



Allygroup Submission to the National Commission of Audit

26 November 2013

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Acronyms

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| AGD | Attorney-General’s Department |
| ANAO | Australian National Audit Office |
| ASIC | Australian Securities and Investments Commission |
| ATO | Australian Taxation Office |
| KPIs | Key Performance Indicators |
| LSMUL | Legal Services Multi-Use List |
| OLSC | Office of Legal Services Coordination |
| SLAs | Service Level Agreements |

1. About Allygroup

Allygroup is Australia's leading legal services management consultancy. We specialise in advising clients on how to control their internal and external legal expenditure, and how to obtain maximum value and savings from that spend. We are internationally recognised as a thought-leader in informed purchasing of legal services. We have developed our informed purchaser framework which forms the basis of our approach to maximising savings and improving efficiencies.

From our experience advising corporations and governments, we know that implementing innovative approaches to legal services procurement and management delivers improved legal outcomes and improved value for money. Implementation of informed purchasing legal procurement and management methodologies – when implemented in a fully centralised procurement model – has the capacity to generate savings of **up to 30% on existing legal spend**.

Allygroup has successfully advised on legal procurement and management processes for corporate clients in the banking and insurance sectors including **Avant, CGU and Bendigo and Adelaide Bank**. Allygroup has brought the experience of best practice in the private sector to its work on legal procurement and management to a range of NSW State Government departments and Commonwealth agencies including the **Australian Tax Office**, the **Attorney-General's Department (AGD)**, **Department of Defence**, **NSW Treasury** (for a whole of government review), **NSW Land and Property Management Authority** and **Transport for NSW**, among many others.

Allygroup has undertaken assignments assisting in the management of procurement processes for numerous clients including **Transport for NSW, NSW Self Insurance Corporation** and **Sydney Water**.

We are Australia's leading voice on informed purchasing of legal services, legal purchasing technology and legal project management. Allygroup has provided informed purchaser training to clients including the **Australian Tax Office, NSW Treasury** and **NSW Land and Property Management Authority**, as well as providing informed purchaser and legal project management training through seminars and workshops conducted in conjunction with LegalWise and the Australian Corporate Lawyers Association. Allygroup has also authored informed purchaser training information for inclusion in LexisNexis online products and for the Australian Corporate Lawyers Association website.

Allygroup's experience and expertise is detailed in Appendix 1.

2. Executive summary

The National Commission of Audit (the Commission) provides a timely opportunity for the Australian Government to review its expenditure on legal services. This submission specifically focuses on increasing value for money from the Commonwealth Government's legal services expenditure. Commonwealth expenditure on legal services in 2011-2012 was \$721.75 million¹. It has been increasing for a number of years from a recent low of just over \$200 million in 1998-1999.² Savings of up to 30% on this current spend – **valued at over \$200 million** – are achievable if a centralised informed purchaser procurement model is adopted across the Commonwealth. Savings of up to 15-20% are possible under a decentralised procurement model.

Informed purchasing focuses on obtaining quality legal services and optimum value for money for the purchaser. It involves embedding a range of strategies to deliver control, certainty and value to the purchaser of legal services, including:

- defining agencies' legal service needs
- identifying the optimum mix of internal and external legal resources
- procuring external legal services, particularly minimising hourly billing and agreeing fixed costs estimates that can only be changed for a genuine variation in scope
- managing legal services providers, particularly through monitoring and benchmarking the performance of firms
- sharing information between and within Government agencies
- measuring, monitoring and refining the model for management of legal services, including measuring the relative efficiency of in-house and external legal services
- legal project management of large litigation and complex transactions.

The key savings for the Commonwealth can be realised at the point of **procurement**, through effective **panel management** and through using **legal project management** for large litigation and complex commercial transactions.

The Commonwealth has taken some steps towards improving the value of expenditure on legal services, most notably through the introduction in 2012-13 of the Legal Services Multi-Use List (LSMUL). However, there are preliminary indications that the necessary competitive tension is being lost in the LSMUL. In this submission, Allygroup recommends the Commonwealth:

- Conduct a whole of Government audit of informed purchaser capability.
- Develop and roll out an informed purchaser training program across all Commonwealth agencies.
- Introduce a legal procurement management software system for whole of Government.
- Review the LSMUL to identify what adjustments, if any, should be made to maximise value to Government.
- Benchmark performance of firms every six months against agreed SLAs / KPIs.
- Adopt a new governance model whereby legal procurement is centralised, leaving the departments to directly manage their legal matters with the firms.
- Adopt Legal Project Management methodologies for large litigation and complex commercial transactions.

¹ Australian Government Attorney-General's Department *Legal Services Expenditure Report 2011-2012*, 2012, p1.

² Lateral Economics, *Learning from experience: Purchasing legal services*, 2011, p3.

3. Terms of Reference and focus of this submission

The National Commission of Audit has called for submissions within the scope of its Terms of Reference. The Commission's overall remit is to:

examine the scope for efficiency and productivity improvements across all areas of Commonwealth expenditure, and to make recommendations to achieve savings sufficient to deliver a surplus of 1 per cent of GDP prior to 2023-24.³

The focus of this submission is expenditure on Commonwealth legal services.

Relevant sections of the Commissions Terms of Reference for the purposes of this submission are:

Context

It is therefore timely that there should be another full-scale review of the activities of the Commonwealth government to:

- ensure taxpayers are receiving value-for-money from each dollar spent;
- eliminate wasteful spending;
- ...
- improve the overall efficiency and effectiveness with which government services and policy advice are delivered.⁴

Scope

Efficiency and effectiveness of government expenditure

The Commission is asked to report on efficiencies and savings to improve the effectiveness of, and value-for-money from, all Commonwealth expenditure across the forward estimates and in the medium term, including:

- options for greater efficiencies in the Australian Government, such as:
 - increasing contestability of services;
 - adoption of new technologies in service delivery and within government;
- ...
- potential improvements to productivity, service quality, and value for money across the public sector, including better delivery of services to the regions;
- anything that is reasonably necessary or desirable to improve the efficiency and effectiveness of government generally.⁵

The Commission is asked to review and report on:

- options to manage expenditure growth, including through reviewing existing policy settings, programs and discretionary spending (such as grants);
- ...
- other savings or matters that the Commission considers should be brought to the Government's attention.⁶

³ National Commission of Audit, *Terms of Reference*, 2013, p1.

⁴ Ibid, p1.

⁵ Ibid, p2.

⁶ Ibid, p3.

4. Background

Commonwealth expenditure on legal services in 2011-2012 was \$721.75 million⁷, including external and internal expenditure. This represented an increase on the previous year of 6.7%.⁸ The top three Commonwealth agencies with the largest legal expenditure (in order from highest to lowest expenditure) in 2011-2012 were the Australian Taxation Office (ATO), the Australian Securities and Investments Commission (ASIC) and the Department of Defence.⁹ All three agencies had their highest expenditure recorded over the last four years in the most recent 2011-2012 financial year, with the ATO topping \$100 million in legal services expenditure and ASIC and Defence spending around \$80 million each.

Overall Commonwealth legal expenditure has been increasing for a number of years from a recent low of just over \$200 million in 1998-1999.¹⁰ Commonwealth expenditure on legal services in 2011-2012 was the highest recorded since at least 1995-1996.

In 2006, the Australian National Audit Office (ANAO) produced a Better Practice Guide on *Legal Service Arrangements in Australian Government Agencies*.¹¹ The guide contained information on the skills and role of an informed purchaser of legal services and a better practice model for purchasing legal services.

Since the ANAO report, over the last four years the Commonwealth Government has commissioned two major reports into the Commonwealth's legal services expenditure. The 2009 Blunn Krieger report and the 2011 Lateral Economics report both determined that major savings can be made if an informed purchaser approach is adopted by Federal Government agencies.

2009 Blunn Krieger report

In 2009, the Attorney-General released the *Report of the Review of Commonwealth Legal Services* (the Blunn Krieger report) which identified several issues affecting the efficient and effective provision of Commonwealth legal services, and recommended that the Commonwealth adopt a more strategic, co-ordinated and whole-of-government approach to legal services arrangements, based on the informed purchaser approach. The report stated:

12. Despite the fact that some agencies have already made significant savings from legal services spending by contributing to agency savings targets and are managing the role effectively, there are further savings that can be made across the Commonwealth.

⁷ Inclusive of GST. Includes legal services expenditure incurred by *Financial Management and Accountability Act 1999* agencies (\$649.05m) and *Commonwealth Authorities and Companies Act 1997* agencies (\$72.7m). Figures from Australian Government Attorney-General's Department *Legal Services Expenditure Report 2011-2012*, 2012, p1. Retrieved from <http://www.ag.gov.au/Publications/Pages/CommonwealthLegalServicesExpenditure.aspx>

⁸ Ibid, p 3.

⁹ Ibid, p 5.

¹⁰ Lateral Economics, *Learning from experience: Purchasing legal services*, 2011, p3.

¹¹ Australian National Audit Office's Better Practice Guide on *Legal Services Arrangements in Australian Government Agencies*, available at http://www.anao.gov.au/~/_media/Uploads/Documents/legal_services_arrangements.pdf

13. Those savings will largely depend on the more effective management of in-house practices; **in particular, on the further development of in-house informed purchaser skills** and closer cooperation between agencies.¹²

2011 Lateral Economics report

In late 2010, the then Attorney-General asked Nicholas Gruen from Lateral Economics to prepare a study on government purchasing of legal services. This report also strongly supported the development informed purchasing capacity across the Commonwealth. From the introduction to that report, Gruen states:

In making the difficult judgements necessary to proceed, it is reassuring that there is a broad disciplinary and managerial consensus on the general direction reform should take. **At the heart of that consensus is the need for the Commonwealth to improve its performance as an *informed purchaser of legal services.***¹³

The report identified that savings of between 11½ - 21¾% are possible on Commonwealth legal services expenditure, with 7-15% of savings attributable to “Better informed purchasing and external talent management”.¹⁴

2012-2013 Transitioning to the LSMUL

Following the Blunn Krieger and Lateral Economics reports, the Attorney-General mandated the introduction of the LSMUL after a roundtable was convened of key stakeholders by his Department in February 2011. The LSMUL is a whole of Federal Government list of legal services providers that all agencies must use to procure legal services. The LSMUL came into effect on 1 June 2012, and all agencies were required to transition from legal services provider panel arrangements to the LSMUL by 1 June 2013.

The LSMUL is effectively a prequalification list, and agencies are able to specify additional terms and conditions when they engage legal services providers off the LSMUL. Agencies have the ability to implement parcelling arrangements, which may range from a specific task or matter, to broader categories of work required over a period of time.

Parcelling arrangements removed the need for an agency to seek quotes for individual purchases over the procurement threshold, where a parcelling arrangement exists. Value for money is supposed to be assessed by the agency at the time of establishing a parcelling arrangement, removing the need to assess value for money each time a legal services provider is engaged under that parcelling arrangement.

¹² Bold emphasis added. Blunn, A and Krieger, S, *Report of the Review of Commonwealth Legal Services Procurement*, Canberra, 2009, p7.

¹³ Bold emphasis added but italics in the original. Lateral Economics, *Learning from experience: Purchasing legal services*, 2011, ii.

¹⁴ *Ibid*, xvi

5. Why is the Commonwealth spend on legal services increasing?

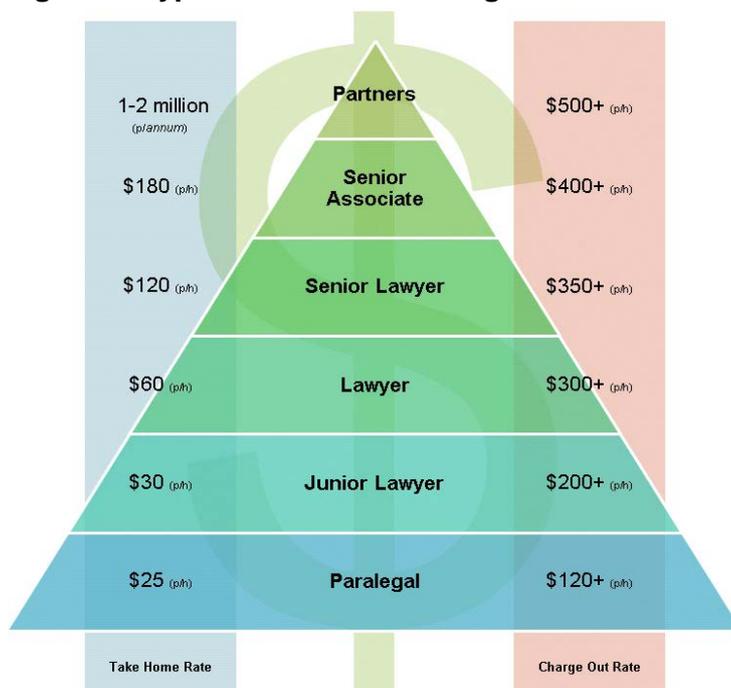
Although the Commonwealth has been aware of its problem with increasing legal expenditure, and has implemented reforms aimed at slowing this increase, the legal services expenditure for the Federal Government continues to rise. Why is this so?

From our experiences consulting to a wide range corporate clients and Federal and State Government agencies, Allygroup is well qualified to propose answers to this question.

Hourly rates offer little incentive for external law firms to be efficient or competitive

While ever legal services are billed at hourly rates, the incentive for legal firms to offer greater value for money is minimised. Indeed, while hourly rates predominate, legal service providers have an incentive to undertake and bill for increasing work - to increase their profit margin. It is the law firms' leverage model that underscores this proposition. Legal service providers have much to gain for charging work on hourly rates, particularly at the mid- and junior-levels of legal resource. Figure 1 below illustrates why legal firms prefer to charge by the hour.

Figure 1: Typical Law Firm Leverage Model



A recent review conducted by Allygroup of a government agency found that while some aspects of informed purchasing had been introduced, the agency was still overwhelmingly engaging its law firms on an hourly rates basis and this was hampering potential savings gains. As Allygroup outlined in its 2011 training program *The Informed Purchaser: Obtaining Value for Money from the Government's External Legal Spend* prepared for the NSW Government, "accepting hourly rates without a fee cap or limit, or indeed with only an indicative range, is not an approach that is likely to deliver value for money to government."¹⁵

¹⁵ Allygroup, *The Informed Purchaser: Obtaining Value for Money from the Government's External Legal Spend*, 2011, p158

Informed purchasing is not being adopted

One of the key issues is that the reforms offered by the informed purchasing approach are simply not being adopted. There are a range of strategies that informed purchasers use (discussed in section 6 below), but the key here is that procurement should be centralised to maximise leverage and value. This is not happening at the rate and breadth that it should. As an example, another recent review of a Federal government agency found that approximately 100 different people within that one agency had procured external legal services in the previous year. The dispersal of legal spend lowers the capacity of the agency to generate savings through leveraging its buying power.

The work is not scoped correctly, resulting in unnecessary work being performed

Work Allygroup has conducted with a number of Commonwealth and State-based agencies and departments reveals that, all too often, legal work is not correctly scoped at the outset, resulting in significant unnecessary work being performed. A recent review we conducted in one agency found that there was a tendency for legal services providers to 'chase every rabbit down every hole' in order to limit risk. In our experience, this is a very common practice.

Appropriate blended (in-house/external) teams are not agreed, with too much work done externally

The use of internal legal resources is often overlooked in government agencies. Good use of blended teams (using some internal, some external firms and use of the bar, plus a legal project manager) can provide excellent value for money and generate significant savings.

Top-tier firms are often engaged for routine work at the highest rates

In our reviews of various state government agencies, we found that top-tier firms are being paid a significant proportion of the overall legal spend. In addition, one top tier firm was found to be receiving the lion's share of the top-tier spend. From our work with various Commonwealth agencies, we have found a similar situation. There is opportunity to engage more mid-tier or boutique firms (at lower rates) for high-volume, routine or specialist work, to improve value for money and generate significant savings.

Law firms are in control of legal spend, not the client

From our reviews and interviews with hundreds of general counsel from across all tiers of government, we find that agency legal staff have common concerns about their dealings with legal service providers. They feel that:

- Law firms often set and control the brief, not the client.
- Agency staff often do not know how to manage external firms and project manage large cases.
- Competitive tension is often lost once a firm is appointed to a panel or multi-use list, as the work is simply assigned to favourite firms, or rotated routinely among the firms on the panel.

Informed purchasing panel management is a skill that drives competitive tension. It is the role of the informed purchaser to create the competitive tension between panel firms. By monitoring and benchmarking each panel firm's performance, sharing that information with all firms, and allocating work based on performance, panel firms are driven to perform better - in order to get a larger share of the work.

Panel, multi-use/prequalified list or hybrid model?

As outlined above, competitive tension can be lost once a firm is appointed to a panel or multi-use list, unless that panel or prequalified firm is effectively managed by an experienced informed purchaser. One of the benefits of a panel is the competitive tension that it generates among firms (that are competing for work across the panel). The value of a multi-use or prequalified list is that it allows for new entrants to compete for work, along with providing specialist or regional expertise that may not be appropriate for full panel membership.

Allygroup's favoured model is a hybrid between a traditional panel and a prequalified list. This model allows agencies to leverage value in areas where legal spend is significant, while still providing flexibility to handle conflicts and specialist and regional needs, through a supplementary list.

In NSW, the Treasury Managed Fund has recently established a hybrid panel and expects to achieve in excess of 20% legal cost savings from its panel arrangements and procurement/panel management software.

6. What is informed purchasing?

Informed purchasing is an approach that focuses on obtaining quality legal services and optimum value for money for the purchaser. It involves adopting a range of strategies to deliver control, certainty and value to the purchaser of legal services.

Informed purchasing is at the core of leading practice in private sector and government procurement of legal services. The informed purchaser implements leading practices to obtain optimum value for money and high quality from the external legal spend. Best practice in informed purchasing is applied in both the public and private sectors, while recognising the different risk profiles that apply in the public sector.

Leading practice in government procurement of legal services is based on the Australian National Audit Office (ANAO)'s better practice model. This model was modified and fully developed by Allygroup to create a leading practice model for the procurement of panel legal services for government. The Allygroup leading practice model is set out below.

Figure 2: Informed Purchasing – leading practice model

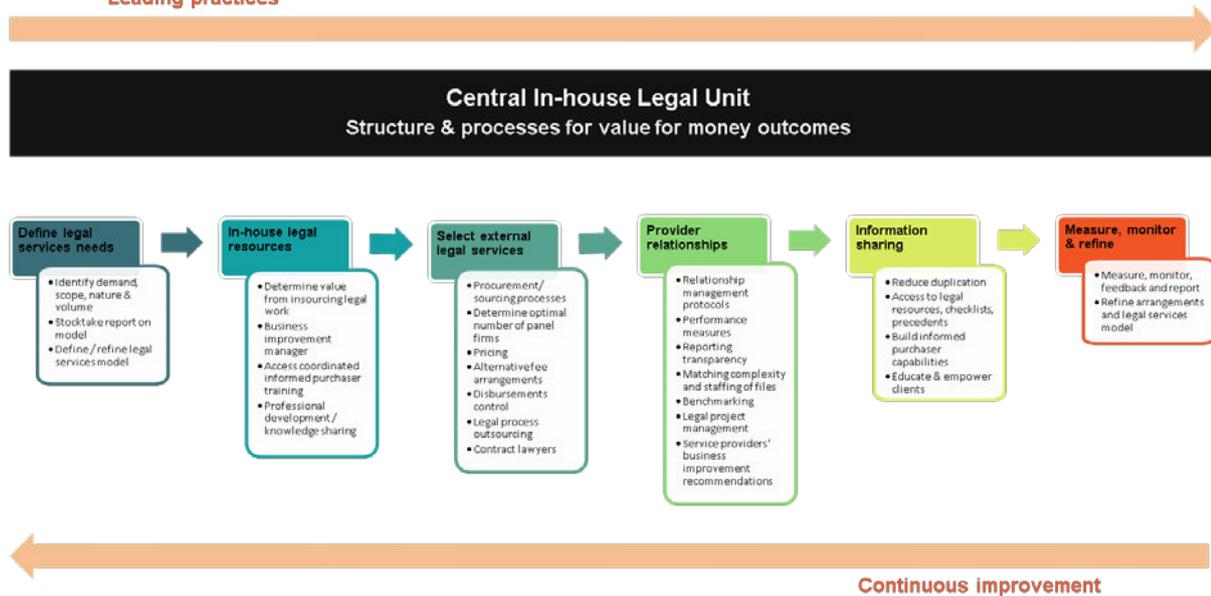
Informed Purchasing – leading practice model

Who? Key influencers at every stage with knowledge of law and legal business.

What? Coordinate legal service arrangements, link strategy to implementation.

Why? Ensure value for money legal services.

Leading practices



The practices begin from the left and move to the right. The output from stage six (measure, monitor and refine) feeds back into the remaining stages through continuous improvement.

The key concepts behind each of these six stages are described below.

1. Define legal services needs

In this first crucial stage, leading practice for the procurer is to define how legal services are to be delivered. The first issue to consider is the demand, scope, nature and volume of legal services required by the agency. In this phase, consideration needs to be given and decisions need to be made on how the legal services will operate (for example the mix of in-house and external provision of legal services and the amount of work that can be distributed).

2. Establish in-house legal resources

Once the procurer has defined the legal services needs in the first stage, leading practice requires an examination of the in-house legal resources required. Issues that must be considered during this stage include the size and capacity requirements of the in-house team, the appointment of a business improvement manager and their management of panels for agencies, how the team will be provided with informed purchaser training, and giving the internal team access to knowledge-sharing tools available across government.

3. Select external legal services

Leading practices in this stage focuses on moving away from hourly billing, incorporated fixed costs estimates and introducing alternative fee arrangements. The Request for Tender (RFT) process establishes the performance management regime and the relationship management protocol. It also includes determining terms of

engagement with panel firms and innovative fee arrangements. Leading practice in this phase is that generic RFT documents are adapted to specific agency needs. The focus should be on those issues that make a difference for the agency. This includes the specific content required for tender responses, the performance and monitoring regime, the evaluation criteria and the evaluation approach and methodology. Crucially, government would implement leading procurement practice through the use of a business manager.

4. Manage provider relationships

Arguably the most critical part of the model, this stage focuses on implementing and managing legal services provider relationships. Leading practice is the implementation of all the processes put in place in the earlier stage of 'select external legal services.' These should be actioned in an effective, efficient and ethical way. Specifically, innovative fee arrangements should be realised and performance measures applied and used to improve performance of panel firms. Crucial in this stage is monitoring firms' performance against service level agreements (SLAs) and key performance indicators (KPIs) and benchmarking firms' performance.

5. Information sharing

Leading practice in this stage focuses on sharing information to reduce duplication (such as the advice on the same legal question has been sought and provided to two agencies, or the duplication of commercial starting point templates). Leading practice is achieved through greater information sharing – across agencies and between government and the panel firms. Leading practice is to share this information not just within in-house legal teams and panel firms, but through business unit managers (such as panel managers) who can facilitate the sharing of information across government. Information can be shared with non-lawyers through document creation tools and checklists, to empower and educate the internal client base.

6. Measure, monitor and refine

There are two leading practice aspects to consider at this stage. First, the process of measuring, monitoring and refining the legal services model for each panel and agency, including measuring the relative efficiency of in-house and external legal resources. Second, the process of measuring, monitoring and refining legal services procurement across government through a central coordination legal services unit. During this process, some legal firms will come off the panels to be replaced by more competitive firms. This stage is part of the continuous improvement cycle, feeding back into to earlier stages of the leading practice model.

It is important to note is that informed purchasing is a skill that can be learnt. Allygroup provides training to its clients to better assist them in implementing an informed purchaser model in their internal legal sections, and includes training on the following key areas:

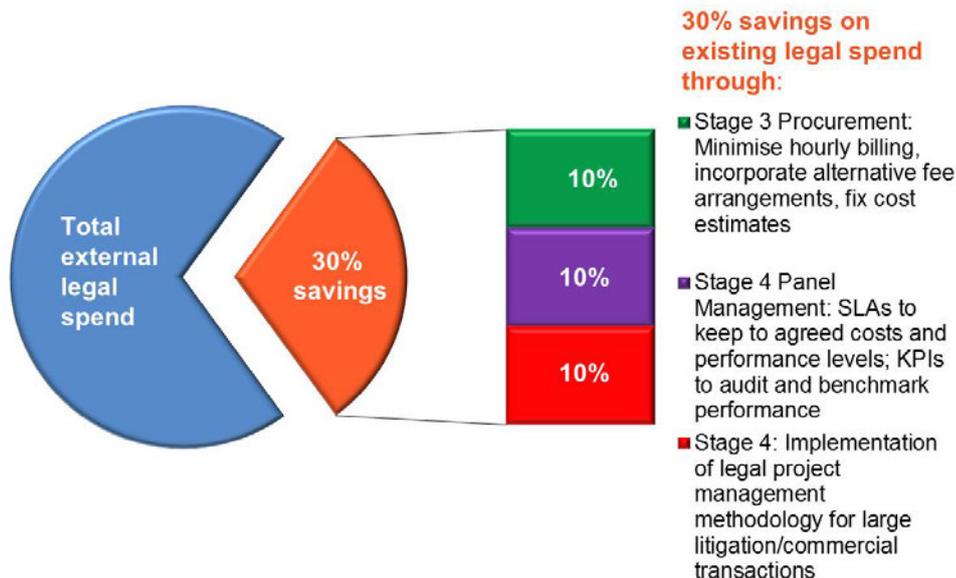
- Understanding and implementing alternative fee arrangements (AFAs)
- Project management of complex legal matters
- Implementation of legal panels
- How to better communicate with external legal service providers
- How to select an external legal service provider
- How to set a budget and timetable for a legal matter involving an external legal service provider; and
- How to establish an effective legal team.

7. Savings that can be generated from an Informed Purchasing approach

An informed purchaser implements leading practices to obtain optimum value for money and high quality from a limited legal spend. Not only does informed purchasing have the ability to generate significant savings, it also improves legal service performance. Informed purchasing delivers better value to the procurer and has many additional benefits beyond savings - including the ability to monitor legal service performance over time, improved reporting capacity and ensuring legal services are delivered with a focus on the agency's strategic objectives. As the emphasis of this submission is on generating savings, this next section will focus on this aspect of the informed purchasing framework.

Potential savings that informed purchasing can achieve through implementing our legal leading practice processes, including implementation of a centralised informed purchaser procurement system, are detailed in the Figure 3 below:

Figure 3: External Legal Spend – Potential Savings from Implementing an Informed Purchaser Framework



It is important to note that currently the Commonwealth has a centralised legal service division, the Office of Legal Services Coordination (OLSC) under the Attorney General's Department. While acting as a coordination unit, the OLSC is not a centralised procurement unit – it maintains the LSMUL from which agencies then procure legal services. Under this decentralised procurement model, potential savings are limited to approximately 15-20%.

Further explanation of the savings outlined in Figure 3 are:

Stage 3: Procurement of external legal services (minimum savings of 10%) Minimise hourly billing, fixing cost estimates and introducing innovative fee arrangements

It is at the crucial point of procurement that significant savings are generated. By minimising the use of hourly billing, procurers of legal services can vastly increase value for money. Where it is not possible to move away from hourly rates, informed purchasers work with providers to fix cost estimates and only allow changes only for genuine variations in the scope of work.

Significant savings can be realised without compromising quality through the implementation of innovative fee arrangements including fixed fees, event stage fees, capped fees, retainers for volume work, among others.

The key to effectively utilising alternative fee arrangements is obtaining sufficient legal expenditure data to inform the setting of capped or fixed fees for appropriate types of legal work. Such data will also assist in monitoring the effectiveness of alternative fee arrangements to ensure that quality is not compromised.

In our experience, **savings 10%** of total external legal services spend can be realised through minimising the use of hourly billing, fixing cost estimates and moving to innovative fee arrangements.

Other informed purchaser strategies used to generate saving at this procurement stage include:

Improved scope of brief to legal service providers

Legal services providers are often inadequately briefed - leading to unnecessary work and cost. We often identify unnecessary legal costs being incurred in a decentralised model, as business units are not trained to brief external lawyers, to properly assess costs and to properly monitor legal expenditure.

Improved engagement of legal services providers can provide genuine savings, whilst at the same time improving quality, as legal services providers will better understand the scope on engagements.

Legal panels or hybrid model

Establishing a leading practice panel arrangement or hybrid model allows leveraging of legal expenditure to obtain greater value from large legal spends and the implementation of enforceable SLAs and benchmarking providers at the next stage of the informed purchaser framework.

The composition of a panel can be tailored to meet an agency's legal services needs and provide options for generating value (e.g. creating sub-panels to meet particular legal needs, appointing a range of firms from top-tier to boutique).

Stage 4: Panel management (minimum savings of 10%)

Performance management of a panel of legal services providers primarily involves monitoring and auditing legal services providers against agreed across-government key performance indicators and SLAs; pre-existing agreements on what can and cannot be charged by the provider. This is one of the most significant tools to maximise value without compromising quality as informed purchasers ensure adherence to SLA standards. In our experience minimum savings of 10% are achieved through this process.

SLAs with legal services providers should be used to:

- agree what work can be charged and what cannot be charged (e.g. internal meetings, small amounts of photocopying, multiple fee earners attending meetings/court etc.)
- set expectations on responsiveness (e.g. timeframes for responding to requests for engagements, advices, responding to emails and phone calls)

- set expectations for legal services providers' deliverables (e.g. advices, contracts)
- give formal effect to invoicing requirements, innovative fee arrangements, relationship management and performance management procedures

By giving formal effect to procurement improvement and relationship arrangements and innovative fee arrangements the savings that can be achieved through these measures will be maximised.

SLAs can also provide formal mechanisms to monitor external legal services providers to ensure that quality is never compromised.

Performance management processes on a legal services panel

A legal services panel can be designed and managed so that more work is allocated to high performing legal services providers, and to sanction those that do not meet performance expectations. Information sharing and performance management processes can be used to drive competitive tension across legal services providers and promote continual improvements in quality. The process of monitoring and benchmarking performance of legal firms against other panel firms drives even greater value.

A properly implemented leading practice legal services panel can provide **savings of 15-20%** within 12-18 months of commencement.

The experience of the Victorian Government, which introduced a centralised legal panel in 2011, was that initial savings of 15% were realised as a result of the establishment of a central legal services panel in the first 12 months (from a \$60 million legal spend baseline).

Legal Project Management (minimum savings of 10%)

Legal project management is a set of management disciplines that can be used to help deliver major legal or commercial projects within the time, cost and quality constraints. Project management is heavily focused on, first, defining the project's objectives and, second, scoping the legal work required to deliver the objectives. It then focuses on monitoring the project to identify as early as possible any risks or issues that might impact the timing, costs or quality as set out in the scope.

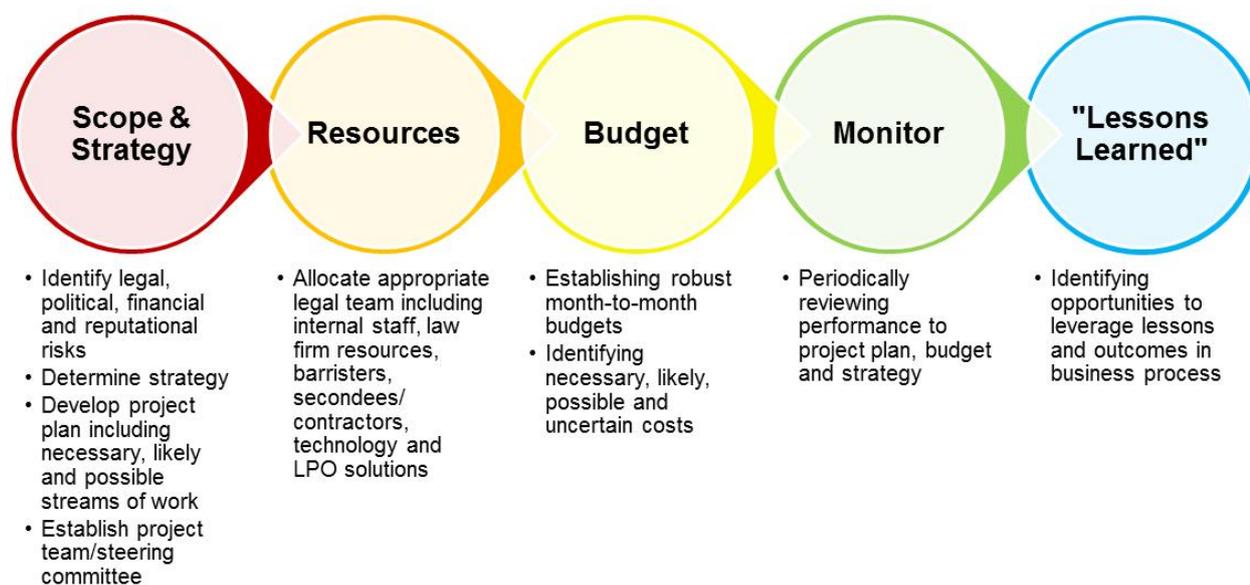
Effective legal project management can be used to give control of major legal case back to the client.

Many of our clients believe that legal project management of large and complex litigation generates the greatest level of savings in legal services procurement. From our extensive experience in project management of large and complex cases and transactions, Allygroup has previously identified **savings of 15-25%** on external legal costs for major and complex cases.

Project management of large and complex legal litigation or commercial transactions involves five key stages, as outlined in Figure 4:

Figure 4: Legal Project Management Framework

Legal Project Management Framework



Across all three areas outlined above, implementation of legal procurement technology and software greatly assists in the setting of agreed fees, monitoring of quantitative SLAs and benchmarking of performance. These systems are being utilised by state governments including the Government of Victoria and NSW Treasury. Such systems generally include some or all of the following features:

- Automation of invoice review
- Efficiencies in processing
- Implementation of legal services arrangements
- Selection and engagement of legal services providers including direct briefing of barristers
- Monitoring of performance against agreed quantitative SLAs/KPIs
- Transparent rating of law firm performance (top rating firms receive five stars)
- Financial reporting.

The introduction of legal procurement software has been demonstrated to provide **savings of 5%** on total legal spend. In Victoria, the recently introduced procurement software has reportedly generated savings of up to 28% on operations.¹⁶

Legal procurement software greatly facilitates the operation of performance and reporting mechanisms, as it automates the capture of key performance indicators, and ensures all stakeholders and providers are using a common system. Introducing legal procurement management software greatly enhances the ability to achieve the savings set out for the other options in this section.

¹⁶ Yarris, *Victorian government highlights e-procurement aims*, 2013. Accessed 21 November 2013 at <http://www.yarris.com/blog/yarris-legal-gateway/victorian-government-highlights-e-procurement-aims/>
{00069692.DOCX} © Ally Group Pty Ltd 2013

8. Recommendations for improved savings

In order to achieve the estimated savings in expenditure outlined above, the Commonwealth should immediately action work on developing its informed purchasing capacity. Several recommendations for doing this were discussed and agreed at the Commonwealth Legal Services Reform Roundtable, convened by the then Attorney-General on 16 February 2011¹⁷. Allygroup recommends that the Commission advise the Commonwealth to:

- **Conduct a whole of Government audit of informed purchaser capability.**
- **Develop and roll out an informed purchaser training program across all Commonwealth agencies.**

[Relevant recommendations from the Attorney-General's roundtable meeting in 2011 included but yet to be actioned were:

- The General Counsel Committee, with the support of AGD, undertake an audit of informed purchasing capability across the Commonwealth to identify areas of need and examples of better practice that should be cultivated
- AGD conduct a tender for the development of Commonwealth wide training and guidance materials on informed purchasing of legal services
- The General Counsel Committee, with the support of AGD, engage government and industry on the use of annual surveys of agency performance as informed purchasers
- AGD conduct a tender for the development of an annual survey of agency informed purchasing performance.^{18]}
- **Introduce a legal procurement management software system for whole of Government.**

[Relevant recommendations from the roundtable meeting yet to be actioned:

Once an informed purchasing data set has been finalised:

- the General Counsel Committee consult with government and industry, with the support of AGD, on the design and specifications of an IT tool
- AGD conduct a tender for the scoping, development and implementation of an IT tool, with AGD and the Committee to manage its delivery and implementation, including a period of testing by government and industry users
- AGD be responsible for hosting and administering the IT tool.]

In addition to these items above, Allygroup also recommends the Commission advise the Commonwealth to:

- **Review the LSMUL to identify what adjustments, if any, should be made to maximise value to Government.**
- **Benchmark performance of firms every six months against agreed SLAs / KPIs.**
- **Adopt a new governance model whereby legal procurement is centralised, leaving the departments to directly manage their legal matters with the firms.**
- **Adopt Legal Project Management methodologies for large litigation and complex commercial transactions.**

As outlined earlier, adoption of these recommendations has the potential to save up to \$200 million per annum on Commonwealth legal services expenditure.

¹⁷ Attorney-General's Department, *Achieving Value – Commonwealth legal services reform roundtable*, 2011

¹⁸ *Ibid*, p5.

