

| | [\(/store?](#)

## DISCOVER

news & publications/ resources

## CONNECT

annual conference/ events

## ADVANCE

education/training & certification

## JOIN

about ISM/ membership

(/)



(<http://www.addthis.com/bookmark.php?v=250&username=xa-4cf9476704eaa9bd>),  
[Home \(/index.cfm\)](#)

---

# I Bought The Law: Purchasing Legal And Other Professional Services

**Author(s):****Lynn D. Krauss, C.P.M., J.D.**

Lynn D. Krauss, C.P.M., J.D., Strategic Procurement Manager, Dow Corning Corporation [www.dowcorning.com](http://www.dowcorning.com) Midland, MI 48686, (517) 496-3218, [usdccujj@ibmmail.com](mailto:usdccujj@ibmmail.com)

**84th Annual International Conference Proceedings - 1999**

**Abstract.** Leading businesses are seizing opportunities to reduce costs and enhance the value they receive from "non-traditional" purchases of professional services. By adapting familiar tactics to an unfamiliar area, Purchasing can positively impact the corporate bottom-line. This workshop will remove the mystique of legal and other professional services and enable participants to get the most from expenditures on professional services.

**Historical Focus - Emerging Trends.**

Historically, Purchasing Departments focused on the purchase of raw materials, production items and MRO supplies. Yet, over half of all purchase dollars are not spent on goods at all, but on so called "non-traditional" services.<sup>i</sup> Increasingly, Purchasing is being asked to take over non-traditional areas of responsibility that have nothing to do with the manufacturing process.<sup>ii</sup> By utilizing the skills honed on "traditional" areas and adapting familiar tactics to unfamiliar areas, Purchasing can make significant contributions in the purchase of professional services such as legal, accounting, tax, design and engineering.

### **Trends in Purchasing Legal Services.**

Managers of in-house law departments, like managers in other areas, are under increased pressure to reduce outside expenses. In-house corporate counsel reported an 18% decrease in spending on outside counsel between 1996 and 1997 and an estimated further reduction of 18% from 1997 to 1998.<sup>iii</sup> Contributing to this trend are: 1) the "convergence" of legal work to fewer firms, 2) the emergence of specialized temporary legal service providers, 3) the "unbundling" of services, and 4) expanded alternative billing options. Legal trade journals contain many articles on the cost-effective management of outside counsel. Yet, many internal users, who have focused on obtaining the best legal services available for their organization, have little practical experience or expertise on maximizing the return on their outside expenditures.

#### Why and How Purchasing Can Improve the Purchase of Professional Services?

Purchasing brings skills, processes, discipline and focus to complement the service-specific knowledge and experience of the internal users. Purchasing can assist internal users with defining the scope of the project, selecting the right supplier, negotiating and structuring compensation, evaluating supplier performance, and leveraging business with preferred suppliers. Unless the Buyer has expertise in the particular service being purchased, it is probably preferable for the Buyer and the internal user to work as a team in the purchase of professional services.

## Ten Familiar Tactics To Apply To The Purchase Of Professional Services

Identify the Scope and Objectives of the Project. Users of goods generally create written specifications to communicate their needs to the buyer and potential suppliers. While the practice of documenting specifications for goods is well ingrained within most organizations, the practice of documenting the scope and objectives for professional service projects may be foreign to many internal users. Purchasing can help internal users clarify and communicate their needs to potential suppliers by asking relevant questions. How broad is the project? What tasks need to be done? When and where? What are the goals, priorities and desired results? What kind of knowledge and experience will be needed to accomplish these? How critical is cost?

Assess Internal Knowledge, Skills, Capabilities And Existing Work Product To Identify Gaps To Be Filled. Once the scope and objectives for the project are documented, Purchasing can encourage a "make-buy" analysis of individual tasks to determine which may be done better, faster or cheaper by utilizing internal capabilities and/or existing work product. For example, the company may have tried a similar product liability case and may have existing research, briefs, etc. Or a particular task might be better performed by someone within the company who is familiar with products, the company or its practices. The goal is to avoid "re-inventing the wheel" and to save the cost for others to re-invent them. The company must take stock of its

acquired knowledge, skills, capabilities and work product. After the assessment, Purchasing and internal users will be in a better position to identify remaining gaps to be filled by external service providers.

Select The Team Leader And Team Members. Traditionally, the internal user selected the lead outside counsel to handle a project on a turn-key basis. As the project progressed, the lead counsel utilized others in his firm to assist as needed. As experienced staff revolved in and out of the project, considerable time and effort was expended bringing them up to speed on the specifics of the project. In addition, projects became training grounds for inexperienced associates who spent many billable hours re-inventing wheels. Needless to say that this approach does not promote continuity, efficiency or cost-effectiveness. And, hourly billing methods provide no incentive to curb inefficiencies.

Selecting lead counsel remains the first step in establishing a cost-effective project team. But, rather than abdicating staffing responsibility to the lead counsel, the internal users together with the lead attorney should identify the skills and experience necessary to perform various tasks and should select team members based on their abilities to fill the needed roles and to work effectively with other team members. Membership need not be limited to those working for the lead counsel's firm. In-house staff, temporary service providers, and contract research specialists may round-out the project team. Tasks should be assigned to those who can

complete them most effectively and cost-efficiently, taking advantage of existing knowledge, expertise and work product. Team membership should only change as mutually agreed to avoid costly re-education of new members.

Reach Agreement With The Service Provider On Objectives And Strategies Before Placing The Work. Many outside counsel believe that every project deserves a Cadillac solution. They will leave no stone unturned, they will dot every "i", cross every "t", and make every argument that can be made up to the Supreme Court. They also will charge you for every stone turned, every "i" dotted, every "t" crossed, and every argument made. Sometimes this approach aligns with your needs. But, if you prefer a more cost-conscious, focused approach, or if you want counsel to pursue alternative dispute resolution rather than litigation, you need to communicate your desires and reach agreement on objectives and strategies at the outset.

**Structure Compensation To Reward Efficiencies And Results.**

Include A Budget With Timing And Milestones For Payment. Compensation for attorneys, engineers and other professional is frequently based on hourly billing. If you have selected the right team members, each member is devoted to providing cost-effective service aligned with your objectives, and hourly rates are reasonable, then hourly billing works well. Even so, your business would probably like to know approximately how much the project will cost and when payments will be due.

Creating a budget with timing and milestones for payment helps assure that the project is well thought-out in advance. Many firms now also will consider alternative billing arrangements. Routine projects or large blocks of services may be placed with fixed fees which provide certainty to the company and incentives for efficiencies to the firm. Some companies negotiate bonuses for favorable results in exchange for discounts in hourly fees. Volume discounts in hourly fees may also be negotiated for large matters or multiple projects. Purchasing professionals, skilled in exploring price options, can provide valuable assistance to internal users in structuring and negotiating compensation.

Leverage Knowledge, Experience And Work Product. To obtain cost-effective services, it is essential to leverage knowledge, experience and existing work product. Team members were selected for their knowledge and expertise. Existing work product must be made easily available to team members. New knowledge should be shared among team members as appropriate. Newly developed work product including research, memos, briefs, etc. should be captured and shared for use on the project at hand, other contemporaneous projects and future projects.

**Put Technology To Work.** Today's voice mail, fax and E-mail technologies can facilitate timely and effective communication between team members. Document creation, storage and retrieval technologies including extra-nets can enhance accessibility of previously

developed work product. Electronic databases can power legal research. Docketing software can simplify scheduling challenges. If unused or poorly used, these tools are expensive and unproductive. If embraced and effectively used by team members, technology can greatly improve communications, results and cost-effectiveness.

**Maintain Open Communication Between Team Members.** Team members should keep in touch with one another as needed, communicating important developments on the project. Key decisions should be reviewed with lead counsel and the internal company contact before proceeding.

**Evaluate Performance And Provide Feedback.** Purchasing may assist internal end-users in developing and implementing a supplier performance evaluation process. By providing feedback to suppliers on their performance compared to your expectations and compared to the performance of other suppliers, you may improve areas of weakness and encourages them build upon their strengths. The process also helps narrow the field of suppliers with whom your company places future business.

Standardize, Aggregate And Leverage Purchasing Power Across Projects. In legal circles, the process of aggregating and leveraging purchasing power with fewer firms across multiple projects is known as "convergence." By working with fewer and better firms, companies create economies



of scale, reduce learning curves, and make it easier to manage outside services. It becomes easier to negotiate discounted billing rates, fixed fees, or other alternative billing structures advantageous to the company and the firm.

**Summary.** The tactics described above may seem very familiar to Purchasing professionals, yet alien to internal users. Purchasing's supplier management skills, processes, and discipline can complement the service-specific knowledge and experience of the internal users of professional services. Together, Purchasing and internal users can obtain the most cost-effective outside services.

i "Purchasing Nontraditional Goods and Services" by Harold E. Fearon, *Center for Advanced Purchasing Studies*, 1995 Focus Study.

ii "New Roles for Purchasing" by Albert Genna, *Purchasing Magazine*, September 1, 1998.

iii *Corporate Legal Times*, October 1998, Volume 8, Number 3.

[Back to Top](#)

### ISM Mastery Model™

(/education/ismsupplychainmasterymodel.cfm?navItemNumber=28812)



Become an Expert

(/education/ismsupplychainmasterymodel.cfm?navItemNumber=28812)

Expand Your Career