

THE ROLE OF PROCUREMENT PROFESSIONALS IN LAW FIRM SELECTION

Increasingly, corporate clients are involving procurement professionals both in the selection of law firms and in fee negotiations.

There are 3 main reasons for procurement professionals to be brought in:

- Corporate policy
- Process improvement and
- Cost cutting agenda.

Corporate policy

A company that involves its procurement team in the selection of law firms almost certainly requires all major purchasing and contracting to be orchestrated via the procurement team. The in-house legal team is often the last bastion of resistance to the involvement of procurement. The General Counsel ("GC") will distinguish his or her purchasing decisions from those of the department in charge of purchasing widgets and will cite the importance of law firm relationships which can't be boiled down to money alone. However, there generally comes a point beyond which the Finance Director will no longer tolerate resistance. This will often coincide with another failure by the GC to stick within the legal budget or to obtain binding fixed fee quotes for planned work. The GC's claims of a solid working relationship with a firm or of a "partnership approach" ring hollow against this back-drop.

Process improvement

There is no doubt that procurement teams bring a more rigorous, process driven approach to the selection of firms and the negotiation of their fees. Law firms will all be aware of the vast increase in the number of invitations to tender and requests for proposal that they are now required to respond to in order to win new clients or even retain old ones. Much of this is driven by the professional procurement approach. Whether this change is for the better is a moot point but it seems to be here to stay. There were certainly flaws with the old system whereby firms were instructed on the basis of "who you know" or because the GC used to be a partner there. GCs tended to form long term relationships with a few firms and didn't want to rock the boat or question the fees.

Cost Cutting Agenda

The involvement of procurement professionals is also designed to further the cost cutting agenda. With 90% of GCs now under pressure to provide better value¹, the need to cut cost is a major issue for GCs and favours the involvement of procurement professionals with their extensive fee negotiation experience.

The Best Defence

Law firms generally complain bitterly of the hoops that they are forced through by procurement teams and the wasted time, effort and resources spent on failed bids where it transpired, at the end of the day that the firm was never truly in contention. Law firms are also rightly wary of salami slicing negotiating tactics that can render their work unprofitable. The best defence to the march of the procurement professional is for law firms to work with their clients to deliver good value, predictability and transparency.

A longer version of this paper was first prepared for a CLT conference on pricing and fee negotiation for law firms held in 2010.

CONTACT

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¹ Financial Times, 18 March 2010, survey by Eversheds and RSG Consulting