Going, Going, Gone Global. Have You?

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Who among us in the healthcare community will ever forget the story that was reported in October 2003 about the Pakistani woman who threatened to post patient information on the Internet unless she got paid for transcription work she had performed?[1] It's a horror story, but it's not one that is causing healthcare organizations to steer clear of offshoring as a business strategy. To the contrary, Forrester Research projected in a 2002 report that among all types of U.S. businesses, 3.3 million service jobs will be performed offshore by 2015.[2] Anecdotal evidence suggests that the healthcare industry is not immune to the allure of low-cost labor made available by offshoring.

Offshoring Challenges

That statistic notwithstanding, offshoring can be a worrisome proposition for the uninitiated. The barriers and challenges include:

- ***Fear of the unknown.*** This is perhaps the biggest hurdle to offshoring. The comfort derived from our stringent legal and regulatory environment here in the United States (Sarbanes-Oxley anyone?) together with our somewhat predictable legal system and our general familiarity with methods of conducting due diligence on domestic companies all flies out the window when an organization looks for a business partner across the big pond.

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- ***Communications challenges.*** We in the United States occasionally forget that English is not the world's universal language—and even though it steadily has become more ubiquitous, our idioms and colloquialisms make it a challenging language for non-native speakers to fully comprehend. Communication is further complicated by time zone differences—morning here in the United States can be late afternoon, evening or even the middle of the night elsewhere in the world.
- ***Lifestyle and customs.*** The United States operates at a constant breakneck pace that few countries appreciate or desire to emulate. Timeliness of performance can mean different things in different countries, or even in different regions within a country. Compounding those issues is the complexity of the U.S. healthcare model, which includes literally hundreds of acronyms and clinical terminology that likely are very unfamiliar to the local service providers.
- ***Financial issues.*** Differences in currency and constantly fluctuating rates of exchange can make it challenging to evaluate the financial aspects of an offshore arrangement.
- ***Legal issues.*** These types of issues in offshoring are rampant and becoming moreso every day. For example, this April, Sen. Hillary

Rodham Clinton and Rep. Edward J. Markey introduced similar, although not identical, legislation in the Senate and House, respectively, entitled "Safeguarding Americans From Exporting Identification Data" or the SAFE ID Act.[3] According to a press release issued by Senator Clinton, the SAFE ID Act is designed to "close gaps in U.S. privacy laws that leave consumers vulnerable when American...healthcare organizations send...medical information overseas for processing, often without consumers' knowledge."[4] Among other things, the proposed legislation would require healthcare organizations to provide individuals with an opportunity to opt out of overseas processing arrangements. For an industry still reeling from the pain of complying with HIPAA (yet another legal issue to contend with in the context of an outsourcing arrangement), this move seems a bit like adding insult to injury.

Who's Doing It and Why?

Despite these challenges, healthcare organizations are buying a plethora of services from offshore service providers, including medical transcription, teleradiology, claims processing, software programming (including interface development), report writing, and hardware, call center and help desk support, to name a few.

Based on an informal survey of CIOs of healthcare providers, it appears that most access offshore services through a U.S.-based company with a foreign affiliate, thereby lessening the pain of contracting directly with a foreign company.

The CIOs cite many advantages for their organizations in offshoring arrangements, including the ability to complete projects that might otherwise

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have fallen by the wayside, cost savings, work quality, convenience, quick turnaround, highly skilled workers, and flexible schedules.

Keys to Success

The CIOs who were polled identified a number of keys to success in offshoring arrangements:

- ***Business case.*** The organization's business case for offshoring must be clearly understood and defined. CIOs engaged in offshoring understand that the ability to achieve cost savings starts with a full understanding of the business case and the ability to measure results.
- ***Due diligence.*** Each offshoring firm under consideration should be put through the due diligence wringer. This can be challenging, as publicly available information about foreign companies may be limited, thus increasing the need to secure necessary information directly from potential partners. Questions to be asked include: Is the company public or private? Is it a subsidiary? If so, what is the parent organization? What is the firm's financial condition? Ask for customer references and check them.
- ***Rules of engagement.*** The rules of engagement for the two organizations must be clearly understood and articulated in the agreement between the parties. This includes the service requirements and delivery expectations, quality indicators, and regular methods of communicating, including those necessary to resolve the conflicts that inevitably will arise during the course of the relationship.

To this list, the authors would add other areas to consider and monitor:

- ***Political, legal, and regulatory environment.*** Understand the host country's political, legal, and regulatory environment. For example, if the organization becomes involved in a dispute with the offshore service provider, is a substantively and procedurally fair outcome likely? Unfortunately, simply stating in the contract that the agreement is governed by U.S. law and that all disputes must be resolved on U.S. soil does not automatically ensure that a U.S. court will exercise jurisdiction over a foreign company, or that a U.S. judgment will be enforced by the host country's courts.
- ***Privacy and security.*** Privacy and security considerations have caused healthcare-related offshoring to become a hotbed of legislative activity in the U.S. In addition to HIPAA and the SAFE ID Act, most U.S. states have introduced (and some have passed) legislation that is designed to restrain offshore outsourcing in some manner. For this reason, those contemplating an offshore outsourcing arrangement should ensure that they fully understand the privacy and security legal landscape before venturing too far down the path.
- ***Employment and labor issues.*** Be aware of local employment and labor issues that might affect the transaction, including availability of labor, hiring and dismissal requirements, and costs and minimum wage/maximum hours limitations.
- ***Intellectual property.*** Be cognizant of the need to protect intellectual property when venturing

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offshore. For example, trademarks registered in the U.S. are not automatically protected abroad. Instead, a company is required to register its trademark in each country where it will be used.

More than ever before, we live and work in a global economy. Although taking advantage of global opportunities is not without its challenges, those who fail to rise up to meet those challenges risk being left behind.

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Note: The information contained in this article is current as of June 28, 2005, and is intended as general guidance only. This article should not be used as a substitute for legal counsel.

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