

With the beginning of a new season, many of us take this time to reflect and make changes in our lives, both personally and professionally. Besides getting back to the gym or signing up for an enrichment class at your local college, now may also be an opportune time to dust off your support services contracts to determine if there is room to trim expenses or modify services.

I hope that our offerings in this newsletter inspire you to take a fresh look at your services. Whether it be a decision to move more services on-site (Joe Grubb's On-site Litigation support article) or to read between the lines in your outsourcing contracts (See Contractual Terms article), we encourage you to take that closer look, leaving you with the peace of mind that you have negotiated the very best contracts with optimum terms. Contact us to see how we can help you and your firm do just that!

Rob Mattern
President

New Team Member

Mattern & Associates is pleased to welcome **Brian Trainer** to our organization. Brian joins us, having previously worked for The Keane Organization and will be training in the areas of cost recovery and RFP management. Brian is a graduate of Fairfield University and brings to Mattern ten years of Account Management/Operational expertise. Welcome to the Team, Brian!

Vendor Education Workshops:

As part of our efforts to improve our Request for Proposal (RFP) process, we have started having one-day workshops with each of the vendors we work with. Our first workshop will be with Williams Lea in September and will focus on the following:

- ◆ Proposal process and document review;
- ◆ A review of results since 2004;
- ◆ Williams Lea presentation about their new services for the Legal marketplace;
- ◆ Client feedback – A conference call with Mattern clients.

New Website:

We have recently updated our website: www.matternassoc.com. Please stop by the site and let us know your thoughts.

A passing thought:

This past week I had the honor of attending the viewing of Daniel J. Keating, Jr., who passed away at the age of 90. I say "honored" since I had the privilege of working for Mr. Keating, who was the President of Daniel J. Keating Construction Company, my employer during college and beyond when I was obtaining my MBA. I owe a tremendous amount to the Keating family and especially Mr. Keating who always set an outstanding example on how to be a leader and to act ethically in a business environment. He truly was a gentleman and someone I admired tremendously.

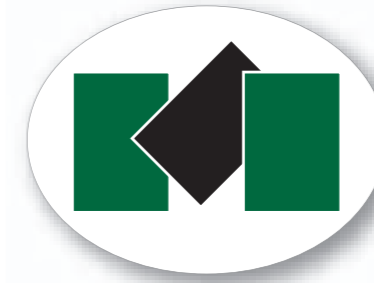
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**MATTERN
MATTERS**

VOL. 11, NO. 2

FALL 2009

Are On-Site Litigation Support Services Right for You?

Consider these factors

By Joseph Grubb, CMDSM, Director of Operations

Today, many outsourcing vendors that provide on-site duplicating staff and equipment are offering expanded functionality in litigation support. Vendors assert that utilizing copy center staff to handle all or some of these functions should reduce costs and increase efficiencies. However, while on-site duplicating teams and equipment may seem a natural fit for the output and scanning that litigation support demands, firms must also consider other factors before transitioning to an on-site arrangement.

1) The Training Factor. The volume-intensive, detailed processes of litigation support services are often handled by support houses or overflow centers with specialized capabilities in scanning and database creation. Before moving toward an in-house solution, consider what training is required for on-site copy operators to skillfully handle these tasks. *How will training impact the copy center's usual functions and daily requirements? After training, will there be adequate staffing to deliver litigation support and routine duplication services to the firm?*

2. The Cost Recovery Factor. While utilizing on-site personnel and equipment may save money, bringing litigation support services in-house, particularly if the firm does not have a cost recovery policy for print and scan, could have a negative impact on recoverable revenue. In fact, Mattern's clients indicate that cost recovery is more likely when a third-party vendor provides such services, simply because in-house processes typically don't generate a separate invoice. Before bringing litigation support on-site, the firm must consider how to capture and recover costs for services which were previously delivered by a third party and which were fully reimbursed. *Can current cost recovery systems recoup all generated expenses in this area? If not, perceived "gains" from in-house operations actually create losses.*

3. The Cost/Benefits Factor. To determine if litigation support services should be fully or partially delivered by on-site staff, a cost/benefit analysis should be performed to ascertain the true advantages.

continued inside

Unbiased Support Services Analysts & Cost Recovery Experts

A Washington, DC Success Story

Savings of \$500K in First Year Alone

What do you do when your firm's outsourcing contract is coming up for renewal and you have not gone out for competitive proposals in over eight (8) years? You call Mattern & Associates to conduct an unbiased evaluation and Request for Proposal (RFP) process for your outsourced services.

That is exactly what a DC-based firm, with offices in New York City and Los Angeles, did recently. Mattern & Associates performed end-user surveys, on-site workflow evaluations, conducted an audit of past invoices and uncovered the following:

- ◆ The firm's current vendor was consistently overbilling them for the past five (5) years.
- ◆ The firm had been overstaffed in all areas of the outsourced operation.
- ◆ The vendor installed software on-site that was never utilized.
- ◆ The current contract allowed no equipment flexibility and the firm was grossly over-equipped.

After an open RFP process, the firm elected to remain with the incumbent vendor. However a dramatically different contract was negotiated with the help of Mattern & Associates.

The end results were as follows:

- ◆ 1st year savings in excess of \$500,000 with subsequent savings of over \$400,000 per year. (This included annual savings in excess of \$150,000 when the headcount was right-sized. Also, the firm saved in excess of \$100,000 per year by using existing features on their own equipment, and by eliminating unused software and equipment previously provided by the vendor.)
- ◆ Signing incentive of \$100,000 which went directly into the client's pocket.
- ◆ Standardization of equipment speed and features with 30% equipment flexibility.
- ◆ A newly created position of National Account Manager to oversee all offices.
- ◆ Reduction of all overage rates.
- ◆ Development of internal litigation support department.
- ◆ Performance standards and penalties inserted in the contract with a monthly scorecard process.

Interested in the same results for your firm? Contact Mattern & Associates to find out what we can do for you. M

Webinars:

After our summer recess, we will be continuing our webinar series on the different areas of expertise that we offer to the legal marketplace. Be on the lookout for emails detailing dates and times.

MATTERN MATTERS is a quarterly publication offering business and support services information. Should you have any questions about your support services, or if you have any comments on this newsletter, please do not hesitate to call us at (610) 459-7750. You can e-mail us at pmccoy@matternassoc.com or contact us through our websites at: www.matternassoc.com or www.supportquestions.com. © September 2009

Don't let your support services providers hold you hostage! Here are some contractual terms that prevent your firm from getting a fair deal from vendors.

By Rob Mattern

In his first Presidential campaign Bill Clinton said, "It's the economy, stupid." After negotiating support services contracts for the past twelve (12) years, I have learned that there are obvious terms that firms unwittingly agree to that take a contract from a "win-win" situation into one that is unfavorably biased to the vendor. To this, I say, "It's the hostage fees, stupid!"

Borrowing quotations from the White House, here is an initial list of the top contractual terms that prohibit your firm from getting a fair deal:

1. "It's the [hostage fees], stupid" – Bill Clinton, improvised.

Hostage Fees in Offsite Records Storage contracts are the fees that off-site records storage companies impose upon you when you elect to remove your boxes from their location. These fees date back to the beginning of the industry, when moving companies got into the records storage business. These fees, which can range into the millions of dollars, block your firm (or make it very, very difficult), from taking your files and moving them to another storage facility, destroying them, or bringing them back to your location. The inclusion of these fees in your agreement prohibits your firm from making a change in vendors, despite how poor the service is or how often the off-site records storage companies try to charge you newly invented fees. As my father used to say, "It is a great gig if you can get it."

What can you do about it? Use the market to create a competitive situation through a Request for Proposal (RFP) process.

Vendors know these fees are outdated and will negotiate them if they are put into a competitive situation. Also, make sure the contract allows for modification of these fees if their service does not meet certain criteria. Don't sign a contract with your current vendor, or another vendor, with these fees included. If you do, then you have no one to blame but yourself for having to put up with shoddy service and extra fees these vendors charge you.

2. "Just say No" – Nancy Reagan

One recent phenomenon is the inclusion of severance payments for an outsourcing vendor's employees. Wait, let me re-phrase that: The outsourcing vendor wants *you* to compensate *their* employees if you opt to down-size your outsourcing contract. This is not a misprint. Under the same category are solicitation fees (penalties for hiring their employees). Usually these penalties range from 30% to 50% of the employees' base salaries, the argument being that they have invested in their training, education, etc... To look at this another way, for every two (2) employees on site, the vendor has an additional person training and supporting these employees.

I am not saying there is never a reason not to agree with such terms; but don't agree to them if:

- ◆ They were your employees previously. (You'd be surprised to learn just how many firms agree to pay the outsourcing vendor for their own employees they outsourced.)
- ◆ You are forced to cancel for poor performance.

- ◆ There is a merger or consolidation of either side of the relationship.

3. "We have nothing to fear but fear itself." – Franklin Delano Roosevelt.

After negotiating support service contracts, especially outsourcing agreements, for the past 12 years, I am still shocked that most of the contracts we encounter have no cancellation provisions. They may have a "cure" provision, whereby if there is an issue, the vendor has 60 days to cure it. If they don't, they get an additional 60 days. Then finally, if it is really not cured, you can cancel the contract. However, you have to assume all the obligations that the outsourcing vendor entered into on your behalf (usually without your approval and not defined in the contract). Boy, that is an easy process! What compounds this situation is that the meaning of "cure" is difficult to define because many outsourcing contracts lack the necessary performance standards that are

required to determine if the vendor is doing an acceptable job.

What can you do to avoid these common, but costly, pitfalls?

- ◆ Every contract should have a simple cancellation for convenience clause. This should state that you can cancel the contract with or without cause upon ninety (90) days written notice. Vendors may complain that a clause like this is not fair – what if someone new comes in and wants to make a change, etcetera? Well, if the vendor is doing a good job, their pricing is competitive, and they are adding value to your organization, they have nothing to fear. M

This positively Presidential list of contract pitfalls is to be continued in the next issue....

On-Site Litigation *continued from page 1*

Is it in the firm's best interests to migrate these activities, when all factors are considered? How can training be implemented with minimal disruption to daily service needs? How will cost recovery be impacted, if at all? Will in-house litigation support services result in economical solutions for smaller projects? Mattern has performed Cost Recovery Analyses for many firms to examine these and other important issues.

As technology advances, vendors will continue to expand their services to encourage utilization of capabilities for

litigation support, as well as other areas. Decisions to migrate these functions, or at least portions of them, should be made carefully and after consideration of the firm's strategic goals. Mattern can bring clarity to these decisions, by identifying the true costs and benefits associated with change.

To learn more, please contact Joe Grubb at 610-459-7750 or email jgrubb@matternassoc.com M