

Buyer's Guide to Legal Process Outsourcing

By Marin Feldman

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Corporate law departments and U.K. law firms have embraced legal process outsourcing (LPO), but its reception among U.S. law firms has been decidedly chillier. However, pressure from clients to do more with less has enabled LPO providers to make significant inroads.

I recently sat down to discuss LPO with Jonathan Goldstein, a former large firm lawyer and the current Vice President and Managing Director of Legal Services for Mumbai-based [Pangea3](#), among the world's largest LPO providers. Approximately 20% of Pangea3's clientele consists of U.S. firms — a fourfold increase since 2006 when he joined the company.

LPO Is a Fairly Recent Development. If You Had to Pinpoint a Reason for This Phenomenon (Besides the Various Ethics Opinions Permitting Outsourcing), What Would It Be?

Business is global. Companies benefit from outsourcing in every other aspect of their business. Legal was the only part of companies' sales general and administrative spend that consistently went unmanaged and seemed to grow year after year with abandon. Companies finally came to grips with the fact that they could use outsourcing to manage legal expenses the same way they used it to manage other SG&A expenses. LPO has taken off as a result of

companies coming around. Law firms are just starting to have that "a ha" moment with outsourcing ... and in many cases only at the urging of clients.

What Reasons Do Your Law Firm Clients Give for Hiring LPO Providers?

Cost savings is the initial attraction. Everybody gets that India is cheaper. But what people are looking for is a high quality product delivered at a price that saves them money. The billable hour model is so maligned because the incentives are all wrong. Because we work mostly on a fixed-fee basis, our dual incentive is to work efficiently and well. People go offshore because they want solid work done at a predictable price. Mere cost savings is often not enough if the quality isn't there.

Speaking of Cost Savings, Just How Much Are We Talking About?

Our clients tell us that they experience a 30-90% savings over what it would cost them to consume these services domestically. And beyond simple cost savings, LPO providers that primarily operate on a flat-fee basis provide certainty to clients. For example, in a document review, once we determine the scope, we can fix the price of the engagement going in. The advantage to the law firm is that if the client has set a litigation budget and the document review bill is suddenly lower, it leaves a lot more



Jonathan S. Goldstein, Vice President
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cash to spend on substantive tasks performed by the law firm.

When Does It Pay Not to Outsource Legal Services?

The work that goes offshore must be repeatable and scalable. Here's an example. One of the things Pangea3 gets asked to work on occasionally is a single plaintiff employment case. That's not a great case to offshore because it takes too much ramp up time. But if that same case were to evolve into a massive wage and hour litigation, that's when it would make sense to get us involved. We mostly deal in the hundreds of thousands and millions of pages. We typically don't do anything for projects that in-

volve thousands of pages. In the latter case, what you really need is the on-demand, as-needed availability of a law firm.

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Many of the Country's Oldest, Largest and Most Prestigious Law Firms Have Operated the Same Way for a Hundred Years, Which Has More or Less Worked. Why Should They Now Change?

Historically, law firms used to have all the power and the in-house departments used to cower. But now, LPO providers talk directly to the corporate clients, and they don't need much convincing because they already experience the benefits of outsourcing in all other aspects of their businesses. Law firms are being told by their clients that they have to use outsourcing. Clients have the pen. Clients sign the checks. If outsourcing is something you're thinking about and not taking action on, you're going to be left behind. LPO is not some fad, like lava lamps or sideburns. It's not going away.

What Are the Three Most Important Things Law Firms Should Look for When Choosing an LPO Provider?

First, select a provider with a proven track record of success.

Make sure they have good, solid references with Fortune 500 companies and national firms that look and feel like your clients and your firm. Quality clientele indicates that the provider knows how to price matters correctly and deliver.

Second, select a provider with a large team of US-admitted lawyers who have been through the ringer and understand how law firms work.

Third, select an organization that has a good cultural fit with your firm. Make sure that you can have a real conversation with the provider, and that you don't feel like you're having a talk with a space alien.

If You're a Managing Partner at a Law Firm, What Questions Should You Ask Prospective LPO Providers?

First, law firms should ask, "have you worked with us before?" You would not believe how often partners are unaware that we have worked with others at their firm. You should also ask about relevant experience and whether you have clients in common, and assess whether there's a cultural fit.

Scalability is also important. You want to work with a provider that has enough heft to do the work and has enough managerial talent to scale with you as your engagement and the provider's other clients demand more.

Factors that may preclude use of a particular provider include whether the matter requires non-English language needs or

whether it involves civil law jurisdictions. Prospective clients have also asked us about supervisory ratios, turnover, IT and physical security, business processes, and insurance.

Three Popular Locations to Outsource Legal Work Are South Africa, India, and the Philippines. Does It Make a Difference Where the Work Is Performed in Terms of Lawyer Quality, Work Product, and Cost to the Law Firm?

Yes. The Philippines has a real scalability problem with its workforce. Many of the lawyers who are performing the work there are moonlighting because the number of available lawyers there is so low. The Philippine domestic legal marketplace consumes nearly all the available Philippine lawyer talent, so you wind up competing with domestic work.

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Many London firms have been working with providers in South Africa, but it's largely an IP market. It's an immature market for the provision of litigation and corporate work.

In India, there are one million lawyers with 100,000 in Mumbai alone,

which explains why we have set up shop there. The offshore work in India is top of the market work, so you don't compete with domestic demand the way you do in the Philippines and South Africa.

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What Steps Should a Law Firm Take to Prevent Against the Unauthorized Practice of Law When Engaging a LPO Provider? Do Providers Have Internal Procedures to Protect Against This Problem?

Good ones do. Any solid provider will be guided by the August 2008

ABA opinions and the individual state bar association ethics opinions on legal outsourcing. Providers should never deliver their work product to the end consumer of that work product if that person is not a lawyer. Providers should be at privity with an admitted lawyer in the jurisdiction and should deliver their work under that lawyer's supervision and direction. The supervision should be meaningful and consistent, but need not be constant. There are providers that deliver work directly to non-lawyers, which is a disaster waiting to happen.

What About Confidentiality?

In terms of confidentiality, there should be non-use, non-compete, non-solicit, and non-disclosure agreements in place between the provider's employees and the provider, between the provider's employees and you (the law firm), and

between the provider's employees and the (corporate) client, should the client wish.

Any Other Advice?

Be wary of providers using people who do not speak English, who are not lawyers, or who are not even employees of the organization. If a prospective provider won't let you meet the people who will do the work, it's a huge red flag.



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