

ACC Value Challenge

SUMMARY REPORT PHILADELPHIA, PA SESSION- June 30, 2009

A. **Redesign legal services:** participants at the session were asked to identify how they would restructure and provide legal services if the client's budget was cut in half.

IDEAS /ISSUES IDENTIFIED BY THE GROUP:

1. **Decide who performs the legal work-**

- segment work- outsource each piece to where the best value can be found - commoditize;
- expand the utilization of in-house expertise;
- low risk work can be performed outside of law firms;
- with more scientific document review practices offshore vendors and specialists become good options;
- give all legal work to one firm- then have the firm do what it can to drive down costs with appropriate outsourcing and other methods.

2. **Assessment of Legal Needs/Strategies**

- decide what is discretionary and what is deferrable;
- spend more time assessing risk against potential costs;
- resolve litigation early;
- refrain from using litigation as a weapon;
- allow law firms to partner with corporation in business decisions (e.g. whether patents are needed);
- seriously consider what is 'good enough' in reducing risk for litigation;
- develop tools to improve predictability in litigation;
- budget for the right resources at the outset.

3. **Communication**

- law firms would need to work to change the expectations of corporate counsel;
- develop higher levels of trust between in-house and outside counsel;

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- the law firm may need to be given authority for staffing the work;
- all parties would need to improve management skills;
- for transactions, outside firms need to get a better understanding of corporation needs/culture;
- more communication overall between corporation and firm.

4. **Fee Arrangements/Associate Compensation & Training**

- lower compensation of associates that have lower billing rates;
- set up contingency arrangements;
- law firms may need to reduce their budgets by more than 50% for corporations to see 50% reduction in fees;
- utilize fixed fee arrangements;
- law firms should provide more training for 1st year associates and lower those associates' billing targets;
- seconding - place law firm associates in-house and have company pay only their salary;
- put associates on the front lines and reduce fees to clients.

B. Sample Success Stories: Several participants offered brief insights into practices their law department/firms are implementing that focus on value:

- ***Flat Fee Arrangements/Lower Cost Firms-*** Hill International's ability to set up flat fee arrangements with several firms and to also work with talented attorneys provided by lower cost firms brought significant value to their legal work.
- ***Seconding/Segmenting-*** Sutherland has seconded associates at cost to clients, a benefit to both the firm and clients, as well as a great opportunity for associates to gain experience. Additionally, Sutherland has implemented practices to segment litigation matters and evaluate costs over time to enable better future assessment of costs for phases.
- ***Incoming Associate Program-*** Rather than deferring start dates, Drinker Biddle & Reath puts incoming associates through intensive training and has reduced salaries and billable hour expectations.
- ***Project Management-*** American Discovery uses a project management discovery model designed to strip out the inefficiencies that otherwise can add costs to clients.
- ***Firm Provider List-*** The CIT Group narrowed its law firm provider list and brought the selected firms to its corporate offices to gain better

understanding of the business and to enhance the trusted advisor role of the firms.

C. **Alternative Fees:** participants were asked how to go to alternative fee arrangements on all legal matters.

1. **Considerations-** what are parameters/portfolio; there should be an understanding of what it costs to provide services; project management training; windfall issues.
2. **Implementation possible only with a trusted relationship-** both sides must make adjustments; long term relationships helpful; firm must know clients very well.
3. **Staffing-** duration and volume makes it easier for firms to be flexible.
4. **Run rate reports.**
5. **Quality must be balanced with risks-** low risk legal work does not always require the highest quality/most expensive legal work.
6. **Attorney evaluations-** care must be taken that alternative fee arrangements will not negatively affect the attorney evaluations within the firm.
7. **Attorney retention-** for alternate fees to work, attorney retention becomes more important.
8. **Technology and evaluation tools-** necessary to become more efficient and to measure performance to deliver value to client and firm.
9. **“Skin in the game”-** for in-house attorneys it is important that firms share some of the risk to ensure all sides are focused on cost-effective representation.
10. **Information to gather-** law departments should have good information on what it would cost to handle various legal matters in-house, to better assess when it makes economic sense to engage outside counsel.
11. **Repetitive functions/matters-** easier to price with more predictability.
12. **Volume discounts-** easier for firms to justify reductions when volume is high.
13. **Use targeted budgets.**
14. **Associate compensation-** must address and enforce merit-based compensation for associates.
15. **Incremental transition** – there may be a need for incremental steps to alternative fees.
16. **Use alternative staffing-** for example, outsource document review.

D. **Preferred Providers:** participants were asked for considerations in setting up a system of “go to” firms

1. **Articulate need-** parties need to know up front why there is a need to go to fewer firms and what is needed/desired by the company.
2. **Identify the substantive feeds.**

3. **Define the commitments-** on both sides (clients wants a break, firms want certainty).
4. **Will law firms be taking any risk?**
5. **Address windfall-** consider that for firms to take risk, they need level of trust. Additionally, there needs to be trust on outliers.
6. **Consolidate legal work-** recognize there can be benefits to the same firm handling different legal needs.
7. **Use of local firms-** preferred firm should advise local firm when appropriate at no charge.
8. **RFP process-** check contacts in the community; let firms know of bad reports.
9. **Alternative billing-** build in bonuses for good work, penalties for slow work.