

Legal Project Management Moves In-House

By Pamela H. Woldow

The message to General Counsel and Chief Legal Officers from their CEOs and Chief Financial Officers could hardly be clearer: *'Get the costs of your legal department under control or face the consequences. In the last decade general corporate operating expenses have gone up about 20%, but overall legal costs have gone up 75%, far outpacing inflation. Our business got beaten up big time by the recession; time for you to share the pain and share the accountability.'*

Henceforth, the memo goes, you must manage the legal function as proactively and efficiently as the company manages every other business unit – perhaps even more so, since the legal department is, after all, a cost center and not a profit generator for the company. Yes, you have more on your plate these days with increasing legal and regulatory demands, but it's time to do more with less. Skip the excuses and rationalizations; it's time for lean-and-mean budgets, aggressive cost management, and clear standards for demonstrating the value you provide the company. Yes, quality legal service matters, but tightening the screws on legal costs matters more. Your bonus – and perhaps even your job – depends on your ability to reduce your total legal spend.

The issue of increasing costs certainly is not a new one for general counsel. In surveys for the last five years, general counsel have consistently identified the need to control costs as one of their top concerns and most important priorities. Until 2008, though, that concern rarely translated

into significant changes in many legal departments. Then, when the economy tanked, they had to at least appear to tighten their belts.

For many senior in-house counsel, this was a rude awakening. Like beleaguered law firms, they took some painful emergency short-term action steps, that often translated into cutting some staff lawyers, fewer employees (or FTEs) and fewer trips to conferences. The result, however, was not doing more with less. It really was doing the “same with less,” and even that heavily stressed the legal department.

Long term, they prayed for a return to the *status quo ante*: Many still hope to continue to enjoy “black box budgets” (“Just give us what you gave us last year, plus 20%”). Many claim that cost predictability is impossible in an “uncertain legal environment.” Others believe that no solid metrics exist for measuring the value of lawyers' experience and expertise.

Wiser heads embrace Stephen Covey's famous quote, “If we keep doing what we're doing, we're going to keep getting what we're getting.” Savvy CLOs realize that the upside of the pressure to control costs put on them by their own management is the increased leverage it gives them in their relationships with outside counsel. They no longer can afford to buckle under to steep annual hikes in law firm billing rates; they no longer can allow law firms to pass all expenses and inefficiencies through to the client. They

must learn to wield the whip hand, a skill alien or uncomfortable for many of them. This shift in the law firm-client balance of power has left some general counsel a little bewildered. "I feel like the dog that, after years of chasing the fire engine, finally caught it," says one. "Now I have to figure out what to do with it."

Through convergence programs, RFPs and value-based alternative fee arrangements (AFAs), many general counsel are significantly altering the balance of power between client and law firm. Among law firms that understand the implications of this sea change, there has been a rush to embrace Legal Project Management (LPM) as a discipline to manage legal tasks efficiently, consistently and predictably – and deliver on the promises they are making to clients in their AFAs. Properly implemented, LPM is a discipline that yields efficiently planned and delivered legal services and permits more accurate costing and budgeting. However, many law firms still regard LPM primarily as an internal approach to work process management, quality assurance and cost control. They resist the idea that LPM can create a powerful bridge to better communication and better relationships with their clients.

On the legal department side, the lights have been even slower to come on, although among cutting-edge legal departments LPM now is rapidly emerging as a valuable tool for serving "internal clients" better and improving internal communications, as well as imposing accountability and predictability on the actions of outside counsel across the full spectrum of legal services. General counsel who realize that their legal department budgets are unlikely to increase in 2010 and 2011 suddenly are interested in getting more out of the resources they have.

LPM embraces a simple philosophy: *efficiency comes from doing better what is already being done*. So, legal departments should start using LPM by first examining the work that they perform and then finding processes to perform the work better and more efficiently. That includes harnessing and harvesting the knowledge that legal departments have accumulated over the years. Even in many Fortune 100 companies, legal departments do not capture and effectively re-use the learning gained through handling diverse legal matters. There is simply no process for institutionalizing and sharing legal knowledge. Frequently, information about particular matters resides only in the head of one attorney -- or maybe on that

attorney's computer hard drive. Often no one else in the department knows how that attorney's matters are handled. If that person leaves the company or is struck by lightning, the replacement has to re-invent the wheel, resulting in inefficient use of time and loss of institutional knowledge.

The lack of disciplined processes or consistent use of technology results in untold wasted hours even in the normal course of the legal department's business. Recently, I was interviewing each attorney in a Fortune 100 company's legal department to identify challenges to operating more efficiently. One attorney reported he was spending *six to eight hours per week* re-reading documents he had prepared, sent to his internal client and received back in order to check for any changes the client might have made. He wanted to know how he could make the client use "Track Changes" (a function in Microsoft Word that a user can activate to highlight document edits). He described how he had to print out both the document he sent and the one received back from the client, lay them side-by-side and compare every sentence.

In fact, the problem lay not with the client, but with this attorney, who did not know that in mere seconds Word can compare two documents and highlight the differences without even needing to trigger track changes. Spending hours doing a task that should have taken seconds was an enormous waste of time and resources. And, sadly, this example is hardly unique. Large departments handling a broad variety of matters invariably suffer enormous friction losses.

Effectively-implemented LPM initiatives can produce very significant incremental changes, both in improved service delivery and more efficient use of time. Put most simply, LPM draws on and brings discipline to the way that attorneys handle matters – *and it's not really that hard*. LPM asks each attorney – whether working independently or supervising other attorneys and staff -- to consciously and rigorously work through six basic steps for each matter:

1. **Define Outcomes and Scope:** *What is the objective or the "win" for this matter and what scope of work needs to be performed to reach the objective?*
2. **Identify Constraints:** *Are there any limiting factors – including budget – that affect how well and how efficiently this project is accomplished?*

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3. **Project Plan:** *“Deconstructing” the overall task into a series of discrete action steps and mapping out a step-by-step approach that allows progress to be tracked in terms of available budget (which includes time, resources, people and dollars).*
 4. **Executing to Plan:** *Performing legal work in strict accordance with the project plan.*
 5. **Monitoring:** *As a constant ongoing process, tracking all the activities on the plan, whether they are being performed in-house or by outside counsel.*
 6. **After Action Review:** *After a matter is completed, check the level of client satisfaction, review the course of the project and memorialize lessons learned in a form others can access and learn from.*

Some lawyers kick and scream that LPM is a mechanistic process that adds to their work burdens and limits their

judgment and discretion. Others get the deeper point: “Hey, this is what I already do – all LPM does is make me think *explicitly* about activities I’ve always managed *implicitly*.” True, because LPM utilizes a common vocabulary and a uniform approach to tasks, implementing LPM does require training and an institutional commitment to building it into all legal processes. True, that costs time and money, as well as the discomfort of moving from one service delivery mindset to another. But our experience shows that the “earn-back” on this LPM effort is immediate and significant, especially in high-stakes or high-volume matters.

LPM works, and frankly it is not all that hard to master given the determination to work more efficiently in today’s legal environment. As one attorney recently observed, “it’s not rocket science, but we are not doing it.” It’s time for in-house counsel to buckle up, dig in and put the LPM engine to work.

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