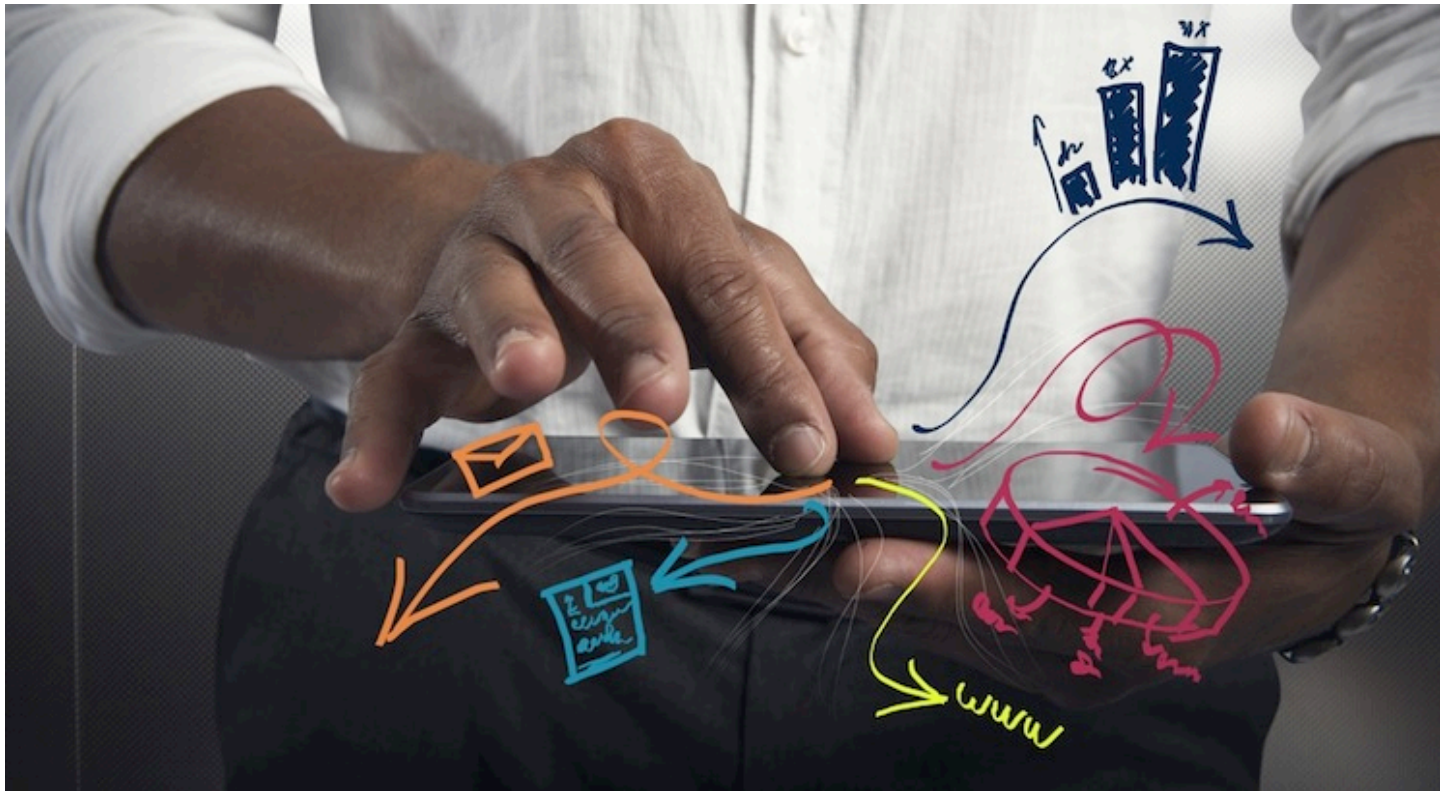




5 Techniques for Selecting and Managing Outside Counsel Without Upsetting the Applecart

Law Department Management



Altman Weil and LegalShift regularly partner on law department strategy and operational efficiency improvement projects for legal departments — of all sizes. Our work also spans large and small law firms and solo practitioners.

Our team observes that general counsel struggle to manage outside lawyers while still preserving value and responsiveness alongside cost-effective results. While there are no “silver bullets,” we have listed five techniques for selecting and managing outside counsel without upsetting the applecart.

We find that there are a variety of “good” practices and even more “bad,” but we’ve listed some of our favorites in order of ease, duration, dollar investment, and value.

1. Hone your law firm panel list; concentrate spend

We advise our clients to use “convergence,” a way to aggregate law department spend. This allows both the law department and the outside lawyers to reap significant benefits that include:

- Volume discounts, overall lower costs;
- Less time, cost, and resources spent managing overhead, ranging from bill review to matter status reporting;
- Improved knowledge of law firm and individual lawyer capabilities;
- Increased knowledge of the corporation’s business and needs by the outside lawyers;
- Stronger and more focused relationship development; and,
- Easier measurement of lawyer and law firm value.

We do observe, however, that some law departments have gone too far in honing their law firm panels. In some cases, they are spending more as they are sending low-end work to panel firms that charge high-end fees as the lists have become too narrow.

2. Use alternative solutions for “right task, right skill”

Having the lowest cost individual capable of performing a task with required expertise, focus, quality, and speed, represents the process improvement we relentlessly pursue with our clients. “Lean” manufacturing means reducing waste (or “muda” in Japanese). Process inefficiencies represent muda. Having a more capable or more expensive resource perform the work is also muda.

Legal processes outsourcing’s non-traditional law firms, secondment services, and alternative services providers are possible solutions. This can be intimidating but there is a real savings opportunity. Law departments should look to identify both substantive legal practice and operations needs and compare those to capabilities that can be performed by lower skilled internal resources as well as outside providers. Rid yourself of muda!

3. Centralize discovery

We have studied the evolution of discovery and e-discovery tools, processes, and people. For the same reasons as no.1 above, aggregating and outsourcing major discovery components, which are cheaper when performed externally, makes sense. Large corporations can sometimes perform discovery internally at lower cost. Don’t be deluded however, as we find that legal departments tend to look at internal people time as sunk cost or “free,” and in situations where we’ve attempted to measure internal costs, there is inadequate capture of data and metrics. Costs are higher than you may think. Are you really doing things less expensively by insourcing — do you really have an accurate baseline?

Centralizing discovery, as it is a big line item cost, within a small panel of e-discovery vendors — including law firms that have efficient and effective eDiscovery capabilities — can help you save money and reduce time.

4. Demand and practice legal project management; leverage it both externally and internally

Would you hire a contractor to build your new house but then not review the scope and architectural diagrams or check them until the house is completed and the contractor submits an invoice? Of course not!

Legal project management (LPM) is composed of methods, practices, and toolsets to manage risk to the corporation and proactively track legal work. Transparency, real time status on matters, real time cost tracking, early issue escalation — all equate to the nirvana of no surprises!

Allocating and documenting work scope between the law department and the law firm, and the law department and its internal lines of business/clients who are requesting legal assistance and insight, is just good practice. It is an important part of LPM.

So are budgets. Estimates of the work tasks to be completed, work estimates, and schedules, and co-review via conversations between inside and external lawyers (and inside lawyers and internal clients), almost always lead to clarity, better solutions, and buy-in. When issues arise, they can be resolved much more quickly. LPM also builds the “trust” relationship required for long-term partnership.

Real-time and regular reporting on time spent against budget, and progress on issues/projects/matters, are the last component of LPM. And guess what? Once you capture this information, you will have excellent data that you can analyze for future planning.

5. Implement matter management/e-billing solutions as a back-end audit

We tend to minimize the importance of matter management systems as they represent just a component of LPM. Tracking the items your department is working on is a minimum requirement. Everyone does this, whether through a high end matter management system, an Excel or Word document, or on a set of Post-It notes.

As for e-billing? It may be controversial that we feel that legal project management falls much higher on the priority list of high return on investments. LPM solutions (people, process and technology) allow law departments to proactively manage matters and projects. E-billing solutions, in our opinion, are an after-action audit process and toolset. Having an e-billing solution does have value for ensuring your invoices are accurate, timely, and comprehensive, but it is at its heart, an after-the-fact audit toolset.

While we said we had five techniques, we have one additional. It is very simple.

6. Refer to your outside counsel lawyers, and treat them as partners

Regularly refer to your outside counsel as partners. Treat them, through supportive actions, such that “we are all in this together.” It will result in improved responsiveness, easier issue and deal

negotiation, co-investment — even partnerships in training, hiring, secondment, risk sharing, etc. It takes virtually no effort — and we promise — good things will come.

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