

Outside Counsel Management

- Running RFPs
- Managing Quality and Scoring Outside Counsel
- Value Based Pricing and Alternative Fee Arrangements





Good Outside Counsel Management

- Benefits both the law department and its most trusted law firm partners
- Maximizes value of every dollar spent, rather than simply reducing the number of dollars spent
- Is supported by 'just enough' technology (sophisticated enough, but simple to use/implement)
- Involves a simple layer of intelligence and analytics at every stage of the lifecycle
- Focuses on repeatability of process as much as it does on the results it produces



Ways to Manage Outside Counsel

- Tiers of firms and risks
- Firms in low-cost locations
- Make v. buy, or ALSPs
- Preferred provider panels and matter-specific RFPs
- Quality assurance program
- Convergence program
- Alternative fee arrangements, including Value Based Pricing





Why Implement Convergence Programs?

- Reduced number of firms to manage
- Reduced spend
- More substantial relationships with chosen firms, with OC behaving more like trusted business partners
- Additional benefits (secondments, trainings, technology, KM, subscriptions)





Running a Successful RFP



Project Overview



Timeline



Proposal Comparison



Cost Proposals

Sample Timeline

Project Overview

Market Research

- **Complete Benchmarking Data**
- Benefits of RFP (e.g. cost reduction, process simplification)

Define Requirements

- **In Progress**
- Company Goals
- Final “Must Haves”
 - Survey Tool

Release RFP

- **Scheduled (21 Jul)**
- Finalize Vendor List
- Finalize Docs
 - 3-Way NDA
 - Announcement Letter
- RFP Questions
- Proposal Scoring

Vendor List

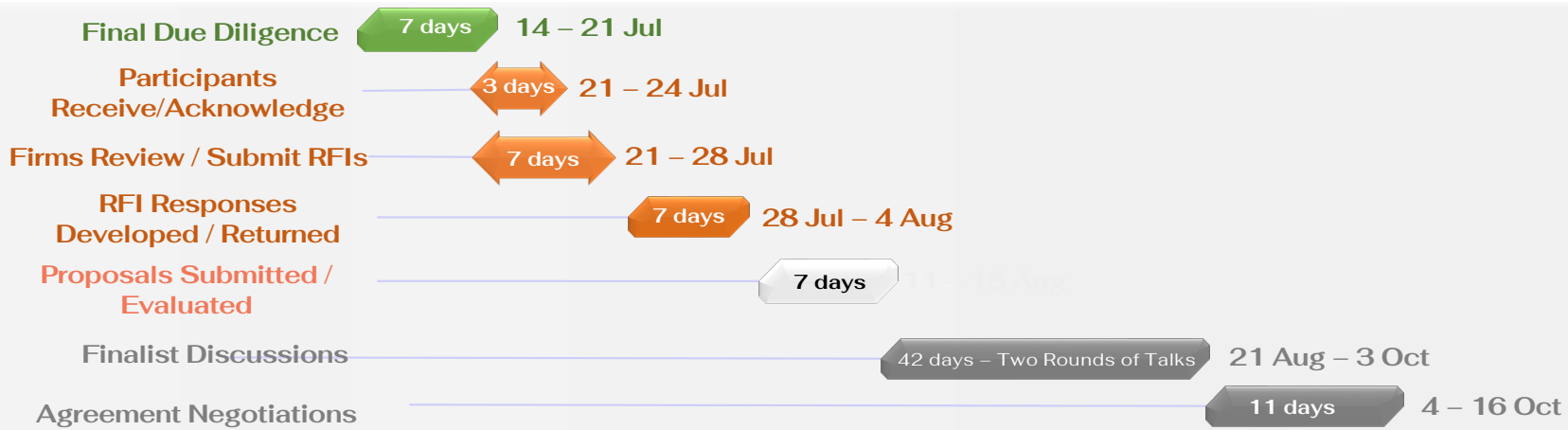
Analyze Proposals

- **Scheduled (11 Aug)**
- Select Top 3 Finalists
- Finalist Discussions / Presentations

Award Business

- **Scheduled (16 Oct)**
- Negotiate MSA
- Scheduled Comms
- Go-Live of 1 Nov

Sample Timeline



Proposal Comparison

Topic	Vendor 1	Vendor 2
Organizational Structure / Presence	<ul style="list-style-type: none"> • Global footprint • X Employees • Smaller resource pool 	<ul style="list-style-type: none"> • Global footprint • X employees • Name recognition inspires immediate confidence
Clients and References	<ul style="list-style-type: none"> • # & type of clients 	<ul style="list-style-type: none"> • # & type of clients
Security	<ul style="list-style-type: none"> • Description of security protocols 	<ul style="list-style-type: none"> • Description of security protocols
Capacity and Quality Management	<ul style="list-style-type: none"> • Description of services 	<ul style="list-style-type: none"> • Description of services
Technology	<ul style="list-style-type: none"> • Description of technology used for services 	<ul style="list-style-type: none"> • Description of technology used for services

Proposal Comparison

Topic	Vendor 1	Vendor 2
Program Management, Reporting, Implementation	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Disaster Recovery	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Foreign Language Data Services	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Document Review Project Management	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Finalist Demo / Scenario Review Impressions	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description

Cost Proposals

Topic	Vendor 1	Vendor 2
Data Collection and Acquisition	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Foreign Language Translation	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Document Review	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Cull Rate	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
Implementation Offer	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description
General Thoughts	<ul style="list-style-type: none">• Description	<ul style="list-style-type: none">• Description

Sample Proposal Evaluation Sheet

Features	Vendor 1	Vendor 2	Vendor 3	Vendor 4	Vendor 5	Vendor 6	Legend
Cost							Product has feature
Worldwide							Product does not have feature
Review assistance service							
Turnkey review service							
Paper discovery							See note
Multi-lingual							Further research required
Training in-house personnel in eDiscovery							
Retention schedule consulting							
Office 365 integration							
Statistical sampling for reviewer QC							
Real-time status and budget dashboards							
Dashboards on individual reviewers							
Left hand tool							
Right hand tool							
Self-help tool							
Chain of custody tool							
Technical staff availability							
Claimed average accuracy rate							
Claimed average cull rate							
Processing speed (max)							
Security certifications							
Tools used							
Relativity Certified Administrators							
Relativity Project Management Specialists							
Relativity Processing Specialists							
Relativity Assisted Review Specialist							
Relativity Certified User							
Relativity Infrastructure Specialist							
Relativity Analytics Specialists							
Relativity Experts							
Relativity Masters							
Relativity Certified Sales Professionals							
EDRM Coverage Chart							
Information Governance							
Identification							
Preservation							
Collection							
Legal hold							
Processing							
Review							
Analysis							
Production							
Presentation							

Getting Monitoring Right

Lots of programs aim for visibility, but the right type of visibility is important to strengthen trust / relationships



The Judicial Approach

- One-side driven
- Specific to only a few metrics that highlight lack of firm efficiency
- Matter spend focused



The Partnership Approach

- Both-side driven / accessible
- Transparency into various metrics beyond just firm efficiency
- Matter outcome focused



What Exactly Is a QBR?

Quarterly Business Review!

What does success mean? *Define it!*

Practical Advice

- It takes lots of time and resources to put together a QBR deck
- Start small and with your most important partnership
- Legal Ops provides the majority of the metrics despite inviting collaboration
- QBRs are not just a meeting
- Take time to brainstorm, together



In-House Survey of Outside Counsel

How well did OC demonstrate subject matter expertise?

How well did OC demonstrate knowledge of our business and goals?

How responsive was OC?

How well did OC project manage?

How accurate was OC on budgeting and fees? Did they follow Outside Counsel Guidelines?

How innovative/creative was OC

- On their delivery?
- On their fee arrangements?
- On technology?

Did OC meet our diversity guidelines?

How proactive was OC to complete matter work?

How aggressive was OC to resolve the matter?

How well did OC communicate their guidance?

How well OC gain our trust based on guidance?

How well did they gain our trust based on their interactions?

How good was the quality of work?

How well did they achieve the outcome?



Outside Counsel Survey of In-House Counsel

What did you do for the company last year?

- What was your total spend last year?
- What went well, what didn't work well and how can we help?

Is in-house counsel engaging your firm at the right moment/time?

How do you think the matter was handled (project managed) in-house?

How clear does in-house counsel convey the scope, instructions and goals?

How responsive was our in-house counsel to your needs?

How knowledgeable was our in-house counsel teams managing the work?

How well did in-house counsel provide access to the necessary stakeholders?

How well did in-house counsel communicate financial/budget requirements and constraints?

How well did in-house counsel manage the invoice payment process?

How well did in-house counsel communicate gaps and issues throughout the course of the matter?

How likely is your firm to pursue supporting the company in the future?

How comfortable are you with the pricing models and rates that have been agreed to?

Sample Outside Counsel Scorecard

Firm Name	Feedback by	What matters did the firm handle last year?	Fees/Administration	Scale 1-5	Quality of work/Substantive Knowledge	Scale 1-5	Availability/Communication	Scale 1-5	Additional Feedback	OC AVERAGE
			How accurate was OC on budgeting and fees?		How well did OC demonstrate subject matter expertise?		How responsive was OC?			
			How satisfied are you with OC's hourly rates?		How well did OC demonstrate knowledge of our business and goals?		How well did OC communicate their guidance?			
			How reliable was this firm on uploading invoices timely?		How well did OC project manage?		How well did OC gain your trust based on guidance?			
					How innovative/creative was OC in their delivery?		How well did they gain our trust based on their interactions?			
					How proactive was OC to complete matter work?					
					Overall, how was the quality of work?					
					How satisfied are you with the outcome?					
			SCORE	0		0		0		
			%	0%		0%		0%		0%

Sample In-House Counsel Scorecard

Firm Name	Feedback by	What matters did you handle last year?	Fees/Administration	Scale 1-5	Quality of work/Substantive Knowledge	Scale 1-5	Availability/Communication	Scale 1-5	Additional Feedback	OC AVERAGE
			How well did in-house counsel communicate financial/budget requirements and constraints?		How well does in-house counsel project manage?		How well does in-house counsel engage your firm timely?			
			How well did in-house counsel manage the invoice payment process?		How knowledgeable were our in-house counsel teams managing the work?		How clear does in-house counsel convey the scope, instructions and goals?			
			How comfortable are you in the pricing models and rates that have been agreed to?		How satisfied are you with the outcome?		How responsive was in-house counsel to your needs?			
			How receptive was the firm to discussing/implementing AFAs							
					How likely is your firm to pursue supporting our company in the future?		How well did in-house counsel provide access to the necessary stakeholders?			
					Is diversity important to your firm? Please fill out attached diversity form.		How well did in-house counsel communicate gaps and issues throughout the course of the matter?			
			SCORE	0		0		0		
			%	0%		0%		0%		0%

Criteria

Accessibility

- 1=Unresponsive
- 2=Responds after 3-4 days
- 3=Responds after 2 days
- 4=Responds within 24 hours
- 5=Responds same day

Ease of Doing Business

- 1=Unprofessional; difficult to work with
- 2=Gets job done, but creates unnecessary work and pulls in multiple points of contact
- 3=Mostly meets expectations on teamwork, professionalism and project management, and mostly acts as single point of contact
- 4=Meets expectations on teamwork, professionalism, project management and always acts as single point of contact
- 5=Exceeds expectations on teamwork, professionalism, project management and always acts as single point of contact

Substantive expertise

- 1=Poor Subject Matter Competency
- 2=Fair Subject Matter Competency
- 3=Average Subject Matter Competency
- 4=Good Subject Matter Competency
- 5=Excellent Subject Matter Competency

Results

- 1=Did not achieve planned litigation/advice results
- 2=Mostly meets expectation on planned litigation/advice results
- 3=Meets expectation on planned litigation/advice results
- 4=Exceeds expectation on planned litigation/advice results
- 5=Exceptional results on planned litigation/advice

Budget performance

- 1=Hours expended per project scope was unreasonably more than what quoted
- 2=Hours expended per project scope was more than what quoted
- 3=Hours expended per project scope was a little more than what was quoted
- 4=Hours expended per project scope was more or less equal to what was quoted
- 5=Hours expended per project scope was much less than what was quoted



Value Based Pricing (VBP) Agenda

- Hourly Fees – Here to Stay?
- Price vs. Value
- Buyer Value Perception
- Corp Legal Department Value Drivers
- What is Value Based Pricing?
- Value Based Pricing for Legal Matters
- Typical VBP Arrangements for Legal Matters
- Structures and Metrics



Let's Start with Hourly Fees

Advantages

- Familiarity
- Rate Transparency
- Subjectivity not required
- Itemized History
- Don't need to define value or success
- Billing process established
- Works regardless of volume or service rendered

Disadvantages

- No fee predictability
- Client carries all risk (cost, bad outcome)
- Fee may not match benefit
- Penalizes the efficient/productive attorney
- Discourages efficiency
- Discourages attorney/client communications
- Promotes duplication of effort
- Firm not compensated for high risk/value services
- Creates conflicts between interests of the attorney and client
- Causes clients to focus on hourly rates
- Time consuming billing process and review
- Inherent lack of trust
- Focus is "cost" vs. "value"



Price vs. Value

- What is a “Price”?
 - Price is one of the only factors that is adjustable
 - Price types: Interactive, dynamic, fixed
 - Pricing segmentation by value point
 - Value: A fair return in services for price paid.
- Economic value vs. perceived value: Perceived value is different for each individual based on individual needs, goals, objectives, business
 - Price is what you pay, value is what you get
 - Focus should be on value, not on price or effort



What Do Corp Legal Depts Value?

Specific Skill Sets

- Expertise
- Wisdom
- Responsiveness
- Management Ability
- Ability to bring people together
- Ability to find and implement solutions
- Risk reduction
- Availability
- Communications
- Exclusivity
- Dependability
- Predictability
- Integrity
- Reliability
- Stability
- Efficiency
- Prestige
- Service delivery
- Results




Top Value Drivers

- Efficiency (Cost-effective delivery, communications, etc.)
- Predictability
- Value Received (Benefit – Cost (Price))
- Results





What is Value-Based Pricing?

- Based on the Value of a Specific Task or Matter
 - Pay Less for Effort and more for Results
 - Sharing of Risk
 - Promotes Law Firm Efficiency
 - Increases In-House Productivity
 - Enhances Budget Predictability
 - Lowers Total Legal Spend
 - Applicable to all Practice Areas
- 



VBP Structures and Metrics

- Task Based
- Tier or Category Based
- Scope Based
- Unit Price Metrics
- Measuring Success
 - Value communications – retainer work
 - Value of ending matter early
 - Previous work comparison – matter or phase
 - Productivity increases




Typical VBP Arrangements for Legal Matters

- Fixed Fee
 - Assumptions and Scoping
- Success Fee
 - Definition of Success
- Contingent Fee
- Retainer Fee
- Value Adjusted Fee
- Hybrids



VBP Summary

- Applicable to all Practice Areas
 - Effort does not always Equate to Value
 - Change the Conversation
 - Focus on Value, not on Price or Effort
 - Better Budget Predictability and Smoothing
 - Reduced Outside Spend
 - Improved Process Efficiency
 - Improved In-House Productivity
 - Enhances Convergence Programs
 - The Future of Hourly Rates and the Legal Industry
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Thank you!

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Take Legal to the Next Level

