

The Legal Process— Will We See a Trend Towards Shared Services, Outsourcing or Both?

In the current economic climate, corporate law departments are not alone in having their budgets progressively tightened. Whether through an innovative sourcing strategy, shared services, contracting directly with a legal process outsourcing company, or compelling outside counsel to do the same, a variety of methodologies have emerged which enable legal departments to control costs and improve efficiency. This article examines the legal profession's drive towards reduced costs and increased efficiency, both from the standpoint of shared services and legal outsourcing. In particular, it analyzes two areas of higher value-added legal services—contract and document review, and the back-office support function of legal word-processing.

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Over the last three to four years, the legal profession has begun to take advantage of labor arbitrage opportunities that have been exploited by other industries for well over a decade. The difference between legal work and manufacturing, IT, F&A or HR, is that sourcing models within the legal profession have been driven by the law firms' clients as opposed to innovative thought-leadership on the part of the firms themselves. The traditional law firm organizational structure still remains a hierarchical pyramid, based on leveraging vast pools of junior associates on relatively routine legal tasks, hence achieving significant profitability for the firm. However, advances in technology which enable the unbundling of many of these tasks, coupled with the pressure now routinely imposed by increasingly cost-conscious corporate clients, have compelled law firms to consider legal process outsourcing (LPO) as a viable strategic alternative.

Given the current harsh economic realities

and the ongoing drive towards legal costs reduction and improved efficiency, the shared services model can, and does work, albeit not across the whole spectrum of legal services. In 2000, Oracle, the world's largest enterprise software company and ranked within the Fortune 200, began a drive towards a shared services model for its contract management processes. Whether relating to licensing, renewals, consulting, education or support, tens of thousands of contracts were being processed through the company's legal departments every year. Today, the company employs hundreds of individuals in shared services centers (SSCs) in Costa Rica, Romania and other lower cost destinations, handling approximately 70% of the company's contracts. Under the shared services operating model, contracts with a value in excess of \$1 million were initially excluded from the program and reverted to the company's legal department. This is no longer the case, however, and only those

contracts of particularly high complexity are still dealt with outside of the shared services centers. One of the associated benefits has been that, when making corporate acquisitions, Oracle has managed to avoid having to take on many of the acquired company's legal and financial headcount.

Why did Oracle choose the shared services model over the more traditional LPO approach? It is clear that there are areas of practice within a corporate legal department that are suitable to both approaches. For a major corporation such as Oracle, driven by automation and applications, contract management was an obvious candidate for shared services. The vast majority of the company's day-to-day renewals, licensing and consulting contractual agreements are standardized and template driven. More importantly, the flow of such contracts is clearly predictable between certain parameters. In addition, Oracle enters into contractual arrangements with clients worldwide. Subject to the availability of native language speakers

within the SSCs, Oracle will contract with a client in the client's language of choice. To outsource to a third party provider would either require the provider to have multiple delivery centers worldwide and language expertise in these jurisdictions, or alternatively obligate Oracle to contract with multiple legal outsourcing providers. Given such requirements and the relatively standardized, repetitious and process driven approach, coupled with a predictable flow of contracts, Oracle understood the long-term value of maintaining institutional knowledge internally and in training up process experts within its shared services. The shared services model now helps streamline the contract management function, ensuring an effective and efficient delivery across the whole company.

If there is one specific area of legal practice that could be singled out as a major driver behind the growth of the LPO industry, it would be document review. KPMG estimates that first level document review encompasses anywhere between 58% and 90% of the total cost of litigation in the U.S. Following changes to the Federal Rules of Civil Procedure in 2006, vast amounts, often millions, of documents are routinely required to be reviewed to identify whether they are privileged, relevant or pertain to a particular "hot" issue. Taking into account the routine nature of this work, the ramp-up time for contract lawyers, whether onshore in the U.S., or offshore, for example in India, is relatively small.

Bearing in mind that in a shared services model, one department effectively becomes an internal service provider to the rest of the organization, it is not difficult to identify the challenges to this model as far as document review is concerned. For law firms, what cannot necessarily be predicted with any great degree of certainty is the ebb and flow of large scale litigation coming through the door. The same problem arises, magnified several-fold, within the corporate legal department. The inability to anticipate both impending litigation and the scope of such litigation is the main reason why corporations are prohibited from handling large-scale review in-house and have stomachached gut-wrenching legal bills from their outside counsel for years. They simply had no other option. That is, until now.

Leading LPO companies all offer large-scale document review as a main service line and have the scale to be able to staff up accordingly for even the most daunting

projects. LPOs routinely bill hourly rates of \$25-\$40 per hour for document review projects. This is a major reduction in comparison to both outside counsel and even U.S. based contract attorney companies. Some of the more forward-thinking LPO companies have moved beyond hourly rate billing and now provide a variety of pricing models, including per-document. Law firms simply cannot compete with these billing rates and innovative pricing models.

While there are clearly hurdles for in-house shared services operations providing document review, these are not entirely insurmountable. As with everything, there are exceptions to the rule. In 2005, Ryley, Carlock and Applewhite, a 150-attorney law firm headquartered in Phoenix, Arizona, launched its Document Control Group (DCG). The DCG hosts teams of attorneys providing Ryley, Carlock and Applewhite with a dedicated document review capability. The group not only undertakes all the firm's various document review projects, but also provides large-scale document review support to third parties.

For law firms, one area that might see shared services or outsourcing emerging as viable models is legal word-processing. After attorneys' salaries and rent, secretarial and word processing support is the next item down the list of a law firm's operating costs. Centralized word-processing and document production centers are becoming increasingly common among major law firms. Many firms are already locating this centralized resource at whichever one of the firm's offices is in the cheapest location as regards available secretarial talent. Although support requirements on a permanent staffing basis for word processing are easier to predict than for document review, they still vary dramatically and are subject to an array of permutations. The LPO model for word-processing support enables law firms to allocate resources more efficiently and guarantees that in quieter times they are only paying for the manpower they are utilizing.

The legal profession is undergoing a period of dramatic change. The Financial Times of London released its Innovative Lawyers report recently (see <http://www.ft.com/pp/innovativelawyers2008> to access the report). This marks the third year of the FT report examining change and innovation within the legal profession. *The report's lead article went so far as to say:*

“Given the current harsh economic realities and the ongoing drive towards legal costs reduction and improved efficiency, the shared services model can, and does work, albeit not across the whole spectrum of legal services.”

“The trend that is having the most impact on the thinking of the partners at top law firms, is the impact of globalization and its intersection with people and technology. In particular, the way in which legal work is resourced and the location in which it gets done is coming under greater scrutiny.”

Over the coming years, whether we witness more sourcing of both higher-value and back-office legal support work within a shared services model, an LPO arrangement, or a hybrid mix, is up for debate. What is certain is that the drive for increased efficiency and lower costs will only continue to pick up pace, and that the maintenance of the status quo is no longer an option. **SSN**

About the author

Mark Ross is an experienced UK attorney and former partner at the high profile U.K. law firm Underwoods Solicitors, which pioneered the offshoring of legal work. Ross joined LawScribe, which is now one of the world's leading LPO firms, in 2006 and in April 2008 was recognized by *TIME® Magazine* as an "Industry Leader." He is Chair of the International Association of Outsourcing Professionals' Legal Outsourcing Chapter and regarded as an authority in the field of legal outsourcing. He developed the first U.S. State Bar accredited MCLE course, provided by an LPO, dealing with the ethical issues associated with outsourcing legal work. His blog, <http://blog.law-scribe.com/> is a valuable resource of information for those interested in the legal outsourcing industry. **These related articles from the "Strategy & Governance" pages of our archives can be found online at www.ssonetwork.com.** **Beyond Ethical Considerations in LPO Management challenges for hiring legal process outsourcing services** By: **William B. Bierce, Bierce & Kenerson, PC, 2008** <http://www.ssonetwork.com/ethical>