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## Secrets To In-House Cost Control

Law360, New York (January 07, 2015, 11:30 AM ET) -- Cost control reigns as one of top the challenges facing today's law department. But the good news is that law departments are doing a better job containing costs, keeping total legal spending increases at a modest rate and reporting decreases in outside counsel spending.



Lauren M. Chung

According to the 2014 HBR Law Department Survey, total legal spending worldwide increased by 2 percent while outside counsel spending decreased by 2 percent among all the participants in the survey. Over the past three survey years, there has been a steady decline in the rate of increase for total legal spending. The 2012 survey reported a 5 percent increase in total legal spending. The 2013 survey reported a 3 percent increase in total legal spending. The survey data indicates that measures taken by law departments to control and manage their costs are directly impacting legal spending.

An even more compelling story is that of a subgroup of 42 companies from the 2014 survey that indicated placing cost control was a high priority for their law department. While most law departments kept legal spending increases at modest levels, the members of this subgroup reported a 3 percent decrease in total legal spending.

So what was the secret to their success?

A closer look at the practices of this subgroup identifies a number of lessons to be learned.

### Looking Inward

The 2014 survey reported a 5 percent increase in inside legal spending among all participants. On the other hand, the companies in the subgroup experienced only a 2 percent increase in inside legal spending. The following findings may be contributing to this result.

#### *Doing More with Existing Resources*

A recent focus among law departments has been to keep more work in-house rather than send it to outside counsel as a cost savings measure. As a result, many law departments have reported an increase in inside legal staffing. Among all participants in the 2014 survey, 55 percent reported an increase in attorney headcount and 61 percent indicated an increase in total inside legal staff. Interestingly, the companies in the subgroup depict a different story, with 39 percent reporting an increase in attorneys and 41 percent reporting an increase in total inside legal staff. While the demand for legal services continues to grow, the members of the subgroup appear to be focused on doing more with existing resources and turning to contract staff to meet the needs (see below). It is important to note here that while rate of increase in staffing among the companies in the subgroup is behind that of all participants, spending on compensation grew at roughly the same rate. This signifies that the law departments in the subgroup are keeping pace with broader compensation trends in order to retain talent.

#### *Use of Contract Staff*

One way to handle the increase in legal demand and address capacity issues, while keeping

headcount down, is through the use of contract legal staff. The companies in the subgroup are spending more on contract and temporary staff compared to the all participants group. They reported a 14 percent increase in spending on contract and temporary staff compared to a 2 percent increase among all participants. Looking into the coming year, the companies in the subgroup reported that they were 40 percent more likely to increase the use of contract staff.

#### *Management of Internal Operating (Nonsalary) Expenses*

Inside legal spending includes spending on compensation and benefits for the legal staff and operating expenses for the law department. Over 80 percent of inside legal spending is attributed to compensation and benefits. Both the all participants and the members of the subgroup reported a 5 percent increase in cash compensation and benefits. The difference for the subgroup was in its control of operating expenses. The subgroup had notable decreases in spending in this area compared to the all participants group: administrative and office expenses (5 percent decrease); systems and technology spending (11 percent decrease); allocated overhead (15 percent decrease).

## **Looking Outward**

Among all participants, outside counsel spending decreased by 2 percent. The companies in the subgroup realized a 7 percent reduction in outside counsel spending. The following practices appear to have an impact.

#### *Use of Alternative Fee Arrangements*

Law departments continue to test the use of alternative fee arrangements (AFAs) and the 2014 survey results indicate that there are savings to be gained with increased adoption. Over 80 percent of the law departments are using some form of AFA. However, AFAs still have not been leveraged broadly. Only 10 percent of the total outside counsel spending among all participants was subject to AFAs. The use of AFAs has produced a 7 percent savings in outside counsel spending among all participants. However, for the members of the subgroup, the use of AFAs is more pronounced. The percentage of total outside counsel spending subject to AFAs jumps to 15 percent. This group realized a 10 percent savings in outside counsel spending worldwide.

#### *Adoption of Matter Planning and Budgeting*

A key element of controlling outside counsel spending lies with a proactive approach to matter management from a planning and budgeting perspective. This involves having clear visibility into matters and keeping outside counsel accountable to established budgets. More consistent adoption of matter planning and budgeting was one of the top cost control methods reported in the 2014 survey. Among all participants, 71 percent of the companies are focused on consistent adoption of matter planning and budgeting. This number moves up to 78 percent among the companies in the subgroup.

#### *Internal Guidelines for Outside Counsel Spending*

Establishing clear internal protocols on the use of outside counsel is also an impactful method for cost control. For example, these guidelines are intended to outline when outside counsel should be engaged or when budget approvals are required. They support increased internal accountability on the use and management of outside counsel. The use of stricter internal guidelines for outside counsel spending was identified as one of top methods for cost control in the 2014 Survey. Among all participants, 77 percent indicated its use. The companies in the subgroup reported a similar result with 78 percent reporting.

## **Looking Ahead**

Many law departments will continue to face significant pressure to reduce costs while the demand for legal services will grow for most. The ultimate secret to success in managing costs will involve looking inward at optimizing internal resources and looking outward to tighten the relationships and management of outside counsel. Though the specific course of action may differ for each law

department, it all starts with making cost control a priority, taking incremental steps, and measuring success along the way.

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