Making Contracting Easier for Legal

Mike Haysley, Consilio
Jackson Mayes, Onit

Consilio + onit

Making Contracting Easier for Legal

Contracts are what make any business go, but first, they have to get to the finish line: execution. Unfortunately, in many organizations, agreements get bogged down in byzantine contracting processes that frustrate corporate counsel and their clients alike. When counsel rely on tools such as Microsoft Outlook, Word, Excel and SharePoint as their contract management suite, it leads to a lack of transparency. Drafting, review and approval workflows come to a standstill as emails fly back and forth between stakeholders desperately trying to determine the status and versioning of their contracts. Disappointed business units point the finger at corporate counsel for delays that can extend negotiations and damage relationships with suppliers, vendors and customers. Meanwhile, the legal team loses opportunities for insight into the contracting process and data, making risk management and compliance more challenging.

Though the legal workload may be overwhelming, the contracting lifecycle does not have to be, thanks to contract lifecycle management (CLM) software. These tools can remedy the major pain points in workflows and make contracting as easy as child's play, transforming the legal team from the department of "no" into a strategic, value-adding business partner.

Legal Is Always Blamed as the Bottleneck

In many organizations, counsel must draft, review and approve most agreements, whether it is a standard nondisclosure agreement or a complex merger transaction. Requests for new contracts may come to the legal department from a variety of sources, whether by phone, email or even a passing conversation near the water cooler. Without a system, it can be difficult to keep track of contract volume and status, and some requests may slip through the cracks. As the queue continues to mount, delays inevitably ensue. This creates a meaningful risk of exasperated business unit leaders cutting corners to meet business needs and pasting together contracts of their own without legal review.

The Solution: The right workflows can speed the contract creation and review process and free in-house counsel to focus on high-value matters, not administrative tasks. An effective analysis, which is critical for developing a solution unique to each department, will assess current workloads, identify gaps and process inefficiencies and define opportunities to leverage technology to achieve improvement goals. Legal can use CLM software to create an intake form configured to each type of contract that users regularly rely upon. Data from these forms feed contract templates, automating the assembly process and eliminating cumbersome information gathering and drafting steps. Flexible CLM platforms can also tailor workflows to contract subject matter, tiering contracts for review based on the risk associated with their provisions. Boilerplate or less strategic contracts can be routed to paralegals for review, while more complex arrangements or contracts with nonstandard terms can be directed to more senior attorneys.

A Lack of Review and Approval Process Transparency

The typical contract review process happens over email. The contract is shuffled along through multiple stakeholders in various departments—and possibly even in different countries or time zones. As a result, it is often unclear where the contract is in the approval process, how long it has been stagnating in an inbox or when it might be complete. Business units lack visibility into the status of contract negotiations or revisions, and the blame often falls on legal for failing to keep business users informed of potential roadblocks and completion timelines.

The Solution: Legal teams need a better collaboration tool so they can coordinate with procurement, sales and other departments, regardless of their location or the complexity of their agreements. A cloud-based CLM platform designed and implemented to meet the specific needs of the organization can enable access to the current status of the contract by all parties from anywhere, meeting mobility challenges and ensuring that all stakeholders in the approval chain can remain in the loop on progress and the projected execution date. More sophisticated CLM systems can create approval processes that run in parallel and accept e-signatures, eliminating the need to route hard copies, significantly compressing the contracting timeline.

Who Has the Latest Copy of Executed Contracts?

Once a contract makes it through the approval and execution processes, it is usually safely filed away for reference—so safely, in fact, that few, if any, know where it is being kept. This becomes problematic when it is time to renew the contract—if anyone actually remembers the termination date—or when the gatekeeper leaves the organization. Moreover, when storing their contracts, many businesses do not have a single, unified system. Some departments may rely on hard-copy storage, while other departments have devised their own electronic filing cabinet. These multiple repositories can lead to duplicative or even inconsistent versions of the same contract.

The Solution: Retain contracts and related addenda, notices and renewal data in a centralized repository. This way, legal departments can eliminate the time and stress of sending panicked emails to business unit staff asking them to search their inboxes for the latest version of a contract. The best repositories are searchable, regardless of document format, so users can use keywords to search the full text of all contracts and data in contracts stored as PDF files. With search results available at the tap of a few keys, lawyers and their internal clients can spend less time on administrative tasks and refocus on their strategic priorities.

> *Once a contract makes it through the approval and execution processes, it is usually safely filed away for reference— so safely, in fact, that few, if any, know where it is being kept.*

Compliance With Legal and Contractual Obligations

Organizations have two primary areas of compliance risk when it comes to their contracts. First, organizations must comply with federal and state laws and regulations. While laws such as Sarbanes-Oxley Act apply entirely, some contracts impose additional legal requirements. For example, some cross-border arrangements may require organizations to comply with anti-corruption laws, such as the Foreign Corrupt Practices Act. Second, but no less important, are the contractual requirements themselves. Some requirements are date-driven, such as renewals or expiry, while others may be event-driven, such as notifying a business partner if the organization experiences a change in ownership. Users have a difficult time tracking and monitoring compliance with these obligations through manual spreadsheets, which are only as accurate and as organized as the person entering the data.

Consilio® + onit

The Solution: CLM tools can track every contract's terms, conditions and pertinent dates, easing the administrative headaches of manually recording and tracking contracts in piecemeal spreadsheets—a process fraught with the risk of human error. Leveraging expert service providers to assist in defining requirements and designing the system to best meet department objectives can ensure project success and avoid re-work later on to correct or supplement data that is captured. Some systems can send automatic notifications when deadlines are approaching. Moreover, CLM software can track, in detail, every change or other action that occurs with respect to a contract, creating a verifiable audit trail that lowers risk. Users can then run reports that give them more insight than ever into their contractual terms, identifying agreements that require action resulting from timelines or business events, and providing powerful information when renegotiating contract terms.

Inflexible Contract Management Software

Legal departments often lack the bandwidth or resources to deploy expensive enterprise-wide CLM systems because they are designed to meet the needs of larger business organizations. Many of these tools are built for procurement and sales departments, focusing on standardized contracts. But legal departments have special workflow needs because they handle a variety of contract types, such as employment contracts, IT contracts, nondisclosure agreements, acquisition agreements and RFP responses. The inability to integrate enterprise CLM solutions with other business applications often leads to rework and a reversion to the use of manual contract tracking. Frequently, these tools are so complicated that their staff will quickly become frustrated and ignore them.

Despite perception by some in other departments, many contract management software platforms do not work for legal departments. A survey of 120 business process professionals indicates that 85% feel that the software they use is mismatched

with their needs, while 79% said that the inflexibility of these tools limits their ability to change process. Another 84% felt that they had insufficient visibility into the process. (2011 Forrester Research report).

> *The inability to integrate enterprise CLM solutions with other business applications often leads to rework and a reversion to the use of manual contract tracking.*

Traditional contract management software is costly and the time to value can be very long. The user experience provided in these applications can also be unintuitive and difficult to change when it needs to support a new business initiative. These problems lead to lower adoption, additional training sessions, and frustrated users, negating the desired benefits of the solution.

The Solution: Legal staff will reject any CLM solution that creates more work for them. Therefore, the software and its implementation should not be so rigid that it requires the legal team to rebuild its contracting workflows to match its configuration, nor should it be so complicated that it requires a lengthy deployment. The best solutions are simple and flexible, with the ability for legal teams to make modifications without asking for assistance from IT. Users should be able to customize the workflow and add people to the approval route on the fly. Moreover, they should deliver timely, meaningful information in an accessible format, preferably through easy-to-read dashboards and reports. This requires both a well thought out design and a tool that is built to allow flexibility.

Consilio + onit

Conclusion

Contracting may never be all fun and games for the legal department. However, it is clear that manual tools, such as spreadsheets and emails, often lead to business units playing the "blame game," as they are insufficient to deliver expedient results while protecting the organization and its assets. To resolve their most pressing pain points in the contracting process, corporate counsel should consider implementing a CLM solution unique to their needs. Depending on the complexity of the need, the operational maturity of the department and the available resources, leveraging expert service providers may be required to meet objectives. These tools can help legal teams get ahead of the game by simplifying labyrinthine approval workflows, enhancing their visibility into the contracting process, mitigating business risk and improving the organization's contracting posture, all the while adding greater value to the business.

About the Authors

Mike Haysley

Mike Haysley is a Managing Director at Consilio, a global leader in eDiscovery, document review and legal consulting services.

Mike advises corporate legal departments on improving operations, reducing spend and demonstrating results. His over 20 years of professional experience includes premier consultancies, leading matter and spend management software providers, and law department operations for a large legal department. Through personally addressing and managing many of the issues facing legal departments today, while also understanding best practices and the varying needs of organizations, Mike is able to bring a unique perspective to assist law departments in developing and executing their strategy.

Jackson Mayes

Jackson Mayes is a Senior Sales Engineer at Onit, a leading provider of Enterprise Legal Management (ELM), contract management and business process automation solutions.

Jackson is responsible for working with corporate legal department clients to optimize service delivery and develop strategies that define the value of legal services within the corporation. He is the technical lead and is responsible for technical and business requirements gathering, consulting and proposal preparation and technical presentations with customers. He is also responsible for actively driving and managing the technology evaluation stage of each sales process while working in conjunction with the sales team as the key technical adviser and product advocate for the Onit product. In his role, he identifies all technical issues of assigned accounts to assure complete customer satisfaction through all stages of the sales process. Jackson also oversees all security, compliance and risk assessments in addition to RFPs that are sent to the Onit sales department.

Consilio® + **onit**