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Rebadging Gains Momentum Amidst COVID

Capacity management and stability offer value for clients, their employees and FSP vendors

While rebadging is an option that has been around for years, the COVID-19 pandemic spurred more widespread use. As pharmaceutical and biotech companies grappled with the pandemic and needed options to reduce internal headcount while maintaining expertise and business continuity, many turned to the flexibility and value that makes rebadging appealing in both the short and long term.

In a nutshell, rebadging is the process by which a client transfers employees and/or contractors off its payroll and onto the payroll of a functional service partnership (FSP) vendor. The client then re-engages those same staff members, who are now employed by the FSP vendor. While rebadging is disruptive, when done well it offers benefits to all parties involved.

- Clients maintain speed and stability as tried-and-true staff members continue in the same roles as before, without negatively impacting ongoing programs. Rebadging also reduces fixed or direct costs for clients, as well as the legal risks associated with using contractors in full-time, long-term engagements.
- Employees are assured secure employment, re-assigned back to their original employer (as a vendor contractor) or via new positions within the FSP vendor.
- Vendors find rebadging not only an important source of revenue, but also gain broader access to top-level talent, critical for any successful service provider.

In this article, we'll take a closer look at the benefits and challenges of rebadging for companies that perform clinical trials and other pharmaceutical/biotech services.

Clients

Rebadging offers numerous benefits and the risks are manageable, so it's an effective way for companies to address workforce capacity and labor uncertainty while retaining access to the skilled, experienced personnel on whom they rely. First and foremost, the client maintains continuity across programs. In some cases, rebadging can help to avoid costly severance packages and payouts, as well as the

bad press that can be generated for layoffs. It also shows good will to departing employees by helping make the best of an unfortunate scenario.

While FSP models with or without rebadging are ultimately about capacity management, the best vendors deliver wide-ranging value to help the client:

- retain access to a dedicated team of full-time equivalent (FTE) staff for a broad range of services (data management, medical writing, program leadership, clinical supplies, regulatory, clinical monitoring, statistics, medical, etc.).
- increase flexibility, including on-demand access to time and materials (T&M) or unit-based models that can deliver services with work volume that does not require dedicated FTEs.
- access additional vendor expert staff from across the globe and shift or centralize services to increase efficiency, reduce timelines and save costs.
- accelerate and optimize key HR processes, including hiring, onboarding and training.

Working with a vendor may offer reduced risk

Legislative restrictions around co-employment and contingent workers can increase legal and operational risks when "temporary" staff are dedicated to a client in a full-time, long-term capacity. Examples include:

- assuming risk when there are employment law violations—companies can be liable for a staff member's actions when they are a co-employer.
- inadvertently violating wage and hour laws, which are complex and vary by country or region.

It is important to ensure that co-employment risks are successfully mitigated through a series of contractual and operational designs, and clear delineation between vendor and client responsibilities and oversight for staff.

Ideally, contracts define the specific services and obligations of the vendor and client in respect to the staff. For example, as the legal employer of the staff,

REBADGING IN ACTION

Case Study #1: Clinical operations-Allowing client to reduce footprint with 100% business continuity

A top-10 pharmaceutical client needed to decrease its operational footprint in two European countries, both covered by The Acquired Rights Directive (ARD) 2001/23. This directive was created to safeguard and protect employee rights during a transfer of undertaking or business (or part of an undertaking or business) to another employer as a result of a legal transfer or merger. Compliance is required for the rebadging process as well. By working closely with an FSP vendor, the client overcame aggressive deadlines and achieved 100% transfer of staff with no impact on business continuity. The vendor assumed responsibility for:

- o 16 clinical operations staff
- o 18 active studies
- o Vendor contracts and payments
- o Global clinical supplies
- Collaboration with works councils and regulators. This was accomplished quickly, with immediate engagement between the vendor and affected client staff
- Rapid announcements to provide reassurance of protected employment and to reduce uncertainty that leads affected people to seek employment elsewhere (terms were presented to employees within 11 weeks of kickoff)
- The entire process was ARD-compliant with 100% transfer success

Case Study #2: Global medical affairs services-Reducing financial, administrative and legal burden

When a client's legal team mandated that they stop using contractors for full-time, long-term roles, the client sought a more cost-effective and flexible solution than simply hiring their former contractors. They worked with an FSP vendor to rebadge 14 key medical affairs team members, including study and project managers, medical writers, publication managers and statisticians. The effort took place across four countries - Germany, Switzerland, the UK and the US-and impacted more than 200 active interventional and non-interventional projects. The effort significantly reduced the administrative, financial and legal burden on the client, and replaced multiple, separate staffing agency contracts with a single contract. The rebadging also reduced co-employment, false self-employment, and misclassification risks.

- Fully implemented in three months with 100% transfer success
- Contractors moved from client offices to home or vendor offices
- FTE-based model ensured stability and business continuity; flexibility to transition from a dedicated FTE to a unit-based model as partnership evolves
- Adding supplemental services, such as investigator contracts and payments

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the vendor should deploy a management layer with the responsibility of providing day-to-day direction to the staff. These managers should also cover the usual line management responsibilities such as career development, performance management, while the overall functional oversight remains with the client.

Employees

For employees affected by a rebadge, the primary benefit is obvious: their continued employment, surrounded by familiar teammates, systems and project work. Rebadging, when done well, should not

result in undue financial burden for the employees. For example, in the EU and elsewhere, ARD-type regulations are in place to help ensure employers don't take advantage of their employees by offshoring their work or forcing them to rebadge with lower salaries and benefits. The FSP vendor must be expert at navigating these regulations to meet the needs of all parties to ensure each employee is "made whole."

Moreover, joining a successful FSP vendor gives the employees a range of value beyond job security. Over time it allows for easier movement from one

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client to another via assignment within the vendor, rather than having to quit one client company and take a chance on another.

During any organizational transition, it is important to keep employees engaged to keep turnover in check, and rebadging can help. Like many other fields, average voluntary turnover rates in the global CRO industry are increasing—from 15.5% in 2019 to 16.3% in 2020 alone.

Vendors

The global market for outsourced clinical development services to CROs, including FSP providers, is estimated at approximately US \$44.3 billion, and projected to grow to US \$57.2 billion by 2024 (CAGR: 6.5%).¹ While it is uncertain how much of this comes from rebadged employees, this large market does indicate that the overall appetite for outsourcing is strong.

For vendors, one of the major benefits of the rebadging model is that it gives access to proven professionals who are among the clients' most valued employees. This in turn helps the vendor understand the client's needs and perspective to ultimately serve them better. Transferring qualified employees is also much easier and more economical than the typical recruitment and new hire process.

Rebadging is a great way to identify and onboard employees who are highly motivated, self-sufficient, tech-savvy, adaptable and able to learn quickly, make decisions and take action. For FSPs servicing the pharmaceutical and biotech industry, among the functions and key roles that are in high demand are project manager, oversight director, clinical research associate, clinical trial coordinator, medical writer, global clinical supplies manager, biostatistician, medical writer, data manager, safety manager and regulatory expert. For these and many other roles, rebadging is an important means for vendors to identify and retain the top talent that enables them to keep pace with the rigors of clinical development, just as it is an important way for that top talent to remain meaningfully engaged (and steadily employed).

FSP implementation

Rebadging can be an attractive win-win proposition, but the implementation is no simple matter. Companies need to have the following capabilities:

Experience—The knowledge to handle all aspects of each staffing transfer properly and compli-

antly, including ARD and non-ARD staffing models and global best practices.

Dedicated team—Planning for rebadging, change management and business continuity, which is especially vital when transferring staff. The staff transfer process needs to be handled thoughtfully, with a transition manager coordinating interactions with HR, legal, IT, contracting and the affected employees.

Scale and stability—Look for an FSP vendor that is growing and has plentiful business aside from your own work, including through the COVID-19 pandemic or other disruptions. This helps assure they can readily absorb your employees and promote a positive outcome for everyone involved, regardless of the ebbs and flows in work volume.

Speed—It's critical to have a partner to calibrate your capacity and ramp up quickly across any function or service. Service-level agreements are an important step to ensuring FSPs interview, vet and make offers to candidates within a set timeframe. Transfer varies widely, from as little as 10 business days in the United States to three to six months in countries with ARD legislation and works councils or unions.

Capturing value

While there are numerous reasons why pharmaceutical and biotech companies would want to shift workforce from the traditional headcount to a contract or on-demand model with FSP vendors, clients need to recognize the potential for significant hurdles, including regulatory and legal risks. By navigating the regulatory waters and focusing on maintaining both employee and employer satisfaction, an FSP vendor can help companies engage a steady, agile, full-time workforce while avoiding burgeoning payrolls, direct costs and debt—all while maintaining continuous, high-quality service and speed.

Rebadging is just one option an experienced and trusted FSP can offer to help manage significant volatility in work volume. Successful FSP vendors should help calibrate capacity and ramp up quickly across any function and service, including pharmacovigilance, regulatory, biometrics, on-site and remote monitoring, supporting both clinical trials and post-approval marketed products.

Reference

1. 2020 CRO Market Size Projections: 2019-2024 - COVID 19 Update. July 2020. Accessed May 18, 2021.