

Client Concerns in LPO Sector

With revenues projected to touch US \$ 4-5 billion by 2015, the LPO industry is poised to replicate the IT and ITeS success story. But still certain questions arise: Is outsourcing a difficult concept to understand? Is it difficult to manage and leverage upon its much talked about advantages? Or is it something difficult to implement? Well, for conceptual clarity, let's begin from scratch. Simply put, the term 'outsourcing' is a plain agreement between a business and a service provider, in which the service provider promises to provide necessary services, especially data processing and information management, using its own staff and infrastructure at its own facilities.

Undoubtedly, legal outsourcing in India has become a supremely lucrative prospect due to various reasons namely: (a) abundance of English speaking legal professionals familiar with the Common Law jurisprudence and (b) the added advantage of right time difference (amounting to one working day). Several legal processing outsourcing (LPO) providers like to hire Indian lawyers to work for mainly US Corporate houses and law firms, primarily to lower the cost of legal operations. Historically, General Electric (GE) was the first foreign conglomerate to offshore its in-house legal work to India. GE Executives say that the Indian team saved the Company US \$ 500,000 in 2001 and US \$ 700,000 in 2002 and then the savings kept increasing with a higher pace. Similarly, Microsoft has outsourced Patent work to attorneys in Bangalore, while the in-house legal department at American Express has also teamed up with Indian lawyers.

While using outside attorneys to do document imaging and processing, clients prefer those vendors who are located fairly close to the office thus providing an easy access for supervision and management of the end product quality. These issues and the desire for proximity of the person delegated to the task, has its roots in the behavioral aspects of the management as well as the nature of legal information. If the attorney makes the required review of such data all by himself in India - away from the actual place of origin of the data and away from the clients too - the same would require a top of the line data management and real time connectivity to ensure continuous feedback from clients, as and when required. The ability to implement and operationalize such a mechanism ensuring an uninterrupted data flow - to and fro across the continents, forms the very backbone of legal outsourcing. The success or failure of the decision to outsource depends largely upon the ability to implement such a delivery mechanism and capitalizing upon the advantages generated by it.

The following issues play a pivotal role in a firm's decision to outsource or not.

I. Compliance

Outsourcing legal work involves compliance with moral, ethical and legal standards, which may vary from one bar jurisdiction to another. Hence, while choosing a service provider - it is extremely imperative that such guidelines are strictly adhered to. In the

US, the California¹ and NY² State Bars have already issued guidelines (for attorneys) to be complied with while outsourcing its work, other States and Bars are to soon follow the suit.

II. Security of information

Security is definitely a major concern to the buyers. It is appreciable on the part of the buyers to confirm that no confidential information is disclosed. Amongst other things, it is advisable not to send the documents or assignments abroad that contain facts or statements that could identify the client unless the buyers have the client's express authority. Whatever be the case, buyers should take steps and put mechanisms in place to ensure that the work is not disseminated by the researchers themselves; it is not vulnerable to hackers and is out of bounds of unauthorized parties. Most importantly, it is important to ensure that the vendors commit to maintain confidentiality in the service contract.

III. Appropriate projects

What work can be efficiently offshored broadly depends on two fundamental issues:

- a- Comfort level of the outsourcing company in prioritizing what to outsource and what to keep in-house; &
- b- The professional competence on part of the vendors with respect to the nature of tasks they are experiences in handling.

There exists a number of issues that further effect these two factors also; such as – professional lawyers' comfort level with the complexity of the work involved and laws governing compliance in the subject area, for e.g. - to perform basic legal research compliant with SEC rules and drawing up commercial lease summaries. The other two areas in which US corporations are looking to offshore legal work are Patents and Immigration laws. Patent research is actually a popular area to outsource, but liability for making mistakes can be very high. The concern with the outsourcing of immigration law work is that administrative rulings and advisories are issued frequently and are not usually included in online databases - which are used in the research process by the Indian lawyers.

IV. Training the Offshore team

Getting the right people on the job for the buyers and vendors is another critical step. Legal professionals conversant and adept with the jurisprudence of the host country are to

¹ California Rule of Professional Conduct

² EC 4-1 of the Lawyers Code of Professional Responsibility - A New York lawyer may ethically outsource legal support services overseas to a non-lawyer, if the New York lawyer: (a) rigorously supervises the work of a non-lawyer, so as to avoid aiding the non-lawyer in the unauthorized practice of law and to ensure that the non-lawyer's work contributes to the lawyer's competent representation of the client, (b) preserves the client's confidences and secrets, (c) avoids conflicts of interest when outsourcing, (d) appropriately bills the client, and (e) when necessary, obtains advance client consent to outsourcing.

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be developed through a rigorous training regime. A constant interaction between the client and the service provider, therefore, becomes integral to a good delivery mechanism. This increases the pressure on the buyers in US to train the best possible team in India. Making them versed with the US legal system and best practices is another concern.

V. Confidentiality

Confidentiality of information is another area of prime concern. Some clients (buyers) will need to disclose confidential information to vendors in order to communicate their requirements. The concern that arises is that of confidentiality with respect to other clients of the same buyer firm. While the firm would want to give sufficient access of its database to the LPO vendor in India for execution purpose; it would also want that only data with respect to the pertinent outsourced case is retrieved and the vendor does not access information with regard to its other cases/clients. Hence, the process gets complicated as confidentiality is the crux of an attorney-client relationship.

VI. Ethical issues

The benefits offered by the LPO industry are enormous; however the complicity involved in outsourcing legal jobs makes the proposition more challenging. Economic gains and employment aspects are the direct advantages of LPO industry - yet there are other moral and ethical issues in it which make situation crucial. Some of the ethical issues that need to be dealt conscientiously by attorneys are like - financial arrangements with the company; duty to inform client about outsourcing; duty of competence & duty to exercise independent judgment; duty to the court; charging the cost to the client and conflict of interest issues.

VII. Cultural differences

The world of law has a language all of its own. Jurisprudence, perhaps second only to medicine, has managed to have a dialect beyond the reach of many. The way business is conducted, professional relations and societal dynamics - all present a diverse picture across continents. Hence, a client shall not be too keen to outsource his legal drafting and interpretation of contracts work to a country where language efficiency is a barrier. Clients who want to outsource their legal processes do not want to face communication problems. They should be able to communicate easily with the lawyers in another country, just as they would communicate with the local lawyers.

VIII. Project tracking and reporting

An outsourcer/buyer has the duty to keep clients informed of the progress of the case and to report the use of temporary attorneys if worked not under the supervision of the attorney. Clients will be concerned about the status of their projects at various stages. Some clients will be more demanding than others and will want more frequent or more detailed information. It is essential to ensure that there is no unlawful practice of law.

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IX. No presence of LPO vendors in US jurisdiction

Things are not perfect always and there always is a remote chance, even if one in a million, of things going wrong. Every attorney/firm would like to be on the favorable side of the law, in case of such a breach. However, this is where jurisdictional issues spoil the party for vendors and outsourcing firms. In case, the vendor providing services is not present in US territory, he shall not be subject to the same laws as the firms/attorneys (and their clients), and hence these vendors cannot be sued in US. At the domestic level, there exist no favorable laws for the outsourcing companies. Thus, in such a scenario - the required “*trust threshold*” between the outsourcing client and host is not attained.

X. Real cost of a project

The final cost of an outsourced project relates to the vendor's productivity multiplied by his hourly rate. A vendor who offers a low hourly rate but is inexperienced, works slowly and makes mistakes will ultimately cost his clients more money than a more productive vendor at a higher per-hour rate. Such concerns are important and should be addressed practically and clients should be assured that a low hourly rate also means - low overall project cost, based on a high level of work productivity and quality.

Manthan’s Service Bouquet

Manthan offers comprehensive services under the banner of contract management services. Few of them are as follow:

- ◆ Legal Services – Drafting and preparing contracts, reports, letters, research papers and review.
- ◆ Paralegal Services – Document management, software usage and procedural aspects, Deposition summary, etc.
- ◆ Secretarial Services – Checking the cast studies, data entry and correspondence.

About Manthan

Manthan is the largest legal outsourcing firm based in India, which partners counsels and Attorneys of global firms in cutting costs and bringing efficiency to deliver more to the organization. Manthan extends support in Litigation Management, Contract review and Management, Due Diligence and Compliance. With over 5 years of experience in this nascent industry, a team of over 300 professionals and over 92 clients to vouchsafe for Manthan is strategically placed to deliver outsource legal services to clients in US and Canada.

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