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In-House Legal Spend and Budget Strategy In Ten Points®

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No in-house legal department is immune to cost pressure. After taking care of your people, nothing is more important than being able to successfully manage your outside counsel/vendor spend, including being able to accurately forecast legal spend. The legal department is a cost center and the business is always looking to cut costs. That's why it is important for in-house counsel to be on top of what you spend with outside counsel (or other vendors), and deliver consistently accurate forecasts. Being able to demonstrate that you are paying close attention to costs and that you are thoughtful in what you are spending and why, will make conversations with Finance, the CEO, and the Board of Directors go much easier.

If not already, gone are the days when general counsel could explain forecasting misses and budget overruns with "Legal's different" or "It's impossible to accurately estimate legal fees with so many variables" or "I cannot tell you in August what we're going to spend next year." More and more your business counterparts will expect the legal function to run like other parts of the business, which must also accurately budget and forecast spending in the face of numerous variables. Those GCs who succeed will stick around. Those that don't may not make it. This paper will focus on ten things you can do to reduce or better manage outside counsel/vendor spend and make the budgeting process easier and more predictable.

1. **Get the data/Develop your metrics.** The most important thing you will need is data. Unless you can consistently get data (and understand how to analyze the data) you cannot truly succeed in the budgeting process. First, you need to know what you are spending. Second, you will need to have some idea of "what's market." For the first, you will use your own data (made much easier if you have an e-billing system). For the second, many e-billing systems (e.g., Serengeti) provide access to market rates. You can also pull rates from court fee requests available on PACER¹ or you can buy data about average hourly rates² by city by type of work from several sources.³

With this data, you will create key metrics so you can measure and judge success. How much are you spending? With whom? How much per hour on average? What is partner/associate ratio? How long will it take to resolve this type of matter? What is the typical cost for something like this? The list of potential metrics is long, so you will need to draw the line at a reasonable number of key metrics that support what you are trying to accomplish.⁴ Like

¹ <https://www.pacer.gov/>.

² <http://businessoflawblog.com/2014/08/law-firm-rates/>.

³ <http://www.wkelmsolutions.com/products/2014-real-rate-report>; <http://www.skyanalytics.com/>; <https://lexmachina.com/>.

⁴ See <http://www.acc.com/legalresources/publications/topten/ttmtlydsbt.cfm> and <http://www.law360.com/articles/324042/must-have-performance-metrics-for-law-departments> for lists of potential key metrics.

it or not, data analytics is becoming table stakes for in-house departments.⁵ If you can successfully develop useful analytics, you can increase confidence in the legal department and its ability to operate as part of the business in a strategic fashion. Below are the results of a recent study regarding how in-house legal departments are using data analytics.⁶



2. **Building a Budget.** As you probably know, it is not acceptable at most companies for the legal department to simply say for next year's budget "take what we spent last year and add 5% for outside counsel fee increases." The expectation now is either some percentage reduction of what you spent last year (the blunt instrument approach) or start at "zero" and build up a budget based on matters in play and past experience (having historical yearly spend data by category is extremely helpful here). You should expect that whatever number you present in the second scenario will get cut as the budget process plays out. This is exactly what happens in other parts of the business, so trying to argue that legal is a "special case" will not get you very far. Under either scenario you need to understand how much you're spending and with which firms. You need to understand what if any increase in fees the firm is anticipating (and whether you can agree to it). You need an understanding of what work can be pushed off or avoided, and which work will be absolutely necessary. All this is necessary because it is highly likely that you will need to pull some levers to "tap the brakes" or worse reduce spending at some point in the coming year. You need to be sure that your outside counsel understands the pressures you face and they are willing to help you manage the spend to meet your goals (and if they are not willing, it may be time to think about bringing new firms into the fold).

One of the most important internal relationships you will have is with Finance. So, it's important to have a budget planning conversation or two with the

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<http://www.acc.com/vl/membersonly/QuickReference/loader.cfm?csModule=security/getfile&pageid=1316431&page=/legalresources/resource.cfm&qstring=show=1316431&title=Improving%20Value%20Through%20Analytics>.

⁶ See Huron Data Analytics Survey, <http://www.huronconsultinggroup.com/Landing/p/Huron-Legal-Data-Analytics-Survey>

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