If It’s in the Cloud, Get It on Paper: Cloud Computing Contract Issues
Change

From: Technically Managed

To: Contractually Managed
Skills Needed

IT Contract Negotiation

Vendor Management
Cloud Computing = long term vendor relationship governed by contract
Key Contract Issues Categories

1) Service Level Agreements
2) Data Processing & Storage
3) Infrastructure/Security
4) Vendor Relationship
1) Service Level Agreements

Gartner defines Cloud Computing as: “a style of computing in which scalable and elastic IT-enabled capabilities are provided as a service to consumers using Internet technologies”

A key word here is “service”.

1) Service Level Agreements

SLA Parameters

Example:
Is 99.9% Uptime Sufficient to meet your needs?
1) Service Level Agreements

SLA Definitions

May further reduce total Uptime

Does scheduled Downtime align with your needs?
1) Service Level Agreements

SLA Remedies

Gartner advises ---

• Try to negotiate penalties in the range of 10% to 20% of the total deal. Less than 10% doesn’t get the provider’s attention, more than 20% and the provider will likely not agree to it.

• No limits on penalties.
1) Service Level Agreements

Audit

Statistics
2) Data Processing & Storage

Ownership of Data

http://www.flickr.com/photos/ian-s/2152798588
2) Data Processing & Storage

Disposition of Data

• Process
• Timeframe
• Format
• Deletion
2) Data Processing & Storage

Data Breaches

http://www.flickr.com/photos/nostalgicglass/1188551383/
2) Data Processing & Storage

Data Breaches

- Type of data
- Notification
- Corrective Action
- Indemnification
2) Data Processing & Storage

Location of Data

Which law applies to my data?

Data center location
2) Data Processing & Storage

Legal Requests for Access to Data

http://www.flickr.com/photos/kenmccown/3917497679/sizes/l/in/photostream/
3) Infrastructure/Security

How do we ensure we’re getting this...
3) Infrastructure/Security

...and not this?
3) Infrastructure/Security

Data Center Audits/Certifications

• Third party audits
• Certifications
• Reports
3) Infrastructure/Security

Data Center Audits/Certifications

• SAS 70, Type II to be replaced by SOC 2

• FISMA

• ISO 27001
3) Infrastructure/Security

Data Center Inspections

Best practice = onsite inspections

Alternative:
incorporate vendor specs in contract
3) Infrastructure/Security

Disaster Recovery/Business Continuity

http://www.flickr.com/photos/redcross_bayarea/3990473293
4) Vendor Relationship

Price Caps

Cost of change = significant

Renewal price caps

Expanded usage = Pre-negotiated cost
4) Vendor Relationship

Functionality

http://www.flickr.com/photos/witch_kittin/813264163/sizes/o/in/photostream/
4) Vendor Relationship

Termination

UC rights to terminate = without cause

Vendor rights to discontinue = narrowly restricted

UC opportunity to cure
4) Vendor Relationship

Mergers and Acquisitions

http://www.flickr.com/photos/wokka/3585254925/sizes/l/in/photostream/
4) Vendor Relationship

Mergers and Acquisitions

Evolving market space

Terms binding on successors/assigns
4) Vendor Relationship

Vendor Outsourcing

Vendor to identify third parties

Vendor remains responsible
Next Steps

Cloud Computing is big

http://www.flickr.com/photos/kleinz/3552012856/
Questions?
Resources

EQ Article – If It’s in the Cloud, Get It on Paper: Cloud Computing Contract Issues
http://www.educause.edu/EDUCAUSE+Quarterly/EDUCAUSEQuarterlyMagazineVolum/IfItsintheCloudGetItonPaperClo/206532

Educause Cloud Computing Contracts Wiki
http://www.educause.edu/wiki/Cloud+Computing+Contracts

Information Week Analytics report provides a summary of standard Uptime SLAs for some vendors.

City of Los Angeles contract with Google provides good examples of Cloud Computing contract language.

Example snapshot of the Salesforce.com Service Performance History page.
http://trust.salesforce.com/trust/status/

Information Week Analytics report provides a summary of audits/certifications for some vendors.
Resources (Cont’d)

Internet2 Information Security Guide – Provides some useful Data Protection Contractual Language
https://wiki.internet2.edu/confluence/display/itsg2/Data+Protection+Contractual+Language

The UC “Appendix – DS” language is a good example and can be applied to Cloud Computing contracts.

The Evolution of the CIO: An EDUCAUSE Issues Brief
http://www.educause.edu/Resources/TheEvolutionoftheCIOAnEDUCAUSE/188629

The Partnership of Four: Managing Alternative Sourcing at Oakland University

EDUCAUSE Live! – Steve McDonald Presentation on Cloud Contracting
http://net.educause.edu/live1031