



PERSPECTIVE PAPER

Document Review Cost Containment: Outsourcing Options Evolve to “Best Shore”

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In response to the ongoing quest to reduce the cost of the discovery process, options offered by the legal services industry continue to expand and mature, from innovative domestic alternatives, to increasingly-accepted offshore sources. “Best shore” is the focus.

The need is great. Two-thirds of corporations’ external legal budgets get consumed in litigation—and two-thirds of that money is spent in the discovery phase, mostly in document review. Corporate budgets can easily sag under the weight of document review as it stretches discovery processes and corresponding legal fees to taxing heights.

Increasingly, companies looking to control external costs turn to contract labor to perform document reviews. For law firms, unbundling and outsourcing low-level tasks like document preparation is a viable means of cutting costs to service the client’s bottom line. A recent Chief Legal Officer survey, conducted by Altman Weil and LexisNexis, reveals that the lack of cost management is one of the top reasons for firing a law firm. Whether it’s sending work overseas or looking to regions of the country with lower billing rates, CLOs appreciate cost management efforts.

Law firms that get labor-intensive tasks done efficiently get more business because they build trust with their client. They show that their firm is doing what is in the best interest of the corporation they represent. It will ultimately get them more work and lead to

greater profitability, even though they initially ‘gave away’ some margin by bringing in contract help.

Even with contract attorneys cutting law firm bills, the expenditures can still be prohibitive, particularly in high-cost regions like New York, Washington D.C. and Chicago where the cost to house document reviewers on a contract basis is high, and the cost of living is high. So, of course, the price to pay them is high.

As such, the industry is re-thinking its cost-saving strategy even further, expanding it to ask not only who is performing document review, but where. Companies are starting to accept that the location of the contract lawyers is irrelevant.

Best-shoring, or outsourcing document review to U.S.-licensed lawyers in less-populated, less expensive areas of the country, has become common practice for businesses in high-cost regions of the U.S. It’s an alternative to offshoring that many clients and attorneys find attractive. Ohio, for instance, has nine law schools; there’s plenty of supply of legal skills and legal services capacity, and housing lawyers isn’t as expensive as other regions.

The rewards for litigants who employ best-shoring strategies can be substantial: Inside the U.S., there are lawyers who do document review for thirty or forty percent less than bill rates in New York or D.C.

Howard B. Iwrey, a partner at leading Midwest-based firm Dykema Gossett PLLC, says, “I think the Midwest is the natural place for serious document review to occur in the current marketplace. Given the advances in technology, including web-hosting and remote access, the location of a lawsuit, investigation and clients have become largely irrelevant. Therefore, cost considerations for discovery management should be a major, if not THE major factor.”

Despite its advantages, best-shoring has yet to fully accelerate within the legal community. “The missing element, in my view, is that people and vendors tend to assume that best-shoring will be a turnkey operation where you can run the project out of New

York or Washington and just assume that the attorneys in the Midwest will get it done,” says Iwrey.

“That’s not the way it happens; it still takes full-time professionals to train and oversee the work. You can’t offshore or best-shore that.” Therefore, according to Iwrey, “best-shoring should combine contract reviewers with experienced litigation counsel in the Midwest.”

Iwrey also believes that clients who rely on national firms for litigation or transactional services should not assume that best-shoring will automatically occur. “The demand must come from the businesses being investigated. They need to inform the national firm that they have a preferred vendor of discovery services” he says.

Iwrey stresses that the potential for cutting the costs of discovery is considerable: “Attorneys can generally review about 300 to 700 documents per day. The difference between a high-cost area and the Midwest can be millions of dollars in many cases.”

The Offshore Alternative

2007 was a big year for the legal outsourcing industry in terms of document review work going offshore. With across-the-board growth and rapid expansion, Legal Process Outsourcing (LPO) providers are riding the wave and taking measures to maximize their potential as more companies turn to outsourcing for their legal needs.

The media has begun to acknowledge just how large an opportunity Legal Process Outsourcing represents. Industry-specific conferences have emerged, at which LPO businesses communicate and invite corporations and law firms to share their experiences and spread the word.

The market for legal-process outsourcing is expected to grow from \$250 million to \$2 billion. Forrester Research, a market research firm in Cambridge, Mass., has estimated that as many as 40,000 legal services jobs may move offshore by 2010, according to a 2004 study.

A newly-formed trade association called the National Association of Legal Process Outsourcing Companies (NALPOC) had its first meeting in 2007 in New Delhi. At least 33 LPO companies in India, including several of the industry's largest, met in July to form the organization, with goals including "promoting the best image of the Indian LPO industry worldwide" and "ensuring that this image is maintained through self-regulation, with members preserving the highest ethical standards and practices," according to a tentative statement of general objectives. About 50 companies have since joined.

Meanwhile, LPO firms are growing at impressive rates. Tripled revenue gains, year over year, are common. The work is dominated by large document reviews, intellectual property with an emphasis on patent work, and corporate work. Other tasks such as immigration forms are attractive to some firms.

One potential limitation that India-only LPO companies may run into is the growing client demand for domestic as well as offshore solutions. Companies and law firms are comfortable with LPO options, but continue to want an onshore management.

For projects like big document reviews that may require a hundred plus reviewers, not having the trained staff can limit a law firm's capacity. The trick is figuring out how to move some of that work offshore to meet the client's needs, but still keep an onshore presence.

Business change cycles are accelerating, and companies are moving from the early-adoption phase to mass usage of offshoring at a remarkable rate. The leading law firms and lawyers in today's legal services industry are actively exploring the competitive advantages that are possible.

The right balance between domestic and offshore sources will best be determined on a case-by-case basis. One factor is indisputable: the "price-value gap" for discovery-related document work has been identified and targeted by the industry, and there's no turning back. Seek the Best Shore and you will prosper.

About the Author:

David Galbenski, Esq., President and CEO, Lumen Legal founded the company (formerly Contract Counsel) in 1993, and has guided development of one of the industry's most innovative database-driven human resources systems. He has pioneered both domestic and offshore outsourcing solutions for both corporate clients and law firms.

Lumen Legal assembles, deploys and manages combinations of legal professionals to meet defined cost goals for complete document processing projects, from automation of document organization/indexing up to subjective document review. The company also provides direct hire search services.

Dave is President-Elect of the international Entrepreneurs Organization (EO), with over 120 chapters in 40 countries. He has won numerous awards, including the 2006 Detroit Metropolitan Bar Association President's Award for extraordinary contributions to the organization, and the 2005 Ernst & Young Entrepreneur of the Year Award (for Staffing and IT Consulting Services, Central Great Lakes region). Dave graduated with distinction from the University of Michigan Business School in 1990 and *cum laude* from Wayne State University Law School in 1993.

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