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# 5 Practical Ways to Rein in LEGAL SPENDING THIS YEAR



If you're like most companies, you've already grown accustomed to doing more with less. It's easier to cut the less essential costs first, but what happens when you've made budget reductions across the board and your legal department is next on the list?

**You're faced with a quandary:** Reduce legal spending and potentially expose your company to unnecessary risk, or allow the budget to continue to grow untamed?

Although the legal department is a critical function of your business operations, it shouldn't be treated as a sacred cow that's immune from cutbacks or scrutiny. When it comes to spending and accountability, are you holding your legal staff to the same standards as other departments?

If not, resolve to start taking control now. Whether you have high-level oversight of your company's law department or are directly responsible for the day-to-day budget decisions, here are five practical resolutions you should commit to in the coming year to help curb legal spending.



## *Evaluate Outside Counsel Spending*

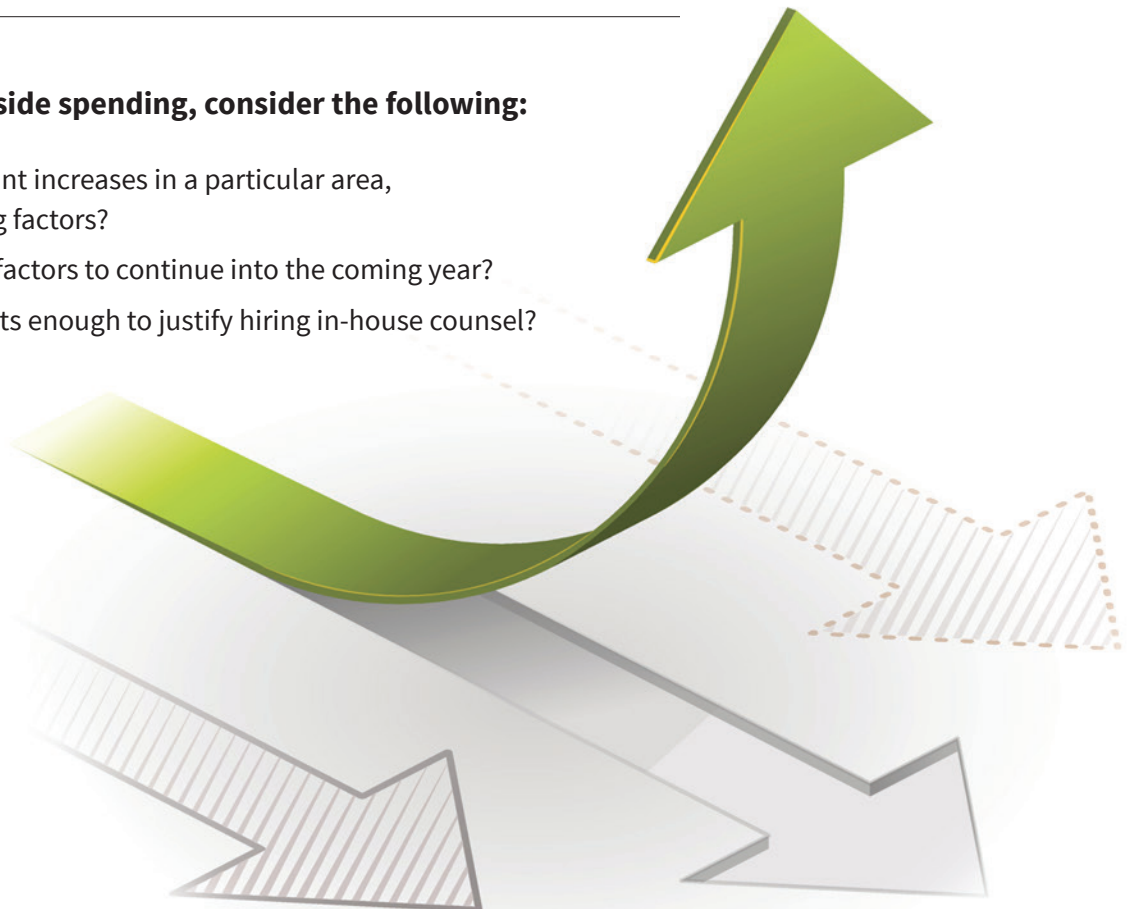
It's time to take a hard look at all the outside firms your legal department works with and determine whether the services are worth the fees.

First, you should determine the ratio of spending on in-house counsel compared to outside counsel. It's not uncommon to spend half or more of your law department budget on outside counsel. The most common split was 43 percent "make" (work performed in-house) to 57 percent "buy" (work performed by outside counsel and other vendors), according to a [2014 Altman Weil Chief Legal Officer Survey](#).

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### **As you examine outside spending, consider the following:**

- If there were significant increases in a particular area, what were the driving factors?
- Do you expect those factors to continue into the coming year?
- Are the increased costs enough to justify hiring in-house counsel?



In some cases adding legal or compliance staff with specialized skills may actually save money, particularly if you're frequently relying on the outside expertise to handle emerging issues, such as [compliance](#).

If your General Counsel is requesting to increase spending on outside counsel in the coming year, be sure he or she can justify it. **Before signing off, you should ensure the need falls into at least one of these three categories:**

- **A capacity issue**—Is the in-house legal team unable to handle an important matter because it is tied up with other commitments?
- **A unique or discrete issue**—Is the matter related to something for which there is no in-house capability, or is it a distinct area of expertise for which you generally rely on outside counsel?
- **A jurisdictional issue**—Is the matter something your team is unable to handle due to its location or area of expertise?

If you still determine it's more cost-effective to continue using outside counsel for certain functions, don't hesitate to negotiate fees. This may have been frowned upon in the past, but it has become commonplace in recent years. Even top-tier firms understand companies today have more power to challenge hourly fees or demand outside firms account for charges that may fall outside the scope of work.

## *Look for Ways Outside Counsel Can Add Value*

As you consider your relationships with outside counsel, look for opportunities where they can offer more at little or no added cost. If you have a relationship with a firm that doesn't offer you that added value and you're relying on them less frequently, it might be time to consider alternatives.

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- Kirkland Hicks, General Counsel of Towers Watson

“There are going to be some relationships you are obviously going to want to keep for big bet-the-company matters,” said Kirkland Hicks, General Counsel of Towers Watson. “But there are others where you say, ‘Hey, it’s really not that critical that we have that relationship and pay that kind of money.’”

Ricardo Anzaldúa, General Counsel of MetLife, said he sees it in terms of “protecting the company and performing our fiduciary duty to shareholders.”

“We need to make sure that we’re being efficient about the way we spend our outside counsel dollars, which requires a lens that goes beyond simply making sure that we’re getting the best hourly rate on each item,” he said. “That includes maintaining good institutional knowledge in the outside counsel MetLife uses.”

The desire to maintain those quality relationships and institutional knowledge has led the company to make more of an effort to strengthen its in-house legal team by creating opportunities for leadership development and advancement. When the task demands high-level expertise and knowledge of the client, there is no substitute for a long-term relationship. This enables the work to be performed more competently and efficiently, saving the time and cost of familiarizing someone else with the specifics involved.

### **As you build these relationships, consider alternative fee arrangements.**

Recognizing the need to control costs, law firms are showing more flexibility in the services they offer and the fees they charge.

One example of this is “secondment,” or using a lawyer who is primarily employed at a law firm but spends a period of time working on site. This can enable the lawyer to gain a more in-depth understanding of the client. It also gives the law firm a more entrenched relationship while saving the client money.

### **Some law firms also offer corporate clients access to a hotline where they can ask questions on matters that do not require expensive partner time.**

## *Use Benchmarking to Validate Prices*

Your purchasing department doesn't order equipment without comparing prices, so why wouldn't you also want to compare the costs of compensating in-house lawyers and outside counsel?

The Association of Corporate Counsel recommends referring to benchmarking studies such as The Corporate Executive Board Company and CT TyMetrix, Inc., to determine where you stand compared to industry averages. Being better informed gives you more bargaining power and will show you've done your homework when you say your rates are competitive. It can also help you prepare for compensation trends for in-house counsel so they don't catch you off guard in the coming year.



## *Clarify Expectations & Evaluate Effectiveness*

Did your law department meet expectations this past year? That question may be difficult to answer if you didn't set clear expectations other than to keep your company out of legal trouble. The specific metrics you choose to measure will vary depending on your company and its goals, but you should consider reviewing some specific numbers to justify your company's legal spending, especially if the law department is asking for a budget increase.

**Here are some common law department metrics that can help you measure effectiveness.**

- **Workload and Productivity**—Measuring the workload of each in-house staff member is essential to determining how resources should be allocated, and whether each employee is performing according to his or her potential. Law department heads should track overall caseload in addition to a micro-breakdown for each attorney. Consider the average number of open matters, the average cycle-time per matter, the number of attorneys assigned to each matter, outside spending, and spending compared to budget for each member of the team.
- **Outside/Inside Spending vs. Company Revenue**—To determine this percentage, consider the total company revenue versus outside legal spending and inside legal spending, which equates to the total worth of each employee. In analyzing these three factors, your law department will have more accurate indication of legal costs, including reductions or increases.
- **Spending by Matter Type and Business Unit**—To more accurately understand where the law department budget is going, it's important to track spending by matter type. Your litigation may require more spending than employment and labor matters, for instance. Properly tracking this budget break-down will ensure your law department is asking the right questions and effectively allocating resources.



In addition to outlining expectations for in-house staff and how they will be evaluated each year, the General Counsel or Chief Legal Officer should update guidelines for using outside counsel and strengthen them when necessary. That may include revising regulations on fees, hours, other billable expenses and who does the work. Make sure you have clearly stated your preference to use a less senior or less specialized attorney when the task allows for it and use the most experienced staff only when necessary to reduce costs.

**Use a formal process to measure the output and effectiveness of your outside counsel.** This may include using matter management and e-billing systems that check billable hours against budgeted hours.

## *Consider Hiring In-House Counsel*

*As you examine the effectiveness of your law department and outside counsel, consider whether it's time to add staff to your law department.*

Hiring in-house counsel who are competent and bring industry-specific expertise is one of the best ways to reduce costs in the coming year. Companies are reaping significant benefits by doing this. In fact, 47 percent of legal departments decreased their outside counsel spending in 2013, according to the Altman Weil Chief Legal Officer Survey, and 29 percent said they planned to do so in 2014. Of those, **82 percent said they would shift the work to in-house counsel.**

*There's also clear evidence that making this shift has paid off for many companies.*

**When asked in the survey which of their efforts to control cost yielded the greatest results in the past 12 months, relying more on in-house legal counsel was the No. 1 answer. Nearly 22 percent of chief legal officers said this was their most cost-effective move.**

**Moving more work in-house was a key component of driving down costs for Exel Logistics, a company providing warehouse facility services to companies throughout the U.S., Canada, and Latin America.**

“The fixed cost of our department has gone up 24 percent over a four-year period of time, but our day-to-day external legal costs have gone down more than 50 percent despite an increased workload,” Exel Logistics General Counsel Mark Smolik said.

*“Recruiting experienced, business-minded lawyers to join our team has been instrumental in helping us reduce the overall cost of legal.”*

- Mark Smolik, Exel Logistics General Counsel



**Recruiting Corporate Counsel and General Counsel with business acumen is one of the most important steps you can take to ensure someone is keeping a close eye on legal spending.** The right General Counsel will make adjustments to the budget as needed so your company can achieve profitability while mitigating risk.

The legal profession has shifted to a more consumer-oriented approach, giving companies more opportunities to control expenses. Rather than allowing your legal department to become bloated, use these opportunities to trim the fat and eliminate unnecessary expenses in the coming year.

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