

HOW TO REVIEW YOUR PANEL OF LAW FIRMS AND EXTERNAL COUNSEL

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by Ricardo Cortés-Monroy



There are many reasons why it is a good (excellent) practice to regularly review your company's panel of preferred law firms and external counsel. And there are better ways to do it compared to some years ago.

Let us start with the reasons for doing it. Firstly, quality: one would be excused for believing that because your company has “always” used this or that law firm they must be the best one around and no one could improve their output as they know you, their client, so well. That has an element of truth, but you’ll never know if you do not challenge them regularly. An objective way to do it is to have, as company written policy, a regular review of the panel every e.g. four years. No exceptions. This will automatically make your life as a general counsel easier. The fact that they will be compared and benchmarked against other law firms in an objective process should avoid any law

firm taking you for granted as a client. The requested improvement in output may be expressed in terms of technical grounds, better IS/IT capabilities, associated alternative legal services providers, talent and reporting.

Secondly, cost: this reason seems to be the obvious one, a favourite for the Finance and Procurement departments. But, especially in these recessionary days, it is certainly a big plus to be able to deliver savings on the legal spending. However, a caveat: I am a firm believer in the "value for money" equation and this should be your driver. This is usually difficult to understand for the mentioned financial and procurement colleagues as they will inevitably advice to select the lowest cost proposals. And one has to understand that ultimately a general counsel must deliver tangible budgetary reductions. A panel review will put you in an objective position to renegotiate rates, or package deals without to much of a struggle. A practical suggestion: ask how external lawyer's packages are determined. Is it by a lockstep mechanism? Or is it what the British call "eat what you kill" system? You'd be surprised how often the latter delivers smaller bills (not always!).

Third, sustainability in our profession: this one might be less obvious. If your company and you as a general counsel are serious about sustainability you should request from your business partners a similar commitment. Most law firms have by now well established sustainability programs. They support global initiatives (e.g. Global Compact), or environmental agendas (e.g. watersheds preservation) or social initiatives (e.g. human rights). What all, no exception, should be able to share with you is their diversity and inclusion agendas. The gender balance equation in too many law firms is rather poor. Similarly, the associate/partner ratio is many times something of concern and we should put some pressure to ensure our young lawyers have a better deal in that respect.

Fourth, your priorities as a client. These panel reviews offer an unique opportunity to set them in black and white, in an objective manner and when you have an enhanced leverage. Key among them: conflicts of interest! Are you willing to accept that your preferred law firm serves too your main competitors? Is it realistic and achievable? If not, how do you establish firewalls?

How to run a panel selection raises a number of matters you need to take care of. Probably the biggest change I saw since I was a global general counsel is the involvement of Procurement colleagues and their IT solutions. They bring an element of objectivity and professionalism which otherwise you wouldn't get. And they will take a massive administrative burden from your shoulders (we used to contact 200 law firms for these panel reviews). Run your reviews every 4 or 5 years maximum; no science here but just my experience in avoiding the "too often, too late" dilemma. Involve your direct reports setting them as a team for this exercise. Commit to a deadline and a tangible result. And if you do not have experience in doing this, seek help with your colleague general counsels in other companies. They love talking about this!

Ultimately I can guarantee you that these reviews are a win-win for your company and the law firms. And, unsurprisingly, you might end up confirming most of your current ones. But on renovated and better terms. Salvete onmes!

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