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- ▶ Why pay attorneys for routine processing?
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- ▶ Outside lawyers must buy in and be involved in the process

By Gwen Moran

Cutting legal down to size

Nearly five years ago, Lance Jones, vice president and general counsel of Trilogy Software, a Dallas, Texas-based software company that produces custom solutions for the automotive and insurance industries, was already jumping on the cost-cutting bandwagon. As a senior manager at a company that prides itself on finding innovative ways to save its customers money in their business operations, Jones thought it was time to walk the talk when it came to his own company's legal services.

While he won't say exactly how much the company's 10-person legal team, which includes four attorneys, was spending on external law firms, he thought it was excessive for the almost 400-employee company.

Cutting legal costs is not as simple as just using fewer law firms or getting them to do less work, however. In examining his cost structure, Jones realized a large percentage of routine processing work that was being done by the outside lawyers did not need to be carried out by attorneys.

To help him cut his overall legal spend, he looked into two firms: Tusker Group in Austin, Texas and iRunway, based in Bangalore, India. The two firms handle software code review for copyright infringement and document review, among other services.

Jones gave each company pilot projects to test their effectiveness and was so satisfied with the results that

he began using both companies on a regular basis to sift through the massive amounts of code and documentation that relate to Trilogy's legal actions. Today, he estimates that his firm saves approximately 60 percent to 70 percent of what it previously spent on routine legal processes that don't in fact need to be handled by attorneys.

'We take every aspect of our legal world and parse it into legal processes,' Jones explains. 'Anything that can be done by smart people who are not lawyers, we'll look at and decide whether we can find a provider that can do that work at least as well as our typical law firm provider. If so, we'll look into that option.'

A new approach to the process

Driven by today's renewed emphasis on spending reduction, many companies are increasingly looking for cost-cutting measures across all business units, and even corporate governance and legal functions are not immune. Some corporations are cutting back on the level of litigation in which they are involved and, as a result, the number of external firms they employ.

'When times are fat, like they were over the past five to seven years, everyone finds ways to make more money from the services they provide,' comments Jonathan Blinderman, general counsel and senior vice president at Glaser Weil Fink Jacobs & Shapiro, a corporate law firm located in Los Angeles. 'When things



get skinny, like they are now, people find ways to cut back and still get the work done. I do a lot of enforcement for some very large companies. Guess what? We're not filing lawsuits against small salon owners for violating a trademark. We've cut back because the client wanted to save money.'

And while some firms are touting flat-fee billing instead of hourly rates, Blinderman says that's often a bad deal for companies because the firms need to bid high to ensure they cover the cost of their overheads.

One of the more promising ways corporations and law firms are cutting costs is in legal process outsourcing, or LPO, says Robert Kennedy, executive director of the William Davidson Institute at the University of Michigan in Ann Arbor, Michigan, and author of *The services shift: seizing the ultimate offshore opportunity* (January 2009).

These include LPO for litigation-related discovery, contract and lease review, and other routine review

UK attorney Mark Ross, chair of the International Association of Outsourcing Professionals' legal outsourcing chapter and head of sales and marketing for LawScribe, a Glendale, California-based LPO company, says the US LPO market alone could be as much as 10 percent of the entire \$250 billion sector. He does, however, admit that others put that number at a more conservative 3 percent.

One example of this explosive growth is Integreon, an outsourcing firm based in New York City. President of global sales and marketing John Croft says the company's discovery business, which offshores most of its work to offices in India and the Philippines, has grown over the past three years from 10 attorneys to more than 450 working on projects at any one time.

The company also employs some US attorneys for contract work on cases where companies do not want to send their documents overseas. Companies such as Lakewood, New Jersey-based LeaseProbe outsource real

estate leases for review and summary to American attorneys who are living in Israel. 'This is still a pretty nascent industry,' Croft notes.

As corporations look for value from outside providers, including legal counselors, he adds that they are increasingly questioning why they should pay hundreds of dollars an

hour for routine services that can be performed on a much lower hourly or cost-per-document basis.

Croft says a typical document review will vary depending on the scope and complexity of the project, but typically falls into the range of \$1 to \$1.50 per page. Savings estimated by LPO firms interviewed range from 30 percent to 70 percent of the typical cost of using an outside law firm, depending on how long the project takes to define and whether the company will be using LPO repeatedly, as the impact of fixed set-up costs diminish over time.

Violating privilege

Not everyone is in love with LPO, however. Before moving from a corporation to his current firm, Blinderman was a senior in-house attorney for Playboy Enterprise's Playboy Entertainment Group when he realized that his firm was spending a lot of money on paying law firms to review documents that may be considered privileged and determine whether they were rel-

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processes that require sifting through mountains of paperwork in search of documents that are relevant to the process at hand. In many cases, firms outsource the review to countries with ample low-cost human resources, including India, China and the Philippines. Some of the work is also done in the US but in cheaper areas, like the Midwest.

Booming market

In the face of general economic pressure from the downturn, as well as a shifting regulatory environment in the US, more companies are looking for ways to manage the increased costs of document review and other routine services. Indian market research firm ValueNotes estimates the country's revenue from legal services outsourcing will increase from \$146 million in 2006 to \$640 million by the end of 2010, with the number of employees in the sector growing from approximately 7,500 to approximately 32,000 during the same time period.

evant to turn over in litigation, as well as to find documents related to potential transactions. He heard about LPOs and began to check out a few firms that provided outsourcing services. But he decided not to use them at Playboy or at Glaser Weil Fink Jacobs & Shapiro, primarily because of concerns about breaching privilege.

'While many local bars and other entities are starting to give opinions that you don't blow the privilege by using a third party to do some of this work, there's still a concern about information being available to entities that haven't been fully vetted in terms of their ability to maintain corporate secrets, which is a significant concern,' Blinderman notes.

He also points out that a simple error or inadvertent breach of confidentiality can trigger headaches for publicly traded companies. A mistake that releases confidential information about a pending deal or transaction can lead to problems with the transaction partner and could increase the price of the deal or cause other pressures in getting it done.

But LPO providers say this is unlikely: most overseas document review is governed by heavy security. For example, workers at Integreon are housed in A-grade locations in western-style business parks, says

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Croft. A series of swipe cards controls personnel access to various areas of the premises. Mobile phones with cameras and other items that could be used for image capture are prohibited, and none of the first-level review centers have printers. Each floor has security cameras and USB ports are disabled on all computers to ensure nothing can be copied from the unit.

'The security changes from client to client, based on its needs,' says Croft. 'Sometimes, documents are too sensitive to go offshore so they are housed on computers in the home country and reviewed through a secure review platform. Sometimes the review is done on-site. It varies according to specific circumstances.'

Some also express concerns about the qualifications and language skills of the personnel conducting the review. Jones says he has definitely seen improvement in how contractors address quality control over the past few years. Each document summary is reviewed by at least two people, he notes – something that would rarely, if ever, happen in a law firm conducting the same type of service.



Robert Kennedy says not every legal function was meant to be outsourced

Not everything can be outsourced
Kennedy says not every legal function was meant to be outsourced or sent offshore. He advises a litmus test. 'You have to ask, *Is this a core or strategic task? Is it one of the activities that makes your firm unique?*' he suggests. 'If so, that's probably not a process to be outsourced. For example, a litigation firm wouldn't want to outsource

its top-flight attorneys. That's obvious, but that's how you need to think about it.'

Even Croft admits there are limits. For example, in intense litigation circumstances where immediate contact with associates is needed, offshoring and outsourcing may not be a good fit. Also, cases where the requirements can't be clearly defined are probably not going to be successful.

And, says Jones, it's critical to have the buy-in of your external law firms, even if they are not controlling the outsourcing process. 'It's a significant challenge to get outside law firms to agree to this sometimes, but our experience has been that once they see how it works, they go back to these firms directly to engage the services themselves,' he explains.

One important point LPO firms continue to stress is that they are not law firms and do not practice law. Their function is strictly to review and sometimes summarize documents for the purposes or relevance defined in the project. Within that distinction, as well as through the use of attorneys and other personnel in lower-cost regions of the world, they are able to cash in on one of the sectors that is thriving, even in a down economy: services that save other companies money.

► **Gwen Moran is a freelance writer specializing in business and finance and based in Wall Township, NJ**

