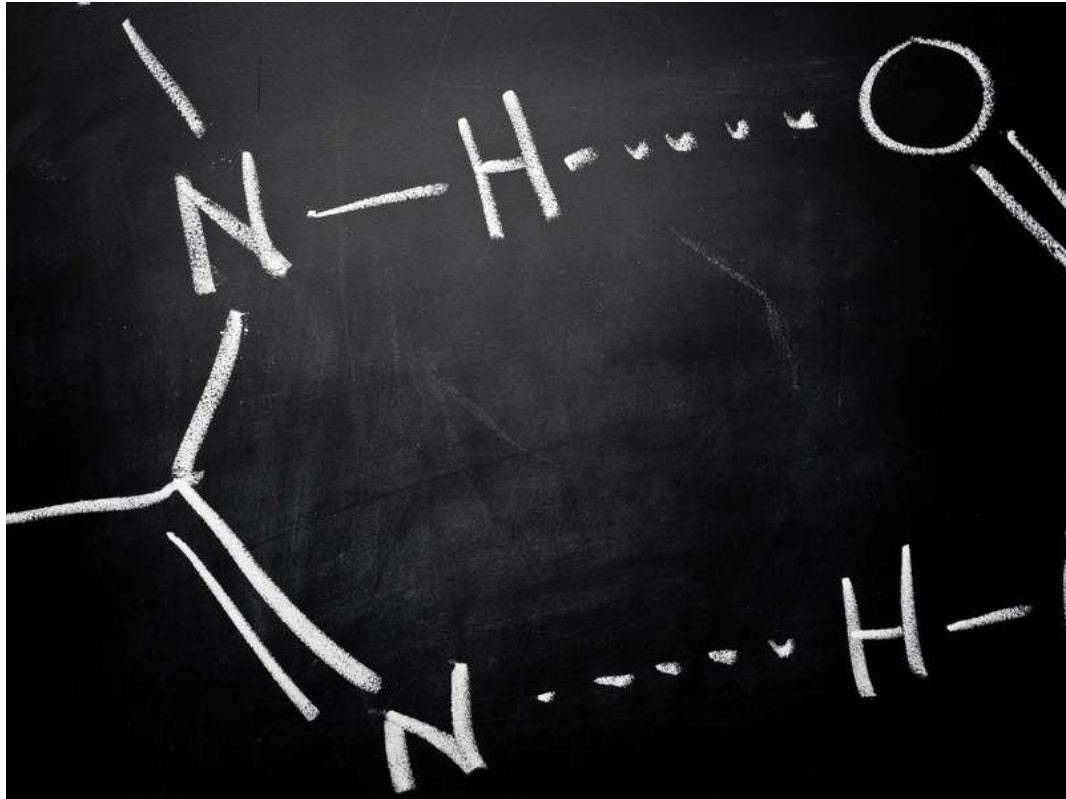


Legal & Procurement - An Unconventional Bond



Introduction

A \$5.6 billion dollar company that employs 33,000 worldwide and provides software, hardware, and services that integrate physical and digital communications channels launched a strategic initiative: a two-year plan to transform the way it operates as a global company amidst a troubling economy. More specifically, the goal was to ensure everyone's focus was on improving business practices, processes, and operating models in order to move the entire organization in a direction that would reduce costs and enhance productivity. To achieve this, the company set ambitious goals, which included directing the Law Department to leverage Procurement as a resource.

Communicating the Goals

The legal department was expected to get creative when addressing ways to reduce the amount spent on outside legal services, but not at the risk of jeopardizing the quality of those services. At the same time, the procurement department was asked to provide expertise to a business unit where traditional cost-control methods were typically shunned. Procurement needed to design specialized processes based on best sourcing practices, and Legal needed to provide insight into its unique needs. Together, they accomplished one of the bigger wins within the strategic initiative.

The Human Challenge

Historically, legal departments have been reluctant to consider overtures from Procurement. In a 2008 brief entitled, "Partnering with Procurement to Manage Outside Law Firms", the General Counsel Roundtable's sister program, the Procurement Strategy Council, found that, "Legal departments refrain from instituting a closer relationship between procurement because they consider differences between the two functions to be too great." Their research goes on to say, "Procurement perceives Legal to understand little of business priorities, as Legal considers quality of legal services over cost-saving efforts", and "Legal tends to dismiss Procurement's approaches to evaluating legal services."

Key Findings

Support from top executives can squelch the natural tendency for Legal's resistance to dealing with procurement.

The same hesitancy was felt throughout the law department in question. There was concern that the procurement activity would unfavorably impact the law firm relationships without offering any real cost benefits. There were also underlying concerns that attorneys would be ceding control over the selection of outside counsel and that their previously unchallenged processes would be subject to undue scrutiny.

Fortunately, the two teams had the mutual trust, motivation and skills to tackle the project amidst backing from top executives. After all, this was a company-wide, public initiative that came directly from the CEO.

The Challenge

Legal Sourcing is an uncommon but growing specialty that adapts traditional procurement methodologies into the legal space, with pharmaceutical, automotive and high-tech companies emerging as early adopters. The challenge was to understand the success behind these champions, and then to incorporate their best practices in ways that fit into Legal's conservative culture while meeting the rigor of financial accountability.

Key Findings

Applying procurement methodologies into legal departments is a growing trend, with pharmaceutical, automotive, and high-tech companies emerging as early adopters.

Historical legal expenditure reports had few details to help Procurement devise a cost reduction plan. As a result, the team lacked the ability to analyze the desired data at a level that would provide meaningful metrics. As a result, they were only able to perform the most rudimentary evaluation of payment trends by firm, geographies, and broadly defined transaction classifications.

The team began examining existing systems to find ways to bridge the gap. Although the electronic billing technology (Bridgeway's eCounsel) was online and integrated into the company's ERP system, fewer than ten firms were using the tool when the project began. Put simply, the team didn't have a technology problem - they had a "lack of data" problem. To fix it, they immediately began on-boarding more firms to the eBilling system.

Managing Change

On-boarding law firms to electronic billing can be problematic without proper oversight, and involving Procurement only added another element of skepticism from attorneys on both sides. Therefore, when Procurement carefully laid out the plan, one of the first orders of business was to build and strengthen relationships with both inside counsel and firms.

Together with Legal, Procurement called partners at key firms to communicate the project's cost reduction objectives, including the transition to electronic billing.

Processes were designed to guide billing staff at firms as well as law department invoice approvers through the changes. By taking special notice of the "human" element, they were able to squelch misapprehensions that this initiative would be disruptive.

Next, the team revised and distributed new Outside Counsel Guidelines with terms that were consistent with the project objectives and global best practices. Then they reviewed the rules available in the electronic billing system and "hard wired" cost controls so that invoice submissions would either produce a warning or be rejected entirely for costs or fees outside the limits of the Outside Counsel Guidelines.

The resultant process efficiencies and cost savings were immediately evident. Electronic billing reduced the amount of time attorneys devoted to reviewing invoices because the technology eliminated unauthorized fee increases, red-flagged unusual charges, and ensured expense reimbursements were consistent with negotiated terms. Disputed charges were handled quickly and diplomatically, and on-time payments to firms improved as well.

Standardizing Business Relationships While Strengthening Team Support

In a very short period of time, almost forty firms were submitting electronic invoices giving Procurement the data they needed to devise strategies to meet the challenging savings targets.

The technology gave them access to expenditure details because each line item of the invoice was categorized

Key Findings

To be successful, Procurement must listen and learn from both inside and outside counsel prior to planning and executing a legal sourcing strategy.

with LEDES codes (Legal Electronic Data Exchange Standard). As more and more invoices were submitted, reports were created to analyze a variety of spend metrics: by firm, by timekeeper, by cost type, by geography, by practice area, etc. The information shed light on which firms were providing quality services at value pricing and which firms were not.

Key Findings

e-Billing software loaded with LEDES codes (Legal Electronic Data Exchange Standard) led to a level of visibility into which firms were performing which tasks well and vice versa.

Game Changer

As a result of the cost savings achieved from the eBilling initiative, attorneys began warming up to the idea of applying traditional sourcing practices to legal services. They involved Procurement in the firm selection, and recognized the value of competitive bids and Requests for Proposal (RFP) processes in the selection of outside counsel. With Procurement's guidance, alternative fee arrangements (AFA's) expanded, and budgets became an integral part of the engagement terms. High-performing firms adapted their business practices to win additional business. And Procurement, not Legal, began managing the day-to-day business issues related to firm engagements.

Furthermore, having access to good data minimized the cost risks inherent in negotiating alternative fee arrangements. In one example, a firm who was new to AFA's expressed regret for agreeing to the terms because they believed they were operating at a substantial loss. By using the billing system data, Procurement was able to classify each type of task billed and determine the extent of aggregate benefits or losses for both parties. Although the firm's concern had been based on one task, the investigation revealed the actual difference (as compared to hourly billing) was only a mere one percent in favor of the company. The metric-based analysis provided confidence in the fee arrangement for both parties, and it remains in place today.

The New Normal

The results were remarkable. In less than two years, the law department exceeded its savings target and received high praise for demonstrating collaborative behavior. Procurement continues to provide sourcing expertise,

especially for year-end rate change requests, expense controls, and firm evaluations.

Working together, Procurement and Legal demonstrated that it is possible to realize significant legal cost savings without impacting the quality of services. The bond between the two departments is strong and has become the new normal.

Conclusion

Reporting Team Success

Because the law department set aside their prejudice towards Procurement and fully embraced the use of their best practices for outsourcing, utilizing technology to provide better reporting and controls, the department was able to closely monitor and report on legal spend and provide savings that exceeded its target. A true transformational success!

About the Author

Susan O'Brien is a procurement professional with an extensive track record of developing and implementing sourcing strategies for both complex services and manufactured products. Susan's work building a successful legal sourcing practice at a multi-billion dollar, global software, hardware, and services provider has been recognized regionally for its simplified, practical approach to outside counsel selection and extraordinary cost reductions. In addition to sourcing, her procurement experience includes leadership in contract management solutions and controls, req-to-pay processes, and supply chain innovations. A former engineer for Lockheed Martin and Texas Instruments, Susan has a patent for an ASIC process methodology, and has won various awards for process excellence in the field of semiconductor science. She is currently providing consultative services for companies seeking value and cost controls in complex business environments.

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