

Engaging Outside Consultants as an Alternative to Law Firm Legal Services

By Matthew A. Kepke

Reducing the cost and the number of hours of lawyer time required by the company for external lawyers are two goals that should be worked towards by in-house counsel. Brining legal work in-house, should be viewed as not just adding a legal advisory but a fiduciary for the company who can assist in performing legal functions along with providing strategic advice.

There are efficiency advantages to having your legal counsel provided by someone that is familiar with the day-to-day business and who is aware of the overall business rather than a specific area or transaction. When legal services are delivered in-house, the lawyer becomes a familiar and trusted advisor, who can learn a lot about the company and the overall strategy of its management team. The collaboration and knowledge allow an in-house lawyer to give advice that is in line with the company's corporate strategy and business objectives. It will also allow the legal advice to be more proactive and part of the planning process rather than reactive or incomplete.

In-house counsel should have the legal skills required to provide accurate and thoughtful counsel. However, an in-house lawyer must be able to manage the costs of using outside advisors and also work with the management team to design and deliver internal legal liability reduction programs. This can be achieved by creating standardized practices, materials, and processes aimed at reducing a company's legal costs over time and to reduce any potential legal liability, or risks, as the company pursues its business goals and objectives.

Often, company's legal costs are a result of internal inefficiencies, insufficient planning or a lack of a compliance culture. By establishing and following a clear protocol along with having a clear set of compliance policies and procedures, a company will be able to have the organizational discipline required to manage its outside counsel usage and, correspondingly, its spend. The need to evaluate a company's internal skill set will be critical in establishing effective policies and procedures.

Many companies may limit their efforts to establish good legal policies and procedures that simply state the relevant laws affecting the company. Typically, this is part of an employee handbook or governance manuals. Such use is only raising awareness about compliance but is not, of itself, establishing compliance or a good procedure for accomplishing a company's goals. Compliance and effective protocols occur when the relevant legal compliance obligations are reflected in company culture, policies and procedures, agendas, minutes, reports, guidelines, price lists, terms of trade, and so on. Compliance must be embedded into the way the company does business externally and in the way it operates internally.

If a new full-time 'in-house' employee is not in a company's current plans, due to staffing or budget constraints, lack of desired flexibility, or other reasons, a company may consider the 'in-house' advantages by outsourcing on a consulting basis rather than engaging a full-service law firm to serve a "General Counsel". Some common benefits of outsourcing general counsel advisory services for a company include (i) an ability to focus company resources on its core business, access to better, and more efficient, technology; (ii) operational benefits such as access

to legal knowledge and experience about a company's business and marketplace, not otherwise available from an outside law firm; (iii) increased accountability; and (iv) financial benefits, such as, cost reductions and greater efficiency in obtaining legal and strategic advice.

Outsourced legal services provide an opportunity to buy the services you need on a flexible and, potentially, scalable basis. A company's management will want to utilize a legal consultant who can offer experienced in-house lawyers on a flexible schedule based on your Company's legal requirements; such schedule can include a morning a week to several weeks a month. The services for such in-house lawyers can be priced on an hourly fee arrangement, or alternative billing arrangement such as target-fees, monthly retainer, project fees, or other basis.

MAK Consulting Solutions is a General Counsel consultation service. We provide quality legal and strategic solutions to companies that have a need for an "In-House" General Counsel but do not require the services of a full-time employee. If you have questions about the services we offer, please reach out at mkepke@makconsultingsolutions.com or (917) 575-8664.