

# TENDERING:

## A lifeline for regional firms

The growing use of formal tenders by clients gives regional firms a chance to win better mandates from larger clients. But will it be enough to make up for the ravages of the recession? **RAVINDER CASLEY GERA** reports.

Emma Price expected a challenge when, two years ago, she joined Bond Pearce as its director of business development. Her task was to deepen the firm's relationships with FTSE clients and secure the firm more complex work. To her surprise, she found herself pushing at an open door. "We've found clients are very receptive to hearing how we can help them manage their legal spend better," she says. "It's not a case of us saying, 'We can do more for you.' Often it's the client who says: 'you could probably do this for me, couldn't you?' And we say, 'yes, and for less than a City firm.'"

It's a story repeated across the country. Clients are turning to regional firms for more complex work than ever before as the recession forces them to cut legal spend. It comes at a time when regional firms are in need of new work streams. For all the headlines about restructurings and redundancies at City firms, regional firms, too, have borne the brunt of the recession as property and transactional work has slowed. The top ten regional and national firms suffered an average 2.3% contraction in turnover in 2008-09. Regional firms have suffered crushing reductions in PEP – Southampton's Blake Laphorn's PEP dropped a mammoth 68% in 2008-09, Ward Hadaway's 53%, Osborne Clarke's 36% and Hammonds' by 25%.

Will instructions from FTSE and other major clients be enough to offset the slump in property

work? Or is a wave of consolidation likely as regional firms continue to feel the pain of the recession most keenly?

### Crumbs from the table

Historically, many regional firms have made do with minor work from major clients in generally low-margin practices like property, licensing and insurance. This has started to change over the last few years as regional firms have built up their expertise in niche areas, and clients have grown increasingly concerned about the costs of City firms. Now, the recession is accelerating the trend. In the last year a string of panel reviews have seen regional firms benefiting to the detriment of City firms. For instance, prior to their review completed in June, the London Development Authority's panel consisted of nine City firms and eight regional firms; now it includes just three City firms and five regionals. Orange's review in early 2009 removed City boutique Carter Lemon Camerons in favour of Beachcroft, Ward Hadaway and Kent's Worthingtons. Construction company Lafarge has gone furthest, removing all the City firms from its panel last year in favour of firms from outside the UK top 50.

Regional firms trying to build their presence with national clients are finding a warmer reception than expected. Emma Price has succeeded in deepening Bond Pearce's relationship with

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Emma Price, director of business development, Bond Pearce

Sainsbury’s, Whitbread and Royal Mail. The firm now bills £4-5 million annually with Royal Mail, having grown its relationship from liability insurance to encompass IP, property and employment. “Clients were saying to us, ‘You’re good at the work but not so good at selling yourselves.’ We’ve introduced the idea to clients of doing more complex work for them and they’ve said, ‘I’ve been waiting for you to ask.’”

The firm also won a place on the panel of insurer Liverpool Victoria. The insurer appointed just one City firm, Lovells, amongst its six firms. “The regional firms we selected have quality on a par with City firms and offer compelling value,” says Alison Vickers, LV’s head of legal.

#### **Tendering on the rise**

Regional firms hoping to do more work for City-based clients face a struggle to build relationships from afar. But the increasing use of formal panel reviews has helped them get the attention of in-house counsel. It’s another trend accelerated by the recession. “Five years ago I’d still have said a formal tendering process was primarily the habit of insurance clients, public sector clients and clearing banks,” says Andrew Harvey, marketing director at Dickinson Dees. “Now, with the exception of private equity there’s no part of our work that’s exempt from that approach.”

It was in the public sector that the popularity of tendering first gave regional firms the chance to shine. Exeter-based Ashfords turned heads in 2005 when it was appointed to the panel of the London Borough of Wandsworth. It has now added Southwark and Ealing, as well as North Yorkshire County Council and several others around the country, to its roster. Ian Daniels, Ashfords’ chief executive, says formal local government procurement processes offer chances to

firms that might not otherwise be considered. “They give you a chance to show what you can do where you might not have the opportunity otherwise,” he says. “We didn’t have a pre-existing relationship with any of those authorities. They put an advert in the *Law Society Gazette*, or wrote to us because we have a presence in the sector.”

In the last two to three years, however, pressure to cut costs has seen a new wave of commercial clients engaging in a formalised tender process. “There’s been a growing realisation that legal services have been one of the last areas of spending untouched by proper procurement discipline,” says consultant Paul Gilbert. His firm, LBC Wise Counsel, specialises in advising in-house lawyers. It has advised over 40 UK clients on the setting-up or reviewing of panels in the last few years. “For the last 18-24 months, all spending is under scrutiny, and general counsel have been under pressure not only to cut spending but to demonstrate that they’ve done so as thoroughly as possible.”

Rather than simply using the panel process to whittle down their existing list of advisers, clients are seeking input from new firms as well in a bid to achieve lower rates. “Even clients who already have a panel, when they’re told they have to cut spend by 30%, need to be prepared to look more broadly,” says Gilbert. “We ask clients at the start of a review if they’d like to invite new law firms to pitch as well as ones they’re already working with. Although still a minority, it’s an increasing number who say, ‘Yes, let’s see what new firms have to offer.’”

Of course, there is a difference between getting on the panel and getting a higher quality of work. “We’re very aware of the risk that you spend time and energy getting on a new client’s panel without a guarantee of quality work,”



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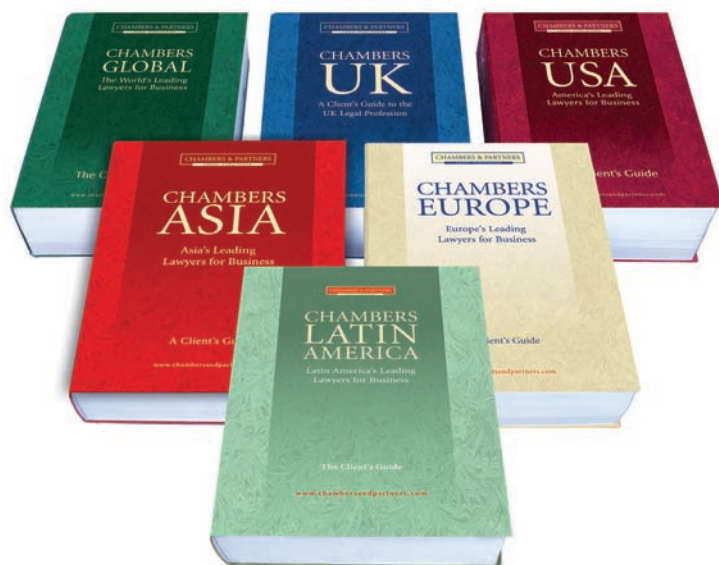
Andrew Harvey, marketing director, Dickinson Dees

says Bond Pearce’s Emma Price. “We’re cautious about pitching for panels where we haven’t worked with the client before. Right now our priority is deepening our relationships with existing clients.” Richard Walford is a partner in the real estate group at Burges Salmon; he says the firm is increasingly careful about which pitch opportunities it takes up. “It can cost £15,000 or more in staffing and other ‘soft costs’ to prepare a pitch which, even if successful, doesn’t always generate much work,” he points out. The firm has introduced a ‘traffic light’ scheme for assessing new invitations to tender and, says Walford, “we reject more than we apply for.”

#### The end of geography?

Some regional firms argue that the geographical stratification of the market has ended. Andrew Harvey, head of business development at Dickinson Dees and formerly at Eversheds, has helped the Newcastle firm secure relationships with Abbey, Clydesdale Bank, Nissan and Caterpillar. “There’s still a divide between the City and non-City firms, but amongst firms outside London there’s effectively now a single market,” he says. “It’s your reputation in a particular sector that gets you work.”

Banking clients were leaders in the increased use of regional firms a decade ago, and are now spearheading the deepening of those relation-



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ships in a bid to reduce costs. At a recent conference Simon Dodds, European general counsel at Deutsche Bank, urged law firms to transfer more work to regional offices to reduce costs. The bank is requiring panel firms to bid for specific pieces of work in order to get as much of the bank’s work done at regional rates as possible.

Barclays’ recent panel review saw Halliwell, Mills & Reeve and Hammonds all added to its roster. “Sometimes we have a specific need for a firm in a particular place, but as a rule, we look at capability and geography is secondary,” says Cate Campany, the bank’s head of legal operations. “If a firm is strong in the niche skill we need, it can be in the City, Bristol or wherever. The way the provision of legal services is going, we don’t need a firm to be down the road for many matters.”

It is technology that is making the change possible. “Clients definitely see geography as less of a factor,” says Paul Gilbert. “Technological solutions like extranets make it possible to collaborate and monitor work remotely. But it’s also a result of the ‘unbundling’ of legal services. Clients used to automatically outsource all their matters in a certain transaction to one firm: now they’re comfortable perhaps reserving the most complex parts for City firms but looking elsewhere for the simpler aspects.”

But sometimes only a face-to-face meeting will do, and that means there are still some limits on firms’ geographic reach. “You have to be disciplined in what you’ll pitch for,” says Richard Walford. “You can’t charge for travelling costs in the current climate, so you have to keep those down to a reasonable level. We wouldn’t go for a general appointment for a local authority in the Newcastle area, for example, because we can’t get up there quickly

enough for meetings. We’ve essentially drawn a line that runs from the East Midlands to London, and we’ll accept work south-west of that line.” The continuing rush by regional firms to open offices in London – the latest being Bristol’s Veale Wasbrough, which is in merger talks with City firm Vizards Wyeth – suggests a physical presence still matters.

#### How will the City respond?

With pressure on costs tighter than ever, clients will continue to consider regional firms for work that City and national firms might once have had sewn up. But much depends on how the City firms respond. To an extent, the City has always been happy to let lower-margin work in areas like property go to the regions. Lovells set up its ‘Mexican Wave’ system several years ago so that it could split key client Prupim’s property work with cheaper regional partners, and Herbert Smith is reportedly urging property clients to send lower-value matters to the regions. But when it comes to higher-value work, City firms are less easy-going – and with the current dearth of major matters leaving expensive lawyers underutilised, they are likely to fight for every piece of work.

“On one recent pitch a magic circle firm undercut us by 50%,” says one regional head of business development. “They said explicitly that it was a ‘recession one-off’ and that the price would be higher in future.” If City firms are prepared to buy work on a large enough scale, they may hang onto most of the work until the recession eases – and with it, the pressure on general counsel to cut spending.

Even if a forward-thinking in-house counsel wants to choose regional firms for more complex work, however, there is still the matter of winning over management. The Swindon-





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based utility RWE npower uses Bristol firms, as well as Eversheds’ Cardiff and Birmingham offices, for most matters – “Why pay City rates if Bristol firms have the expertise?” asks legal counsel Chris Barras. “But matters of a certain value or complexity tend to be managed by our European parent in Germany. They’ll almost invariably want to go straight to a City firm.”

#### A market ripe for change

Even if geography is becoming less of a barrier to regional firms winning work, this could be a double-edged sword. The breadth of competition is rapidly increasing as the pool of firms eligible for a piece of work increases. “At one point the competition for the work of a client in Newcastle was limited to the four or five large Newcastle firms. Now firms all over the country could be in the running,” says Andrew Harvey. “Firms will need to differentiate themselves by their expertise, not just their location, or they’ll soon be fighting much harder for every piece of work.”

Many regional-firm leaders privately admit that consolidation is likely as the market grows less and less geographically stratified. The last legal downturn produced the mergers that created Addleshaw Goddard and Pinsent Masons, and in recent years Liverpool and Birmingham’s legal markets have already been transformed by an influx of firms from Manchester, Nottingham and the South West. “If you look at the blurring of regional markets, and add in the impending Legal Services Act, I think consolidation is inevitable,” says one head of business development at a leading regional firm.

It’s unlikely that additional interest from major clients will, in itself, be enough to make up for the slump in property and corporate

work that has affected regional firms in the last year. But for the firms who succeed in taking advantage of it, this increased interest offers a valuable opportunity to stake out a strong position for the recovery – and narrow the area dominated by City firms. ■



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