



BY RICHARD STOCK

# Resistance or Collaboration?

Procurement professionals and directors of legal operations would do well to pool their resources

**IN THE PAST** five years I have seen the ascendancy of legal procurement professionals and Directors of Legal Operations in the corporate setting. In almost every instance over the past 20 years of leading procurement initiatives for banks, telecom companies, utilities, and insurance companies, I have encountered procurement professionals who also manage the procurement of other professional services for their companies. Categories such as IT, benefits and payroll, and management search come to mind.

Similarly, Directors of Legal Operations tend to have responsibility for activities such as recruitment, technology, infrastructure and budget. It is inevitable that procurement and legal operations should overlap when it comes to managing more structured processes for retaining external counsel.

The Chief Legal Officer typically has a seat at the company's executive table, while Procurement rarely does. Legal departments jealously guard their relationships with external counsel. There is ample evidence that in-house lawyers continue to do so in the face of initiatives to better leverage a company's prestige and buying power as a way to secure greater value from external counsel.

Lawyers consider working with external counsel as a relationship-based business except for the most routine work. And law firms like this. For this reason, procurement professionals require more than project-management skills and robust processes if they are to act as equals with Legal Operations.

There are three basic conditions and opportunities for collaboration. The first is to collect solid information about the com-

pany's consumption patterns for legal services. Many companies with good matter management systems — systems typically managed by the law department — will be able to identify total billings and hours by area of law for each law firm. Yet, many features of such systems are not activated or available, particularly those that can analyze the relative complexity of matters and staffing patterns by legal specialty. Most companies fail to ask for detailed matter budgets from their law firms. Those that do fail to analyze pricing patterns and pre-

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cedents. Procurement and Legal can work together to upgrade the type of information that is essential for the next generation of arrangements with law firms.

The second area that both Procurement and Legal Operations need to improve is legal service delivery. There are two aspects to this. The first relates to the kinds of infrastructure and technology that are increasingly available from law firms to support the simplification and acceleration of instructions given to law firms, how individual matters are defined and budgeted, and how the work of the firms is to be integrated with the work of the legal department and internal clients in the company. Too few law departments have streamlined and harmonized these processes across the different members of the law department. Law firms have more "know-how" about

this than most law departments. Procurement and Legal should collaborate to introduce harmonized operating practices with preferred external counsel.

The second aspect of legal services delivery is performance management. Very few law departments systematically evaluate and compare the performance of law firms across specializations and over a sustained period. Evaluation may not feel like a natural process in a relationship-based interaction, yet Procurement can help legal departments manage this important process.

There is a final area ripe for improvement in legal service procurement. This is the migration away from hourly-based fee arrangements towards business models that will price portfolios of legal work using a hybrid arrangement: a base fee in combination with performance-based fees that target innovation, results and cost management. It is too

easy for Legal and Procurement to elbow each other for primacy over discounted hourly fees, but managing a race to the bottom of the hourly rate barrel adds no value to a company's relationship with preferred counsel.

Law firms will remain professional in the work they do, one hour at a time. But Procurement professionals and Directors of Legal Operations must craft a new game plan anchored in solid data analytics, transformative service delivery and performance management, and non-hourly fee arrangements if they are to secure greater value from external counsel.

Collaboration should trump resistance every time. 📌

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