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Does Your Law Firm Have Staying Power in the Economic Downturn?

By LawVision on July 13, 2020

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Convergence is the process whereby corporate law departments consolidate the number of law firms and other service providers to reap benefits such as having a truer feeling of partnership, more organized workflow, and volume discounts.

The convergence process "improves management of outside counsel, increases clients' purchasing power, and allows strategic partnering with carefully select firms. Convergence is a standard procurement instrument that was referred to as the 'DuPont Legal Model' in our industry as the then GC Tom Sager pioneered the trend," according to Dr. Silvia Hodges Silverstein, CEO of the Buying Legal Council, the international trade organization for buyers of legal services and legal technology.

And, according to Nathan Cemenska, director of legal operations and industry insights, Wolters Kluwer's ELM Solutions, a recent Wolters Kluwer poll showed that 71% of corporate law departments are currently converging more work into panels, and another 13% expect to in the next year.

Law Firms With Staying Power

Historically, law firms in the convergence process have been evaluated based on measures like quality and price of work. However, at LawVision, we have seen some law firms, despite offering quality work at a good price, struggle to stay in business as a result of Covid-19.

Law firms with certain attributes have more staying power during times of crisis. Some of these attributes include having:

- resilient and constructive cultures,
- a mature understanding of profitability, financial hygiene, and the business of law,
- succession plans in place,
- the ability to scale up or down with ease to serve changing client needs, and
- a strategy for how to focus limited resources on the highest and best use in the current situation; and
- contingency plans.

What if clients start asking their firms to have these attributes? Think about it—why would a client want to invest in building a relationship with a firm that does not have staying power? A client takes a risk when it commits to use firms that are unstable.

Likewise, law firms take risks when they bend over backwards to win a spot on a client's preferred panel if they do not understand their firm's degree of business and cultural resiliency.

Procurement regularly conducts vendor risk management, according to Silverstein. The "health" of their suppliers is very important to them. Vendor risk has different facets, from financial risk to compliance and cyber security risk. The more critical or high risk a vendor is to a client, the more intense the risk assessment requirements.

"There will be additional monitoring, more in-depth due diligence every year, and full risk assessment for each firm," Silverstein says. "Risk assessment already starts during the initial vendor vetting phase."

Assessing a Law Firm's Resiliency

Preston McGowan, former chief transformation officer, Goldberg Segalla, and former vice president of claim litigation management, Chubb Ltd., shares some questions that can help a buyer assess a law firm's resiliency as it pertains to capacity management and tolerance for discounts.

1. Confirm the firm can handle the current case load while maintainin outside counsel guidelines (OCGs) and existing quality standards

- Based on operational and financial metrics, what are the changes in pre-pandemic and current performance with respect to: case durations; measurable quality outcomes (ex. reporting deadlines adherence, invoice auditing results, settlement values, loss payments, etc.)
- Based on a case inventory analysis, what actual and potential bottlenecks exist that would materially impact service delivery?

2. Confirm the firm can handle the current case load at reduced hourly rates or reduced cost per case.

Same as above plus proposed cost containment efforts:

- What efficiency changes does the firm plan to initiate with respect to: case staffing mix (ex. allocate more work to associates and paralegals); litigation processes (ex. early case assessments); or deliverables (ex. 1-page summary vs multiple page reports)
- What impact will these changes have on service delivery and/or cost?

3. Confirm the firm can handle an increased case load at current or reduced hourly rates.

Same as above plus scalability efforts:

- What incremental staffing changes does the firm plan for attorneys, administrative staff and/or third-party service vendors to address the increased workload?
- How will the firm scale its quality assurance practices to ensure that case outcomes and OCGs are maintained?
- How many additional cases can the firm realistically accept in the next one to two months without negatively impacting its service delivery?

Is your law firm able to answer these types of questions with confidence?

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