

HOW LEGAL PROCESS OUTSOURCING SUPPORTS LAW FIRMS AND LEGAL DEPARTMENTS



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Law firms and corporate legal departments alike are under increasing pressure to cut costs and increase efficiency while continuing to provide the same high caliber of work. This trend has led to the emergence and growing demand of legal process outsourcing (LPO). Legal outsourcing is gaining traction because it provides value through comparative advantage — allowing leaner and more specialized firms to carry out work that is often repetitive and cannot be completed as cost effectively by the hiring firm or corporation. [Engaging an LPO](#) provider requires careful consideration and preparation to ensure efficiency, client satisfaction, and ethical compliance.

INCREASING DEMAND FOR LPO

Although the economy continues its slow-but-steady recovery each year, the global recession has triggered permanent changes in the legal market. These changes have required a reexamination of the models used for legal operations and pricing. In the past, corporate legal departments often maintained a strong relationship with just one law firm for all of their needs, and law firms performed all of their tasks internally. Now, the pressure to decrease overhead has prompted both corporate legal departments and law firms to break up the work and outsource it to various LPO providers.

It is [estimated](#) that LPO is set to grow at a rate of nearly 30 percent per year. The reasons for its increasing prevalence are many.

- › LPO can significantly reduce overhead costs
- › Fewer resources need to be devoted to managing and training employees
- › The strain of employment taxes is transferred to the LPO provider
- › Solves many inefficiency problems

Aside from cost savings, LPO offers a comparative advantage. When an LPO provider exists chiefly to provide [due diligence](#), it can invest a large chunk of its resources into learning and incorporating best practices in those areas, greatly increasing efficiency for the firm or legal department.

BEST PRACTICES IN CHOOSING YOUR LPO PROVIDER

The predominant objective of hiring an LPO provider is to provide greater value to one's clients, so it's necessary to properly vet potential providers. It's important to choose a

continued on page 2

provider who can be flexible and adapt their services to your business's needs.

The American Bar Association has outlined best practices for choosing an LPO provider. The first step is to prepare a Request for Proposal (RFP) that asks for certain information, including the LPO provider's:

- Implementation steps for new clients
- Processes for maintaining privacy and security
- Financial background
- References, including their contact information
- Measures for keeping track of new case law
- Qualifications and background of both staff and management
- Work samples
- Conflict-checking measures
- Policies for staffing each project
- Standards and processes for quality control
- Requested compensation
- Insurance information
- IT infrastructure

After narrowing it down to two or three providers, perform thorough interviews and visit their offices.

CONSIDERATIONS PRIOR TO OUTSOURCING

Before hiring an LPO provider, it is critical to get employees on board, define the processes to be used and facilitate quality control. A [recent survey](#) asked corporations that were already invested in general outsourcing about their greatest opportunities for future improvement in the process. The top three responses were:

- Spend more time in service transition (31 percent).
- Construct better service level agreements (28 percent).
- Devote more time to vendor selection (28 percent).

It is notable that the number one response called for a greater investment of time in service transition. Prior to shaking up current processes and engaging an LPO provider, it's important for management to make sure that employees

understand that the new system will be more efficient and advantageous for everyone. Involving employees in the process will increase their stake in its success. Failing to take these steps could cause employees to try to slow down or even block the process.

Determine how to define the requirements of all projects and processes. Do not try to fix a faulty process by outsourcing it. Instead, mend what is broken and document the improved process in detail to share with the LPO provider.



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Think about how the LPO will be integrated into the department or firm. Create clear channels for communication and establish accurate descriptions of responsibilities. Employees must understand who will be in charge of which tasks, what the processes will be and who to contact. In your service agreement with the LPO provider, define the process for dispute resolution.

Finally, for each project, identify specific measures for quality control, including timelines. Allow flexibility while providing goals for deliverables.

OTHER CONSIDERATIONS

LPO implicates a wide variety of considerations, including the inadvertent disclosure of confidential information, the waiver of attorney-client privilege, the unauthorized practice of law and conflicts of interest.

Attorney-Client Privilege

Are LPO providers considered third parties for purposes of attorney-client privilege? The answer is unclear and differs on a case-to-case basis. Some jurisdictions maintain much stronger protections than others. Any law firm or corporate legal department that plans to outsource work must research how relevant courts have determined whether communication between counsel and LPO providers fits within the attorney-client privilege.

continued on page 3

Client Confidentiality

Ethics rules protect clients' confidentiality. [Model Rule of Professional Conduct 1.6\(c\)](#) requires that an attorney "make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client." To do this, execute a detailed non-disclosure agreement with your LPO provider.

Unauthorized Practice of Law

Strict supervision of outsourced legal work is key. To prevent the violation of the unauthorized practice of law rule, the [American Bar Association](#) has instructed that each attorney in charge of a project that involves outsourced work must take responsibility for the work and ensure compliance by performing due diligence. This means that the project manager must provide adequate supervision, maintain consistent and open lines of communication, check references and ensure that the quality of work completed is satisfactory.

Conflicts of Interest

Finally, attorneys may not represent prospective clients who have a conflict of interest with current or past clients. When outsourcing, the potential exists for conflicts of interest through the LPO provider's use of a contract attorney. In recent years, ethics opinions have proposed that attorneys outsourcing their work need to make sure that their LPO

providers follow thorough conflict-checking measures and that no actual conflict exists.

The development of LPO has provided law firms and corporate legal departments with a meaningful way to save on overhead and free up their attorneys to focus on more complex tasks. However, a wide range of issues exists relating to the outsourcing of legal work, including how to integrate new processes, hire an appropriate provider and continue to ensure ethical compliance. By investing ample time into due diligence and the incorporation of best practices for ethical compliance, you can generate greater value for your clients.

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[The Benefits of Legal Process Outsourcing \(LPO\) vs. Insourcing](#)

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