



# GUIDE TO LEGAL PROCUREMENT ASIA-PACIFIC

PART 1: AN INTRODUCTION TO LEGAL PROCUREMENT

# ABOUT THIS GUIDE

This Guide is targeted towards an Australian and Asia Pacific audience, because the concept of legal procurement is not as common in this region as it is in Europe or North America.

Further, as the topic of Legal Procurement is so broad, we have broken it down into smaller, more manageable parts, to be published over the coming months.

Part 1: Introduction to legal procurement

Part 2: Engaging and negotiating on fees

Part 3: Winning legal procurement strategies

Part 4: Measurement and metrics

## Part 1 of Lawcadia's Guide to Legal Procurement will explore:

- ✓ Introducing legal procurement
- ✓ What is legal procurement?
- ✓ Where did legal procurement originate?
- ✓ How are legal services currently procured?
- ✓ The benefits of legal procurement
- ✓ Where to start with legal procurement



# 1. INTRODUCING LEGAL PROCUREMENT

The past decade has seen many trends re-shape the legal landscape including the amalgamation of law firms, the growth of legal process outsourcing, the rise of digitisation and the influence of technology.

Of all of these, arguably the most significant for the future will be the ways in which technology and data will shape the way that legal advice and legal services are delivered and received.

The ways in which companies and government organisations buy outside legal services is also rapidly changing and this is the primary focus of this guide.

The increased sophistication of legal procurement is highlighted by the Boston Consulting Group in its 2016 report on Legal Technology, stating that

increasingly, “general counsels are accompanied by professional procurement specialists during pitches.”<sup>1</sup>

These specialists assist with the negotiation of fees and agreements. More than a perfunctory role, the procurement function brings process, rigour and a greater level of negotiation to the table as organisations strive to “get more for less” which is the theme of our post-GFC corporate world.

The Buying Legal Council, the official organisation for legal procurement professionals in the USA, highlights that most Fortune 500 corporations employ legal procurement teams, whilst many mid-size companies hire consultants to assist in this field.<sup>2</sup>



*“Legal used to be off limits for Procurement. Legal services were deemed too special, too complex, too unique to be sourced by anyone other than the legal department. This view has changed and technology has made it possible.”<sup>2</sup>*

In Asia-Pacific, outside of the government sector, the data around the role of procurement professionals in the purchasing of outsourced legal services is unknown. However, our qualitative market research suggests that it is rare and certainly not becoming ubiquitous as suggested in the US.<sup>3</sup>

In sizeable companies, it is very common to have a procurement team that is responsible for all buying, **except for legal services.**

Legal is considered highly complex and not easily catalogued. For these reasons, among others, it has stayed outside the remit of the procurement and purchasing function in this region.

## 2. WHAT IS LEGAL PROCUREMENT?

In-house legal departments are no longer protected from corporate cost-cutting and are expected to watch the bottom line. This puts the onus onto in-house teams to run their departments like a business.

“During tight economic times, all departments must justify their existence in a measurable way and legal departments are no different,” says Patrick Johnson of Thomson Reuters, in a publication offered by the Association of Corporate Counsel.<sup>4</sup>

This is where the strategic use of legal procurement comes in, where, according to The Buying Legal Council, the objective is to cut costs, ensure quality, and drive efficiency. Its purpose is to “ensure that suppliers [are] selected for the right reasons and deliver what is needed for the right price in the right manner.”<sup>5</sup>

When Lawcadia’s CEO spoke with one of the world’s leading expert on legal procurement, Dr. Silvia Hodges Silverstein, she said that legal engagements in the US used to be based on, “who do I know, who did I go to law school with.”

However, this has now changed to a much more business oriented approach.

This new approach to buying outsourced legal services is based more upon skills and metrics as opposed to personal relationship.

Organisations that use a rigorous procurement approach find that it provides greater transparency, and consequently, a greater ability to justify legal spend to the CFO, COO or relevant stakeholders.

# 5 reasons to embrace procurement

The Buying Legal Council, in their 2016 research report on legal procurement, share the top five reasons why companies have integrated a procurement function into their legal teams: <sup>5</sup>

1. Desire to manage legal spend
2. More effective way to negotiate
3. More efficient procurement process management
4. Measure best value
5. More objective comparisons of legal service providers

### 3. HOW DID LEGAL PROCUREMENT ORIGINATE?

To fully appreciate the recentness of legal procurement a brief overview of its history is relevant.

Research has identified that the two countries that have made the greatest contribution to the development of processes and research in the area of legal procurement were Germany and the USA.

Germany was the innovator, followed by the US in terms of their focus on procurement for legal services. Specifically, within Germany, legal procurement has become a vital function to managing spend among leading companies.<sup>6</sup>

Legal procurement has gained momentum rapidly and is continuing on an upward trend.

Even in the US, in 2011, only the large banks and pharmaceutical companies were engaging in legal procurement, and this has now changed so that large organisations in most industries are using legal procurement functions.<sup>2</sup>

As a result, in less than five years, legal procurement has grown from obscurity to rapidly becoming ubiquitous in large corporations across the US and Germany.

*“legal procurement has become a vital function to manage legal spend among leading companies.”*

## 4. HOW ARE LEGAL SERVICES CURRENTLY PROCURED?

Richard Stock of Catalyst Consulting in Toronto says, “Relationship-based selection is still the way most [in-house lawyers] pick [external] counsel.”

“That doesn’t mean that the counsel selected aren’t good counsel, but that the process for selecting them and structuring the arrangements is frequently not very business-like.”

Stock goes on to say that while “counsel selection may still be a largely relationship-driven exercise, the process is bound to change: because expertise is displacing reputation as a driver in the choice of law firms.”<sup>7</sup>

Legal procurement experts echo this sentiment: “Say good-bye to the ‘good old boys network’ of hiring lawyers”, says the Buying Legal Council, in their 2016 Legal Procurement Survey.<sup>5</sup>

Speaking with our own contacts in the Asia Pacific region, many agree. “What is happening in the legal market – the old model of a long, strong relationship with a law firm is rapidly changing,” says a law firm Partner in Hong Kong.

“Clients currently have a relationship-driven, individual-driven procurement of legal services, which is not optimal,” says another Hong-Kong based law firm Partner.

*“Say good-bye to the ‘good old-boys network’ of hiring lawyers”*





Some organisations are starting to use data and metrics to help inform decision-making, however this can be difficult and in many cases, flawed. "I find that the data available to make dependable or truly informed decisions is very weak in the legal market," says Friedrich Blase, Global Director of Pangea3, a Thomson Reuters legal outsourcing company based in New York.

Over time, we expect to see technology enable a highly sophisticated utilisation of data in real-time that is sufficient to create analytics and metrics. This will enhance the accuracy of legal procurement in terms of selection, pricing, accountability and reduced time - in a way that will influence how legal teams manage their in-sourced and outsourced legal work.

*"Analytics and metrics will enhance the accuracy of legal procurement in terms of selection, pricing, accountability and reduced time."*

# 5. THE BENEFITS OF LEGAL PROCUREMENT

There are some clear benefits for in-house counsel of incorporating procurement strategies, processes and tools into existing practices when it comes to the selection and management of external legal counsel. The main benefits that are realised by companies are:

- 1 Rein in spending without compromising quality or service levels.
- 2 Provide structure and process to buying legal services.
- 3 Introduce transparency, rigour and objectivity to a system that currently does not have this.
- 4 Help in-house lawyers with their negotiations.

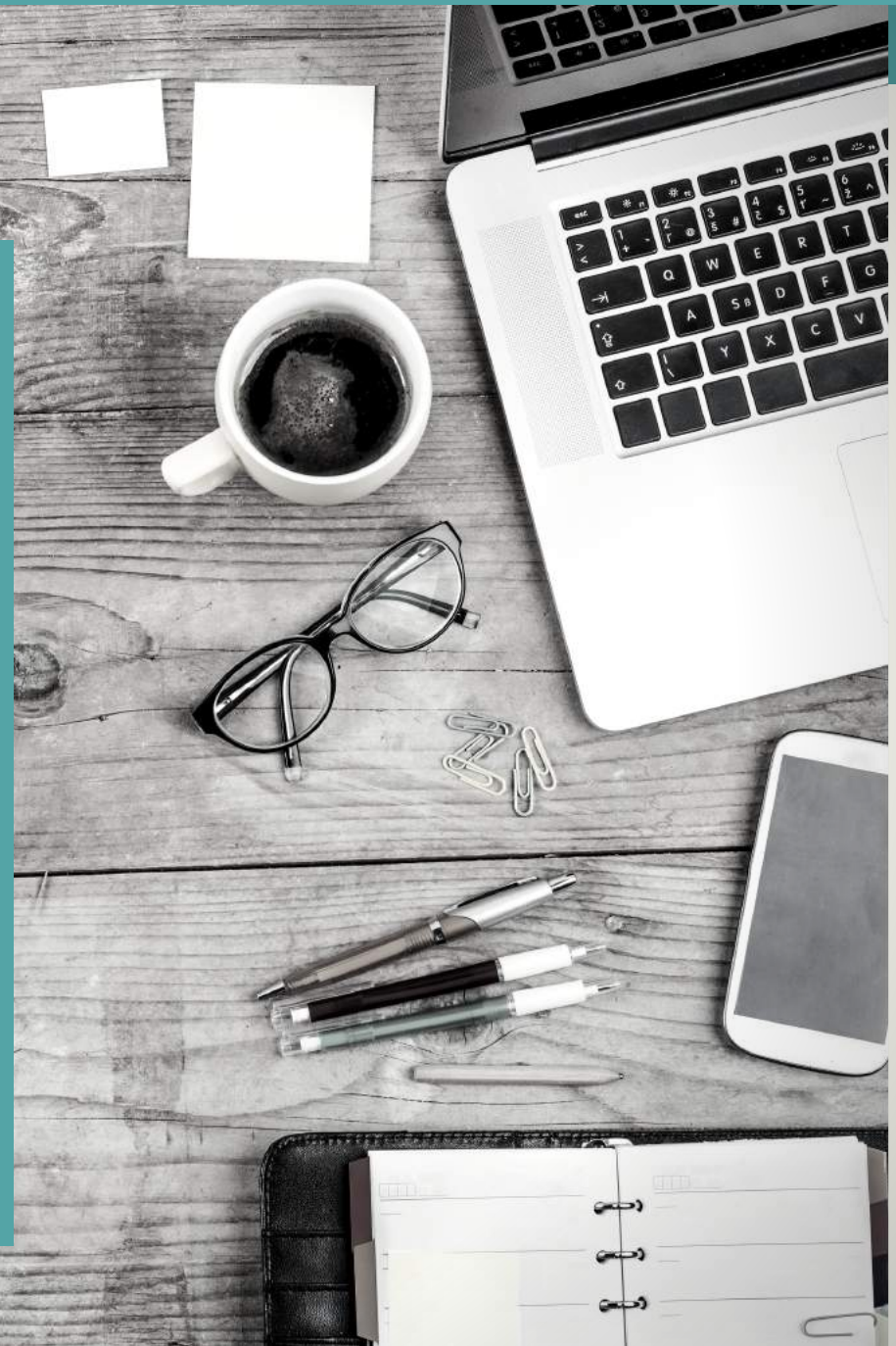
*Procurement processes introduce transparency to a system that traditionally operated via connections and relationships, which by their nature are subjective, and may not be verified or replicated*

There are four key deliverables that procurement specialists are looking for when it comes to buying outsourced legal services:

- Pay less
- Use less
- Alternatively source
- Eliminate<sup>9</sup>

To this end, procurement assists in connecting what the market place can offer, with what the company requires, ensuring that the company obtains fair value for the engagement, which basically means that they are getting a good deal.

Importantly, procurement emphasises the need to be able to justify why a law firm was selected for a particular engagement, promoting an objective, data and process oriented approach.



## 6. WHERE TO START WITH LEGAL PROCUREMENT

How in-house counsel embrace legal procurement largely depends on the size of their organisation.

As demonstrated in the US, most of the largest companies have a team of legal procurement specialists who work solely with the in-house legal team and their external legal services suppliers to deliver better value and efficiencies. However, it is important to highlight that legal procurement does not necessarily require a company to hire a procurement or legal operations manager.

What it does involve is incorporating a strategic, objective and process-oriented approach to all facets of buying and managing outsourced legal services.

It also requires a change in the mindset of the entire legal team as well as a willingness to reconsider, review and experiment with alternatives to the traditional ways that legal has been procured and managed.

The series of Lawcadia's Guides that follow this one will help in-house counsel with the principles and resources necessary to explore this further.

*"It is important to highlight that legal procurement does not necessarily require a company to hire a procurement or legal operations manager."*

Coming up soon

Lawcadia's Guide to Legal Procurement continues:

Part 2: Engaging and negotiating on fees

Part 3: Winning legal procurement strategies

Part 4: Measurement and metrics

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## About Lawcadia

Lawcadia is the leader in legal procurement in the Asia-Pacific, helping corporate clients manage all aspects of legal procurement.

We provide simple solutions with a structured framework for buying legal services with simple procurement and management solutions for in-house legal terms.

Our web-based platform manages all stages of the legal procurement lifecycle delivering transparency, accountability and control for all outsourced legal work.

Find out more at [Lawcadia.com](http://Lawcadia.com)

# Works Cited

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