Best Practices for Legal Services RFPs
Outside Counsel RFPs that Drive Results

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for the Buying Legal Council
“Complex problems have simple, easy to understand, wrong answers…”

H.L. Mencken
Creating the RFP

Create a category strategy for legal services for which your RFP is part of, supports, and furthers corporate objectives

- "Tactics without strategy is the fastest path to defeat"
- Key elements of a legal category strategy include market profile, legal analytics on available data, perspective on current and future needs, overall initiative goals and objectivities (vs. "we'll see what comes out when we get there")

RFPs must be customized for legal services marketplace. Additional customization required by practice area (e.g., RFP for IP firm is not appropriate for an employment firm or real estate firm), and potentially types of legal services (e.g., matters – individual case vs. mass tort vs. advisory) objectives

- "Boilerplate" RFPs will elicit "boilerplate" responses from law firm that convey very little of value (law firms are very good at this…)
- If you can't see how the law firm would differentiate itself on question (e.g., score an "A" vs. a "B") then it probably shouldn't be asked
Creating the RFP

"We don't hire law firms – we hire attorneys."

- Need questions to objectively vet more experienced professionals in the firm. "Firm capabilities" are typically of limited interest to most in-house counsel.

Design RFP for the in-house counsel reader – or risk the response will be ignored

- Profile of most in-house counsel is that they have a large document backlog to begin with, and do not have extra time to plow through hundreds of pages of "outside counsel blather." Structure and design RFP questions so attorney can apply their expertise at a glance (e.g., coverage)

Know who you are inviting and why. If you don't have a pretty good hypothesis of how a firm is a potential solution to a specific legal problem – you probably shouldn't be inviting them.

- Asking firms to provide descriptions of all possible capabilities feels "fun" (and it's easy - absolves anyone of upfront thinking that might be challenging) but generally results in massive information overload, and in-house counsel "shut down"
Creating the RFP

Invite the right firms and the right number of firms

- There is an appropriate ratio of incumbents to new alternative firms.
- Mix (and pre-screening is key): comparing the incumbent BMW to the Mercedes, RR, and Ferrari isn't likely to yield cost-effective improvements.

Invest in communication (about process, responses, and specific issues). If there isn't an understanding of the profession (the value the attorneys bring to their clients, or the individuals involved - some of whom are at the pinnacle of their field) or the resources required to respond adequately (time, expertise, resources) – than legal RFPs may not be advised.

- Reputational effects matter in the legal marketplace. Some of the largest legal departments in the country have done this poorly, and their reputations have not recovered.
Argopoint:
Jason Winmill, Partner

Jason has 20 years of experience in strategy and management consulting, with expertise in corporate legal consulting and corporate strategy development. His client base has included many of the world’s leading companies. Jason has helped to effectively source hundreds of millions of dollars of legal services. He served as the “outside architect” designing an outside counsel sourcing and partnering program for one of the country’s top ten largest legal divisions.

• Professional Experience:
  • Bain & Co: Leading Corporate Strategy Consulting Firm
  • Goodmeasure, Inc.: Consulting Firm headed by Harvard Business School Prof. Rosabeth Moss Kanter

• Jason’s legal consulting work has been featured in the Wall St. Journal, Bloomberg News, CBSMoneyWatch, The American Lawyer, Corporate Counsel Magazine, Association of Corporate Counsel (ACC) Docket, New York Law Journal, Inside Supply Management Magazine, and others. Jason is the only author of two articles for the Institute of Supply Management (ISM) Magazine on the subject of legal sourcing. Both articles were written by request of the magazine.

• Education:
  • Jason is an honors graduate of Harvard College.
  • He received an MBA from the Harvard Business School, where he was elected to lead the school’s Forum on Business Ethics.

1 His projects have ranged across practice groups and legal areas, including but not limited to: Litigation, Patents & Trademarks, Employment and Human Resources, Real Estate, Environmental, Corporate, Mergers & Acquisitions, Government Investigations, Tax, and Regulatory.
2 Prof. Kanter is also former chair of the Harvard Business School General Management Faculty and former editor of the Harvard Business Review.