International business

Service challenges

LPO: Friend *or* Foe?

Joshua P Kubicki considers how firms are facing the challenge of legal process outsourcing (LPO)

Law firms are not new to the concept of outsourcing. Pioneers engaged outsourcers Williams Lee over a decade ago and more recently Osborne Clark moved to transition 75 support staff. Recent actions illustrate that firms are engaging LPOs for more judgment-based work. As the LPO industry continues to mature, corporations are quickly becoming the next growth target.

LPO involvement

The largest manifestation of LPO growth occurred when Rio Tinto announced a deal with CPA Global (a large LPO) to shift the majority of their work to the LPO itself. Rio Tinto maintains a legal budget of roughly $100m (£67.7m) and historically relied on law firms and an in-house team to manage legal obligations and burdens. With this deal, Rio leapfrogged its outside counsel and funneled a healthy portion of work directly to CPA Global – cutting 20% from its budget – fees that previously would have gone to outside counsel. The message was clear – support this process or risk losing them as clients.

Most recently it was reported that, at the request of one of their clients, Slaughter and May is closely examining LPO options. Being known as a conservative firm, this move is a significant event within the UK market. In June 2009, Pinsent Masons decided to expand its relationship with South African-based LPO Exigent, adding litigation support services to its portfolio. Further, Everhsheds and Lovells have both expanded their outsourced portfolio and have engaged LPOs recently and have stated their intent to be proactive in managing resources as they adapt to the future business environment. A leading Mumbai-based LPO, Exactus, is currently working with other leading UK firms to co-develop newer forms of alternative legal services ranging from team sharing collaborative centers to multi-jurisdictional research capabilities.

Strategic decisions

The question often posed by firms is what to think about alternative legal service providers, as LPOs target work that they have maintained and billed handsomely for. While many consider LPOs to be a non-threat wrapped in hype with little value or longevity, others are embracing the concept to either integrate or create a version themselves. Firms don't have to rush towards the LPO industry but they will need a strategic plan for co-existing with the LPO market.

Model challenges

Although the existence of law firms is not threatened, traditional business models may be. The operations of firms and clients will be continually analysed to define a path that will achieve profitability, client attraction and retention. LPOs are built on a different platform but share these fundamental objectives. Between the two of them, clients will have a breadth of options and demand decoupling of services to achieve their goals of cost containment and quality service.

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Law firm LPO strategy

Maintain the status quo

These firms decree that the law firm is the trusted sage of bespoke advice and all situations clients encounter are unique and demand a new approach to each instance. They need to consider whether this is a sustainable model in the current legal industry and financial realities of their clients. For each valued piece of advice given, there is generally a workflow that makes the partner's job possible, including research, first-year associate labour, prior similar work, and data review. It is these processes that LPOs target – not the advice itself. Clients may be willing to pay for advice but may not be as willing to pay for the supporting tasks (or at least pay firm rates). These firms may survive and possibly even thrive, but it might require a shift in focus and in business model. If supporting processes can be done elsewhere, they will be left with their reputable partners relying on someone else's processes.

Integrate and cooperate

This is best exemplified in the Rio Tinto deal. Linklaters, a long-time firm for Rio, could have viewed this deal as a threat – instead they used it as an opportunity. They identified some of the work it once did that could be given to the LPO. They even sent a team to train the LPO's India team on how to complete it successfully. This was no doubt appreciated and documented by Rio Tinto. Proactive cooperation is exactly what Rio looks for from its outside counsel. For Rio Tinto, firms are no longer the complete solution but only a player in the overall solution. Linklaters' strategy demonstrates willingness to embrace new initiatives and help clients achieve their broader goals, not just legal outcomes. It is no surprise that these firms are more open to alternative fee arrangements and/or diversified services. In this environment, they maintain core legal competence and are able to charge for it but also balance this with innovative services that better resolve client challenges both substantively and financially (see also, p.60).

Do-it-yourself

Rather than wait for a client to move to LPO, many firms have engaged them directly and offered either a blended service or an *"a la carte* menu". In the US and the UK, this strategy has taken many forms and exists as a hybrid of the previous two. The firms mentioned previously (Clifford Chance and Pinsent Masons) did not wait for a client to act, instead they decided to alter their methods – either to lower overall operating costs or provide better client services. Whether the savings to clients are directly or indirectly garnered, these firms have demonstrated that engaging the LPO industry can add to the overall value of the firm.