

The Value-Able Law Department

STEVEN A. LAUER



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UK/EUROPE OFFICE

Ark Group Ltd
Paulton House
8 Shepherdess Walk
London N1 7LB
United Kingdom
Tel +44 (0)20 7490 0049
Fax +44 (0)20 7324 2373
info@ark-group.com

NORTH AMERICA OFFICE

Ark Group USA
4408 N. Rockwood Drive
Suite 150
Peoria IL 61614
Tel +1 309 495 2853
Fax +1 309 495 2858
publishingna@ark-group.com

ASIA/PACIFIC OFFICE

Ark Group Australia Pty Ltd
Main Level
83 Walker Street
North Sydney NSW
Australia 2060
Tel +61 1300 550 662
Fax +61 1300 550 663
aga@arkgroupasia.com

Commissioning editor
Anna Shaw
ashaw@ark-group.com

Design and layout manager
Danielle Filardi
dfilardi@ark-group.com

Managing director
Jennifer Guy
jguy@ark-group.com

UK/Europe marketing enquiries
Robyn Macé
rmace@ark-group.com

US marketing enquiries
Daniel Smallwood
dsmallwood@ark-group.com

Asia/Pacific marketing enquiries
Steve Oesterreich
aga@arkgroupasia.com

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Executive summary

THE CURRENT pressures on law departments, which are likely to intensify rather than abate, are such that the law departments must explore new avenues to maximise the value that their companies realise from their investment in legal services. The internal and external resources deployed on a company's behalf must all contribute as fully and as efficiently as possible to achieving the company's legal goals. Benchmarking against other law departments may no longer satisfy the expectations of corporate management, since many companies have driven continual improvement processes throughout the rest of their organisations. They're unlikely to accept anything less from their in-house lawyers.

Those pressures will, therefore, prompt forward-thinking law departments to re-examine their approaches to identifying and deploying the legal resources at their disposal. They likely will revisit periodically the 'make-or-buy' equation. In the context of their companies' uses of outside legal expertise, rather than engage in the discussion of "Do we retain the lawyer or do we retain the law firm?", they should ask something akin to the following question: "Which outside lawyer can best provide the specific type of legal expertise we need and how can we most effectively combine that lawyer's assistance with that of the other members of the legal team?"

The line between work done by internal talent and that completed by external talent

may need to be redrawn for a variety of reasons. In some cases, perhaps more work should be completed by in-house lawyers and other personnel of the company. Other companies may need to assign more work to outside counsel in order to achieve the most efficiency. Some companies may find that they should pull more work in-house on some matters and more work should be handled by outside counsel as to other matters.

What talents should a law department have on its staff to meet the company's legal needs? How should it fill the slots so identified?

Correspondingly, what types and amounts of legal talent will it need among its external legal advisers? Where should they be located?

Once it determines what work should be completed in-house and which assignments are better left to outside counsel, how can a law department assure itself (and its corporate management) that the entire team of lawyers and other professionals (both inside and outside the company) will work together seamlessly so as to deliver the best legal work appropriate to meet the company's needs?

In addition to recalibrating the application of personnel and other resources internal and external, law departments should consider whether techniques that they might have failed to apply previously can assist them in delivering the 'most bang for the buck' that their companies spend

on their legal needs. Does 'total quality management' offer some benefits that would be useful in that regard? Might some project management approaches provide insight into the most appropriate use of legal talents?

Ultimately, law departments will need to become more specific and granular in their selection of personnel and outside counsel. Rather than continue the age-old debate of 'choose the lawyer' versus 'choose the law firm', law departments will need to assemble teams of individuals to represent their companies in specific matters (litigation or otherwise). While some law departments have formed teams by having several of their network law firms work together on one or more matters, in at least some situations in-house lawyers will need to dig into the firms and other organisations with which they're familiar to select individuals or groups to form *ad hoc*, cross-organisational teams. They may have to find on-demand or contract solutions to immediate talent voids when a longer term solution is not feasible or appropriate.

This book addresses the implications of such a more granular approach to identifying and selecting the legal resources necessary to address a company's needs for legal service. How might that approach affect or change the nature of the relationship between in-house and outside counsel? What tools and techniques will law departments need to implement such an approach? Will they need to find new expertise or train the in-house lawyers on new approaches or techniques?

About the author

STEVEN A. LAUER is an independent consultant to corporate law departments and law firms on the value of legal service and related topics. He spent over two years as corporate counsel for Global Compliance Services in Charlotte, North Carolina, focusing on data protection and privacy and general corporate matters. Previously, he was director of Integrity Research for Integrity Interactive Corporation, where he conducted research, wrote whitepapers and worked with clients on issues related to corporate ethics and compliance programmes. Before that, he consulted with corporate law departments and law firms on issues related to how in-house and outside counsel work together. Prior to that, he spent over 13 years as an in-house attorney in law departments ranging in size.

Besides his legal counsel work, he also spent over two years as Executive Vice President, Deputy Editor and Publisher of *The Metropolitan Corporate Counsel*, a monthly journal for in-house attorneys.

Steve conducts benchmarking research for clients, designs evaluation processes for counsel selection, and researches and designs case-evaluation methodology, among other projects. He has consulted on alternative fee arrangements, task-based billing and client expectations. He has worked extensively with law firms to better understand the changing expectations of corporate clients.

Steve has authored numerous articles on compliance, the relations between in-house and outside attorneys, the selection of counsel by corporate clients, the evaluation of legal service, litigation management, and other topics relevant to corporate compliance programmes and corporate legal service. He has organised and spoken at numerous conferences in respect of those subjects.

Steve can be contacted at slauer@carolina.rr.com, or on 1-704-844-9373.