

Corporate Counsel: How to Stop Bluster, Boilerplate and BS in RFP Responses

By Pamela Woldow



We're seeing huge increases in the number of RFPs corporate legal departments are issuing to try to get the best law firms, lawyers and service. But we're not seeing huge increases in the quality or effectiveness of those RFPs. To flip the old phrase on its head, a lot of RFPs are garbage out, garbage in. If your RFPs are to distinguish the wheat from the chaff, you in-house folks have to do a lot better at framing questions that *matter*. Many of your current efforts simply are not effective at eliciting the information necessary for astute decision making.

As someone who is often retained to help clients draft RFPs or to help review law firms' RFP responses, I must say that dreadful responses often are the result of dreadful questions -- questions that utterly fail to discriminate the stars from the also-rans. I have a request to general counsel: do better. Put in the time, skill and effort to help your potential vendors truly put their best foot forward.

Bag the Boilerplate

Good RFPs give clear instructions. One instruction they all should include is: "Don't, don't, DON'T just repeat your website copy in response to our RFP questions. We've read your website already. We believe you have the experience and expertise to do the job. This isn't a beauty contest to get through the screen. It's the endgame. That's why we asked you to respond to our RFP, and it's why our RFP asks you to provide more detail."

Ask questions that cut to the heart of the engagement, not boilerplate created by committees. All too often, the RFP committee looks at the last few RFPs and follows the easy path of simply recycling ready-to-wear questions asked before. Please, take the time for some custom-tailoring. Frankly, about half of your canned questions (and, therefore, half the responses you receive) are not really relevant to the selection criteria. If you don't want your time wasted by reading twaddle churned out by law firm marketing departments (no offense intended), don't waste respondents' time and resources by asking them to expound at length (and frequently *ad nauseum*) to questions that make needless inquiries about pointless issues.

When you ask the questions that matter, that define your needs and incisively describe your expectations, always ask for proof. It is easy to "spin" or BS just about any example, so you corporate counsel need to reduce law firms' bluster, banter and hogwash by requiring descriptions of objectively measurable outcomes. Make your respondents stand and deliver. Insist on specificity. Demand specific references.

A Gold Star and a Brownie

There are those who get it right. Recently, a GC client sought to retain several firms capable of competently handling their matters while managing to budget. This RFP was NOT for commodity work; it was for important matters where budget was definitely a driving factor.

The RFP instructions made it clear that the company wanted firms that *really* knew how to manage legal matters. The company only wanted to see examples of effective management where a reference was provided. Any unsupported example was null and void: No reference, no go. It was that simple. And – gad, don't you just love this? -- the GC also requested “beautiful brevity.” Finestkind.

(Suggested supplemental reading: “Power Tools for General Counsel: Creating RFPs that Really Deliver the Goods” at <http://www.edge.ai/Edge-International-1733515.html>)

Cut to the Chase

Below are five of the questions that this particular GC put to the competing bidders:

1. *In a matter similar to the one for which you are bidding, describe how you delivered legal services efficiently. Provide references for each examples*
2. *Provide a projected budget for the matter on which you are bidding, broken down by phases of the matter.*
3. *We expect your firm to comply with budgets it provides. In previous matters for other companies, describe how accurate you were in budgeting matters (comparing your original budget and the final legal fees) and provide references for the examples.*
4. *When there were changes in matters that impacted budgets, describe how and when you communicated changes to the client. Also, describe what proactive steps you took to minimize or contain legal costs. Provide references for your examples.*
5. *At the end of matters (or periodically), we require our firms to meet with our team and review matters. We will expect you to present “lessons learned” from handling our matters that will help us avoid similar issues or problems in the future, and we view this as a non-billable event. Are you willing to provide this value added service?*

These are not unreasonable questions. They are the voice of the future.

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