Don't Touch That Template
First Five Steps Before You Begin Automating A Template

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Have you ever sat down with a salesman for a demonstration of document assembly software, whether it be HotDocs, SmartWords, GhostFill, Rapidocs, PowerTXT, WinDraft, Cincom, PDF Plus, ReachForm, or ProDoc? In the blink of an eye, they whip together an automated template to draft an employment agreement or a last will and testament. With their software, they tell you, document creation will take minutes, instead of hours (or days). Quality and consistency will be vastly improved. Your practice (or office) will be able to handle a greater volume of work without adding new employees and increase its profit margin dramatically.

Are these guys selling Snake Oil? No ... and yes. Everything they say about the benefits of properly designed and automated templates is true. There are real tangible benefits to document automation. The catch is that the templates must be properly designed and planned before any automation coding is added. If this is not done, it may take hundreds of hours of valuable attorney time to produce only mediocre results from such a system. It is also quite possible that after hundreds of hours of work, you may produce a tangle of codes that simply doesn't work at all.

With proper design and planning, however, templates can be automated rapidly. New templates can be added to libraries of pre-existing templates, borrowing components from those templates. Old templates can be updated to reflect changing legal norms. Links can be made to case management systems, document management systems, and client/matter databases. And all the benefits proffered by the salesmen can be achieved.

This article lays out five steps you should take before you ever touch a document assembly program. These steps are (1) Gathering, (2) Consolidation, (3) Analysis, (4) Planning and (5) Document Preparation.

STEP 1: Gathering – Selecting and Finding Your Forms

Choose the type of document you wish to automate. There is an art to choosing which documents will give you the most return on your investment of valuable attorney time. A rule of thumb to help select documents worthy of automation is (1) high volume documents or (2) high profit margin documents.

Gather your precedents. Gather as many as you can; the more the merrier. This includes model forms found in your forms library and actual client documents. The latter category is particularly important if you wish to build an expert drafting system that will address the actual needs of your users.

Client documents let you evaluate the quality of the model forms in your forms library and help you identify alternative text and structures for your templates. In my consulting practice, I gather at least 10 precedents for every template I create. For some templates, I have gathered as many as 100 precedents. I have found that most model forms are dated and too simplistic. Only by looking at client documents can you see patterns emerge, whether they be: repeated revisions to boilerplate language, client-specific requirements, regional variations, lawyer-specific styles, or variations based on entity-type.

You could sit for days on end trying to think up all these possible variations. It is much easier to capture that knowledge from the precedents already created. However, don't assume that all variations are correct or should be included in the template. Lawyers make mistakes. And, more importantly, a concession made in one transaction, may simply be inappropriate for use in the template.

An added benefit of this process for in-house counsel comes from the identification of compliance risks. Some non-standard language may have gotten into agreements that poses a risk for the company. This process will help you identify the risky language and may spur a contract audit.

STEP 2: Consolidation – Creating a Master Form

Review all your precedents, focusing on document format, not content. There may be a variety of paragraph styles and numbering schemes represented in the documents. You need to make a preliminary decision on document formatting and numbering schemes. You also need to choose which document, if any, most closely represents what you want the assembled document to look like.

I generally use military numbers, taking advantage of my word-processor's automatic numbering schemes. I also use a leading tab, rather than an indent. In the final document, I change the numbering scheme and style to reflect what the client wishes. The reason for using military numbers is that it much easier to figure out internal cross-references and keep similar subjects grouped if you know that full path for each section of the document.

Once the style and numbering is set, you need to create a framework for the document. I gather all the paragraph and section heads found in the precedents and create what is in essence an outline of the contract. You can even use your word-processor's outline features. It makes it easier to navigate the agreement. I often put in multiple levels of descriptive headings. Many of these are removed from the final document, but serve to help me organize all the alternative text by subject.

Next, you need to populate the text of the master form with language from the precedents. Take whole paragraphs from the precedent document and place it in the appropriate section. Label each insertion with the source document name and the section of the source document where the language comes from. This is particularly important to do if there are lots of internal cross-references. You will be able to go back to the source document and find out what section the reference was pointing to.

Expect to find duplicate language. If the language is identical, simply add the source label to the paragraph. If there are slight variations, determine if those variations are meaningful. If so, include the alternative clauses and label them. Don't try to figure out the reasons for the variations, until you have finished this consolidation process on several documents.

In many organizations, contracts have evolved over time in different directions, depending on the attorneys handling the matters and their particular idiosyncrasies. Unrelated clauses have been grouped together, possibly in mislabeled sections. You will often have to break up a section into its component parts and consolidate them in different parts of your master form. Use your word processor's search functions to find where similar language may be found in the Master Form.

STEP 3: Analysis – Identifying Variable and Optional Text

Nows comes the thinking part. For each topic in your Master Form you need to decide which text is standard and which text is optional. By looking at patterns in the consolidated clauses, this should be relatively easy. The more occurrences of particular language, the more likely that that language should be standard. Patterns in alternative or optional text should also emerge. Judicious use of document compare routines in Word and WordPerfect can help. The more detailed the topics in your framework are, the easier this process. Once you fully understand the text and have updated the cross-references, you should remove the source labels.

Then you need to take the standard and optional text and determine your variables. You should replace the variable text with actual variables, giving them sufficiently descriptive names and setting them off in brackets or chevrons. Do not fire up your document assembly software and start putting in coded variables. Rather, keep a list of all variables in a separate file. Some people use an Excel spreadsheet; I use tables in Word or WordPerfect.

Whether you use a table or a spreadsheet, you need to enter the name of the variable exactly as used in the document, a brief description of the variable, possibly the prompt you will use for the variable, some further help text, and very important, the type of variable. Variables can be text, numbers, or dates. They can also be true/false, computations, or multiple-choice. If the latter, you may want to specify the multiple choice options in a separate column. You can also add a topic column to assist you in later grouping these variables in dialogues.

For the optional text, you need to designate a beginning and an end for each string of optional text. I use square brackets. You could use a more detailed coding like: <IF rule = true> .... optional text <END IF>. Square brackets and footnotes are simplest. The footnote should say the conditions under which the text should be included. These conditions could be (1) if the answer to a true/false variable is true (or false), or (2) if the answer to a multiple choice variable is a certain value. You footnote should specify the conditions, but don't worry about syntax. If the condition is a hybrid, just write out what you are thinking.

Keep track of these rules in a table or spreadsheet. For repeat conditions, you may want to assign a number to the rule and in the future just refer to that rule number instead of writing out the whole condition.

STEP 4: Planning – Building a Road Map

Then take the table(s) or spreadsheet(s) and look at them freshly. You will see patterns emerging. There will be ways to group variables by topic. There may be certain questions that are dependent on others and therefore need to be nested. You will also find that the naming scheme for the variables may need to be revised.

Add a new column to the table(s) or spreadsheet(s). This column will be the actual name for the variable that you will use in the document assembly program. Naming schemes are a who separate essay. Names should be sufficiently descriptive to be readable, but not too long. Since most document assembly programs organize lists of variable alphabetically, you may want to use a Prefix in the name to organize related variables.

Create a roadmap for the document questions. Come up with menu titles. Then group the variables under menus. Treat this document as equivalent to an answer summary or an intake sheet. When placing the variables in each menu, also put in the prompt for that variable as a question: e.g. Enter Name of Lender? .... <Lender Name> where the first phrase is the prompt and the second phrase the name of the variable.

Just like text, menus themselves and even variables can be conditional. So you will need to use the square brackets and footnotes to designate optional menus and optional variables. Go back and forth to the Master Form to determine which variables only occur under certain circumstances and should therefore be nested. Use this process of review to refine the prompts and the variable names to better match the actual text.

I have often stopped at this point and automated the roadmap and built my variables and dialogues. This allowed the attorneys to continue to work on refining the text of the document, and shorten the template development time. It also allowed me to test and debug the menus and dialogs before I hard coded the document.

STEP 5: Document Preparation -- Marking Up The Template

With the roadmap completed, go back into the document and replace the variable name placeholders, where applicable, with the new variable names. You may find that you had used three variable names in the Master Form that turn out to refer to a single variable. Or you may find that one variable can be computed based on prior answers to other variables.

Likewise, go back through your optional text and update your rules for inclusions and/or exclusion of the optional text. In the footnote describing the condition, put in the actual names of the variables forming the condition. Use the names of true/false variables and multiple choice variables from the roadmap.

Finally look for special needs, such as formatting requirements (date style, number to words, paragraph numbering etc) and put in footnotes or annotations to guide the template developer in putting in the proper document assembly codes. This may also be the time to specify the style of the document and change the numbering schema.

CONCLUSION:

At this point you can send the Master Form and roadmap to a template developer in your organization, code the document yourself, or cost-effectively outsource it to a consultant. With clear guidelines, the project will get done quickly, meet your needs and more important, bring you real tangible benefits. Document drafting will take minutes, instead of hours (or days). Quality and consistency will be vastly improved. And your practice (or office) will be able to handle a greater volume of work without adding new employees and increase its profit margin dramatically.

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