

Second Annual

Law Department Operations Survey

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The Second Annual Law Department Operations Survey



The Second Annual Law Department Operations Survey was designed to gain insights into the current and evolving role of the law department operations director. Respondents were solicited from a list of the largest companies in the United States—mainly the Fortune 250. The online survey was conducted between September 25 and October 27, 2009.

This year's survey, which was developed again with Brad Blickstein of the Blickstein Group and our advisory board, received a significant increase in respondents over last year—that response rate further indicates the willingness of law department operations managers to set aside the mundane and make time for more strategic endeavors, and their responses have resulted in more robust and richer data.

For more information or to purchase the full results package, please contact Brad Blickstein at brad@blicksteingroup.com or 847.256.5298.

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Amid the Crises, a Chance to Shine

Legal Department Operations Managers Find Their Skills More Critical than Ever

By David Cambria

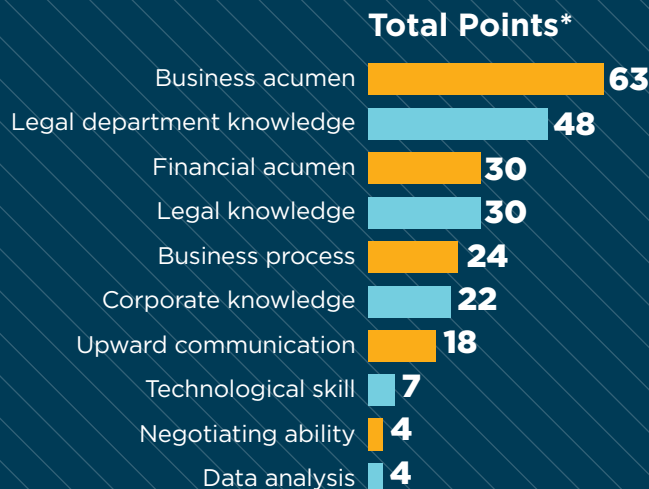
Director of Operations, Law Department, Aon Corporation
Chair, Law Department Operations Advisory Board

For law department operations managers, 2009 may be looked upon as one of the most challenging years of their careers, but also one of the most exciting. For years, you have struggled to prove that the law department can—and should—be treated like any other business unit.

Now, the economic turbulence has made the focus on the bottom line more important than ever and accelerated that change in perception. But now that you have a receptive audience, you must continue to think, act and perform like a businessperson. Your clients throughout the organization are counting on you to do what you do best, and it's a perfect opportunity to shine.

This message is spreading throughout legal departments around the country. Amid economic uncertainties, increased regulation and growing litigation, proving your skills in developing methodic, repeatable and accountable processes and procedures that can improve efficiencies, cut costs and allow your organizations to think strategically and not just reactively has become the new normal, according

Rank the three top attributes for managing law department operations.



*Calculated by assigning 3 points for 1st choice; 2 points for 2nd choice; 1 point for 3rd choice

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to the Second Annual Law Department Operations Survey. In fact, you not only have this opportunity right now—you must seize the day to keep propelling strategic, effective ways of doing business. You must keep evolving and raising the bar for performance in the eyes of the general counsel and others in the C-suite.

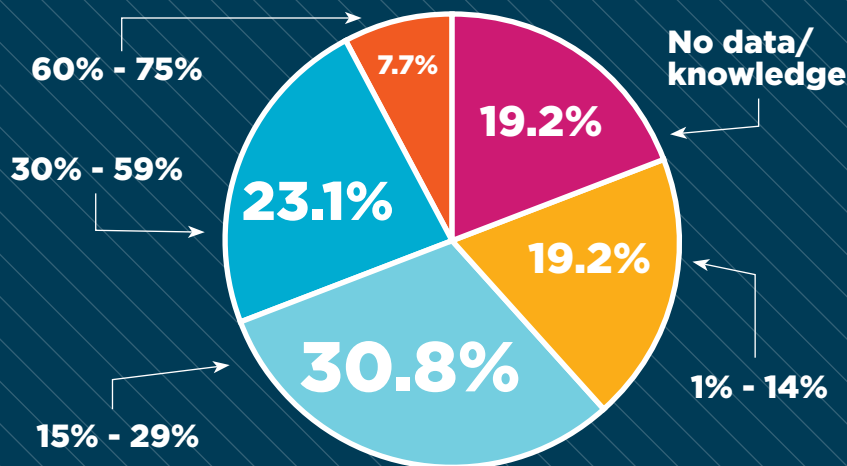
Now is not the time to take a step back and relax, even momentarily. Despite the many crises that occur every day, it is important for you to keep your eyes on long-term goals and strategies. Law department managers who have the ability and the capacity to think strategically will set themselves apart from their counterparts who are more focused on operations and the day-to-day details of running the department. That edge has become apparent in the last year. “Folks who plan ahead are going to do better than folks who are flying by the seat of their pants,” says Brad Blickstein, principal of the Blickstein Group who, along with our advisory board, developed this survey.

Of course, no legal department operations manager considers the haphazard approach as an

effective management technique. Most respondents find themselves somewhere on the continuum of getting constantly bogged down in the day-to-day activities of running a legal department and being a visionary. Considering the monstrous changes in the world economy over the past 15 months, it may be no surprise that driving and implementing change is by far the single greatest challenge that respondents to this year’s survey are facing—it was chosen nearly twice as often as the second greatest challenge, which was identifying opportunities for business improvement and cost savings. But now is the time to master this challenge.

Operations managers are perfectly positioned to help achieve cost savings both internally and externally by developing and implementing specific business models that seem to elude many attorneys. While most law firms are at least expressing an interest in sharing their clients’ pain and using more alternative fee arrangements, many can’t seem to think outside their long-time business model, the billable hour, according to

How much do you think your company’s legal spend would increase without a legal department operations position?



The reaction to bad economics has been positive for law department operations managers who are using the opportunity to push change.

respondents. Many operations managers say they are facing significant difficulties in implementing alternative fee arrangements, frequently citing an inability to price matters as an impediment to implementing such arrangements (see pg 8, “Law Department Managers—Thinking Strategically, Acting Programmatically” for more on alternative fee arrangements).

At the same time, more than 94 percent of respondents are using electronic billing systems. So data is being collected that can be used to force (or at least suggest) new pricing models. We live in an information society, and turning billing data into usable information more effectively than our law firms can provide legal departments with an enormous advantage.

While you have always worked under cost pressures, the recent economy has sharply highlighted the importance of working strategically. When asked to rank the most important attributes for managing the law department function, respondents considered business acumen and legal department knowledge to be equally important. This underscores the difficulties that many are encountering when it comes to bringing operational disciplines to the legal department.

According to this year’s survey, more organizations are starting to see the value that law department operations managers can bring—6.1 percent of respondents say their organizations added their positions within the past year. The move makes sense, as more than 60 percent of respondents believe that the existence of their role reduces the company’s legal spend by at least 15 percent. But on the other side of the coin, the difficult economy is hindering the ability of many law department managers to work strategically or add headcount.

Many organizations may also believe that law department operations managers belong in the realm of the largest companies, but a 15 percent reduction in legal spend easily funds the position even for a smaller or mid-size company.

For you who may be new to this role—or who are struggling with the increased demands of acting strategically—the first step lies in figuring out what type of data and information exists about the legal department’s activities. It’s possible to access at least some of this information even without extensive e-billing systems and records. You can have your law firms pull time and billing records out of their own systems, which you can use to get a grasp of how matters are being staffed. The difficulty lies in tracking the information and showing success in a meaningful way. Proving a negative is an ongoing challenge for many of you. While it may be possible to save millions on a high-stakes matter, it may well be that the CFO focuses on the money that was spent, not the money that was saved.

Despite the difficulties, the future is exciting for all legal department operations managers. You now have the opportunity to grow your power base within your organizations and change the dynamic of your relationships with law firms and vendors, as well as your businesses, in dramatic ways. A few years ago, it would have been hard to imagine the law department taking the lead on corporate-wide initiatives such as procurement of professional services or supplier diversity. But more and more companies are starting to rely on their law departments for advice in areas like these.

The reaction to bad economics has been positive for law department operations managers who are using the opportunity to push change. But you must keep pushing every day. It’s important to gain momentum while you have the attention of key decision-makers, so when the economy improves—and interest in legal costs or operations has waned—you have the right programs in place and have proven the ability of the legal department to provide real value to the company. ■

Law Department Thinking Strategically,

By Amy I. Stickel

When the First Law Department Operations Surveys were tallied last year, the results could have been summed up as “incremental improvement, exponential results.” While it is still true that many legal departments can benefit from the type of manager who can handle the day-to-day details, the challenges and opportunities have changed dramatically in the last 12 months, according to those who have responded to this year’s survey.

“The current economic environment has really driven home that the law is a business,” says Brad Blickstein, principal of the Blickstein Group. “The operations manager who has always done a fine job keeping the trains running on time now is expected to do much, much more.”

As the Second Annual Law Department Operations Survey proves, legal department managers are juggling a number of different tasks and are bringing greater efficiency to their companies.

Alternative Fee Arrangements Take Center Stage

With law department and business leaders shifting more and more attention to the astonishing increase in the cost of outside legal services, getting their arms around outside counsel spend has become the “must handle” issue for most law department operations managers. As the media heralds the end of the billable hour, many organizations are looking closely at alternative fee arrangements. “These are becoming increasingly important as we move away from the billable hour,” says D. Mark Poag, general counsel & senior vice president, marketing, for DataCert Inc. “AFAs offer not only cost savings, but better alignment between law departments and law firms.” Nearly 65 percent of survey respon-

ent Managers Acting Programmatically

dents use AFAs on a matter-by-matter basis, while 29 percent use them according to matter type.

In refining this year's survey, several queries were designed to elicit some solid information on how, and how fast, companies are using AFAs. It turns out that the vast majority of those who use AFAs—81.8 percent—utilize a discounted hourly rate.

Mary Clark, vice president law and deputy general counsel at LexisNexis, questions how truly “alternative” some of these alternative fee arrangements are. “Anything with the word ‘hourly’ in it is a little suspect, in my opinion,” she says. “It’s still an hourly rate. It’s not entirely new, and if it had been effective, people wouldn’t be considering other types of alternative fee arrangements.”

E-Discovery Settles Down

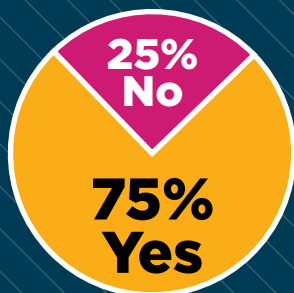
Three years after the revised Federal Rules of Civil Procedure went into effect, most respondents are starting to feel they are able to effectively manage the discovery process—when asked if they feel “in control” of that process, 70.7 percent answered yes. Yet, LDOs are not complacent. About two-thirds have specific plans to improve their processes.

The survey found that the vast majority handle their own preservation, identification and records manage-

Which of the following external cost-savings initiatives do you find effective?

- 71.0%** Use less expensive attorneys (i.e., regional firms)
- 65.8%** Aggressive rate negotiation
- 58.4%** Disbursement limits through billing guidelines
- 56.4%** Early case assessment
- 55.2%** Flat fee arrangements
- 54.0%** Limit when rates can increase
- 50.0%** Electronic billing
- 47.4%** Staffing controls
- 45.9%** Other alternative fee arrangements
- 40.5%** Preferred Provider Network
- 40.5%** Cap rate increases
- 40.5%** Volume discounts
- 24.3%** Discount rate with bonus for success
- 23.3%** Direct relationships with vendors used by firms on your behalf
- 22.6%** Invoice review training
- 16.2%** Quick pay discounts

Does your legal department charge back/allocate any legal expenses directly to the business units?



ment in-house—95.8 percent do their own preservation, 84.6 percent manage their own identification and 87.7 percent do their own records management.

However, a substantial number continue to outsource hosting (42.5 percent) and document review (37.5 percent).

Organizations are also more aggressively developing their own methods and systems for e-discovery in particular. Most large companies have taken an “unbundled” approach and have established their own vendor relationships, expecting vendors and firms to work together. Some have their “own shop,” while the remaining companies leave it up to their law firms.

“Law departments are finding more cost-effective ways to manage e-discovery,” says Rich L. Seleznov, managing director of Huron Consulting Group. “They are telling their law firms that they can’t pay \$200-\$300 an hour for an associate to review documents and manage e-discovery vendors.”

Rather, Seleznov says, more and more organizations are unbundling document review and hiring contract attorneys, or more recently, hiring firms that specialize in providing the full discovery lifecycle of services—from collection through to review and finally production to the adversary. Outside counsel are being asked to work with the service providers and conduct second or third level reviews of potentially responsive or privileged documents. Such an approach can offer tremendous cost-savings—in fact, Selenov has seen legal departments save much more than 50 percent off the cost of document review by adopting this approach.

The trend to more effectively and efficiently manage e-discovery is not new, but the economy has helped to drive more legal departments to adopt such an approach, he says. This is an area where the law department manager can bring particular value. “That’s not to say it can’t be done without a business manager,

What phases of discovery do you handle internally vs. externally?



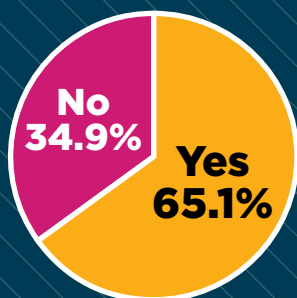
but this is an area where, say, a litigation attorney may be too close to the law firm to insist on this type of approach or see the approach as risky,” says Seleznov.

“This is all part of the new normal,” Seleznov stresses. “Once a company has achieved cost-savings, it won’t go back.”

Metrics and Reporting Coming into Their Own

Effectively tracking metrics and reporting is more important than ever before. Tracking the percent of legal spend, both inside and outside, as a percentage of revenue and total expense, is the most popular metric that LDO managers are using—26.8 percent are tracking this type of metric. Fifteen percent of respondents are tracking total expenses by law firms for particular groups of matters (respondents could choose more than one answer).

For nearly 75 percent of respondents, metrics and reporting represent one of the ways in which the success of the law department is measured. And most respondents seem to recognize room for improvement—64.3 percent reported plans to improve or change their metrics/reporting program in the next 12 months.



Is your organization planning a specific initiative in the next 12 months to improve your discovery process?

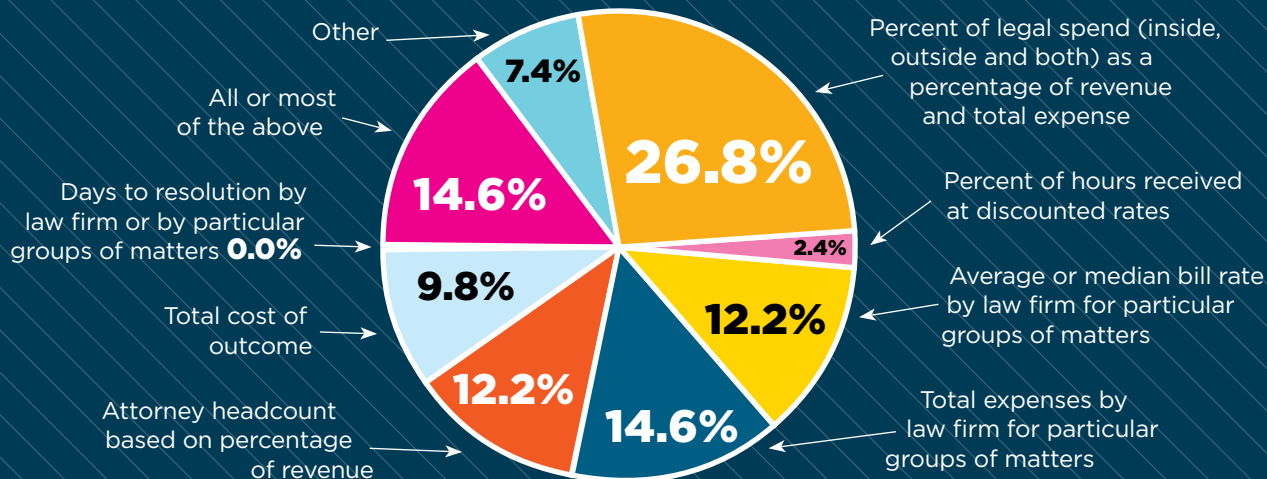
Best Practices for Using Reports and Metrics

It’s not enough to compile data—it needs to be appropriately mined in order to offer real value, according to D. Mark Poag, general counsel & senior vice president, marketing, for DataCert Inc. Specifically, organizations should be using their data to consider an individual firm’s budget and compliance, he suggests. Poag offers a few best practices for effective reporting.

- 1) Identify your legal department’s strategies (cost containment, budget controls, firm management, risk analysis, efficient resource management, AFAs, etc.)
- 2) Engage your key stakeholders
- 3) Conduct a series of recurring internal “interviews” to track the effectiveness of your reports
- 4) Identify and document the key pain points and challenges from these interviews
- 5) List and group your department’s key metrics by subject area
- 6) Determine the most effective method for tracking and distributing updates on these metrics
- 7) Utilize best practices by business unit and practice area
- 8) Assign roles within your department around reporting

“Legal departments are becoming more sophisticated,” says Poag. “The early acquirors have a great deal of data they can utilize.”

Which of the following metrics do you track?



Organizations are generating reports in a variety of ways—a quarter use a matter management system, while 20 percent listed both a dedicated report-writing tool and business analysts within the legal department as ways they generate reports. However, while 94 percent of organizations reported having an e-billing system in place, only 5.6 percent use it for generating metrics and reporting.

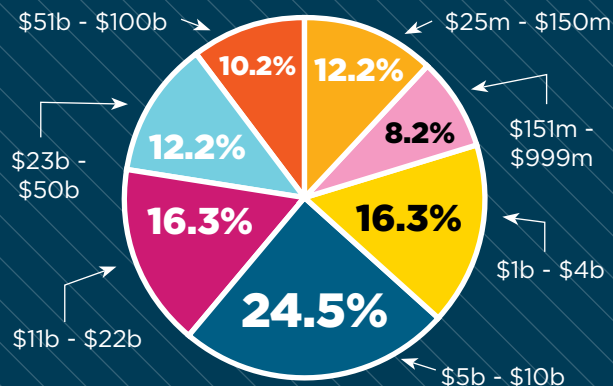
But of those who are generating reports, not all organizations are getting the most value they can from them. “Anyone can generate reports,” says Poag. “Reports shouldn’t just look backward, though. They should be used to make more strategic decisions and determine what rate is reasonable.” (see pg 11, “Best Practices for Using Reports and Metrics”)

And at many companies, financial incentives are lacking; only a third of respondents report that there are compensation ramifications tied to the use of metrics and reporting.

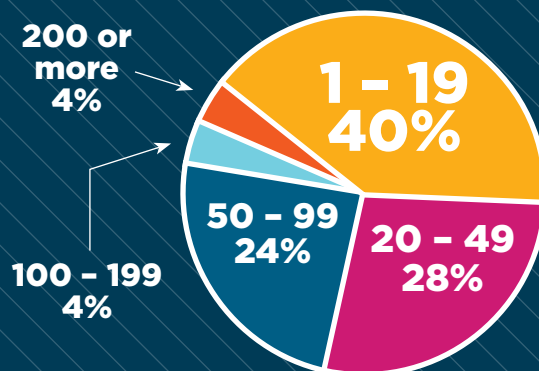
Controlling Costs

Legal departments are looking at many other options to control their costs, both internally

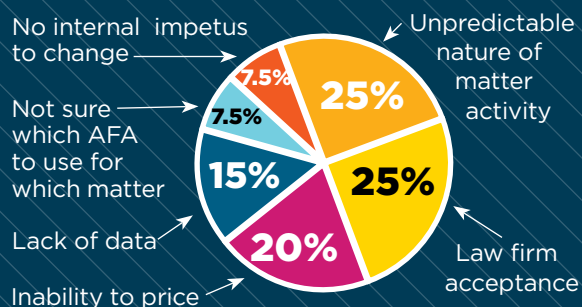
What is your company's annual global revenue?



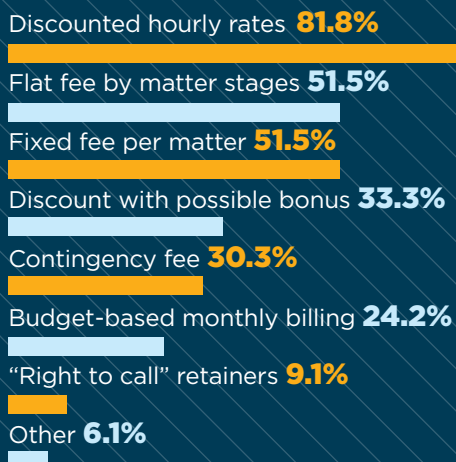
How many attorneys (U.S. and outside U.S.) are in your law department?



What is the biggest impediment to using Alternative Fee Arrangements?



What types of AFAs have you tried?



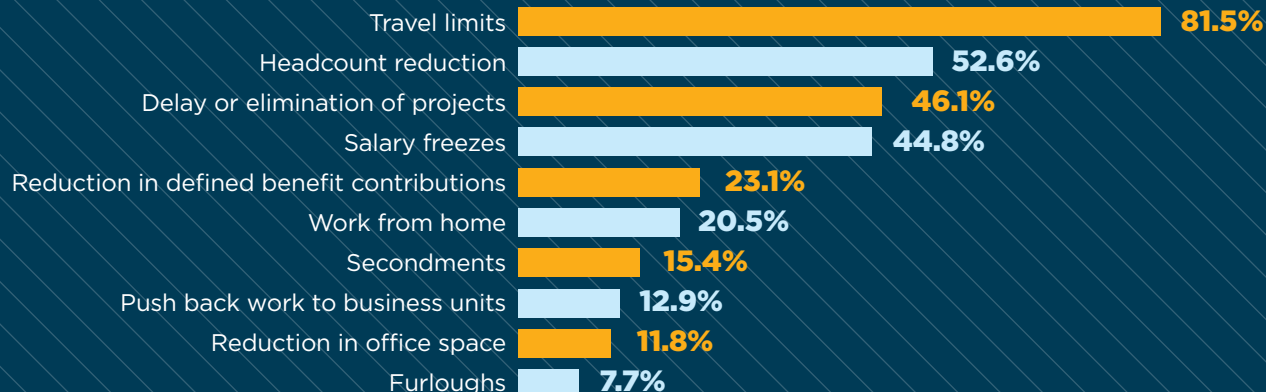
and externally. Nonetheless, many of the survey respondents do not seem to be implementing many innovative approaches. "Most law departments are fairly risk averse," says Clark. "What most of them want is certainty."

Limiting travel ranked as the single most highly effective way to control internal costs—almost 80 percent find this move the first place to start their cost controls. Slightly less than 16 percent listed headcount reductions as highly effective, and 35 percent ranked it as an effective method of cost control. Law departments seem less enthusiastic about the prospects of enlisting business units in this effort. Less than 20 percent ranked pushing back work to the business units as effective or highly effective.

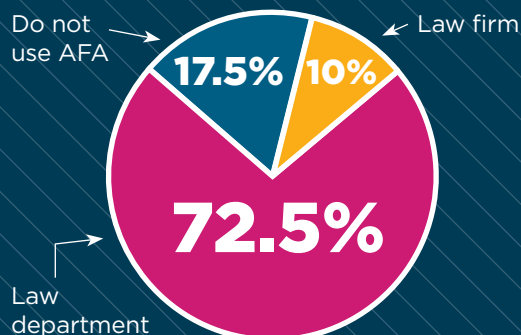
Legal departments are trying numerous ways to rein in external costs as well. The measures with the most punch: telling law firms that they won't continue paying their previous rates (aggressive rate negotiations) and only paying for certain items (limits on disbursement through billing guidelines). A full 71 percent continue to seek out less expensive attorneys.

Rate freezes are also popular with a majority of respondents, but that is at best a short-term

What initiatives do you find effective or highly effective in controlling internal costs?



Who primarily sets up AFA pricing?



cost savings, according to Clark. “They are effective, but only for so long. Eventually, law firms will have to raise their rates. It’s not a strategic approach.”

Preferred provider networks became a buzzed-about phenomenon with the advent of the DuPont Legal Model in the late 1990s. While those who operate PPNs laud their value as a management tool, it’s not universally perceived as effective for controlling costs. Only 40 percent ranked preferred provider networks as effective or highly effective when provided in a list of ways costs are controlled, 8.1 percent report developing such networks this year.

The highest ranking cost cutting measures also are among the easiest policies to implement. That doesn’t mean that all the easy controls also are effective.

Among the other methods of controlling external costs that ranked as ineffective among respondents: quick pay discounts, invoice review training (something that more than half of respondents are not even doing), flat fee arrangements and discount rate with bonus for success.

Clark urges law departments to think more strategically about ways to control costs and to consider situations that have positive impacts for both the legal department and the law firm. She points to early case assessment as one area that can represent a win-win for law departments and their law firms.

“It’s obviously helpful to have a defined process and make sure both parties are on the same page,” she says. “It’s one way that law firms can provide value and advise clients based on their business strategies and needs.”

According to Seleznev, the current economy is providing a catalyst to take on bold initiatives to save costs, increase efficiencies, and better align the interests of legal departments, vendors and outside law firms. “Now is the time for legal department operations managers to step up and take on additional initiatives,” he says. “And law department leadership may be more receptive than ever.”

“Now is the time to get the mindshare of your bosses,” urges Blickstein. “And it’s important to remember that this is not the last crisis we will face. Codifying lessons learned is extremely important.” ■

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