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## **Grabbing Slices of the Diminishing Legal Spend Pie: Legal Project Outsourcing, Downsourcing and Insourcing**

**Jerome Kowalski  
Kowalski & Associates  
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### *The law firm as general contractor*

What follows is a basic economic proposition: The amount spent globally on legal services is both finite and is shrinking. The number of players actively grabbing a slice of the legal spend pie is increasing. Providers of legal services are not limited to law firms: Efficient, lean and tech savvy legal project outsourcing companies are nibbling away at that pie. For law firms to maintain their piece of the pie, they must compete with the burgeoning legal project outsourcing industry as well as law firm

competitors.

These lessons were driven home at the recent [Global Legal Project Outsourcing Conference in New York](#), in which I recently participated. A brief slideshow showing the historical perspectives of how we arrived at this juncture and where we are heading can be accessed through [this link](#).

The recent [report](#) from [Dan DiPietro](#), the oracle of [Citibank](#), who heads Citi's

mighty law firm financing division regarding the First Quarter of 2011 is that revenue and demand for legal services are up only modestly, and expense increases likely to outpace or at least equal revenue increases. DiPietro predicts firms will see continuing pressure on profit margins. To meet these escalating demands, law firms are more regularly turning to outsourcing – indeed, clients are increasingly requiring that law firms do so.

With the total international market for legal services reaching \$400,000,000,000 in 2010, the LPO market reached \$200,000,000 in that year and [The New York Times projects](#) that the LPO market will reach some \$2,400,000,000 by 2012. Yes, as the *Times* reports, the LPO market will still be but a tiny fraction of the total international legal spend. But, frankly, the projection only addresses true outsourcing. It does not address the issues of downsourcing or insourcing, which are, as we previously reported are doubtless going to be pillars of [the law firm of the twenty-first century](#).



We all certainly understand legal project outsourcing, namely, as the *Times* described it, “companies that in recent years added to the financial woes of the American legal profession by sending work to low-cost countries like India,” the *Times* went on to report that outsourcing firms “are now

creating jobs for lawyers in the United States” by establishing centers in various tertiary markets in the United States, where labor costs are lower than in major metropolitan areas.



Downsourcing differs somewhat from outsourcing. In a typical downsourced project, legal work is transferred from a law firm’s major urban centers to lower labor cost branch offices. A second example for downsourcing is when a corporate client engages in a convergence program and engages a select number of law firms to serve as preferred counsel and these favored counsel, most often in consultation with the corporate client, engages lower cost law firms to handle discreet tasks.

The third leg of the stool, insourcing, is a variant. It derives from a “make or buy” decision tree and the “make” rather than “buy” decision is driven by the availability of a number of alternatives. These include creating a temp staff for a particular project or the ability to provide the service through a law firm subsidiary or affiliate.

LPO’s original provenance was on the Indian subcontinent. They have since spread globally to Israel, Ireland, Great Britain, Costa Rico, South Africa, Canada, New Zealand, Australia and elsewhere. Currently employing some 16,000 people, LPO’s are clearly destined for explosive growth.

The related downsourcing and insourcing phenomena are proliferating domestically and abroad in abundance. Centers for both insourcing and outsourcing, owned by both law firms themselves and traditional third party LPO providers are sprouting in West Virginia ([Orrick](#)), Ohio ([WilmerHale](#)), Belfast ([Alan & Overly](#)) and [Herbert Smith](#)), Texas ([Pangea3](#)), North Dakota ([Integreon](#)) and Kansas ([UnitedLex](#)).

Yes, as the *Times* noted, professional salaries at these entities are substantially lower than rack rates at major law firms, ranging from 50% of the so called “going rate” of \$160,000 at BigLaw firms, ranging downwards to \$20 an hour. But, there seems to be no shortage of lawyers signing up for this duty.



I've previously addressed the concept of [law firms enhancing their profitability by establishing subsidiaries](#) offering services complementing the traditional array of legal services offered by a full service commercial law firm. [Pillsbury Winthrop](#) has taken a quantum leap forward. The law firm established a practice group it calls “PEARL,” an acronym for Pillsbury [E-Discovery Alliance of Resource Leaders](#) . The focus of this group is electronic document discovery (“EDD”), which has become an onerous cost of litigation and has otherwise dampened many an appetite for corporate litigation.

Pillsbury's business model was to establish an alliance with a group of LPO's, consisting of ACT Litigation Services, Discovery Services LLC, Integreon Discovery Solutions, Ji2, Protiviti Inc. and TransPerfect Legal Solutions, each of which has a contractual relationship with Pillsbury. The essence of the model is that Pillsbury is primarily the general contractor for EDD and the named entities serve as Pillsbury's subs. As GC, Pillsbury serves as discovery counsel on litigation and takes full responsibility for compliance with EDD obligations. Using best practices and other efficiencies, [David Stanton](#), the capable leader of this group, boasts that PEARL can beat the prices charged by competing LPO's by 60%.

Pillsbury's PEARL business model is far more telling – and perhaps, foreboding – than it appears at first blush. First, it appears to me that Pillsbury has recognized that it is competing directly with LPO's for the legal spend. It seems to have neutralized some measure of this direct competition by drawing these competing vendors under its own tent.



More striking to me is Pillsbury's role as general contractor – at least for EDD purposes – with all of the duties, responsibilities and liabilities attendant to that role. As I see things over the hazy horizon, law firms will increasingly fill this

role as general contractor in a broad variety of contexts.



**L**PPO's are openly and actively marketing their services to both law firms and corporate general counsels, as well as GC's new comrades in arms, procurement officers. LPO's routinely enter into direct contracts with corporations with competitive pricing and GC's, when retaining outside counsel, frequently compel counsel to engage its designated LPO, with the law firm serving primarily as a general contractor.

New realities require that work on major projects or ongoing engagements, certainly not limited whatsoever to litigation, is carefully identified and scrutinized with identified tasks being assigned to the lowest cost component in the service supply chain. Compensation for these tasks is increasingly unrelated to the time required to complete them. Rather, fees are based on piece work, capitation, gigabytes of data or simply fixed prices.

Thus emerges the law firm as general contractor, traffic cop, chief quality control officer and insurer of the work of its subcontracting competitors.

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