



# Contract Management and the Sarbanes Oxley Act

## About the Sarbanes Oxley Act

In 2002, the United States federal government, in an attempt to restore investor confidence in the US financial system, enacted the Sarbanes-Oxley Act of 2002 (SOX). This legislation helps protect the interests of shareholders from misleading corporate reporting and the potentially fraudulent acts of company managers. To help become and stay compliant with SOX requirements, organisations are leveraging contract management systems to effectively manage and report on their contractual relationships and activities.

The Sarbanes-Oxley Act of 2002 (SOX) establishes strict new rules and reporting requirements related to a wide range of questionable corporate practices that have been under recent scrutiny.

Intended to protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, SOX places much more focus and responsibility on the roles and responsibilities of public companies' senior management, in particular the chief executive officers (CEOs), chief financial officers (CFOs), boards of directors, audit committees, and independent auditors.

The act also establishes stringent new financial reporting requirements along with the requirement for CEOs and CFOs to sign-off on these reports, taking personal responsibility for their accuracy and completeness.

## *Important sections*

The Sarbanes-Oxley Act contains 11 titles but only four (III, IV, VIII and IX) address the systems and accountability of reporting companies. Within these four titles, sections 302, 401, 404, 409, 802 and 906 provide specific direction for companies working to become compliant. These sections, in summary, are:

### ***302 – Corporate Responsibility for Financial Audits***

The CEO and CFO must certify "the appropriateness of the financial statements and disclosures contained in the (annual) report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition of the issuer" and will be held personally liable for wilful violations of this section. This section also places responsibility for accurate and effective internal controls squarely on the CEO and CFO.

### ***401 – Disclosures in Periodic Reports***

Section 401 indicates that each quarterly and annual financial report 'shall disclose all material off-balance sheet transactions' and "other relationships" with "unconsolidated entities" that may have a material current or future effect on the financial condition of the company.



#### ***404 – Management Assessment of Internal Business Controls***

Each annual report must include an "internal control report" that certifies management's responsibility for creating and maintaining internal controls and processes for financial reporting, and contains an assessment of the effectiveness of these internal controls and processes.

#### ***409 – Real Time Issuer Disclosures***

Section 409 indicates the requirement for companies to disclose information on material changes in their financial condition or operations on a "rapid or current basis."

#### ***802 – Records and Retention***

Companies must ensure their records are authentic, consistent and immutable, and that they have, and follow, appropriate records security and retention policies.

#### ***906 – Reporting must Comply with the Act***

This section deals with the requirement of companies to ensure that all financial reporting, including annual and periodic reports, 10-K's, 10-Q's, etc., provide an accurate representation of the firm's financial position and that they conform and comply with the Act.

### ***How can Upside Software help?***

Upside Software provides the foundation for companies to become compliant with the Sarbanes-Oxley Act by providing the structure required to manage business relationships. Through effective and highly visible management of contracts and associated risk, compliance and performance, corporate management can properly assess and more ably assume responsibility for their operations.

The following is an overview of some of the primary functions within UpsideContract that supports SOX compliance.

#### ***Advance alerts for required tasks and events***

- UpsideContract's alert handler enables tracking and notification of a great number of data elements and activities and allows user definition of the following major elements:
  - Data change events such as status changes, change of contract manager or any data element configured by the user.
  - User definable audit logging. Any table in the system can be configured for audit logging of additions, deletions or changes to data.
  - Time-based events such as contracts approaching renewal points, periodic monitoring, etc.
  - User definable expression based alerts that allow things like invoice pricing exceeding contract rate by greater than X%.
- In addition to the above, the task and event alerts in UpsideContract allow the contract manager and/or the finance department to monitor the ongoing performance of the contract to ensure terms, conditions, and/or deliverables is met according to original expectations.



- Alerts can be set up by individual contract, type of contract, by department or organisation, by contract value, by service provider, etc. with time limits that can escalate an action when not acted upon.
  - Ensures that appropriate stakeholders are notified of upcoming events, pending deliverables, or compliance notices.
  - Automatic reminders and notifications of various events such as monthly reports due, status reports, specific documentation being required at different points in time, etc. can be provided to various stakeholders.
  - Establish outcomes for all scenarios relating to an event.

### ***Automated, advanced email notification***

- Each user can define their personal preferences for notifications. Options include:
  - Immediate notifications as events occur.
  - Summary notifications on a scheduled basis (i.e. every 2 hours, daily, weekly).
  - Different schedules for different event types (i.e. immediate notification of a required approval, daily summary of documents to review).
- Distribution lists can be associated with specific documents (Contracts, Templates, RFX, or Invoices) or general lists can be applied to classes of documents. Similar to the groups in Microsoft Outlook, users are able to define groups of one or more email recipients and can assign the group(s) to be notified on particular events / workflow processes.

### ***Risk management***

- The ability to manage contract risk (and contract related risk) is a key feature in UpsideContract providing a mechanism to identify, evaluate, track and manage risk events, drivers, and impacts.
- UpsideContract allows risk events to be identified including a text description of the event along with an estimated probability of occurrence and the estimated loss if the event were to occur (in time or dollars).
- For each risk event:
  - One or more Event Drivers can be identified, recording of reasons why the event may occur.
  - One or more Impacts can be identified, documenting potential outcomes if the event were to occur, each with an assigned probability.
  - Each Impact can have one or more Impact Drivers which document the elements contributing to the loss if the event were to occur.
  - A specific user will be assigned to the event; this is the individual responsible for managing the risk event and taking steps to reduce the probability of occurrence.
  - A specific event can be assigned to a contract or a project, including customer defined projects.
- UpsideContract records details of actions taken to mitigate risk events and stores historic information on adjustments made to probability estimates.
- The system provides extensive reporting capabilities to provide stakeholders with an effective view of risks, supporting material, and associated mitigation plans.



## ***Performance monitoring***

- UpsideContract provides extensive performance monitoring and management functions including the ability to identify, evaluate, track, and manage Key Performance Indicators (KPIs) and other criteria.
  - Allows for performance monitoring goals such as volume levels, monetary levels, etc. to be established across the organisation.
  - Allows stakeholders to monitor various key indicators such as percentage levels met, ratings, the pass or fail of a specific business rule, or a wide range of other user defined conditions.
  - Establish alerts to provide notification when performance conditions are not met, where there is a high risk of failure associated with a contract, or to identify vendors not meeting performance expectations.
  - Attach specific 'details' that relate to a particular deliverable to forecast expenditures. For example, in a lease contract where payment terms are fixed, a Contract Manager can do a forecast for the term of the contract on planned monthly expenditures. This feature provides the ability to aggregate a number of different contracts and, as an example, see a forecast of all lease payments for the next three years across the organisation.
  - These combinations of different performance management tools enhance an organisations ability to effectively manage the risk associated with a contract and provide adherence to corporate auditing policies.
- Performance conditions can drive escalation of notification and/or activity, and can even drive suspension of a contract or contractor (all contracts for the contractor).
- Performance criteria can be defined for a type of contract and will automatically be included in all contracts of that type. Criteria can also be defined at the contract level to define specific performance requirements for any contract.
- Reporting on vendor performance provides an organisation with valuable management information.
  - Ability to pull out strategic sourcing information for Procurement Managers to identify their best performing suppliers. This information can be based on specific commodities or particular services, and identify suppliers with the best price, quality, compliance to the terms of the contract, or other value adding components.
  - The contractor performance report provides a concise view of a contractor's performance across all contracts they have been a part of.
- The system also sports a graphical display of all Performance Metrics for a particular vendor/supplier. This is shown in the 'Performance Tree' view. This maximises the visibility of performance issues as they develop and provides an easy link to drill down to the details of the issue.

## ***Compliance monitoring***

- Establish Compliance Items for specific aspects of the contract. This is handled through the compliance monitoring functionality:
  - Requirements such as the need for the vendor to validate that they have renewed their annual insurance can be flagged as a Compliance Item. Once identified on the contract, a notification is sent to the Contract Manger that documentation must be received by the vendor at certain points in time during the life of the contract.
  - Compliance Items can take many forms. These can be items like a checklist of items that must be completed before the contract can be effective, minimum or maximum levels of products/services, etc.



- Compliance Items can be used as approval conditions that must be met prior to the contract being approved and issued.
- Reporting on Compliance Items can be shown at a contract level, a customer/ supplier level, across the organisation, for a particular commodity or spend, etc.

## Implementation

Implementing new software and changing business processes is a significant challenge, especially when the timelines are mandated by federal legislation. Capable of being deployed very quickly, Upside Software provides relief in the time crunch leading up to SOX compliance deadlines.

A full scale deployment, enterprise wide can be achieved within 40 days, whereas a specific business unit or area can be deployed in less than one week.



## Costs

The costs associated with SOX compliance can vary; however, by using UpsideContract as a foundation for compliance initiatives, organisations can minimise their investment.

Costs for UpsideContract, including deployment, are dependent on the extent of implementation and use. For more information, please contact us to learn more.



Upside Software is the worldwide leader in Contract Lifecycle Management (CLM) solutions. Customers around the globe use UpsideContract and other integrated business solutions to confidently perform Contract Management, Sourcing & Procurement, and Invoice & Billing Management activities throughout their organisations.

Upside Software's products address the needs of Enterprise (e.g. Fortune 500, Global 2000), Public sector (Federal, State/Provincial, Municipal and Health Care), and Small & Medium Enterprise (SME) customers. Customers realise significant cost savings while improving customer and supplier relationships. Upside Software's solutions are deployed in as little as 3 days and typically provide a full return-on-investment (ROI) in under a year.

Founded in 2000, Upside Software is a profitable, growing company with an advanced, yet mature, and comprehensive product suite. The company has extensive experience delivering real value to customers of every size and in most industry verticals. Upside Software is headquartered in Edmonton, Alberta, Canada, and is represented by Cylon Technology (Pty) Ltd in Africa.

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