

Will South Africa follow the global trend and outsource legal services?

In the face of increasing legal fees, reducing in-house counsel budgets, constraints on headcount and faced with onerous compliance obligations, where will the general counsel turn to ensure effective service to the business?

Like in most industries, outsourcing is playing its role. Globally legal outsourcing is experiencing exponential growth. This is made up in part by off-shoring to countries such as India and the Philippines and in part by the use of contract attorneys. In a world of high speed internet access, sending work to attorneys in another country is a feasible budget saving alternative to sending the work to law firms across town. This is particularly true when the work is of a more routine nature, generates a large flow or can be systematized. Document review, legal research, patent applications, contract and other document drafting, litigation support and paralegal services typically fall into this category.

Using contract attorneys in South Africa, general counsel can achieve similar cost benefits to those achieved by off-shoring. Attorneys with six to ten years post qualification experience charge hourly rates of anywhere from R1,000 to R3,500 per hour. A similarly experienced contract attorney charges between R500 and R1,000 per hour, potentially halving the external legal fees in respect of certain types of work. Anybody not looking at contract lawyers is clearly missing a way to save money,” says James Wilber, principal at Altman Weil, (a leading US consultancy focused exclusively on the legal industry) “it’s a no-brainer”. How general counsel use contract attorneys varies by department size. Small departments typically use them to fill a short-term need, for example during maternity leave or when the department is swamped with work due to a company initiative. Larger departments use contract attorneys as an extension of permanent staff to limit headcount and reduce external counsel fees. Aside from the benefit of total cost to company savings, a non-performing contract attorney can easily be terminated and replaced.

But general counsel are not going to outsource purely on the basis of cost, if quality and efficiency aren’t there, it makes no sense. Be it domestic or overseas outsourcing, general counsel that outsource work need to ensure that they are getting the quality

service that they expect. This is achievable. In the outsource relationship quality and delivery can be managed and measured by setting criteria by which the performance of the service provider is assessed. It is the typical service level type arrangement where the service provider knows exactly what needs to be done and can have its performance monitored and evaluated at regular intervals. Significant cost savings are appealing to any general counsel. When significant cost savings are achieved and high-quality services are delivered, the combination should be irresistible.

As processes and methodologies improve and as in-house counsel in South Africa become familiar with the services and benefits of outsourcing, for economic reasons and for reasons of efficiency, outsourcing of legal services is set to take root.