

The Right Staff for Doing Legal Work: Choosing a Location and Staffing Model

By Ron Friedmann and Mark Ross
6 April 2010

An edited version of this article was first published by *Legal Week*, 1 May 2010:

[The right staff: key choices for legal process outsourcing](#)

Introduction

Even before the economic crash, law departments sought ways to do more with less. General Counsel were facing increasing pressure to reduce legal cost and achieve a predictable spend. The financial meltdown catalyzed more radical change in the relationship between in-house and outside counsel.

Many law departments faced budget cuts of up to 20 percent in 2009; the push to save continues in 2010. So GC are actively exploring new, more cost-effective ways to obtain the services they need: examples include alternative fee arrangements with outside counsel, growing in-house staff to substitute for law firms, leveraging technological solutions, and legal process outsourcing (LPO). This drive to save affects outside counsel acutely; the more forward-thinking firms are responding with their own initiatives to provide better value for their corporate clients.

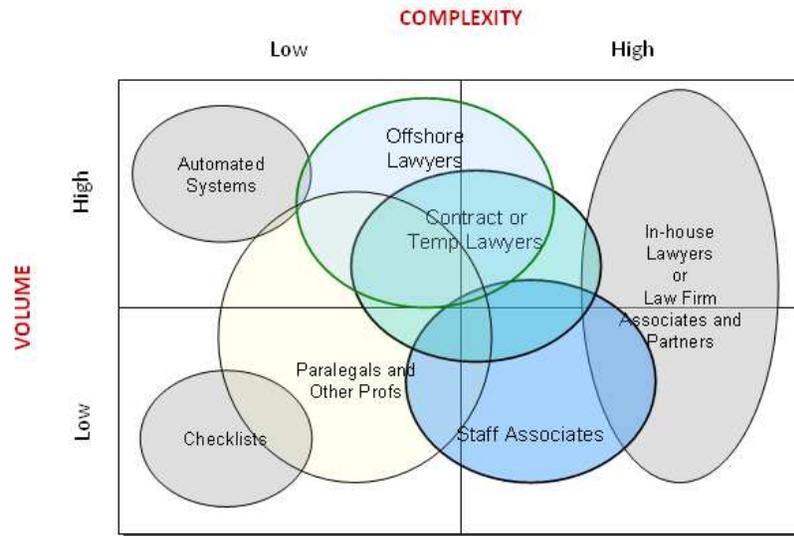
One of the most effective ways to reduce cost and control legal spend is to move appropriate work to lower cost locations. Of course, this is not suitable for all legal matters, so it is necessary to consider first what elements are appropriate to move and second, what type of staff are required to undertake the work effectively. And then lawyers need to think about which location is best.

Staffing Options for Legal Support

By far the biggest cost associated with the delivery of legal services is labor. Both clients and law firms need to decide consciously what the right staff mix is for any legal problem. One way to divvy up legal work among different types of staff is to consider task volume and complexity. Subject to compliance with ethical obligations, low complexity work is best handled with automation or even paper checklists. High complexity work requires the attention of experienced lawyers. There is a big middle ground, however, of medium to high volume, moderately complex tasks that, subject to adequate supervision, legal support staff can handle.

Lawyers should strive to choose the lowest-cost staff able to perform the work effectively and ethically. Plotting volume (y-axis) against complexity (x-axis) yields a conceptual model that helps visualize staffing options:

Conceptual Model to Rationalize the Allocation of Legal Work



Note: Placement and Size of Staff Type is Illustrative Only

The type of staff – experienced lawyer, contract lawyer, paralegal, etc. – is independent of the location of the staff. This article focuses on considerations driving the decision about location and briefly touches on different employment arrangements for staff.

Location Options for Legal Staffing

Historically, corporate legal work was performed either onsite in the law department or offsite at outside counsel. Today, however, the Internet and associated technological advances such as virtual data rooms, secure workspace collaboration, and sophisticated document processing and review tools make it easy to move most tasks to any location with appropriately qualified and trained individuals. Lawyers have learned from other markets to look far and wide, both internationally and domestically. The choice of location depends on many factors such as cost, ethical and legislative restrictions, complexity, amount of communication required, project duration, and comfort with a location. What weight to give all these considerations is a topic for another day.

Offshore Destinations

Years ago the information technology (IT) industry recognized that it could tap low cost staff in countries remote from customer sites. Today, many US, UK, and European-based corporations have IT workers in lower cost locations such as Eastern European, Russia, South America, and India. Because the language of IT is computer code, IT work can move to almost any location with available skilled technical staff.

Following in the footsteps of IT, the offshore Knowledge Process Outsourcing (KPO) industry has grown tremendously over the last decade. KPO encompasses several specialist areas

including pharmaceutical research and development, market research, data analytics, healthcare services, and engineering research and development. Bulge bracket investment banks were early KPO adopters, moving equity research, valuation analysis, and presentation graphics, among other functions to offshore destinations (mainly in India).

Perhaps unsurprisingly, law is the last of the professions to tap the low-cost offshore talent pool. The global legal profession is, of course, one that has historically been characterized by specialized, jurisdiction-specific training and practice. Yet business people, engineers, and market researchers, who also apply significant domain expertise and subjective analysis, routinely outsourced work starting a decade ago.

Change was thus inevitable, and like the IT industry before it, the legal market now routinely moves work to lower cost destinations. Unlike IT, however, performing US and UK legal support work requires skills sets not found everywhere, specifically, training in US and UK laws and excellent command of written and spoken English.

These requirements make four countries the most common and popular destination for offshore legal work: India, The Philippines, South Africa, and Israel. All are lower cost than the US or UK. All have large English speaking populations. All but Israel have systems derived primarily from common law but Israel has many US-trained lawyers resident.

India is the most common offshore destination for legal work. According to the research group ValueNotes, India's LPO industry is expected to generate \$440 million by the end of 2010. Finding data on the size of the LPO market in other countries is a challenge. India leads the legal outsourcing pack for several reasons:

- With its large population, and growing number of law schools, it graduates many lawyers each year, about 80,000. This provides an ample labor pool, even if only a limited percent are of sufficient caliber to assist on Western legal matters
- Until the Limited Liability Partnership and Companies Acts passed in late 2008, domestic Indian law firms operated under archaic regulations restricting the number of partners allowed, the ability to take on external finance, and advertising. Because of these limitations, many Indian law graduates viewed the opportunities to practice Indian law domestically as not so good. They therefore seek careers working for US or UK clients that allow them to apply their skills.
- India's long outsourcing heritage has created a culture of process and quality control (QC). Further, in serving the IT industry, the country has, at least in some regions, developed the infrastructure required to serve Western business. This discipline and infrastructure is exactly what is required to manage higher volume legal work.
- India not only has the relevant discipline and infrastructure required to foster successful legal outsourcing but US and UK corporations are also familiar and comfortable with outsourcing to India other service lines, i.e. HR, IT, and finance & accounting.
- Of the four countries, India's cost is lowest. Where reducing cost is the goal, this makes India very attractive.

The Philippines is probably the next most common destination. Its population is, of course, much smaller; nonetheless, many qualified lawyers are available. Like India, there is a history of

outsourcing, which provides the process and QC discipline plus infrastructure. Though somewhat more expensive than India, on a percent basis, especially relative to US and UK rates, the differences are not all that significant. Whereas UK lawyers may find India most comfortable culturally, US lawyers may find The Philippines most comfortable. This reflects, respectively, the lingering effects of English and American colonization of each country.

South Africa is more expensive but still lower cost than the US or UK. It has the advantage of even closer cultural affinity, especially to the UK. Moreover, it is on almost the same time zone as the UK. Time differences are a sword that cut both ways. In some instances, the big time difference between the US / UK and India / Philippines is favorable because it allows working around the clock with day shifts in all locations. In instances where clients want access to lower cost staff on the same time zone, however, S. Africa holds the upper hand.

Israel is a special case. Compared to the other destinations, its population is small. It has, however, a population of very highly trained US lawyers, many with large US law firm experience. These lawyers now live and work in a jurisdiction with lower cost and lower pay, and albeit on a small scale, are providing legal support services to US and UK clients.

Onshore Destinations

No discussion of low-cost staffing is complete without considering domestic locations. Large US and UK law firms typically have most of their lawyers and staff in high cost (both for labor and real estate) cities such as London, New York, Washington, or Los Angeles. But both the US and UK have many lower cost locations with good supplies of lawyers and support professionals. For example, in the UK, Bristol, Wales, or Northern England offer significantly lower costs than London. In the US, many Midwestern and Southern smaller cities are much lower cost than coastal cities or Chicago.

Some law firms already take advantage of regional domestic cost variations. For example, in the UK, Lovells earned much notice for its Mexican Wave, in which it sends certain lower complexity work to lower cost firms outside of London. In the US, Orrick operates a support center in Wheeling, WV, about one hour from Pittsburgh, PA.

Future Destinations

In the future, we may see legal work move to other countries. China, South America, Africa, and Eastern Europe all offer lower costs than the UK or US. For Anglo law and English language, these countries seem unlikely to be competitive anytime soon with the four countries discussed above.

As law globalizes, however, and Asia plays an increasingly important role in global trade, it is natural to expect China to become an important destination. Globalization is not the only important trend; so too is the commoditizing of some elements of legal services.

The requirement of common-law-trained legal talent is less important for commoditized elements. Examples abound of legal work that historically were the remit of attorneys or solicitors (*e.g.*, conveyancing, will-writing, document review, contract review) that, due to commoditization and technological advances, lesser qualified legal support staff now perform. Increasing commoditization of legal work will open the door for these other lower cost destinations to begin to support US and UK lawyers. (For a rich discussion of the impact of commoditization, technology, and outsourcing, see Richard Susskind's 2008 book, *The End of Lawyers?*)

Staff Control: Employ, Contract, or Outsource

Irrespective of staff-type and location, lawyers need to choose *how* to employ workers. In deciding how, they must distinguish between the employment model and staff "governance".

Law firms and departments use three primary employment models:

1. Employ workers on a conventional, full-time basis ("FTE").
2. Contract for services for a period of time, either by hiring temps directly or by working through a staffing agency. The contract model is far more prevalent in the US than in the UK, though signs point to a contract lawyer market developing in the UK.
3. Work with an outsourcing company that employs workers on a full-time basis and makes them available to customers.

Under each model, lawyers have an ethical duty to manage and supervise workers. Many lawyers assume that they have the most control over their own full-time employees and the least over outsourced personnel. This is not necessarily true. The question is empirical, not theoretical or legal. Some FTEs are closely supervised, others are not. Some contract lawyers are tightly integrated into legal teams and closely supervised; others receive so little supervision as to raise potential ethical concerns. Reputable outsourcing companies provide service governed by "service level agreements" (SLA) with formal metrics. The level of supervision in outsourcing thus is contractually specified.

Though the choices amongst these employment models and locations are independent, when lawyers hear "outsource", many think "offshore" and "LPO". That is incorrect, however, because there are at least three ways to approach outsourcing and offshoring: First, law firms and departments can outsource to domestic locations. Second, both can have outsourced personnel working onsite. And third, they can set up a "captive center", which is a remote onshore or offshore facility they own and operate, staffed by their own full-time employees. (As a practical matter, however, a captive requires a certain scale and level of experience that many legal organizations lack.)

So lawyers should be careful not to confuse the location decision with the separate employment model decision. As with choice of location, the choice of FTE, contract worker, or outsourced personnel depends on many considerations and is a separate topic.

Conclusion

Even with the growing importance of technology, law practice remains labor intensive. One of the best ways to reduce legal cost is to deploy lower-cost labor for as many tasks as possible. This requires analyzing work for volume, complexity, and other factors to determine which elements can be performed by which staff. Once the work is so de-composed, lawyers can consider retaining staff in lower cost locations to provide support. Many factors will drive the decision to move work to lower cost domestic locations or to one of the four popular offshore destinations.

Mark Ross, who formerly practiced law in England, is VP Legal Services, Integreon and a recognized legal process outsourcing expert who has written and lectured widely on the topic. Ron Friedmann, a US lawyer by training, is SVP Consulting, [Integreon](#) and well-known among law practice management professionals through his [Strategic Legal Technology](#) blog. Contact them at mark.ross@integreon.com and ron.friedmann@integreon.com. Integreon provides outsourced knowledge and legal support to professionals in law, finance, and corporations