive advantage. It is what separates your firm from all the other companies that want your customers. It must be something that your customers value and the competition cannot easily provide as well. You can have them. Figure out what they are and how to communicate them to your customers. For example, figure out a way to improve your customer's product or service or how to reduce their costs. Reduce their cost by improving their reliability instead of lowering your price. Be able to articulate the answer to their simple question "Why should I buy from you?". The answer should be objective, quantifiable, distinctive, credible and true.

Improvements to existing products and services or new ones are crucial to a company's success. However, be aware that knowledge and expertise can be lethal to innovation. When your people become "experts" they trade in their dreams of "What if" with the assumed reality of "What is". Innovation and insight require the ability to ignore the "certainties" that we know.

This is one more case for diversity in the people you hire. Do not hire just those that have the lengthy academic credentials or deep industry experience. The Wright brothers were not experts in aeronautics - they did not know that flying couldn't be done. In fact, just two years before that famous flight, Wilbur told his brother that it would be fifty years before man would fly! Thus, hire introverts and extroverts, detail people and "big picture" people, conservatives and, yes, even a liberal. You want professionals with diverse perspectives.

The world is changing. You want every opportunity to recognize how and how to react to it. Observe how the world is changing - within your industry, within your client, within your competition, and within your own company.

KNOW YOUR CLIENT AND YOURSELF

You should clearly understand your client - their mission, critical success factors, priorities, culture, the things that differentiate them from their competitors, and their current key activities. You should clearly understand and be ready to communicate similar information about your own firm.

Here is a sample of this information, using APC as an example, for the development of your own. Keep your mission simple, to the point, and memorable. Do not confuse it with your vision of where you want the organization to go and how successful it will be or with your overall values that you will use in getting it there. Identify those separately and label them as such.

To determine how to describe your mission, pretend that if you were allowed to use only one word to describe the purpose of your organization what would it be? Make certain that word becomes the focal point of the statement. Then choose the second word...and so on until you have completed a single sentence.

MISSION

ALLIANCE OF PROFESSIONALS & CONSULTANTS, INC. (APC) provides highly skilled professional services and staffing in Information Technology, Engineering and Business to distinguished clients worldwide in a responsive, effective, ethical and valued manner.

VISION

Have a vision. Know where you want to go otherwise “any road will take you there”. As Kirk Kazanjian said in *Exceeding Customer Expectations*. “Great organizations not only know what they’re doing but also why they’re doing it.”

APC’s vision is to be the professional services and staffing supplier and employer of choice.

- ▶ For our clients, we will provide world class service solutions in an effective, valued and mutually rewarding manner.
- ▶ For our employees, we will provide challenging opportunities for professional growth with compensation and benefits that exceed the industry norm.

VALUES

Identify and publish your core values. Make certain that your employees know them well. Quoting Kirk Kazanjian again “Core values are the essential and enduring beliefs and ideals that influence an organization's thoughts and actions. They transcend economic cycles, management changes, technological advances, and marketplace fluctuations.”

At APC, we believe:

- ▶ that complete client satisfaction is our basic way of life.
- ▶ that we work smart, play fair, and strengthen our communities.
- ▶ that ethics and integrity are paramount in everything we do.
- ▶ in treating everyone as a professional with respect, openness, and honesty.
- ▶ in excellence by holding ourselves accountable to the highest possible standards.
- ▶ that sharing information, skills, and resources leads to the reward of success.
- ▶ in embracing diversity to achieve our full potential.

COMMITMENT

APC's values are anchored in our basic Commitments:

- ▶ **TO OUR CLIENTS:**

To listen, understand your needs and skillfully satisfy those needs with the highest level of quality, responsiveness, and value.

To achieve your business objectives, we will be an ethical Strategic Partner, distinguished by a Results Orientation, Problem Ownership, Leadership, Team Player attitude, and State-of-the-Art Skills.

- ▶ **TO OUR EMPLOYEES:**

To provide rewarding opportunities for professional growth with compensation and benefits that exceed the industry norm. (*APC's turnover is 1/3 to 1/2 the industry average.*)

To foster open communications, teamwork, respect, empowerment, and pride.

- ▶ **TO OUR SUPPLIERS:**

To provide rewarding opportunities to continuously assess, develop, and improve valued services to our clients and employees. (*APC's Subtier Retention is near 100%.*)

To provide equal opportunity to qualified minority and women-owned businesses as suppliers, contractors, and subcontractors. (*Currently, over 49% are MWBE Suppliers.*)

- ▶ **TO THE CORPORATION:**

To be client-focused and demonstrate the highest levels of integrity and fairness.

To be a dynamic, persistent, market-driven organization with an entrepreneurial spirit equal to the challenges of the future.

CRITICAL SUCCESS FACTORS

“It is more important to be doing the right things than to be doing things right”.

In any organization there are certain factors that will be critical to the success of that organization. It is imperative that you identify what they are. Otherwise, if objectives associated with these factors are not achieved, the organization will fail - perhaps catastrophically so. You must identify the right things to do and, then, how to do them right. Critical attention must be paid to these success factors.

For example, APC’s Critical Success Factors are:

- *Focus on our clients' success* with a strong commitment to being a *Strategic Partner* to our clients.
 - ▶ *Provide high quality solutions* in Information Technology, Engineering, and Business *founded on excellence, ethics, and integrity.*
- *Automate operations* to achieve cost efficiency, on-demand delivery of services, enhanced access to our supply chain, and flexibility.

To further clarify:

CLIENT FOCUS

The client is the center of APC’s focus. Companies are focused on either internal operations or they are focused on the needs of the client. When we focus on the needs of the client, we gain competitive advantage. If we focused primarily on internal operations, we risk falling behind.

There are three categories of professional services firms: (1) Commodity Staffing, (2) Speciality Experts, and (3) Strategic Partners.

Commodity Staffing firms only provide “an extra pair of hands” with an average amount of skill/ knowledge on an hourly basis at low cost. They provide the client with access to a flexible workforce when needed. The professional’s allegiance is to the paycheck.

The Speciality Experts supply some critical technological/ industry/managerial expertise. Usually, their skills and knowledge are a critical component to the client’s success and may provide a strategic advantage. Their services are generally used for only a short duration. The professional’s allegiance is to the technology/ profession that they represent.

Strategic Partner professional services firms team with the client to achieve business results. They strive to understand the client’s business, goals and objectives, and critical success factors, and skills and staffing resources required to achieve success. The client seeks overall value and the professional’s allegiance is to a successful solution. They are distinguished by Results Orientation, Problem Ownership, Leadership, Team Player attitude, and State-of-the-Art Skills.

Results Orientation means that we begin with the final objective in mind, understand how decisions and actions impact the business results, take appropriate steps to address new demands, and try to exceed the client's expectations.

Problem Ownership assumes that problems are "ours" and not "theirs," seeks solutions, and assumes accountability and responsibility for decisions.

Leadership exemplifies responsible, ethical, and honest behavior, respectfully challenges the status quo, expresses ideas using facts, logic, passion, and commitment in a way that leads others to share your perspective; it shapes events, and it makes things happen.

A **Team Player** works well with others and is willing to set aside personal recognition in the interest of attaining team objectives.

State-of-the-Art Skills keeps up with trends and the best practices in the field, views professional development as an ongoing lifelong process, and demonstrates exceptional job knowledge and expertise from the client's perspective.

APC's passion is to be a Strategic Partner with our clients. Obviously, the Strategic Partner's allegiance is to the overall success of the client. We want more than a satisfied client. We want a loyal client.

APC is a client-focused team of highly skilled professionals dedicated to excellence. APC promotes a brand identity of "*Professionals serving Professionals*"®. It is very important that we understand that we do not simply match skill acronyms on a job requisition with acronyms on resumes. We are not a commodity bodyshop. We listen to the client. We seek first to understand and then to be understood. We will seek and present only candidate professionals that meet the required skills, presence, work ethics, and personality culture that we are confident will satisfy the client's needs.

We do not try to fit the client's problem to our solutions but rather we will fit a solution to our client's problem. This means that we may need to provide services ancillary or competitive to our core business. We guarantee the client's satisfaction and aid significantly in their success.

We take ownership of our clients' problem. This knowledgeable personal dedication to the client's success brings key value to our offerings. It maximizes our service differentiation, eliminates "commoditization", and keeps us flexible and adjusting to the changing market requirements.

We are "*Professionals serving Professionals*"®™.

OPERATIONS STRATEGY & PRINCIPLES

An Operations Services Strategy that support our five APC Operations Principles is an automated strategy:

- Use the most advanced e-business tools to deliver competitive advantage, lower G&A, enhance access to our supply chain, and provide on-demand delivery of services.

APC's Operations Principles are:

- Deliver a superior end-to-end client experience with success measured by client satisfaction.

- Provide competitive advantage in the areas of productivity, efficiency, cost, quality, responsiveness, and cash management.
- Execute with speed and a sense of urgency through simplified processes.
- Share resources and leverage the skills of our people as an integrated team.
- Demonstrate on-demand leadership as a world-class services supplier leader.

OODA LOOP - OBSERVE, ORIENT, DECIDE, ACT

Business operations must be a methodical, planned, determined, and purposeful process. Learn to successfully apply process techniques such as the OODA Loop methodology, taught to Air Force combat pilots who make quick, perhaps split-second, decisions in life threatening situations.

OODA is the acronym for observe, orient, decide and act.

- *Observe* all of the information that is available within a reasonable time frame - since further delay may get you killed for the combat pilot or lose the market opportunity for the businessperson.
- *Orient* your combat plane or business in a position that will allow you to defeat the competition.
- *Decide* quickly to go or no go, shoot or be shot, buy or be bought - any hesitation will cause the decision to be made against you. Since the competition is doing the same analysis, victory will go to the one that observed and oriented the fastest and the best, made the decision, and then actually acted.
- *Act* means actually doing what you have decided.

Winning in business, like in combat in the air, usually goes to the one that completes the OODA Loop first.

BUILDING A WINNING CULTURE

Why do winning companies like GE, Wal-Mart, your favorite restaurant or auto repair shop stand out from the rest of the crowd? According to Randy Pennington in *Results Rules*, the answer lies not in their operational processes, computer systems, or compensation plans but, rather, in their corporate culture. The best leaders, organizations, and individuals live by a mantra that can be described in the two words: *Results Rules!* The ultimate goal is not the same for every organization or individual. It may be profit, growth, or market share. But whatever it is, the best organizations or individuals never lose their focus on achieving these results. They create and nurture a culture that becomes their sustainable competitive advantage. Every person works from a sense of ownership and stewardship, and embraces a personal sense of the mission.

Your corporate culture is either going to contribute to or detract from the organization's ability to deliver results. Clearly, every company would like its culture to be a factor in improving performance. But, how do you tell which way your culture is pushing your organization? There are seven warning signs that your culture is limiting, rather than promoting, top performance. They are:

- *High turnover and low morale:* Good employees leave and those
- *On-going inconsistency:* Performance is consistently all over the map.
- *A lack of focus on the external environment:* Employees are constantly looking at what's going wrong internally.
- *Short-term thinking:* Employees lose sight of long-term viability.
- *The rise of destructive subcultures:* Functional teams deteriorate into organizational silos.

- *Undermining the success of others:* Disagreements turn into vendettas and information is hoarded.
- *Increased cynicism:* People begin to assume that the worst outcome possible is also the most likely outcome.

Poor culture leads to poor performance. Herb Kelleher, the Chairman of Southwest Airlines, remarked that his biggest concern was nurturing the esprit de corps among his employees. He called it his "most valuable competitive asset." The same is true at Wal-Mart, Toyota, Nordstrom, GE, and Starbucks. Organizations like these don't just succeed, they eradicate the competition. Their competitive edge is a culture that wins the hearts and the loyalty of customers and employees alike.

This document is about how to set your business apart from your competitors. But, despite the differences, the best companies all share six traits. They :

- tell themselves the truth and value candor and honesty.
- pursue the best path over the easiest path in every situation.
- leverage the power of partnerships both internally and externally.
- focus their energy to make the "main thing" the main thing.
- show the courage of accountability.
- learn, grow, and improve every day.

Thomas Watson, Jr., the CEO at IBM from 1956 to 1971, recognized the vital importance of culture in his company's success. He said, "The basic philosophy, spirit, and drive of an organization have far more to do with its relative achievements than do technological or economic resources, organizational structure, innovation, and timing."

William Cooper Procter, grandson of the founder of Procter & Gamble, changed the company's Articles of Incorporation to say that the "interests of the Company and its employees are inseparable." Its culture is based on a well-defined purpose, set of values, and operating principles. It is disciplined, customer-focused, and proactive. It embodies a passion for winning, leadership at all levels, integrity, trust, and a sense of personal ownership.

As Kirk Kazanjian stated in *Exceeding Client Expectations*, to sum up what has made Enterprise so successful over the past five decades, comes down to five practices:

1. **“Convince every employee that taking care of customers and employees is job number one.** At Enterprise, the top executives demonstrate their commitment to this belief through their actions every day.
2. **Empower workers as entrepreneurs, and base a percentage of their compensation on bottom-line results.** By using this approach, Enterprise not only brings out the best in its employees, it also causes them to think twice about unnecessary expenditures and fosters strong loyalty.
3. **Hold employees financially accountable for offering excellent customer service.** By tracking how satisfied each renter is, Enterprise can determine which workers are best at taking care of customers, and reward them.
4. **Establish strategic partnerships.** Enterprise would not be where it is today if not for its strong alliances with body shops, car dealerships, and insurance companies.
5. **Dare to be different.** From the way it pays workers to its target market and even its office locations, Enterprise has always stood out from the crowd. And as its big competitors struggled financially,

Enterprise has differentiated itself in another way: It has continued to achieve record profitability, year after year.”

3. MARKET OPPORTUNITIES

If your firm is a minority or woman owned and controlled business, to improve your market opportunities, insure that your firm has been certified as a bonafide Minority Business Enterprise (MBE) or Women's Business Enterprise (WBE). If applicable, this is a must do. It *will* make a difference but never lead a sales call with your minority/women owned status. Let it be a pleasant surprise. Never insinuate entitlement to the client's business. It is a major turnoff. Remember, if you want a "scab to heal", you must stop picking at it.

MINORITY/WOMEN OWNED CERTIFICATION

A local affiliate of the National Minority Supplier Development Council (NMSDC) or Women's Business Enterprise National Council (WBENC) should be contacted to initiate your firm's certification as an MBE or WBE. For example in North Carolina or South Carolina, you would contact the Carolinas Minority Supplier Development Councils, Inc. (CMSDC), see <http://www.ewsmaker.com/cmsdc/wordcertificationapplication1.doc>. Other geographic areas will have another local affiliate councils of the NMSDC (see www.nmsdcus.org).

National Minority Supplier Development Council (NMSDC)
1040 Ave. of the Americas, 2nd Floor, New York, NY 10018
www.nmsdcus.org
Phone: (212) 944-2430
NMSDC has 39 affiliate offices located nationwide.

Women's Business Enterprise National Council (WBENC)*
1710 H. Street, N.W., 7th Floor Washington, D.C. 20006
www.wbenc.org
Phone: (202) 872-5515
WBENC has 12 affiliate offices located nationwide.

8(A), SDB AND HUBZONE CERTIFICATION

If your firm is eligible for 8(a) and/or SDB certification, then you should pursue this with vigor.

8(a) Status: For initial 8(a) Business Development (BD) eligibility, the net worth of an individual claiming disadvantage must be less than \$250,000. For continued 8(a) BD eligibility after admission to the program, net worth must be less than \$750,000. It is important to note that in determining such net worth, the SBA will exclude the ownership interest in the applicant firm and the equity in the primary personal residence (except any portion of such equity which is attributable to excessive withdrawals from the applicant or Participant). Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.

Small Business Administration 8(a) Program*
26 Federal Plaza, New York, NY 10278
www.sba.gov
Phone: (212) 264-4322

To learn more about the 8(a) program, go to <http://www.sba.gov/8abd/>. The 8(a) Application can be found at <http://www.sba.gov/sbaforms/sba1010.pdf> and a Web site of extra forms that must be completed <http://www.sba.gov/library/forms.html>

If you are in North Carolina contact Cassandra Smith-Gatlin at the Charlotte District office to start the 8(a) application process at (704) 344-6590 x1120.

SBA North Carolina District Office
6302 Fairview Road, Suite 300
Charlotte, NC 28210
(704) 344-6563

SDB Disadvantaged Status. In assessing the personal financial condition of an individual claiming economic disadvantage, his or her net worth must be less than \$750,000 after taking into account the exclusions set forth in § 124.104(c)(2).

Qualifications for the program are similar to those for the 8(a) Business Development Program. A small business must be at least 51% owned and controlled by a socially and economically disadvantaged individual or individuals. Native Americans, African Americans, Hispanic Americans, Asian Pacific Americans, and Subcontinent Asian Americans are presumed to qualify. Other individuals can qualify if they show by a "preponderance of the evidence" that they are disadvantaged. All individuals must have a net worth of less than \$750,000, excluding the equity of the business and primary residence. Successful applicants must also meet applicable size standards for small businesses in their industry.

Homepage of the SDB program: <http://www.sba.gov/sdb/> and more information about the SDB program can be found at <http://www.sba.gov/sdb/indexaboutsdb.html> Here is a link to the application: <http://www.sba.gov/sdb/indexsdbapply.html>

Difference between 8(a) certification and SDB certification.

The 8(a) program is a business development program that offers a broad scope of assistance to socially and economically disadvantaged firms. SDB certification strictly pertains to benefits in Federal procurement. 8(a) firms automatically qualify for SDB certification. 8(a) Program participants automatically belong to the SDB program, but SDB Program participants are not necessarily members of the 8(a) Program.

HUBZone: First, visit the following page to make sure that your company (and most employees) are in a HUBZone: <https://eweb1.sba.gov/hubzone/internet/general/findout.cfm>. Once you have determined that you qualify for HUBZone status, then you can start the application process. To fill out an application: https://eweb1.sba.gov/hubzone/internet/application/dsp_apps_home.cfm.

INCREASING YOUR TIER 1 OPPORTUNITIES

Register your company with firms and governments to let them know about you and that you want to do business with them. For example, to register with the State of North Carolina's Vendor Registration, go to [https://vendor.ncgov.com/login.jhtml;\\$sessionid\\$OO5U35AAABIIXQFIV2KSDSY;\\$ti\\$3;\\$ts\\$1088536809620?requestid=88577](https://vendor.ncgov.com/login.jhtml;$sessionid$OO5U35AAABIIXQFIV2KSDSY;ti3;ts1088536809620?requestid=88577) and with State of NC Division of Purchase and Contract's Electronic Vendor Registration at <http://www.ips.state.nc.us/ips/Vendor/Vndrmess.asp>.

Many large Fortune 500 companies have many open requisitions that are available only to core (also called prime or Tier 1) suppliers. These large firms have found it to be highly advantageous to consolidate the number of their suppliers into a small quantity. This allows them to reduce the size of their internal staffs significantly. There are fewer buyers needed to negotiate features and prices, fewer lawyers needed to draft/change contracts, fewer A/R persons to answer vendor questions, fewer A/P persons to answer questions about payment or to make payments, and fewer persons to talk with thousands of small firms about their many questions. With fewer Tier 1 firms receiving a lot of business, the client can negotiate bigger discounts and insist on better service.

To become a Tier 1 supplier to a Fortune 500 level client, you must first prove to them (probably as a Tier 2 supplier) that your firm can consistently provide world-class service on a national or international basis. This means that your firm has the infrastructure to respond to requirements in a few hours or minutes, receive their purchase orders via EDI (Electronic Data Interchange format), send invoices via EDI, pay your suppliers via ACH (Automated Clearing House) and international EFT (Electronic Funds Transfer). In other words, your operations must be highly automated, fast, efficient, low cost, and effective.

INCREASING YOUR TIER 2 OPPORTUNITIES

If you are not a Tier 1 core supplier, it can be effective to “partner” with a core supplier as a subcontractor supplier (also called Tier 2 or subtier) to gain access to their client’s requisitions (requirements or job orders). To become a new Tier 2 firm to a Tier 1 you must convince them that your firm can significantly assist them in consistently providing the best solution to their clients.

You should select the Tier 1 partner based upon:

- their willingness to share client opportunities;
- their willingness to provide client manager contact information,
- their willingness to allow your firm to propose a solution to the client’s requisitions,
- their willingness and ability to mentor your firm toward acquiring these capabilities, and
- their fee to process your sales through their contract with their client.

Responding to client requisitions shared by the Tier 1 may be a good way to gain access to the client’s managers. It depends upon the client’s willingness to allow non-core suppliers to have access to their managers and on the willingness of the core supplier to provide contact information. Unfortunately, most Tier 1 suppliers do not allow Tier 2’s to have access to the client’s requisitions or will pretend to provide the requisitions but all solutions proposed by Tier 2 firms in response to the client’s requisitions seem to be filed in a “black hole”. These Tier 1 firms will process only business that the Tier 2 is able to sell without their support. Check to see if the Tier 1 partner can/will provide you with the client manager contact for requisitions before you commit to a contractual relationship. Then, verify their claims by calling another Tier 2 supplier that works with them.

A good Tier 1 partner should:

On behalf of Client:

- obtain all relevant contact information (responsible executive, operational contacts);
- obtain signed agreement containing all the client’s terms and conditions (insurance, background checks, etc.);
- obtain written verification of:
 - business incorporation and licenses,
 - all required insurance certificates.

On behalf of the Tier 2 firm:

- train the subtier on client's marketing rules and procedures;
- train the subtier administrator on setting up distribution list for client requisitions, if allowed by client;
- train the subtier on candidate submission process and submission status;
- train the subtier on automated time-entry process, if applicable;
- train the subtier on the on-line EDI (Electronic Data Interchange) invoicing process;
- train the subtier on the on-demand reporting systems for purchase order status, time-sheet history (if applicable), invoice history, payment status, et. al.
- audit the performance of the subtier against client rules and agreement terms, and
- mentor the subtier on an ongoing basis on how to improve service to the client.

4. MARKETING

MARKETING STRATEGY

Your Marketing Strategy should support your Business Strategy and the client's view of your marketing philosophy. Your marketing strategy is confidential information.

A sample Marketing Strategy might consist of:

- *Client Value* - Always provide responsive, quality, valued products/services.
- *Client Relationship* - Develop a preferred relationship with the client. People do business with people they know, trust, and depend upon to deliver a successful solution on time and on budget.
- *Client Presence* - Be there with the client to always get the opportunity when needs arise. It may give you an exclusive or, at least, extra lead time. Opportunities favor those positioned to receive them.
- *Unrestricted Marketing Territory* - Your Business Development Representatives should not be restricted to a single client or geography if you want to maximize sales.
- *Reasonable and Fair Profit* - Always provide accurate pricing with a reasonable profit. Use a pricing tool to insure that all sales are profitable and consistent with corporate policy.

BRANDING

Branding is extremely important. Branding is a value promise that you make and strive to keep. These promises are important to your clients and they are willing to pay more for them. They are important to your personnel and they are willing to dedicate themselves to them. A brand promise is not conjured up out of the air. Rather, a brand promise lays at the juncture between core competency strengths - what you do well - and what your target audiences want. One of the most important qualities of a successful brand promise is its ability to change behavior of internal stakeholders such as your personnel and staff.

If you are not a brand, you are a commodity, and commodities are purchased for one of two reasons. Either they are low cost or they are convenient. Branding provides name recognition, image, and positioning.

Some branding truisms are:

- Branding has been around for centuries as a means of differentiating in the marketplace (such as branding on a cattle ranch to differentiate your cow from others on the range). Defining a brand takes awareness, reputation and prominence in the marketplace.
- It's not just about what you say you will do; it's about what you do and what your target audience responds to.
- The stronger your brand, the fewer resources you will spend to recruit clients.

- The most precious resource of branding is someone's trusting attention.

You must constantly perform a strategic brand audit. The process has three domains:

- An examination of the needs and expectations of external target audiences of clients and subcontractors.
- An evaluation of your core values and the needs and expectations of your internal stakeholders of personnel and staff.
- A review of your marketplace and your competitors.

This audit will assist you in evaluating your mission, vision, and core values as well as the needs and expectations of your stakeholders with the goal of insuring a brand promise that your external and internal audiences will support.

The characteristics of a successful brand promise in building awareness and relevance are:

- It is singular; it is very difficult to promise more than one thing.
- It generates genuine enthusiasm among the stakeholders.
- It is competitive, distinctive, and price-worthy.
- It is relevant and timely.
- It creates a companywide commitment to its fulfillment.
- It allows you to deliver value to the marketplace.

Brand Leadership Strategy

Developing your Brand Leadership Strategy consists of four basic elements:

- Making a promise of value.
- Communicating the promise.
- Living the promise.
- Strengthening the promise.

Brand management is differentiated from brand leadership. Brand management focuses on the short-term. Its primary tool is promotion. It is tactical. Brand leadership is based on the premise that brand building not only creates brand equity, but is necessary for your success. It is strategic. Brand management is visual while brand leadership is visionary. Brand management is interested in brand image while brand leadership is interested in brand equity. Brand equity represents two important qualities: the premium price that the brand can support and the impact of the brand on customer preferences.

ADVERTISING

Advertising is great for creating 'name recognition' in the retail market. General advertising is not that effective in the 'calling to action' of a large commercial prospect. You should seek to advertise where clients are already calling-to-action and are in search of a vendor solution.

Brochures and Giveaways

Brochures are very helpful when meeting with a new client that is unfamiliar with your product/service. Electronic brochures (e.g., PDF or HTML formats) can be very useful to include as an attachment to an e-mail. They are easy to update, provide unlimited copies and “printing” is free to you.

“Trinkets” are used for building goodwill and for providing a reason to call on a client prospect. Choose them carefully. Don’t select something that will just be given to their kids or trashed after you leave.

Mass Mailings / E-Mail Blasts

Mass mailings and e-mail blasts are generally not effective unless targeted to very specific recipients. Studies have shown that a mass mailing is relatively ineffective (1% or less) if performed only once or twice. An e-mail blast must be sent three, or more times before a satisfactory number of responses (4%-6%) are received. If not done properly, an e-mail blast may be considered illegal spam.

PUBLIC RELATIONS

Public Relations can be a low cost very effective alternative or supplement to advertising - and can be as simple as calling a press conference or issuing a press release. Good Public Relations can add additional impact and momentum to your marketing efforts. With the public’s decreasing trust in corporations there has been a similar decrease in brand loyalty and trust in the message within traditional mass marketing. Jim Stengel, Proctor & Gamble’s marketing chief, stated in his address to the 2004 annual meeting of American Association of Advertising Agencies, “Today’s marketing model is broken”. People are hungry to learn of a firm with integrity, which *really* cares about its customers, that creates goodwill, that they can trust, and delivers what they promise. Good, credible and engaging Public Relations can assist you greatly in creating that image.

NETWORKING

Success breeds success. The most effective marketing is "word of mouth" references by previous and current business associates. Even a casual endorsement can be the difference between winning and losing.

Get out of your office and go to the client’s. Be there when the client’s need arises. “Luck” seems to favor those that do.

If you are entering a new market and do not have a network of contacts, then you will need to make cold calls to make a network of contacts. An effective way of finding business is networking with the prospect/client (hereinafter “client”) and your peer professionals. Find out if they know any client managers that need your product/service. Look for client departments or managers that are growing their business.

Ask client managers that you have to help you win over their associate managers. If you've done a good job for them, they will be delighted to recommend you.

Membership in different organizations is highly encouraged. It leads to networking opportunities which results in referrals from key contacts. But be careful: Most organizations will assign lots of "To Do's" to the junior/new members. You may find yourself committing more time than the "contacts" may be worth. Do not confuse lots of activity within these organizations as the most productive use of your time just because someone asked you to do it.

Establish and grow trusted relationships. The first sale to a new client manager is critical. If you do not make a good impression with this first opportunity, you probably will not get another chance. Take the time to find the right solution and guarantee its success to the client. Listen carefully to really hear their needs and not be thinking about what you are going to say next instead. Ask them questions. You have two ears and only one mouth. Listen, at least, twice as much as you speak. Inform, don't just talk.

Listen to their needs and supply them with the product/service that will deliver the solution needed. Solve *their* problem and your sales problems will melt away.

Once you have a few satisfied clients, keep in close contact with the professionals involved. They often know of opportunities that may be available before the client manager brings it to your attention. Getting a head start on the next solution is a great advantage over the competition.

REFERRAL PROGRAM

Since "Birds of a feather flock together" a well publicized ethical Referral Program has been very successful in finding the right opportunities. If an individual, that is not with the client, knows of an opportunity and is instrumental in assisting you in winning this opportunity, then they could earn a referral bonus that is appropriate in size to the opportunity. This promotes a larger and low-cost sales network.

Ineligible Referral

Referrals should not be paid to Client personnel, your personnel that has significant influence on the client's selection (such as the client's spouse), or for being "first" to supply public information or is common knowledge (such as the newspaper announcement of a new company moving into town).

To be eligible for the Referral, you must be given a highly favored position on the opportunity. Just telling you about a new opportunity should not be enough. Otherwise, there's not a lot of value.

TRADE SHOWS & CONFERENCES

You should participate in Trade Shows and Conferences. They are a great opportunity to build relationships with extraordinary people. Some of these people could have significant impact on your professional or personal success.

Trade Shows and conferences let the world know that your firm is for real. It is a great opportunity to meet the clients and potential Tier 1 "partners". You may have to see the same people at four or five Shows before they start taking you serious.

Making the most out of your face-to-face booth marketing efforts is key. Bring lots of business cards and dress for success. Have a one-two page summary about your firm, what you do well, and why they should

be interested. Your business card should not be a billboard listing all of the solutions your firm offers. It should provide contact information and, perhaps, a brand slogan. Keep it simple.

Keith Ferrazzi, author of national-best selling book NEVER EAT ALONE: And Other Secrets to Success, One Relationship at a Time, suggests 15 tips to make sure that you maximize the return on your (and your organization's) investment of time and money to attend - you can't afford to be a conference commoner. He suggests that you have to be a Conference Commando.

Conference Commando Tips

Here are his 15 tips to help you do just that...

#1 Remember the 6 P's. Proper Prior Planning Prevents Poor Performance. Military strategists know that most battles are won before the first shot is fired. The side that determines where, when, and how an engagement is fought usually gains an insurmountable advantage. So get focused. Take time weeks before the conference to think through and write down why you are attending. What do you want to achieve? Who do you want to meet? The more clearly you articulate what you want and need from the conference, the more likely you can plan and execute your mission.

#2 Know your targets. Get the list of conference attendees somehow—call the conference organizers, ask your friends who are going if they know of other attendees, or whatever it takes. Then go through the list and note those you want to meet. Keep that list with you at all times during the conference (including social events) so you know whom you've met and whom you still need to meet.

#3 Gather intelligence. If you want to get to know someone, the first thing you should do is figure out how you can help them. Google them. Of course, their business interests will be most obvious, but do some deeper research to learn about their human sides. Then find your currency for them—your experience, knowledge, contacts, or resources that can make them more successful. And get this: the best part of doing your homework is that it doesn't have to be a secret. When you meet your target contact, say, "I always make a special effort to inquire about the people I'd like to meet." Inevitably, people are flattered. Wouldn't you be?

#4 Strike early. Don't wait for the conference to start your networking. A week or two beforehand, pick up the phone and call at least the top three people you want to be SURE to meet. (And no whiny excuses about not being able to find their coordinates. This is the information age!) Begin your conversations now and/or arrange a time for when you arrive at the conference. Can't get past their gatekeepers? Surprise them with a fax or a voice message when they arrive at the conference and save them from spending the night alone in their rooms—most likely in the very hotel where you're staying! Say, "I'll be downstairs at 8 with a few people for drinks and dinner. Would you like to join us?"

#5 Never just attend a conference. Well, never just attend a conference. You should be sure to speak, too, even if your name isn't on the program. While keynote speakers are basically given hour-long infomercials for their brands, you can acquire a 30 second commercial for yours just by asking a thoughtful question during Q&A. Stand tall, say your name and what you do, and then ask a great question. Then enjoy your temporary celebrity status after the session. People will be eager to approach you once you've been introduced in a public forum.

#6 Slight the speakers. Don't waste time standing in line to meet a speaker after his or her song and dance. There will be so many other brilliant people at the conference; go meet them! If you must meet the speakers, please approach them before their talks, before they have captivated the crowd's attention and adoration.

#7 Get a Wingman. Just as people lose weight more effectively if they have a workout partner, you start more of the relationships you want if you team up. You and your buddy can provide each other motivation, guidance, and assistance if you'll share with each other your real reasons for attending the conference, whether it's to look for a new job, to fill your sales pipeline, or maybe even to seek a romantic relationship. Wouldn't it be great to show up to the conference with somebody who's actually on your side, who's got your back, who's working with you?

#8 Draft off a Big Kahuna. Get to know some of the most well-known folks at the conference or the conference organizers themselves and hang with them. The important people will rotate by them sooner or later. If you're there, you'll meet everyone who matters. And if you need to reach out to someone who doesn't happen to swing by, ask your new friend—a big kahuna—for an introduction.

#9 Be an Info-Hub. Get really familiar with the conference program. Then pick the brains of conference staff and anyone else willing to share the ins and outs of what's happening in and around the big meeting. If you're in the loop on the private parties and after-hours special events, everyone will come to you for the goods.

#10 Work Hard on Break. Don't run off to stuff your face or check e-mail between sessions. You should attend to your bagel and BlackBerry while boring speakers like me are blabbing on and on, so when break time comes, you can get out there and do what you really came to the conference to do—meet people!

#11 Hijack a Dinner. True commandos aren't constrained by the agendas they receive at registration. Arrange a dinner at a special place out on the town you're visiting with people who care about a particular topic that matters to you, or modify a conference meal that's already paid for by inviting specific people to join your table as you meet them during the day. There's usually no assigned seating. And if there is, just tell a conference organizer that you prefer to reassign yourself. They exist to make the conference better for you.

#12 Let Your Guard Down. When you engage a target contact, don't you dare talk about the weather! It makes no impact at all. Skip the small talk and dive into the stuff that really matters to you and them: interests, passions, struggles, and greatest needs. You'll have to push yourself to be human and open up enough to get your acquaintance to start sharing. Then listen, listen, listen with warmth and sincerity. And if you are able to help them, do so. Intimacy and Giving are the two keys to making quick connections that jumpstart lasting relationships.

#13 Master the Deep Bump. Once you've successfully taken your conversation with a new acquaintance down deep, past the shallow small talk, secure an invitation to reconnect later. Then bump! Move on and meet more people. Don't be like the co-dependent ankle hugger who thinks the first person he meets is his best friend forever. You've invested too much time and money in this conference not to take the opportunity to meet many different people. You have a lifetime to build relationships with people at the conference, but only a few days to meet them.

#14 Take Names (and Notes). Before you conclude the Deep Bump, and move on after making a new acquaintance, be sure to get a business card. Of course, you should quickly scan the card and say the person's name aloud to help commit it to memory. Furthermore, flip over the card and jot down a few words to remind yourself of what you two discussed, any relevant personal details you wish to remember, and, of course, when and why you're going to follow up later.

#15 Follow Up or Fail. Don't wait until you return home from the conference to ping people whose cards you collect. Shoot out follow-up e-mails each night of the event or write them during your flight home. That is, unless you want that same rubber-banded stack of cards on your desk a year from now, which is probably the result of last year's conference if you went as a commoner and not a commando.

Either way, best of luck next time! And you'll need it if you don't remember the 6 P's!

Be a Conference Commando. More importantly, don't be these people.

THE WALLFLOWER: The limp handshake, the position in the far corner of the room, the unassuming demeanor— all signs that this person thinks he or she is there to watch the speakers.

THE ANKLE HUGGER: The ankle hugger is a total co-dependent and thinks that the first person they meet is their BFF (best friend forever). Out of fear, they shadow their BFF the entire conference. You've spent too much money not to leverage the opportunity to meet many different people. So bump! You have a lifetime to build relationships with these people. Collect as many follow-ups as you can.

THE CELEBRITY HOUND: This type of person funnels every bit of their energy into trying to meet the most important person at the event. The problem is, if the person they want to meet truly is the most important person at the conference, that person will be on their guard. And may be even guarded, literally.

A young friend went to see the King of Jordan speak recently and came back ecstatic. He had waited an hour or more, along with 500 other people, for a chance to shake the King's hand. I asked him, "How, exactly, did you benefit from that encounter?" "I can say I met him," he sheepishly replied. I told him that there were probably at least a handful of dignitaries and members of the King's cabinet in that room whom no one knew or wanted to know. Wouldn't it have been better for my young friend to actually have had a conversation with one of them, instead of a handshake with someone who will not remember him beyond the handshake? Maybe he could have struck up a relationship. Instead, he got a photo and a handshake.

THE SMARMY EYE DARTER: Nothing will give you a bad rap in less time. Be Bill Clinton instead. If you spend only thirty seconds with someone, make it thirty seconds of warmth and sincerity. Nothing will give you a good rap in less time.

THE CARD DISPENSER/AMASSER: This guy passes his card out like it had the cure for cancer written on its back. Frankly, cards are overrated. If you perform the bump successfully, and extract a promise for a future meeting, a piece of paper is irrelevant. This person gloats over the number of "contacts" he's made. In reality, he's created nothing more valuable than a phone book with people's names and numbers to cold-call.

Generally, it is a more effective use of your time and resources to visit other firms' show booth than to have one of your own. But, if you are able to do both, take enough people that allows you to "man" your booth and still be able to visit the other booths.

Many people go to Trade Shows and conferences to pick up the freebies. They are rarely the real buyer executives. Generally, they are lower level individuals that trinkets, designed to bring people to your booth, hold a fascination even though they are probably going to give them to their kids or throw them away. Also, those trinkets, can be very expensive to buy (but don't have to be) and heavy to ship to the Trade Show. Choose them wisely. Would you want it, keep it in your pocket or on your desk, and value having it? If not, choose something else.

Good booth selling skills rarely come naturally; they must be learned. Some suggestions:

Show Booth – Etiquette, Body Language & Mistakes

Give yourself enough time to set up the booth before the show begins. Setting up a booth carefully takes time. Be sure you allot enough time to finish before the clients arrive. Boxes blocking aisles keep clients from visiting booths. Even if you are not in the aisles, setting up a display while the show is open distracts clients and can potentially hurt.

Too many negative happenings can make enemies of your fellow exhibitors, or even get you banned from a show. By getting along with others, you can sometimes make important contacts and better yet, friends for life! To ensure that you present a professional, approachable image, review the following rules of trade show booth etiquette, body language, and popular mistakes.

Booth Etiquette

- While in the booth, **do NOT**:
 - **Eat, Drink or Smoke** - These activities ward off the press and potential customers.
 - **Sit down.** - Sitting down makes it look as though you are not interested in talking. However, if your booth has bar-stool-height chairs behind a draped table then, because of the higher seat, you are at the same eye level as people passing the booth. Acceptance of stools is increasing since the public is sympathetic to the effects of standing on a hard floor for long periods.
 - **Have idle chatter with other booth personnel.** The sight of two people in conversation looks like a meeting. No one will interrupt a meeting.
 - **Do not disrupt other exhibitors or visitors.** Disruptions such as loud music or announcements, shining lights at other trade show exhibit booths, using laser pointers across aisles and the like are annoying. If you engage in disruptive behaviors, attendees will perceive you and our company not as professionals, but as people to avoid.
 - **Do not solicit in the aisles (known as “suitcasing”).** Stay out of other companies' trade show exhibit booths. Not only is your presence needed in our company's trade show booth to serve clients and prospects, you help set an example for others. Wandering into other trade show booths disrupts exhibitors who are with their prospects. If you do this, you can expect others to do the same to you. Be friendly to fellow exhibitors, but don't be a pest.

- While not in the booth:
 - **Stay out of your competitors' trade show exhibit booths.** Even worse than wandering into "friendly territory" is going into a competitor's trade show booth to crowd out legitimate clients. This is unprofessional and reflects badly on our company and on you personally.

Body Language

Many books have been written about body language; here are the most important points to remember, from a trade show perspective:

- **Talk to the person,** not to a piece of equipment or charts that you are presenting. Maintain eye contact with the attendee and avoid getting "caught up" with the demonstration or presentation.
- **Raise your voice appropriately** or you might be drowned out by other people near the booth or other sounds of the show.
- **Present an open posture.** Folded arms and crossed legs are a message that you're not very open and will keep prospects from approaching your booth. To create intimacy and trust, let your arms hang at your sides and position your feet about six to eight inches apart.
- **Do have and use some kind of breath freshener!**

Mistakes

Some of the most common mistakes made by booth staffers are:

- **Weak opening lines.** The best "hooks" are open-ended questions that keep the conversation going. Avoid yes-and-no openers such as "May I help you?" What's next if the answer is "no"? Try asking "How is the Show going for you?", "What objectives are you hoping it will meet?"
- **Turning on the "pitch" too soon.** There's nothing prospects hate more than pushy booth staffers. Give them a minute to warm up to you before you start sizing them up for a potential sale.
- **Pitching instead of qualifying.** Don't launch into a sales pitch before you assess a prospect's situation -- product interests, buying time line, familiarity with your company's products. Tailor your presentation to the prospect's needs.
- **Rushing too fast into the demonstration.** Qualifying prospects for the demonstration. You're not there to just show off your product. Strive to connect with people and help them solve their needs.
- **Poor body language.** Stand up straight toward the edge of the booth with your hands at your side. Look alert and ready to serve.

- **Long-winded product presentations.** Attendee's can't afford to be tied to your booth for 20 minutes. Remember, they have a lot of ground to cover at a show. So, keep it to 10 minutes maximum.
- **Writing off prospects too soon.** Don't just read badges; talk to booth visitors to find out what they want. Badges don't always tell the whole story. Also, do not dismiss prospects just because their current buying conditions aren't right. Their situation could change and you want them to think of your company first when this happens.

Make the most of your Trade Show experience.

5. SELLING

Your business development professionals should be called “Marketing” representative instead of “Sales” representatives. The difference is simple but vast. Sales reps take orders, such as a shoe salesman or car salesman. The customers know they need new shoes or a new car. Their choice is which brand they will buy. In contrast, marketing creates need in the mind of the consumer. By pointing out the benefits and ability to relieve “pain” that, maybe, the client didn’t know they had, a need is born. Marketing professionals understand clients’ problems, goals and priorities and inform them of how to relieve their pain. The client becomes a valued Strategic Partner.

Do not create just a satisfied client, but rather, a loyal client. The former will chose another supplier offering a small reduction in price. The latter client will pay a premium for your product/service.

SECRETS TO SUCCESS

- Build Relationships. People buy from firms they trust. Genuinely like your client and be concerned about his/her needs and they will reciprocate.
- Consultative Selling. If you want to play the game then be dressed for it - be convinced in your solution and you will be convincing that you can solve the client's problem.
- Be There. If permitted, “Walk the client’s halls.” Most sales will go to the firm who is there when the opportunity arises.

In *Exceeding Customer Expectations*, Kirk Kazanjian points out that an obviously great firm, Enterprise, America’s #1 car rental company, claim their nine Secrets To Success to be:

1. Take care of your customers and employees, and the bottom line will follow. Enterprise literally "goes the extra mile" for customers. The company will pick up customers at their homes, workplaces, the airport, or just about anywhere else. They have a passion for customer convenience. It has a branch within 15 miles of 90 percent of the American population, as well as a growing presence in Canada and Europe.

Employees have real opportunities to move up from entry-level management positions and make impressive money. However, they can do so only by demonstrating an ability to make customers completely satisfied.

2. To gain a competitive edge, be different - be distinctive. Eight distinctive elements at Enterprise:
 - ▶ First, they require employees to dress for success. Professionally dressed employees put customers at ease, and convey an image of respect for their jobs and customers.
 - ▶ Second, they constantly remain open to new opportunities, including those that may be unconventional.
 - ▶ Third, they are unique in how they obtain and manage their rental fleet. Most of its competitors lease their vehicles from automakers, but Enterprise buys its cars outright.
 - ▶ Fourth, they seek out innovative ways to make use of company resources. It strives to keep revenues coming in even on weekends, which tend to be slower. One way it does this is by offering rentals for half off from Friday through Monday.

- ▶ Fifth, they empower employees to make decisions that result in new ways of doing things. Their emphasis on hiring, motivating, and retaining service-oriented employees gives them a real edge.
- ▶ Sixth, they set their sights on capturing parts of the market that other companies have ignored. For example, while Hertz, Avis, and other companies were competing ferociously for expensive real estate near airport runways, Enterprise was growing dramatically by opening locations in strip malls, industrial parks, and inside of car dealerships.
- ▶ Seventh, Enterprise makes it as convenient as possible for customers to use its service. The company is famous now as the rental car company that picks up customers.
- ▶ Eighth, it doesn't haggle over prices when it sells cars to retail buyers. Instead of negotiating on price with buyers as almost every other car dealership does, Enterprise offers all vehicles for a flat fee, below "Blue Book" prices. Also, contrary to industry practice, Enterprise offers a free one-year limited warranty with each used vehicle, as well as a "no questions asked" seven-day money back guarantee.

The steps Enterprise takes to distinguish itself seem relatively simple. If your company isn't distinctive, then you're not giving customers a reason to do business with you instead of the competition.

3. Never settle for "satisfied".

A customer that is merely satisfied is one that might find greater satisfaction with a competitor. Enterprise has identified six attributes that have the greatest effect on customer satisfaction. They are:

- ▶ Courtesy
- ▶ Professionalism
- ▶ Timeliness of service
- ▶ Treatment as a valued customer
- ▶ The mechanical condition of the car
- ▶ Timeliness to complete the rental transaction

Clearly, most of these attributes have to do with service quality rather than product quality. And service is something that any company can address. Negatives in any of these areas are destructive to overall customer satisfaction.

4. Hire and train good people from the ground up.

Enterprise hires people who demonstrate a passion for satisfying customers. The best way you can determine an applicant's capacity for customer satisfaction is to ask them good questions about how effectively they've dealt with customers in the past.

5. Treat everyone like an owner.

Enterprise's success also derives from its commitment to treating employees like owners. The rationale is that owners get compensated based on the bottom line, so employees have an incentive to come up with better ways to accomplish two goals:

- ▶ Satisfy customers
- ▶ Cut costs

6. Form strong partnerships.

Enterprise has many solid business partnerships with auto manufacturers, car dealerships, insurers, body shops, corporations, and credit unions. The partnerships have been key to their growth and them a strong competitive advantage.

Underlying Enterprise's unmatched capacity to form close partnerships are six steps:

- ▶ Identify the critical concerns of your customers and potential partners.
- ▶ Determine what mutual benefits will derive from the partnership.
- ▶ Go into the relationship with a complete commitment.
- ▶ Avoid going for "the last oink out of the pig." Enterprise doesn't try to squeeze the last penny out of a partnership deal, but rather to share efficiencies.
- ▶ Keep the lines of communication fluid and open.
- ▶ Never rest on your laurels.

7. Use technology to enhance the customer experience.
Since service is the heart of the business, technology must complement, not replace, the human touch.
8. Grow smart.
Enterprise believes growth must make sense in terms of its core competencies, brand identity, and profitability. It doesn't confuse getting bigger with getting better.
9. Live your core values.
Like the world's other top companies, Enterprise lives by a clear set of core values. Core values are enduring beliefs and ideals that influence an organization's thoughts and actions. All great organizations not only know what they're doing but also know why they're doing it.

BUILDING RELATIONSHIPS

There are six primary reasons people stop doing business with a company:

- 1 percent die.
- 3 percent move away.
- 5 percent develop other relationships.
- 9 percent leave for competitive reasons.
- 14 percent are dissatisfied with the product.
- 68 percent go elsewhere because they were treated poorly.

Clearly, retaining customers means building personal relationships with them. If most customers leave because of bad service/treatment, the solution is to make certain they get good service/treatment.

Tips to building relationships with clients:

- Ask open ended questions that can't be answered with a simple yes or no, such as, "If you could change just one thing about how your business operates, what would that be?" or "What is the biggest challenge your business faces, and how are you overcoming that challenge?" Then, listen to their needs. Really listen.
- Be appreciative of their business. Be yourself. Be a friend.
- Protect them from legitimate threats. Relieve their pain and worry.
- Get more done and do it faster.
- Save/make them money.

- Exude confidence that you can solve their problems, then solve their problems.
- Be a servant. Spoil them.

Opportunities are given to those that have a balance of skills and empathy. To give your client the warm fuzzies, get your mind off of yourself and onto them. This selfless behavior will cause you to shine like a star among the people around you. Competitors will be viewed as offering lesser service. You redefined the bar.

CONSULTATIVE SELLING

The primary components of the consultative selling process:

- (1) Finding and understanding the customer's needs.
- (2) Partnering with the client, making the transition from being a salesperson to becoming a resource.
- (3) Helping clients achieve their business objectives through the use of your product/service.
- (4) Believe that your business and product/service are the very best!
- (5) Believe in yourself - and that you are the best!

The basic elements of consultative selling:

- (1) *Set and Meet Goals.* The true professional is dedicated, well-disciplined and self-directed.
- (2) *Positive Attitude.* The first rule of life. An "I can do it" state of mind that is with you all of the time. A happiness that makes others want to spend time with you.
- (3) *Take Pride* in what you do. Pride shows. It has an enthusiasm that attracts people to you.
- (4) *Knowledge.* Know the business and what you sell.
- (5) *Preplan Sales Call.* The competitive edge in selling.
- (6) *Know Your Customer.* Prerequisite for an intelligent conversation and building credibility.
- (7) *Confidence.* Your confidence breeds confidence in you and what you sell.
- (8) *Questions.* Ask for the client's goals, budgets, and how they intend to achieve objectives.
- (9) *Listen.* Your client wants to tell you what s/he needs and how to sell her/him.
- (10) *Communications.* Delivering and receiving a clear message is the heart of selling.
- (11) *Relate to Client.* Sales success depends on understanding and service to the client.
- (12) *Accept Responsibility.* Clients want someone who will take ownership of their needs.
- (13) *Personal Success.* Your ability to relate success to your client builds your character.
- (14) *Relationships.* Make short-term sacrifice for long-term gain of true relationships.
- (15) *Ethics.* Hard work, honesty, being sincere and living up to your commitments.
- (16) *Help Others.* The second rule of life and business success.
- (17) *Desire to Succeed.* The one element that binds all the others together.

Some differences between a Consultative Marketing Representative and a Sales Representative are:

Consultative Marketing Representative

are order makers.

are considered as advisors.

are subject-matter specialists.

Sales Representative

are order takers.

are considered salespeople.

are selling something.

a

are respected as leaders.	strive for recognition.
are confident.	often fight to gain a positive image.
are articulate.	are fast talkers.
are considered valuable resources.	must prove themselves.
are problem solvers.	tell about their product.
ask deep, probing questions.	ask forced questions.
are friends, mentors and advisors.	have something to sell.
make recommendations.	sell, sell, sell.
offer real-world sensible solutions.	try to close the sale.

SELLING SOLUTIONS VS COMMODITY

The essential underlying difference in providing solutions vs. commodity involves the firm's core-competencies. Solution core-competencies must now involve such skills as the:

- Ability to perform "Needs Analysis" or "Needs Assessments" for clients;
- Ability to provide complete (and perfected) project management services;
- Ability to provide and take responsibility for "deliverables" to clients;
- Ability to hire, motivate, and retain qualified professionals through the project; and
- Ability to form Strategic Alliances with other product vendors or service providers.

Accepting responsibility for delivering a solution is the bane of the commodity industry. It is the one condition that commodity stuff firms have painstakingly avoided over the years - to avoid the potential pitfalls that exist by having any form of responsibility over the total work product/service. But now, with providing solutions, the total work product/service must become your responsibility.

Selling solutions tends to be a "higher-level" sale -this type of product/service is usually sold at the CEO, CFO, or COO level (vs. the mid-management level or first line management level that acquires commodity stuff).

One other important consideration is the pricing model. While the commodity stuff traditional model of billing for each product/service is widely used, many solution providers offer a "fixed price" solution. This approach to pricing requires a solid understanding of the solution to be provided, along with a high level of confidence that you can deliver in the time you've estimated.

Another key aspect for success will be the quality of relationships and partnerships with other product or service vendors. Since the choices in products and services are vast and filled with intricacies and sophisticated technology, you cannot possibly be an expert in every field. Finally, you will find that these strong relationships will ultimately lead to new business via referrals, especially if we have developed a solution “niche”, one that provides you with a respectable industry reputation.

WHY CUSTOMERS NEED YOUR PRODUCT / SERVICE

Be able to articulate *why* a firm should need/want to use your product or service. Do not assume that they know. As an example, why would a client want to use contractor services instead of just doing it in-house. This is a question often asked by new client managers that have not been told the benefits of using contractors. Below is a few reasons why a company would want to utilize the services of another firm.

- **Flexible Workforce** - Hiring contractors allows companies to hire for short term needs.
- **Right Skills** - Contractors can bring the right resources to a project without the normal ramp up time required to train current staff.
- **Availability** - Projects are often postponed due to availability of core staff. Working with contractors can provide the resources the client needs today to get projects started.
- **Cross Training** - Contractors bring with them specific skills. Some contractors are hired with the intention of cross training these specific skills to their core employees.
- **Less Headaches** - Ease of doing business allows clients to focus on their business, not otherwise.
- **Keep Permanent Headcount to a Minimum** - Many companies go through periods of hiring freezes. Contractors offer client managers an alternative solution to their staffing needs.
- **Avoid IRS Issues** - Many corporations are scrutinized by the IRS for their use of independent subcontractors. Some of these companies are accused of treating these people like employees, but not giving them benefits or paying employer taxes on these professionals. By hiring a company like yours, it assists in putting the client at a distance from these types of issues but does not keep your firm from these issues. See the sections Employee or Subcontractor Status and Subcontractor Guidelines in the chapter *Hiring Professionals*.

SOLUTIONS: VALUE VS PRICE

Pricing

Pricing is rarely the reason a contract is won or lost. Clients that focus primarily on price are generally on a “going out of business” strategy - they just don’t know it yet. The real issue is perceived value. In client surveys, price usually ranks near the bottom for reasons a vendor was selected.

A survey ranking example:

1. Functionality - does what the client wants
2. Prior experience with the vendor

3. Confidence in the vendor's ability
4. Price
5. Reputation
6. Consistency with existing system.

However, price is a frequent cause of unprofitable business. For example, another \$5.00/product/service may mean little to overall price but could significantly alter the profitability.

Strive for the highest quality at a fair price, not fair quality at a low price.

The price to the client must include all costs, risks, and an appropriate mark-up. The ultimate profitable price to the client will depend upon many factors:

- Are you Prime or Sub to the contract?
- Is the performing professional an employee or a subcontractor?
- Is the transaction short or long term?
- Is the transaction part of a retainer, on-going relationship or not?
- Is the contract for a Best Efforts (estimated) or a Fixed Price?
- Are additional Business Partners sales commissions to be paid?

Prime vs. Subcontracting

Risk brings its rewards (and disasters).

Being Prime on the contract means that you are responsible for the success of the contract and, also, its associated liabilities. The margin of profit should be higher to compensate for the higher assumed risk. Depending on the contract with the client, the Prime may have rights of ownership of the deliverables. This means that the solution is not on a "Works Made for Hire" basis and may be resold. This could represent significant follow-on earnings potential and decrease the contract price quoted to the client.

A subcontractor is normally on a "Works Made for Hire" basis and rarely owns rights to the deliverables. A subcontractor bears risk but usually not beyond their own actions or omissions.

Systems Assurance Procedure

Providing total solutions is a business where each transaction is probably unique and bears more risk.

The Systems Assurance Procedure is a formal proposal review process, since the proposal will become the contract (SOW).

The assurance process focuses on identifying the risks and helping to contain them. Assurance focuses on the technical feasibility and performance aspects of the proposal as well as the contractual, legal, and financial implications.

The process attempts to identify and correct ambiguities, conflicts, omissions, poor grammar or spelling, and dangerous/misleading words or phrases. It attempts to insure organization, clarity, completeness, and consistency.

It should be performed for all fixed price solutions consisting of a significant amount of cost or risk. This review may take less than an hour for straightforward proposals to a day or two for complex solution proposals. The review is led by the Business Development Representative / Manager and attended by the responsible Project Manager, and possibly, legal, and other consultants. Concurrence by all is mandatory before submitting the proposal to the client.

Be careful of what confidential information is shared with external consultants or subcontractors too early. Remember, that subcontractors today may be competitors tomorrow. (Also, remember that competitors today may be subcontractors tomorrow.)

Checklists serve as objective score cards of risk and provide reminders about areas of concern for the company. Assurance provides information to management about specific risks which need to be addressed on a situation-by-situation basis. Management is charged with addressing the risks surrounding the business transactions, insuring the availability of resources, and viability of an estimated schedule.

Fees & Commissions

All fees and commissions should be clearly identified in the proposal development process. There should be no disputes or surprises later.

OPPORTUNITY TRACKING

Sometimes it becomes difficult to keep track of the many active sales opportunities, each with promised followup. You should have a Customer Relationship Management system. This system will assist you to track all of your opportunities, meetings, and to-do's electronically. It will help to remind you to record pertinent information and to follow-up on requirements. You can run reports to show what stage different sales opportunities are in the sales pipeline. Every conversation with a client should be documented. It will provide significant assistance to you in follow-up conversations.

MARKUP vs. PROFIT MARGIN

One of the biggest mistakes made by some is the confusion between markup and profit margin - both are stated in terms of percentages.

Markup is the percentage added, to the base cost to establish the selling price, *relative to the base cost*. Profit Margin is the markup percentage *relative to the selling price*. For example, an item costing \$1.00 at wholesale, and resold at retail for \$1.22 has a markup of 22% ($\$0.22/\1.00) and a profit margin of 18% ($\$0.22/\1.22).

A contract not bearing the risks of a prime contract does not warrant as much extra markup. However, being a subcontractor to the prime will not protect you from being named as an "additionally sued".

Client Rate Negotiations

Rates should be discussed when the Statement of Work is given from the client. This usually determines the level of quality solution that you can afford for the opportunity. Rate discussions vary from client to client. Some clients use predetermined rate charts while others are open to negotiations.

Pre-Determined Rates

Some clients utilize a predetermined rate matrix for certain product/service. If this is the case, changing the bill rate can be difficult unless you can show specific additional features/skills that are required for the solution, but were not considered in the rate matrix pricing. Some clients will have a “suggested” rate matrix but are more flexible with their pricing.

Rate Discussions

Bill rate discussions can be a challenge. You don't want to leave money on the table, but you also don't want the client to feel as though your rates are unreasonable. Some managers will come out and tell you “My budget allows me to pay between \$60-\$70 for this product/service.” Other times the manager will look to you to provide them with pricing information. You should provide them a range to gauge the amount they want to spend on the position. Providing a range will usually start discussions on whether you should focus your attention on the lower end of the range, or whether the high end is reasonable. The manager may want to pursue a lower bill rate solution and a high dollar solution to see the difference. This can be a good strategy because they might see more uses for the high end solution than they originally anticipated.

Another method for determining the client bill rate is to add a standard markup based on the amount you are paying the solution. In this case, you would submit different solutions with individual bill rates based on the solution costs and your markup. This markup could be a straight dollar figure or percentage amount.

Your long term goal is to create a Strategic Partner relationship with our clients. You do this by providing high quality at a fair rate. Gouging the customer is a short-term win and will leave the client feeling like they have been taken advantage of. Keep this in mind when pricing all deals.

6. SALES PROCEDURES

There are several procedures and rules that you need to know to assist the prime/client in doing things right and obeying all laws. For example, in the permanent placement or staffing business, many states prohibit sending an applicant to an employer where a labor dispute exists without informing the applicant of this fact; or sending an applicant to a place kept for an immoral purpose or to employment which is illegal. Understand the unique legal requirements and codes/standards within your industry. Other items are:

DOCUMENTING THE SALES PROCESS

Hopefully, you will never need to prove the elements of an oral agreement in a court of law. It is difficult to prove the contract when it is disputed by the client, particularly if the business development representative or manager who made the agreement is no longer available. That doesn't mean it is impossible, however. For this purpose, the courts will rely upon a rule of evidence called the "Shop Book" rule, based upon the making and keeping of records in the regular course of business. The keeping of the records, when testified to as being in the regular course of business, is proof of the existence of the information contained in the records.

With the keeping of records in the regular course of business, any employee may testify to the evidence it represents; it need not be the individual who obtained the job order or who entered into the free agreement. It will thus help to establish a *prima facie* case.

CALLING NEW CLIENTS

Finding job orders or a statement of work is the first step in contract placement. The following people are great sources of job orders in large organizations: procurement, 1st line managers, project managers, Human Resource managers, executives, employees, and peer contractors.

Objectives: Introduce yourself and your company. Discuss the client manager's role and background. Ask about any projects the manager is administering. Find out what is going right and areas that need improvement in their department.

Areas to Discuss:

- Managers Area of Responsibility
- Projects and Objectives
- Interviewing
- Decision Making Process
- Contract Process

- Manager and Area of Responsibility
 - ▶ What is your responsibility in the organization?
 - ▶ How is your team organized?
 - ▶ How many people do you oversee? What percentage of these people are contractors?

- ▶ What type of work do you usually contract out?
- ▶ What are your business objectives?
- ▶ Where is the pain? I.e., What are you worried about the most or is most aggravating?
- ▶ Is your group growing or shrinking?
- ▶ What type of solutions would make your job easier if you had access to them?
- Projects and Objectives
 - ▶ What projects or objectives are you working on, or are in the pipeline?
 - ▶ What is the size of these projects? Are they high profile?
 - ▶ Are these projects or objectives on track?
 - ▶ How do these projects fit into the overall objectives of the organization?
 - ▶ What would make these projects run more efficient?
- Interview
 - ▶ What is your interviewing process for acquiring contractors?
 - ▶ Who conducts the interviews? Names and Numbers...
 - ▶ What is their role? What are their hot buttons?
 - ▶ Are your vendor interviews conducted face to face or conference call?
 - ▶ How many vendor interviews are conducted prior to making a decision?
 - ▶ How long does it take to get an interview scheduled?
- Decision Making Process
 - ▶ Who is involved in the final decision for selecting a solution?
 - ▶ Will feedback be provided on the proposed solution after an interview?
- Contract Process
 - ▶ What is the process after my solution is selected?
 - ▶ Is a formal Purchase Order required before my solution can be initiated? What is this process?

- ▶ Is there anything else that we need to be aware of prior to starting this solution?
- ▶ What procedures need to be followed for submitting an invoice to your organization?

Once a Statement of Work has been given to you by a client manager, ask the manager if you can set up a presentation time slot for your solution. This will confirm the client manager is serious about the requirement and helping you satisfy his/her needs.

PRESENTING YOUR SOLUTION

Preparing for The Client Presentation

To help the presenter better position themselves during the client presentation you should:

- **Discuss the Statement of Work in detail.** The presenter should have a good understanding of the position.
- **Review Company and Interviewer Info.** The presenter should have a good understanding of what the company does and whom they will be meeting. Any information about the department, client manager, culture and environment should be discussed.
- **Review Pro's and Con's of the Opportunity.** There should be as few surprises as possible. Be sure you discuss any pro's/con's & unique attributes of the opportunity.
- **Review Questions.** Based on your conversations with the manager, review any questions that you feel may come up. Discuss any "hot buttons" that you are aware of.
- **Review Specifics.** Make sure the presenter understands when/where the presentation is going to take place. Review what attire should be worn.
- **The Process.** Review what will happen after the presentation. Discuss client feedback and what will occur if the client accepts.

Getting Feedback After the Presentation

Goal: Address any concerns from the client manager and identify the level of interest in your solution.

Address Any Concerns: This is a good opportunity to find out how the manager felt about the presentation. Discuss any areas that the manager felt the solution was weak. Address those weaknesses. Below are a few sample questions that will help start the dialog.

- How do you feel the presentation went?
- Do you have any concerns about this solution performing well?
- How well do you think this solution would fit in your organization?
- Do you have any questions, comments or issues about the solution?

Identify the Level of Interest: Find out where your solution stands in the process. How does your solution stack up against the competition? Find out how much competition your solution has. Here are some sample questions to help you identify where your solution fits in the process.

- How many proposed solutions have you received? How many more do you have scheduled?
- How does our solution compare with other solutions?
- After hearing about our candidate, do you want to change any part of it?

THE ORDER! NOW WHAT?

Confirm the terms of the proposed solution. Confirm the Bill Rate, Start Date, and other details.

Generate an Agreement with the Client

Ensure that an agreement has been established with the client. If an agreement has not been established, ask the client if they have a standard agreement or if they would prefer to use your agreement.

If any changes to the terms and conditions are required in your agreement, the changes should be approved by your legal counsel. Do not make or agree to any change to the agreement without serious consideration of the ramifications. Never bet the farm to get a new client.

Ask the client if they use Purchase Orders. Try to influence the financial terms of the PO, such as payment due upon receipt of invoice, or due 10 days after receipt instead of 30 days after receipt of invoice.

Remind the client to initiate approvals for a security badge, desk, phone, and other office tools/access that will be required for implementing the solution.

7. HIRING / ENGAGING

At some point, you will need to hire employees or engage subcontractors to assist in the implementation of your solution. As Dale Dauten points out in *Great Employees Only* “Instead of hiring people you like, the criterion that most gifted bosses use is to *hire people you can admire*. You don't have to admire their lifestyles or their personalities, but you should admire their work and their commitment to it.”

FINDING EMPLOYEE CANDIDATES

Sources of Candidates

The most effective place to look for candidates is not the traditional job market but rather the *underground talent market*. Thus, the primary sources for locating the right candidates are:

- "Birds of a Feather": One of the best ways to find the right professional is to ask other great employees or those who are doing the same type of work. People want to help their peers and friends in the same profession. This method will, generally, find the right professional but you may need to call everyone that you know.
- Networking: Suppliers and business associates are great sources to ask. Every city has many business / trade organizations that you can join for free, or for low annual membership rates. These organizations provide many networking events to meet potential employees or subcontractors. It is important to speak with many people to get the word out about the types of skills that you normally seek.
- Outplacement Firms or Companies that are going through layoffs: Contact Outplacement firms for lists of recently unemployed professionals. Also contact any companies that are going through layoffs. These companies want to see their employees find employment (even if just to reduce their SUTA and FUTA unemployment charges) and will often send the downsized professionals to you if you have available opportunities.
- Universities & Trade Schools: If you are looking for a less experienced professional or someone that has recently completed a specific certification, these are great sources for professionals. A call to the career planning & placement office will usually get you in touch with the right person to post your job or speak with someone that will know the right candidate for your opportunity.
- Retired Professionals: Many companies are looking for seasoned professionals that have years of experience. There are many groups that cater to retired people - seek out these groups and tell them about your requirements. If they are not interested in going back to work, they probably know someone that is ready.
- Professional Recruiter: Send your requirements to a professional recruiter. For a fee, resumes of candidates meeting your requirements will be sent to you for consideration.
- Internet News groups: There are many Internet News groups which either contain resumes or job listings (or both). Some are listed below:

atl.resumes	ba.jobs.resumes
comp.jobs.contract	il.jobs.resumes

misc.jobs.contract.resumes
pdaxs.jobs.resumes
us.jobs.resumes

misc.jobs.resumes
triangle.jobs

- Directory of Resume Web Sites: The Internet sites listed below either have resumes or job listings

Resume Site Name	URL Address	Brief Description
America's Job Bank	http://www.ajb.dni.us/	Can post jobs here and interested candidates will contact you.
ComputerJobs	http://www.computerjobs.com/	A job listing service. The format makes it easy for people to see who you are and to respond to your posting.
Dice	http://www.Dice.com	Pay Service for both viewing resumes and posting jobs. It looks like there are lots of good leads at this site.
Directory of Independent Computer Consultants (ICCA)	http://www.icca.org	This site can be searched, by skill desired, for many independent firms throughout the USA.
HotJobs	http://www.HotJobs.com	Pay Service for both viewing resumes and posting jobs. It looks like there are lots of good leads at this site.
Monster	http://www.monster.com	A big on-line job and resume posting site.

The initial interview should discuss how much compensation the professional would require prior to accepting the job. Before contacting anyone about an opportunity, you should have a good idea how much you are able to pay for the position and still make a reasonable profit margin. You should have a high and low end pay range so that you can be flexible when discussing the opportunity with the candidate.

The goal of pay negotiations is to make the professional feel that they are getting a fair deal. If they feel you are taking advantage of them, they will find another employer. You will also lose credibility with other candidates. If possible, leave a margin in the pay rate so that you can give the professional a "bump" in pay after three months of good service. You can use this as incentive to get off on the right foot.

Be careful not to promise long-term or guaranteed employment. It could be used against you later. Many companies are engaging personnel more on an "as needed when needed basis" by engaging contract professionals. Hiring contract personnel may allow a firm to bypass a lengthy and expensive learning period.

Contract professionals often make more money annually than traditional employees. They can make a higher hourly wage and overtime because they are willing to accept the risk of a contract opportunity. Contract engagements provide professionals with the opportunity to gain significant experience working

with multiple clients. This type of environment can provide significant learning because they solve different kinds of problems and see different management styles and practices used at multiple clients. Contract engagements can sometimes lead to permanent employment, which gives the company an opportunity to evaluate a professional before being hired directly.

Employee or Subcontractor Status

Some professionals are rather independent and insist on not working as an “employee”. They have probably worked for a large firm and “will never work for someone else again!” They cite several advantages to their being a subcontractor over being an employee, such as:

- May tax defer a larger percentage of income through a Keogh/SEP Plan.
- May have more than one client engaging them at the same time.
- May deduct the cost of their home office from taxes.
- May deduct more excess expenses from taxes.
- May shelter some income from FICA/Medicare/SUTA/FUTA as dividends.
- May deduct more auto expenses from taxes.
- May build a business for other family members.
- Can schedule their own time and vacation.
- Can be their own "boss".

It is very important that you follow the guidelines in this section to insure that the professional qualifies as an independent firm before engaging him/her on your client’s project.

It is important that you tell the subcontractor **what** is to be done but not **how** it is to be done, otherwise the IRS argues that the subcontractor is actually an employee since s/he is under your direction and control. Notice that you “engage” a subcontractor and not “hire”. Do not put the right to terminate the engagement at any time in your

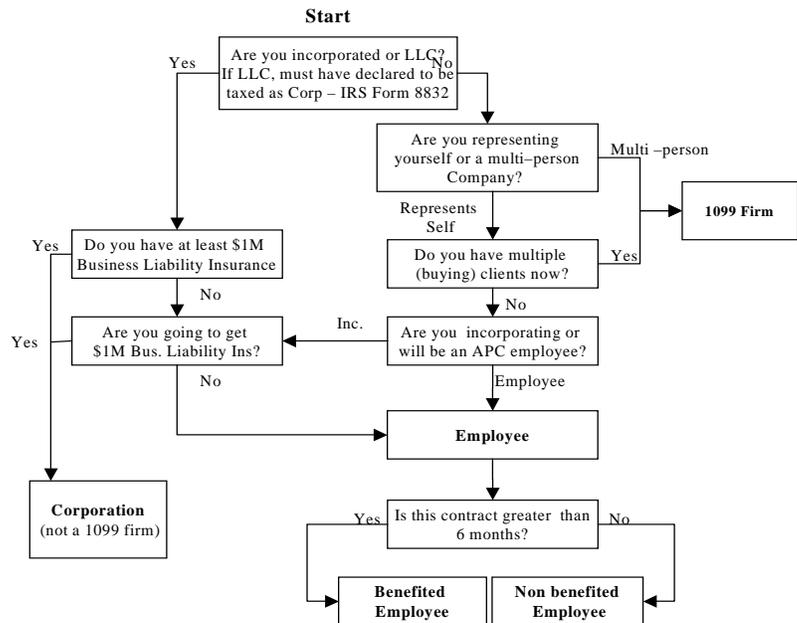
agreement since it could be construed as an “at will” arrangement - thus, having the IRS conclude that the worker is an employee. Several other factors (see the IRS 20 Point Test) are used by the IRS in making this decision.

Your engagement professionals may be an employee or a subcontractor (corporation or 1099 firm). If the professional is a subcontractor, they must adhere to the following strict guidelines:

Subcontractor Guidelines

Subcontractors should be incorporated or organized as an LLC (partnership or sole proprietor), authorized to do business in the state in which services are provided. In addition subcontractors should have

Employee, Corporation, or 1099 Firm?



general business liability insurance and any additional insurance coverage required by the Client (e.g., bonding). If you are not sure whether the status of a professional / consultant is an independent subcontractor or should be claimed as an employee then you try to make them an employee or file **Form SS-8**, Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding, for an IRS determination. If there is doubt and time is of the essence, then you should insist on an employer-employee relationship until the issue is resolved. Assure that all subcontractor requirements are met before s/he starts work as a subcontractor.

The subcontractor firm should sign a formal Subcontractor Agreement contract since it makes good business sense and is required by law in many states. Even where it is not required by law, it is advisable to give the applicant a copy and get the applicant to acknowledge receipt of the copy of the contract by separately signing a statement to that effect. This eliminates later claims by the applicant of either being unaware of fees earned or not having a copy of the contract and not knowing his/her obligations upon termination of the contract. In some states, these latter obligations are established by statute. In any event, all of these terms should be clearly recited in the contract.

- **Certificate of Insurance:** In nearly all states, Workers' Compensation is required by law (E.g., North Carolina House Bill 1090, June 10, 1996) if the subcontracting firm has three or more employees. If not a large public company, have the firm provide a copy of a Certificate of Insurance for their Workers' Compensation coverage as proof that they have Workers' Compensation insurance and all liability insurances required by the client. This will be sent to you by their insurance carrier at no charge.
- **Taxpayer Identification:** Have the subcontractor firm complete the IRS W9 form which identifies their Federal Tax ID. If not incorporated, this will be required for the 1099-MISC income reporting. Subcontractors that are incorporated firms do not require a 1099-MISC form to be reported to the IRS, however, you must acquire this tax identification information anyway.

If the subcontractor is an LLC, then they should probably be classified on the W9 form as an individual/sole proprietor or, if there are multiple owners, as a partnership and not as a corporation. If this is the case, then a 1099-MISC will need to be reported to them and the IRS. One of the biggest areas of confusion with many small LLC companies is their assumption that the IRS (federal government) will classify them as a corporation if they have formed an LLC with their state.

It is important that they understand that the default that the IRS selects is that the LLC is an individual/sole proprietor (will file form 1040-C), and is a partnership if the LLC has multiple owners (will file form 1065), unless the IRS is instructed otherwise by the LLC filing IRS form # 8832 *Entity Classification Election* and selecting option "a" for corporation. Then, if the LLC corporation wants to be taxed only once as a Subchapter S Corporation (files form 1120S and 1040), then it must tell the IRS by filing form # 2553 *Election by a Small Business Corporation*.

- **Term of Agreement:** Do NOT allow the contract to say that either party may cancel at any time. There must be a penalty for early termination or some mandatory transition period (e.g. 30 day notice). Otherwise, the IRS can claim that the worker's engagement is "at will" and therefore is an employment agreement and not a subcontractor agreement. The worker will probably be judged to be an employee. In California, this one term will definitely result in a judgement of the worker being an employee.

INTERVIEWING

Depending upon the job you are trying to fill, searching only for people that interview well will cause you to ignore some exceptional professionals. Studies have shown that in many situations the interviewer's opinion of the future success of the interviewee is barely correlated with the professional's actual success on the job. Additionally, consider that the interviewee with any savvy at all will be well prepared with predictable answers for the interviewer's predictable questions. Thus, the old saying "The person you interview is never the person you hire." It is an artificial situation that screens out only the worst of candidates. Thus, if possible, go beyond the standard interview and check out their work. One way to do this is to simulate the planned work situation and have the interviewee role play. This is why successful managers hire from trusted colleagues, suppliers, or customers.

TYPES OF INTERVIEWS

This section covers the different types of job interviews and formulating your questions to ask. Preparation will help you to control the content and flow of the meeting. Knowing your communication style, or that of the interviewee will help you communicate your message effectively.

There are two major categories of job interviews: the kind used to screen an applicant in or out, and the kind used for making the actual hiring decision. For some larger firms, each type of interview is conducted by a different kind of interviewer.

The Screening Interview

This type of interview is usually conducted by a recruiter, a search firm representative, or a human resources specialist who is often trained to be an interviewer. It is important to remember that the screening interviewer's job is not to decide if a candidate is the best person for the job, but to judge whether they are reasonably close to a profile of the hypothetically ideal candidate.

These interviewers tend to proceed in a logical, systematic fashion. Because they often must make a written report of their findings and their opinions, they collect facts. They know what information they need and will ask the right questions to get it, collecting and using facts to arrive at a conclusion that they can justify at a later date if necessary.

They are direct and concise in their replies, and sure they understand exactly what information they are looking for before asking a question. Whenever possible, they frame their question in a positive light. Negative questions tend to induce an adversarial atmosphere.

The Decision Interview

The decision interview is usually conducted by the immediate manager or by a person with the authority to hire/contract.

The manager usually is interested in the following:

- Can s/he do whatever the client wants done?
- Will s/he solve their problems? Are they motivated to do that?

- How does s/he fit? Will the client be comfortable seeing him/her every day?

This meeting, while an interview, is also a selling situation.

SAMPLE INTERVIEW QUESTIONS

Although there may be multiple purposes underlying some of the questions asked by an interviewer, we have listed each question under only one of them.

Interviewer's Questions and Purpose

Is the person prepared? Organized and concise?

- Tell me about yourself.
- Did you bring your resume?
- What do you know about our organization?
- According to your definition of success, how successful have you been so far?

Is this person mature and self-aware?

- In your current/last position, what were your most significant accomplishments? In your career so far?
- Had you thought of leaving your present position before? If yes, what do you think held you there?
- Would you describe a few situations in which your work was criticized?
- If I spoke with your current/previous boss, what would he or she say are your greatest strengths and weaknesses?
- How would you describe your personality?
- What are your strong points?
- What are your weak points?

Is the person motivated? What are his/her values, attitudes? Is there a fit?

- In your current or last position, what features did you like most? least?
- What do you look for in a job?
- How long would it take you to make a meaningful contribution to our firm/client?
- If you have never supervised, how do you feel about assuming those responsibilities?
- What do you see as the most difficult task in being a supervisor?
- Why are you leaving your present job?
- Describe your ideal working environment.
- How would you evaluate your previous/present firm?
- How would your co-workers describe you?
- What do you think of your boss?
- Why do you want to work in a company of this size? Of this type?
- If you had your choice of jobs and companies, where would you go?
- Why do you want to work for us?
- What are you doing, or what have you done to reach your career objectives?
- What was wrong with your last company?
- What kind of hours are you used to working?

Does the person match job and criteria?

- What would you do for the client?
- What has your experience been in supervising people?
- Are you a good supervisor? Give an example. Why do you feel you have management potential?
- Did you ever fire anyone? If so, what were the reasons, and how did you handle it?
- How have you helped to increase sales or profits? Reduce costs?
- How much money did you ever account for? Largest budget responsibility?
- Describe some situations in which you've worked under pressure or met deadlines.
- In your present position, what problems have you identified that had previously been overlooked?
- Give an example of how you have been creative.
- Give examples of times when you were a leader.
- What are your goals in your career?
- What position do you expect to have in two years?
- What are your objectives?

How does the person handle stress? What is his/her confidence level?

- Why should we hire/contract you?
- You may be over-qualified or too experienced for the position we have to offer.
- Why haven't you found a new position before now?
- Any objections to psychological tests?
- If you could start again, what would you do differently?
- How would you structure this job?
- How much do you expect, if we offer this position to you?

How does the person demonstrate ethical behavior?

Integrity and ethical behavior can usually be evaluated by determining the applicant's conception of right and wrong. Research indicates that individuals who are low in integrity tend to see the average person as lower in integrity than do individuals with high integrity. In other words, the person with low integrity rationalizes his or her level of integrity by assuming that other people share similar values. Thus, an effective way of determining integrity is to establish the limits which define actions that the individual would call dishonest or lacking in integrity.

Care must be taken to avoid appearing to condone behavior which indicates low integrity. Condoning produces two problems: recently hired employees may think cheating is allowed - even expected - and candidates with high integrity may decide they do not want to work with an organization or manager who condones unethical behavior.

Note that the questions, by indicating that such behavior is nearly common, make it easy for an applicant to admit an instance of low integrity or unethical behavior.

- What would you do if you learned that a co-worker, with whom you socialize outside of the office is falsifying his time sheet?
- What would you do if you learned that your supervisor had falsified his expense report?
- Discuss a time when your integrity was called into question.
- Can you give examples of when you had to bend or break the rules sometimes?
- Have you ever gotten caught breaking a company rule?
- Some salespeople frequently oversell a product a little bit in order to clinch a really important sale. Can you give examples of when you did this?

- Sometimes the truth is bent a little when dealing with a particularly difficult customer or manager. Can you give me some examples of when you had to do this?
- Describe a situation when you were asked to keep information confidential?

What is this person's market value?

- What level of salary are you worth?
- What other types of jobs or companies are you considering?
- How have you kept up in your field?

Clearly, it's important to hire outstanding people. It is just as critical to de-hire / terminate people who are not performing up to expectations. This will be discussed in a later chapter.

EMPLOYMENT PROCESS

Most firms will have several items that must be performed to bring on a new employee (for example, see the **NEW PERSONNEL ORIENTATION CHECKLIST** below). This will include enrollment into benefit programs, acquiring emergency contact information, and various data for the governments.

W-4 EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATE

All employees should complete Form W-4, (<http://www.irs.gov/pub/irs-pdf/fw4.pdf>) federal Employee Withholding Allowance Certificate, so that you can withhold the correct federal income tax from their pay. A similar form for the state should be completed, as well. For example, for the state of North Carolina's NC-4 see <http://www.dorn.com/downloads/nc-4.pdf> for a copy of the form.

NEW HIRE REPORTING FORM

Whether the employee is a new hire, re-hire, or just returned to work after an absence, each state has a New Hire Reporting Form that must be completed. For example, North Carolina's can be found at <https://newhirereporting.com/SharedPages/NCform.pdf>.

In 1996, Congress enacted a law called the "Personal Responsibility and Work Opportunity Reconciliation Act," or PRWORA, as part of Welfare Reform. This legislation created the requirement for employers in all 50 states to report their new hires and re-hires to a state directory.

New hire reporting speeds up the child support income withholding order process, expedites collection of child support from parents who change jobs frequently, and quickly locates non-custodial parents to help in establishing paternity and child support orders. New hire reporting helps children receive the support they deserve.

Employers serve as key partners in ensuring financial stability for many children and families and should take pride in their role. Those who do not receive court ordered financial support from a parent often are required to depend on public assistance programs or live in poverty. By complying with the requirements of the new hire reporting law, you will help children receive support to which they are entitled.

I-9 EMPLOYMENT ELIGIBILITY FORM

The U.S. Citizenship and Immigration Services (USCIS) requires you to verify the identity and employment eligibility of all employees within the first three days of employment. This information is collected using the Employment Eligibility Form (all called Form I-9, www.uscis.gov/files/form/i-9.pdf).

It is very important that you and the employee complete this form accurately and entirely. An audit by the USCIS can be very unforgiving.

The USCIS requires that the original document stays with your firm. Do not mail it to them.

To complete the I-9 correctly:

- Fill out Section 1 completely.
- Sign and date Section 1 in the presence of a notary public or you authorized representative?
- The notary public or other designated authorized representative must complete Section 2 and verify the forms of identification.
- The notary public or other designated authorized representative must sign in the appropriate signature box in Section 2 (entitled Signature of Employer or Authorized Representative), and fill in the date.
- If a notary public completed Section 2 of the Form I-9, the form must be notarized.
- File the original Form I-9 document and copies of identificatio.

These Form I-9 Requirements for Remote Hires come directly from the Department of Labor:

"It is not unusual for a U.S. employer to hire a new employee who doesn't physically come to that employer's offices to complete paperwork. In such cases, employers may designate agents to carry out their I-9 responsibilities. Agents may include notaries public, accountants, attorneys, personnel officers, foremen, etc.... Note: Employers should not carry out Form I-9 responsibilities by means of documents faxed by a new employee or through identifying numbers appearing on acceptable documents....Likewise, Forms I-9 should not be mailed to a new employee to complete Section 2 himself or herself. "

NEW PERSONNEL ORIENTATION CHECKLIST

	<u>EMPLOYEE</u>	<u>REQUIRED FOR: SUBCONTRACTOR</u>
GOVERNMENT FORMS:		
Federal Withholding Exemptions (Form W-4)	Y	
State Withholding Exemptions (e.g. Form NC-4)	Y	
Employment Eligibility (Form I-9, <u>Must SEE proof</u>)	Y	Y
State New Hire Reporting	Y	
Letter of Authorization	Y	Y
Tax Status IRS W9		Y
YOUR FORMS:		
Background check (Criminal records in counties)	Y	Y
Employee Handbook and Acknowledgment Form	Y	
Employment or Subcontractor Agreement	?	Y
Confidentiality Agreement	Y	Y
INSURANCE FORMS (if applicable):		
Medical (Enrollment form or Waiver)	Y	
Disability Insurance Enrollment or Waiver	Y	
401 (k) Packet and Enrollment Form	Y	
Dental Insurance Enrollment Form	Y	
Cancer, Specific Event, Intensive Care, Information	Y	
Hospital Indemnity, Personal Recovery Plus, Life Information	Y	
College Savings Plan Information	Y	
OTHER FORMS:(if applicable):		
Electronic Check Deposit Authorization	Y	Y
Emergency Contacts	Y	Y
Client Required Guidelines (If required)	Y	Y
Employee Assistance Program Information	Y	
Voluntary Self-Identification (even if left blank)	Y	Y
REQUIREMENTS FOR SUBCONTRACTORS:		
Articles of Incorporation with their state, or Certificate of Business Registration with a county		Y
Copy of business's Certificate of Insurance naming you as an insured		Y
Copy of firm's business licenses (if required in that geo.)		Y

APPLICABLE LAWS ON HIRING

Despite federal and state laws, some employer-clients try to impose certain discriminatory qualifications upon employment requirements and may try to do this through the misuse of your services. A firm found guilty of such practice can lose its license, and both the firm and the executive involved will be subject to various administrative and judicial sanctions with the possibility of suffering substantial monetary loss.

Understand Title VII of the Civil Rights Act

Under Federal law, it is an unlawful practice to: (a) fail or refuse to refer for employment, or otherwise discriminate against any individual on the basis of race, color, religion, sex, national origin or age (from 40 to 70), or (b) classify or refer any individual for employment on the basis of race, color, religion, sex, national origin or age, or (c) advertise jobs indicating that there is a preference or discrimination based on race, color, religion, sex, national origin or age, except where a *bona fide occupational qualification* (BFOQ) exists regarding a certain religion, sex, national origin or age. In practice, for example, in the professional services industry, a BFOQ is so rare that it should be considered nonexistent.

State and city laws generally prohibit discrimination on the same bases and, in some instances, for physical disability (handicap), or marital status. Under state or city law, the age discrimination prohibition may cover ages 18 to 65, as opposed to only those between 40 and 70. Thus, you should become knowledgeable of all applicable laws for your cities and states.

An employment agency that receives a job order from an employer-client containing an unlawful sex specification will share responsibility with the employer-client if the agency fills the order knowing that the sex specification is not based upon a bona fide occupational qualification (BFOQ).

The use of masculine pronouns is not, per se, an unlawful sex specification indicating an unwillingness to consider women for a position. Unfortunately the English language perpetuates sex discrimination through its traditional use of male pronouns to indicate persons of either gender. It must be recognized that this dual sex implication of a masculine pronoun cannot be assumed for nouns, such as “salesman”, “gal-Friday”, “stock boy”, and the like which are discriminatory.

A relevant example of age discrimination is an advertisement for a position that reads: “Management Trainee. Prefer recent college graduate.” Whereas, an ad that reads: “Management Trainee. Excellent first job.” is not discriminatory (per the Circuit Court) since an older person (e.g. farmer) may enter the job market for the first time.

Although we may not perform reverse discrimination in assisting an employer-client meet their affirmative action obligations (ignoring qualified candidates because they are not of a certain minority race or sex), we may *make special efforts* to recruit minority or female applicants and to have increased numbers of women and minorities among our referrals.

An employer must make reasonable accommodations to the religious needs of employees and prospective employees where such an accommodation can be made without undue hardship to the conduct of the employer’s business. Such undue hardship may exist where the employee’s assigned work cannot be performed by another employee of substantially similar qualifications during the period of the absence of the Sabbath observer. In such instance, the employer has the burden of proof, but the United States Supreme Court has decided that only minimum costs need be borne; otherwise it would be considered discrimination against other employees.

Religion may be a BFOQ for a position at a school, college or other educational institution if such institution is owned, supported, controlled or managed by the particular religion.

You may not, as an employment counselor, inquire into the national origin of an applicant. The counselor may, however, ask the applicant if the applicant has the legal right to work in the United States. If the

answer to that question is no, you are faced with the question of what affirmative responsibility you have with the applicant.

Federal law categorizes a non-immigrant alien, who engages in unauthorized employment while in the United States, as one who has failed to maintain his “non-immigrant status”, and is, therefore, subject to the ultimate sanction of deportation.

Unauthorized employment engaged in by the alien is not considered a crime, but is only the violation of a “rule” which, while making such employment an unlawful act, can only result in the imposition of sanctions against the alien. Since these “rules” have the “force of law” it would be reasonable for a state licensing authority to qualify their violations as “illegal” under the state’s employment agency law. Thus, an employment agency may lose its license for “aiding and abetting” unlawful activity.

Federal law has the following non-immigrant visa categories: H1B, H2B, H3, E1, F1, J1, L1, TN. These visas provide authorized employment when properly secured and/or transferred.

Every business’s branch offices are required to keep posted in a conspicuous place on its premises a notice prepared by the Equal Employment Opportunity Commission (EEOC). Copies are available on the web.

Understand the Fair Credit Reporting Act

This act is relevant when you perform reference or background checks on a prospective consultant. The act requires you to clearly and accurately disclose to the candidate that you intend to compile what is termed under the Act as an “investigative consumer report”. This notice must be given in writing to the prospective candidate within three days after the reference check is initiated. The candidate must also be informed that he/she has the right to request a complete and accurate disclosure of the nature and scope of the investigation conducted. Use an *Authorization for Checking References and Obtaining an Investigative Consumer Report* form to obtain the candidate’s approval for performing a background check.

A willful failure to adhere to the specific provisions of this law creates a liability for possible: (a) actual damages; (b) punitive damages; and (c) court costs and attorney’s fees. If the failure occurs by way of negligence, liability for damages is limited to: (a) actual damages; and (b) court costs and attorney fees. Actions to enforce this liability may be brought within two years from the date of its occurrence or discovery.

The act also limits what kind of information you can compile if the prospective consultant’s annual compensation is not expected to equal or exceed \$20,000.

The information that you can not obtain includes bankruptcy actions more than ten years prior to the reference check, or lawsuits, judgments, paid tax liens, accounts placed for collection, arrests, indictment or conviction records, or other adverse information that occurred more than seven years prior to the date of the reference check.

The prospective consultant has a right to request and receive the nature and substance of all the information compiled about him. He/she is also entitled to find out who you have given the information

to during the two year period preceding his/her request for the information. You do, however, have to disclose the source of the information in some states.

If a prospective consultant disputes the accuracy of any of the information that you have gathered, you are required to reinvestigate the matter within a reasonable period of time. The current status of the disputed information must be noted in the candidate's file. If investigation reveals the information is inaccurate or it cannot be verified, then the information must be deleted. Even if you discover that the disputed information was indeed true, the prospective consultant must be given the right to file a brief report stating his position in the dispute. Finally, the fact that the candidate disputes the information and a copy of the applicant's statement must be disclosed to employers to whom the information is subsequently conveyed.

Your HR should receive the authorization and run the background check. HR notifies the manager when the background check is received. HR will assure that all paperwork to the relevant parties is sent out.

AFFIRMATIVE ACTION, EEO, VETS-100 REPORTS

What should you do when you receive a letter from a client advising that it is a government contractor and is, therefore, required to obtain certain commitments from its suppliers, whether of goods or services, to be sure you are complying with all of the relevant equal employment opportunity laws? Such a letter from the client usually refers to Executive Orders 11246 and 11375, Sections 503 and 504 of the Rehabilitation Acts of 1973, the Vietnam Era Veteran's Readjustment Assistance Act of 1974 and Title VII of the Civil Rights Act. Often, it is accompanied by a certificate attesting to your willingness to comply with the requirements of these Orders and Acts which is required to sign as a condition of continuing to do business with the company.

8. APPLICABLE LAWS ON EMPLOYMENT

PRIVACY

The constitutions of seven states (Alaska, Arizona, California, Florida, Massachusetts, Montana, and Rhode Island) have provisions specifically protecting the privacy of citizens. These provisions have been used to successfully attack disclosure of all sexual activity with minors under the age of 14, and a university's disclosure of grades to a scholarship commission. Thus an employer's inquiry into these areas may constitute an invasion and should be avoided.

A few states, including Indiana, Kansas, Missouri, and Nebraska, require employers to provide "service letters" regarding terminated employees, stating the particulars of their employment, and sometimes require statements concerning the employee's performance. Several states have adopted statutes that prohibit intentional inaccurate employment references. Under most statutes, an employer acting "in good faith" cannot be held liable for communicating information about an employee's job performance or reason for termination to a prospective employer. In the area of references, the less said is often the best policy.

In the absence of a statutory or contractual right of employees to review personnel data accumulated about themselves, employers apparently have no obligation to allow employees access to their own personnel files. An increasing number of states, including Arkansas, California, Connecticut, Illinois, Pennsylvania, and South Dakota, have adopted statutes providing for employees access to certain personnel records. It is important that our policy toward employee access must remain consistent.

Record Keeping

Following are several key recommendations to keep in mind when it comes to employee RECORD KEEPING:

- Establish "tickler" systems so that records are not kept longer than necessary.
- Review employment evaluation forms and other similar documents to be sure they are nondiscriminatory.
- Do not disclose information on employees except to those who have a legitimate need to know the information.
- Do not discuss charges against employees with more people than absolutely necessary.
- Seek consent before disclosure where possible.
- Provide "neutral" references for former employees, where consistent with state law.

FAIR LABOR STANDARDS ACT

There are only three types of employee pay categories:

1. Hourly Non-Exempt,
2. Salaried Exempt, and

3. Salaried -Non-Exempt (rarely used).

Hourly Non-Exempt is paid for whatever number of hours is worked in the workweek. Salaried Exempt is always paid for the number of hours in a standard workweek (usually 40 hours, but could be 38 hours or any other number of hours).

Salaried Exempt do not have to be paid for a week not worked but are usually provided as company benefits. If a Salaried Exempt works just one hour in the week then the standard weekly pay *must* be paid.

Salary Non-Exempts follow the same guidelines as Salaried Exempts but are compensated for overtime, as well.

Absent an exemption, California law requires the payment of overtime pay to employees who work more than eight (8) hours in any workday, more than forty (40) hours in a workweek, or more than six (6) days in a workweek. The overtime pay rate is one and one-half (1½) times the employee's rate of pay for all hours worked up to 12 hours in a day, beyond forty hours per week, or for the first eight (8) hours on a seventh consecutive day in a workweek. The overtime rate is double pay for hours above those hours.

A common exemption from these requirements in California is for administrative, executive or professional employees. Persons who are engaged in work which is “primarily intellectual, managerial, or creative, and which requires the exercise of discretion and independent judgment” can be exempt. Licensed attorneys, doctors, dentists, and other professionals may also be exempt. Prior to March 1, 2000, the exemption for administrative, executive, or professional employees also required that the employee’s salary be not less than \$1150 per month, or \$13,880 per year. Utilizing this provision, employers have been able to classify their administrators and managers as “exempt” employees, i.e. exempt for overtime pay requirements, by ensuring that their duties meet the definition quoted above and by paying them more than \$13,880 per year. Persons not on salary are not exempt.

California’s Individual Welfare Commission, however, has issued a new wage order, called “Interim Wage Order 2000”, that became effective March 1, 2000. Under the new IWC wage order, an administrative, executive, or professional employee is not exempt from the overtime pay requirements unless the employee’s salary is “a monthly salary equivalent to no less than two times the state minimum wage for full-time employment.” California’s minimum wage is \$6.75 per hour, higher than the federal minimum wage.

Also under Professional Exemption for computer related employees:

Except, as provided in subparagraph (I), an employee in the computer software field who is paid on an hourly basis shall be exempt, if **all** of the following apply:

- (i) The employee is primarily engaged in work that is intellectual or creative and that requires the exercise of discretion and independent judgment.
- (ii) The employee is primarily engaged in duties that consist of one or more of the following:
 - The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications.
 - The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications.

- The documentation, testing, creation, or modification of computer programs related to the design of software or hardware for computer operating systems.
- (iii) The employee is highly skilled and is proficient in the theoretical and practical application of highly specialized information to computer systems analysis, programming, and software engineering. A job title shall not be determinative of the applicability of this exemption.
- (iv) The employee's hourly rate of pay is not less than twenty-seven dollars and sixty three cents (\$27.63).

Summary of Fair Labor Standards Act

	NON-EXEMPT (Hourly)	EXEMPT (Salary)
Category Qualification:	Anyone that is not Exempt.	<p>Must be Executive, Administrative, or Professional that meets the following requirements (per Title 29, Part 541 of the Code of Federal Regulations):</p> <p><i>Executive</i> - Primary responsibility is management, with 2 or more subordinates, and not performing the same type of work as the subordinates.</p> <p><i>Administrative</i> - Performs a decision making role that affects the company.</p> <p><i>Professional</i> - Has achieved a prolonged course of study in a specific discipline and works in that discipline.</p>
Number of Hours Paid:	Number of Hours Worked (40, or Less, or More Hours)	Standard Weekly Hours (usually 40 hours)
Overtime Pay Rate:	<p>For all hours over 40/week: (See Section 7(a) of the Act)</p> <p><i>Always 150% x Hourly Rate with One Exception (below):</i></p> <p>Exception (541.3): Computer Professionals:</p> <p>If Hourly Rate is \$27.63/Hr or Less then Rate is 150% of Regular Hourly Rate.</p> <p>If Hourly Rate is More than \$27.63/ then the Regular Hourly Rate.</p>	Normally, " <i>Not Applicable</i> " but an employer may, or may not, provide additional benefit of paid overtime, with or without a premium to the rate.

Observations:

- Except for Computer Professionals, ALL Hourly employees must receive a 150% premium compensation rate for overtime after 40 hours worked per week. In California, overtime is paid at 150% after 8 hours worked per day and at 200% after 12 hours worked per day.
- An Exempt employee is paid a Weekly Salary if, at least, one hour is worked in the week.
- There is no legal possibility of an "Hourly Exempt" employee as claimed by one of our large clients.

SEXUAL HARASSMENT

You should not tolerate any persons (including managers, supervisors, employees, subcontractors, clients, or vendors), men or women, sexually harassing an employee. It should be your objective to provide employees with a workplace free from sexual harassment. If you receive a complaint of sexual harassment from anyone, report it immediately to your Human Resources Manager. Do not try to handle the situation alone.

Any manager, or supervisor found guilty of sexual harassment should be terminated.

Sexual harassment includes, but is not limited to, sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a condition of an individual's employment;
2. Reaction to such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include, but are not limited to, sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions or threats; sexually suggestive objects or pictures, graphic commentaries, suggestive or insulting sounds, leering, whistling or gestures, unwanted physical contact, including touching, pinching, brushing with the body, or pushing. All personnel must comply with this policy. Violations of this policy may result in disciplinary action up to and including termination of employment.

Persons who believe they or any other person(s) have been the subject of sexual harassment are instructed to immediately report the matter to their supervisor, or human resources representative or the president, so the matter can be investigated and appropriate steps taken. If a candidate or employee comes to you with a sexual harassment complaint please follow these steps.

An investigation of the matter must be commenced immediately and completed promptly.

- **The investigation should begin with a thorough interview with the complainant immediately.** The interview should begin with the interviewer assuring the complainant that unlawful harassment will not be tolerated. The complainant should be told that all harassment

reports will be investigated and, if harassment is found to have occurred, appropriate remedial action will be taken. Similarly, the complainant should be assured that retaliation against any employee who reports harassment or who participates in an investigation is prohibited and will not be tolerated. Advise the complainant to report immediately any perceived retaliation. During the interview, the investigator should obtain the following information:

1. A detailed account of the alleged harassment;
2. Identity of participants, witnesses and others with knowledge and any evidence the complainant believes supports the complaint; and
3. The action which the complainant desires the company to take (including immediate action, if any).

- **Determine whether any immediate action or pending the investigation should be taken.** In some cases the complainant may request or the circumstances may warrant taking immediate action pending the investigation. Examples of such action include separating the complainant and alleged harasser by placing the alleged harasser on administrative leave, or temporarily transferring the alleged harasser. In no event should the complainant be placed on leave or transferred unless he or she specifically requests such action.
- **All witnesses should be identified and interviewed.** These interviews should begin, as described above, by reviewing the policy against harassment and retaliation. Again, written signed statements should be obtained. Advise witnesses that the matters discussed during the interview are confidential and should not be discussed with anyone.
- **Interview the alleged harasser.** Confront the alleged harasser with the allegations and facts discovered during the investigation. Obtain a signed statement detailing his or her version of the facts along with the identity of witnesses or others with the knowledge and any evidence which supports his or her version of the facts. Conclude the interview by reminding the alleged harasser that the company does not tolerate harassment. He or she should be told that all harassment reports will be investigated and, if harassment is found to have occurred, appropriate action including discharge will be taken. Additionally, the alleged harasser should be instructed not to discuss the matter with any other employees and warned that retaliation against any employee who reports harassment or who participates in an investigation is prohibited and will not be tolerated.
- **Resolve credibility issues.** In most cases, the complainant tells one story, the alleged harasser tells a different one. Although credibility disputes can be difficult to resolve, juries do this in every case. We need to do the same. In resolving credibility issues, consider:
 - ▶ Timing of complaint
 - ▶ Details provided by the complainant, witnesses and alleged harasser
 - ▶ Whether corroborating evidence of any party's story logically should exist but does not
 - ▶ The complainant's statement standing alone, if otherwise credible, may be sufficient to support a finding that the alleged harassment occurred
 - ▶ Demeanor of the complainant, witnesses and alleged harasser
 - ▶ Reputation for truthfulness

▶ All other relevant circumstances

- **Upon completing the investigation, determine what action should be taken.** Action should be designed to eliminate harassment, remove any detriment suffered by the victim and deter future incidents by the harasser and others. Even if the allegations are found to have no merit the company will be well-served to review the harassment policy with the alleged harasser and secure his or her representation that he or she understands it and will abide by it.

If harassment is found to have occurred, then appropriate disciplinary action up to and including when they believe that remedial action was not taken. Even companies that properly handle harassment complaints are exposed to subsequent claims when they fail to notify the complainant that responsive action was taken.

To minimize the likelihood of these claims, companies should notify the complainant when the investigation is completed. If harassment was found to have occurred, the complainant should be advised as to the remedial action that will be taken. If the investigation was inconclusive or no harassment was found to have occurred, then the complainant should be advised that the complaint was taken seriously, that the company does not tolerate or condone harassment, and that steps will be taken to ensure that conduct such as that alleged will not occur in the future. In all cases, the complainant should be advised to report immediately any subsequent perceived harassment or retaliation.

- **Documentation should be retained.** All reports of alleged harassment, investigative statements and findings, counseling, disciplinary and other remedial action should be retained in a separate investigative file - not in the complainant's personnel file.
- **Periodically check with the complainant to ensure that the harassment has ceased.** Harassment complaints frequently are accompanied by allegations that the harassment continued even after it was reported. These allegations expose you to liability for failing to take effective action or ignoring, tolerating or even condoning the harassment. To minimize the likelihood that the allegations will be made, periodically check with the complainant to ensure that the harassment has ceased and no future action needs to be taken. Document these follow-up checks and the complainant's response.

9. TIER 2 / SUBTIER PERFORMANCE

As a subcontractor to another firm, there are several obligations that you have to the primary contractor and to their client. Otherwise, one or both of them will tell you to stop being a supplier and you will probably lose any future invitation by the client to become a direct or prime supplier.

It is imperative that you clearly understand the terms and conditions of the Supplier Agreement between the Tier 1 / Prime supplier and the client and insure that everyone in your organization, that will be involved with your firm's performance as a Tier 2, understands them as well. Most clients will audit their Tier 1 suppliers' compliance with the terms and conditions of the Supplier Agreement and if a serious breach is found or too many smaller infractions are found they may terminate the contract with the Tier 1 Prime supplier. As a supplier to their client as a subcontractor, if your firm is the cause of these infractions you will probably lose your subcontract even if the prime does not lose theirs. If your firm is the cause of their Agreement with the client being terminated, your firm will probably be the subject of a very expensive law suit. So, to repeat, for a successful subtier relationship, understand the terms and conditions of the Supplier Agreement and make certain that your firm consistently performs to those terms and conditions and provides the product or service on time, on budget, and to specifications.

COMPLIANCE WITH THE CLIENT AGREEMENT

Compliance to the client's Supplier Agreement will have specific items but some of the more popular ones are:

- **Pricing compliance** - the price of the product or service falls within an approved range, matrix of permitted prices, or adheres to an approved markup percentage.
- **Insurance Coverage** - your firm has, at least, the minimum insurance requested by the client for general liability, professional errors and omissions, workers' compensation, bonding, etc.
- **Criminal Background Check** on all subcontractors' personnel working on the project is current, completed for all states and countries that they have lived or worked and a copy is on file.
- **Former Client Employee Check** to see if any of subcontractors' personnel were formerly employees of the client that are not allowed to work on the project.
- **Solution Delivery Authorization** - Written proof that the client authorized the delivery of the solution, usually by a Purchase Order or Letter of Authorization, before delivery was initiated by the supplier.
- **Billing and Expenses** are accurate, timely, and conform to the Agreement.
- **Security Guidelines** are followed consistently and completely. Normally, the client reserves the right to review any site where work is being performed by subcontractor for conformity to client security requirements. Subcontractors should not connect or allow connection to the client's network without the prior written approval of client and will only connect with, interact with, inspect and/or use those programs or routines made available by client. Subcontractors should notify the client Security department or project manager of any security problems.
- **Confidential Information** -
 - Subcontractors should ensure that passwords and cipher keys are protected from disclosure.
 - Subcontractor personnel should not have access to client confidential information, including telephone directories and organization charts, unless such access is required to perform services under the Agreement.

- Subcontractors should ensure that subcontractor personnel does not provide such documents to others and return them to the client at the completion of the services for which they were required.
 - Subcontractors should ensure that any programs, tools or routines made available on client-owned computers are not copied.
- **Solutions Offered** to a high percentage of client's requests instead of just "Cherry Picking" the most profitable opportunities.
 - **On-Time and On Budget Solution** as promised.
 - **Reporting Compliance** - Reporting all of the requested statistics and performance issues on time and in the format requested.
 - **Warranty Compliance** - Providing the warranty on the product or service as requested.
 - **Minority Certification** - Providing proof of minority certification as claimed.

Frequently, in a subcontractor arrangement as a Tier 2, the primary relationship for your firm will be the Prime or Tier 1 supplier and not their client. This means your firm will receive the request for your firm's product or service from the Prime, not from the client. To your firm, the Prime *is* the client.

The Prime may not allow your firm to call upon their client directly. The Prime may require that your firm always go through them. Thus, develop a very good working relationship with the Prime or they can significantly impede your firm's ability to be successful in the subcontractor arrangement. Does this mean that your firm will never be able to meet the client, earn their respect, and get a chance to become a Tier 1 supplier as well? Yes, your chances will be impaired but not gone. A client that also performs *Best Practices* will ask their Prime suppliers to audit and provide a detailed report of performance of Tier 2 subcontractors. Additionally, they should host an annual "Town Hall Meeting" as an opportunity to mentor and get feedback on how the Tier1 - subtier process is working. It gives the client another view of their Tier 1 suppliers.

COMPLIANCE WITH CLIENT POLICIES

Some suggestions that you should follow to avoid potential contractor issues and noncompliance with the Supplier Agreement:

- **Employment** - Subcontractor personnel should not approach the client manager for employment with the client.
- **Employment Issues** - Subcontractor should perform any type of training, coaching, or supervisory corrective action for its personnel off client premises before or after business hours. Subcontractors should not conduct any employment interviews, hiring, employee counseling, performance evaluations, dismissals, or the like on the client's premises. Doing otherwise may provide the IRS or Department of Labor with potential co-employment issues. However, subcontractors should notify the client within two (2) days after the termination or resignation of any subcontractor personnel assigned to work on client premises.
- **Overtime** - For the same reason, subcontractor personnel should request authorization for overtime from their supervisor and not from the client manager.
- **Dress** - Discuss appropriate attire for the work site (special uniform or protective clothes, suit, business casual, or casual).
- **Purchase Order Information** - Subcontractors may not be allowed to discuss Purchase Orders, bill rates, product prices, or payment with the client managers.

COMPLIANCE WITH CLIENT'S FACILITIES RULES

- **Identification** - Subcontractor should provide the client with the names of subcontractors' personnel that will be working on the client's premises. All such personnel should be provided an appropriate badge which must be prominently displayed while on the client's premises.
- **Safety and Security** - Subcontractor should review site-specific safety and security requirements with its onsite personnel and followed consistently and completely.
- **Smoking** - Subcontractor should review site-specific nonsmoking areas.
- **Parking** - Subcontractor should follow the client's parking guidelines. Improperly parked cars may be towed away at subcontractors' expense. Difficulty in obtaining parking places does not constitute justification for late performance or for additional compensation.
- **Entry/Exit** - Subcontractor personnel should enter and leave client premises via designated entrances and sign in and out as specified by the client.
- **Convenience Facilities** - Subcontractor personnel may have access within the client work location to restrooms, cafeterias, and in the event of a medical emergency, client medical facilities for first aid. Other than these, subcontractor personnel's access will probably be restricted to those areas required for the performance of subcontractors' services.
- **Social Facilities** - Subcontractor personnel may not participate in recreation or social activities, education courses, seminars, internal award programs, library privileges and other benefits and facilities provided for client employees.
- **Telephones** - Subcontractor will ensure that subcontractor's personnel use client telephones only for client business purposes. Subcontractors should reimburse client for any unauthorized calls.
- **Mail Facilities** - Subcontractor personnel should not send or receive personal mail on client's premises or use client's Information System networks for anything other than client's business purposes.
- **Weapons** - Subcontractor personnel should not bring onto client's premises any weapons or any other equipment that has not specifically been authorized by the client.
- **Cameras** - Subcontractor personnel should not use any camera or any other photo equipment that has not specifically been authorized by the client.
- **Hazardous Material** - Prior to bringing any materials onto client premises, subcontractors should:
 - Obtain client's written permission prior to using, storing, generating, discharging, or transporting any hazardous materials to or from any client premises;
 - Identify to the designated client representative all hazardous materials that subcontractor will use to perform services and indicate the amount of such hazardous material that will be required.
 - Clearly label all hazardous materials which client permits subcontractor to bring onto client premises and inform all employees of subcontractor and client who have a need to know as to the nature and potential hazards of such materials; and
 - Provide to the designated client representative, material data safety sheets (e.g., OSHA Form 20 or the equivalent) for all hazardous materials.
 - With respect to all such hazardous materials identified, subcontractors will:
 - Store all hazardous materials brought onto client premises only as specified by the designated client representative;
 - Use and consume until exhausted all such hazardous materials only in accordance with the specified client procedures; and
 - Remove empty hazardous material containers and dispose of them.

- **Property Search** - Subcontractor should understand that all personnel's property and vehicles entering or leaving the client's premises are subject to search.
- **Facility Closure** - Unless specifically requested by client, subcontractors should not provide services at client location on client-observed holidays or when the work location is otherwise closed, such as unplanned closing for inclement weather or emergencies.
- **Controlled Substances** - Subcontractor should not use, distribute, sell or possess any drugs or other controlled substances for non-medical reasons, or alcoholic beverages, on client premises or in any client work environment (including parking areas and grounds).
- **Sexual Harassment** - Subcontractor should provide the following notice to all of its personnel assigned to work on client premises:

"Our client and we are committed to providing an environment free from sexual harassment. Sexual harassment is unwelcome sexual conduct which has the purpose or effect of unreasonably interfering with an individual's work performance or which creates an offensive or hostile work environment.

If you believe that you have been the victim of sexual harassment, you are encouraged to report such incidents directly to your manager or our HR department, or in the event they cannot be reached immediately, the client's security department. We will promptly investigate all complaints of such conduct and deal with appropriately."

EXCEED PROMISED EXPECTATIONS

Customers cringe when they hear an unsophisticated eager vendor claim that they can do everything. They know better and you will instantly lose credibility and, probably, the chance to be their supplier.

Be very careful in setting expectations. Probably the biggest problem, which emerging firms have, is setting the customer's expectations too high. Do not over-promise. Promise only what you can deliver and deliver what you promise.

If you are not positive that you can do it, because you have done it many times before, then be open and honest with the client. Tell them that it is your first time, the reasons that you are confident that you can do it, give them a guarantee - a no-cost guarantee, and ask if they will give you a chance. They will be taking enough risk using your firm. So, don't expect them to take on too much risk in your firm until you have proven yourself several times. If you're honest and sincere and have a great reputation, you will probably get the order. Clients want a supplier that cares about their business, will be a strategic partner in their success, and exceed expectations.

10. DE-HIRING / TERMINATING EMPLOYEES

“You can’t be a first rate leader with second-rate followers” is the key discussion in *Great Employees Only* by Dale Dauten. As managers, we must choose between *changing* people or *changing people*. Using many management and motivation techniques, discussed in thousands of books, you can make (temporary) incremental improvements over time by trying to *change* people’s performance. However, to make an order of magnitude improvement, you will probably need to *change people*. Dauten points out that gifted managers have a simple performance standard: hire great employees only. But they also recognize that not all employees are, or are capable of being, “great” at every assignment.

Firing is telling people that they are wrong for the company; de-hiring is helping employees do what's right for *themselves* and the company.

DE-HIRING AND TERMINATION ISSUES

One approach to de-hiring is to ask a series of six questions, developed by Dr. Jonathan Knaupp for his use in a university setting:

1. *Are you happy here?* Actually, they're not happy or the meeting wouldn't be taking place.
2. *What are you passionate about?* That question will get them to think about what they really want.
3. *Does this job do that for you?* Again, if the answer were *yes*, you wouldn't be asking the question.
4. *How can we make changes so that happens?* In most cases, it cannot be done or the problem is a family/personal issue that you can't fix, but you might be able to change the employee's work schedule.
5. *What would you rather be doing?* In fact, they've probably given this matter some thought.
6. *How can I help you move in that direction?* In many cases, all they really need is your encouragement to make a change.

Dauten points out that typically, mediocre employees would rather be doing something else. By helping them to focus on their passions, you can help them see that they would be happier in another position at your firm, or in another company. By asking these questions, you are encouraging them to have the self-revelations and make the changes that will move them toward their goals.

Ask any manager about his or her worst day at the office and most will tell you it was the day they had to terminate an employee, if they did it correctly. If not, then their worst day was the follow-up visit for the termination by the Department of Labor or the Employment Security Commission!

Some of the termination issues that should be carefully addressed are:

1. If this person signed an Employment Agreement, is the Employment Agreement signed and in his/her file?
2. What is the whole story surrounding this termination. The customer is always right but are they really “right”? Has the employee been given an opportunity to tell his or her side of the story? What does the employee’s personnel file look like? Do the facts, as opposed to opinions, support the termination?

3. Is there sufficient documentation to support termination? (But, not significantly more documentation than is kept on other employees.) Are there prior warnings in the employee's personnel file? What do the employee's evaluations look like? What is the employee's seniority status?
4. Is the employee being treated in a nondiscriminatory manner and is the termination consistent with the company's prior actions? Are there employees of the opposite sex or race, or employees in the non-protected age group, who have been treated differently than this employee under similar circumstances?
5. Is the termination consistent with the terms published in your Employee Handbook or Employment Agreement, if any?
6. Is there any basis for a claim by this employee that his or her termination is in violation of public policy? Has the employee complained about the company engaging in activities that violate the law? Has the employee filed an internal grievance to complain about certain matters?
7. Does the employee have a worker's compensation claim pending, or has the employee been involved in such a proceeding during the past year?
8. Does the employee have any known handicaps or disabilities?
9. What is the composition of all employees (race, age, sex) terminated in the last 18 months?
10. Is there an alternative to termination, such as a final written warning, demotion or suspension without pay?
11. Should the employee be offered the opportunity to resign instead of terminated?
12. Who will be selected to replace this employee?
13. Are there any wage and hour issues that need to be considered?
14. Is there anything about the termination that strikes me as unfair?
15. What should I tell the employee who is going to be terminated? Tell the employee the truthful reasons for termination. Discuss the issue of references. Tell him or her about notification regarding post-termination benefits.

Some of the Do's and Don'ts of documentation:

- Do:** State the truth
 Just the Facts
 Document Close in Time
 Be Brief and to the Point
 Review and Read Carefully
 Have Someone Else in Management Review It
 If Appropriate, Show to Affected Employee

Place in Personnel or Other Appropriate File
Ask Yourself: Is It Fair?

Don't: Speculate or Make Untrue Statements

Write Opinions

Wait Until the Facts are Cold

Try to Write a Bestseller

Be Sloppy or Use Inflammatory Language

Show Personnel-Related Documents to People Outside the Group

Violate Privacy or Confidentiality

Prepare a Document That You Wouldn't Like to Have Read Back To You in a Court Room

THE EXIT INTERVIEW

The Exit Interview may be the last good opportunity to retrieve a corporate credit card, keys to company / client doors and equipment, badges, passwords to PC's, E-Mail, etc.

VOLUNTARY SEPARATION

The Exit Interview offers an opportunity to learn why the employee wants to leave. Listen carefully and try to determine if others have the same opinions.

INVOLUNTARY SEPARATION

Even if a terminated employee files a wrongful discharge lawsuit, the exit interview is valuable. The interview may be the last opportunity to speak with that ex-employee before a government agency or an attorney intervenes. Important defenses to a wrongful discharge lawsuit may be substantiated and supported by information elicited during the exit interview.

Exit interviews offer opportunities to obtain admissions or concessions from the ex-employee. For example, a terminated employee may admit that his/her performance was substandard or that he or she violated a specific company policy. Such admissions are typically less freely given once the ex-employee has retained as attorney.

EXIT INTERVIEW PROCESS

First, carefully select the interviewer (who may eventually serve as a pivotal witness in a wrongful discharge lawsuit brought by the terminated ex-employee). The ideal interviewer should be credible, a good listener and honest. The interviewer should be honest and direct about the reasons for discharge and should avoid wavering or equivocating about the reasons for the discharge or who was responsible for the discharge. Accordingly, the interviewer should not attribute the termination decision to others in the company. Instead, the interviewer should advise the terminated employee that it was a "company decision".

Second, the interviewer should avoid negative or defamatory comments about the terminated employee or any former or current employees. The interviewer must be sensitive to the emotional nature of a termination and exit interview from the perspective of the ex-employee. While the interviewer must be

firm and honest during the interview, he or she must also refrain from using derogatory or abusive labels or epithets such as “liar” or “stupid” in disclosing the reasons underlying the decision to terminate.

Third, administrative matters such as COBRA (continuation for up to 18 months of the medical insurance directly with the insurance provider), 401(k), references, *Covenant Not to Compete* agreement are handled at the exit interview. The interviewer should also advise the terminated employee of the contact person he or she can contact to resolve any residual matters subsequent to the exit interview.

Fourth, the interviewer should have a witness present at the exit interview. The interviewer and the witness should take notes of what is said during the interview, date and sign the reports. If questions regarding the interview should subsequently arise, then you will have a record in place in the form of these signed statements and the completed discharge form.

Finally, the interviewer should complete a Termination Form during each exit interview. The Termination Form should include space to list the reasons for discharge and for employee comments. The listing of reasons for termination can enable the employee to more fully understand the reasons for his termination and puts the employee on notice for the rationale underlying his/her discharge. Moreover, seemingly innocuous employee comments on a discharge form can become valuable admissions in subsequent litigation. The Termination Form should also contain a recitation that the employee had an opportunity to ask questions and that termination interview was reasonable. The signature lines for the interviewer, the witness and the terminated employee should be included in the discharge form. If the ex-employee refuses to sign the discharge form, this fact should be indicated on the discharge form.

11. MISCELLANEOUS

BUSINESS TRAVEL AND RELATED EXPENSES

Effective administration and control of travel and expenses, the need for standardization of both expense documentation and application of policy, and the increasing reporting requirements of the Internal Revenue Service and other regulatory bodies, dictates that all employees be guided by a common set of expense guidelines. This sample policy sets forth those guidelines.

It is recognized that reasonable and necessary expenses will be incurred by employees in conducting business. The purpose of the Business Travel and Related Expenses Policies and Procedures is to:

- Define your policy and procedures pertaining to travel and entertainment expenses and set forth a general framework for your Business Development offices to follow.
- Describe the types of expenditures that are and are not reimbursable by you.
- Inform employees and expense report approvers of their responsibilities relative to controlling and reporting travel and related expenses.

Executive management establishes expense policy and administrative procedures for the staff. The guidelines contained in this sample policy statement are the guidelines recommended to be used by your Business Development personnel. As such, each Business Development Office may implement a more restrictive policy if deemed appropriate for the particular Office's environment.

EXPENSE DOCUMENTATION REQUIREMENTS

The IRS has increasingly placed corporate spending under closer scrutiny. To preserve the deductibility of business travel expenses adherence to the IRS guidelines regarding receipts, documentation, and explanation is essential.

All expenses should be accounted for on a weekly basis, or for infrequent travelers, at the end of the event generating the expenses. The business purpose of each travel and related expense must be clearly stated on the TEA (Travel and Expense Accounting) expense report (Appendix).

Original receipt for all expenditures of Twenty-Five Dollars (\$25) or more (although the IRS guideline is now \$75) must be furnished with the individual travel expense report. It is encouraged that receipts be obtained for all expenditures, wherever possible. Accordingly, all employees / subcontractors should request receipts in those instances where they are not furnished as a routine matter.

Receipts are required for all items charged via credit card. Employees / Subcontractors should use their own credit/debit card or a Corporate Card, if appropriate, for the majority of expenditures and submit card charge slips as documentation. Receipts are also required for all lodging, including situations where payment is made to friends or relatives in lieu of public accommodations or where a gift, meal or other appropriate token of appreciation is provided.

Original receipts should be retained by the "originating" company. For your employees, you would be the originating company and you should receive the original receipts with the expense report. For

subcontractors, their firm is the originating firm and you should receive copies of the receipts. *Expense reimbursement should not be made until you have received the expense report and the associated receipts.*

APPROVAL RESPONSIBILITIES

The approver of an expense report should normally be the employee's / subcontractor's project manager or other employee with appropriate approval authority who has sufficient familiarity with the employee's responsibilities to provide effective expense report review. The approving manager bears responsibility to assure that expenses are legitimate, reasonable, properly documented, and in conformance to your policy. Any expense reports not in conformance with company policy will be returned to the approver for follow-up and correction.

Approval of the Business Development Office will be required for expense reports not submitted within 30 days of incurring the expense.

GENERAL TRAVEL POLICY STATEMENT

- Employees will be reimbursed for all reasonable expenses that are necessary and incurred when traveling on company business, subject to policies contained herein and additional guidelines set forth by the respective Business Development Office or Client.
- It should be your intent that the traveler should neither lose nor gain financially or otherwise, as a result of business travel.
- In conducting your business, employees are to follow the practices set forth in your Corporate Policy regarding Business Ethics.
- It is expected that all employees and subcontractors will follow the procedures contained herein.
- ANY EXCEPTIONS TO THE STATED POLICIES MUST BE SPECIFICALLY APPROVED ON AN INDIVIDUAL OCCURRENCE BASIS BY SENIOR MANAGEMENT.

COMPENSATION FOR TRAVEL TIME

Figuring out whether to pay non-exempt employees for travel time is never easy. There are many factors to consider. Was the employee required to go on the trip? When did the travel occur? Did the employee have to stay away overnight? What are the employee's normal working hours?

The federal Fair Labor Standards Act regulations on travel time can be difficult to follow without a map. A key navigational tip is to determine whether the travel is for your benefit or the employee's. Outlined below are a few basic street signs for you to follow in determining whether travel time should be paid, along with some examples to illustrate what road to take.

Home-To-Work Travel

Ordinary travel from home to work does not require compensation. This is true even if your work site is a moving site. Since the employee has chosen to accept the employment and decides where to live, you are

not required to compensate the employee for the time s/he normally spends commuting from home to work and work to home.

If you require employees to report to a central location to receive their assignments, supplies, and/or tools, the travel time from the central location to a subsequent job site assignment is compensable. If you give employees the option to report to a central location or to report directly to a job site, the travel time to either place is not compensable.

Time spent traveling as part of an employee's principal activities for an employer must be counted as hours worked because it is "all in a day's work." Thus, traveling to different job sites during the employee's working day or time spent driving from customer to customer is compensable. It is time that clearly benefits the employer.

Working While Traveling

If the employee is actually performing work while traveling, such time is compensable. For example, if your employee is working on a laptop while on the plane, he or she should be compensated for that work time. If an employee is required to drive a van carrying other employees from the job site to home, the employee driving the van is "actually working" and must be compensated for that time.

Out of Town Less Than 24 Hours

Things get more complicated when an employee travels out of town. If an employee normally works at a fixed location and is required to travel to another city for one day on a special assignment, the time spent traveling (to and from the new city) is compensable. The travel is performed for the employer's benefit, at the employer's request, and to meet the needs of a particular and unusual assignment. However, travel between the employee's residence and the airport is not compensable because it is normal "home-to-work" time, even if the travel time to the airport far exceeds the employee's normal commute to work.

This example might provide you with a little direction. You tell an employee that he is required to travel out of town for a one-day seminar. The employee leaves his house at 6:00 a.m., and it takes him one hour to get to the Des Moines airport.

The employee boards the plane and lands at the destination city at about 8:30 a.m. It takes about another half hour for the employee to take a cab to the seminar site. The seminar starts at 9:00 a.m. and last until 4:00 p.m. The employee visits with some friends at the seminar until 5:00 p.m. and then travels back to the airport by 5:30 p.m., catching a 6:00 p.m. flight that arrives at the Raleigh airport at 7:30 p.m. It takes the employee about a hour to get from the airport to home. How much of this time should the employee be paid for?

The employee is *not* paid for the 6:00 a.m. to 7:00 a.m. time spent traveling to the airport. That is "home-to-work" time. The employee should be paid from 7:00 a.m. to 9:00 a.m. for the time spent traveling via plane and taxi to the seminar. The employee should also be paid for the time spent at the mandatory seminar from 9:00 a.m. to 4:00 p.m.

The employee need *not* be paid for the time from 4:00 p.m. to 5:00 p.m. that he spent visiting with friends, unless you agreed to pay for this "idle" time. The employee should be paid for the time spent

from 5:00 p.m. to 7:30 p.m. traveling to Raleigh. The employee need not be paid for the time spent from 7:30 p.m. to 8:30 p.m. driving home because that is “work-to-home” time.

Out of Town More Than 24 Hours

Your compensation obligation changes if the employee is on an out-of-town trip that requires him or her to stay overnight. In this instance, travel time is compensable when the travel occurs during the employee’s regular work hours, even on days the employee is not scheduled to work, such as Saturday and Sunday. Conversely, travel time outside the regularly scheduled work day is not compensable.

Let’s assume that an employee who regularly works from 9:00 a.m. to 5:00 p.m. is sent on a required two day trip that includes an overnight stay. It takes the employee from 6:00 a.m. to 7:00 a.m. to get from home to the Raleigh airport. The employee is on the plane and in a cab until 9:00 a.m. as he travels to a seminar, which he attends from 9:00 a.m. to 4:00 p.m.

The employee visits with friends after the seminar until 5:00 p.m., and then he heads to the hotel, where he works for one hour, goes to dinner, and then to bed. At 8:30 a.m. the next day, the employee takes a cab to the seminar, arriving at 9:00 a.m. He attends the seminar until 4:00 p.m. and from 4:30 p.m. to 6:00 p.m. he flies back to Raleigh. It takes him until 7:30 p.m. to get home.

How much of this time is compensable for this required overnight trip? The employee need not be paid for the time spent the first day from 6:00 a.m. to 9:00 a.m. getting from home to the airport and to the seminar site. This is time spent outside the employee’s regular working hours.

The employee should be paid for attending the mandatory seminar the first day from 9:00 a.m. to 4:00 p.m. The time the employee spent the first day after 4:00 p.m., with the exception of the one hour actually spent working in his hotel room, is not compensable. It occurred outside the regularly scheduled workday.

On the second day, the employee is paid for the time spent at the seminar from 9:00 a.m. to 4:00 p.m. the employee is not paid for time spent in the taxi getting to the seminar in the morning because that was not time spent during the employee’s normal working hours. The employee should be paid for time spent traveling between 4:00 p.m. and 5:00 p.m. because that is part of his regular working hours. The rest of the travel time is not compensable because it occurred outside the employee’s regular working hours.

TRANSPORTATION-GENERAL POLICY

As travel costs may represent one of your clients’ larger expenses, it is important to make every effort to ensure that lowest reasonable rates/fares are obtained whenever possible. Travel selections are to be based upon lowest rates/business requirements and not by codes/incentive programs. Specific travel related questions and/or concerns should be referred to the office management of that Business Development Office.

You may have negotiated discounted rates on certain rental cars. Many of clients have preferred discounting vendors, as well. Travelers are required to utilize these preferred vendors unless business requirements dictate otherwise.

Air Travel

It should be your policy to accept the lowest logical airfare on your itinerary whenever possible within the parameters of sound business judgement. Every effort should be made to qualify for these fares by planning trips and ordering tickets within the required time-frames (30 days in advance for substantially discounted fares) and by allowing flexibility in arrival and departure times.

It should be against your policy to choose vendors or routes at higher costs to qualify for promotional or frequent flyer/bonus incentives.

Coach is the approved class of travel for all employees on domestic and international flights. If approved by the Client, Business Class is optional for international flights greater than eight (8) hours flying time.

It is recommended that the Business Development Office managers should be accompanied on the same plane by no more than two key subordinates, not necessarily 'direct reports'. Unless circumstances dictate to the contrary, such as a lack of alternative flights, any concentration of employees / subcontractors from the same unit or in the same direct reporting relationship should be avoided. Managerial consideration of the size of the unit should be used in determining a concentration, but in no case should it exceed ten (10) employees / subcontractors.

Discounted Weekend Travel

In recognition of the fact that airlines offer substantial discounts when a trip includes a Saturday night stay, employees may leave early or extend business trips into a weekend. However, you should reimburse lodging expenses for one additional night spent at the destination city only if:

1. The extension constitutes less than fifty percent (50%) of the total time spent on the trip. The IRS will deny deductibility of all travel expenditures for a particular trip if the "personal" portion is fifty percent (50%) or more of the total trip length. This may result in taxable income to the employee / subcontractor.
2. The additional night lodging is less than the airfare savings obtained by comparing the 'Saturday night stay' airfare with the lowest logical airfare to the destination city in the market for a 'non-Saturday night stay'. Travelers must request the Corporate travel agency document the airfare savings.
3. The Corporate travel agency itinerary showing the savings obtained by the weekend travel must be included with the expense report to document the amount saved.

Workers compensation insurance may not apply to accidents occurring during periods of extended travel for personal activities.

Use of Private Aircraft

Use of personal/private aircraft is not approved and, accordingly, no reimbursement will be made for the use of such aircraft. The use of commercial charters may be permitted and should be arranged through the Business Development Office when appropriate.

Rail Travel

When an overnight stay is required on board a train, a roomette or duplex accommodation is permitted. When travel is limited to daytime hours, the type of accommodations permitted depends on the duration of the trip. Coach service is used for trips at less than four hours. First class rail service may only be used for trips longer than four hours.

Ground Transportation

The choice of ground transportation (personal car, taxi, airport/hotel shuttle vans, rental car, public transportation) should be the most economical mode that satisfies the travelers business purpose and requirements. The utilization of private 'for hire' ground transportation is prohibited except when justified by cost savings or extenuation circumstances. The expense report should contain an explanation of such circumstances.

Personal Cars

Personal cars are to be used for company business only when timing, cost, unavailability or a commercial mode, or number of employees traveling together make it the most economical means of transportation. Expenses incurred for parking and tolls are reimbursed, and the reimbursement for miles traveled will be at the maximum rate allowed by the IRS (e.g. \$0.445/mile in 2006). Commuting mileage is not reimbursable. Commuting mileage is generally defined by the Internal Revenue Service as the distance between the employee's residence and the first and last stop of the day for local travel.

Employees / Subcontractors using their personal car should carry auto liability insurance limits of, at least, \$100,000 per person/\$300,000 per accident.

Rental Cars

Rental cars are to be used only when they are clearly the most economical mode of transportation. Compact cars should be used unless a business reason exists to upgrade. When compact cars are unavailable, employees/subcontractors should receive car upgrades from the designated rental car vendor at no additional cost.

The designated company rental car vendors or the client's vendor should be used in all cases unless no cars are available. Travelers are required to submit travel itineraries to their management with each expense report. Questions or concerns should be directed to the Business Development Office.

Loss/Collision Damage Waiver and Personal Accident insurance generally offered by car rental companies will be reimbursed and should be accepted if you do not have your own insurance coverage. Your company is/is not self-insured for loss/collision damage.

Employees and vendor personnel are encouraged to refuel prior to returning the car to avoid higher vendor refueling charges.

Rental car expenses will be paid by the employee and reimbursed through the expense accounting process. Receipts must be submitted for approval. When rental cars are used for combined personal and business travel, the business portion will be reimbursed on a pro rata basis.

LODGING

TRAVELERS ARE REQUIRED TO SUBMIT TO BUSINESS DEVELOPMENT OFFICE MANAGEMENT TRAVEL ITINERARIES WITH EACH EXPENSE REPORT TO DOCUMENT ARRANGEMENTS. FAILURE TO UTILIZE CLIENT OR COMPANY PREFERRED HOTELS WILL RESULT IN THE EMPLOYEE NOT BEING REIMBURSED FOR THE INCREMENTAL COST UNLESS THERE IS SUFFICIENT BUSINESS JUSTIFICATION FOR DOING SO. IT IS THE RESPONSIBILITY OF THE MANAGER APPROVING THE EXPENSE TO ASSURE ADHERENCE TO THIS POLICY.

Receipts are required for lodging regardless of cost. Lodging bills are always paid by the traveler and included on expense reports with receipts attached. The room cost should be separated on the expense report for other costs such as room service, meals, parking and telephone charges. Direct billing to the company is not authorized.

When a traveler is a guest in a private home, a gift, meal or other token of appreciation may be purchased at a cost not to exceed normal cost of public accommodations for one night. Receipts for these expenses are required regardless of cost.

MEALS

Business Meals

Meals at the meetings where company business is discussed are considered business meals.

The practice of a subordinate paying for business meals for himself/herself and his/her superior is discouraged. Only the senior person may submit the expense report with approval to be obtained from the senior person's manager. In situations where circumstances make it inappropriate for the senior person to handle payment, the expense report of the subordinate should be submitted to the senior person's manager for approval. The business purpose and participants must be clearly defined for all such meals.

In order to protect the company from loss of deductibility fo the expense for tax purposes, proper documentation of the business purpose of business meals is essential. The documentation should include the name, title and company affiliations of the party(ies) attending the meeting along with the topic of discussion and the name of the restaurant or other establishment at which the meeting was held. Meals of \$25 or more must have receipts.

Employees should normally account for their own expenses, unless circumstances of the gathering render this procedure impractical. Direct billing of business meal expenses to the company is prohibited.

Reciprocal entertainment among company personnel which does not involve a specific business purpose is prohibited.

Personal Meals

Meals purchased by an employee while traveling on company business are generally reimbursable expenses. Breakfast and dinner are not to be charged to the company if the employee leaves after the

normal breakfast time or returns before the normal dinner time. No meal expense should be included on expense report when a meal is provided in flight.

PER DIEM

While recruiting candidates for assignments that would require travel, meals and lodging away from their home, it may be necessary to offer reimbursement for some or all of these expenses.

If per diem reimbursement is offered to a candidate, it is important that the arrangement fall within certain strict IRS guidelines.

First, it must be reasonable for the company to assume that the employee will actually incur travel, meals and lodging expenses in conjunction with the assignment. This means that the employee would be away from the general vicinity of her home for a period substantially longer than the ordinary workday and it is reasonable for them to need lodging while away from their home.

Second, per diem reimbursement for meals and lodging are not allowable on assignments that are expected to last more than one year, whether they actually last one year or not.

Third, the per diem reimbursement for meals and lodging can not be more than is allowable under the federal per diem rates published in IRS Publication 1542, Per Diem Rates, available at www.irs.gov.

Per Diem and travel reimbursement should be determined in advance of submitting the candidate to the client. Make sure the candidate understands her rate of pay vs. her daily per diem rate.

If the expense of traveling to and from the work site has been offered to the candidate on a regular basis, there may be times when the employee would rather not travel home and receive the per diem instead. In these instances, the company will pay the lower of the cost to travel home or the per diem.

Additional information about travel expenses is contained in the Expense Guidelines section of the company's Employee Handbook.

Anticipated expenses for per diem must be reduced to an hourly basis for internal management review.

GOODWILL ENTERTAINMENT

Goodwill entertainment is comprised of business entertainment of outside constituents other than business meals. To be reimbursable, establishment of a business purpose which may derive from customs, courtesies or requirements of special situations, is important. An employee who is host is expected to provide adequately within the limits suitable to the occasion.

The cost of entertaining customers, clients, and/or business associates in an employee's/subcontractor's home can qualify as a business expense, subject to approval of the Business Development Office.

The requirements for receipts and documentation (including a description of the type of entertainment) are the same as for business meals.

SPOUSE TRAVEL AND EXPENSE

As a general rule, our clients or our company do not reimburse additional expenses incurred because of spouses traveling with employees/subcontractors on business trips. The Internal Revenue Service is strict on this point as indicated by the following quotation: “Where a taxpayer’s spouse accompanies him/her on a business trip, expenses attributable to his/her travel are not deductible unless it can be adequately shown that the spouse’s presence on the trip had a bonafide business purpose. The Spouse’s performance at some incidental service does not qualify as a deductible business expense. The same rules apply to any other members of the taxpayers family who accompany him/her on such a trip.”

Expenses attributable to the spouse will be reimbursed only if the spouse’s accompaniment is necessary, will serve a business purpose, and comply with the appropriate IRS and State Insurance Department regulations. Examples of spouse expenses include babysitting fees, difference between the cost at single and double occupancy room accommodations and meals attributable to the spouse. All policies for employee/subcontractor travel pertain to the spouse. Prior approval for spouse travel at company or client expense is required in all cases.

This approval must be in the form of a letter, signed by the appropriate company Business Development Office Manager may approve the resulting expense report. Expense reports containing spouse travel costs (except for company Business Development Office Managers) will not be processed unless the letter of authority is attached.

Company Policy Regarding Reimbursement for Spouse’s Expenses

1. With appropriate prior management approval and for the purposes stated in item # 3 below, spouse travel and related expenses are reimbursable.
2. No reimbursement of spouse expenses will be allowed unless evidence of the prior written approval is included with the employee’s expense report.
3. Categories of functions at which spouse attendance may be appropriate are:
 - a. Motivational and business meetings within our own company family whose spouses are expected to be in attendance.
 - b. Business Development Office outings and dinners subject to clearly defined standards.
 - c. Meetings arranged by clients where we do not control the meeting and there are a significant number of client’s spouses present.

Reimbursement for expenses of attendance of spouses at functions will be limited to those spouses considered by the company Business Development department manager to be necessary to accomplish the business purpose of such functions.

AWARD PROGRAMS

The IRS requires that the fair market value of all prizes and awards be reported as taxable income to the recipient and the applicable taxes withheld. Examples of taxable awards include cash, merchandise, gift

certificates, and reimbursement of non-business travel or dinner expenses for an employee and spouse. To ensure proper handling, all managers contemplating issuing an award of \$25 or more must obtain prior written approval from their Business Development department manager. Cash awards will be paid in the employee's paycheck by Payroll. To obtain reimbursement for noncash awards, the purchaser must send a memo to the Business Development Office requesting reimbursement.

FOREIGN TRAVEL AND CONVENTIONS

Reimbursement should not be allowed for attendance at conventions, meetings, etc., outside of the North America area if the reimbursement does not qualify for a tax deduction.

The North American area is defined as the United States and its possessions, Trust Territory of the Pacific Islands, Canada, Mexico, Jamaica, Barbados, Grenada, Bermuda and other countries that qualify under the Caribbean Basin Economic Recovery Act. Exceptions to this would include situations where it is reasonable for the meeting to be held outside the North American area as within it.

Reimbursement for foreign business travel is not affected by the above provisions.

The expenses related to foreign business travel must be reported in U.S. currency. The exchange rate applicable at the time of the trip should be used in converting expenses to U.S. dollars, and noted on the TEA expense report.

MOBILE PHONES

Charges for business calls made on personal mobile phones are reimbursable. Note that all employees are requested not to make company business calls while driving. Instead, the employee should pull over to the side of the road to talk on a mobile phone.

OTHER REIMBURSABLE EXPENSES

Specific miscellaneous or other expenses include: parking fees, highway tolls, tips and business phone calls. Other reimbursable expenses are listed below:

- Dry Cleaner/Laundry expenses for trips exceeding five working days.
- Gifts to friends who provide housing or meals (subject to limitations described in Lodging section).
- Postage, photocopy, or secretarial services required during a trip.
- Traveler's check fees.
- Personal phone calls while away on overnight business trips to the extent that they are of reasonable frequency and duration.

A written statement approved by the employee's manager or the client manager should be submitted to the appropriate Business Development Office for approval and payment.

NON-REIMBURSABLE EXPENSES

The following expenses are not reimbursable as a business expense:

- Fees Associated with any personal charge/credit card.
- Parties, picnics, Christmas parties, Secretaries Day, retirement parties.
- Air Travel and other personal trip insurance
- Barber, manicurist, beautician, bootblack, masseur.
- Traffic fines and court costs.
- Salary advances.
- Health club/racquet club fees.
- Movies, magazines, cigarettes, toiletries, etc.
- Fees for dependent care, pet care, home sitting, etc., arising from travel normally required by the job position.
- Medical expenses.
- Personal articles or clothing.
- Personal entertainment.
- Luggage/briefcases.

PERSONAL CREDIT/DEBIT CARDS

The company's Corporate Card is available to all company employees who incur travel/entertainment expenses on behalf of the company and are unable to get a personal credit/debit card or does not want to use their personal card. Issuance is subject to routine employee review.

Telephone credit cards are permitted, subject to management approval. Approving managers are responsible to ensure that charges are reasonable and business-related.

DIRECT CHARGING

Individual employees / subcontractors are not permitted to arrange for charges for lodging, transportation, meals, entertainment to be billed back to the company or any of its entities. The only exception will be Conference and Event Management.

TRAVEL ADVANCES AND ACCOUNTING

It is suggested that most travel expenditures will be utilizing the personal credit/debit card or company's Corporate Card for travel service facilities, where available, for air and rail ticket purchases, hotel rental car, and meal/entertainment expenses since this will provide \$300,000 in travel insurance. Cash should only be necessary for miscellaneous items such as taxis, parking, tips, etc. The approving Business Development Office manager is responsible to ensure that requested advance amounts are reasonable and used for business purposes.

Temporary advances are available for employees who may on occasion require funds to cover cash expenditures on behalf of the company. Not more than two advances are to be outstanding at any time. In no instance, should a temporary travel advance be open for more than thirty days unless the duration of the business trip exceeds that time. Should there be a continuing need to cover cash expenditures on a month-to-month basis, a permanent (revolving) advance may be requested. Instructions on how to secure advances are available from your Business Development Office.

THE IRS HAS PLACED MORE STRINGENT RESTRICTIONS ON THE ACCOUNTING FOR CASH ADVANCED TO EMPLOYEES BY REQUIRING COMPANIES TO RECLASSIFY ADVANCES AS TAXABLE INCOME TO EMPLOYEES WHO RECEIVE ADVANCES AND DO NOT MEET THE FOLLOWING CONDITIONS:

- A) THE AMOUNT OF THE ADVANCE IS BASED ON A REASONABLE ESTIMATE OF CASH EXPENSES TO BE INCURRED OR FOR PERMANENT ADVANCES, EXPENSES HISTORICALLY INCURRED EACH REPORTING PERIOD.
- B) THERE IS A CONTINUAL NEED FOR FUNDING DUE TO TRAVEL REQUIREMENTS, I.E., PERMANENT ADVANCES ARE NOT TO BE USED BY THE OCCASIONAL TRAVELER.
- C) THE ADVANCE MUST BE ACCOUNTED FOR WITHIN SIXTY (60) DAYS OR RETURNED WITHIN NINETY (90) DAYS OF RECEIPT, FOR PERMANENT ADVANCES THE TIME FRAMES ARE FROM THE LAST USAGE.

COMPANY PARTIES

As you plan the company party, remember that most states expect companies to act responsibly in serving alcohol to its party guests. Although there are no hard and fast rules for serving alcohol at these parties or for minimizing legal liability for injuries caused by intoxicated guests after they leave your party, a list of commonly used best practices are listed below.

- Encourage employees to drink responsibly, preferably without alcohol, and do their part to help everyone have a safe and happy holiday season. Put it in writing.
- Try to keep guests from becoming intoxicated in the first place.
 - ▶ Have plenty of food and alternative beverages available
 - ▶ Serve alcohol only from a bar staffed by a professional bartender (see below)
 - ▶ Do not have "self serve" bars or "open kegs" where the guests serve themselves as much or as often as they wish
 - ▶ Do not have a waiter circulating through the crowd with trays of drinks (make the guests come to the bar so that they can be observed by the professional bartender)
 - ▶ Instruct the bartender not to serve "doubles"
 - ▶ Limit the number of drinks guests can obtain per trip to the bar
 - ▶ Limit the length of time that the bar is open and alcohol is being served
- Hire a professional bartender or caterer to serve the alcohol.
 - ▶ Make sure that the bartender or caterer has appropriate and sufficient insurance coverage, should a problem arise
 - ▶ Inquire ahead of time into the bartender or caterer's training and experience in the service of alcohol
 - ▶ Be sure that the bartender knows how to identify someone who appears to be intoxicated
- Instruct the bartender that "intoxicated" guests should not be served alcohol and should be brought to the attention of the host in a discreet fashion. This allows the professional bartender to "screen out" people who should not be served alcohol, but allows the host to deal with that individual in a way that will avoid undue embarrassment for both the guest and the host.
- Hire other people to monitor the guests in attendance (this could be an "off duty" bartender or someone else who is employed by the caterer).
 - ▶ Be sure that these "monitors" have sufficient training to be able to identify individuals who appear to be intoxicated
 - ▶ This function is important because a guest may not come to the bar each time for his drinks (he may have some drinks brought to him by other guests). For such an individual, the bartender serving the drinks may not be able to observe such a guest frequently enough to notice the appearance of intoxication
 - ▶ Instruct these "monitors" that "intoxicated" guests should be brought to the attention of the host
- Monitor the guests as they leave. Determine who is driving and create an opportunity to observe and converse with the driver so that it can be determined whether or not they appear able to do so safely.

- Have rented vans or taxis available to take guests home, if necessary. This way, no intoxicated guest will be "forced" to drive home from the party.
- Have the event off the regular business premises and after regular business hours.
- Consider having a cash bar. While this may not be feasible in many situations, guests usually drink less when they are paying for their drinks as opposed to consuming alcohol from a "open bar".

12. BEST PRACTICES FOR CLIENTS

Most clients have a priority of stakeholders with the highest, their stockholders, being served best by treating customers as first, then followed by employees, their communities, the nation, and, finally, the world. Clients must make purchase decisions in the best interests of its stakeholders. Clients should select suppliers based on overall value, then if there are ties, by their rank of value to the stakeholders.

Improving Communities & Public Relations

Large clients can have a profound economic and social impact on their communities and can enjoy valuable public relations in doing so. Considering the “*velocity of money*”, a dollar’s investment within a community may translate into five or more. If those dollars pass through economically underutilized suppliers, the social improvement to a community can be geometric. Even though an established minority supplier may provide valued quality products and services they tend to be underutilized suppliers. Therefore,

- To improve public relations in communities and improve the economic and social conditions, clients should promote business with established minority suppliers in those communities.

(*Clarification:* A firm that is foreign owned should not be classified as a minority firm within the domestic country. Also, foreign owned firms tend to transfer income out of the community to the foreign location. So, for international clients, this clarification requests using only firms classified as a German minority firm in Germany, an Asian minority firm in Asia, and an American minority firm in America).

Improving Procurement through Tiered Network of Suppliers

An excellent example of this concept is the Procurement Best Practice of a tiered network of suppliers - consolidating the list of primary suppliers and encouraging the use of competitive secondary suppliers – also referred to as Tier 1 and Tier 2 suppliers.

An organization selects the consolidated list of primary Tier 1 suppliers based upon their proven ability to supply satisfactory competitive products and/or services on a national and/or international basis and vendor management services for the secondary Tier 2 suppliers.

Clients promoting a tiered network of suppliers achieves significant advantages:

- insures that Tier 1 suppliers are considering more solutions before making the best recommendation to the organization;
- insures that new innovative and efficient suppliers are given an opportunity to demonstrate their ability to better serve the organization;
- enhances the client’s pipeline of future Tier 1 suppliers;
- keeps the Tier 1 suppliers more competitive and sensitive to the market; and
- improves the opportunity for established qualified, but underutilized, minority suppliers to participate in the economic and social growth of the community.

Benefits:

The desired *cost benefits* are:

- reduce the number of buyers required to negotiate functions, features and prices;

- reduce the number of attorneys to draft/change contracts terms and conditions;
- reduce the number of A/R staff to validate and process invoices;
- reduce the number of A/P staff to make payments;
- reduce the overall staff required to answer all of the inquiries, enforce contract terms, mentor supplier personnel, and
- reduce prices due to volume discounts.

The desired *service benefits* are Tier 1 suppliers:

- performing as a strategic partner to achieve the organization's objectives by:
- suggesting improvements to business best practices;
- accepting problem ownership;
- maintaining a Team Player attitude; and
- providing overall better service with a Results orientation.

Process:

The organization interfaces, almost, exclusively with only Tier 1 suppliers. Firms requesting to be a supplier are directed to the selected list of Tier 1 suppliers. The Tier 1 suppliers are responsible for interfacing with Tier 2 suppliers to:

- insure their strict agreement to and conformance with the client agreement. E.g.:
- - ▶ obtain signed agreement containing all the client's terms and conditions (insurance, bonding, background checks, etc.) to flow down their terms;
 - ▶ obtain all relevant business and contact information (E.g. tax id, responsible executive, operational contacts);
 - ▶ obtain written verification of:
 - business incorporation and licenses,
 - all required insurance certificates.
- mentor subtier on:
- - ▶ client's rules and procedures;
 - ▶ solution proposal process;
 - ▶ solution delivery process;
 - ▶ on-demand or just-in-time requirements;
 - ▶ the on-line EDI (Electronic Data Interchange) invoicing process;
 - ▶ on-demand reporting systems;
 - ▶ warranty requirements;
 - ▶ performance audit procedures, and
 - ▶ an ongoing basis on how to improve service to the client.

Improving Tier 1 Solutions

- Under a tiered network of suppliers, the client should contract directly with, and only with, Tier 1 suppliers which would be responsible for the product or service delivery, adherence to the terms of the contract and purchase orders, and the client's total satisfaction.
- Clients should train Tier 1 suppliers on the client's internal procurement process on how client managers should request external products or services within the client's Procurement System.

This will encourage Tier 1 suppliers to assist client managers, reduce time, errors, and costs and improve overall service.

- Under a tiered network of suppliers, Tier 1 suppliers would be responsible for:
 - ▶ insuring the flow down of terms of their client's contract to Tier 2 suppliers (such as liability insurance, bonding, background checks, etc.);
 - ▶ communicating to Tier 2 suppliers how the program works and the benefits to the client of their subcontracting through the Tier 1;
 - ▶ training and handling all questions regarding client contract terms and conditions, client purchase orders, invoicing, A/R, payments, warranties, and improving client satisfaction;
 - ▶ receiving and checking invoices from Tier 2 and consolidating them into an EDI format for the client;
 - ▶ paying the Tier 2 for satisfactory products or services accepted and approved by the client;
 - ▶ training Tier 2 suppliers on Supplier Best Practices for the client;
 - ▶ auditing Tier 2's performance to the client's contract terms and conditions;
 - ▶ enforcing warranty issues, if required, and
 - ▶ terminating the agreement whenever appropriate.
- Clients should provide a contact list of all appropriate Tier 1 suppliers to any potential Tier 2 supplier inquiring to be a supplier. This process
 - ▶ alleviates the client from having to handle the inquiry,
 - ▶ encourages Tier 1 firms to compete for preferred Tier 2 firm suppliers, and
 - ▶ lowers the overall cost and improves the quality of service to the client.
- Clients should require Tier 1 suppliers to share all, or nearly all, requirements with Tier 2 suppliers. This will promote more solutions being considered before one is proposed to the client. Otherwise, the Tier 1 supplier may consider only those solutions which they currently have available and not, necessarily, the best solution possible.

Improving Tier 1 Suppliers

- A client should ask their Tier 1 suppliers to audit and provide a detailed report of performance of Tier 2 subcontractors. This report should include, but not be limited to, Tier 2 supplier names, primary contact, phone, e-mail, address, and amount of spend. This will allow the client to identify firms that consistently provide outstanding performance and may be a candidate to become a Tier 1 supplier.
- Clients should conduct a bi-annual Service Level analysis (SPE - Supplier Performance Evaluation or SLA - Service Level Agreement) on their Tier 1 suppliers with a "public" display of results (public between the suppliers). This will promote even better quality of service to the client since the Tier 1 suppliers will compete to be the supplier ranked as # 1.
- Clients should host an annual "Town Hall Meeting" of just their Tier 2 suppliers as an opportunity to mentor the Tier 2 suppliers on how to improve service and get feedback on how

their Tier 1 - subcontracting process is working. It gives the client an opportunity to receive feedback on their Tier 1 suppliers from the Tier 2's perspective.