

Outsourcing Legal Writing and Research: The Annual Flat Fee Model for Business

When most lawyers think about outsourcing, they think of outsourcing an individual project to India. They think of shipping a single project overseas to be worked on by graduates of Indian law schools who speak English as a second language (ESL) for a low cost. However, a new model for [outsourcing legal services](#) has developed in which the work remains in the United States to be worked on by highly credentialed graduates of United States law schools licensed in a variety of states across the country for an annual flat fee. This model has the advantage of providing individualized and personalized service tailored to the specific needs of the client and providing an attention to detail unparalleled in the Legal Process Outsourcing (LPO) field for a predictable annual flat fee. The service providers who operate under this model are able to provide their services at a fraction of the price charged by U.S. law firms and at prices rivaling those of offshoring companies. The genesis of the model is using highly credentialed U.S. lawyers to perform personalized services at competitive predictable prices, and this chapter will demonstrate how the field of legal writing and research is particularly well suited for treatment under this revolutionary model.

I. Why Outsource?

[Legal Process Outsourcing \(LPO\)](#) is a dynamic strategy designed to help organizations slash their legal budgets. In its simplest terms, outsourcing means the transfer of services typically handled within a company or firm to an outside contractor where costs are lower for the company or firm. LPO providers exist to fill a need that is not being met by the legal community. Legal fees have skyrocketed at a time when companies are being forced to take a closer look at the bottom line. Corporations and law firms are looking for cost-effective services. When companies consider whether to take the leap into outsourcing and break the cycle of legal waste at their companies, they should bear in mind the following [7 Deadly Sins of Corporate Legal \(Over\)Spending](#):

1. **Gluttony:** legal rates have gone up 75% during a "great" recession when most companies are cutting operating costs and employees.
2. **Lust:** most companies fall in love with a big law firm name

and image, only to find that the associate doing their work is learning on the job.

3. **Legal Envy:** hourly rates, skyscraper office space, and revenue expectations have become more a function of firms' comparing themselves to each other for bragging rights rather than reflective of value of work done for your company.

4. **Greed:** big firms will typically bill \$200 per hour for an associate who hasn't even yet passed the bar.

5. **Extravagance:** your fee pays for the lifestyles of the rich and famous partners at a big firm who will never touch your work, even once.

6. **Hubris:** exaggerated self confidence propelled by the big law firm name equally propels a mounting bureaucracy of billable hours in which your company and its real needs get lost.

7. **Vainglory:** unjustified boasting swirls into a tornado of big law firm revenue expectations that must be fed by every client, including your company, whether or not the work truly justifies it.

These 7 Deadly Sins illustrate that the traditional lawyer business model is broken and that conventional law firms are going the way of the dinosaur and land phone lines. Corporations are looking for solutions as litigation costs soar during periods of economic downturn, and they are no longer willing to subsidize the training of big law first and second year associates at inflated salaries that are divorced from the value provided to the corporations.

A shift is occurring in the way companies think about legal services. Several commentators have referred to legal services as a "bundle of twigs" that can be separated and broken down or decomposed into individualized tasks. The surgeon doesn't read the x-ray; the conductor doesn't play the flute; the football coach doesn't throw the pass; and the movie director doesn't design the set. So why are corporations paying big firms to do it all at exorbitant prices? Specialists can always do a job more efficiently and better than generalists trying to cover all bases.

Tasks such as designing litigation strategy, document review, and [legal writing](#) are all separate undertakings that should be

unbundled for cost effectiveness while maintaining quality. Under the unbundling method, the big law partner serves as the director or coach, setting strategy and giving direction. Then, the position players, such as the document review team and the legal research and writing team, perform their individual and discrete tasks under the direction and guidance of the strategy lawyer and the corporate client. Using this team approach results in the greatest level of expertise and the greatest cost savings for the client.

Companies are now in the driver's seat and can dictate how their legal services are delivered. Companies want legal costs to be predictable, and they want such costs to be decreased while at the same time maintaining quality or even increasing the quality of the legal work because the various tasks are now being performed by specialists at each step of the way. Companies are realizing that the time to unbundle legal services is now in order to remain competitive for the future.

While the cost effective portion of outsourcing is by now well established and many LPO companies deliver their services at extremely low prices, a new day is dawning in the outsourcing field. Companies want to receive legal services at lower prices, of course, but they also desire responsive and personalized service. Therefore, when considering outsourcing, in addition to considering offshore LPO firms, companies and law firms are now looking to the United States. A few U.S. LPO companies have developed a very competitive business model whereby the quality of the work is extremely high and rivals that of large prestigious law firms while maintaining rates below that which big firms charge for first and second year associates. In addition, these LPO companies offer an annual flat fee model for doing business.

II. Annual Flat Fee Legal Writing and Research Business Model

A. The New Model Defined

1. Based in the U.S.

A few U.S. based LPO companies have figured out a system that competes with offshore companies but is not based offshore. Instead, these LPO companies are completely based in the United States, and they are taking advantage of the fact that companies are taking a harder look at outsourcing to U.S. based companies. In fact,

[“onshoring”](#) is in vogue right now. The decision to move back to the U.S. is attractive because the dissolving differential in labor rates between the U.S. and countries such as China and India no longer offsets the costs that companies bear in risk management, supervision, transportation, and customer satisfaction when moving offshore. Therefore, many companies are sending their work to small towns in the U.S. or to virtual America where the costs are low.

[Dell, Inc.](#) once at the cutting edge of overseas outsourcing, recently opened a call center in Twin Falls, Idaho after customers complained about foreign workers' English-language skills.¹ Another company, California-based [Northrop, Inc.](#) saved about 40% by basing its technical support in Corsicana, Texas rather than in Los Angeles – achieving savings similar to those realized by sending the jobs overseas.² “We're getting very high quality and a dedicated workforce,” said Thomas Shelman, President of Northrop's Information Technology Defense Group.³ Similarly, consulting firm [Accenture](#) is building a document-processing center on an Indian reservation in Oregon.⁴ “We're responding to the tremendous demand among Accenture clients for outsourcing services performed by professionals within the U.S.,” said Randy Willis, a senior Accenture executive.⁵ Many companies are recognizing that for projects that require a higher degree of expertise, American onshore providers offer a better deal.⁶ For these reasons, many companies are reevaluating their decision to ship projects overseas, opting instead for U.S. based outsourcing companies.

2. Boutique Firms Delivering Personalized Service

The U.S. based LPO model is based on the premise of a boutique firm devoted to individualized and personalized service. The skill,

¹ [Some Firms Move Jobs “Onshore”](#), Peter Pae, Los Angeles Times, October 21, 2007. See also, [Some Manufacturing Heads Back To USA](#), Paul Davidson, USA Today, August 6, 2010 (Many giant U.S. companies, including General Electric, NCR, and Caterpillar, “are turning the seemingly inexorable offshoring movement on its head, bringing back production to the U.S. from far-flung locations such as China.”)

² [Some Firms Move Jobs “Onshore”](#), Peter Pae, Los Angeles Times, October 21, 2007.

³ [Ibid.](#)

⁴ [Ibid.](#)

⁵ [Ibid.](#)

⁶ [American Onshoring For Economic Recovery](#), Ashwin Razdan, Global Services Media, February 2, 2010.

knowledge and experience of these companies and their U.S. based attorneys simply put them in a class amongst themselves. These companies use only U.S. licensed attorneys who are graduates of top U.S. law schools. All of their attorneys understand the nuances and complexities of U.S. legal arguments, and these companies bring experience and expertise unmatched by other outsourcing services.

These companies do not try to compete with the Indian firms, and there is room in the LPO space for both. These LPO companies are used when the legal issues are complex and complicated, and the [legal research and writing](#) needs to be tailored to the nuances of U.S. law. Such U.S. based companies are used for more complex litigation and complicated appellate work. Many of the lawyers at the U.S. based LPO companies have personal experience as practicing lawyers at both big and small law firms, so they approach each project with both practical experience and knowledge.

3. Efficiency and Metrics

The U.S. based LPO providers deliver legal services in an innovative manner by eliminating costly overhead and inefficiencies inherent in the traditional law model. By reducing overhead and inefficiencies, such as sky-rise office space, layers of support staff, and inexperienced attorneys, these companies are able to pass along the savings to their customers. In fact, by eliminating overhead and inefficiency, these LPO companies are able to provide lawyers with decades more experience and the same credentials for less than half the price of a big law associate. More experience, same credentials, for less than half the price.

Outsourcing legal writing and research services to U.S. based LPO providers results in a [built-in cost efficiency](#) because their attorneys are experts in legal writing and research. These attorneys have so much experience in their craft that they can do the job much more swiftly and effectively than a lawyer inexperienced in this area or simply out of research and writing practice. These providers' extensive experience and customized solutions leverage built-in cost efficiencies that simply won't scale to a staffing model at a firm or corporation. This results in great savings to the U.S. based LPO provider's clients.

Under this model, a system of metrics provides information on value, cost and quality. These providers have a blueprint for every type of project wherein each process is broken down into a series of

individual steps that can be replicated with ease for the next project. This results in great efficiency, which directly translates into cost savings for clients. In addition, all of the lawyers at these companies receive feedback on every project tailored toward improving quality and efficiency on the next project.

4. Annual Flat Fee for Legal Writing and Research Services

In addition, some U.S. based LPO companies are now offering their legal research and writing services for an annual flat fee. Under this approach, the LPO provider conducts all of the company's legal services, such as their writing and research needs, for the year for a flat fee. This translates into great savings and comfort for the clients. Imagine as a corporate general counsel knowing what your fixed costs for legal writing and research will be for the year. Further, imagine slashing roughly 50% of your previous year's budget for such services, yet receiving the same quality of work that you received from your big law lawyers. That is the beauty of using these U.S. based LPO providers. Their clients receive the same quality services they were receiving using their big law firm but at a fraction of the price.

III. Legal Writing and Research Projects are Particularly Suitable for Outsourcing Under the New Model

The U.S. based LPO provider does not produce factory prepared briefs. Instead, its services are tailored to the specific needs of each client, and this results in an attention to detail unparalleled in the LPO field. Effective delivery of legal writing and research services requires effective [legal training, skill and excellence](#). Legal research and writing involve more skill than typical outsourcing tasks such as document review and clerical tasks. Therefore, outsourcing legal writing and research projects is very well suited for treatment under the new model to U.S. based LPO providers.

The new breed of U.S. based LPO providers can assist you with any type of legal research, writing, or consulting project—no matter the size. Many of the typical outsourced legal writing assignments are contract drafting, objective memoranda, briefs, motions, appellate briefs, reports, complaints, and answers to discovery. While legal research and writing constitutes the bulk of the services offered by these new companies, they also provide such services as editing, rewriting and

consulting. Moreover, they can perform research, writing and editing that are readily accessible (yet secure) over the Internet any time of day.

When searching for a LPO provider to conduct writing and research, the client should find a company that fully complies with the existing ethics opinions and guidelines addressing data security. In the unlikely event of a problem, it is extremely beneficial to have retained a U.S. based company because it will be fully accountable under the laws of the United States. Furthermore, because all of these providers' lawyers are licensed in the U.S., they must comply with the [professional responsibility requirements](#) of each bar in which he or she is licensed.

The LPO provider should also maintain and regularly update a conflict of interest database, and it should run conflict checks prior to undertaking assignments. When all of these conditions are met, outsourcing legal research and writing to a U.S. based LPO provider is a secure and beneficial venture for both parties.

IV. The New Model Also Benefits Law Firms Because They Can Save Clients Money and Yet Pocket A Profit for Themselves

Although much of this Chapter has focused on the benefits corporations receive by using the new model, law firms can also reap substantial benefits. When law firms have too much work for their existing lawyers to handle or when they are seeking cost effective alternatives in order to lower legal fees for their clients, many law firms turn to U.S. based LPO providers. Law firms should consider using such LPO providers rather than hiring more associates when the workload becomes unbearable. The benefits of this approach are many. First, there is no long-term investment involved with outsourcing to a U.S. based LPO provider, and none of the typical costs associated with hiring an associate to do research and writing are implicated. There is no additional office space that needs to be rented, and no employee benefits need to be paid out. The law firm simply will not incur any of the financial burdens or responsibilities that accompany hiring an employee. Lawyers outsource other services such as accounting services and document review, and legal research and writing services are no different. Outsourcing legal writing and research services to a U.S. based LPO provider allows a law firm to get through the busy periods of its practice without incurring the additional expense of hiring an associate, or the worry of laying off that associate if business slows down.

In addition, even large firms can benefit from using a U.S. based LPO company. These law firms can revise their structure to accommodate using a high quality U.S. based LPO company because the quality of the lawyers at both organizations is similar, and the LPO provider's lawyers have much more expertise in legal research and writing. Moreover, when the big law firms ship legal research and writing assignments to U.S. based LPO companies, they receive accolades from their corporate clients for cost consciousness.

Finally, by outsourcing to a U.S. based LPO company, law firms can get their work done and actually make a profit on the LPO company. That is so because lawyers in every state except Texas are ethically permitted to charge their clients a premium above the amount the lawyer pays to the LPO company so long as the overall fee remains reasonable. [ABA Formal Op. 08-451](#). Moreover, the lawyers are not ethically required to reveal the profit margin to their clients.

For all of these reasons, outsourcing legal research and writing services to a U.S. based LPO company can also be economical and beneficial for law firms.

V. The Annual Flat Fee Model Using U.S. Based LPO Providers is a Method for Success

This chapter has detailed a new model for outsourcing legal writing and research services by using U.S. based Legal Process Outsourcing providers, often for an annual flat fee. Under this model, the U.S. based LPO providers' clients are provided with all of the benefits they like about using a large law firm, yet the model provides a solution to all of the trappings the client detests about a large law firm. This new model provides the same high quality lawyers to conduct legal writing and research as a large law firm's highly credentialed attorneys. The U.S. based LPO providers' recruits are a little more seasoned in their careers often seeking flexible alternatives to their profession. Moreover, this new model provides an economical solution to the high hourly rates, bureaucracy and skyscraper office space exorbitantly modeled by law firms. These U.S. based LPO companies typically are boutique firms which have very low overhead and minimal layers of management, all of which inure to the benefit of their clients in the form of low rates. Thus, the clients of the U.S. based LPO providers receive the services of high quality lawyers at competitive prices divorced from typical law firm overhead. Finally,

corporate counsel and other clients benefit from using the annual flat fee model because they can ascertain fixed costs for their legal budgets. Under this approach, the LPO company conducts all of the client's legal research and writing needs for the year at an annual flat fee. General counsel can now ascertain fixed costs for their legal budgets, the way other department heads discern fixed production costs for the company. It's a change that is long overdue.

1. <http://www.lawwriter.com/legal-outsourcing-consulting-faq>
2. http://en.wikipedia.org/wiki/Legal_outsourcing
3. <http://blog.lawwriter.com/category/legal-process-outsourcing-lpo/>
4. <http://www.lawwriter.com/writing-samples>
5. <http://www.lawwriter.com/>
6. <http://en.wikipedia.org/wiki/Inshoring>
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9. <http://www.accenture.com/http://www.LawWriter.com>
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