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Converging External Counsel: Leading Practices in Selecting, Implementing and Managing a Value-Driven Preferred Network



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Converging External Counsel: Leading Practices in Selecting, Implementing and Managing a Value-Driven Preferred Network

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This Leading Practices Profile presents themes, trends and leading convergence practices of six legal departments and three law firms in selecting and managing preferred outside counsel networks as value partners.

The information in this Leading Practices Profile (“LPP”) should not be construed as legal advice or legal opinion on specific facts, and should not be considered representative of the views of ACC, unless so stated. Further, this LPP is not intended as a definitive statement on the subject; rather, it is intended to serve as a tool for readers, providing practical, benchmarking information to the in-house practitioner.

Lillian Moyano Yob, J.D., Legal Consultant for ACC, interviewed the featured participants and authored this Leading Practices Profile.

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OVERVIEW

February 2015

Over the past five years, ACC has published a number of Leading Practice Profiles highlighting management practices that enhance legal team value. Law departments featured in these profiles discuss their successful practices for spurring efficiency, managing costs and better aligning as partners of the enterprises they support.

In the 2010 [Leading Practices for Adding Value and Moving Beyond the Cost Center Model](#), we featured law department strategies that helped teams build value even in the wake of an economic downturn that had affected workload, budget and outside counsel spend. Two years later, [Legal Department Retreats that Strategize, Teach and Connect](#) highlighted law department best practices for planning and hosting successful legal retreats to enhance legal team output. In 2013, [Leading Practices in Law Department Metrics](#) showcased advice from law department leaders about capturing and using metrics to measure and improve the value proposition. Most recently, the 2014 LPP [Leading Practices in Law Department Staffing](#) demonstrated how legal departments allocate lawyer and non-lawyer resources to drive value, in the process showcasing best operational, technology and process-improvement strategies for making the most of resources across the spectrum of legal operations.

ACC continues the value series with this Leading Practices Profile, *Converging External Counsel*. Here, we feature advice and leading practices from six legal departments, three law firms and others on methods, trends, challenges and leading practices for building the best network of preferred law firms. The convergence champs featured here provide advice on selecting, integrating and partnering with law firms to achieve panels of outside counsel capable of working not only synergistically, but also in the most cost effective and operationally efficient ways. Legal departments from the following participating companies share their convergence solutions here:

3M	22
BMO Financial	27
Hilton	33
U.S. Foods	37
Dell	41
Bank of America	44

Also featured are insights from three firms with deep experience as preferred network counsel. The following firms offer important lessons for launching and sustaining a network that shares the legal department's own mission to improve the value proposition of legal services to its stakeholders:

- **Seyfarth Shaw LLP**
- **Eversheds**
- **Crowell & Moring LLP**

Contents

- I. Introduction7**
- II. Themes, Lessons Learned and Leading Practices for Launching, Implementing and Cultivating Success Through Convergence 12**
 - A. Launching Convergence: Leading Traits for Building Framework..... 12
 - I. Culling the Universe of Existing Firms..... 13
 - 2. Selecting the Network of Preferred Providers 14
 - B. Empanelling and Integrating the Network 16
 - C. Success Over the Long Term: Value Driving Practices 19
 - D. How Convergence Leads to Multifaceted Value: Parting Reflections 21
- III. Law Department Profiles22**
 - A. Combining Operational Excellence and Longer-Term Process Improvements to Build Strength on Strength: 3M’s Strategic External Counsel Network Strategy..... 22
 - B. BMO Financial Group: Increasing Value and Reducing Outside Spend through Convergence, Cost Management and Effective Governance 27
 - C. Leveraging Convergence to Inspire Innovation and Improve Operational Dynamics: Hilton’s Quest for Continuous Improvement..... 33
 - D. Convergence Over Two Cycles: U.S. Foods’ Leveraging of Data to Improve Network Performance and Value Outcomes..... 37
 - E. Using Hub Firms to Manage Legal Work and Control Costs in Emerging Market Regions: Dell’s Predictability and Alignment Solutions 41
 - F. Bank of America’s Litigation Roundtable: On Budget and Achieving Efficiencies..... 44
- IV. Sample Policies and Templates for Outside Counsel Selection.....49**
 - A. 3M 49
 - I. Legal Affairs Request for Proposal Template..... 49
 - 2. 3M First Principles and Playbook Slides 58
 - B. Hilton..... 59
 - I. RFP Folio Instructions 59
 - 2. RFP Folio (Designed to fold like a hotel room key)..... 60
- V. Additional Resources63**
- VI. Endnotes66**

I. Introduction

One matter, one firm. Until recently, this practice represented how companies engaged external counsel: lacking a coordinated system for retaining and managing firms, enterprises frequently retained counsel matter-by-matter, commonly engaging firms on a one-time basis or infrequently. This system impeded controls for measuring performance. It also hindered efforts to manage outcomes and control costs.

Today this practice is changing rapidly as many legal departments, including those featured here, focus on finding better ways to procure and deliver legal services to internal clients. For these departments, select, centrally-managed partnerships with a small number of key law firms promote relationships that better align with the strategic goals of the company. Integrated preferred counsel networks deliver more useful, business focused advice and scale their service to the company's evolving legal needs. Equally important, these partnerships with preferred external firms promote efficiency and enhance value.

Convergence, as the process of consolidating legal work among a smaller number of law firms, offers an opportunity to achieve these outcomes by yielding benefits that range from reduced legal costs to opportunities to rethink how legal work is assigned, how it is performed and how it is managed.

ACC's [2015 CLO Survey](#) found that converging outside counsel, negotiating alternative fee arrangements, and increasing reliance on in-house legal staff are the three most commonly cited strategies for reducing legal spending on external counsel. And while this overall trend toward fewer firms may be a response to business demands that all C-level executives - including CLOs - analyze business practices and suggest recommendations for enhancing productivity and efficiency internally, external legal service providers are nevertheless hearing this call for value and responding with their own innovative, client-centered solutions.

In this Leading Practices Profile, U.S., Canadian and European law departments in industries ranging from health to finance, technology to food service, discuss convergence strategies focused around cost-effective and aligned legal solutions. Time after time, the network's value yield is realized in its enhanced knowledge of the company's businesses and industry, its willingness to collaborate with other network firms to re-use work product and share best risk mitigation and prevention practices, and its receptivity to alternative fees.

To present a complete picture of the dynamics that drive successful network counsel relationships following a convergence, ACC interviewed legal departments and law firms to understand what key factors motivate - and impede - the most valuable, trust-based relationships. We begin with an overview of key lessons learned by outside counsel leaders who have significant experience in building these enduring, value-driven client partnerships.

Conversations with Preferred Network Law Firms about Launching, Implementing and Cultivating Success Through Convergence

The following innovative firms offer approaches for selecting the best aligned firms and cultivating preferred network relationships. We present here interview excerpts from Eversheds's Hong Kong-based Stephen Hopkins, Head of Global Client Development; Seyfarth Shaw's US-based Lisa

Damon, Partner and Seyfarth Lean Six Sigma Program Leader; and Scott Winkelman, Partner, Crowell & Moring LLP.

Launching Convergence: Leading Traits for Building Framework

Collectively, these value stream mapping leaders note that **the best convergence models** reflect these characteristics **at inception**:

- **Self-Awareness.** Before soliciting any proposals, the best prepared corporate legal departments understand their needs, know their base position, and have a clear vision of what successful convergence will offer - not only in the first year, but also over the long term, according to Stephen Hopkins. The best-prepared convergence teams have robust data on existing and past expenses and provider performance. "Legal departments who come into the process with a good plan for what is required after selection of the network are the ones who net the greatest success and most valuable, lasting partnerships," notes Lisa Damon.
- **A Collaborative Mentality, Both Top Down...** Successful convergence programs communicate objectives and elicit support from top, middle and lateral echelons from the get-go. The entire business - not just the legal team - must be onboard and completely endorse the convergence. This is a sentiment expressed not only by these firms but also by the law departments featured here. Top-down support is an important prerequisite to success. Equally important is support at the management and local implementation levels. The risk of inadequate communication is great. Explains Stephen Hopkins, "we have experienced defeat of many well-intentioned initiatives because local management had not been engaged in the convergence process and refused to accept the outcome. Success of the convergence exercise will be seriously hampered unless unit leaders are brought on side."
- **And Laterally.** The best-equipped convergence steering committees also enlist internal, lateral expertise - even while maintaining ultimate control of the deal. While legal should rightfully own the process, involving procurement and finance enhances the outcome and preserves harmony in relationships: "Sophisticated procurement teams working in partnership with the legal department can add immense value to the exercise. They can, for example, take the blame for any tough price negotiations, potentially protecting the relationship between the legal department and the firm," according to Eversheds's Stephen Hopkins.

Managing the Network: From Orientation Through Execution

After the network is selected, these firm leaders agree that corporate legal departments with the best models rely on the following practices to integrate their panels:

1. **An Implementation Roadmap.** Well-conceived convergence models often rely on an implementation plan that documents a commitment by both firm and legal department to the success of the relationship. “As much effort should be put into the initial implementation as was put into the selection process,” notes Stephen Hopkins.

“Often the exercise of appointing new panels is seen as the end and not the beginning,” adds Seyfarth’s Lisa Damon. “A detailed plan that calls for regular reference back is the key: convergence teams should nominate point persons from the department and each firm to note all actions and report back weekly and before project meetings,” advises Stephen Hopkins. Legal departments profiled here agree. Once the convergence is complete, without a specific plan and dedicated point people to manage the network, the organization risks failing to tap its firms optimally and losing momentum.

2. **Active Engagement of the Network.** Hand in hand with a solid implementation plan, successful convergence models work to keep external candidates interested and engaged in the convergence from launch through the lifespan of the engagement term. Even after reaping cost savings from alternative fee arrangements, the most successful convergence programs actively manage the network as partnered extensions of the internal legal team. In return, they expect these firms to measure up to the social compact of shared values. “The best convergence models will not hesitate to replace firms that aren’t living up to the ideals of that social compact, whether in terms of diversity, pro bono, support for alternative staffing or flexible work schedules,” explains Crowell & Moring’s Scott Winkelman.
3. **A Desire to Build Partnership.** Innovative convergence programs are defined by a mindset that the network law firm will be more than a service provider: from inception, the best approaches induct network firms using a process designed to ensure they become trusted partner extensions of the corporate legal department.

“The most successful law departments bring their preferred network firms together annually. They talk to each of them and expect firms to talk to each other. They also expect that the network will leverage its collective expertise on the company’s behalf,” explains Seyfarth’s Lisa Damon. “Initial webinars involving senior management are an excellent way of engaging selected firms and helping them deliver advice tailored to the culture of the organization,” adds Stephen Hopkins.

According to our firms, the most successful models **manage the preferred panel network** by adhering to these principles:

1. **Understanding that trust is the cornerstone of partnership.** From the law firm perspective, client practices that demonstrate the firm is as important to them as they are to that firm is a cornerstone of trust-building.

“Corporate clients that demonstrate an interest in our diversity and staffing policies, our commitment to pro bono, clients who want to know whether we have a succession plan to ensure survival of the relationship despite the departure of individual attorneys, who hold us accountable for commitments we make – these are clients who demonstrate that they are as invested in us as we are in them,” explains Scott Winkelman. “We may not always appreciate the meddling, we may not always love every decision this client makes about every matter, but net-net over the short and long term, this interventionist approach shows that the client has our back in the same way we have its back. And ultimately this approach improves the relationship on both sides. Clients who are willing to serve as a reference for us, who allow us all to trade on the network, who ask us for favors and are receptive when ask favors of them – these are the clients who foster the mutual trust that makes for a truly aligned, successful partnership.”

For a law firm, building trust can also mean recognizing limitations and only taking on work it is qualified to do and capable of delivering on time and on budget. “Early on in our relationship as preferred counsel for a Fortune 500 company, our firm was offered the chance to undertake a very major piece of work for that client in a European country that we had some experience in, but not at the level we considered necessary to do an excellent job. We turned down the project and recommended another firm -- who eventually billed over US \$1million on the matter. Were we foolish to turn down a lucrative assignment from an important client? Not at all. In fact, ultimately this decision did more to cement the relationship than any other action over the last seven years of our very successful partnership with this organizational client,” explains Eversheds’s Stephen Hopkins.

2. **Developing a system of regular and ongoing communication.** Without ongoing, clear communication, the prospects of success are reduced.

“However you choose to structure it, be sure to build communication into the plan at all levels,” advises Stephen Hopkins. Depending on the scale of the convergence, scheduling 30-minute, weekly calls with network firms to address aspects of the relationship works well. “These calls quickly bring to the surface issues on both sides that can be resolved quickly. Leaving them for several weeks will often lead to relationship damaging issues. Weekly communication is critical,” adds Hopkins.

Success Over the Long-Term: Value Driving Practices

According to our firms, forward-thinking legal departments sustain success over the long-term by:

1. **Embracing a continued commitment to innovation.** Among established preferred provider networks, the most successful convergence programs are those that continue to pioneer new and better ways to derive value from the relationships. The most forward-thinking corporate legal departments have a mindset that the program – and the role of the network – *should* evolve over time in order to sustain the commitment to shared values: “The best and most enduring programs are evolutionary in their expectations,” explains Scott Winkelman. “These legal departments have the courage to do radical things, to make new inquiries of their firms, to look to their firms for emerging best practices in recovery, for example, or best practices for controlling costs and evolving into a profit center for the organization. “It’s an incremental process that involves establishing the program, managing it proactively, and having the conviction to demand constant improvement.”
2. **Adopting a detailed scope of work and a single, agreed-upon budget every time, for each matter and before starting work.** It may seem obvious, but relying on an estimate to begin work on a matter can easily lead to relationship-damaging (or -ending) conversations later on. “Both firm and client should agree up front that no fees will be paid unless written approval is obtained before work begins,” adds Hopkins.
3. **Relying on data collection and reviewing analytics to improve process.** “Law departments should be able to collate data on spend from their converged panels. Unless that data is analyzed and action taken on the back of it, however, stop going to the trouble of collecting it,” our firms advise. Innovative legal departments share spend data with network counsel and seek their suggestions to improve efficiency. “If your law firm is unable to work with you to turn data into improvement, demand change or find another partner,” adds Stephen Hopkins.
4. **Relying also on committed network coordinators.** A great network coordinator is open minded about alternative options for pairing firms, building the network and creative pricing. “A forward thinker in this role promotes a natural evolution of the network so that value-based practices that benefit both client and firm can take hold,” notes Scott Winkelman.
5. **Encouraging teamwork from panel firms to achieve excellence.** The best preferred network programs bring external counsel together annually to leverage their collective expertise in training and matter management.

“Many legal departments are reluctant to ask their firms to do this. Nevertheless, there is great value for those who manage their network as a team,” explains Lisa Damon. “Train firms together on the approaches you require and share best practices at joint panel meetings.” Legal departments should expect their preferred providers to share best-in-class practices, checklists and FAQs, and brief the organization on regulatory developments and issues on the horizon. Damon adds: “Demand collaboration and the productivity it can yield – the rewards will be significant for all sides.”

II. Themes, Lessons Learned and Leading Practices for Launching, Implementing and Cultivating Success Through Convergence

We found parallels between what the law firm network experts identified as best practices and what the legal department convergence programs featured here are deploying. Both firms and clients share a commitment to innovation in the way services are delivered; an expectation that the role of preferred networks should evolve to sustain shared values; and a desire to build the kind of partnership that comes from ongoing and close working relationships.

From launch through the empanelment and integration of these preferred networks, the six organizations featured here share their leading practices and key lessons learned in building successful preferred provider networks through convergence.

A. Launching Convergence: Leading Traits for Building Framework

The programs featured here all began their convergence journey by working through a series of steps. First, they recognized a problem with having hundreds – sometimes thousands – of law firms providing legal services across the enterprise without a cohesive strategy for managing those relationships. Next, they articulated goals for converging that universe of external law firms into a network of select providers capable of integrating with the in-house team as a unified legal services delivery unit. As the final pre-launch step, they devised solutions for selecting the best-aligned, most valuable network of outside counsel possible while empowering mutual success. The following snapshots offer an amalgamated view of the most common problems, goals and solutions as cited by the legal departments here.

- **Our Problem?** Too many outside firms on the books fragmented our operations and impeded a manageable span of control over costs and outcomes. Without a concerted approach for managing firm relationships, our external law firms were each handling our matters in their own way, without coordination among one another. The result was inefficiency that was costing us money. At the same time, because we were spreading our spend over so many providers, we were not leveraging it in a way that made us a strategic client to any one of them. Overall, we were spending too much time managing individual relationships at the cost of a very precious resource: our time.
- **Our Goals for Convergence?** We wanted to work with our firms to drive down costs. To those firms willing to work with us to design a fee structure that was premised on efficiency, we were committed to sending enough business their way to make their efforts economically worthwhile. We wanted to improve both the quality and depth of our relationship and communication with outside counsel. We wanted to build mutual, trust-based partnerships with network firms through a process focused on stewardship and operational excellence. We wanted to reduce outside legal costs, improve

efficiencies and enhance vendor management. Our goal was to build a network that would work collaboratively with each other and our in-house counsel using alternative and fixed pricing models. Then and now, we are committed to obtaining effective and efficient legal services that meet high standards for work quality and value. Our interest is in paying for results, not time.

- **Our Solutions?** To develop principles to guide convergence, establish objectives with our newly formed network, and measure outside counsel performance going forward. We mapped a process to align legal services with business strategy, with the understanding that efficiency and nimbleness would be paramount values. We designated hub firms in emerging markets territories that would serve as the go-to's for issues arising in those regions. With these three dynamics - top down support, communication across the enterprise about the process and its goals, and support across the practice and operations teams - we developed a successful partnership with outside counsel.

Within this framework, the law departments featured here share their process, their lessons learned and their leading practices for convergence success from launch through results to date.

I. Culling the Universe of Existing Firms

The process of selecting a network of preferred providers who are outside counsel typically begins with an internal assessment of the universe of existing firms. For the departments here, this assessment involves any number of cross-functional stakeholders, including the convergence steering committee, other members of the legal, finance and accounting offices, and the business unit consumers of legal services. Structured, regular communications between these actors is the first major step toward identifying firms whose expertise and innovative approaches to value would best align with the needs of the organization. To this end, the following theme emerged from our conversations:

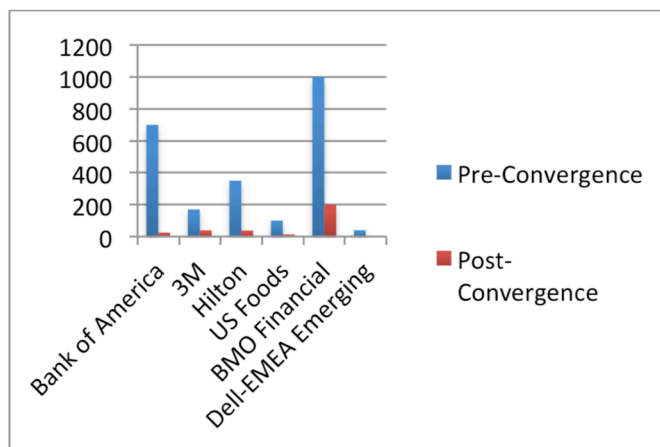
- **Collaboration Across Teams and Functions Is a Crucial First Step.** Like the law firms we interviewed, our profiled legal departments recognize that successful convergence depends on effective communication of objectives across the entire enterprise. The entire business – not just the legal team – must be completely onboard with the convergence.

Consulting with its business units was a crucial first step for BMO Legal to identify firms that would be invited to bid. By taking time to meet with the lines of business to identify which firms could best provide the expertise and quality of work BMO needed, the legal group was able to help develop values categories that would shape the Request for Information. “Ultimately, these conversations helped reduce the pool of firms invited to bid from 1,000 down to 400,” notes BMO’s Anne Sonnen. More importantly, by continuing the conversation and encouraging institutional feedback throughout the development of the RFI and as new firms were selected for the panel, the legal group engendered greater support for the undertaking and its outcomes.

2. Selecting the Network of Preferred Providers

The departments profiled here use two tools (RFPs and RFIs) to solicit bids from firms for selection as preferred external counsel. The Request for Proposals is most common, used by five of the six departments. The Request for Information is preferred by BMO Financial Group (BMO) for its ability to yield better data on criteria narrowly tailored to align with BMO core values. The following theme emerged from our conversations with these value stream mapping leaders when asked to comment about their process for reviewing the pool of hundreds – sometimes even thousands – of firms to determine who would be invited to bid:

The legal departments featured here reduced the number of external counsel preferred firms by some eighty percent or more through convergence rounds. The table below illustrates the degree of reduction.

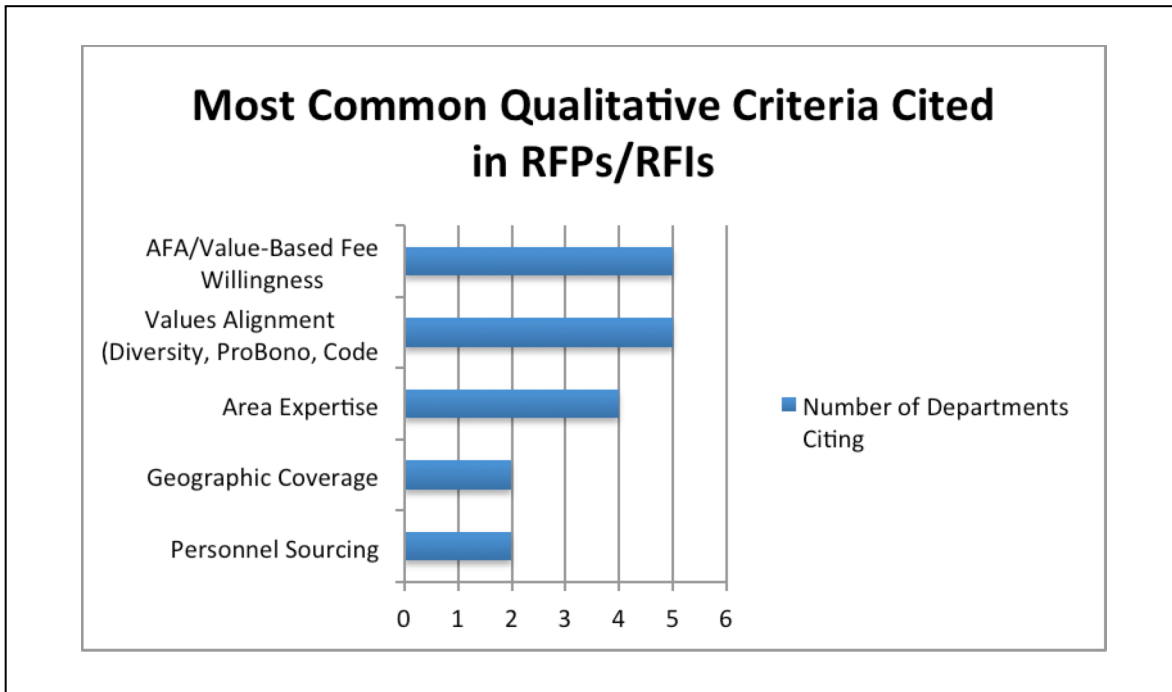


- **Selection Criteria are Driven by Values.**

Regardless of the tool used (RFP or RFI), a common factor cited among the departments is the desire to find providers who share the organization’s values and goals for continuous improvement. Like others featured here, 3M sought to build a preferred provider network that would reduce outside counsel spending while fostering the growth of mutual, trust-based relationships. Firms under consideration were expected to embrace creative approaches to communication, process improvement and project management designed to improve the quality and effectiveness of legal services rendered. They were also expected to share 3M values, including a commitment to community pro bono, community service, diversity and inclusion.

At Bank of America, data-driven selection criteria focused on the firm’s existing partnership with the bank; its areas of expertise; and its willingness to work with fixed fees and alternative fee billing. Firms that stood out for Hilton demonstrated an ability to think and act innovatively. These favored firm responses demonstrated they were willing to be measured by the quality of their deliverable rather than by their effort or hours spent.

Organizations rely on a number of criteria for assessing law firm compatibility. The table below depicts several of the most common qualitative criteria cited in the RFPs and RFIs of those featured here.



- What We Learned: Keep the Filtering Documents Simple and Brief.** Dell, Hilton, 3M and BMO all emphasize that the RFP, RFI and engagement letters should be simple and brief. Notes 3M's Otterstetter: "A brief, crisp RFP reduces pain for both the firms responding and our folks reviewing. Save the detail gathering for the interviews: that [is] where ... the rich discussions about our vision, their expertise and qualifications ... [can take place]."

"The time to clarify details, dive deep into expectations, ask for specific concessions and offerings will come later," notes Dell's Bolger. "The RFP and engagement letters should be simple and streamlined: the primary goal with these is to identify and memorialize the core principles. The details, including the discussion on bells and whistles (i.e., professional development training, potential secondments and knowledge sharing) will follow as the relationships deepen. Save yourself time at the tender stage by avoiding the temptation to become sidetracked with the extras."

B. Empanelling and Integrating the Network

After selection, the best convergence programs seek to integrate chosen firms into a unified internal/external team capable of optimal collaboration on cases and projects. This integration involves a number of thematic elements designed to spur value-driven performance including:

- Building Partnership Through Conferences and Collaboration.** As noted by the firms above, innovative convergence programs are defined by a mindset that the network firm will be more than a service provider: from inception, the best approaches induct network firms using a process designed to ensure they become trusted partner extensions of the corporate legal department. For U.S. Foods, the best implementation programs foster a culture of collaboration that encourages firms to think strategically about the best outcomes for the unique needs of that enterprise.

All of the departments here deployed kickoff conferences (most live, one via webinar) as the new networks were empaneled; they also plan to bring their networks together periodically to encourage collaboration and continued building of virtual teams. 3M's Litigation and Preventive Law team hosted a two-day process meeting six months after the network was empaneled. Its purpose? To build collaboration by inviting firms to share their best thinking and practices on early case assessment and custom fee arrangements. Bank of America's Litigation Group conducts an annual summit for its litigation firms and all in-house litigators to share best practices, subject matter expertise, emerging litigation trends and budget management practices. BMO's operating model for integrating the network relies on periodic, internally hosted workshops modeled after the [ACC Value Challenge](#) that facilitate communication about legal spend metrics, the annual review process, and goals for the network.

ACC Value Challenge Resources

ACC offers a number of resources to support your legal department's efforts to reduce costs, increase predictability and achieve better outcomes. Within the ACC Value Challenge library, ACC members have access to resources that include managing law firm relationships, budgeting and project management. A Value eGroup also allows users to communicate with each another about specific issues. Learn more about our AVC offerings [here](#).

Collaboration, Not Competition. Effective collaboration leverages relational capital – a stock of mutual trust and shared culture, learning and work processes – to attain better results at lower cost.¹ Network firms serving companies profiled here repeatedly demonstrate their willingness to collaborate for better client outcomes. U.S. Foods' firms have compiled standard responses in litigation matters to share with other panel firms providing similar support. And firms that make up Bank of America's Enterprise

Litigation Team routinely work together to achieve efficiencies through shared work product and defense strategies. “Their willingness to share work product and regularly evaluate staffing and defense strategies in a collaborative way has achieved great efficiencies for us; it’s almost as if the firms are an extension of our inside counsel,” notes Bank of America’s (BOA’s) Quarmby.

- **Value-Based Billing Takes Precedence Over Hourly Billing.** The majority of departments have committed new engagements to alternative fee arrangements as a key goal of the convergence. “Alternative fee arrangements that eschew hourly billing for a fixed cost pave the road to value by encouraging efficiency and allowing predictability” is a common theme cited by these legal leaders. Quarterly reporting on portfolios that have migrated to AFAs (BMO); evaluating firms on total value delivered, including results (3M); and use of technology based detailed budget processes (BOA) reflect best practices for containing the cost of legal services.

Cited value-based fee structures include success fees, combinations of fixed plus success and volume pricing for commoditized work. Hilton, BOA and others have implemented such value-based fee structures to help contain costs while affording firms an opportunity to gain from efficiency even as they share risk. For most departments, the goal is to limit the use of hourly fees to complex, high-risk matters. As enhanced e-billing systems facilitate greater cost predictability, departments like BMO expect that *all matters* (including those involving unique, high-risk issues) will evolve toward alternative fee arrangements. At Dell’s UK-based EMEA legal team, the goal is to migrate to fixed fees for hub firms initially selected on their willingness to offer a discount off their hourly rates.

BMO’s philosophy is echoed by the others:

“We continue to emphasize to firms as part of our fees discussion that value to us is not only reduced costs, but also better outcomes and more predictability. Alternative fee arrangements help us achieve our commitment to delivering value to the organization. Firms willing to work with us to help us achieve this goal are the relationships we want to develop. They also benefit as the amount of business they do with BMO grows.”

“Hourly rates impede rewarding the right things, such as efficiency. There’s no question that firms act with integrity in billing; nevertheless, the hourly billing model does not incent efficiency or value-based outcomes. It is far better to have an arrangement that drives incentives for the firms to achieve the business outcomes established at the front end of the engagement and encourage discussions centered around efficiency: ‘what do you need us to do, what can be done more efficiently in-house or through third-party providers?’ are the questions that help us all build a better model if asked from the start.” – Joseph Otterstetter, Managing Counsel, 3M

- **Ongoing Feedback and Evaluation.** Ongoing feedback and evaluation is another best strategy for integrating preferred law firms into the business model. For some legal departments, evaluations are triggered automatically when a certain spend threshold is met. Other leading departments like Hilton and BMO rely on platforms that facilitate quick reviews on user-friendly review systems powered by applications similar to those used on social media review platforms like *Yelp* or *Trip Advisor*. These quick evaluation tools facilitate the department's governance efforts and allow other in-house counsel to see how that firm performed in each phase of a matter for every matter. Data on the reviews and internal feedback surveys is collected by BMO and recurring themes are discussed with each firm as part of the formal annual review meeting. Law firms also endorse after these action reviews as a leading practice for continuous improvement.
- **Updating the Network.** Several departments have updated their networks after the original convergence. These "refreshes" take the form of renewed requests for value-based data that demonstrate firm progress toward greater alignment of services, matters and budget. To determine whether they were achieving greater predictability and transparency around spending, both BMO and U.S. Foods have asked their existing firms to provide updates on changes in value-based fees utilization, increases in matter and budget tracking, diversity and pro bono efforts. U.S. Foods also sought updated data showing success in leveraging work for past clients, training, client service structure and geographic footprint.

Lessons Learned. Beyond the themes discussed above, a number of common lessons emerged from the law departments as they integrated their preferred networks. These include:

- **Launch and Learn.** Launching a complex program like convergence, with its many parts and stakeholders, can be intimidating for the inexperienced. Yet for the forward thinking programs of the legal departments here, trial and error are precursors of success. These legal departments were willing to experiment with ways to select and integrate the panels for the best fit, adjusting their techniques as needed along the way. "Even if it's new to the organization, you don't need perfect knowledge to take the initiative," notes Hilton's Charles Corbin. "At worst, you'll fail forward. By mapping the process, you can learn as you go, improve and come out ahead in the long term."

They also embarked on the journey with a tenacious mindset: "It can take more than one try to get it right and that's OK," counsels U.S. Foods' Juliett Pryor. "Keep in mind that learning where gaps may exist during your first attempt will yield opportunities for improvement in subsequent rounds." Perfection sought from the onset, they understand, can be the enemy of good. For these and other successful leaders, launch and learn is the only way to go - errors are simply the price of learning and improvement.

- **Don't Fear a Sacrifice in Quality.** "Don't fear that asking for an alternative fee arrangement will mean a sacrifice in quality," advises U.S. Foods' Associate GC Capers. On the contrary, legal leaders here note quality is enhanced as firms become stakeholders in the company's success. One advantage of working with select providers

is that firm and client collaborate more frequently – a natural outcome of smaller pools of providers. “Because these firms are now stakeholders, they understand our needs better and are true partners vested in the success of our business. We’ve seen significant value enhancement thanks to lessons learned through the first and second convergences. Our negotiated fee structure in no way impeded top-notch performance,” notes Capers.

- **Breaking Up is Hard to Do.** At its core, convergence is about changing relationships with external firms and successfully managing that change. Most of the legal departments we interviewed expressed a common theme: “Going into the process, we underestimated how difficult it would be to move away from some of our longstanding relationships with firms.” Related challenges included the pace of transformation and the collaboration required between legal and the business units to cull prospects.

The departments here relied on a number of solutions to overcome this challenge, including:

- 1) relying on the transformative impact of top-down support to set the tone (listed as a crucial factor by all of the departments);
- 2) involving internal counsel in recommending which firms would be invited to bid and in developing selection criteria (U.S. Foods);
- 3) deploying team approaches involving project leaders and/or subject matter experts (Hilton and 3M). “One of the best things we did was to put team leaders in the center of the process. Equally important was the leadership and demonstrated commitment of the General Counsel and senior leaders. Explaining why the change was needed and encouraging open communication within the legal group helped build that foundation” was a common sentiment among most of the departments;
- 4) adopting a policy of frequent, open and ongoing communication with internal components and firms about the process, why specific firms were selected and goals for the network (U.S. Foods, BMO, Bank of America).

C. Success Over the Long Term: Value Driving Practices

The expectation of legal departments over the long term is to become more relevant to the firms that support them even as they improve mutual communication and depth of understanding. This expectation is a natural outcome of a converged panel of firms willing to charge preferred rates in exchange for more work and greater access to enhanced knowledge of the company’s business and processes. Achieving these aligned results over the long term is the product of themes and leading practices noted here:

- **Enhanced Technologies and Better Data Facilitate Values Alignment.** Measures discussed above to update networks owe their success in part to enhanced matter management and billing technologies that have facilitated the creation of better data. This improved data has allowed departments to map spending and better understand costs around specific matter components.

With better data, U.S. Foods has been able to identify normal and atypical patterns in execution and outcomes through predictive coding; this has allowed them to devise pricing models that do not require reverting to straight hourly billing except for the truly rare, one-off matters. Thanks to such enhanced and bankable knowledge, U.S. Foods has been able to yield a smarter, more aligned network in its second round convergence. “With better data that we could share, our firms were able to bid more intelligently. In that second round, we were able to tell them, ‘here’s what our body of work looks like, this is what it requires, tell us how you propose to service it more cost effectively and in a manner that affords more predictability around spend.’”

Collecting spend data from their converged panels and using that data to improve efficiency with their network counsel is a best practice cited by our law firms for achieving success over the long-term. Correspondingly, for the legal departments here, firms that can demonstrate implementation of matrixes to track data internally by project component - giving them granularity into each element - are the ones who impress as most likely to create bids that will work for both client and firm over the duration of the project. The results of pricing agreements supported by calibrated, data-backed projections have been impressive for departments like US Foods: since its first convergence, outside counsel spending is down by 40%. BMO has also exceeded the enterprise’s overall savings goal since its first convergence in 2012.

Leading Practices for sustaining success over the long term rely on:

- **Relationship Operating Models.** Most of the legal departments designate individuals from within the department who have responsibility for managing relationships with portfolio firms. As the process for managing relationships with preferred networks has evolved, so has the process of leveraging expertise within the internal practice groups. Whether they are designated as relationship managers, external counsel champs or internal point persons, the legal departments featured here consider this model for managing external relationships a leading practice. Relationship managers help ensure regular, meaningful feedback on project stats, spending, best practices, and business and legal highlights. For BMO, this feedback supplements the annual review process and facilitates the resolution of issues as they arise.
- **Going All In (or In Phases)...** One department credits its decision to execute large scale and comprehensive change from the onset as a best approach for convergence. For BOA, going in all at once offered opportunities for better oversight, onboarding and evaluation from inception. On the other hand, phasing in convergence through two rounds has worked better for departments like U.S. Foods.
- **... And With a Win-Win mentality.** The mark of a successful convergence program isn’t just the savings to the organization. Rather, convergence is about seeking what works to drive *value* – in synergy, partnership and overall gains - for both sides. U.S. Foods, 3M and Dell emphasize the importance of mutual gain to convergence success. “Sending the majority of our work to our portfolio network firms offers mutual benefits: for them, it builds trust and incents them to remain committed to us,” notes 3M’s Otterstetter. “For us, it facilitates the engagement because we are working with firms that know our company well and come to a particular set of issues without the

hindrance of a learning curve.” A win-win mindset going in to the convergence is a predictor of success, notes US Foods. “Your goal should be to develop a business relationship with your preferred providers. It isn’t just about getting the best rate; it’s about what works valuably for both sides,” notes U.S. Foods’ Deputy GC Sharps-Myers. Adds Dell’s Paul Bolger, Executive Director, EMEA Legal, “because we rely heavily on our select “hub firms” in the EMEA emerging market region, they have much better insight into how Dell works and what drives our commitment to excellence. In return, they are able to better tailor their efforts to our specific needs, a process that yields positive returns on investment on both sides.”

D. How Convergence Leads to Multifaceted Value: Parting Reflections

An increasing number of firms are heeding law department calls for cross-firm collaboration, improved project management capability, restructured billing models that focus on value delivered over time billed – and even consolidation of offices to lower-cost geographical areas. One of BMO’s preferred network firms has opened an office in Halifax, Nova Scotia, a lower cost jurisdiction. Others have implemented project managers to help map the best fee arrangement structures possible. And overall, more and more preferred firms are collaborating on solutions, building templates and scoping approaches.

What other results has convergence delivered these departments on the value mandate?

- For Hilton Legal and its network law firms, what started out as a process for reducing the number of external firms and changing those relationships instead became something much bigger: “[Convergence] became a catalyst for changing how our internal professionals understood the dynamics of our business,” notes Senior Vice-President and Associate General Counsel Charles Corbin. “[Our] department as a whole became more project oriented, more aware of what it took to deliver better service in an integrated manner, and more closely aligned with internal business partners.”
- Convergence enabled Dell to tap hub firms capable of attaining depth of industry and company-specific knowledge. The result has been enhanced management of secondary providers in EMEA emerging markets and greater cost predictability. “And because we’ve been able to delegate a significant amount of administration of local firms to our key providers, we have netted significant savings of costs and another very precious resource: our time,” observes Bolger. “Since the original tender in 2009, our external counsel costs in EMEA have significantly reduced and whilst we can’t say that this reduction is solely [the result of] the outside counsel restructuring strategy, it has played a significant part in driving down cost, reducing time spent on administration and ... vastly enhance[ing] the quality and depth of our relationship with our panel firms.”
- Beyond pricing reforms, BMO and 3M measure law firm value by the services they provide that add to outcomes. “We emphasize to our firms that spending on project managers/precedent libraries/templates, and a commitment to work together on diversity or corporate giving initiatives are valued over spending on perks (such as hosting social events) that do not add value to outcomes,” explains BMO’s Sonnen.

3M's Preferred Counsel Network has significantly reduced outside counsel spending and improved both communication and effective collaboration with outside counsel. "We work with our firms to drive down costs. To those firms willing to work with us to design a fee structure that is premised on efficiency, we are committed to sending enough business their way to make their efforts economically worthwhile. ...By working with our preferred firms to build a deep understanding of our company and honoring our commitment to send almost all of our work to them, we've built trust and forged partnerships that have been mutually rewarding and overwhelmingly positive," notes Managing Counsel Joseph Otterstetter.

III. Law Department Profiles

A. Combining Operational Excellence and Longer-Term Process Improvements to Build Strength on Strength: 3M's Strategic External Counsel Network Strategy

Since the arrival of Ivan Fong as General Counsel in 2012, 3M's legal team has redefined the ways in which it selects and works with its outside counsel. As part of a strategy to reduce the number of firms that service its litigation and M&A matters, the department has taken steps to build a network of preferred external legal support providers capable of working with 3M Legal to deliver the best possible outcomes in a cost-efficient, value-oriented manner. The result of this comprehensive review of external counsel engagement has been an important refinement of the balance between needs and responses, productivity and efficiency.

To learn more about the unfolding of 3M's convergence strategy, we spoke with Managing Counsel Joseph Otterstetter. As Managing Counsel, Otterstetter works closely with General Counsel Ivan Fong and his legal and support team to manage the department's budget, technology, human resources and operations functions.

The 3M law department is largely centralized and is organized to serve the company's business and geographic operations around the world. Domestically, the department relies on a staff of some 105 lawyers, 34 paralegals and 40 specialized and administrative staff to support the company's U.S. operations. The latter group includes the legal operations team responsible for office administration, project management, data and analytics, electronic records management, in-house document collection and review, and the department's India-based Legal Process Team, which handles a number of important back office functions of 3M's business and intellectual property legal teams.

A One-Minute Snapshot of 3M's Reengineered Convergence Approach

The 3M Legal Affairs Department has executed a convergence strategy that builds on a number of models and seeks both to reduce outside counsel spending and build better partnerships with

outside firms. The powerful “why” of the process is to free up resources to build in-house capabilities in legal areas required both to support the company’s growth and to proactively address emerging risk and compliance areas. The team has executed this convergence strategy by:

- Forming a Preferred Counsel Network, which has reduced the number of outside firms with which 3M works while significantly reducing outside counsel spending and improving both communication and effective collaboration with its outside counsel.
- Implementing a set of “First Principles” to guide the convergence process, establish objectives for the newly formed network, while serving as the standard for measuring outside counsel performance going forward. Among 3M’s guideposts is to select firms that share its values, including its community pro bono, community service, and diversity and inclusion.

Converging the Network of Preferred Outside Counsel Firms

In 2014, 3M launched its Preferred Counsel Network and significantly reduced the number of outside firms with which it works. The intent of 3M’s convergence is to reward Network firms with a larger share of 3M’s legal work and to improve both the quality and depth of its relationship and communications with outside counsel. The Legal Affairs Department also seeks to realize a significant overall reduction in 3M’s cost of external legal services. Value-based, customized fee arrangements -- focused on predictable and controlled costs, efficiency and results delivered -- became the primary basis on which 3M would compensate its Network counsel going forward.

With this vision, the team launched a convergence strategy that sought to reduce the 170 firms that serviced its litigation and M&A matters to a more manageable group, in the process yielding savings that would be used to fund more work internally. Before launching the Network, the 3M Legal Affairs Department spent the first two quarters of 2013 benchmarking approaches, planning, and enhancing its billing and matter management technologies. In the last two quarters, it reviewed RFP responses and interviewed firms. Finally, in February 2014, the team notified selected firms and brought the inaugural members of its Preferred Counsel Network together in St. Paul in March 2014.

3M's Network is comprised of a core group of some 39 firms that 3M is committed to using for 80% or more of its litigation and major transactional work. Led by a small "core team," that oversaw the work of the project, 3M divided its work into geographic or functional areas, and for each "portfolio" of legal work, a small "portfolio team" selected firms to be invited, reviewed RFP responses, interviewed firms, and with the input of Fong and his team, carefully selected Network firms. A separate portfolio for litigation involving the company's safety products disaggregated work (relying on specialized counsel for discovery, motions, settlement and trial) and tapped firms based on their geographic location and subject matter expertise.

3M's Intended Results. 3M's goal in converging to a preferred network was to reduce outside counsel spend by 25-30% while building mutual, trust-based relationships with the firms it selected. Its playbook strategy is to drive operational excellence through:

- establishing value-based compensation, rather than activity-based billing, as the new standard;
- clear, brief and uniform provider engagement standards;
- specific performance metrics for feedback;
- a process for early case assessment and resolution;
- a refined process for driving budget management and accountability; and
- installing legal project management as a key discipline.

As the process continues to unfold, 3M expects to become more relevant to the firms it works with while improving mutual communication and depth of understanding.

Like many other companies, 3M realized that it had engagements with too many outside firms and that this reliance was fragmenting operations. With fewer firm engagements, the legal department would be better able to focus on improving both value and effectiveness. "We want to work with our firms to drive down costs. To those firms willing to work with us to design a fee structure that is premised on rewarding value and driving efficiency, we are committed to sending enough business their way to make their efforts economically worthwhile. It's very important for us to not be the client that firms love to hate. By working with our preferred firms to build a deep understanding of our company and honoring our commitment to send almost all of our work to them, we've built trust and forged partnerships that have been mutually rewarding and overwhelmingly positive," explains Otterstetter.

Achieving this goal and its intended effects spurred the legal team to develop its "First Principles." These principles would guide the how and why of convergence, providing for leadership by practice group teams as they selected counsel for their respective areas. They also underscored the importance of shared values between successful firms and 3M. In sum, the Principles would define objectives and be the yardstick for measuring outside counsel performance and conducting evaluations down the line. (A copy of the 3M First Principles and Playbook can be found below in

Section IV, Model Forms and Guidelines.)

3M's First Principles are premised on two key pillars:

- 1) Incenting efficiency through value-based, customized fee arrangements focused on predictable and controlled costs, efficiency, and results delivered; and
- 2) Building trust through longer-term relationships and a commitment to direct a larger share of 3M's legal work to Network Firms that affirm a willingness to work under customized fee arrangements.

The Principles provide that 3M will not compromise on quality or responsiveness of legal service. They also emphasize 3M's commitment to fewer, better relationships with outside firms and provide that 3M pays for value, not just activity. Risk sharing and risk avoidance strategies are valued principles.

Selection and Evaluation of the Preferred Provider Network

Like other leading convergence programs featured here, 3M values innovation in the delivery of legal services. Firms under consideration for selection to the Network are expected to embrace creative approaches to communication, process improvement and project management in order to improve the quality and effectiveness of legal services rendered.

They must also be willing to provide - free or at a reduced cost - value added services, including access to the firm's extranet and document library or templates; software to improve predictability and management of matter budgets; legal training for the 3M legal team; and secondments of firm personnel to work on-site with 3M Legal Affairs.

A key success factor was engagement at all levels, most importantly by General Counsel Ivan Fong, who not only participated in the selection process but periodically calls the Network firms to assess how things were going from their perspective. Ongoing communication is critical. Inside point persons for each portfolio work closely with their firm counterparts and communicate regularly through calls, meetings, and group e-newsletters to share stats on projects, spending by portfolio, best practices, and 3M business and legal highlights. Following its kickoff meeting in March 2014, the department began exploring ways to bring the network together periodically to encourage collaboration and build virtual teams. In October 2014, the 3M Litigation and Preventive Law team hosted a two-day process meeting to build collaboration by asking firms to share their best thinking and practices on early case assessment and custom fee agreements.

Going forward, Network firms will be evaluated annually based on criteria that include:

- Professional excellence and experience of the team
- Responsiveness of legal service
- Depth of 3M knowledge or demonstrated ability and commitment to learn (at the firm's own expense) about 3M's legal practice, businesses and strategies

- Alignment with 3M's and Legal Affairs' values – including its commitment to diversity, pro bono partnerships and adherence to 3M's Code of Conduct
- Willingness to enter into value-based fee arrangements that provide greater business certainty, are based on value delivered, and that reward favorable results
- Diversity and inclusion performance
- Geographic presence (where advantageous to 3M).

Additionally, Network firms will be evaluated on total value delivered. This includes reviewing proactive advice and value-added services offered by each firm to help 3M better manage legal risk, learn from experiences, train its personnel, and collaborate with other Network firms. (To see the entire list of Evaluation Criteria, please refer to the 3M Request for Proposal for Legal Services sample package below in Section IV.)

Lessons Learned and Advice. Over the course of selecting and implementing the network in 2014, 3M Legal encountered challenges and learned important lessons. One noteworthy challenge was managing the significant change in the way external services would be delivered. “We underestimated the stomach acid around changing a process as fundamental as this in the early going,” notes Otterstetter. “One of the best things we did was to put team leaders in the center of the process.” Equally important was the leadership and demonstrated commitment of the General Counsel and senior leaders. Explaining why the change was needed and encouraging open communication within the legal group helped build the foundation.

Other lessons learned and things they would do differently, according to Otterstetter, include:

1. Shortening the RFP. “A brief, crisp RFP reduces pain for both the firms responding and our folks reviewing. Save the detail gathering for the interviews: that was where we had the rich discussions about our vision, their expertise and qualifications for the portfolio, diversity, etc.” At the same time, firms were clear that they wanted as much detail as possible on spending in order to make the most informed decisions in shaping their response to the RFP.
2. Considering carefully the impact of the process on internal teams and being disciplined about the number of firms invited to bid. “Scheduling time to review the RFPs and conduct interviews required considerable time and put a significant burden on folks who have day jobs,” notes Otterstetter. Straying from our goal to limit the number of firms invited to bid made for a lot of extra work -- something we would be more careful about in the event of another call for proposals.

Advice: Start Slow and Pickup Speed Later. “In designing a convergence program, invest time at the front end as you create the architecture and think through your own first principles,” advises Otterstetter. “There’s no question that firms act with integrity in billing; nevertheless, the hourly billing model does not incent efficiency or value-based outcomes. It is far better to have an arrangement that drives incentives for the firms to achieve the business outcomes established at the front end of the engagement and encourage discussions centered around efficiency: ‘what do

you need us to do, what can be done more efficiently in-house or through third-party providers? are questions that help us build a better model if we ask from the start.”

Positive Results Indicate Legal is on the Right Track. Despite its short history, 3M is achieving remarkable results in meeting its goals for the Network. External spending is down and internal investment is up. At the same time, the law department has honored – and exceeded - its spending commitment to the Network: from the 80% of total outside counsel spend set as its goal, 3M actually achieved 95% of spending actually was directed to Network firms overall to date. 3M Legal believes that honoring its commitment is important for building trust. And with projections showing that 3M is exceeding that commitment, the team has good reason to be optimistic about the Network’s prospects as a value partner well into the future.

B. BMO Financial Group: Increasing Value and Reducing Outside Spend through Convergence, Cost Management and Effective Governance

BMO Financial Group (BMO) is a Canadian-based North American bank. Its centralized legal group operates globally throughout the BMO service area and is supported by a staff of over 100 lawyers, paralegals (known as clerks in Canada), and administrative staff. As General Counsel for the Legal, Corporate and Compliance Group (LCCG), Simon Fish is responsible for the overall legal affairs of the bank worldwide, including BMO’s legal, regulatory, compliance, corporate secretarial and investigative & security services functions. The LCCG is set up in a line of business model supporting the four major businesses: (i) Capital Markets, (ii) Wealth Management, (iii) Personal/Commercial Banking in the U.S. and (iv) Personal/Commercial Banking in Canada and the rest of the world.

Anne Sonnen, former² Deputy General Counsel and Chief Administrative Officer for the LCCG, spoke with us about the legal group’s strategy for converging outside counsel into a preferred network of firms that would support BMO’s vision of operational excellence achieved through cost-managed, value-driven partnerships. As Chief Administrative Officer, Sonnen works closely with General Counsel Fish and Carla Goldstein who manages the external counsel program to align it to the bank’s overall strategic focus on enhancing productivity.

A One-Minute Snapshot of BMO’s Values-Based, Data Driven Convergence Strategy

BMO’s Legal Group has launched a massive convergence initiative that reduces its roster of outside firms across North America significantly while increasing value and improving synergy with its preferred counsel. This award-winning legal department has accomplished this initiative through an innovative process that has included:

- The creation of a preferred and select network of outside counsel that reduced the number of outside firms with which BMO works by 80% while achieving greater cost certainty and improved relationships. Success of the network is attributable to the legal department’s system of effective governance, overall enhanced communication and process improvement focused on excellence in legal service delivery.
- A 3-pillar strategy to launch, implement and govern the convergence initiative. The first pillar enabled the convergence of 1,000+ firms in North America to a select network of

less than 200 firms. The second pillar prioritized the implementation of customized technology platforms to manage billing and help contain costs. The third instituted a detailed operating model that mandates compliance with an overall productivity initiative and facilitates working with the established network to support legal service needs.

The Impetus for Change

In April of 2012, the legal group at BMO Financial began a review of its outside counsel providers as part of a comprehensive productivity initiative³ that sought opportunities to increase overall value while managing and controlling costs. The group's spend on outside counsel was higher than that of its comparably sized peers. In part due to a recognition of the need to reexamine outside counsel utilization and spending trends, the LCCG launched a productivity initiative designed to manage and reduce spending levels across the department and externally.

Getting costs and efficiency on track with respect to external counsel led the legal group to develop a 3-pillar strategy that would launch, implement and govern BMO's convergence initiative. The strategy relied on three founding principle pillars:

1. converging BMO Financial's 1,000+ firms in North America to a select network of less than 200 firms capable of delivering better outcomes and more predictability;
2. implementing customized technology platforms to manage billing and help contain costs; and
3. instituting a detailed operating model that would facilitate working exclusively with the soon-to-be established network of preferred providers as part of overall compliance with LCCG's comprehensive productivity initiative.

Step 1: Converging 1000+ Law Firms to a Preferred Select Network

When the legal group began the process of reviewing which external law firms could best support the legal needs of BMO, it realized that there were over 1,000 law firms throughout North America logged into the accounts payable system. "Such a large pool of external providers was unmanageable and inefficient," notes Sonnen, "so we set out to reduce that number through a values-focused examination that would help identify a select number of firms to serve as our preferred network going forward."

The LCCG eventually achieved its goal of identifying a preferred network of firms that would help drive efficiency and produce superior outcomes. Getting there, however, required the group to 1) engage in regular and systematic consultations between the legal group champions tasked with identifying needs and the business unit consumers of legal services; 2) develop a values-based Request for Information for soliciting firm interest; and 3) launch a user-friendly platform capable of scoring responses and cataloguing firms by geographic location, size and areas of expertise.

"Consulting with the business units was a crucial first step in helping to identify the firms that would be invited to bid. By taking the time to meet with the lines of business to identify which firms were most valuable to them in providing the expertise and quality of work they needed, our

legal group was able to help develop values categories that would shape the Request for Information,” notes Sonnen. Ultimately, these conversations helped reduce the pool of firms invited to bid from 1,000 down to 400.

Seeking a process that could yield better data and be less cumbersome for BMO and recipients alike, the convergence steering committee opted against using Requests for Proposals to solicit interest. Working with Seyfarth Lean Consulting, the working group developed a Request for Information model that would populate the criteria matrix with a request for responses to questions tailored to determine alignment with BMO core values. To capture this data, the working group sent an Excel spreadsheet template RFI, which ensured focused and concise responses, efficient scoring and impactful results for analysis. Firms appreciated the more narrow scope of the request, and BMO found that the results provided them with more meaningful information.

The scoring matrix matched responses of small, large and boutique firms against the following five core value areas most important to BMO:

1. Customer Relationship: Was the firm an existing customer of BMO’s? If so, to what extent and for how long?
2. Firm Diversity: Firms were asked to provide their diversity statistics;
3. Partner-to-Associate Sourcing Ratios from the 25 most recent cases;
4. Billing and Fee Structures: Does the firm track budgets? Is it willing to work under non-hourly alternative fee arrangements?
5. Legal Operations Infrastructure, including firm willingness to provide project managers, billing, and matter management personnel resources at the firm’s own expense.

The scoring model weighted commoditized vs. complex, large matters differently across all values categories. Fees were less of a concern for large, complex matters.

Firms that met cutoff scores were invited to join the panel of approved law firms. The legal group also had discretion to invite firms that scored outside the range. “As the process unfolded, we encouraged feedback and conversations about the process between legal and the business units. Through these conversations, the business units realized that we were asking questions about value metrics for the bank across the enterprise and that we had considered the geographic location of firms and the need for a balance of providers across size and specialized practice areas. As they began to understand our method, they offered even greater support for what we were doing.”

The legal and business groups also collaborated in the validation of firms that would be invited to join the proposed panel. Selected firms received a standard, non-negotiable retainer letter and were provided an 800-telephone number they could call with any questions about the agreement. A portal in the legal group registered firms as they came on board and notified everyone of each new addition. All the while, the legal group continued working with their respective business units to introduce them to the newly empaneled firms.

Step 2: Implementing Customized Technology Platforms to Manage Billing, Contain Costs, and Track Performance

In the 2+ years since BMO launched its convergence effort in 2012, LCCG has exceeded the savings goal set forth in the enterprise's overall productivity initiative. Its percentage of external spend per billion of revenue has come down.

Value-focused firms are responding to the call for efficiency by taking measures to work smarter and control costs. One firm has opened an office in Halifax, a lower cost jurisdiction, for example. Others are implementing project managers, a trend that is adding significant value as these managers mine data to map the best AFA structures possible. And overall, firms in the network are collaborating on solutions, building templates and scoping approaches.

While previously the lack of an e-billing system limited the creation of certain benchmarking metrics, a recently implemented e-billing system allows leaders to receive scorecards on spend in their areas. Each group within BMO Legal reports quarterly on portfolios that have migrated to alternative fee arrangements. "We strive to make people mindful of the external counsel spend and the impact of that on our enterprise. The group is keenly aware that the goal is to use external counsel in high-risk areas where we're going to get a high-value return. We gather data to help demonstrate the value of our group and also to help create a culture about being mindful about where spending is going."

Eventually, as all matters (including those involving high-risk, complex issues) migrate toward AFAs, the intensity of these specialized data collection and ongoing conversations with firms about fees will diminish. "For now, we continue to emphasize to firms as part of our fees discussion that value to us is not only reduced costs, but also better outcomes and more predictability. Alternative fee arrangements help us achieve our commitment to delivering value to the organization. Firms willing to work with us to help us achieve this goal are the relationships we want to develop. They also benefit as the amount of business they do with BMO grows."

A technology platform allows legal group leaders and internal counsel to input quick evaluations of firm performance through a *Yelp*-like application used in popular social media review platforms. This process for quick evaluation and tracking is expected to significantly facilitate the department's governance efforts. It is also expected to facilitate the process of refreshing and further refining the panel starting in 2015 as firms are again asked to provide data through an RFI on BMO's core value areas.

Step 3: The Operating Model for Working with the New Network

As selected firms are empaneled, a multifaceted operating procedure integrates the network using a number of tracking and feedback measures that include:

- Quarterly reviews of the accounts payable system to guard against the use of firms not on the panel. This helps ensure compliance with the preferred counsel program across the enterprise.
- A relationship operating model that ensures regular, meaningful feedback between the legal department and the designated managing partner/executive committee leader at each firm. This feedback supplements the annual review process, facilitating resolution

of issues as they arise.

- Experience tracking and prompt reporting of problems uncovered through internal feedback surveys or the *Yelp*-style reviews. This data is collected and the themes are provided to each firm as part of the formal (and candid) annual review meeting.

The operating model also relies on internally hosted workshops modeled after the [ACC Value Challenge](#) that facilitate communication about legal spend metrics, the annual review process, and BMO's goals for the network. The workshops offer sessions for internal and external counsel on alternative fee pricing, discussions of challenges and steps for working to move firms away from the billable hour, successful profiles of AFA relationships. "We emphasize to our firms that spending on project managers/precedent libraries/templates, and a commitment to work together on diversity or corporate giving initiatives are valued over spending on perks (such as entertaining or hosting social events) that do not add value to outcomes," explains Sonnen.

In 2014, BMO refreshed the network using an RFI process that sought progress updates by asking firms the following questions:

1. Do you track diversity for your lawyer populations?
2. What percentage, by matter, have you increased the use of AFAs (includes only matters not billed by the hour) for BMO matters since June 2013?
3. What percentage, by matter, have you increased tracking against the submitted budget for BMO matters since June 2013?
4. Do you share your budget tracking with your BMO attorney?
5. What percentage, by matter, have you increased the use of offshoring and/or near shoring arrangements as one of your staffing resources?
6. How many years have you maintained a banking relationship with BMO and what is the overall monetary value of your firm's banking relationship with BMO?

Lessons Learned

Achieving a converged network capable of meeting BMO's commitment to value and excellence has been a process of trial and some errors. As with any complex process, lessons have been learned along the way that BMO shares with other legal departments. Two notable lessons are that:

- **Managing the Change Process Takes Time.** “At the beginning, we overestimated how quickly we could do the consultations with the lines of business to bring them on board with the panel firms. Nevertheless, from having to slow down to manage this we learned that structured, regular communication about the process, status, results and reasoning is a best practice for engendering support.
- **Top Down Support Sets the Tone.** “The support we received from the top helped to set the tone for support from levels below and tracked the program on solid foundation. It also helped convey understanding of how important it was for BMO to work with the best-matched set of outside counsel to achieve results that aligned with our mission, our strategy, and our commitment to excellence for our customers and stakeholders,” adds Sonnen.

Leading Practices

Asked which of the innovative outside counsel selection and management processes featured here she would consider to be leading practices, Sonnen identifies several that have helped her group meet its value delivery challenges:

- **Communicate Goals and Be Clear About What You Want to Achieve.** Communicating across all stakeholder classes (i.e., the business unit clients, external counsel, legal, procurement and accounting) about the goal and scope of convergence is essential. “For us, communicating our goal of selecting outside counsel based on our enterprise values told a story about what we hoped to achieve. The open and continuous dialogue at meetings, leadership gatherings facilitated the process of bringing everyone on board with the change process.” Being transparent with chosen firms about goals and selection criteria is also important. “A best practice is to set up a model designed to provide firms with frequent communication (through 800-calls, annual reviews, frequent touchpoints) about partnership building goals. Mutual understanding of what value means yields intended goals and is a leading practice.”
- **Leverage Internal Expertise.** As the process for managing relationships with the preferred network has matured, so has the process of leveraging expertise within the internal legal practice groups. External counsel champions in each practice group help resource tasks and now serve as liaisons with relationship managers at the partner firms.
- **Use Feedback and Evaluation to Achieve Synergy.** Beyond the integration of external counsel champions and firm relationship managers, another leading practice has been the group’s focus on managing external counsel through feedback. “We’re telling our external counsel through quarterly calls, through annual reviews how they were chosen and consolidated as BMO’s preferred panel. As part of this conversation, we convey that we expect them to understand our values, which include firm diversity and innovation both in the use of alternative fee arrangements and innovative staffing models that help us manage costs more effectively. We emphasize our expectation that

they deliver services that are consistent with these values. And through ongoing conversations and the mini ACC Value Challenge workshop, we have opened dialogue, effected a shift away from the billable hour, and improved both the depth and quality of our relationship with our outside counsel,” explains Sonnen.

What does value mean to BMO in the context of a preferred network of firms? It means effectively managed costs, better outcomes and greater predictability. “Our converged network has yielded greater cost certainty, increased efficiencies, partners who are embedded in our business and capable of providing advice that is more useful, relevant and business focused. Convergence has also helped us forge better value-based relationships across the entire enterprise,” concludes Sonnen.

C. Leveraging Convergence to Inspire Innovation and Improve Operational Dynamics: Hilton’s Quest for Continuous Improvement

With the arrival of Kristin Campbell as General Counsel in 2010, the Hilton Legal Department restructured operations, empowering the entire team with a stake in outcomes and aligning the department with the goals and priorities of the organization as a whole. The department assessed its relationship with outside counsel and built the Global Counsel Initiative in 2013 to find external legal service providers who shared its commitment to continuous improvement and meaningful partnership. The result has been an imitable convergence model that continues to yield efficiencies and significantly improve outcomes – all in a fully integrated, internal- and external-counsel-allied, cost-predictive manner.

To learn more about the unfolding of Hilton Legal’s preferred counsel network, we spoke with Senior Vice President and Associate General Counsel Charles Corbin. Alongside General Counsel Kristin Campbell, Corbin works with Legal Strategy & Business Operations Director Susan Packal to manage the department’s selection and management of its outside counsel as well as the outside spend.

The Hilton Legal Department operates in a hybrid, best of both worlds style, employing both centralized operations for enterprise-wide functions like compliance, litigation, and employment/benefits, on the one hand, as well as with line-of-sight for covering specific business unit needs. In the line-of-sight role, the team deploys practice area expertise in matters that include geography-specific real estate, licensing, and related specialty services. Hilton Legal relies on a staff of over 53 lawyers plus another 50 paraprofessionals and support staff to deliver excellence at all levels of operations.

A One-Minute Snapshot of Hilton Legal’s Outcomes-Driven Convergence Approach

The Hilton Legal Department executed a holistic convergence strategy that partners external counsel with internal capabilities to form a seamless legal services delivery unit focused on excellence. From the onset, the team sought law firms that would approach legal services in the same way the legal department approached the hotel business: as a partnership that strives to continuously improve its value proposition.

Achieving continuous improvement required a legal services framework unafraid to challenge itself to innovate and find new ways to be more effective and efficient. For Hilton, these innovations included:

- Vesting ownership of the convergence process in everyone within the legal department. By training all staff on alternative fee options, rates negotiation, and the technology that tracks external matters, the result was a marked change in the way lawyers and paralegals began to think about project execution and integrated service delivery.
- Launching a creative RFP driven by simplicity and designed to solicit firms willing to be measured by their ability to think outside the box and by the quality of their deliverable.
- Developing an innovative approach for quickly evaluating firms across its criteria after each phase of a matter.

Our Impetus for Change

Hilton Legal began its convergence journey in early 2013. Back then, the department relied on more than 350 law firms and e-discovery vendors for legal support. The group was simply too large, too costly and too difficult to manage. “Realizing this, we mapped a process to align legal services with business strategy, understanding from the onset that efficiency and nimbleness were paramount values. Once we knew how our internal resources would be structured, we knew that our external firms would simply be extensions of those internal resources ” explains Corbin.

Over a process spanning 13 months (beginning in 2013 and culminating with the kick-off welcome meeting in February 2014), the department cultivated a select preferred counsel network of 38 law firms qualified to support 18 practice areas across the 90+ countries where Hilton Legal provides services to its business partners. From the RFP design through selection of the panel and launch, the process was a team-driven, inclusive exercise owned by everyone at Hilton Legal.

Planning and Launching Our Convergence Effort

From inception, it was understood that everyone in the legal department would own the process of managing outside spend and selecting the firms that would form the Global Counsel Initiative’s Preferred Network. Corporate counsel and paralegals alike were trained on alternative fee options, rates negotiation, and the technology that tracks external matters, staffing and evaluations.

“The result [of our convergence] was a sea-change in the way our lawyers and paralegals began thinking about outside counsel relationships. What started out as a process for reducing the number of external firms and changing those relationships instead became something much bigger – it became a catalyst for changing how our internal professionals understood the dynamics of our business,” notes Corbin. The department as a whole became more project oriented, more aware of what it took to deliver better service in an integrated manner, and more closely aligned with internal business partners.

“Through a three-pronged process focused on stewardship, partnership building and operational excellence, we gained confidence that our goals for convergence – certainty of cost, incentivizing strong performance and engaging the best outside counsel faster – and our goals for the business were perfectly aligned. As our selection process unfolded, we were pleased to see that we were right.”

Hilton Legal knew what it wanted in its preferred law firms. It sought law firms that would approach legal services in the same way the legal department approached the hotel business: as a partnership, with truly shared values and goals to continuously improve the value proposition to its customers. Achieving continuous improvement required a legal services framework that was unafraid to challenge itself to innovate and find new ways to be more effective and efficient.

The Request for Proposals Process

The department wasted no time in challenging itself to find a more innovative way to identify and select its preferred network. “We wanted to encourage the firms to be innovative in showing us who they are,” explains Corbin. “We felt that the standard, 40-question voluminous RFP would not yield the differentiation we needed in order to make our selections.” In crafting the RFP, General Counsel Campbell and Corbin wanted to design a document that was brief and to the point. The proposal had to be open-ended enough to allow leeway for respondents to demonstrate what really made them valuable and innovative.

In its simplicity, the request listed the department’s practice areas, countries served, and responsibilities. It then asked respondents to match themselves with the requirements and tell how they could meet Hilton’s needs. Hilton decided not to reveal legal spend or make any commitments as to percentage of work at stake, preferring to let the firms determine whether they were interested in bidding based on their knowledge of the company and its stated values.

Innovation wasn’t limited to the RFP form itself. In order to send a message to every recipient that thinking-outside-the-box was encouraged, the team designed a package for the form that was equally creative. A thumb drive containing the RFP was encased in a plastic card made to resemble a Hilton hotel room key. The card itself tucked into a folded holder designed to look like a Hilton hotel room key cover. Inside the holder was a message from the General Counsel, Hilton Legal’s mission statement and values, and instructions for loading and responding to the RFP. By packaging the form this way, Hilton hoped to find respondents would follow this lead to innovate through brevity and simplicity. (To see the RFP holder template, please refer to Section IV, Sample Policies and Templates).

Eighty-five firms received the RFP form and had five weeks to respond. It soon became clear that the design had achieved its intended effect. “As we began to receive feedback with their responses, we found that the firms appreciated the simplicity of the process,” notes Corbin. “We were also impressed by the innovative forms the responses took – from responses on thumb drives, to one packaged in what looked like an old-fashioned suitcase – many of the firms went to great lengths to show they too could think outside the box and align themselves with our company and our culture.” These creative responses would stand out as the team began the deep deeper dive to review and select firms.

Reviewing Responses and Selecting the Network

By early December 2013, 83 firms had responded to the RFP. Subject matter practice leaders, the General Counsel, Deputy GC, and other members of the professional staff used a simple scorecard to evaluate responses on criteria which included experience in particular practice areas, past experience working with Hilton, and openness to considering value-based fee structures.

The key differentiator for the successful firms was their ability to articulate how they would address Hilton's matters in the context of its needs. "This was infinitely more important to us than knowing the educational background of the attorneys who make up the firm or what the firm had accomplished. Successful firms told us *how* they would approach our matters as a firm: the process, their method, the fee structure. We wanted to know how they would work together as a firm to tackle our issues. We looked for firms with a collegial culture that put client interests first. By and large, firms that showed us they were willing to be measured by the *quality* of their deliverable rather than by their effort or hours were the ones ultimately invited to join our preferred network."

The team announced its Hilton Worldwide Panel Counsel at the end of 2013. Thirty-eight firms made the cut. Together they are a mix of large, small, diverse, local firms and even a sole practitioner. There are firms who had prior experience with Hilton and firms with no prior experience. "The outcome disproved the attitudes of skeptics who may have felt we had a preferred list in mind at the beginning of the process. This was not a results-oriented exercise - yes we wanted to achieve certain things - but we went into the process with no preconceived notions about how to do it or with favorites in mind."

Onboarding the Network Panel

With the Network Panel in place, Hilton hosted a kick-off meeting via webinar in February 2014. The meeting introduced the General Counsel and provided an overview of the department. Later the department would meet individually with each firm one-on-one.

The implementation process has involved a number of elements designed to spur value-driven performance. These include:

- **Alternative Fee Arrangements.** The convergence steering committee began with a goal that the bulk of new engagements would be committed to alternative fee arrangements. Hourly fees would be very rare, to be considered only for large, unique, bet-the-company matters.
- "We care about efficiency, predictability and deliverables," notes Corbin. "Value-based fee structures offer opportunity for both sides. Success fees, combinations of fixed plus success, volume pricing for commoditized work offer firms an opportunity to gain from efficiency while sharing risk." The team chose not to make any spend or percentage of work commitments, and instead treat its AFA goals as internal ones.
- **Designated Points of Contact.** Hilton Legal manages the day-to-day firm relationships through one-on-one partnerships. A lead lawyer from the legal department owns the

relationship with that firm; the firm is expected to assign a single point of contact as the go-to for matters ranging from conflict waivers to responses for RFPs. This ability to communicate internally and respond to the client's needs through a single point was important for Hilton – “we didn't want to deal with 12 calls from the same firm on the same matter, billing issue, or say, mini RFP.”

- **Evaluation.** Hilton developed an innovative approach for quick evaluation of firms across its 5-6 criteria in the form of an online evaluation tool for its lawyers. Designed as a quick review system (similar to Yelp!-style online business reviews), the Global Counsel Initiative tool allows other in-house attorneys to see how that firm performed in each phase of a matter. It also allows for ongoing feedback to firms. Additional technology will soon facilitate matter management and building metrics and data.

Advice and Lessons Learned. For legal departments considering converging to a network of preferred providers, Corbin offers the following advice based on lessons learned:

- Remember that you are the market. Drive change by demanding the services you need, and define what it is that value from external providers should be. Change must come from us, the “demand” side; the supply side's initiatives are all in the opposite direction.
- Even if it's new for your organization, you don't need perfect knowledge – take the initiative. At worst, you fail forward. By mapping the process and seeking value, you will learn, improve and come out ahead. Don't let the perfect crowd out the good.
- Know that the exercise will yield a deeper knowledge of your organization. Regardless of the size of your department or the number of firms selected, you will emerge from the process with a deeper understanding of what your organization needs from its counsel. You will absolutely become a better business partner for having undertaken the journey.

“What else did we learn? Our biggest aha! moment was that the RFP should be simple and open-textured to allow firms to explain how they expect to approach matters systematically and with Hilton's best interests in mind. Leverage technologies and be creative in the request for proposals. Think through your selection criteria, incent everyone in the legal department by giving them a stake in the outcome, and results will follow,” advises Corbin.

D. Convergence Over Two Cycles: U.S. Foods' Leveraging of Data to Improve Network Performance and Value Outcomes

Juliette Pryor is Executive Vice President, General Counsel and Chief Compliance Officer at U.S. Foods. Over the past four years, Ms. Pryor, with the support of legal department leadership, has transformed how external counsel support U.S. Foods. The process allowed US Foods to achieve greater visibility and control over legal spend while building a seamless team of internal and external legal support providers that serve the company's needs collaboratively and with more predictable results.

We spoke with members of the U.S. Foods Legal Department's convergence steering committee for this profile. The five person committee consists of Ms. Pryor, Gail Sharps-Myers, Senior Vice President, Deputy General Counsel and Chief Compliance Counsel; Dorothy Capers, Associate General Counsel; Pam Davidson, Associate General Counsel; and Jill Rusk, Director of Legal Operations.

The U.S. Foods Legal Department operates as a traditional legal services model. In total, 45 staff members – 16 of whom are corporate counsel – support legal services, compliance, risk management and legal operations functions within the company. The legal operations function is responsible for the department's process management and budget management responsibilities. As head of Legal Operations, Ms. Rusk reports directly to Ms. Pryor as General Counsel.

In 2013, U.S. Foods received the Chicago Legal Department of the Year award from The National Law Journal for its efforts around building a cohesive legal department, transforming its law firm convergence program and establishing the legal operations function within the department. The strategy and tactics US Foods utilized in the outside counsel convergence program were one of the key factors for such a successful transformation.

A One-Minute Snapshot of U.S. Foods' Two Convergence Rounds

The U.S. Foods legal team has conducted two convergence cycles since it began its commitment in 2010 to contain legal fees and build partnership through a panel of preferred providers. The result over four years and two convergence rounds has been a significant reduction in external counsel spending and greater overall efficiency in legal service delivery. U.S. Foods credits these reductions to:

- 1) enhanced data compilation that allowed firms in Round Two to bid smarter and the legal department to track spend better and improve predictability;
- 2) the implementation of value-based fee structures, and
- 3) the fostering of a culture of collaboration across its network of preferred firms.

Convergence Over Two Cycles: Process and Lessons Learned

In 2010, the U.S. Foods legal team began considering how to reorganize its outside counsel providers in order to achieve consistency in the legal services it was receiving and reduce spend. Prior to 2010, the department worked with over 100 firms nationwide. There was no concerted approach for managing these relationships or their output. "The net was too big and providers were each handling our matters in their own way, without coordination among one another," explains Ms. Pryor. "The result was inefficiency that was costing us money. At the same time, because we were spreading our spend over so many providers, we were not leveraging it in a way that made us a strategic client to any single one of them."

The department created a steering committee to launch the convergence program. Led by Ms. Pryor, the team initiated its first convergence cycle in 2010.

Through an RFP that had firms respond to value-based criteria important to US Foods, the team ultimately reduced its number of external providers from over 100 to 26. Two years later, the team

would launch a second convergence round that would reduce its panel further – down to 13 firms, 6 of which held 85% of the spend - as part of a process that would significantly improve alignment of services, matters and budget. (The other seven firms handle highly specialized, low volume, infrequent matters.)

Other improvements further enhanced US Foods' maturing provider network. Technology upgrades implemented between convergence Rounds One and Two facilitated the creation of better data. With fewer firms and an enhanced matter management system, the legal department could track matters more granularly, in the process identifying normal and atypical patterns in execution and outcomes through predictive coding.

Uncovering these patterns enabled U.S. Foods to map spend and understand costs around specific matter components. In turn, this understanding enhanced the department's ability to request specific, accurate pricing offers that went beyond a simple reduction in hourly rates. With better data, the team was better able to anticipate deviations from standard portfolios (i.e., those rare one-off matters) and devise pricing models that did not require reverting to straight hourly billing.

Thanks to this enhanced, bankable knowledge, Round Two yielded a smarter and more aligned network. "With better data that we could share with the firms, our firms were able to bid more intelligently. In that second round, we were able to tell them: 'Here's what our body of work looks like, this is what it requires, tell us how you propose to service it more cost effectively and in a manner that affords more predictability around spend,'" notes Ms. Pryor.

The 25 firms invited to bid in the second round were evaluated on criteria focused around the company's experience with them, input from internal attorneys and expertise in areas important to U.S. Foods. Specific criteria included pricing, AFA willingness, technical expertise, geographic footprint, client service structure, training for clients, success in leveraging work for past clients, diversity and pro bono efforts. "Our objectives were more qualitative in the second round. Spending reduction was still important, but we also wanted to achieve greater predictability and transparency around spending. We knew that this approach would yield more consistency in how our matters were handled," explains Ms. Pryor.

Like other legal departments with successful preferred networks, U.S. Foods was looking for firms that could think outside the box. "After Round Two, we realized that the billing status quo – by the hour – is an ingrained mindset for many firms and a difficult one for them to break away from in projecting costs. The firms that impressed us most have adopted matrixes to track data internally by project component – understanding not only time required to perform each component, but also the level of expertise required at every stage. Any of these firms could project how much time would be spent in a given litigation on the discovery element, for example. And because they could be granular within each element, they were more certain in creating bids that worked for both of us over the duration of the project."

"When it was all said and done, we made some changes between rounds one and two that were purely strategic. We weren't unhappy with any of our Round One firms: they hadn't done anything wrong, they hadn't overbilled, we had good relationships. And yet strategically, our legal department needed to manage its matters and business like the enterprise we support does. By combining practice areas into a smaller group of firms, we felt that we would be better able to manage the legal portfolio more effectively going forward."

Implementation of the Preferred Network Panel

The legal team installed its new panels with kick-off conferences. The goal each time has been to achieve a shared understanding of the business and the company's appetite for risk, to impart understanding of how the legal department manages matters, and – equally important – to avoid duplication of work by talking about matters that may have overlapping components and sharing information.

With those strategic objectives laid out front and center at the conferences, partner firms understand from the onset that they are not competing against each other for the company's business. "Instead, they're able to see themselves as part of the company's extended resources. U.S. Foods' preferred providers know where they fall – there's no competition, they work together. They each have their own footprint, their own geographic area, it's pre-defined," explains Legal Operations Director, Ms. Rusk.

The U.S. Foods team believes that the best implementation program fosters a culture of collaboration where firms think strategically about what is in the best interests of the company. "Your network providers should know that collaboration and knowledge sharing is expected," notes Ms. Sharps-Myers. Network partners embrace this sharing culture and U.S. Foods reaps efficiency rewards. Recently, for example, one of the network firms compiled standard responses in a litigation matter to share with other panel firms providing similar support. With the aid of the department's matter management system, the content was stored on a mutually accessible platform, allowing anyone with access to the network to pull data and agree on strategy.

Challenges and Lessons Learned

Like other successful convergence thought leaders, the U.S. Foods team has learned that it can take more than one pass to get it all right – "and that's OK. With your first round, you learn where the gaps are and where opportunities lie for the next go-around." Adds Deputy GC Sharps-Myers, "the mindset should be to devise a win-win strategy for both enterprise and firm. Your goal is to develop a business relationship with your preferred providers. It isn't just about getting the best rate; it's about what works valuably for both sides."

Another piece of advice: "Don't fear that asking for an alternative fee arrangement will mean a sacrifice in quality: we have not seen (and do not expect to see) diminishment in the caliber of legal services we receive under appropriate fee agreements. On the contrary," explains Ms. Capers, "quality has been enhanced because our select firms now are stakeholders: they understand our needs better and are true partners vested in the success of our business. We've seen significant value enhancement thanks to lessons learned through the first and second convergences. Our negotiated fee structure in no way impeded top-notch performance."

Indeed, since U.S. Foods' first convergence, outside counsel spending is down significantly, by 40%. "And thanks to pricing agreements that are founded on calibrated, data-backed projections, we no longer need to pick through each invoice. The bill is no longer a source of potential contention or surprise," adds Ms. Sharps-Myers.

Yet as with any learning process, gains aren't always banked without challenges. For U.S. Foods, as with other law departments featured here, one of the big hurdles was the dismantling of some long-term relationships. "We underappreciated how difficult it would be to move people away from firms/individuals they had worked well with. We overcame it in the only way possible: by

assuring our people that we wanted their input on 1) who would be invited to bid, and 2) in developing the selection criteria.” After their input was considered and the process was complete, however, all understood that we were wholeheartedly committed to our new panel. This top-down message has gone a long way in solidifying the new paradigm,” notes Ms. Pryor.

E. Using Hub Firms to Manage Legal Work and Control Costs in Emerging Market Regions: Dell’s Predictability and Alignment Solutions

Senior Vice President, General Counsel and Secretary Richard Rothberg oversees Dell’s global legal department. After joining the company in 1999, Rothberg served as VP, Legal supporting the business in the Europe, Middle East and Africa region. He then moved to Singapore in 2008 to serve as VP, Legal for the Asia-Pacific and Japan region. After returning to the U.S. in 2010 (Dell’s headquarters is in Austin Texas) he became General Counsel in 2013.

Under the leadership of this globally-focused General Counsel, the continuous review of Dell’s relationships with external law firms was accelerated, building a team of preferred law firms capable of partnering with Dell to deliver better legal services by working synergistically. The result has been enhanced relationships between Dell and its external firms, including the enhanced management of secondary providers in EMEA emerging markets and greater cost predictability overall.

To learn more about Dell’s strategy for consolidating legal work among a smaller number of more important firms, we spoke with Paul Bolger, Executive Director, EMEA Legal. Bolger’s team runs operations in the UK and supports the EMEA emerging markets team.

A One-Minute Snapshot of Dell’s Convergence of Firms Serving Emerging Markets in EMEA

In 2009, Dell Legal executed a process to consolidate legal work among a smaller number of firms that served its operations in Europe and EMEA emerging markets.

As part of a comprehensive review of external firms in the region, Legal designated three firms in its emerging market regions (Central and Eastern Europe, the Middle East and Africa) to serve as “Hub” firms. These Hub firms would help Dell Legal manage projects and budgets across the many local law firms that service external legal needs throughout those regions.

The result has been clear and overwhelmingly positive: these key providers have invested the time and effort to understand the company and its industry very well, a fact that allows for better tailoring of their efforts to meet Dell’s specific needs. Another value-add has been the Hub firms’ ability to assume significant administration of locally tapped firms, saving Dell cost and time in managing its legal service needs throughout the vast emerging market territory.

The Impetus for Change

In 2009, Dell took stock of its outside counsel providers across the globe and realized it was stretched too thin especially in its emerging markets territories. In the 105 countries within EMEA emerging markets, the company was working with around 40 firms. Beyond these firms, Dell also worked with another 50 or so firms across EMEA. The result was a dilution of the spend across too many vendors and too much time being spent on managing individual relationships. “We needed a solution that would enable us to delegate the training and matter management aspects to a select number of providers who would serve as our primary points of contact, providing answers to data-driven questions and capable of managing projects with firms on the ground in our specific areas of need,” notes Bolger.

Dell Legal responded by launching an outside counsel review strategy aimed at significantly reducing the number of firms with which it worked to a more manageable group. For matters arising outside the US, Dell selected two main firms in the UK to receive the majority of matters arising in the UK (a third firm addresses the debt collection portfolio). Similar arrangements were put in place in other EU countries (such as France and Germany) where Dell has significant presence. For its EMEA emerging markets territory, the solution was a strategy centered around the use of 3 “hub firms” based in Moscow, Dubai and Cape Town that would be the go-to’s for any issues arising respectively in Central and Eastern Europe, the Middle East or Africa. In turn, these hub firms would work with firms they retained in those geographies, managing and collating work product, providing training on Dell standards of excellence and strategy, and managing billing data for Dell as matters arose.

The result has been overwhelmingly positive: “concentrating matters with these select hub firms has yielded relationships capable of attaining the depth of industry and Dell-specific knowledge that benefits our company and engenders mutual loyalty and trust. Because we rely heavily on these select firms in the EMEA emerging market region, our hub firms have much better insight into how Dell works and what drives our commitment to excellence. In return, they are able to better tailor their efforts to our specific needs, a process that yields positive returns on investment on both sides,” notes Bolger.

Structuring Spend

Dell’s EMEA legal team set as a preliminary target at the RFP stage firms willing to offer a discount of at least 20% off their published hourly rates. While the ultimate goal was a migration to fixed fees, firms willing to provide a discount off the published hourly rate reflected sufficient interest in Dell to pursue further negotiations with. Upon engagement, the firm is presented with a projected budget, which they can accept or challenge. Like other organizations with leading outside counsel programs, Dell understands that sometimes high risk matters, which were unforeseen, do in some instances arise and under these circumstances there needs to be a more flexible approach between Dell and its external firms.

For matters arising within the EMEA emerging markets territories, Dell Legal presents the assigned hub firm with the matter and an estimate of what it believes it should cost to resolve. The firm then approaches its network of suppliers in the relevant counties and identifies those who are able and willing to do the work for the allocated budget. “In the event our company is launching a new program in Africa and we need legal advice from 20 countries, for example, we approach our

firm in Cape Town with the matter and a cost estimate. This firm prices the project across the 20 jurisdictions involved, and after consulting with us, consolidates the matter. We receive a single invoice based on terms we've negotiated and agreed upon. This ensures us that we're sourcing out the matter to local firms who are properly vetted by our hub firm partner not only for their experience and competence, but also for their ability to work under a reasonable budget," adds Bolger.

Results

Dell Legal launched its restructuring strategy in a manner which allowed each of its Global Regions to implement its own solution based on the specific dynamics of that region. For instance the solution achieved in EMEA emerging markets would not necessarily be applicable or even work in North America. The EMEA RFP was developed by a team of 4 lawyers, including Benedikte Leroy (VP EMEA Legal) and was launched using the standard tools and processes of Dell's General Procurement function. The result of the RFP and review process was the selection of a panel of two full service suppliers in each of the main EU countries and three hub suppliers to cover EMEA emerging markets. The firms were chosen for their ability to provide cost predictability and business alignment with Dell and on the basis of an objective scorecard which was applied to each firm during the bid process.

The obvious benefit of these relationships for Dell Global has been the synergy and keener efficiency that working with a small number of firms affords. "We've reaped benefits in a number of ways: as key providers, they invest the time and effort to know Dell in ways that our hundreds of firms before simply weren't incented to. And because we've been able to delegate a significant amount of the administration of local firms to our key providers, we have netted significant savings of costs and another very precious resource: our time," observes Bolger. "Since the original tender in 2009, our external counsel costs in EMEA have significantly reduced and whilst we can't say that this reduction is solely due to the outside counsel restructuring strategy, it has played a significant part in driving down cost, reducing time spent on administration and at the same time has vastly enhanced the quality and depth of our relationship with our panel firms."

Advice and Lessons Learned

Over the past six years since inception of its outside counsel realignment process abroad, Dell Legal has learned important lessons in mapping and executing a streamlined convergence. Among the most important piece of advice: keep the filtering documents simple. "The time to clarify details, dive deep into expectations, ask for specific concessions and offerings will come later. The RFP and engagement letters should be simple and streamlined: the primary goal with these is to identify and memorialize the core principles. The details, including the discussion on bells and whistles (i.e., professional development training, potential secondments and knowledge sharing) will follow as the relationships deepen. Save yourself time at the tender stage by avoiding the temptation to become sidetracked with the extras."

Beyond lessons learned, Bolger cites to the changing legal services delivery model in the UK as a trend worth watching. Traditional ways of operating are facing competition from alternative business models that do not require firms to be owned by licensed attorneys. Heralded by passage of the Legal Services Act in 2007, [Alternative Business Structures](#) (as they are called) allow lawyers and non-lawyers to share management and control of law firms and receive funding from non-lawyer investment. These firms have shown interest and commitment early on to exploring new

ways to provide legal services and enrich the customer experience. “It is not unreasonable to speculate that this shifting landscape in favor of entrepreneurship may well have an impact on traditional practice (and pricing) models in the not too distant future,” notes Bolger.

F. Bank of America’s Litigation Roundtable: On Budget and Achieving Efficiencies

Bank of America began its convergence journey in 2010 with the creation of the Litigation Roundtable, an innovative partnering and convergence model focused on reducing outside legal costs, improving efficiencies and delivering high quality legal services. Prior to the Litigation Roundtable, the company relied on approximately 700 firms nationwide to support its needs in litigation. Through the Roundtable convergence, BOA has effectively centralized its defensive litigation work with 25 law firms.

Lani Quarmby, Associate General Counsel and Senior Vice President, spoke to ACC about this [2013 Value Champion](#)’s convergence strategy. Quarmby oversees department-wide outside counsel management including expense management programs at Bank of America.

Bank of America’s Legal Department relies on full time lawyers and contractors world wide to support the organization’s range of complex legal and regulatory matters. With an external legal spend over one billion annually, selecting the right network of outside counsel to partner with the department and managing those relationships to optimize value is clearly a high-stakes endeavor.

A One-Minute Snapshot of Bank of America’s Convergence Strategy for Litigation

Bank of America has realized remarkable success through law firm convergence and predictive budgeting. With a goal of building a law firm network that would work collaboratively with each other and BOA in-house litigators using alternative and fixed pricing models, Global General Counsel Gary Lynch and his leadership team have achieved success through a strategy that includes:

- Detailed measures to integrate Roundtable firms into the architecture of the Legal Department. These include a relationship management initiative that pairs firms with internal counsel to ensure ongoing feedback and relationship building. Such measures also include the ongoing evaluation of performance and metrics alignment.
- The creation of a detailed budget process to project and manage costs in litigation matters with more than \$250,000 of anticipated annual spend.
- The formation of working groups within the Litigation Roundtable focused on careful coordination of litigation strategy across similar exposures, the development of aggressive defense strategies and the identification of emerging risks.

The Impetus for Change

In 2010, Bank of America began taking steps to build a network of experienced and entrepreneurial law firms that would work with BOA Legal as committed partners under fixed fee and alternative fee models that would replace the billable hour. In reviewing outside counsel relationships, BOA had more than controlling legal spend as a goal: it also sought to build a strong platform for proactive management of vendor risk.

Bank of America's Enterprise Litigation Team is one of the Roundtable innovations. Consisting of in-house counsel and 13 Roundtable firms with subject matter expertise and geographic reach, the ELT handles most of BOA's high-volume, single-plaintiff litigation on a fixed-fee basis. ELT now handles almost 65% of all BOA defensive litigation matters, has improved resolution cycle times, outside counsel costs and decreased disposition costs.

Each firm is pre-assigned cases based upon their geographic reach and subject matter expertise. Because ELT Roundtable firms are not in competition with one another for the bank's business, there is an incentive to work together. "Their willingness to share work product and regularly evaluate staffing and defense strategies in a collaborative way has achieved great efficiencies for us; it's almost as if the Roundtable firms are an extension of our inside counsel," observes Quarmby.

Launching Convergence

Ed O'Keefe, the Legal Department's COO, created an outside counsel relationship management program and chose to dedicate a fulltime person - Quarmby - to the role of managing outside counsel across the entire range of legal operations. "To fully understand and evaluate law firm performance, negotiate fees, and consistently drive expected outcomes, you need a disciplined, enterprise focused approach. Assigning one dedicated person to that role - preferably a lawyer - allows you to accomplish that," explains O'Keefe.

BOA Legal began the convergence process by developing a Request for Proposal that asked firms to describe their existing partnership with the bank as well as areas of expertise, geographic reach and willingness to work with fixed fee and alternative fee billing. In drafting the RFP, the Legal Department reviewed historical data on cost per case, rate reviews and the results of internal surveys on overall value of services provided. It then surveyed in-house litigators on existing relationships with each of the law firms under consideration.

As a result of the RFP, the number of firms BOA assigned litigation work was significantly reduced: from 700 to 30 in 2011 and later to 25. Those two-dozen firms would form the Litigation Roundtable. In selecting Litigation Roundtable firms, BOA sought out preeminent attorneys with demonstrated subject matter expertise, shared values and goals in collaboration, teamwork and open communication styles.

"The Roundtable is an important aspect of our holistic approach to litigation management", said Jana Litsey, Director of Litigation and Regulatory Inquiries at Bank of America. "We are committed to obtaining effective and efficient legal services that meet high standards for work quality and value. Our interest is in paying for results, not time. The Roundtable makes that possible."

Onboarding and Evaluating Litigation Roundtable Firms

Once the Litigation Roundtable was in place, the Litigation Group began conducting an annual Litigation Roundtable Summit for all 25 firms to include all in-house litigators worldwide. The Summit is an opportunity for members of the Roundtable and all in-house litigators to share best practices, subject matter expertise, emerging litigation trends and effective budget management practices.

Beyond the Summit, BOA Legal has implemented other measures to integrate Roundtable firms into the Legal Department, improving the value of services they provide. These include:

1. A **relationship management initiative** that pairs a single point of contact at each Roundtable firm with a senior counsel relationship manager internally. The internal relationship manager tracks firm performance and provides feedback. This person continuously seeks opportunities to expand the relationship where appropriate. Thanks in part to this close synergy, 95% of all new defensive litigation matters are now assigned to Roundtable firms.
2. A detailed, technology enabled, vendor management process that relies on **metrics and ongoing evaluation of performance and efficiencies**. Annually, Quarmby's team tracks and compiles data such as law firm spend, hours billed, number of matters handled, resolution cycle times, cost per case (budget to actual), savings, volume discounts, discovery and expert spend, and diversity metrics. The process aligns metrics for legal services with the bank's overall comprehensive vendor management program.

In addition to these quantitative and qualitative criteria, the team also evaluates firms on their support and responsiveness, understanding of the bank and its businesses, commitment to quality service, knowledge of law, internal matter management, ability to course correct when necessary, commitment to information security, outcomes and overall value to the bank. The bank also elicits feedback from its firms on ways it can enhance the firm's performance. Tracking and reporting are essential not only for transparency and impactful vendor management, but also for effective cost savings analysis.

Evolution of the Process to an Alternative Fee Structure

Not only has Bank of America experienced significant improvements in efficiencies, better communication and collaboration, and improved levels of service since 2011, it has also experienced greater predictability of spend through negotiated alternative fee arrangements. To add controls and accountability to its spend, the legal team instituted three innovations: a detailed technology based budget process; a commitment to the use of fixed fees; and the creation of a civil litigation project management support team for e-discovery.

All litigation matters with more than \$250,000 of anticipated annual spend require a detailed budget template. Budgets are developed based on phases and sub-phases and are not limited to outside counsel spend. "These budgets are case-specific and must include an estimate of all external expenses and fees, including not just those of outside counsel, but also of third party vendors and experts," notes Quarmby.

The legal team is committed to fixed fees as an alternative to hourly billing in all of its matters. Why? “They provide cost predictability while incentivizing firms to efficiently deliver high-quality legal services,” explains Quarmby. In 2011, BOA decreased its anticipated litigation expenditures by more than 10% over 2010. “Currently, more than 80 percent of our litigation matters are on fixed-fee.

Bank of America is moving away from using the billable hour as the measure of value for legal services. For them, the benefits of fixed-fees include:

1. Better predictability and budgetary certainty;
2. Single line invoices that can be pre-approved and do not require lengthy descriptions of work performed or task codes;
3. Greater efficiency and capped expenses;
4. More uniform procedures and better risk mitigation practices;
5. Greater collaboration between in-house and outside counsel.

E-discovery and discovery-related vendor fees continue to be a significant driver of litigation spend and an area for greater efficiency. To that end, each Litigation Roundtable firm has a single designated e-discovery expert with whom the Legal Department’s e-discovery team interacts to ensure compliance with BOA’s e-discovery protocols.

The department has undertaken similar convergence and partnering initiatives with other practice areas beyond litigation. And due to the accuracy and predictability of budgeting forecasts in the litigation space, BOA has broadened the approach to include other lines of business across the company.

Success Factors, Challenges and Lessons Learned. Quarmby credits the innovative leadership of Global General Counsel Gary Lynch and Director of Litigation Jana Litsey for the success of the Roundtable. As the vision for the Roundtable emerged, these leaders underscored the importance of partnering with firms that understood the company’s goals and its desire for collaboration, teamwork, open communication and best practices.

Cohesive, top-down support was critical in helping the process stay the course. “With support from the CEO to COO, from our GC to our Director of Litigation, we were able to select firms that would best align with the goals of the bank to move toward a fixed fee model. This support also helped us solidify the Roundtable firms as our go-to providers. Executive support and sponsorship helped us achieve our goals of better collaboration, improved efficiencies, controlled spending and better vendor management,” said Quarmby.

Migrating to a successful convergence model was not without its challenges. Creation of the Roundtable meant ending some long-term relationships and creating new ones. “There were difficult decisions to be made, but in the end we had to choose partners based on their ability to align with our corporate mission. Having that support from the top and opportunities for feedback and comment from the Legal Department and business units was essential in managing the transition,” explains Quarmby.

Leading Practices

Bank of America has realized significant savings and efficiencies through the Department's Litigation Roundtable, its diligent budgeting process, its relationship-based approach to fixed-fee negotiations and rigorous vendor management. BOA Legal remains committed to furthering these successes in the interest of realizing greater efficiencies, all without sacrificing the quality of legal work provided by its Roundtable firms.

Parting Advice. For Bank of America's Litigation Group, developing a successful partnership with outside counsel was the result of three dynamics: top down support, communication across the enterprise about the process and its goals, and support across the practice and operations teams.

Another key element of success? BOA's decision to execute large scale and comprehensive change - from the onset. Phasing-in convergence can impede success. "Having studied other models, we realized that converging to a litigation panel was best done all at once rather than in phases," notes Quarmby. "By paring down from hundreds of firms to a few dozen from round one, we achieved better oversight, onboarding and evaluation from inception. For us, this all-in approach was the best way to achieve our intended results."

"We set the highest standards for our law firms" said Gary Lynch, Bank of America's Global General Counsel. "We have multiple expense and quality controls that promote law firm accountability and yield high quality legal services while achieving financial efficiencies. We continue to develop innovative approaches to our law firm management including detailed budgeting, performance reviews, relationship-based fixed-fee negotiations, and information security management. Through the Litigation Roundtable our approach has been successful and we are looking for ways to expand this model across the Legal Department."

IV. Sample Policies and Templates for Outside Counsel Selection

A. 3M

I. Legal Affairs Request for Proposal Template

3

Legal Affairs

Request for Proposal for Legal Services

Response Deadline: _____, 2014

3

Legal Affairs

Request for Proposal

Introduction and Objectives

3M Legal Affairs is seeking a proposal for [general description of the services, subject matter and geographic scope covered by the RFP] for the period _____ through _____. The services for which we seek your response are described in greater detail in the Scope of Work, which is attached and made part of this RFP.

In 2014, 3M formed our Preferred Counsel Network and significantly reduced the number of outside firms with which we work. Our intent is to reward Network firms with a larger share of 3M's legal work, and to improve both the quality and depth of our relationship and communications with our outside counsel. We also intend to realize a significant overall reduction in 3M's 2013 cost of external legal services. Value-based, customized fee arrangements—focused on predictable and controlled costs, efficiency, and results delivered—will become the primary basis on which 3M compensates outside counsel.

Although selection as a Network firm does not guarantee either an exclusive engagement or a minimum volume or value of work, 3M's intent is that a minimum of 80% of our external spending for legal services in covered legal subject matter areas and geographies will be directed to Network firms. 3M will report annually to Network firms the percentage of 3M's total applicable spend that is made "in Network."

RFP Instructions and Criteria

Instructions

Please respond to the questions as written below and in the order in which they are presented. We are providing this RFP in Microsoft Word format so that you may insert each response following the specific RFP question. Brevity is appreciated, and your response **must not exceed** _____ pages in total (including the RFP's questions but excluding the cover page, this introductory section, the Scope of Work, and the attached Outside Counsel Engagement Standards). *Please do not send general law firm marketing materials or lawyer profiles.*

Your response to this RFP must be received by 5:00 p.m. CDT on **Day/Date, 2014**, via email sent to _____@mmm.com

All questions and requests for clarification must be made in writing not later than 5:00 p.m. CDT on **Date**, and directed to _____@mmm.com. 3M may share any questions (without attribution) and 3M's answers with other RFP recipients.

3

Legal Affairs

Request for Proposal

Evaluation Criteria <<Portfolio teams may add specific, additional evaluation criteria.>>

3M will evaluate both RFP responses and, for firms selected as part of the Network, annual law firm performance based on a number of criteria including the following:

- Professional excellence of the proposed team and experience in the relevant area;
- Responsiveness of legal service;
- Depth of 3M knowledge or a demonstrated ability and commitment to invest (at the firm's cost) to learn about 3M's legal practice, businesses, and strategies;
- Alignment with 3M's and 3M Legal Affairs' values – including our commitment to diversity and pro bono service—and adherence to 3M's Code of Conduct and maintenance of the highest ethical and reputational standards;
- Willingness to enter into value-based fee arrangements that provide greater business certainty, are based on value delivered, and that reward favorable results;
- Consistent adherence to matter budgets;
- Efficiency in staffing and a commitment to use current technology and legal project management to improve communication and delivery of legal services;
- Commitment to quality and continuous improvement in serving 3M clients;
- Geographic presence (where local presence is advantageous to 3M); and
- Total value delivered, including proactive advice and value-added services to help 3M better manage legal risk, learn from experiences, train our people, and collaborate with other Network firms.

Confidentiality

This RFP and all information provided herein or otherwise disclosed by 3M in connection with this RFP is confidential and proprietary to 3M and must not be disclosed to anyone outside of the recipient firm or used for any reason other than responding to the RFP without 3M's prior written approval. Firms that do not currently represent 3M, or that are given more detailed information about matters or matter portfolios as part of the RFP process, may be asked to enter into additional confidentiality undertakings. Except as provided above with respect to questions or requests for clarification, 3M will likewise hold in confidence and not disclose in any individually identifiable manner the fact that it sent you an RFP or your response.

3

Legal Affairs

Request for Proposal

Anticipated Process Timeline:

Milestone	Date
RFP issued	
Deadline for RFP questions and requests for clarification	
Responses due	
Responses reviewed; requests for additional information sent	
Interviews and negotiations with finalist firms; 3M will conduct reputational and ethical due diligence for selected finalist firms	
3M notification of all RFP respondents	
Retention letter distributed to selected firm or firms	

3

Legal Affairs

Request for Proposal

Responses Sought

1. **Lead Firm Representative.** 3M seeks to have one individual, referred to as the “Lead Firm Representative,” assigned to serve as your firm’s primary point of contact, so please provide the name, email address, and telephone number for your proposed Lead Firm Representative.
2. **Professionals to be assigned.** Identify the professionals to be assigned to 3M matters within the Scope of Work. (Use a separate addendum if needed.)

Professional Name <i>Last, First</i>	Title (e.g., partner, associate, other)	Proposed Hourly Rate <i>(if applicable)</i>	Office Location	Bar Admission Year

3. **Experience and Expertise.** Describe in detail the expertise and experience of the lawyers listed above in the subject matter covered by the Scope of Work.
4. **Fee Proposals.** To reduce overall costs, improve efficiency, and improve the predictability of legal fees and expenses, 3M is committed to working on the basis of value-based fee arrangements.
 - 4.1 Please describe in detail your fee proposal for matters within the Scope of Work.
 - 4.2 If your firm has internal experts on value-based fees, please identify them and how you would propose we work with them to structure fee arrangements with your firm.

3

Legal Affairs

Request for Proposal

Responses Sought

1. **Lead Firm Representative.** 3M seeks to have one individual, referred to as the “Lead Firm Representative,” assigned to serve as your firm’s primary point of contact, so please provide the name, email address, and telephone number for your proposed Lead Firm Representative.
2. **Professionals to be assigned.** Identify the professionals to be assigned to 3M matters within the Scope of Work. (Use a separate addendum if needed.)

Professional Name <i>Last, First</i>	Title (e.g., partner, associate, other)	Proposed Hourly Rate <i>(if applicable)</i>	Office Location	Bar Admission Year

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 - 4.1 Please describe in detail your fee proposal for matters within the Scope of Work.
 - 4.2 If your firm has internal experts on value-based fees, please identify them and how you would propose we work with them to structure fee arrangements with your firm.

3

Legal Affairs

Request for Proposal

- 4.3 Should 3M engage your firm for a particular matter on a fee basis that includes an hourly rate component, are you prepared to certify that the hourly rates offered to 3M are not higher than the rates charged to your firm's most preferred clients for similar types of work? Please note that 3M's Outside Counsel Engagement Standards require all firms to hold fee agreements and not to increase rates for a minimum of two years.
- 4.4 If 3M elects to transfer existing matters to your firm, are you willing to make the transition at your firm's cost, including time necessary to transfer records and data, review and understand the file, and meet with 3M and the incumbent outside counsel?
5. **Client References.** Provide between three and five client references, including telephone, email contact information, and a brief description of the matter, for engagements similar to those specified in the Scope of Work that the lawyers listed above have handled within the past three years.
6. **Outside Counsel Engagement Standards.** Does your firm agree to 3M's attached Outside Counsel Engagement Standards? 3M will only retain firms that agree to these Standards.
7. **Conflicts of Interest.** Please state any known or likely conflicts of interest expected were you to represent 3M in matters covered by the Scope of Work. Please note that 3M does not grant prospective or "blanket" conflict waivers.
8. **Innovative Legal Service.** 3M values innovative approaches to delivering legal services. This includes using creative approaches to communication, process improvement, and project management to improve the quality, responsiveness, and effectiveness of legal services. Describe any innovative ways in which your firm proposes to deliver legal services to 3M, including (a) your firm's use of quality improvement processes to continuously improve the efficiency and effectiveness with which you work with us; (b) your firm's use of project management tools or processes; and (c) how your firm proposes to use technology to improve the efficiency or effectiveness of legal service to 3M.
9. **Diversity Commitment and Performance.** 3M seeks to retain lawyers who reflect the diversity of our employees, customers, and the communities in which we do business. As a signatory to *A Call to Action for Sustainable Change in Diversity in the Legal Profession*, 3M Legal Affairs looks to work with firms that distinguish themselves based on their commitment to and performance with respect to diversity in the legal profession. In addition

3

Legal Affairs

Request for Proposal

to general firm diversity efforts and results, we will consider the diversity of the proposed teams as one factor in assessing firm qualifications. And, while we value diversity across the breadth of our work with you, we are especially interested in knowing whether diverse lawyers will be engaged in our work at senior or supervisory levels. 3M defines diversity broadly to include group differences (based on gender, race, ethnicity, national origin, sexual orientation, or disability, for instance) as well as individual differences. Please describe your firm's diversity and inclusion initiatives and the results to date.

10. **Value-Added Services.** Please describe whether your firm is willing to provide without charge or at a reduced cost value-added services, including for example access to firm's extranet and document library or templates; software or tools to improve the predictability and management of matter budgets; legal training for 3M's legal team; and secondments of firm personnel to work on-site with 3M Legal Affairs.
11. **Opportunity for Additional Comments.** Is there anything else that you would like us to consider as we evaluate your response to this RFP?

3

Legal Affairs

Request for Proposal

Sample Scope of Work

{Description of services sought}

Historical Spending Data

{Provide as much detail as possible and as we are comfortable sharing; the more specific we can be, the better the responses we will receive.} Historical experience suggests that 3M's outside legal expenses for this portfolio to be in the range of \$x-y million per year. Actual volume could be higher or lower in any given year. This estimate is intended to offer a frame of reference only and does not constitute a 3M representation or commitment as to any minimum value of business or number of matters.

Geographic Scope

{Describe the geographic scope in which we expect the work to take place.}

Other, Specific Selection Considerations

2. 3M First Principles and Playbook Slides

First Principles

- No compromises on **quality or responsiveness** of legal service
- We want **fewer, deeper relationships** with outside law firms to increase relevance, trust, and depth of understanding – both ways
- Pay for **value, not just activity**
- Reward **risk sharing** and provide incentives for **risk avoidance**
- **Practice group teams** will lead the selection process for their respective areas – with support from the core team
- We will select firms who **share our values**

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Our Playbook

- **Converge: Fewer firms, lower cost, increased relevance, and improved relationships**
 - Maintain excellence in legal service to 3M, *and*
 - Include value-aligned firms in each portfolio
- **Establish value-based (not hourly) custom fee agreements as our standard**
- **Strategically in-source legal work to align with our Mission and Strategic Focus Areas**
- **Invest in preventive law to reduce overall demand for outside services**
- **Drive operational excellence in working with outside counsel**
 - Provider Engagement Standards – clear, brief, fair, uniform
 - Clear metrics and feedback to Network firms
 - Early case assessment and resolution
 - Refine processes and tools to drive budget management and accountability
 - Legal project management as a key discipline

Combining Operational Excellence and Longer-Term Process Improvements to Build Strength on Strength

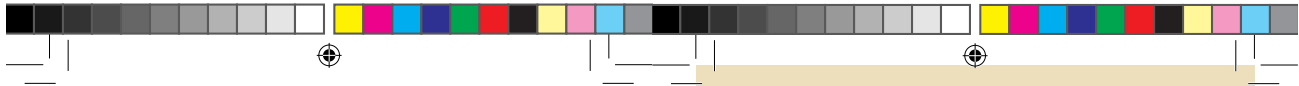
2 3M Confidential.



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B. Hilton

I. RFP Folio Instructions



GLOBAL COUNSEL INITIATIVE

Aligning Hilton Worldwide and Our Legal Service Providers

GETTING STARTED

Please remove the enclosed USB drive and insert it into the USB port of your computer.

Open/launch the document titled [CLICK HERE TO START](#) to begin.

Proposals can be submitted in either written or electronic form. All proposals must be received by 5:00pm, Eastern Time, on Tuesday, October 15, 2013.

Electronic proposals should be submitted by e-mail to: legalRFP@hilton.com.

Written proposals should be delivered to:

Hilton Worldwide, Inc.
7930 Jones Branch Drive
McLean, VA 22102
U.S.A.
Attn: Charles Corbin, Sr. Vice President

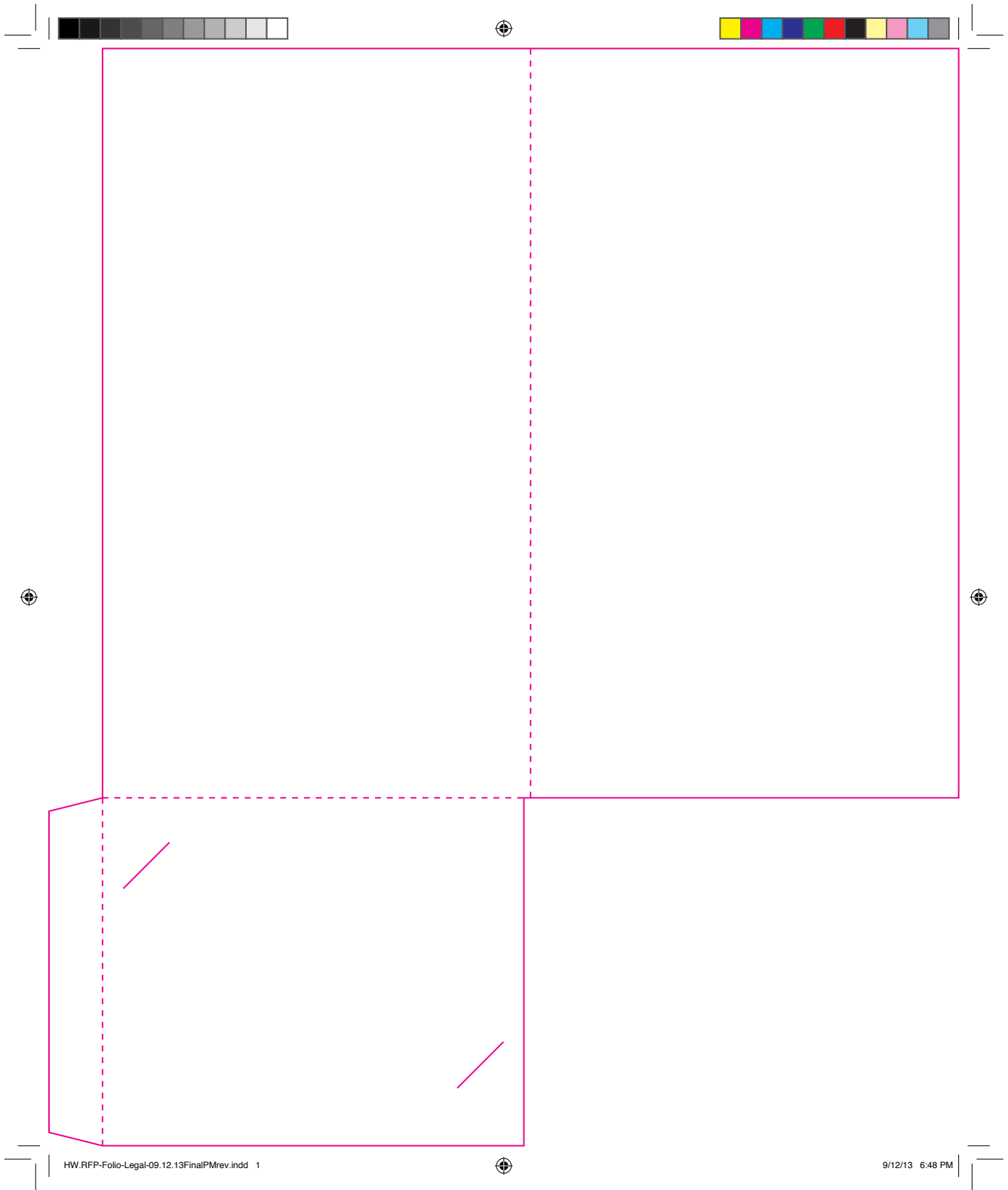
Proposals should address any points that you believe would be relevant to our decision, but at a minimum should include the following:

- The specific subject matters that you propose to handle, and the geographic areas in which you can do so.
- Relevant expertise, both industry and subject matter.
- Proposed staffing.
- Rates and Alternative Fee Arrangements.
- Your ability and willingness to meet the other requirements addressed in these materials.

Thank you for your participation. We look forward to hearing from you.



2. RFP Folio (Designed to fold like a hotel room key)



OUR VALUES

- HOSPITALITY** We are passionate about delivering exceptional guest experiences.
- INTEGRITY** We do the right thing, all the time.
- LEADERSHIP** We are leaders in our industry and in our communities.
- TEAMWORK** We are team players in everything we do.
- OWNERSHIP** We are the owners of our actions and decisions.
- NOW** We operate with a sense of urgency and discipline.

STRATEGIC SOLUTION ORIENTED STRATEGIC
 FULFILLMENT PARTNERSHIP MINDS
 STRATEGIC LEGAL COUNSEL ACC
 EN, APPROACHABLE & POSITIVE TR
 ONSDIVE HILTON WORLDWIDE EMP
 MPETITIVE ADVANTAGE STEWARD
 ONE INTEGRATED GLOBAL TEAM E
 NMENT DEVELOPMENT ONE INTEG
 ORGANIZATION'S GOALS & PRIORITII

GLOBAL COUNSEL INITIATIVE

A Request for Proposal from Hilton Legal



If you have any problems with this USB or if you have any questions, please contact us at legalRFP@hilton.com



A MESSAGE FROM THE GENERAL COUNSEL

By almost any measure, Hilton Worldwide is a global leader.

Our Legal Department is no different.

Our Global Counsel Initiative is about finding that counsel. We're looking for law firms and legal service providers who approach legal services the same way that we approach the hotel business: *as a mission to continuously improve the value proposition to our customers.* Our primary objective is to provide real value to the company, by both creating a framework for risk management, but also to drive positive business results. To do this, we need to partner with outside providers who think the way we do. Providers that innovate. Providers that explore and experiment. Providers that continually challenge themselves to find new ways to deliver legal services more efficiently and more effectively, at a lower cost to the client and a greater profit to the firm.

You're receiving this package because we think you could be one of those providers.

Kristin Campbell
Executive Vice President and General Counsel
Hilton Worldwide

LEGAL MISSION STATEMENT

we will be a **trusted** business partner
providing a **competitive advantage**
through **stewardship** and **strategic** legal counsel
in alignment with the
organization's goals and priorities

V. Additional Resources

A. Featured Profile Participant Resources

1. 3M

Managing a Successful Legal Department, ACC Law Department Executive Leadership Sessions, 2014 Series, <http://www.acc.com/ldel/upload/LDEL-Executive-Report-June-11-2014.pdf>

2. Bank of America

Litigation Roundtable: On Budget, and On Top of All Costs, Jennifer J. Salopek, ACC Value Challenge, 2013 Value Champion, http://www.acc.com/valuechallenge/valuechamps/2013champ_profileboa.cfm

3. BMO Financial Group

Performance Management – Creating an Awards Program, ACC Docket, September 2014, <http://www.acc.com/accdocket/onlineexclusives/performance-management-creating-award-program.cfm>

4. Dell Inc.

Dell's Legal Department Awarded for Providing Outstanding Pro Bono Services to Communities, 2012 ACC Corporate Pro Bono Award, <http://www.acc.com/aboutacc/newsroom/pressreleases/2012awards-pro-bono.cfm>

5. Hilton Worldwide

The World of Project Management for Lawyers, ACC Annual Meeting 2013 (Hilton Worldwide one of four presenters), <http://www.acc.com/legalresources/resource.cfm?show=1355612>

B. ACC Resources

I. Leading Practices Profiles

Leading Practices in Law Department Staffing: Allocating Internal and External, Lawyer and Non-Lawyer Resources to Drive Value, October 2014, <http://www.acc.com/legalresources/resource.cfm?show=1380370>

Leading Practices in Law Department Metrics: Company Best Practices, October 2013, <http://www.acc.com/legalresources/resource.cfm?show=16805>

Legal Department Retreats that Strategize, Teach and Connect: Successful Planning and Delivery Practices for Multinational Companies, March 2012, <http://www.acc.com/legalresources/resource.cfm?show=1306460>

Legal Department Practices for Adding Value and Moving Beyond the Cost Center Model, September 2010, <http://www.acc.com/legalresources/resource.cfm?show=16804>

The Role of the General Counsel in Europe: Leading Practices in Law Department Management, September 2009, <http://www.acc.com/legalresources/resource.cfm?show=1355612>

[ce.cfm?show=691365](http://www.acc.com/legalresources/resource.cfm?show=691365)

The Role of the General Counsel in Canada:
Leading Practices in Law Department
Management, September 2009,

<http://www.acc.com/legalresources/resource.cfm?show=691310>

2. ACC Value Challenge

ACC Value Challenge, Law Firm
Relationships at

<http://www.acc.com/search/?term=&searchedFrom=Value+Challenge&vc=1&vcName=Law+Firm+Relationships>

ACC Value Challenge, Budgeting, Process
and Project Management at

<http://www.acc.com/search/?term=&searchedFrom=Value+Challenge&vc=1&vcName=Budgeting+Process+and+Project+Management>

ACC Value Challenge: Guide to Value-Based
Fees (2010), <http://www.accvaluechallenge-digital.com/accvaluechallenge/acc-guide-to-value-based-fees#pg1>

ACC Value Challenge Value Practice: FMC
Technologies' Value Challenge RFP Process
for Litigation, August 2010,

<http://www.acc.com/legalresources/resource.cfm?show=992581>

How to Consolidate Legal Work Among Few
Law Firms, ACC Value Challenge Tool Kit
Resource, September 2008,

<https://www.acc.com/advocacy/valuechallenge/toolkit/loader.cfm?csModule=security/getfile&pageid=39564&page=/legalresources/resource.cfm&qstring=show=39564&title=How%20to%20Consolidate%20Legal%20Work%20Among%20Fewer%20Firms>

Virtual Trial Teams – Nelson Mullins' Value-
Based Staffing for Complex, High Stakes
Litigation, Value Practice, August 2013,

<http://www.acc.com/legalresources/resource.cfm?show=1348612>

3. ACC CLO and Executive Leadership Sessions

Running RFPs and Convergence Programs;
Benchmarking and Validating Outside
Counsel Costs; Knowledge Management &
Collaboration Platforms, ACC Law
Department Executive Leadership Session,
September 2014,

http://www.acc.com/ldel/upload/Running-RFPs-and-Convergence-Programs-Benchmarking-and-Validating-Outside-Counsel-Costs-Knowledge-Management-Collaboration-Platforms_Report-2.pdf

Managing a Successful Legal Department,
ACC Chief Legal Officer Sessions 2014 Series,
http://www.acc.com/clo/thinktanks/upload/CLO-Executive-Report-June-11-2014_3M.pdf

Outside Counsel Management & In-House
Counsel Management, ACC's Law
Department Executive Leadership Sessions
2013 Series,

<http://www.acc.com/ldel/loader.cfm?csModule=security/getfile&pageid=1347524>

4. ACC Docket

Catherine J. Moynihan, Shell's Shift to
Appropriate Fee Arrangements, EMEA
Briefings, ACC Docket, December 2014,

<http://www.acc.com/legalresources/resource.cfm?show=1383339>.

Jasbir Kaur Khalsa, Welcome to the 21st
Century! The Basics of Leading a Global Law
Department, ACC Docket, June 2013,

<http://www.acc.com/legalresources/resource.cfm?show=1338817>

5. ACC Education

Annual Meetings:

Competitive Collaboration, ACC Annual

Meeting, October 2013,
<http://www.acc.com/v1/membersonly/ProgramMaterial/loader.cfm?csModule=security/getfile&pageid=1355757&page=/legalresources/resource.cfm&qstring=show=1355757&title=Competitive%20Collaboration>

Other Education:

Managing Litigation to Contain Costs and Build Predictability About Legal Spend, Jake Modla, Angela Cummings and Lani Quarmby, August 2014.

Legal Project Management in Practice: Evolving Applications and Approaches, ACC Ontario Chapter,
<http://www.acc.com/chapters/ontario/upload/LegalProjectManagement-06-22-11.pdf>

6. Additional ACC Resources

Lisa J. Damon, The Future of Price: Defining Value in Value Billing, Seyfarth Shaw LLP, October 2011, http://collegeoflpm.org/wp-content/uploads/2012/01/2011_Defining-Value.The-Future-of-Price_Defining-Value-in-Value-Billing_Lisa-Damon.pdf

Top Ten Practical Suggestions for Managing Outside Counsel Spend, Bret Baccus and Matthew Schuetz, HuronLegal, March 2011, <http://www.acc.com/legalresources/publications/topten/Outside-Counsel-Spend.cfm>

ACC/Serengeti, Managing Outside Counsel Survey, October 2009,
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C. Non-ACC Resources

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VI. Endnotes

- ¹ To learn more about competitive collaboration among network firms, see the ACC 2013 Annual Meeting Program, [Competitive Collaboration](#).
- ² Since our interview, Ms. Sonnen has become the Chief Compliance Officer for BMO, Wealth Management.
- ² Since our interview, Ms. Sonnen has become the Chief Compliance Officer for BMO, Wealth Management.
- ³ To read about aspects beyond convergence that BMO's Legal, Corporate and Compliance Group instituted to leverage operational efficiency, please refer to the 2014 ACC Leading Practices Profile, Law Department Staffing Practices: Allocating Lawyer and Non-Lawyer Personnel to Drive Value.