

2016 LEGAL PROCUREMENT SURVEY

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Legal Procurement's influence is quickly becoming ubiquitous. Legal services used to be largely exempt from the cost scrutiny other business units and functions have been facing for years. But no longer. Many companies, particularly those with significant legal spend and in regulated industries, involve Procurement when selecting outside counsel and ancillary legal services. The objective is to cut costs, ensure quality, and drive efficiency. And it is working.

This trend is not completely appreciated in the industry. It is rarely love at first sight, when the CEO or CFO introduces Procurement to the legal department to assist with selecting law firms and managing "supplier" relationships. But Procurement's expertise in getting the best value for the company, managing the sourcing process, and finding the right suppliers for the right price at the right time, makes its involvement a compelling solution for top management.

The recent financial crisis and slow recovery acted as a catalyst and sped up the process for the adoption of Legal Procurement among many Fortune 500 companies and their international equivalents. Publicity about billing practices, big ticket spending, increased transparency, and profit pressure is at the root of this seismic shift.

The industry organization, *Buying Legal Council*, was formed in 2014 to support and educate Legal Procurement professionals and other buyers of legal services. It provides education and networking to its members and counts many Fortune 500 companies, multinationals, and government agencies among its members.

To better understand Legal Procurement practices and detect trends, the Buying Legal Council conducted a survey in January 2016 among Legal Procurement and Legal Operations professionals, in which 92 submitted their answers. This research represents the view of Legal Procurement and Legal Operations. In order to respond, the organizations had to have such a corporate function. Generally, Legal Procurement as a profession is still in its early days and while more common, is still not yet represented in every industry sector and/or region. We believe that the buying of legal services is still changing and likely to become more closely managed rather than less.

Please note that all findings should be seen as indicative, showing trends rather than absolute, representative data due to the sample size in a (still) unknown universe of Legal Procurement professionals, the effects of random sampling, and different mixes of survey participants in the different surveys.

The following White Paper highlights some of the findings and compares them to findings of earlier studies on Legal Procurement. Here's what we found.

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EXECUTIVE SUMMARY

- It is a buyer's market: Clients have started to flex their muscle and bring in Procurement who are professional commercial negotiators, trained in getting better value for their employers.
- Say good-bye to the "good old boys network" of hiring lawyers: While the first step of Procurement's involvement is often running the RFP process, an increasing percentage of spend is under professional, institutionalized management of Procurement.
- Virtually no one pays sticker price for legal services today: Discounts of 10 to 20 percent or more are expected.
- Procurement is not out to destroy trusted relationships, wreak havoc, and put the organization at risk to save a few pennies. Its top management mandate is to ensure that suppliers were selected for the right reasons and deliver what is needed for the right price in the right manner.
- Not just senior management's view about the utility of Legal Procurement has changed, but also Procurement's expertise and proficiency at sourcing legal service. In more and more companies, Procurement works with Legal to develop a more sophisticated approach to sourcing legal services that goes beyond mere cost savings.

- There is a proven pathway to extracting savings from law firms. Clients just need to go for it:
 - ✓ Get a grip on legal spend: who buys what in the organization, how much do they spend, where do they spend it, and how is it procured?
 - ✓ Increase your Purchasing Power: Reduce the number of firms you work with, establish panels of preferred firms, possibly have firms compete against each other for individual matters, and apply and enforce Billing Guidelines
 - ✓ Start measuring legal services and get a good overview of how firms provide legal services: look for efficiency and effectiveness. High price doesn't always guarantee high quality, lower price doesn't need to mean low quality.
 - ✓ Make the firms to compete for your business: Run through several rounds of negotiations, learn from each interaction, and set up expectations for efficiency and a downward trajectory in rates.

PROFESSIONAL MANAGEMENT OF LEGAL SPEND

Why do organizations involve Procurement in the legal category? We asked survey participants to rank the reasons in order of importance from most to least important with 1 being most important and 7 being least important. (Please see Appendix for mean values and variances).

Top 5 Reasons why Procurement is involved in the Legal category

- (1) Desire to manage legal spend
- (2) More effective way to negotiate
- (3) More efficient procurement process management
- (4) Measure best value
- (5) More objective comparisons of legal service providers

Companies appear to want to take advantage of Procurement's skills and experience and use them to support the Legal department with professional management of suppliers, including law firms: The "desire to manage legal spend" was the most important reason for the majority of respondents to bring in Procurement. The motivation to achieve a "more effective way to negotiate" as well as a "more efficient purchasing process management" suggests that top management demands both quality and cost-containment, which is often seen as an either-or in the Legal industry rather than a goal that can be achieved simultaneously. (See Appendix for mean and variance.)

Legal Procurement does not have the same ties to law firms and other suppliers in the legal market and uses a different rationale to selection. While Procurement does not cast the deciding vote in a selection decision for Legal, it provides decision-grade data to facilitate apples-to-apples comparisons. Less about long-standing relationships than perhaps the legal department, Legal Procurement compares and contrasts legal service suppliers and uses data and develops evidence-based rationale for major reductions in legal spending.

In short: Procurement is brought in to support Legal with managing outside counsel selection and making sure the company gets best value. Top management expects Procurement to use its expertise honed in other categories and apply the same rigor to legal spend.

While it may be uncomfortable for Legal departments to give up some of their independence, many of the tasks Procurement takes on are outside the typical skillset and training of a lawyer, such as complex data analysis. What's more, Procurement's involvement relieves in-house counsel from a range of unpleasant tasks, such as negotiating rates with the outside counsel, conducting billing audits, and issuing RFPs.

NEGOTIATING: PROCUREMENT’S MAIN ROLE

In organizational buying, different people participate in the decision-making process. They play different roles and have varying degrees of influence. The number of buying center participants depends on the size of the organization and will vary for different types of services and their perceived risk and complexity. The “generic” buying center roles are initiators, users, buyers, influencers, deciders and gatekeepers. The crux is that job titles and functional responsibilities may not be reliable indicators as to who plays which role.

- For legal services, initiators are typically business unit members or in-house lawyers.
- Users of legal services are normally the business units. Unless hiring of outside counsel is organized and well managed, “maverick” spend outside of the Legal department is often of great concerns for GCs.
- The main responsibilities of buyers are obtaining proposals, evaluating them, negotiating the terms and conditions, following up with the suppliers. They also manage suppliers once they are selected (SRM-supplier relationship management) and keep track of the value of the service being delivered.
- Influencers, as the name says, guide the buying decision and provide information for strategically evaluating competing offers.
- In large companies, the deciders in legal services are almost exclusively the General Counsel and her team. By and large, CEOs and other top management are not involved in the final decision about the law firms—unless it is for a matter of highest priority.
- Gatekeepers filter the information reaching the decision makers. They may have the power to prevent sellers of legal services from reaching other members of the buying center.

Similar to findings from the earlier Legal Procurement studies, the 2016 survey shows that Procurement has a number of roles in the legal category, with its main role as that of a buyer: Legal Procurement professionals are responsible for price and contract negotiation, as well as for the engagement letter, retainer or framework agreement.

Legal and Procurement often assume “good cop” and “bad cop” roles. Procurement relieves in-house counsel of the (sometimes) unpleasant price negotiations. This makes sense for different reasons: Procurement is well skilled in tough negotiations and data analytics, and not limited or inhibited by well-established relationships with outside counsel.

As influencers, Procurement aims to affect the outcome of a decision and influences which firms to select. What’s more, Legal Procurement professionals are also gatekeepers, and as such control the flow of information from the firms to the in-house decision-makers.

Top 5 Roles for Procurement in the Legal category

- (1) Negotiate Price
- (2) Negotiate Terms & Conditions
- (3) Negotiate Framework Agreement
- (4) Influence which Firms to Select
- (5) Control Selection Process and the Flow of Information

Other roles (multiple answers were allowed) include “Procurement is responsible for the engagement letter/retainer”, “Procurement controls the selection process”, and “Procurement controls the flow of information”. “Procurement can veto which firms to select” received the smallest number of votes. Only 2 respondents stated that Legal Procurement was able to veto selection decisions in their organization.

In brief: As Procurement’s involvement in Legal is becoming more normal, it continues to strengthen its role as a partner of the Legal department and fills its traditional role as a purchaser: it buys, influences, and controls the flow of information.

However, Legal Procurement is typically not the final decision maker when it comes to making selections about legal service providers. Thus dispels the myth or worry of GCs that Procurement will “control” legal spend and the Legal department loses control. What Procurement can, however, is to disqualify firms and guide the selection through managing the process.

WHICH FIRMS WILL BE CONSIDERED?

This brings us to the question of who decides which firms to consider? It is very clear that it is the general counsel’s prerogative to short-list law firms and legal services providers. Eighty-seven percent of respondents in our 2016 Legal Procurement survey confirmed it. Sixty-one percent of respondents named other in-house lawyers as those selecting which law firms can be used for final consideration. Thirty-nine percent of survey respondents said Procurement shortlists law firms and legal services providers. (Multiple answers were allowed.)

Business management -division heads or business unit managers- makes the decision said 30 percent of respondents, while 22 percent stated that senior executive management, such as the CEO or the board get involved into shortlisting firms.



In short: Top management typically delegates the task of picking and managing legal services providers. They expect in-house counsel to take care of legal issues and Procurement to get the right services from the right suppliers at the right price for their company.

Top management typically cares about the total cost and the win rate. They expect Legal and Procurement to get the job done together, for the benefit of the company. GCs who get hired today have the mandate to work with Procurement and make sure that both quality of advice as well as cost are managed well.

WHO MAKES THE FINAL DECISION?

The legal department also makes the final decision about which law firm(s) to ultimately choose. When we asked “Who in your organization makes the final decision when selecting law firms and legal services providers?”, 70 percent of survey respondents said the general counsel or head of the legal department had final decision-making power. Fifty-seven percent named in-house lawyers and 26 percent of respondents named senior executive management.

Interestingly, only 13 percent of survey respondents said Procurement made the final decision, and for nine percent that it was business managers. (Again, multiple answers were possible.)

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METHODOLOGY

The purpose of this study was to examine the purchasing behavior of Legal Procurement professionals. This research aimed at gaining a deeper understanding of their motivation, approaches, and tools.

The survey comprised 30 mostly multiple-choice questions on the areas of purchasing decisions, cost control, analyses, panels, and trends, in addition to demographic questions. Survey questions for the 2016 study built on the questionnaires of previous surveys from 2011, 2012, and 2014, with additional questions such as on cost control, panels, and metrics.

The study was conducted in January 2016.

The 2016, 2014, and 2012 studies used the survey program Qualtrics. The 2011 study used SurveyMonkey.

Links to the survey were posted to LinkedIn procurement groups and sent to a list of legal procurement professionals by email.

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DEMOGRAPHICS

COMPANY SIZE

Forty-five percent of respondents worked at companies with \$4-25B annual revenue (size-wise similar to Fortune 500 companies or international equivalents). Thirty-two percent had annual revenue of over \$25B, which would place them among Fortune 100 or international equivalents. Nine percent worked at companies with annual revenue between \$1.7B and \$4B, equivalent to Fortune 1,000 companies and their international equivalents. The rest worked for companies that had a minimum of \$25M in annual revenue.

ANNUAL LEGAL BUDGET

Forty-one percent of survey respondents spent between \$100M and \$500M on outside counsel. Nine percent spent between \$500M and \$1B and five percent spent over \$1B annually. Twenty-eight percent spent between \$25M and \$100M. The rest spent less than \$25M annually.

INDUSTRIES

Survey respondents came from a variety of industries, in particular banking and financial services, health care, consumer goods/foods, IT/telecommunications/media, retail/wholesale, manufacturing, energy/utilities, and real estate/construction.

JOB TITLE

The majority of survey respondents were manager or director of procurement, purchasing or sourcing, followed by specialist of procurement, purchasing or sourcing. Other roles mentioned were manager or head of legal operations and legal department.

EDUCATION BACKGROUND

Fifty-five percent of survey respondents had a bachelor's degree as their highest degree; 32 percent a master degree and five percent a legal background. This is a significant change from earlier 2014 results where one fifth of had a legal background.

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