Outside Counsel Management – Project Management for In-house Counsel

Association of Corporate Counsel Annual Meeting
September 30 - October 3, 2012 – Orlando, Florida

Managing Outside Counsel: Checklist of Conversations

1. Discussing the Scope of a Project:

- ❑ This problem means __________ for my business/ company.
- ❑ The best possible solution for my company in this matter is __________.
- ❑ The most important things to consider in this matter (to inside counsel) are __________. The least important things to consider in this matter (to inside counsel) are __________.
- ❑ We expect this matter to be resolved by __________ (time frame).
- ❑ We have/have not handled a matter similar to this, and the result was __________.
- ❑ __________ are the people at my company who are key stakeholders. Their position on this matter is __________. __________ are those with settlement authority or a final price on a deal.
- ❑ The consequence of an unfavorable result from my company's perspective is __________.
- ❑ The phases of this project are __________.
- ❑ The tasks of each phase are __________.
- ❑ The deliverables of each task are __________.
- ❑ Outside counsel's primary responsibility in this matter is __________. We will handle __________ internally.

Best Practices

- Document the scope of the project in writing, and include the phases, tasks in each phase, expected timeline, persons responsible, expected deliverables and specific deadlines.
- Identify areas where the scope is likely to creep. What are the unknowns?
- Identify what is NOT in the scope of the project.
- Identify up front how to handle a new task outside the initial scope of the project.
- Meet regularly (as defined for client/firm) to talk about progress and any new developments.
- Determine whether or not there is a technology solution that will maximize the team's efficiency.
- Establish a communication strategy on who will talk to whom and when.

2. Discussing the Budget:

- ❑ Inside counsel: This project is worth __________ to us.
- ❑ We think the case will actually cost __________.
- ❑ The factors we think might impact the budget are __________.
- ❑ What are the unknowns? Does a "phase" approach to budgeting make sense?
- ❑ "Scope creep" is most likely to happen __________, __________ and __________.
- ❑ Inside counsel to outside counsel: This is how we manage our internal budgets (approvals, monthly update requirements, change orders, etc.).
- ❑ The fee arrangements that make the most sense in this case are __________ and/or __________.

Best Practices

- Discuss previous matters similar in nature and the budgets used.
- Review the "hot wash" from the previous matter to identify ways to improve efficiency.
- Document the budget in writing and be as descriptive as possible (assign number of hours to each task, who will have primary responsibility and what the hourly rate is or agreed fee for each task).
- Define roles for each team member, including the expectations for how much time each task should take.
- Monitor the budget weekly and monthly, and communicate it to all outside counsel and inside client team members according to client preferences and standards.
- Plan for risks and allocate time associated with the unknowns.
- Inside counsel and outside counsel should decide ahead of time how to handle overruns and address any potential overruns early and directly.

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3. Conducting Post Project Reviews (FMC: Say it, See it, Share it, Decide it):

- ❑ Did the project meet expectations?
- ❑ What went well (with outside counsel and in-house team)?
- ❑ What improvements should be made or what should be done differently next time?
- ❑ What were the tasks or other surprises not anticipated in the original scope? How could those be avoided in the future?
- ❑ Did we handle the changes in scope effectively? What could we do better next time?
- ❑ Did we use technology efficiently?
- ❑ Did we communicate well across the teams (internally and externally)? What could we do better?

Best Practices

- Conduct PPR immediately after the matter.
- Include primary members of the team in the discussion (inside and outside counsel).
- Identify any factors, deliverables, or knowledge insights in this matter that may be relevant in future matters.
- Document what went well and any processes that need to be improved.
- Share discussion points with the team and keep the written documents in an accessible location for all.

4. Establishing Lines of Communication:

- ❑ Who will communicate with whom, when and how? (Be clear on what type of information is most important to each side.)
- ❑ What is the most effective way for us to share information as developments occur?
- ❑ Who needs to be informed when there is a change in scope (increase or decrease)? And what is the most efficient process for addressing a change in scope (workload, budget, etc.)?
- ❑ Does it make sense to schedule a regular (weekly, biweekly) meeting time for the team?
- ❑ Would formal reports be helpful? If yes, what information should they include and how often should they be provided?
- ❑ How often should we discuss updates in the budget?

Kick-off Meeting Sample Agenda

1. Brief overview of the project (by team leaders).
2. Brief overview of previous projects similar in nature (if they exist), including best practices or lessons learned.
3. Discuss team members and their roles.
4. Describe phases, tasks, timelines, deliverables and budget.
5. Discuss milestones and potential deal breakers.
6. Establish a process for keeping the team updated on developments and/or regularly schedule team meetings. Decide who is responsible for establishing the agenda for those meetings.