



# Legal Considerations for Technology Contracting

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# About Us

## Kara Alesi

- ▶ Associate General Counsel, IDEXX Laboratories
- ▶ Commercial Legal Group
- ▶ Strategic Initiatives, Software, Data and Supply Chain

## Kyle Glover

- ▶ Partner, Pierce Atwood
- ▶ Faculty, Harvard Negotiation Institute
- ▶ Focus on Technology and Information Transactions



## We Specialize in Data-Intensive Vendor Contracts

Our deep industry expertise and breadth of experience negotiating with multiple vendors has made Pierce Atwood a go-to law firm for purchasers of software platforms, data storage and processing services, and more.

If you're planning to contract with a critical IT third-party service provider, please contact Matt Stein at [207.791.1206](tel:207.791.1206) or [mstein@pierceatwood.com](mailto:mstein@pierceatwood.com), or Kyle Glover at [207.791.1289](tel:207.791.1289) or [kglover@pierceatwood.com](mailto:kglover@pierceatwood.com).

**Pierce Atwood. There's a reason...**



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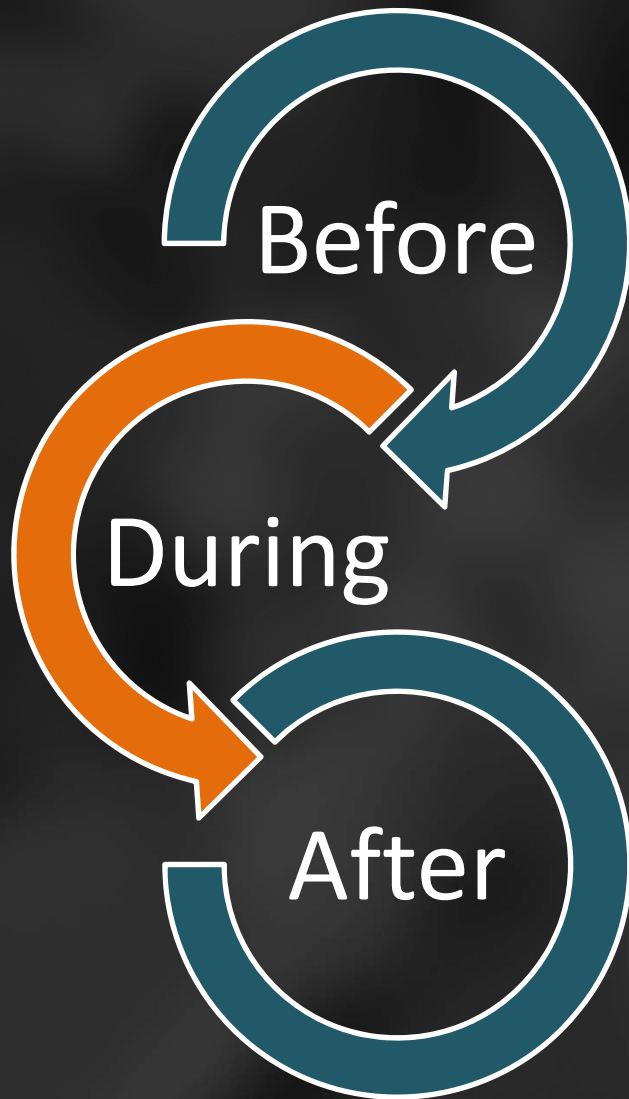
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**Overview** | *Pre-Contract* | *Negotiation* | *Post-Contract*



## About You

What is one thing that you are hoping to learn, discuss, or take away from this presentation?



Before

Pre-Contract Due Diligence

During

Contract Negotiation and  
Terms

After

Post-Execution Management



# Pre-Contract Due Diligence





# Pre-Contract Due Diligence

IT Security Assessment

Privacy Assessment

Financial Assessment

# Pre-Contract Due Diligence

## IT Security Assessment

- Early IT Security stakeholder engagement is critical.
  - SOC 2 report
  - Security questionnaire

# Pre-Contract Due Diligence

## Privacy Assessment

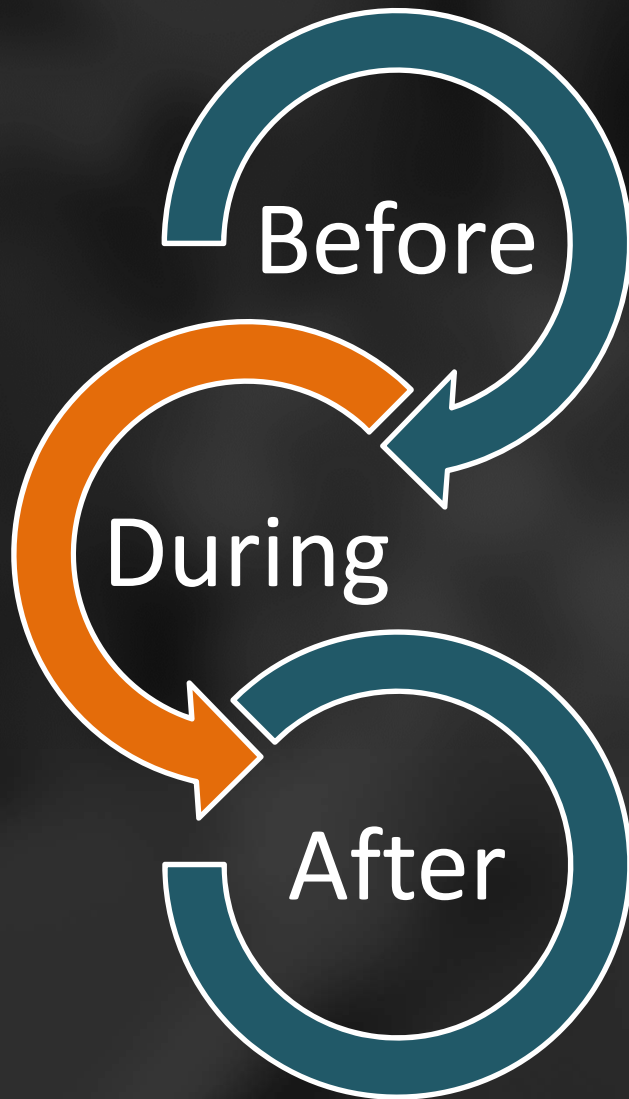
- Privacy and data protection professionals should assess data access and privacy law compliance prior to final vendor selection.
  - Categorize data
  - DPA requirement



# Pre-Contract Due Diligence

## Financial Assessment

- Consider a financial assessment
  - Insurance coverage
  - Financial health scores



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# Contract Negotiation and Terms





# Contract Negotiation

**Process.** What is your process for evaluating, negotiating, and settling on contract terms?

# Some Key Contract Terms

Security Controls

Audit Rights



# Some Key Contract Terms

## Audit Rights



# Some Key Contract Terms

## Audit Rights

- Direct Audits
- Third-Party Audits

# Some Key Contract Terms

Security Controls

Audit Rights

Ownership/Return of Data and Materials

Subcontractors



# Some Key Contract Terms

## Subcontractors



# Some Key Contract Terms

## Subcontractors

- Notice and Control
- Vendor's Liability for Subcontractors
- "Flow down" Obligations (e.g., Audit rights, security)
- Management

# Some Key Contract Terms

Security Controls

Audit Rights

Ownership/Return of Data and Materials

Subcontractors

Business Continuity

Termination Rights

Risk Allocation

# Some Key Contract Terms

## Risk Allocation



# Some Key Contract Terms

## Risk Allocation

- Limitation of Liability
- Indemnification

# Some Key Contract Terms

Security Controls

Audit Rights

Ownership/Return of Data and Materials

Subcontractors

Business Continuity

Termination Rights

Risk Allocation

Insurance



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# Post-Execution Management

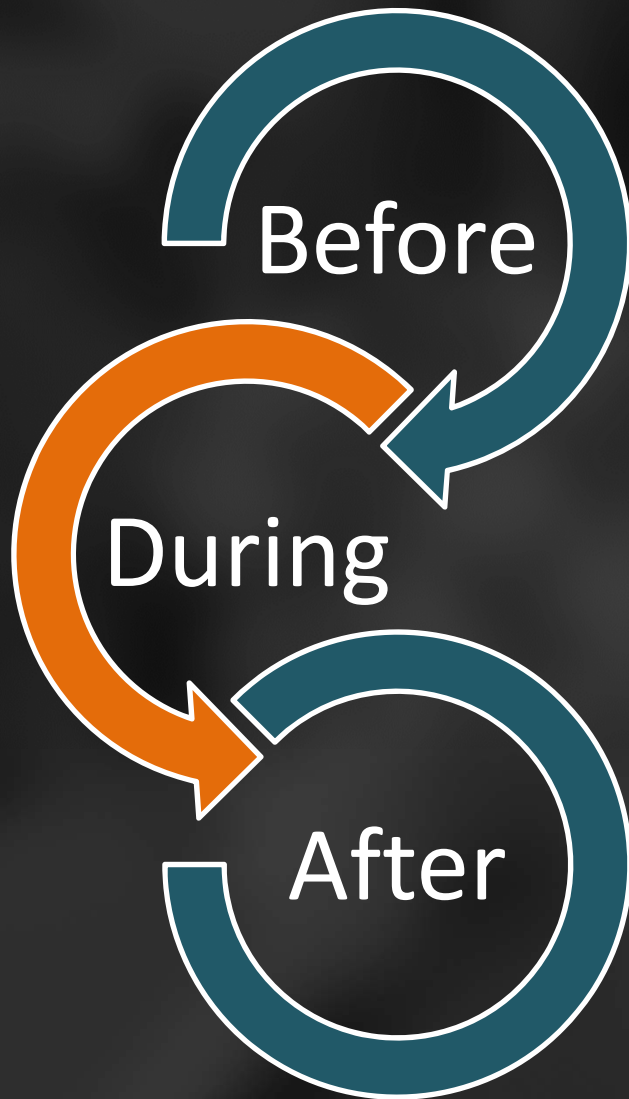


# Post-Execution Management

Contract Lifecycle Management

Supplier Management

Supplier and Internal Audits



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# Q&A

Questions?



Thanks.

## Presenters

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