

ACC Value Challenge

SUMMARY REPORT

WASHINGTON, D.C. SESSION- April 16, 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. **In-house counsel need to think about what does not need to be done; what can be handled in other ways-**
 - look at what needs to be done and whether it needs to be done at all and how it can be done less expensively;
 - some work may go away entirely and not be performed by the law department or law firms in these circumstances;
 - some work historically performed by law firms may need to be performed in-house or handled in alternative ways (e.g., by clients with guidance or templates or by alternative legal service providers);
 - determine and communicate which matters need a 'no stones unturned approach' and which matters may include steps or services that may not need to be performed.;
 - determine the right level of service providers for the work (e.g., does all work require 'star-level,' etc.);
2. **Have robust discussions about ways to work together-** really explore how to best restructure the relationship so that it can be sustainable; communications and shared responsibility are important; if everyone could 'lay bare' the true costs on the table, then law departments and law firms can together develop a 'win-win' arrangement.
3. **Implement alternative fee arrangements-** consider alternative fee arrangements and/or fixed fee service arrangements to provide more certainty in budgets and definition around legal services performed for budgeted/fixed fee amounts.
 - discounts are generally not appealing as a way to really align interests and can feel like a 'lose-lose' for law firms

- consider bundling and capping costs for certain types of work, give targets with caps.
4. **Implement alternative staffing mixes; send work to lower cost legal service providers-** staffing ideas to help save costs include:
 - outside counsel might consider seconding lawyers to in-house law departments to better understand the business and use law firm lawyers more efficiently
 - consider different staffing mixes that might include paralegals or other legal service providers
 - send work (or certain elements of the work on a particular matter) to mid-size or lower cost firms
 - implement a ‘virtual firm’ that uses the best talent from different firms in a cost-effective way
 - consider outsourcing certain types of work or tasks (see below)
 5. **Consider potentially outsourcing some services or elements of services-** explore whether contract lawyers, virtual firms, sending work off-shore could help save money; issue to consider: risk/malpractice and who would bear this risk if law department requires a law firm to use or rely upon another service provider for some elements of a broader project.
 6. **Risk management needs to be addressed-** consider how the law department and law firm would balance risk and who would bear the risk: if services are deconstructed so that certain services are no longer required / that there will no longer be a ‘no-stones-untuned’ approach for certain types of matters, discuss up front who will bear that risk; also, if certain steps will be performed by another service provider, consider how that will be structured and who will bear the risk if that provider does not perform to expectations.
 7. **Know and understand your legal costs; start with biggest legal spend-** those departments and firms that have data and know and understand their legal costs will have an advantage in determining how to operate under these circumstances; consider focusing on biggest areas of legal spend—put out the fires and start there.
 8. **Understand that law firms have institutional issues to overcome-** law firms are structured a certain way and have institutional issues that may need to be addressed (and may take some time to address) in order to redesign their structure and services.
 9. **Be frank with business leaders-** if stick with business as usual, will not meet the 50% reduction; may need to change mix of service providers and elements of service and may need to consider and achieve comfort with any risks.

B. Portfolio of Work: participants were asked to identify how they would structure and manage the work if a client gave a firm an entire portfolio of work to handle (e.g., all of the litigation or HR).

1. **Discuss the risk profile, expectations and reason for sending entire portfolio of work outside-** firms feel it is important to understand the change in the service model, expectations and who the business partners will be within the company.
2. **Determine fee structure-** discuss the appropriate fee structure for handling the work in this manner; one large lump sum, periodic payments, retainers, hourly rates—determine the best mix and structure for the portfolio.
3. **Identify relationship leads-** within the law department and the law firm; define communications expectations and who makes strategic decisions/process for these decisions.
4. **Define how the relationship and services will be evaluated-** define who bears the primary responsibility for the work and who owns the work product and the responsibility if things don't go right; discuss what success means and what is important for both sides so that everyone feels that structuring services this way is a good deal.
5. **Structure the relationship so that the law firm will handle matters with the same level of care as in-house counsel-**alignment is key here: outside counsel have multiple clients; in-house counsel have one client with multiple personalities.
6. **Consider location; proximity to clients-** will work be performed on site or from the firm; is face time important—some clients may be reluctant to pick up the phone or send emails.
7. **Consider bringing in-house counsel into the firm to staff the matters-** to help the firm better understand the client's business and work more efficiently on the matters; if in-house staffing reductions accompany the portfolio service concept, consider bringing into law firms impacted in-house lawyers.

C. Using Technology: participants were asked how technology should be used to bring greater value in providing legal services.

1. **Collaborative platforms; point-to-point communication component-** use platforms that allow in-house and outside lawyers to work on documents and peer edit in real-time; consider instant messaging as a way to communicate and whether this can be done without recording e-information.
2. **Virtual law firm extranet-** law departments should tell their firms to send work performed for the client to the extranet; enhances efficiency for in-house lawyers since

they don't need to look for the work—it is all placed in the extranet; consider access rights and privilege considerations.

3. **Extranets to view stats on law firm service-** law firms might consider creating extranets that allow clients to log in to view on a 'real-time' basis how many hours are billed on client matters; currency of data is key.

4. **E-discovery software for document review-** notion that e-discovery increases costs of litigation; consider software to perform certain elements of document review (in place of human review and time billed for services).

5. **Matter management-** enhances efficiency; consider whether having systems in-house or via third party are most effective and efficient for your department/firm.