

The Top Three Priorities for Your Law Firm's Procurement Function in 2020



Introduction

It is no secret that law firms today face an increasingly competitive environment. Between accelerating pressure from alternative legal service providers and startup firms, new regulatory expectations with dire penalties, economic forecasts predicting rough seas ahead and clients demanding ever-greater services (at ever-lower costs) from their legal advisors, firms must find ways to eke out every last drop of value from their staff.

Enter the procurement function. While many law firms have recognized procurement's ability to contain costs, its potential to foster other critical firm strategies has often remained invisible. Yet procurement stands ready to play an essential role in law firms' ability to streamline vendor relationships and weather economic turbulence, both of which set firms up to compete more effectively for precious business.

Based on discussions with participants at HBR's 2019 Law Firm Procurement Roundtable, with law firm leaders and with others in the broader legal market, HBR has identified three strategic priorities for law firm procurement functions to focus on in 2020 and beyond

- Improving vendor governance
- Preparing for a recession or economic downturn
- Defining and promoting the procurement function's value

By focusing planning efforts on these three areas, procurement can help law firms protect against risks, implement strategies to minimize impact from a potential downturn and rise to the level of a strategic business partner with internal stakeholders—which, together, can ensure a virtuous cycle of continued firm-wide support for procurement initiatives.

Improving Vendor Governance

Vendors can no longer be left to self-govern: clients expect that law firms have done extensive due diligence and are actively managing their vendor relationships. This is a multifaceted expectation that weaves together risk assessment, service delivery and cost control. As such, vendor governance requires the engagement of multiple functional areas across firms, from the general counsel's office to IT, conflicts, human resources and individual business units. What role can procurement play? It is ideally situated in today's firm environment to provide centralized coordination of these diverse units and shepherd the overall vendor management process.

Historically, these functions were siloed or decentralized. Procurement teams focused on sourcing for law firms, ending their involvement once a contract was executed. There was passing coordination with other units during the contract review process, but it was discrete in nature and

inconsistent. But as clients have raised increasing concerns around the effectiveness and efficiency of this fragmented approach, law firms have been compelled to create new processes for retaining and managing vendors.

Today, the procurement function needs to assume responsibility for managing the firm's entire relationship with its vendors, from inception to termination. In part, that transition is occurring because clients have increasingly voiced concerns about the risks associated with vendors: namely, data privacy and security risks stemming from vendor access to clients' sensitive data. Those risks have never been higher or more evident, thanks to stringent new regulatory requirements such as the General Data Protection Regulation (GDPR) and heightened client expectations about how firms monitor and manage their vendor security profiles.

Vendors pose multiple potential risks to law firms, from the financial threat of mismanaged budgets and the operational threat of unnecessary service duplication to the reputational damage that follows a security breach. Data security is the most visible of these concerns, given the sensitivity and confidentiality of the information that law firms hold and the fact that both the likelihood and the consequences of data breaches continue to rise. The media has reported on a number of law firm data breaches, and the risk of a breach is ever present. This type of breach can have devastating results: lost revenue, long-term reputational harm and civil liability, including fines for noncompliance with data privacy laws like the GDPR or the new California Consumer Privacy Act (CCPA). These risks make a vendor governance program a must-have necessity, not an optional nicety.

Law firms are now beginning to respond clients' and regulators' demands by adopting a more formal approach to managing vendor risk. In HBR's **2019 Law Firm Procurement Survey**, conducted in conjunction with the Roundtable, there was a 26 percent year-over-year increase, from 53 percent to 79 percent, of procurement leaders who reported having a formal vendor risk-management policy at their firms. Sixty-nine percent of procurement leaders also reported having received a client request for a copy of the firm's vendor governance policy and program. But establishing such a program is challenging. This is due in part to limited internal resources and difficulty in reaching consensus on an approach, as reported by 36 percent of law firm procurement leaders in the HBR survey.

For those firms that are struggling to institutionalize vendor management, as well as those in the process of finalizing and implementing new strategies, here is a brief overview of critical steps to developing a comprehensive [vendor governance strategy](#).

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1. Identify potential threats.

To accurately assess the risks that vendors pose, firms must first know who their active vendors are. While this seems simple, a surprising number of firms do not have good visibility into their currently vendor community. To understand the depth and breadth of each vendor relationship, firms should identify their current vendors and group them by category based on services provided to understand the depth and bread of each vendor relationship. This can be more difficult than expected, as contracts and records relating to vendor relationships may be housed in disparate systems. One method of conducting this inventory is to conduct a spend analysis to take stock of all the vendors that have been paid over the last 12 to 36 months and review their contracts to gain visibility into what services various vendors are providing and under what terms.

Next, firms need a systematic approach to evaluating the relative risk posed by each vendor relationship. This is also important when considering new vendors; the risk evaluation should precede the contracting process, since risk can inform the contract terms. The evaluation system should rank relative risk in two critical dimensions: the vendor's level of access to facilities, systems and sensitive firm, employee and client information; and materiality, or a measure of how important the vendor is to the firm, a factor that is often based upon total spend or operational criticality. To inform the ranking, the firm should gather input from each vendor and stakeholder that engages with them.

2. Mitigate unacceptable risks.

Here, the firm's goal is to counter threats during the contracting process by tying vendor risk to performance. The firm should include terms that codify each vendor's obligations related to the delivery of services and the mitigation of any risks associated with those services, including triggers and levels of indemnification. The firm should also define any key performance indicators (KPIs), quality and quantitative metrics, and a process for monitoring and evaluating those KPIs, in the contract.

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3. Monitor ongoing risks.

Contract terms are meaningless without active monitoring and enforcement. To prevent these efforts from going to waste, the final prong of controlling vendor risk is establishing a vendor relationship-management program that measures vendor performance according to the KPIs established in the last step. This program should incorporate performance reviews, periodic risk reviews, such as information security audits, and other checks, both internal and external, on satisfaction.

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Firms should continuously monitor their vendors' performance against service level agreements and KPIs. For strategic or high-risk vendors, firms should formalize this through a quarterly review process. Additionally, on a periodic basis as defined by the firms' security profiles, firms should conduct a security audit, confirming that no adverse events (financial-, market-, or technology-related) have occurred and verifying their vendors' continued use of robust security profiles. Finally, firms should also conduct a series of less rigid internal reviews, assessing the satisfaction of teams working directly with the vendor, monitoring the vendor's technology access and reviewing overall capabilities.

Throughout all three steps, the key is to make sure the firm is taking proactive measures to stay ahead of the potential risks posed by vendors.

Preparing for a Recession

Not to be the bearer of bad news, but according to most economists, the current period of economic expansion has lasted so long that an eventual downturn is all but inevitable. Indeed, according to a [December 2019 report](#) by *Duke CFO Global Business Outlook*, 52 percent of U.S. CFOs believe the country will be in a recession by the end of 2020, with 76 percent predicting a recession by mid-2021. Law firm procurement teams should already be proactively taking steps to prepare—but if they haven't yet begun, there's no time like the present.

Procurement, again, stands in a unique position to lead law firm efforts to develop action plans for reducing operational costs during a downturn by identifying areas that might be affected by an extended slow period and taking steps to minimize any financial losses. While there are a number of non-fungible expense areas, such as personnel costs, insurance and benefits and real estate, that still leaves many opportunities for procurement to create efficiencies, primarily through re-evaluating existing contracts and vendor relationships.

1. Build flexibility into contracts.

Managing a law firm through a recession requires building flexibility into its agreements, permitting the firm to adjust its obligations or requirements as business needs fluctuate. The goal is to provide the firm flexibility to realign service needs to meet current business realities, with possibilities ranging from changing the type or level of services received to cancelling agreements for services that are viewed as unnecessary. As an initial step, procurement can thoughtfully

review existing contracts and identify opportunities to reduce any defined financial commitments such as annual spend requirements. As contracts come up for renewal or renegotiation, procurement teams can preemptively insert the necessary flexibility into agreements, for example termination for convenience and business downturn clauses. Firms may find it more efficient to outsource non-core functional areas, such as document review, legal research and litigation support, as a part of recession planning, building in greater cost flexibility.

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2. Reduce product and services costs.

Next, procurement should identify other ways that firm can strategically reduce product and service costs. This effort should begin with an examination of the firm's true needs and requirements. Technology licensing agreements are typically ripe for realignment, as they are often negotiated per person rather than according to actual usage. For example, if a 1,000-attorney firm carries 1,000 user licenses, but only 500 people in the firm use the software, the firm can halve the number of licenses it carries with no diminishment in utility or service. Similarly, many firms engage a platinum level of technology support, with 24/7/365 service that goes largely unused overnight or on the weekends. These firms could potentially reduce support to a lesser amount, even just during standard business hours, without experiencing any significant reduction in service.

3. Negotiate discounted rates and enforce preferred vendor usage.

As a procurement team gains insight into the range of vendors contracted by a firm through the risk and cost assessments mentioned above, it is likely to identify areas where the firm could control costs by reining in unnecessary or duplicative services. A recession presents an opportunity—however unsought it may be—for procurement to re-evaluate the firm's needs against its vendors' performance and ask for better pricing, options and capabilities. Procurement should work to consolidate the firm's vendors into a preferred list, leveraging its buying power to negotiate low negotiated rates, and then help the firm enforce the use of those preferred vendors.

By taking these steps, procurement can help law firms mitigate their losses, avoiding some of the personnel reductions that may otherwise be required when the market plummets.

Defining and Promoting the Procurement Function's Value

Once upon a time, the procurement function was tasked solely with tactical support and finding easy ways to reduce costs, focusing on low hanging fruit. While procurement proved itself quite successful at saving money, that myopic focus has, in many cases, overshadowed the other ways in which procurement can drive significant value across every aspect of law firm operations.

Today, procurement is positioned to do much more than simply manage dollars and cents. It has the potential to guide strategic initiatives that improve service quality and reduce risk across the entire law firm. Yet many continue to quantify procurement's value exclusively in terms of dollars saved, which makes it difficult for law firm leaders to acknowledge procurement's evolution into a strategic partner.

For their part, procurement teams need to redefine and promote their value beyond cost management alone, highlighting the value they also bring to service delivery and risk mitigation. This involves the following three steps.

1. Align procurement and overall firm priorities.

While cost management is a chief concern for law firms, procurement offers services that address other worthy firm goals as well. For example, procurement contributes to risk mitigation by governing vendor relationships, to service delivery by monitoring service-level agreements and to diversity and inclusion efforts via vendor diversity programs. By meeting with the firm's executive leadership to understand the firm's priorities over both the short and long term, procurement leaders can prepare a strategic plan that proactively aligns their team's capabilities with the firm's overall goals.

2. Track metrics tied to the firm's priorities.

A baseline measurement that every procurement function should track is its contribution to cost savings—and, gratifyingly, 100 percent of the firms that HBR surveyed reported tracking and reporting on this metric. But to demonstrate strategic value to the organization, procurement teams must also demonstrate—using hard numbers and graphical representations—how their activities support the firm's other priorities. For example, procurement can report on how many vendors have been through formal risk assessments or can graphically display the level of firm spend involving diverse vendors.

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3. Report to stakeholders regularly.

Visibility is the key to value: without regular reporting, firm leaders are unlikely to recognize procurement's contributions to firm priorities, and the procurement team will continue to be viewed as a cost center rather than a value driver. Yet only 36 percent of firms' procurement teams report their progress on a quarterly basis. Data-driven reporting can show how the procurement team is helping the firm progress toward its broader goals—but only if those reports are compiled and presented to the firm's leaders. By tangibly illustrating its numerous and varied contributions, the procurement team creates an incentive for firm leaders to support and invest in the function's initiatives.

Conclusion

As the specter of economic uncertainty looms, and with increasingly strict laws governing data privacy and security, law firms must take steps to manage their stable of vendors and limit their potential exposure. Though risk management and cost containment must be firm-wide efforts, procurement is ideally positioned to coordinate the firm's strategies, maintaining its level of service while shoring up data security and tightening—or at least preparing to tighten—the firm's fiscal belt.

Procurement teams that are armed with sound processes for measuring vendor performance, controlling spend and reporting their contributions can lead the charge into the next decade, ensuring that their firms will be equipped to weather the coming regulatory and financial storms.

Connect With Our Experts

Interested in learning more about how HBR Consulting can help your law firm meet its 2020 procurement priorities? Contact us today and let's start the conversation.



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