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# DOCKET

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## **The Rise of Legal Procurement**

### **Law Department Management**



As buying power has shifted from law firm providers to legal department purchasers, GCs have increasingly recognized the benefits of having the support of procurement professionals to help them appoint the right law firms for their legal panels or for individual high-cost assignments.

The rise of specialized legal procurement professionals, which began in the early to mid-2000s in highly regulated industries such as pharmaceuticals, financial services, energy, and utilities, has been going mainstream.<sup>1</sup>

1 Silvia Hodges Silverstein, "What We Know and Need to Know About Legal Procurement," *South Carolina Law Review*, Vol 67, p485.

Some GCs may still resist involving procurement professionals because they believe that selecting the right law firms is more of an art than a science and they worry that procurement specialists will destroy value by focusing on cost to the detriment of quality.

However, these fears are unfounded.

Competent procurement specialists are far more sophisticated than that. They recognize that procuring legal services is different from procuring cement and that all aspects of the relationship must factor into the buying decision. This is even more evident today, as larger numbers of procurement professionals have gained significant experience in the legal space.

Good legal procurement professionals recognize the critical role that GCs play in the process, and accept that lawyers and legal professionals are uniquely positioned to evaluate and determine the quality of external providers. Instead, they supplement those judgements with their own expertise,

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including purchasing analytics and negotiation skills. The combination is unbeatable.

There are five key benefits to involving procurement professionals that should be considered.

## **Perception by business colleagues**

Leveraging procurement professionals to assist the legal department will be viewed favourably by business partners, including the CFO, because it demonstrates that the legal department is run as efficiently as other parts of the business. It shows top management that the GC is a good steward of the company's money and a good corporate citizen.

## **Superior expertise**

Lawyers are experts at solving legal problems but they are not necessarily as competent at professionally procuring legal services from outside suppliers. Procurement experts, on the other hand, do nothing else all day. They can elevate negotiations from a zero-sum approach to one that is based on mutual transparency and long-term strategic partnering. They can also provide the analytics and data that lawyers need to make critical buying decisions, ferreting out and comparing costs, quality, and other metrics before purchasing decisions are made. And they help frame true value by looking beyond hourly rates to consider the total offer, including alternative fee arrangements, free advice, ramp-up investments, etc.

These procurement-specific considerations, when combined with the qualitative substantive legal assessments of the legal department, help GCs to make far better purchasing decisions than they would have done on their own.

## **Independence**

Since procurement professionals are independent of the legal function, they are unburdened by existing loyalties and allegiances and are thus able to provide the GC with a neutral and professional approach to the procurement process.

## **Good cop, bad cop**

During negotiations, procurement professionals can act as "bad cops" to the GC's "good cop," thereby protecting relationships that need to be cultivated over the long term.

Once retained, procurement experts can monitor and analyse law firm rates and invoices to ensure that firms are complying with legal department policies and sourcing agreements. This frees up the lawyers so they can focus on the legal work they are being paid to provide.

## **Superior analytics**

Procurement professionals can provide on-going analytics and market monitoring to ensure that the terms arrived at are being observed and that they remain competitive. Often, they will have access to technologies and resources from their professional spheres that enable them to do this far more effectively than the legal department can do on its own.

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To work well however, it is important that ultimate sourcing decisions continue to be made by the legal department and not by procurement professionals. Sourcing professional services is still a delicate art that requires balancing risk, quality, and cost. As long as the GC remains ultimately responsible for managing legal risk, the final decision on what partners to go with must remain with the GC.

Like all professionals, procurement experts can get caught up in their processes. Detailed procurement policies and nomenclature can complicate selection. Procurement professionals must understand this and put efficiency savings into a proper perspective.

Any GC who presides over a significant legal budget is failing to do her job if she does not involve procurement experts in her purchasing decisions, taking the above into account. The savings and mutual benefits that flow from this are just too great to ignore.

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The above has been adapted with the kind permission of Globe Law and Business from Bjarne's book, ["Building an Outstanding Legal Team: Battle-Tested Strategies from a General Counsel"](#)

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