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Steven A. Lauer on

Incorporating Value into the Strategic Planning Process

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A law department should develop a strategic plan to assure that its view of its role and the view held by its clients coincide. A plan also enables a law department to chart out details of that role, what resources it has and what additional resources it would need to fill that role and various other aspects of its position within the company and relative to its mission on behalf of that company.

The department should address the issue of value directly when preparing its strategic plan. Since clients typically view some legal service as more critical and valuable to the company than other legal service, when developing its strategic plan, the department should engage its clients in discussions about how much and what types of value they expect or want to derive from the various types of legal service that the department provides them. Educate those clients about the various elements of value in the service managed and provided by the law department.

Those discussions should also cover the implications of that categorization. For example, a recognition by clients that, when resources are more constrained, high-value legal work will receive a higher priority of attention will serve the department and its clients well over the long haul. That recognition should prevent or reduce clients' frustration in those circumstances.

Discussions with the clients that occur during the strategic planning process should also cover the impact that those clients can have - both positive and negative - on the cost of the legal service and, consequently, the value of what they receive. For example, if they understand how repeated requests of the lawyers for similar, relatively minor information or analysis can impede the lawyers' ability to address strategic or substantive considerations in a transaction, they will be better able to anticipate the costs of legal service. This is not to suggest that they be dissuaded from seeking legal advice (a benefit of a corporate law department for a company is that the lawyers' counseling service and other assistance is "off the clock"), but that the clients can impose greater or lesser burdens on the lawyers (both in-house and outside) by modulating or regulating their demands and inquiries. By educating the clients about their role in securing the appropriate legal service, a law department will do its clients and itself a great deal of good. This

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"demand management" should have positive impacts on the cost and value of the legal service as well as on the clients' perception of the lawyers' role in assisting those clients to achieve their business goals.

As part of its strategic planning, a law department should also discuss with its clients their business plans and expectations and how those might affect the company's need for legal service. Will the department need to identify resources in additional jurisdictions? Will legal issues with which it has not previously had to deal confront it going forward? Will the legal affairs of the company become more complex when those business plans come to fruition?

With whom should the in-house lawyers hold these discussions? To some degree, it will vary from company to company. In every instance, however, corporate management should participate in these conversations because those executives make decisions for the company on the level of risk that the business can and will tolerate, they provide strategic direction for the business operation and they represent the company in many respects. They also determine business unit budgets, responsibilities, etc. and to them does the law department report.

Beyond the most senior executives in the company, however, the input needed from other employees and others will vary. Those employees with whom the in-house attorneys work frequently and who implement the company's business goals by negotiating and closing transactions, running business operations and handle other assignments likely will possess considerable expertise of value to the law department in its strategic planning exercise. They will understand, for example, many of the risks inherent in the business operations and, with the in-house lawyers, can define how the lawyers can assist them to complete their transactions and other projects. The employees "in the trenches" are, in fact, best positioned to discuss how to increase the format and timeliness (and, therefore, the value) of the legal service that enables them to complete their work.

Addressing value in its strategic plan will enable a law department better to determine what types of legal service the company will need. An understanding of how complex the legal issues are likely to be and where they might occur will allow the department to identify the appropriate types and location of resources for the company in advance. Doing so will, in turn, allow it to conduct an effective search for the precise talent and experience that will best match up against the needs for legal service that it has identified.

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Ultimately, the application of the precise law-related resource (by that, I mean the attorney, legal service provider or other type of resource) that best addresses the need of the company will lead to the highest-value legal service. Anything else reflects a less-than-optimal legal team and less-than-needed value. The more accurately the strategic plan addresses the value-related needs of the company and provides a roadmap for finding and deploying those resources, the more it will enable the law department to serve its company by maximizing the value of the legal service it delivers.

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About the Author. Steven A. Lauer is Corporate Counsel of Lumen Legal and Principal Value Consultant, Lumen Legal Consulting (www.lumenlegal.com). Mr. Lauer works with corporate law departments and law firms to assist them to better align and synchronize the cost and value of legal service delivered to corporations and other business entities. Steve served as Corporate Counsel for Global Compliance Services in Charlotte, North Carolina for over two years. Previously, he served for over two years as Director of Integrity Research for Integrity Interactive Corporation, in which capacity he conducted research, wrote white papers and otherwise worked with clients and potential clients of the company on issues related to corporate ethics and compliance programs. He also spent over two years as Executive Vice President, Deputy Editor and Deputy Publisher of The Metropolitan Corporate Counsel, a monthly journal for in-house attorneys. He received a B.A. from the State University of New York at Buffalo and a J.D. from Georgetown University Law Center.

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