

**Legal Outsourcing: A Non-Traditional Approach  
for  
Fast Growing and Mid-Sized Companies**

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These days just about any business function can be outsourced. When it comes to legal services, most companies have historically outsourced their legal work to law firms well before outsourcing became popular. But as hourly rates have skyrocketed (\$400 - \$800 in some markets), traditional law firms have become cost prohibitive, especially for the regular and routine types of matters generated by fast-growing and middle market companies. One potential solution would be for the company to hire a full-time in-house counsel to handle all or most of its legal affairs. But most fast-growth and mid-sized companies do not have enough legal work or the financial wherewithal to justify that, which compels the company to continue to use high cost legal services from traditional legal service providers on an ad hoc basis.

This article discusses a solution to this dilemma.

**How Large Companies Procure Legal Services.** Most large companies employ staffs of in-house attorneys and use law firms to supplement them. The company seeks to achieve cost efficiencies by having its less expensive staff attorneys handle day to day legal matters while the high-cost hourly rate firm handles the high risk, high profile work (major financing transactions, complex lawsuits, patent prosecutions, etc.), for which the in-house attorneys may not have the expertise. Big companies also understand the tremendous benefit they get from their in-house legal staffs beyond cost savings.

**Benefits of Using In-House Counsel.**

**A Close Relationship.** An in-house lawyer with only one client has a better understanding of that client's business as compared to law firm attorneys who tend to handle a number of diverse clients. With an office on-site, he works far more closely with the company's senior managers and department heads and develops strong and long-lasting working relationships with them. The attorney grasps the corporate culture and the ways in which the the company prefers to do business. She develops a deep "institutional memory" in that she knows of past relationships, transactions and other historical company events and needs no learning curve to get up to speed on matters. More can be accomplished in less time because she knows where and from whom to get the information to do the job and do it right.

**Risk Mitigation/Dispute Resolution.** An in-house attorney can spot risk on the distant horizon and deal with it before it becomes a costly mess. Without an in-house attorney, senior managers may be unable to properly assess or identify the risk or may be too consumed with other responsibilities to deal with it effectively. Some may hesitate to call the outside law firm, not wanting to incur the expense or think that it just might go away on its own. When they are called, it is often too late. Seeking legal services in reaction to an immediate threat is a poor approach to risk management.

By contrast, most in-house lawyers have a sharp focus on potential litigation. He/she gets involved before positions harden, egos get bruised and the situation spins out of control. He/she also has the skills to resolve it early on. It is a more forward-looking approach to dispute avoidance and resolution. You'll never know how much you've saved by the lawsuit that was never filed but you'll be happy to have avoided the pain.

**Unburden Senior Executives.** Another problem you may be facing is the variety of thorny and complex issues that get thrown at your senior managers, draining them of the time they need to focus on more strategic matters. This may come in the form of an employee's complaint of being treated unfairly, a real estate lease for more space, the customer whose large invoice hasn't been paid for 90 days, a notice from a governmental agency of non-compliance, etc. An in-house lawyer can take problems like this off of the shoulders of a company's CEO, CFO or other officer. Handing them off to your in-house general counsel will free your senior executives so they can spend a lot more time doing what they do best: creating value by growing and shaping the future of the company.

### **A New Legal Outsourcing Solution.**

The challenge of obtaining the benefits of an in-house attorney at an affordable cost is a compelling one. A few firms (e.g., The General Counsel, LLC) have been established by former in-house attorneys, including experienced general counsels, to deliver a solution. They bring the benefits of in-house counsel to companies who have regular and recurring legal needs. They embed a general counsel in your offices on a regularly scheduled basis to handle the majority of your legal needs, at a more predictable cost far less than traditional hourly-rate attorneys charge.

**Common Situations For In-House Counsel.** Situations in which a part-time, in-house legal counsel can be particularly beneficial are as follows:

**Start-Ups.** You are in the process of being formed and engaging in an intensity of activity that requires legal counsel, including entity formation and related documentation such as integration of investors and agreements with strategic partners. If you are well funded and ramping up for rapid growth, a part-time general counsel on-site can provide rapid responses to critical business needs as you expand.

**Obsolete Infrastructure.** As you gain traction and experience significant revenue growth, your support infrastructure has lagged behind. Your funding has primarily been spent on marketing and sales rather than "G&A" functions such as HR, contract management, finance and accounting, etc. You are experiencing increasing inefficiencies, overworked staff and communication breakdowns. An in-house general counsel can help you institutionalize sound business practices, develop appropriate policies and procedures and put out the fires that get ignited by intense growth.

**Maturing Companies.** You have a long operating history and experienced steady growth. You have the basic support functions in place and have been using a traditional hourly-rate law firm, which is becoming increasingly expensive as your legal needs have grown. A general

counsel located in your offices can do the lion's share of the work far less expensively, reducing or eliminating your outside legal expense.

**Litigation Burn-Out.** You have had your first major litigation experience. It consumed far too much of your time. You were shocked by the exorbitant cost, unsatisfactory result and/or the irrationality and uncontrollable nature of the process. To avoid this experience, a part-time general counsel can be retained to better anticipate, avoid and resolve legal risk without litigation or, if there is ongoing litigation, manage it far more effectively.

**Liquidity Events** If you are considering a sale or refinancing transaction, you will likely have to contend with a number of outside parties who will carefully scrutinize your operation. To maximize the price and satisfy the participants in the process, you can retain a general counsel for a limited scope engagement to help you "professionalize" your operations to give it greater credibility in the marketplace and provide focus on problem areas.

**Compliance-Oriented Businesses.** You are subject to heavy government compliance requirements, which impose greater-than-normal legal needs. You can get a general counsel with industry-related experience on-site to handle your compliance burden on an ongoing basis at rates that cannot be matched by traditional hourly-rate law firm.

**Conclusion.** If you think you are paying too much for legal services or your counsel is not close enough to the operation of your business to give you proactive and timely service, a part-time in-house counsel solution may be appropriate for you. By avoiding risk and providing stability and experienced, professional guidance, an on-site general counsel can profoundly enhance your business.