

A 3-Step Process Improvement Plan for Legal Departments

By George Dunn and Wendy L. Hufford, for Corporate Counsel

February 24, 2015



After attending general counsel conferences and reading legal department surveys, one clear message is that the legal department must accomplish more with a smaller budget and fewer resources. This is particularly challenging since many legal departments already have slimmed down. So how can a legal department meet these challenges? Here is a three-step battle plan recommended by process experts.

1. Gain an Understanding of Process Improvement Methods

Today there are many methodologies available to use, including continuous process improvement; business process management; re-engineering; LEAN, Six Sigma or a mixture. What are the differences between methods?

- **Continuous process improvement** concentrates on incremental improvements over time as opposed to seeking a big one-time improvement.
- **Business process management (BPM)** focuses on innovation and flexibility through combining process and technology changes.
- **Re-engineering** encourages organizations to significantly reconsider why they do what they do and mandates leaps forward, not incremental change.
- **LEAN** reduces process waste to improve value to internal and external clients. Examples where process waste can arise include transportation, inventory, motion, waiting, overprocessing, overproduction and reworking.

- **Six Sigma** focuses on improving process quality by identifying and removing anything that causes process defects and by reducing variability in the process.

Each method provides a different way of analyzing and improving a process. For example LEAN, made popular by Toyota, focuses on reducing Muda (process waste) to improve value to the customer. Seven LEAN deadly process wastes for the legal department include the following:

Waste	Description	Possible Legal Department Waste
1. Transportation	When information is moved it can be damaged, lost or delayed, and additional cost can be incurred that does not result in value to the customer.	Legal department policy may require that, prior to execution, all contracts be reviewed by a competent midlevel lawyer, additional levels of review by a senior lawyer and review by general counsel.
2. Excessive Inventory	Unnecessary cost of storage and maintenance.	Document retention policies of a legal department or the entire organization may be overly broad, out of date, or ignored, which can result in a need to pay for on-site and off-site management/storage of documents and additional discovery cost.
3. Motion	Damage resulting from transportation through the information manufacturing process or injury to workers.	Damage to historic legal documents, not stored in an organized fashion, if they are lost or destroyed.
4. Waiting	Time spent waiting for a service during transportation or processing.	Legal departments may not have an efficient prioritization system for client work. As a result, less-important legal work may get processed before high-priority items, simply because the low-priority project arrived first on the attorney's desk. Another example is a legal department not having an efficient matter management system providing priority coding of "high," "medium" or "low" based on preestablished criteria.
5. Over-processing	Additional work is done on a service that does not add value to the customer.	Client may want the legal department to quickly review a two-page service agreement, but the legal department changes the short agreement into a 20- page master services agreement per company policy.
6. Over-production	Manufacture of product or services earlier than necessary, wasting time, money and space.	A client set an artificial deadline for a contract to be reviewed in-house. As a result, another urgent matter is sent to outside counsel for completion. However, when the internal client gets the contract, they let it sit around for a week before even looking at the suggested changes.

7. Defect	Reworking or rescheduling.	Client doesn't initially provide correct information about the location of a matter, resulting in an internal lawyer researching the wrong state law. Once the correct information is obtained, the research needs to be done again.
-----------	----------------------------	--

One important LEAN tool to identify waste in a process is to develop a value stream. A value stream map helps to identify which steps in the process provide value from the customer's standpoint (*i.e.*, what the customer is willing to pay for) versus the organization's internal point of view. This can be a powerful tool to identify which process steps can be eliminated. However, when developing a value stream map, it is important not to LEAN out internal control steps (quality control or compliance).

2. Identify Legal Department Process Improvement Areas

Example areas, traps and tips include the following:

Areas	Trap	Tip
Legal spend	Cost of outside legal providers is beyond budget.	Create a short list of outside preferred legal providers. Require outside legal providers to agree to required discounts and value-added services, and to follow guidelines, service requirements and commitments to get to know the organization's business, thereby increasing productivity.
Early case assessment	Cases go on too long and incur unnecessary legal expenses.	Develop an early case assessment process to identify cases that should immediately be put onto a settlement track.
Discovery	Organizations have a large volume of litigation and significant spend on e-discovery.	Assess if creating and staffing an internal e-discovery center or utilizing an offshore discovery vendor could produce large savings.
Affirmative litigation	Companies miss opportunities to bring affirmative litigation, or they bring affirmative litigation that is not in their own best interests.	Develop a process to evaluate when it makes sense to pursue affirmative litigation and when it is not in the organization's best interest.
Process waste, defects and noncompliance	Processes inefficiency is assumed to be an integral part of the organization or too difficult or too time-consuming to change.	Create a culture of ongoing process assessment, improvement and excellence.
Records	Records schedules, policies,	Update organization records management policy,

retention/disposition and governance	procedures and governance are not up to date and followed.	programs, process and governance. As required, implement retention/ disposition technology (electronic records management [ERM]). Measure compliance.
Shared network drives	Shared network drives do not provide proper structure for document indexing, security, version control, storage and retention/disposition. Documents are duplicated on network drives, individual drives and email.	Assess cost/benefit of replacing shared network drives with electronic content management (ECM)
Email	Staff sorts through hundreds of emails daily. Email reply and forward are not consistently followed. Difficult to track what is going on.	Replace email communication with workflow technology providing auto sorting, automatic routing (if, then, else), tracking and measurement.

3. Develop a Legal Department Process Improvement Action Plan

- Create a culture of process assessment, improvement and excellence.
- Select a facilitator experienced in process improvement methods and independent of the area being improved.
- Identify process improvement opportunities and rank by quality, service, efficiency and compliance improvement need.
- Develop a list of top projects and estimate scope, cost and benefit of each improvement effort.
- Identify level of change required and match with process improvement method or mixture.
- Develop detailed process baseline and metrics.
- Assess detailed process issues (defect, waste, stress) and opportunities (quality, service).
- Conduct detailed process redesign and estimate new metrics.
- Determine procedural and technology changes required. Perform return-on-investment analysis.
- Develop, follow and update change action plan.
- Measure results.

Implementing this suggested three-step plan can help your legal department run more productively and efficiently, and do more with less.

George Dunn is president of CRE8 Inc., Independent Process Consultant, based in Seattle, WA. Wendy L. Hufford is president of Effective Dispute Management LLC, based in Rye, N.Y., and was formerly vice president, deputy general counsel and assistant secretary of ITT Corp. in White Plains, N.Y. George Dunn is president of CRE8 Independent Consultants, www.cre8inc.com can be reached at (206) 257-7347 or consulting@cre8inc.com

Reprinted with permission from the February 24, 2015 issue of Corporate Counsel © 2015 ALM Media Properties, LLC. Further duplication without permission is prohibited. All rights reserved."