The Firm Report Card You Never See

By Mark Arthur

Years ago, I was staring out at about 100 managing level attorneys in one large, sterile room. My charge was to discuss and inspire greater partnership and innovation between this group of attorneys, representing their respective firms, and my corporate legal department client. I had prepped my slides, planned a few well timed quips and remembered to wear matching socks. As I sat waiting for my turn to speak, I perused the day's agenda. My unwarranted confidence dissipated when I saw the discussion topic I had to immediately follow: Firm Evaluations.

This could get dicey.

Now, the critical and open evaluation of well-respected law firms and lawyers, all not yet properly caffeinated, may not be the most nuanced or discreet method to foster cross-functionality; but, the underlying goal was noble and the corporate call for firm collaboration has never been more relevant than today. Corporate Legal Departments (CLD) are under increased scrutiny to reduce and accurately forecast their spend, better understand their workloads, benchmark their performance, and in many instances, do so with fewer resources. Gathering actionable data to evaluate their outside counsel allows the CLD to tell a management story, demonstrate their value and empower the GC to walk confidently into an executive meeting with the same charts, graphs and data analysis that departments like Finance and Marketing have offered for years.

This need for tighter controls and a more meaningful evaluation of legal partners coincides with new opportunities to monitor the relationship. CLD's cannot only harness technology and software to assess firm work, but they enjoy the benefit of in-house counsel that is more sophisticated than ever, providing the option to keep more work in-house. It is at this crossroad of Need and Opportunity that the Firm Report Card that you may have never seen was born.

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CLDs measure firm performance differently, but common metrics exist and can be most crudely broken into three categories of evaluation: matter management, spend management and what I call “Gut Feel.” In the first bucket, CLDs commonly evaluate whether firms are providing timely and accurate matter status updates without the in-house attorney having to hound the firm for information. Today’s in-house counsel is tasked with managing “their” cases. In-house counsel reliance on the sole and unchecked discretion of outside counsel doesn’t provide the corporation with any internal value add. That same in-house attorney is also tracking the resolution time and effectiveness of different outside counsel working on similar matters. Often times, this assessment is weighted by company exposure and matter complexity.

From a spend management standpoint, many CLDs will integrate a spend to budget analysis into their firm report cards to determine which firms have forecasted accurately and which seem to go back to the figurative well too many times. In this case, the firm report card may count the severity and number of budget overrun instances. Further and related, the savvy CLD will know how accurate accrual projections are once trued up with actual billables, especially if the CLD is tied to a publicly reporting company.

The firm report card will also likely contain an assessment of whether firm rates are reasonable compared to the rest of the market. Robust analytics data empowers CLD’s to compare apples to apples here, looking at rates charged for the same type of work, in the same metro area, for companies in the same industry and by firms of the same size and relative prestige. Peeling back rate evaluation even further, CLDs may ask: Is my company being billed more partner time than other similarly situated companies? Do partners from Firm A have the same number of years under their belts as partners at Firm B? Which firms are offering alternative fee arrangements, matter specific rates, volume discounts or quick pay discounts? Depending upon the technology or processes employed, each of these questions can be monitored by billing guidelines. CLDs are quick to add a report grade for the number of contravened guidelines and invoice audits.

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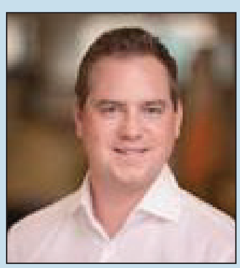
All of this objective data on efficiency, responsiveness, predictive accuracy, effectiveness and spend management is often coupled with the more subjective “Gut Feel” of the partnering in-house attorney. Many CLDs gather feedback on whether the firm was simply thought of as a good value and a collaborative partner. The ultimate question asked is “Would I hire this firm again?”

The answer to each question above can be reduced to quantifiable scores in a report card, then weighted and finally aggregated into what amounts to the firm’s GPA. But the most important question is whether these report cards are shared, and if so, whether they are shared at the appropriate time and with a collaborative spirit.

The best partnerships are forged in transparency. If you are unsure whether your corporate client is maintaining a report card, just ask them. And ask what is on it, and how well you are stacking up. Your inquiry alone demonstrates a commitment to coalition and a willingness to speak your client’s language. Goal alignment leads to a secure and burgeoning long term relationship (and sometimes even gets you paid quicker).

For my part, I recommend to all my corporate clients that they share their expectations and appraisals early and consistently with their firms. Or for my sake, at the very least, not moments before I have to face them.



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