

Outsourcing: Is it Right for Your Small Firm?

The recent trend towards contracting out may have important implications for small law firms.

By Arthur Greene

Outsourcing was once a novel strategy for law firms. We all remember the first time we noticed; for me, it was an answering service for a small firm. "I don't know the lawyer's schedule, this is an answering service." Imagine that, someone not in the office taking messages.



Over several decades, the profession has progressed from outsourcing administrative and clerical type functions to outsourcing aspects of the substantive legal services. Proponents say outsourcing can lower costs, increase flexibility, ensure quick turnaround, reduce payroll and related issues, minimize overhead and space requirements, and eliminate overstaffing – in addition to the costs associated with benefit packages, vacation time and the uncertainty of sick days.

Some outsourcing has become routine for many firms, particularly relating to administrative functions. Less popular is outsourcing substantive legal work to lawyers and paralegals working as independent contractors. But the headlines in the legal press are now focused on offshore outsourcing, which raises the question of whether there is a paradigm change at work: Does outsourcing represent the future of our profession, or is it still in the experimental stage with questionable results? Either way, how does outsourcing apply to the solo practitioner or to the small law firm? Can they benefit from outsourcing, either local or offshore?

Outsourcing administrative tasks

Regardless of the headlines, you don't need someone in India in order to outsource. Probably most small firms have outsourced some part of their administrative work. For example:

- Payroll - Most small firms have a payroll company to manage payroll and attend to all of the complicated bureaucratic forms. Outsourcing payroll is both efficient and economical.
- Bookkeeping - Hiring an independent contractor for one or two days a week to perform bookkeeping services is common in small firms.
- Courier services - Most small firms do not have the luxury of a staff member available to leave the office at random to make deliveries. In some cases, the courier charge can be passed on to the client.
- Copying services - For major copying or document production projects, go to a 24/7 office store. Again, these costs usually can be passed on to the client.
- IT services - Small firms typically outsource their computer maintenance functions.
- Stenographic services - The advent of digital dictation has enhanced the ability of lawyers to rely on independent contractors to provide legal transcription. Some lawyers dictate throughout the day and then electronically send the dictation to a person with secretarial skills who may spend

his or her day with kids or in a day job. The next morning, the completed transcription is waiting in the lawyer's inbox.

"Small firms can evaluate how they handle administrative functions and consider whether operational efficiencies or cost savings can be achieved by outsourcing."

Every small firm should evaluate how they handle administrative functions and consider whether operational efficiencies or cost savings can be achieved by outsourcing some or all of these administrative functions.

Outsourcing substantive legal work

The outsourcing of substantive work to independent lawyers or paralegals is becoming more common. For example:

- Paralegal services - As a solo or small firm, you may not have available to you a cost effective full-time paralegal with the necessary experience to provide the support needed. An outside paralegal on a case-by-case basis may be the answer.
- Contract lawyers - Many small firms engage associates that perform, offsite in most cases, select work on a contract basis. There are a number of different models, but the most productive is the firm that identifies contract lawyers with experience in a specialty area, eliminating the learning curve.

Decisions on outsourcing substantive legal work may turn on issues of employee availability and/or the need for flexibility. There's also a heightened need for supervision, particularly if the firm has not developed a history and a confidence level with the outside worker.

Outsourcing offshore

Offshore outsourcing has both advantages and challenges. While the cost may be less, the difficulties involved in getting it right may outweigh those cost savings. For those lawyers, who find it challenging to manage and supervise individuals who are within the same room, offshore outsourcing simply will not work.

With the exception of the courier and copying functions, most any other matter can be outsourced overseas. While offshore outsourcing can involve administrative functions, more commonly it involves support from lawyers and paralegals.

Offshore outsourcing has many of the same elements as working with any summer associate or paralegal. The offshore worker is not licensed to practice in your jurisdiction, but can provide legal research, organize and summarize files, and prepare forms and drafts of agreements in repetitive type matters. Supervision is required and a meaningful review by the responsible lawyer is essential. The actual lawyering needs to remain here.

With lawyers in India working at 20% or less of an associate's wage in the U.S. or Canada, the financial benefits of such an arrangement are obvious. While more the exception than the rule, there are reports of solo practitioners and small firms establishing effective relationships with lawyers or paralegals in India.

Except for the geographical separation, many of the same management concepts apply: training, mentoring, supervision, feedback, etc. In some respects, it is no different than what happens in the corridors of a local law firm. In one reported instance where a paralegal was not "working out," a change to a different paralegal transformed a difficult situation into a successful relationship. For those who can successfully develop a good working relationship with someone in a faraway place, the rewards will follow.

Cautions

The challenges of offshore outsourcing are to be expected, and the ethics can be described as “murky.” For those thinking of venturing into the offshore market, give attention to the following:

- It is commonly recommended that you engage an outsourcing service with a local office in the U.S. or Canada.
- Investigate the outsourcing firm and get recommendations from lawyers in whom you have confidence.
- Insist on developing a relationship with the same paralegal or lawyer in all your projects and develop a rapport which will lead to each one of you having a level of confidence in the other.
- Give priority to confidentiality and do not identify the client’s name without understanding the risks.
- Supervise the offshore worker with more scrutiny than people in your office.
- Carefully consider any lawyer-client privilege issues, and
- Be sure to have your client’s informed permission.

Conclusion

Outsourcing certain administrative functions can be beneficial to most small firms or solo practitioners. It is less clear whether outsourcing substantive legal work, either locally or offshore, will be beneficial to the small firm. The economics argue for it, but the logistics, the challenges and the risks make outsourcing more challenging. And outsourcing offshore adds a layer of complexity most small firms will not or cannot tolerate.

When considering offshore outsourcing, the small firm or solo practitioner needs to understand that it is not a solution to an inefficiently run office. It is only the well organized lawyer, operating at the top of his or her game, who will be able to be effective in achieving the benefits of offshore outsourcing. And, as a final thought, most lawyers will not be comfortable with seeking support offshore. If you are not enthusiastic and comfortable, don’t do it. On the other hand, if it feels right for you, give it a try.

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First published in the November 2010 edition of the CBA PracticeLink Solo and Small Firm Newsletter.

