

## [Of Counsel, Legal Process Outsourcing: Among Other Benefits, a Clear Means of Controlling or Reducing Costs, \(Apr. 1, 2026\)](#)

Of Counsel

[Click to open document in a browser](#)

*Steven A. Lauer, working as an independent consultant, assists corporate counsel to deliver maximum value to their clients. As United States Representative and Value Consultant for SKJ Juris, Inc., he provides clients with value-oriented services for their legal needs, such as document review and production and lease and contract abstraction. He has written four books on the value of legal service. Reach him at [slauer@skjjuris.com](mailto:slauer@skjjuris.com).*

Few corporate law departments have the internal resources necessary to handle the myriad aspects of litigation – attorneys with litigation experience, appropriate supportive personnel and access to technological and other resources needed. Even when they do have internal resources capable of handling litigation, those resources don't often have the capacity to handle the volumes of matters often facing the company.

Accordingly, most corporate law departments rely primarily on outside counsel to represent their companies in litigation. From the perspective of value maximization, though, the historical approach of retaining firms for specific matters with little (if any) collaboration or coordination among the firms doesn't ensure that the corporate client maximizes its "bang for the buck."

This is particularly so in respect of much of the supportive work, which does not constitute representation or counseling but on which a successful representation depends, such as data review and production and deposition management. When law firms are retained for distinct, unconnected matters, they typically pursue the understood goals independently unless the client imposes a requirement or expectation that they do so differently.

That supportive work need not be performed by the same individuals who provide the legal counseling and representation that represents the core of what outside counsel do for their clients. Unlinking that counseling from various types of supportive efforts constitutes unbundling. By doing so, a corporate law department can identify opportunities by which to extract greater value in several respects.

### **What types of efforts supportive of legal counseling might be unbundled?**

Consider some of the many types of effort that go into representing a corporate client in litigation, which can be undertaken independently by multiple law firms or in some coordinated or consolidated manner. If done in a coordinated fashion, might the client thereby realize some benefits and, if so, what might they be?

**Research:** Legal research undergirds all legal representation. Virtually every matter for which an outside attorney is retained by a company leads to research on one or more issues relevant to the assignment. Some of those may be fairly routine, such as the standard for requesting injunctive relief. Other cases may present novel issues or require a survey of court decisions in multiple states or other jurisdictions. Research-intensive matters may be common for some companies.

**Document review and production:** Any litigation of significance involves a great deal of information, a portion of which is contained in documents but much of which resides in virtual file folders and similar repositories and often relates to multiple matters. For many cases, the number of discrete documents is in the thousands or hundreds of thousands (perhaps even millions for some matters) and the electronic repositories often contain gigabytes, or even terabytes, of data. Reviewing and organizing such a volume of documents and data requires considerable resources and results in considerable expense. When that is done on a case-by-case basis, it easily leads to redundant efforts, often inconsistent decisions and avoidable headaches.

**Staffing:** Needs for legal service vary from client to client and even, for a single client, from time to time. Litigation, for example, progresses inconsistently, with periods of frenetic activity and others that see little movement. This unpredictability creates challenges from the perspective of personnel and matter management. Staffing flexibility may be burdensome for an organization, especially for an organization like a law department that typically contends with budgetary and headcount restraints.

**Document and information management:** Every company accumulates a considerable volume of information and data, which usually resides in multiple media. Business requires fast and simple access to its knowledge in order to do business successfully. This is particularly true in the context of managing disputes and litigation. Much of the information in the possession of a company relates to many distinct matters or proceedings, whether because of its relation to a particular product or service, a unit of the organization, a line of business or some other relationship to multiple disputes.

**Other recurring issues or facts:** Every business creates or faces types of fact patterns or situations multiple times. In fact, as a business typically tries to regularize its operations so as to permit swift and efficient completion of its business, such as by creating assembly lines for the production of physical products or standardized processes for providing and delivering services, commonality among distinct situations is more and more likely the norm, not the exception.

During their evolution, corporate law departments have usually retained outside counsel on behalf of their companies on a matter-by-matter basis. Even distinct matters that possess similarities among them, such as common facts or documents, or that relate to a single product line or service, were often assigned to multiple outside law firms. If that occurred, the firms operated independently and, usually, with little if any coordination among them.

This independence does not promote efficiency. A firm that represents a corporate client in discrete litigation often has a limited vision of the client's interests, seeing only the case in front of it. Unless the client's in-house counsel prevails on the firm to consider issues outside the specific matter at hand, opportunities that might be possible by organizing and managing matters together rather than separately won't be recognized.

To expect law firms to do that without such prompting qualifies as a pipe dream. Law firms' own interests run counter to identifying such broader interests than those specifically entrusted to them. Consequently, in-house counsel should take the initiative in identifying means by which their companies can realize greater value from the efforts of the multiple law firms that they select and manage on behalf of those companies.

## How can Legal Process Outsourcing lead to greater value?

In order to utilize unbundling as a means of realizing greater value, you first must understand that the value of legal service (*i.e.*, the entire package of service provided to a client so as to represent its interests fully) consists of a number of subsidiary components. Those components relate to various aspects of the service, the service provider, the service consumer and even the circumstances in which the service is provided. The greatest value can be extracted from each service by focusing on the particular qualities of that service, of the provider of that service or the context in which the service is needed (this context includes capabilities and needs of the consumer of the service). Each such quality impacts – either positively or negatively – the degree to which the purchaser benefits in its business from the delivery of that service. Let's look at a few examples of those qualities (let's refer to them as value-related qualities or VRQs) and their impact.

1. Lower cost is a desirable VRQ, so long as cutting cost doesn't adversely reduce quality below an acceptable level. Thus, finding a service provider that has a lower cost of operation or is willing to serve the client's needs at a lower price represents a higher value in most cases.
2. Greater consistency in the handling or treatment of disparate matters is often an important aspect of the service. This is so because for a company, inconsistency of treatment of customers or other parties often leads to disputes and, possibly, litigation. Inconsistency in the handling of litigated matters raises a real prospect of organizational risk.

3. Accuracy certainly affects the value that a client derives from a service. Inadequate or inconsistent accuracy generally leads to the need for additional effort to correct errors, to correct misunderstandings with other parties and other avoidable time and expense, thus reducing the value of the effort expended. Accurate completion of the work not only avoids the need for corrective work; it keeps the focus on advancing the party's interests without distraction.
4. Business entities prefer predictable, controlled cost to unlimited budgets. A legal service that is delivered within tight cost constraints will be more attractive to a corporate client than an open-ended, uncontrolled effort. The rigor of staying within a budget or an agreed-upon cost constraint pushes the service provider to adhere to more efficient delivery mechanisms and serves the client's interests.

While we could identify more attributes of the service, of the service provider, of the matter in question and of the consumer of the service that can affect the value of the service (positively or negatively), these few examples of VRQs allow us to illustrate how legal process outsourcing can be implemented by a law department so as to realize greater value.

## Cost reduction or control

When all the various services and tasks necessary for the delivery of a counseling service or a legal representation are performed within a law firm, a client often pays the rates of attorneys or other professionals for work that could be performed by lower-paid staff. A client organization could closely monitor and regulate the staffing of its matters so as to ensure that its work is performed at the lowest cost feasible. This requires micromanagement of the staffing and other decisions within the law firms that represent it, a role that often feels uncomfortable for a client and requires time and expertise that may not be available within its organization.

An alternative approach that addresses a need very similar to that of cost reduction is cost control. For many business organizations, cost certainty can be as important a VRQ, as lower cost, since it permits more thoughtful, informed decision making. Whether by negotiating a fixed fee or an alternative arrangement that includes incentives internal to the arrangement that militate in favor of cost control or reduction, a client has various means by which to increase the budgetary certainty of its legal matters, a very desirable VRQ.

Business functions best when it can accurately anticipate the costs of its operations. Often, a client will consider the lowest cost to be the goal, as that enables the business to deliver its service or product at the lowest price for maximum market acceptance. For that reason, legal service at the lowest price seems ideal.

That may, however, be illusory. Legal representation that is the cheapest available can lead to more significant, adverse outcomes that lead to greater cost in one form or another. The highest value for legal service is the lowest cost that enables the client to achieve its business goal most effectively and with the least risk feasible. Balancing cost and risk is the challenge.

## Consistency

Consistency applies across matters and within matters. The consistency necessary during document review in a single case is obvious and can be achieved by a single law firm handling that case. Consistency from matter to matter, however, generally seems beyond a single law firm's responsibility. That multi-case consistency does matter a great deal, though, as inconsistency in the handling of information, documents, parties and other relevant criteria in disparate cases can create liability or risk.

A prime example of the need for consistency across matters relates to discovery. If an organization that is a party to multiple litigated matters that all have connections with or relate to certain documents or information and that organization produces some documents or data in one or more of those cases that it does not in other cases, opens itself to considerable exposure in several respects. Even in contexts other than litigation, inconsistency can lead to harm, such as to reputational loss for a consumer products company and a loss of a reputation for reliability and fair dealing, which can impair an ability to do business.

If a company is represented in different litigated matters by multiple law firms, ensuring that documents or information that is relevant to those cases is handled in a consistent fashion can represent a challenge, since the firms typically aren't aware of each other's discovery management. That leaves it to the company's in-house law department (if it has one) to take responsibility for that coordination, a task for which many law departments are not prepared or even in many cases well suited.

Alternatively, a law department can contract directly with a discovery management firm to handle all the discovery for its cases or a specific subset of its cases. By dealing with such a firm directly, the law department can negotiate common discovery protocols, service standards, reporting and other attributes of the handling of its litigated matters. This increased consistency, a VRQ, is an attractive feature of such an arrangement and very beneficial to the corporate client.

## Accuracy

It would be difficult to overstate the significance of accuracy as a VRQ. If the legal service or the subsidiary research and analysis that undergirds the counseling and representation is inaccurate to any degree, the legal advice is impaired. Ensuring that the work is performed by individuals with the expertise necessary for the performance of that work is the critical task. This comes down to careful and thoughtful choices in populating the team to handle a company's legal matters.

Understanding the strengths – and weaknesses – of the individuals whom you consider retaining for a significant matter calls for careful due diligence. The ultimate goal is a team that includes all the necessary talent (e.g., substantive expertise, management talent, collaborative attitude) necessary to conclude the engagement successfully and consonant with the client's needs and expectations. The right team will succeed and do so accurately.

## Summary - the case for legal process outsourcing

That leads us to conclude that an engagement that enables a client to ensure that the cost of the service is closely calibrated to the importance to the client of the business objective in question may be the most appealing to that client. Cost control can rank very highly in a client's view. Accordingly, cost control can be a critical VRQ for many, if not most corporate clients.

Outsourcing some processes to single providers for all of a company's matters can enable that provider to control its costs and achieve efficiencies otherwise unavailable. Removing those processes from the law firms' domain can serve as the initiation of that process. Moreover, doing so enables the corporate client to realize greater value in multiple ways by implicating multiple VRQs.

The company needs to determine the most effective means of doing so. That is best accomplished at the start of the retention by the client of counsel, though it's possible to do so later in their relationship. Setting out clearly its expectations vis-à-vis this and other relationship issues puts the client in greater control of how it will be represented, in respect of cost as well as other issues. A particularly effective means of doing so is the use of a request for proposals (RFP) to provide legal service, a set of guidelines for counsel to use in that representation or another communication by the client sets out how it expects its counsel to handle various aspects of their relationship.

During my time as an in-house counsel for an institutional client, I managed a project to restructure the company's outside legal representation across the entire range of its work. To do so, the law department issues 109 RFPs to 132 law firms. The RFP form sent to all the firms was the same, with the types and amount of work differing for the recipients of the RFPs. That document included a requirement that the firms to which work was awarded by the company agree to use for various aspects of what law firms historically included in their service that weren't legal counseling specific providers with which the client had contracted on a national basis. Those subsidiary services were legal research, document management (copying, collation, organization, etc.), information management and temporary staffing.

What value-related benefits can a corporate client realize from such an effort? By contracting with a single service provider for all its matters like we did in that project, a company can reap several benefits. Service standards can be negotiated and implemented across the board. It can more readily aggregate data from all its matters for management purposes. Cost can be negotiated from a favorable position due to the greater volume of work awarded to a single entity.

The benefit of aggregating all legal research conducted for a single client by multiple firms deserves an additional note. Very often, the legal research performed by law firms remains in those firms' files, except to the extent it appears in briefs or other documents shared with the client. The client business doesn't have the opportunity to apply the research from one matter to another matter. Having all (or almost all) of its research conducted by a single provider allows the client to capture all that research in one database or repository for later and multiple uses.

All those benefits of legal process outsourcing provide the client greater control of its law-related work, putting it in a position to manage that work more fully and beneficially. By taking control of its legal work, even when that work is completed by multiple law firms, a corporate client can realize multiple benefits. A company that has internal law resources that are limited can improve its management of legal matters in this way. A well-designed program can lead to greater control of the cost and of the work itself. A client doing so will likely find its matters managed more in consonance with its expectations and needs.

—Steven A. Lauer