



# Compliant Third-Party Oversight: Keys to Successful Vendor Management

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(Venable LLP excerpt)

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## Why Vendor Management Matters

Outsourcing is a means to address resource constraints, expertise, and to offer other products and services, but outsourcing can result in compliance challenges if the risk is not managed.

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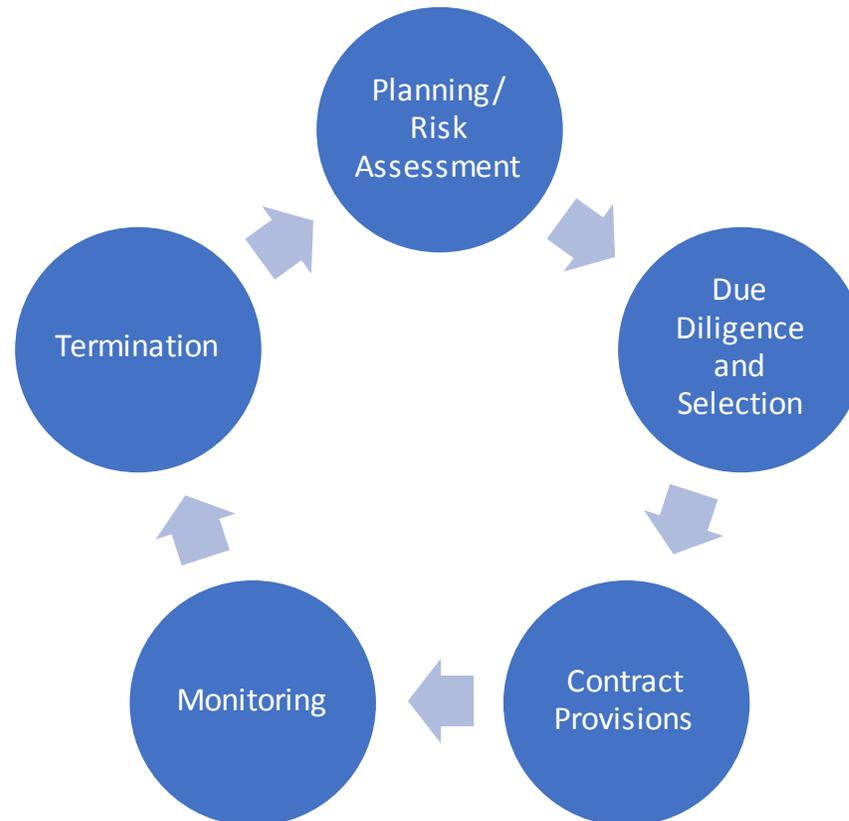


Source: OCC

## Common Traits of a Vendor Management Program

- Role of Senior Management and Board of Directors
- Risk Assessment - Assessment of Legal and Regulatory Framework Applicable to Vendor and Organization
- Due Diligence
  - Business Background: Reputation and Strategy
  - Financial Performance and Condition
  - Operations and Internal Controls
    - Compliance Management System, Policies, Procedures, and Practices
- Contract Provisions and Considerations, including compensation, service-level expectations, data privacy and safeguards, legal compliance, monitoring, and recordkeeping
- Oversight and Monitoring
- Business Continuity and Contingency Considerations
- Additional Risk Considerations

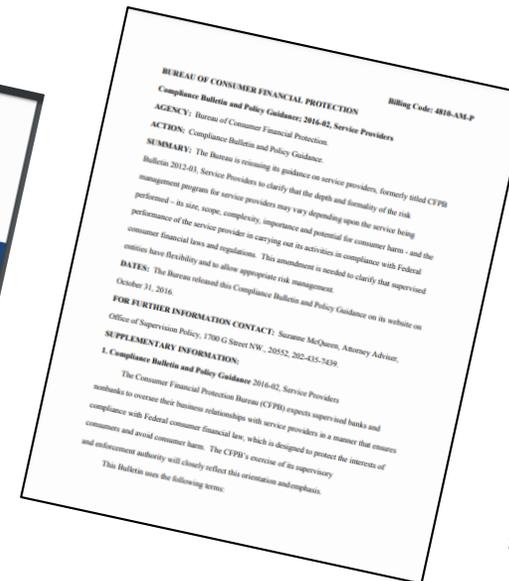
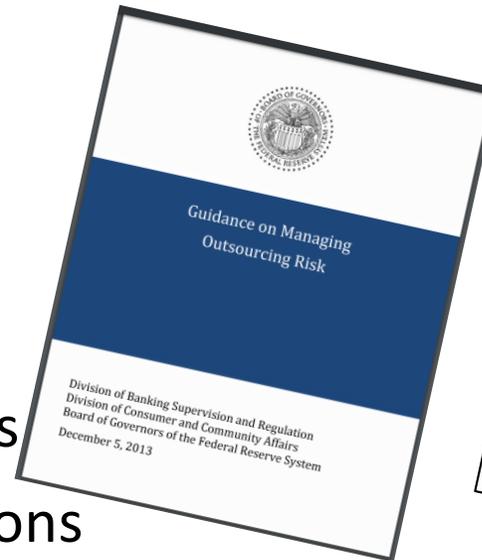
## Risk Assessment Life Cycle



## Sources of Vendor Management Expectations

Laser-like focus on vendor management

- CFPB
- FTC
- OCC/FDIC (FFIEC)
- State Law and Regulators
- Counterparties / Investors
- Self-Regulatory Expectations



## Vendor Management Checklist

- Scope: Support, maintenance, customer services; time frames, compliance with applicable laws (including required licenses), training, subcontracting, distribution of required disclosures, insurance coverage, terms related to use of organization's IP, equipment, staffing, etc.
- Cost and compensation
- Right to audit
- Monitoring and performance standards
- Confidentiality and security of information, including GLBA Privacy and Safeguards Rules
- Ownership and license of property and work product, including customer relationship
- Indemnification
- Default and termination
- Dispute resolution
- Limits on liability
- Insurance
- Customer complaints
- Recordkeeping, retention and destruction policies
- Business resumption and contingency plan of service provider
- Foreign-based service providers and legal and regulatory considerations
- Subcontracting
- Other topics: AML/BSA, telemarketing, internal audit, risk management (e.g., models, interest rate calculations, etc.)

## Some Questions to Consider

Do you have a well-documented program and processes?

Do you engage in due diligence and make a record?

Does the due diligence sync with and inform contract provisions?

Is the Board of Directors/Management involved?

Are there reports generated?

How does the company respond to due diligence and ongoing audits?

Are recommendations from Compliance taken seriously?

Do you review and update guidance material and service-level requirements?

Does the consumer experience sync?

Can the organization perform a self-assessment?

Do you monitor relevant enforcement actions and regulatory developments?

Is the contract up to date?

## Recent Regulatory Action

- Student CU Connect CUSO, LLC – ITT Private Loan Program
  - Bureau originally sued ITT in 2014, alleging unfair and abusive acts and practices and TILA violation.
  - “CUSO **knew, or was reckless in not knowing**, the risks and problems with the CUSO loan program” resulting from ITT’s financial aid practices.
- Bureau Complaint against Lexington Law, Creditrepair.com, et al.
  - Bureau filed suit on May 02, 2019.
  - Bureau alleges: “Defendants paid a marketing affiliate for each credit repair sale that resulted from its efforts, **despite knowing that it engaged in deceptive practices.**”
- Active areas: collections, telemarketing, lead generation, and FCRA reporting



QUESTIONS?

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