

Law Firm Diet: Reduce Firms – Reduce Costs?

By Michael C. Ross

It is no surprise. According to the Altman Weil/Association of Corporate Counsel recent survey of chief legal officers, the three most important law department management issues are: 1) budget constraints, 2) cost controls, and 3) staffing issues. Just like every other department in the company, the law department must be efficient. Even in an improving economy, there is no room for excess costs. The pressure has increased with the implementation of Sarbanes Oxley, the increase in shareholder activism and the continuing onslaught of the lawsuit culture.

There are only two places to look for cost control and reduction – inside or internal costs, and outside or external costs. This article will examine “convergence,” one of the ways general counsel have been endeavoring to control, and, in some cases, reduce, fees and expenses of outside counsel.

Convergence

Convergence, one of the more popular cost-control measures in recent years, is a fancy name for concentrating more legal work in fewer firms. Sometimes, the firms are given “preferred vendor” status, analogous to programs through which their companies purchase goods and supplies. A number of large, well-known companies have implemented widely publicized, dramatic reductions in the number of firms handling their legal work. These general counsel claim significant reductions in costs and advocate that others follow their lead so that law firms will adapt to the need for fundamental changes in their approaches to client relationships and fee expectations. (It would, by the way, be something of a surprise to hear these general counsels claim anything *but* success.)

These programs are not one-size-fits all. They must be carefully customized for each company and its mix of legal needs. Concentrating legal work with a relatively small number of firms can work well with high vol-

ume matters that have common or similar issues, like workers’ compensation, personal injury and employment cases, and leasing, licensing and franchising transactions. In-house counsel should first identify the areas of legal work that might most benefit from concentrating the work in a small number of firms. Then, in each area, the client should identify the specific ways in which costs will be controlled or reduced and estimate the expected savings.

Benefits to the Law Department

Some benefits of reducing the number of firms should be relatively simple and straightforward. With fewer firms, there should be fewer instances of duplicative research, memoranda, briefs and drafting form documents. Similarly, there ought to be better coordination (and fewer misunderstandings) between client and counsel because fewer will have to get to know the client’s people and understand the client’s policies and procedures.

Other benefits will require more planning, guidance and monitoring. Cost control and cost reduction depend to a large extent upon staffing quality and continuity. Reducing the number of firms is not very productive if the firms do not commit high quality teams to perform the work over an extended period of time. This commitment should be a key part of the up-front agreement between the client and the outside firm. Much of the cost savings comes from the experience levels of the attorneys and staff dedicated to the client’s work. This efficiency can be a “win-win” for the client and the firm.

Although clients expect outside counsel to function efficiently, those of us who have worked at an outside firm know it is not automatic. Part of the initial understanding with the outside firm should be what systems and processes it will use so that the attorneys and staff will share information and work product for the client’s benefit. The promise of volume should enable the firm to invest in technological

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and other means to streamline communications with the client, including matter assignments, periodic reports, billing and payment accounting.

Discounted rates...and more...

The chief legal officer expects to receive cost reduction in exchange for the volume commitment, but reductions will be illusive without more. If the firm continues to increase overall rates, and individual attorney rates as they become more senior (what I have always called "bracket creep"), the program might control costs, but will be unlikely to reduce them. Accordingly, many general counsel are insisting upon not only discounted rates, but also caps on increases, and alternative fee arrangements (a subject for a subsequent article). Some include packages of services, such as reports on legislative and regulatory developments, periodic revisions to forms and manuals, and in-house training, all at no additional cost. One firm went so far as to put the client's team in lower cost space than the rest of the firm so that it could achieve fee reductions without reducing its margins. A common component is some sort of incentive system for results and effi-

ciencies. Although rewarding firms for excellent results and cost control seems to general counsel like paying for what they reasonably expect in the first instance, these incentives can have powerful, long-term benefits.

Benefits for the Law Firm

In order to make a convergence program attractive to the law firm (and it must be a good deal for both parties for it to last), the client will need to commit a sufficient volume of work to the firm over a significant period of time, probably a multi-year commitment. These understandings should be very clear about the type of work to be concentrated and the exceptions that allow the client to take work to another firm. The commitment would be conditioned upon performance by the firm of its obligations, e.g., to provide appropriate staffing, avoid unnecessary work and provide quality services.

Selection of Firms

If the workload and number of acceptable firm candidates permit, it is advantageous for the client to have several firms handling the work. There is nothing like competition among firms to produce high quality

service at a reasonable cost.

A key to success is the selection of the best firms for the program. There is no substitute for thorough discussion of the details, wherein the proverbial devil lies. Mutual respect and a willingness to work together through difficulties (which there will inevitably be) over the long-term are critical. If it does not feel right, it probably isn't. If it seems too good to be true, it probably is.

The selection of the firms is only the start. The program should include periodic review and reports to assess successes and failures. No matter how good the program looks on paper, both the client and the law firm will discover ways to improve it as they learn from experience. Convergence is neither easy nor a panacea, but it can be very productive. Try it – you might like it. ♦

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