



# Management of Outside Counsel

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# General Counsel's View of Outside Counsel

## Survey's of General Counsel

- 75% of Fortune 1000 clients not satisfied
  - Do not recommend their primary law firm to others
  - Would change if they thought another firm would do better
  - Dissatisfaction with client service cited more than twice any other reasons

# General Counsel's View of Outside Counsel

## Survey's of General Counsel

- 75% of Fortune 1000 clients not satisfied
  - Client Service = Responsiveness, proactive business advice, knowledge and understanding of industry, their business and them
  - Technology and other cost efficiencies second

# Introduction

Raising the quality of service while lowering your overall outside legal cost



# Introduction

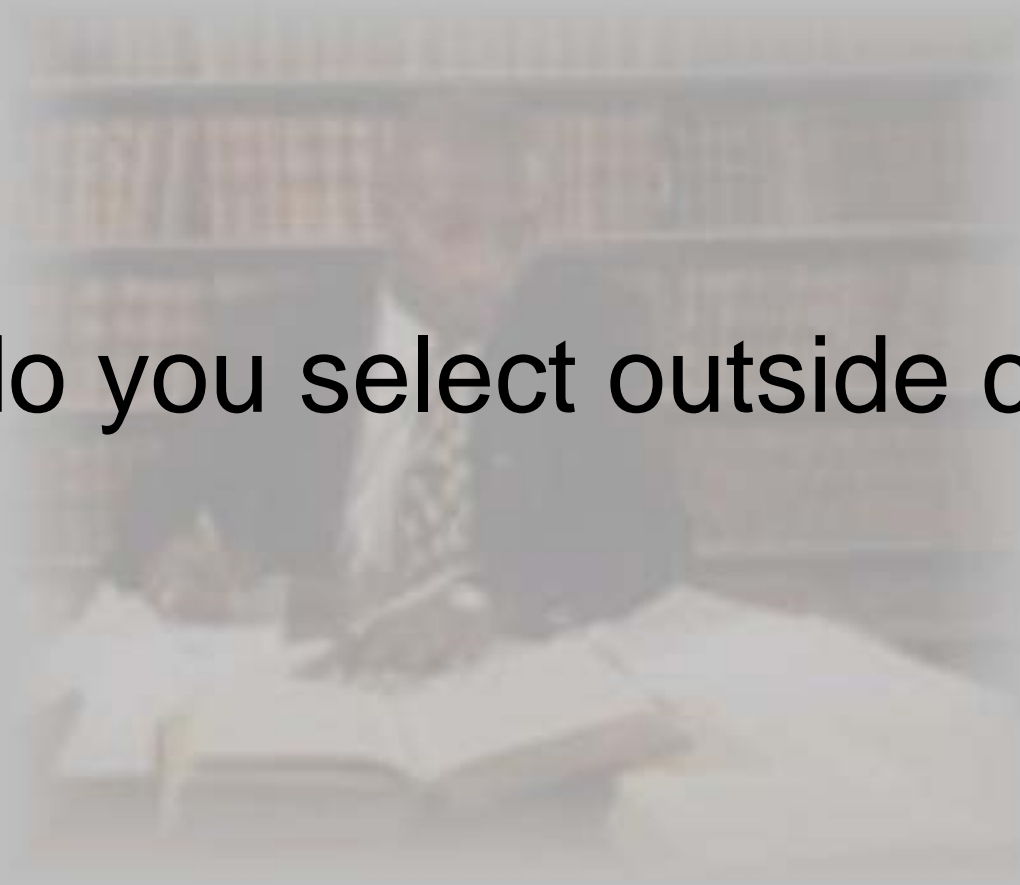
The background of the slide is a faded, grayscale image of a construction site. It shows a large yellow crane on the right side, with its boom extending upwards. In the foreground, there are several workers wearing hard hats and safety vests, some standing and some sitting at workstations. The overall scene is busy and industrial.

Describe your ideal outside  
counsel

Describe your ideal relationship  
with outside counsel

# Selection

How do you select outside counsel?

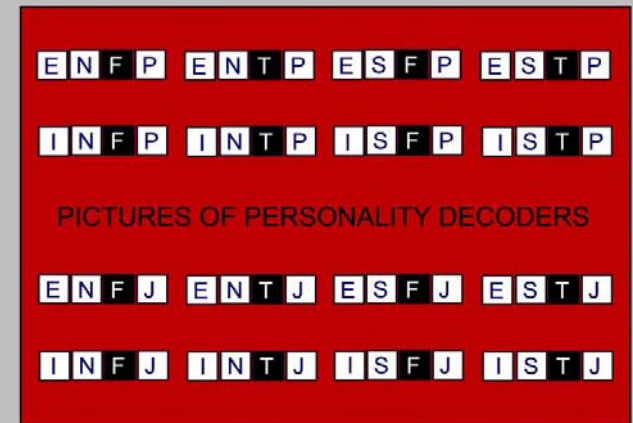


# Selection



Types of lawyers – What are you looking for?

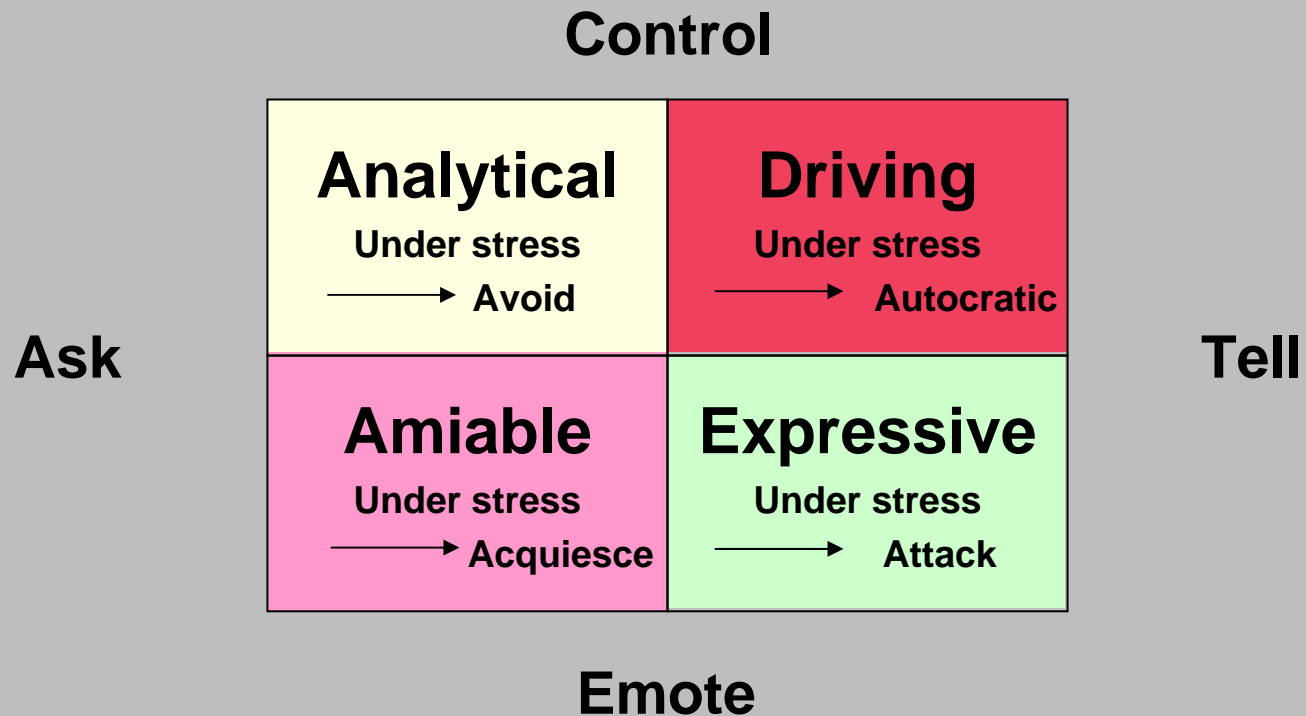
Personality types – Why this matters?



Focusing on what you want outside counsel to do

# Selection

## Personality Types



# Selection

## Types of Lawyers

### Strengths of Each Style

#### Analytical

Logical  
Thorough  
Serious  
Systematic  
Prudent

#### Driver

Independent  
Candid  
Decisive  
Pragmatic  
Efficient

#### Amiable

Cooperative  
Supportive  
Diplomatic  
Patient  
Loyal

#### Expressive

Outgoing  
Enthusiastic  
Persuasive  
Fun Loving  
Spontaneous

# Building Rapport

## Building Rapport with Analytical

You will have difficulty with this style if you:

- Are disorganized and casual.
- Are late.
- Push or coax.
- Talk about other clients.
- Are flippant or gimmicky.

Instead you should aim to:

- Be well prepared.
- Get straight to business.
- Listen carefully.
- Be specific and logical when presenting legal work to be done.
- Persistent and thorough when questioning.
- Be formal and unemotional when challenged.
- Give them time to put their point of view.

# Building Rapport

## Building Rapport with Amiables

You will have difficulty with this style if you:

- Get straight into services you offer.
- Keep the discussion focused on work all the time.
- Cause them to respond quickly.
- Dominate or control the conversation
- Are rapid or abrupt.
- Keep offering opinions or increasing the complexity of the decision.
- Make wild claims.
- Are very factual.

Instead you should aim to:

- Be friendly to show an interest in them personally.
- Be prepared for some chitchat before getting down to business.
- Take time to uncover their needs by asking open questions.
- Be alert for non verbal cues of dissatisfaction or disagreement.
- Be informal.
- Present what you are doing in a non-threatening way.
- Assure them whenever possible
- Give your presentation the personal touch.

# Building Rapport

## Building Rapport with Drivers

You will have difficulty with this style if you:

- Waste their time.
- Are vague and rambling.
- Get too personal or try to get too close.
- Are disorganized.
- Stray from the purpose of the conversation.
- Ask irrelevant questions
- Try to control the conversation.
- Try and chitchat at length.

Instead you should aim to:

- Get down to business quickly.
- Be specific in questioning.
- Use time efficiently.
- Provide alternatives for them to choose from.
- Be factual and succinct.
- Talk about results and outcomes.
- Avoid too much detail.
- When business is finished – go.

# Building Rapport

## Building Rapport with Expressives

You will have difficulty with this style if you:

- Control the conversation and keep strictly to business.
- Are impatient or controlled.
- Input too much detail into the presentation.
- Don't tie them down there and get a decision.
- Socialize too much.
- Patronize or dig your heels in.

Instead you should aim to:

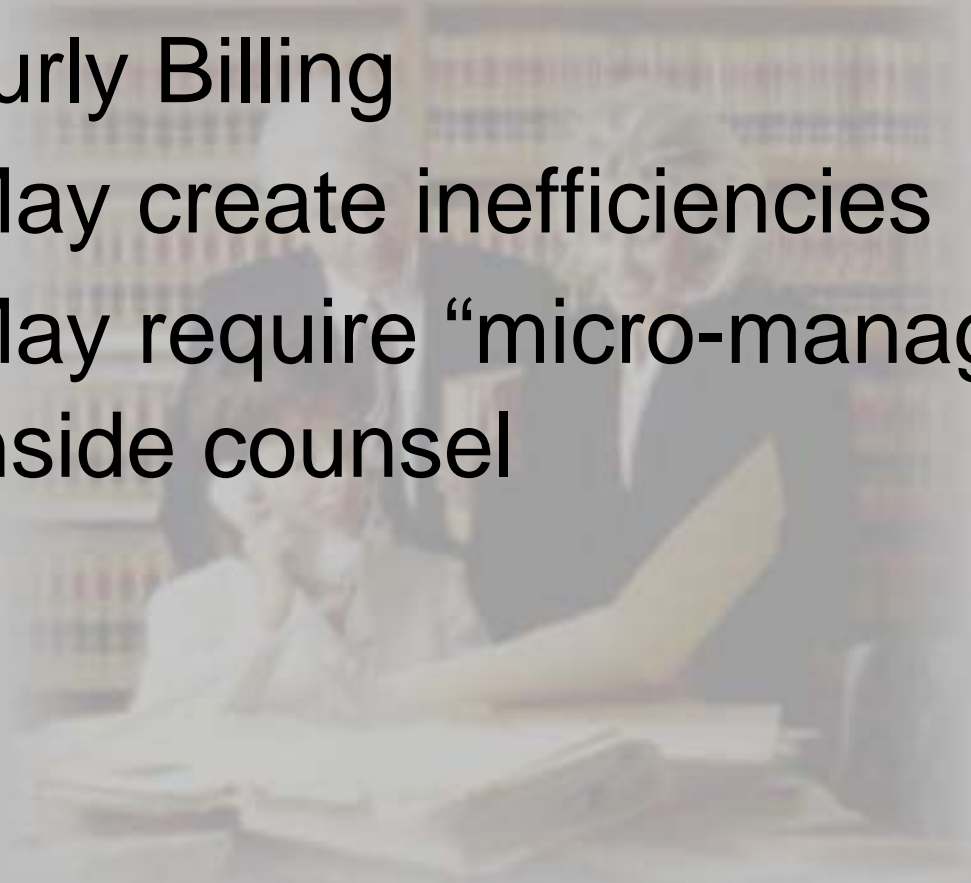
- Socialize before business.
- Talk about opinions and other people.
- Give your ideas about what may happen.
- Be enthusiastic and energetic.
- Be fast paced.
- Make them look good.

# Budgeting and Planning

- Define scope of work
- Plan legal work like construction work
  - Key elements of satisfaction and value
  - What is expected from outside counsel
  - Strategy and tactics
  - Contingents
  - Options
  - Budget
  - Resources

# Budgeting and Planning

- Why consider alternative billing
  - Hourly Billing
    - May create inefficiencies
    - May require “micro-managing” by inside counsel



# Budgeting and Planning

- Why consider alternative billing
  - Fee arrangements
    - Savings due to
      - Mutually defined objectives
      - Incentives to achieve objectives
      - Efficiency
    - Early assessment of value of claim or dispute

# Budgeting and Planning

- Alternative fee arrangements  
Successful, if:
  - Incentive for outside counsel to provide quality work and achieve business goals
  - Promotes efficiency
  - Flexible and responds to changing circumstances
  - Based on trusting relationship

# Management and Control of Services

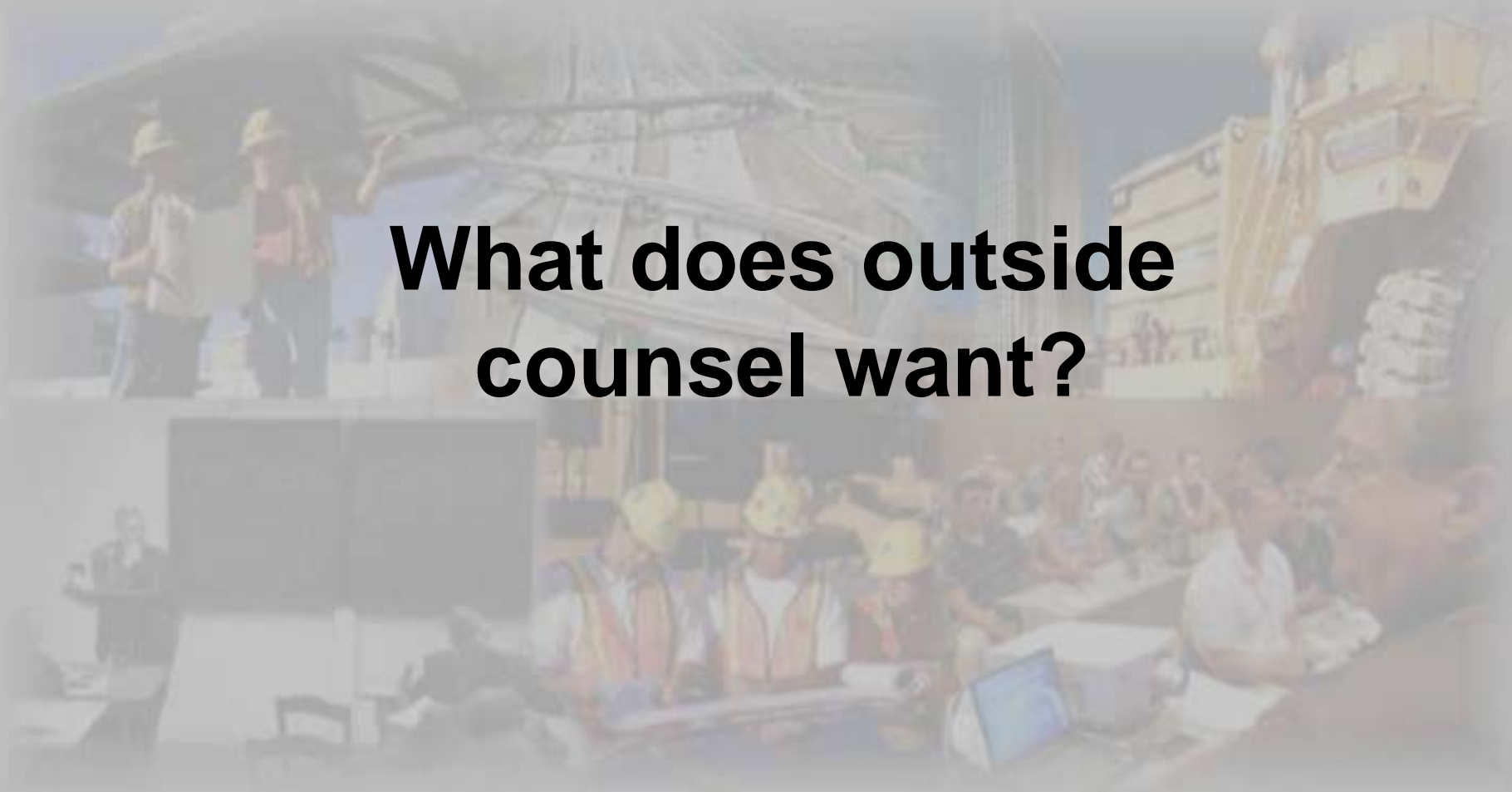


1. Clear scope of work, plan and budget
2. Updating the plan and budget
3. Communication
4. Effective meetings
5. Using technology for efficiency and cost reduction
6. Tie bills to budget



# Outside Lawyer's Ideal Client

**What does outside  
counsel want?**



# Outside Lawyer's Ideal Client

- Long term relationship
- Understand your
  - Strategic plan
  - Business goals
  - Legal department's
    - Strategic plan
    - Goals

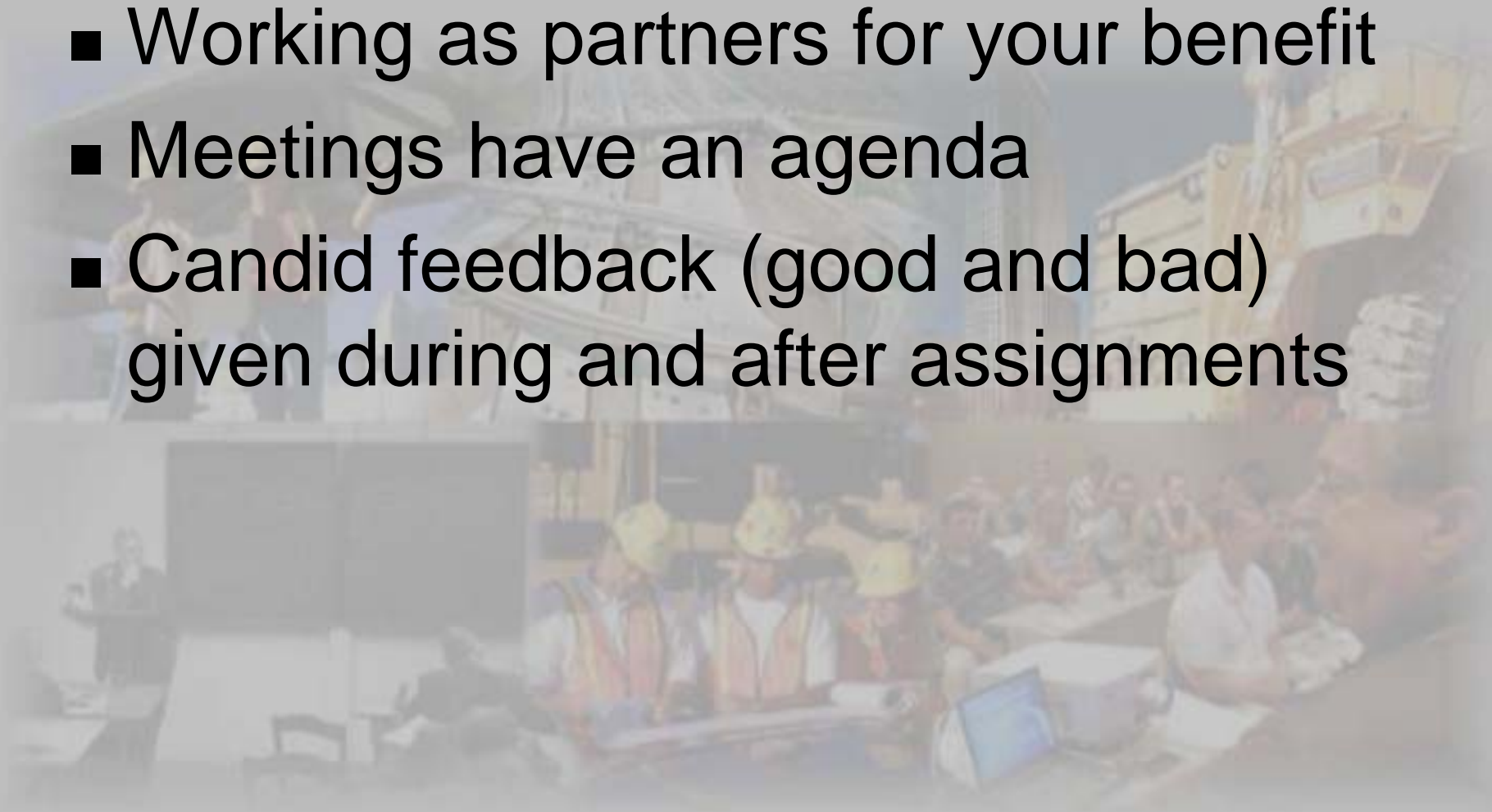


# Outside Lawyer's Ideal Client

- Understand goals and objectives for each project
- Needed information easy to obtain
- Your staff available when needed
- Trusting relationship with inside counsel

# Outside Lawyer's Ideal Client

- Working as partners for your benefit
- Meetings have an agenda
- Candid feedback (good and bad) given during and after assignments



# Creating Win-Win

- Both focus on your business success
- Align interest
  - Your company
  - Legal department
  - Outside firm
- Long term relationship based on mutual trust

# Creating Win-Win

- Improve communication
- Establish collaborative work environment with inside counsel playing a strategic role
- Outside law firms viewed by all as extension of legal department

# Creating Win-Win

- Effective use of technology
  - Foster collaboration
  - Improve productivity and efficiency
  - Share work product
- Meet regularly (quarterly or twice a year)
  - Agenda to include how to effectively work together

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

- ✓ Reduce number of outside firms
- ✓ Preferred firm knows the company
- ✓ Find out how well each preferred provider uses technology
- ✓ Define task you want the outside lawyer to perform

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

- ✓ Clearly articulate the task and identify goals and expectations
- ✓ Understand the strengths and weaknesses of each outside lawyer including personality type
- ✓ Require engagement letter for each project
- ✓ Require plan and budget for project

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

- ✓ Quarterly update plan and budget
- ✓ Require outside counsel to have part of fee based on results
- ✓ Before starting claim, do formal analysis
  - Is it worth pursuing
  - Potential recovery
  - Likely to be resolved only after substantial litigation

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

- ✓ Keep track of your return on investment (ROI) and let the law firms know they are being measured
- ✓ Require better communication
- ✓ Agenda for each meeting and stick to that agenda

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

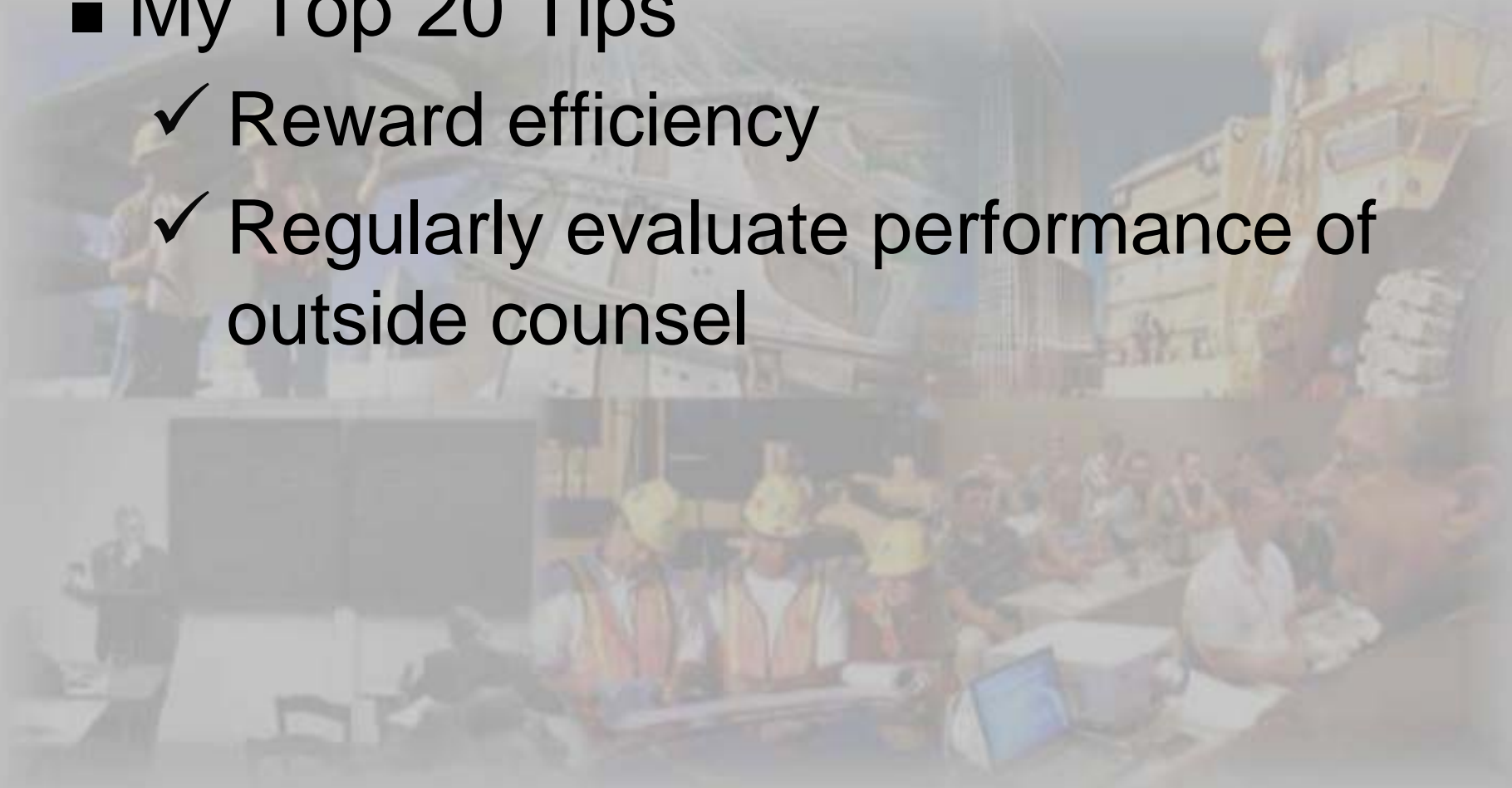
- ✓ After meeting prepare action plans
- ✓ Kiewit lawyers do something substantive for each project
- ✓ Strive to reduce discovery cost in litigation
- ✓ Get to know the young lawyers at the chosen firms that will be working on your projects

# Improving Quality and Decreasing Cost

## ■ My Top 20 Tips

✓ Reward efficiency

✓ Regularly evaluate performance of outside counsel





Do the best you can in every task, no matter how unimportant it may seem at the time. No one learns more about a problem than the person at the bottom.

- Sandra Day O'Conner

# Conclusion


To raise the quality of service and lower costs

- Reduce number of firms
- Select carefully
- Consider alternative fee arrangements
- Plan the legal work
- Work collaboratively
- Measure ROI

# Conclusion

Trust is Where It Begins and Ends

The background of the slide is a collage of three images. The top image shows two construction workers in hard hats and safety vests standing on a construction site. The bottom-left image shows a man in a suit standing at a podium in a classroom or lecture hall, addressing a group of people. The bottom-right image shows a group of construction workers in hard hats and safety vests sitting around a table in a meeting room, looking at documents and a laptop.



# Management of Outside Counsel

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