

## **April 29, 2009 :: Legal Process Outsourcing: New Threat Or New Opportunity**

This is a difficult time to give career advice to lawyers. Lateral hiring has slowed dramatically, bonuses have been reduced, layoffs are occurring at many large firms and scores of associates and partners are finding themselves with too much time on their hands. While 2008 was a challenging year for many law firms, 2009 is not looking any better (at least not yet). In the near future, bankruptcy and litigation practices will pick up steam. Regulatory practices are likely to be given a boost once the Obama administration gets in gear. We all hope that by the second half of the year the credit markets will loosen and M&A and financing practices will begin to recover.

The good news is that it is only a matter of time before the demand for legal services regains its footing. But as the practice of law comes back to life, a new threat lurks around the corner: legal process outsourcing (LPO).

### **Legal Process Outsourcing Involves Sending Legal Work Overseas**

LPO, simply put, involves sending legal work off shore to a lower cost jurisdiction. Right now, India seems to be the principal beneficiary of this practice though there are LPOs doing work in Israel, South Africa and the Philippines. Although law firms have grown accustomed to sending large document review projects to outside vendors or hiring temp agencies who can supply contract lawyers, the vendors who provide these services have mainly been domestic.

Using an LPO, some very large corporations have been saving a bundle on large document review projects. Rather than paying associates at American law firms well in excess of \$100 per hour, the early adopters of LPO, which have included Microsoft, DuPont, Philips and GE, have turned to India's large pool of highly educated law school graduates who have studied common law and have a strong command of the English language.

While the majority of LPO work is "low value" (e.g. large document review projects), some LPOs are beginning to do more "high value" work including drafting contracts and patent applications.

Law firms have been much slower to adopt the practice of outsourcing to LPO firms, but given the potential for cost savings (roughly 50% by some estimates), corporate counsel will eventually begin demanding it for certain projects.

Although many law firms are still not eager to publicize the practice, at least one

national firm in Boston has been using an LPO for three years to do first drafts of briefs. When the Managing Partner of the office presents the idea to her corporate clients, they are very supportive. Using an LPO, in her opinion, has been a terrific way to generate a high quality and less expensive work product.

### **The Benefits Of LPO Are Not Only Financial**

Proponents of LPO have suggested that outsourcing legal work to a different time zone brings other benefits as well. Indian lawyers, for example, work while lawyers in the U.S. are sleeping, which reduces turnaround time. In addition, LPO provides a quick and ready supply of labor for large projects. Law firms and corporate law departments can have the resources they need without having to keep large numbers of associates on the payroll.

As Abhi Shah, CEO of ClutchGroup, an LPO which operates in both the U.S. and in India, explains:

*LPO promotes substantial time savings for document review, regulatory compliance, legal research and other legal projects. Rather than attorneys working long hours at high rates in the US, LPO is a coordinated global effort. The US law firm can focus on case strategy and other specialized legal issues during the day. Then the project moves to India at night for research and document review, which in turn is delivered to the US by the next morning. The legal team is working together literally around the clock and around the globe.*

LPO is not a fly-by-night trend that is likely to go away. According to articles in the Wall Street Journal and the National Law Journal, the practice is growing rapidly in India. Right now, it is estimated that LPOs generate about \$250 million in annual revenues. The number is small compared to technology outsourcing which is already up to \$40 billion. But Forrester Research projects that the industry will generate \$4 billion in revenue by 2015.

### **Criticism Of LPO Is Widespread**

As you might imagine, there are many critics of LPO. To get an idea of their thoughts, read the Wall Street Journal's lively [legal blog](#). Some people are concerned about the wide range in the quality of the work, the need to maintain confidentiality and data security (heightened by recent terror attacks in Mumbai), the struggle to get good customer support from call centers based in India, the fact that there is no recourse if an Indian lawyer violates an ethical rule, and that it may be difficult to avoid conflicts of interest when vendors may be serving clients with

opposing interests; others are outraged that this amounts to the unauthorized practice of law.

After speaking to a number of professionals who are involved in LPO and after attending several conferences where LPO was on the agenda, I am convinced that much of the criticism is unwarranted. Lawyers in the U.S. may naturally feel threatened by the competition posed by LPO. But lawyers trained at Indian law schools are well equipped to handle due diligence projects and document review in litigation. With proper training, they can also handle more complex drafting projects. What is important is how well the outsourcing attorney supervises the work. However, this is true whether the work is being done by an associate at the law firm, a contract attorney hired to work at the firm, a lawyer or paralegal working for an outside vendor in some other U.S. city or a team working in India.

As for data security, the technology sector has already established good protocols for preventing sensitive data from walking out the door in India. LPO firms need only follow what has already worked in the software industry. In fact, one provider pointed out to me that the standards for data security in India are actually much greater than they are at some companies in the U.S.

Another important factor which suggests that the naysayers have it wrong is that the ABA issued an ethics opinion this past summer condoning the practice:

*U.S. lawyers are free to outsource legal work, including to lawyers or nonlawyers outside the country, if they adhere to ethics rules requiring competence, supervision, protection of confidential information, reasonable fees and not assisting unauthorized practice of law.*

### **LPO Has Career Implications**

Law is an inherently conservative business. So far, because LPO is being used in large measure by corporations rather than by law firms, it represents only a small fraction of the legal work done in the United States. Over time, though, law firms will be encouraged by their corporate clients to adopt LPO as an effective means of controlling runaway legal fees and more corporations will turn to LPO firms for some of their legal needs.

While the current economic crisis may accelerate the pace at which companies and law firms adopt LPO, we are a long way off from sending all of our legal jobs overseas. In fact, much legal work will never be off-shored because it is not efficient. LPO works best when the work itself involves some element of repetition. If that is

missing, then all the efficiencies of outsourcing are lost by the added costs of supervision and training. For other projects, however, law firms will find it increasingly difficult to deploy a high priced army of associates to do work that can be done much more cost effectively overseas.

Law partners can appreciate the benefits being offered. LPO provides smaller law firms, in particular, with access to a large talent pool. By using LPO for certain projects, these firms can quickly staff up for larger matters without having to increase head count. Law firms of all sizes will still need associates. But associates will be spending more of their time on higher value work that is not easily delegated to a cheaper vendor.

The legal community will resist LPO. No profession sits back quietly when an outside threat emerges. But as one commenter on the WSJ blog stated:

*Unfortunately there are just no guarantees any more in qualifying as a lawyer as a route to success and financial stability. Trying to stop this is as futile as King Canute trying to hold back the tide. One piece of advice is to drop the racism and hysteria and assess where your skills lie and what you can do to contribute to a thriving successful global economy.*

Russell Franks, the CEO and co-founder of IPEngine, a Boston based LPO which is focused on outsourcing patent prosecution and related IP work, put it this way:

*LPO should be viewed as adding a new layer to the traditional pyramid. This shouldn't concern lawyers who can figure out how to manage these resources to provide their clients with a high quality and cost effective service. These lawyers have always been the best kind anyway, they just have a new arrow in their quiver. The folks who should be worried are those that end up charging clients too much for the quality of service provided because they do not know how to do this. The issue is that perhaps that profile fits a lot of lawyers who have not been used to clients demanding control over the budget.*

Lawyers at all levels of practice should take note of this trend and look for ways to provide valuable services to clients. Be nimble: do not expect today's cash cow to be alive tomorrow. Outsource what makes sense, and serve your clients well.