

## PRO BONO DEVELOPMENT GUIDE HOW TO START AN IN-HOUSE PRO BONO PROGRAM

The following is a guide on how to start a pro bono program in your legal department, developed in the U.S. context. While we recognize that the pro bono landscape in your jurisdiction may differ from the U.S. and that not all of the examples will apply to you, as a general introduction we hope that this document will provide insightful lessons. We have broken the process down into three phases and twelve steps that often overlap and entwine and range from securing management support to launching your program. Having worked with hundreds of legal departments of all sizes, we know that the most successful programs are those that take into account the unique characteristics of the company and its legal department and the goals the department sets for its pro bono program. For more tailor-made guidance on your organization's pro bono program, please contact CPBO at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

### Phase I: Investigation

To develop a program that meets the needs and interests of your legal department and the communities your department will serve, it is important to gather information and support. This will help ensure that your efforts are effective later.

#### 1. Secure Management Support

In order for your legal staff to feel comfortable fulfilling their professional responsibility and dedicating company time and resources to pro bono projects, your organization's chief legal officer must support the program. Support from senior management is vital to the success of your legal department's pro bono program, regardless of the size or make-up of your department. To gain support, provide management with examples of the various anticipated benefits of the program – to the individual, the company, the clients, and the community. (See [Business Case for In-House Pro Bono](#) and [Why Do Pro Bono](#).) Also, remind management of the growing need for pro bono legal services and good corporate citizenship, the nexus between pro bono and corporate social responsibility activities, and check back regularly to ensure ongoing support.

- Benefits of Pro Bono to the Individual
- Benefits of Pro Bono to the Company
- Benefits of Pro Bono to the Clients and the Community

#### 2. Determine the Interests, Activities, and Skills of your Legal Department and Company

An established and flourishing pro bono program can support several initiatives and many interests. Generally, there are two types of projects: traditional litigation-based pro bono and transactional pro bono that utilizes business and commercial skills. Traditional litigation-based pro bono includes cases that require volunteers to appear in court as well less-adversarial matters that, while litigation-based, are more administrative in nature, like veterans or social security benefits cases. Transactional pro bono includes matters that allow volunteers to apply the

strength of their business skills and can include representing nonprofit organizations, creating affordable housing, and assisting micro-entrepreneurs. Although many in-house lawyers consider the chance to handle pro bono litigation matters a welcome change of pace from their daily practice, others prefer opportunities that allow them to apply the skills they use for their employer.

### *Legal Department*

The best way to determine the interests of your legal staff is to conduct a survey that asks members of your legal department what legal pro bono work are they currently doing, what type of work they would be interested in doing, and what the perceived impediments are to providing legal pro bono work. You may be surprised at what is already in place and the reasons why some colleagues are hesitant to participate. ([Request Interest Survey](#)) If you are aware of certain interests of your legal department, company or management, you may tailor your survey to focus on those specific options.

- What are People Doing Now?
- What are People Interested in Doing?
- What are the Perceived Impediments to Doing Pro Bono?

### *The Company*

Also, research your organization's corporate social responsibility (CSR) or foundation goals and efforts. To the extent you can coordinate efforts (see [Intersection of CSR and Pro Bono](#)), you will not only be more likely to obtain management support, but once you launch your pro bono program, it may be more impactful on the intended beneficiaries and create ancillary benefits to your organization such as an increased sense of community across departments.

- What are the CSR and Foundation Goals and Efforts?
- Are There Opportunities to Coordinate?

## 3. Examine the Needs of the Community and Identify Opportunities and Partners

Before your legal department proceeds any further, familiarize yourself with the pro bono landscape and unmet legal needs in the jurisdiction in which your legal department operates. (See [Global Pro Bono Survey](#)) Learn about local and national pro bono providers (legal services organizations that screen and place pro bono cases, law firms that have strong pro bono programs, community development groups and nonprofit organizations) and the types of matters for which they most desperately need volunteers. These will be the most abundantly available matters and those through which your legal department may have the greatest impact. In addition, consider what other law departments in your area are doing (See [Examples of Global Pro Bono](#), [Global Pro Bono Spotlight](#), and [CPBO Best Practice Profiles](#)) and contact your local [ACC Chapters](#), if present in your jurisdiction, to determine what pro bono activities they may have planned.

Inquire specifically about transactional pro bono opportunities, discreet and time-limited pro bono projects, as well as other pro bono projects that address issues or concerns your colleagues raised in response to the pro bono survey. Use this time to assess the landscape and obtain answers to your questions. Corporate Pro Bono and Pro Bono Institute can also help you to locate legal needs studies and identify key public interest organizations and community groups.

- Legal Services Providers
- Law Firms
- Community Development Groups
- Other Nonprofit Organizations
- In-House Law Departments
- ACC Chapters

We also recommend that you speak with your CSR or foundation colleagues about the organizations they support and their needs. Again, investigate whether there are opportunities for your legal department to provide legal assistance to complement programs and services already supported by your company (keeping in mind potential conflict issues) or research opportunities that relate to the same focus areas as your company's philanthropic efforts.

#### 4. Clarify the Scope and Goals of Your Program

Before delving too far, clarify the vision your department has for its pro bono initiatives. This will inform the choices you make as you create and develop your program.

##### *Nature and Scope of Engagements*

One area for you to focus is the nature and scope of engagements your department's program will support. Generally, there are two types of programs: cafeteria style programs and signature pro bono programs. A cafeteria style program empowers members of the legal department to provide legal services to individuals or organizations of their choosing. Departments may impose certain limits, such as developing a list of approved pro bono providers, but within those limits legal staff has the opportunity to pursue a wide range of pro bono projects. Alternatively, a signature pro bono program allows a department to focus its pro bono activities on one or more specific areas of the law or population, such as education or veterans, increasing the department's ability to impact a specific legal need. (See [Signature Projects: A Pro Bono Model of Focus and Commitment](#).) Many departments have adopted a hybrid model, offering legal staff the opportunity to pursue their individual passions, while sponsoring several signature initiatives that the department as a whole supports and promotes.

- Cafeteria Style Program
- Signature Pro Bono Program
- Hybrid Pro Bono Program

### *Breadth of the Program*

For departments that have offices around the world, deciding whether your program will initially be available to all legal staff or will start where the majority of your lawyers are located is an important step. Many larger legal departments launch their programs in one or two of their bigger offices and then expand to other offices as the programs mature. However, some departments have launched global programs that engage the majority of offices from the start, regardless of location.

- Local Program
- National Program
- Global Program

In addition, all departments (regardless of size) should determine whether their pro bono program will be limited to attorney volunteers or [engage the entire legal department](#), including paralegals, contract and compliance specialists, and other support and professional staff. Most legal departments engage all legal staff in the administration and implementation of the departments' efforts. By doing so, departments are able to increase capacity, promote teambuilding, and add additional skills to their programs.

- Engage Paralegals, Administrative Professionals, and Other Staff

### *Goals of the Program*

Finally, you should consider the objectives of your pro bono program. For most departments, a number of reasons lead them to formalize their pro bono efforts. As a result, their programs have several goals. They may include addressing a pressing legal need in the community, uniting legal staff and boosting morale, providing creative opportunities to develop new skills or work cross-functionally, and offering opportunities to efficiently satisfy professional and ethical obligations. Identifying all of the goals of your program will inform the structure and initiatives your department puts in place.

- Impact Community Need
- Unite the Department
- Boost Morale and Increase Engagement
- Work Cross-Functionally / Enhance Skills
- Satisfy Professional and Ethical Obligations

## **Phase II: Building Infrastructure**

Developing a formal structure for your pro bono program will allow you and your colleagues to focus more on the substantive pro bono work once the program is launched. In addition, a solid structure helps ensure a consistent level of quality in the projects undertaken and reduces volunteer confusion and frustration.

To create the right structure for your pro bono program, we recommend that you examine a variety of factors, including department size, location, and corporate culture. We also recommend that you consider some of the ethical and liability issues involved in pro bono work (malpractice insurance, multijurisdictional practice, and conflicts of interest).

## 5. Develop a Structure to Achieve Goals

### *Pro Bono Coordinator and Committee*

The first question you may have is who is going to create and maintain the structure to manage the pro bono program. Regardless of the size of your department or the type of the program you create, designating at least one person to direct and coordinate the management of the pro bono program is essential. This person works to establish the pro bono program structure, sometimes with the assistance of a pro bono committee. He or she is the primary point of contact for the pro bono program and generally administers the program. ([Request Sample Job Description](#))

In addition, some legal departments form a pro bono committee or task force. These working groups are usually comprised of attorney and non-attorney staff, and often have representation from each office or other subgroup that the department may use for organization. Especially in larger departments, the committee can serve as a valuable resource and assist the pro bono chair or coordinator in the administration of the program, which may include tasks such as managing a listing of pro bono opportunities, disseminating information, overseeing logistical aspects of the program, communicating with partners, and planning recognition events. ([Request Sample Job Responsibilities](#))

Serving in these positions can be a great way for members of the legal department to get more involved and work with others with whom they would not typically interact.

- Designate a Coordinator(s)
- Form a Committee/Working Group

### *Professional Pro Bono Management*

While the vast majority of legal departments have volunteer coordinators or volunteer pro bono committees who run their programs, a small number of departments with more mature pro bono programs have engaged dedicated pro bono professionals to manage their programs. These dedicated pro bono professionals fall into many different molds, including full-time pro bono manager, attorney with both pro bono and business responsibilities, part-time independent contractor, and short-term legal fellow. Dedicated pro bono professionals may be tasked with strategic responsibilities (such as developing a signature project or implementing long-term goals), with operational responsibilities that relieve volunteers of some of the day-to-day administration of the program, or both. ([Request Paper on Professionalization of In-House Pro Bono](#))

### *Work Plan*

The next question you may have is how you will create the structure to manage the pro bono program. In addition to this guide, we have created a sample work plan that covers many of the items addressed herein and outlines tasks to consider as you build your pro bono program. ([Request Sample Work Plan](#)) We encourage you to use this work plan as another guide and to tailor it as appropriate for your department and its pro bono program.

### *Intranet*

To help manage and organize their pro bono efforts, some departments add pro bono focused pages to existing intranet sites or create a pro bono intranet to house information about the program and keep track of the program's progress. An intranet site is a useful place to post pro bono opportunities, policies, form documents, training materials, and other relevant information. Creating a central location where legal staff can go to find answers to questions helps to ease administration of the pro bono program and provides a place to share success stories about your department's efforts.

### *Budget*

To support your work, you may need to determine the funds available to your in-house pro bono program. It does not take a lot of money to run a program, but it is not for free and, depending upon what you have in mind, there could be more expenses than you have considered. (See [Planning Your In-House Pro Bono Budget](#))

## 6. Draft Documents

### *Policy and Procedures*

A pro bono policy can be a very effective tool in defining expectations and setting goals for your program. Whether or not your department chooses to adopt a policy depends on your objectives and departmental culture. Some departments, for instance, see no need for a pro bono policy because they view pro bono as falling under the company's general policy on volunteerism. Others have carefully outlined each element of their department's pro bono program in a separate policy.

In any case, volunteers will have questions and it is useful to put the answers to these questions in writing, whether as guidelines, an informal frequently asked questions document, or a more formal pro bono policy. (See [Form FAQs](#) and [Sample Policies](#)) This will provide clarity and direction to interested volunteers and legal staff. (See [Pro Bono Policy Questions to Ask](#))

- [FAQs](#)
- [Pro Bono Policy](#)
- [Pro Bono Guidelines](#)

## *Sample Matter Forms*

There may be other documents that you will need for the administration of your program. For instance, if members of the legal departments must request approval of projects, you may want a form for them to use in making such a request. ([Request Sample Intake Form](#)) Then, if approved, you may need an engagement letter for direct representation matters. ([Request Form Engagement Letter](#)) When the matter is over, we advise sending a termination letter to the client. ([Request Form Termination Letter](#)) You also may want to submit a matter closing form to the pro bono program's leadership. ([Request Sample Matter Closing Form](#))

- Intake Form
- Engagement Letter
- Termination Letter
- Matter Closing Form

## 7. Address Ethical and Liability Issues

There are several ethical and liability issues involved in pro bono work that a department must consider when structuring its program.

### *Right to Practice Restrictions*

Many in-house lawyers are not admitted to practice law in the jurisdictions where they work. In the U.S. context, most states permit these lawyers to work for their employers, often through a registration or authorization process, but restrict the ability of these lawyers to provide pro bono services to underserved communities. Determine where the attorneys in your legal department are licensed and review the applicable state practice rules to make sure your program is in compliance with those rules. For a sample guide of important information regarding multi-jurisdictional practice issues in the U.S., see [Multijurisdictional Practice: In-House Pro Bono](#).

- Chart Where Members of Your Department are Licensed
- Review Applicable State Rules
- Consider Impact on Project Selection

### *European Union (EU) and Legal Professional Privilege (LPP)*

The 2010 *Akzo* judgment by the EU Court of Justice distinguished in-house counsel from external lawyers, holding that the former are not sufficiently independent for their communications to benefit from LPP. However, the ruling is limited to investigations carried out by the EU Commission, most notably antitrust investigations, and consequently should not discourage pro bono work by in-house counsel. See “Legal Professional Privilege in the European Union” in the [Global Pro Bono Survey](#) for a full discussion, including practical suggestions.

### *Malpractice Insurance*

In-house attorneys providing pro bono work are not always covered under their companies' general indemnification policies or their insurance policies. Luckily, obtaining such insurance coverage is relatively easy and affordable, whether through the company's provider or through another organization that offers insurance coverage for pro bono work. In addition, many legal services providers offer insurance coverage to their pro bono volunteers, so affiliation with such groups will often resolve this issue. For a complete discussion on the range of available insurance options, developed in the U.S. context, please refer to [Professional Liability Insurance for In-House Pro Bono](#).

- Company's Indemnification Policy
- Pro Bono Insurance Policy
- Self-Insure
- Legal Services Provider Insurance Policy

### *Conflicts of Interest*

Generally, there are two types of conflicts of interest that legal departments should consider when forming a pro bono program: direct conflicts of interest and positional or business conflicts.

Unlike law firms, which represent numerous clients with potentially adverse interests, in-house departments usually do not need complex clearing procedures to monitor direct conflicts. However, when it comes to pro bono work, direct conflicts may arise. This risk does not have to pose an intractable problem. With clear intake tracking procedures for pro bono matters and a good measure of common sense, your legal department should be able to avoid direct conflicts.

To prevent positional or business conflicts, it may be advisable for some legal departments to avoid certain types of pro bono matters. For example, banking institutions may decide to prohibit volunteers from handling certain consumer-law-related issues. Some legal departments have pro bono policies that clearly spell out their procedure for clearing and avoiding conflicts. Other departments leave it to the personal judgment of each attorney. The best approach for your department will depend on your company's line of business, culture, and available pro bono opportunities. ([Request Sample Conflicts Provisions](#))

- Direct Conflicts of Interest
- Business or Positional Conflicts of Interest

## 8. Secure Partnership Relationship

When you are ready, your legal department may want to explore establishing a pro bono partnership with one or more of your law firm having pro bono experience in your jurisdiction. This may be one or more of your law firm affiliates or legal services providers, but not necessarily. It is not uncommon for a legal department to partner with a law firm with whom it does not have a prior business relationship. There are a variety of strategic reasons for



partnering. First, law firms and legal services providers can train your attorneys in the relevant subject matter (family law, housing law, etc.), and also serve as a resource when complex issues arise. Second, your legal department may not have the resources to administer a large pro bono program, whereas, law firms and legal services providers are often able to provide the administrative support for pro bono projects, including the screening of potential cases. Third, legal services providers may also provide malpractice insurance.

You also might consider collaborating with other legal departments or with your local ACC Chapter, which can increase the number of volunteers available. It also spreads out administrative responsibilities over a larger group. Most importantly, you may have a greater impact on the issues you are trying to address in your community.

- Law Firm Partner
- Legal Services Provider Partner
- Collaboration with other Legal Departments

When forming a pro bono partnership, whether with a legal services provider, law firm, or another legal department, you should clarify and understand the expectations of all parties involved. Some departments have drafted memorandum to define the relationship. Other departments have taken a less formal approach, but require partner organizations to maintain regular communication with the departments' pro bono coordinator or committee. Ensuring the success of a pro bono partnership will require care and effort. ([Request Sample Memorandum of Understanding](#))

- Clarify Expectations
- Communicate Regularly
- Draft Partnership Memorandum of Understanding

### **Phase III: Implementation and Launch**

#### **9. Confirm Pro Bono Projects and Engagements**

Selecting projects for your legal department can be challenging. There are a variety of available opportunities that range dramatically in terms of clients, area of law, type of case, and level of time commitment. Selecting among them involves balancing the interests and concerns of your company, department, and legal staff, with the needs of the communities in which you work, and the opportunities available. This can be a daunting task. The good news is that pro bono is not static and that programs can and should evolve over time.

#### *Finite and Manageable Pro Bono*

One common concern for in-house pro bono programs, particularly start up programs, is finding matters that fit the work demands of legal departments. Many in-house lawyers have unpredictable schedules which makes it desirable for their departments to identify and offer legal staff pro bono matters that are finite or reliably scheduled. Fortunately, these types of opportunities are available or can be put in place. In the U.S. context, they can range from

telephone hotlines to brief advice clinics, like [CPBO's Clinic in a Box<sup>®</sup> program](#), to community legal education seminars. There also are many meaningful desktop pro bono projects that do not require travel and are ideal for legal staff in law departments located in areas not easily accessible to most pro bono opportunities or clients.

- Legal Hotlines
- Pro Bono Clinics
- Community Legal Education Seminars
- Desktop Pro Bono

### *Longer Term Engagements*

While finite and time manageable pro bono engagements are important, you also should consider identifying longer term pro bono engagements. Just as there are many finite pro bono opportunities, there is a wealth of longer term projects that are ideal for legal departments, regardless of size. This includes traditional litigation based pro bono projects where volunteers provide direct representation to individual clients. It also includes policy advocacy, offering ongoing advice and counsel to nonprofit organizations or small business owners, and legal research projects. As your volunteers become more experienced and your program matures, providing legal staff longer term projects may become a significant goal.

- Policy Advocacy
- Direct Representation
- General Counsel Services

### *Training and Support*

To ensure that your volunteers are comfortable and well prepared to work on a pro bono engagement, you should offer training materials and programs. Most legal services providers and law firm pro bono partners can organize and host training opportunities for your department. Another way to provide support to your volunteers is to allow them to work in teams within the department. This also is a great way to involve non-lawyers in your pro bono matters.

- Pro Bono Partner Organizations
- Pro Bono Teaming

## 10. Engage Your Legal Department

Whether through your department's intranet, regular emails, an e-newsletter, award ceremonies at department meetings, videos, or an annual report, your program should develop a communications strategy to keep legal staff informed and engaged. There is no need to recreate the wheel; many legal departments utilize existing communications vehicles. The key is to use the most effective tools at your disposal and to integrate pro bono into the culture of your legal department, including working with your company's communication department to publicize the successes of your program, internally and externally.

You should not overlook the personal touch when engaging volunteers. Many in-house attorneys and legal staff may be nervous about providing pro bono services. Hearing stories from those who volunteer will inspire others and will confirm that it is possible – legal staff can use their unique skills to make a difference.

- Intranet
- Emails
- Newsletters
- Awards
- Videos
- Annual Report
- Personal Appeals

## 11. Measure the Impact of Your Pro Bono Program

It is important that departments measure the success of their programs. Metrics is the practice of measuring and evaluating effectiveness, and CPBO advocates the application of this well-established business principle to in-house pro bono work. We recommend measuring the success of your program in three areas: core performance and productivity, benefits to the clients and community, and benefits to the company. ([Request Metrics Toolkit](#)) We also encourage companies to join the [Corporate Pro Bono Challenge<sup>®</sup> initiative](#), which was designed by CPBO to identify, benchmark, and communicate a company's commitment to pro bono service. (See [Challenge FAQs](#) and [List of Challenge Signatories](#).)

- Core Performance
- Social Good Benefits
- Business Benefits
- Corporate Pro Bono Challenge<sup>®</sup> Initiative

There are a number of tools you can use to measure the success of your program, including requesting information from volunteers through online reporting systems, surveys, closing matter forms, and self-evaluations or performance reviews. ([Request Sample Matter Outcome Form](#)) We also encourage departments to revise existing systems to include pro bono to make tracking pro bono easier.

- Matter Management System
- Closing Forms
- Surveys
- Self-Evaluation Reviews

## 12. Launching Your Program

Many departments elect to host kick-off events, such as a pro bono lunch or reception, at which the general counsel offers his or her endorsement of the newly launched program. At the event, you can introduce future volunteers to the pro bono committee members, discuss the goals of the program, and explain to attorneys and other legal department staff the procedure for taking on

pro bono projects. You may also invite local law firms and legal services providers to give presentations regarding available pro bono opportunities.

To provide momentum, your launch should include clearly defined next steps for volunteers to ensure that they are engaged and to promote involvement. You may decide to announce upcoming training programs or pro bono opportunities or to integrate training into your program launch. A few departments have hosted pro bono clinics at the launch of their program. That is one way to generate enthusiasm and, if repeated on an annual or semi-annual basis, maintain program momentum.

- Highlight Management Support for the Program
- Discuss Goals and Provide Information
- Encourage Involvement with Next Steps

### **Post Launch: Evaluate and Assess**

Now that your program is launched, we encourage you to revisit it periodically to reassesses, re-evaluate, and, if necessary, restructure. You may discover that your goals for the program have changed, that it is time to identify new opportunities in the community, create new partnership relationships or expand the breadth of pro bono opportunities your company provides. You may have new questions and concerns. CPBO offers a range of information, materials, and support for departments that are expanding or maturing their pro bono effort.

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For more information about how CPBO can help, visit our website at [www.cpbo.org](http://www.cpbo.org). For assistance with starting your organization's pro bono program, please contact CPBO at [cpbo@probonoinst.org](mailto:cpbo@probonoinst.org).

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