Background
CASME RoundTable meetings on the procurement of consultancy and legal services were held in London, Dusseldorf, Sao Paulo, New Jersey and Sydney during a period from January to November 2018. The following main topics were discussed:

- Scope and strategy
- Managing the supplier base
- Managing the cost of consultancy and legal services
- Contracting
- Measuring value and performance
- Future trends.

This Digest provides the key points, good practices and insight into future trends identified by CASME members around the world. Full notes from each meeting are available on the subscriber-only Resource Centre.

Scope and strategy

- The procurement of consultancy and legal services involves the engagement of experts and qualified practitioners in specialist areas for which a company has requirements, but lacks the appropriate expertise internally. The scope includes service requirements such as IT, legal, marketing, financial, strategic, auditing, and transformation.
- Procurement can reduce the amount of risk and spend in the category by defining the different types of external resources that the company uses, and communicating the classifications to the business, including the distinction between consultancy and professional services providers, independent contractors and temporary labour.
- Procurement's involvement is often mandated for projects that represent spend above a defined monetary threshold. To control expenditure, a pre-approval process can be implemented for spend over a specific value.
- It can be challenging for Procurement to become involved in the purchasing of consultancy services, even when its engagement is mandated. Achieving engagement with the stakeholders early in the strategy development process provides opportunities for Procurement to demonstrate value beyond cost management, and to influence the use of alternative suppliers.
- Despite not always being involved at the start of consultancy and legal services engagements, Procurement can provide value by:
  - Preparing a preferred supplier list (PSL) or panels of appropriate consultancy and legal services providers by category for consideration by the stakeholders, to enable them to select and quickly engage qualified and approved service providers
  - Assisting the stakeholders with accurately defining their requirements and the scope of work, and to avoid the additional costs associated with change orders and scope creep
  - Negotiating rate cards with agreed volume discounts and developing project-based cost models
  - Linking payment to deliverables and performance, and only paying the service providers when they have achieved specified milestones or targets
  - Conducting mini-tenders between the PSL or panel suppliers for specific projects this creates competition and motivates the service providers to offer cost reductions and faster project completion
  - Managing the service providers' compliance with the contract and monitoring their adherence to the scope to control the budget.

Managing the supplier base

- Stakeholders often favour the use of one or a combination of the major global consultancies, including:
  - Management consultancies, such as Bain & Company, The Boston Consulting Group (BCG), and McKinsey & Company
  - The Big Four professional services companies, which are Ernst & Young (EY), Deloitte, KPMG and Pricewaterhouse Coopers (PwC)
  - Other large professional services companies, such as Accenture, Capgemini and IBM Services
- A third party, such as Genioo, can be used for ‘body shopping’ for consultants who have previous experience of working at the large global consultancies, but without the expense associated with employing them. Alternatively, platforms such as Expert360 can be used to find independent consultants and freelancers.
Supplier panels or PSLs are comprised of service providers that have already been through the request for proposal (RFPs), qualification, approval and negotiation processes, and are usually engaged on the basis of a master services agreement (MSA), with a negotiated rate card and volume discounts where applicable. When a consulting company offers a broad range of services in numerous countries, the MSA may stipulate the terms and conditions (T&Cs) of the relationship but not include a rate card, to enable the rates to be negotiated on a project-by-project basis.

The benefits of having a supplier panel or PSL include greater control of spend, the negotiation of discounted rates, ease of engagement, faster speed to market, and improved risk management. Stakeholders’ compliance with the use of the PSL and panel suppliers is monitored by conducting periodic audits.

Approaches that are being used to differentiate whether to employ a consultancy or legal services provider or a temporary contractor include whether the scope and specifications of a project can be clearly defined; if so, it is suitable for contractor services; if not, then consultants should be employed. Decision trees can be provided within tools such as SAP Ariba, with pathways for using contractors, independent consultants, or workforce augmentation options.

The technological solutions that are being used for managing the supply base and the progress of consultancy and legal projects include:

- Enterprise resource planning (ERP) systems such as Oracle
- Vendor management systems (VMSs) and workforce management systems such as Beeline, Fieldglass and Impacore
- Spend management systems such as Coupa.

Managing the cost of consultancy and legal services

- Procurement should negotiate rate cards with all the providers on the panel or PSL by defining the maximum rates for particular services and any mark-ups. These are capped rates that are not to be exceeded in requests for quotations (RFQs) for individual projects, and can be used for benchmarking and gaining leverage when requesting new supplier rates.
- E-Auctions can be used to negotiate capped rate cards. This is successful if the service providers understand that they are bidding to be on an exclusive supplier panel or list. By omitting information regarding cost and supplier identity from the scorecards, the stakeholders will be selecting suppliers based solely on their ability to perform the work.
- Fixed fees and hourly rates based on time and materials are the most commonly applied remuneration structures for consultancy services. A milestone payment model may be applied to encourage project progression; however, it is essential to establish in advance, the points during the project at which approval will be given to activate the payments.
- Alternative fee arrangements (AFAs), such as gain-share models or performance-based remuneration (PBR), may be agreed for specific projects.
- When using a blended role rate that covers a combination of experience levels and rates, Procurement must make it clear to the service providers that the organisation will not pay for a greater number of partners than necessary, opting instead for the least expensive, most qualified individuals available.
- Project cost negotiations with the panel/PSL may include the free-of-charge use of consultants or legal professionals (secondees); however, organisations should only accept the offer of secondees if a satisfactory number of hours can be agreed for the knowledge transfer process, so that the client company retains knowledge in-house, particularly for legal requirements.
- Benchmarking services providers that are being used for evaluating consultancy and legal services rates include Beroe, Constella, Gartner, ProcurementIQ, The Hackett Group and The Smart Cube. Benchmarking services specifically for legal services include Buying Legal Council, CASME and CounselLink.

Contracting

- The duration of contracts with preferred suppliers may be three to five years, with the option to extend for one or two years. Some non-exclusive contracts are open-ended; in which case, the MSA should include the provision to allow periodic price adjustments and/or the renegotiation of the rate card.
- The contracts and/or MSAs for consultancy and legal services should include clauses that address requirements regarding:
  - Termination for convenience
  - Jurisdiction
  - Limitation of liability
Consultancy and Legal Services

- Dispute resolution
- Transition strategies
- Anti-bribery
- Confidentiality
- Ownership of intellectual property (IP)
- General Data Protection Regulation (GDPR) compliance
- Travel expenses
- Corporate social responsibility (CSR)
- Specific individuals with the appropriate levels of seniority and experience to be named for each project
- Changes in operational personnel and the required notification process
- The right to change the account manager if they are considered to be culturally or technically unsuitable. This is usually based on stakeholder feedback and the quality of the relationship
- Penalties, which can include service credits, rebates on the purchase price, and discounts on the total annual spend.

Measuring value and performance

- The service level agreement (SLA) requirements and key performance indicators (KPIs) that are used to measure the performance of consultancy/legal service providers are based on the type of project and the deliverables, as well as the contents of the statement of work (SOW). However, consultants and legal experts provide knowledge-based services that are often intangible; therefore, it can be difficult to apply suitable SLA requirements.
- Common KPIs include:
  - Timeframes for delivering work
  - Number of change orders
  - Low turnover of personnel
  - Accurate proposal costings; for example, the actual cost not exceeding 10% of the original proposal
  - Invoice accuracy
  - Stakeholder satisfaction
  - Responsive account management.
- The return on investment (ROI) of consultancy services should be evaluated on a project-by-project basis, with the focus on the contribution of the results to the achievement of the organisation’s business objectives. It is difficult to measure the ROI of legal services due to the different complexities and variations of each case.

Future trends

- The marketplace is changing; with the Big Four consultancies beginning to offer services in other areas, and the emergence of low-cost supply markets. The use of alternative sources of consultancy services is expected to increase, including the use of crowdsourcing platforms such as Deloitte Pixel.
- Instead of employing consultants for entire projects, a new way of working is to evaluate the end-to-end process, identify which activities can be performed by internal experts, and those for which external support may be required, and then employ specific consultants using network-based consultancies on a pay-per-project or case basis.
- The demand for legal services is expected to increase significantly as recognition of legal importance increases. Legal services providers are beginning to acknowledge the importance of a commercial approach and the role of Procurement in the sourcing process.
- Technological advancements are expected to impact both tactical and strategic procurement activities. Digitalisation, process automation and artificial intelligence (AI) are eliminating low-value manual tasks, and assisting with data capture and streamlining the organisational approach, particularly for e-Discovery. The cost of manual discovery is reduced through automated keyword algorithms, with AI extracting information from high volumes of data regarding commoditised legal activities and transactional work.
Resource Centre Links

The following are links to the full meeting notes for each region:

- Australasia, Sydney
- Europe, Dusseldorf
- Europe, London
- Latin America, Sao Paulo
- North America, New Jersey.

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Important

These notes are a summary of the facilitated discussions held between the delegates various meetings. We recommend that any references, particularly to legislation, or recommendations contained in these notes are cross-checked by the reader in order to verify their accuracy prior to being acted upon. Any third party organisations named in this document are not recommendations but are examples of companies mentioned during the meetings that might be considered when tendering for appropriate goods or services. These are not intended to form an exhaustive list and it is likely that other organisations not listed may also provide similar goods or services.

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CASME is the trading name of Market Focus Research Limited
EMEA and Head Office: 1 Holt Barns, Frith End, Bordon, GU35 0QW, United Kingdom
T: +44 1420 488355    W: casme.com    E: info@casme.com

Americas
New Jersey USA
T: +1 973 218 2566

Asia
Singapore
T: +65 6832 5584

Australasia
Sydney NSW
T: +61 2 8015 2340