

The Corporate Legal Department of Today and Tomorrow

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Overview

In recent years, corporate legal teams have identified as their top three operational challenges (1) reducing outside legal spending, (2) communicating more effectively with internal stakeholders, and (3) doing more with less. Thompson Reuters, *The Keys to a More Effective Legal Department*, (2016), p. 6. Making significant inroads in each of these areas now, more than ever, requires thinking outside the box.

These are not new issues for legal departments. Over the years, they have tackled them in ways we have come to know well. To reduce outside legal costs, general counsel have focused primarily on tactics to lower hourly billing rates. When thinking about how to communicate most effectively with internal stakeholders – principally business executives – legal departments have understandably prioritized improving their responsiveness to questions asked and the quality of the advice provided. Finally, when required to do more with less, general counsel have naturally responded by assigning more work and responsibilities to the same in-house attorneys.

These strategies can be effective up to a point, but they are fundamentally reactive, not proactive, they can achieve only so much, and they can even backfire. When focusing on lowering outside counsel's billing rates for legal services provided, corporate legal departments too often take for granted the nature, scope, or very existence of the legal problems outside counsel are asked to address in the first place. When striving to respond more quickly and effectively to requests by business executives for legal advice, inside counsel may be waiting passively for such questions to arise without considering what they can do to preempt the need for advice or to select more strategically where they can provide the greatest benefit. Further, they may be missing entirely opportunities to engage with business leaders on more strategic matters that can help the company grow market share or otherwise confer greater shareholder value. Likewise, when loading more work on the same inside attorneys, general counsel may be overlooking measures that can change the priorities, nature, and quantity of work the legal department is handling.

Some general counsel today are taking more effective and proactive approaches to getting substantially more value from outside counsel at the same or lower costs by considering factors that have much more impact than hourly billing rates. They are also changing the paradigm in how they give advice and what kind of advice they give to their internal business clients, finding ways to disengage from performing tasks that should not come to the legal department in the first place, and shifting their time, energy, and talents to helping the company identify unrecognized opportunities to achieve its growth objectives. All of these measures inherently enable inside counsel to do more with less. Especially for smaller legal departments, but with larger ones, too, general counsel may also wish to experiment with retainer agreements with outside counsel to provide a safety valve for work overflow that occurs sporadically and to brainstorm ideas, problems, and opportunities that have not yet gelled, or may never gel, into full-scale engagements.

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