

How to Select and Engage Vendors

As Legal Department operations become increasingly complex, the ability to address specialized needs by selecting the right vendor on the right terms becomes increasingly important. This is especially true as budgets come under increased pressure, magnifying the focus on value. Utilizing the practices below can improve the Legal Department's approach to engaging vendors, which in turn contributes to better services overall for the client.

- **Overview**
 - General considerations
 - Categories of vendors
 - Selection and engagement process
 - Achieving and measuring savings

- **General Considerations**
 - **Define your needs.** What types of service providers do you typically engage?
 - What vendors have you retained on a recurring basis over the past 3 years?

(**Practice tip:** Ask Accounts Payable or Finance for a print-out of all vendors paid – to trigger your recollection.)
 - Look for patterns – group the vendors according to categories
 - Project future needs. Will the core categories stay the same?
 - Is the business or Legal Department expanding into new areas requiring new vendors?
 - **Assess your satisfaction.** How happy have you been with the services provided? Rate and assess via scorecard.
 - Learn about alternatives. How much do you know about other vendor options, in terms of who might deliver better value? Good sources of

information about potential vendors include: 1) your colleagues in the Legal Department; 2) contacts in the industry; and 3) outside counsel.

- Consider your **optimal means of engaging** vendors.
 - Is your use of certain vendors periodic, such that it makes sense to engage them on an “as needed” basis? If so, your efforts in scanning the market now would be for information seeking to facilitate future retention when the need arises.
 - Or is your use of certain vendors more intensive, such that you would benefit from expanding the relationship and inviting the vendor to compete for a spot in your preferred provider network? This could yield preferred pricing terms, volume discounts and better access to key talent. Key questions you would have to address, though, are:
 - Is placement in the preferred provider network exclusive, meaning you would send the vendor all of that particular kind of business?
 - Or do you admit 2-3 vendors for a particular need, and assign to each of them over time (perhaps still requiring comparative proposals for major assignments as they arise)?
 - The answers to the questions will impact your negotiating leverage and your flexibility in assigning going forward.

- **Categories of Vendors to Consider**

The list will vary according to your industry and specialized needs, but below is a good starting point of categories to consider:

- E-discovery / document production
- E-billing
- Medical records collection and chronology
- Jury Consultants
- Forensic accountants
- Court Reporters

- Trial Demonstratives and Graphics
- Media consultants
- Management consultants (advising, for example, on legal division operations, outside counsel management, talent development and team engagement)
- Settlement Administration
- Temp attorneys, paralegals etc.
- Translating services
- Printing and copying

(Practice tip: inquire about preferred vendor arrangements your company may already have in place for broadly-used services like transportation, printing, copying etc.)

- **Selection process**

- Craft an RFP and “Scope of Work” document outlining your needs
- Send to potential firms, along with background information about your process (goals, evaluation criteria, time frame, etc)
- Appoint one person to be in charge of receiving submissions and answering questions from the potential vendors
- Score submissions with uniform scorecard and grading criteria
- Select finalist firms for interview
- After interviews, negotiate best terms prior to selection
- Finalize your decisions and inform candidates
- Memorialize terms in a Master Retainer Agreement

(Practice tip: Consider getting help from procurement, if they have skill in working with professional service providers.)

Achieving and measuring savings

- Seek discounts and preferred clients terms, such as
 - Discounts off dollar one (especially if the vendor can leverage the fact that it is one of your preferred providers – this often has strong marketing value)
 - Tiered volume discounts
 - Savings via competitive bidding (use the difference between ultimate price and the price points of other bids as an illustration of savings generated)
 - Most favored nation clause: ask vendor to verify that no other client gets more favorable pricing for like work. (Volume of business is often a key determinant in getting this provision.)

(Practice tip: discounted terms can deliver great value, but diligent clients still keep an eye on the scope of the project and the number of hours worked to verify that it remains tightly managed, and discounts are not recouped through other means.)
- Utilize knowledge management practices to re-use existing work product to further reduce costs. Preferred providers can help you store and access existing work project more effectively toward this end.
- Inquire about ways to be a more cost-effective client. Vendors often have ideas on how clients can engage more efficiently with them to reduce costs. E.g. plan out trial graphics and demonstratives in advance as opposed to multiple iterations at the last minute.