



THE NEW RULES OF LAW

An OC&C insight on
Legal Spend Optimization

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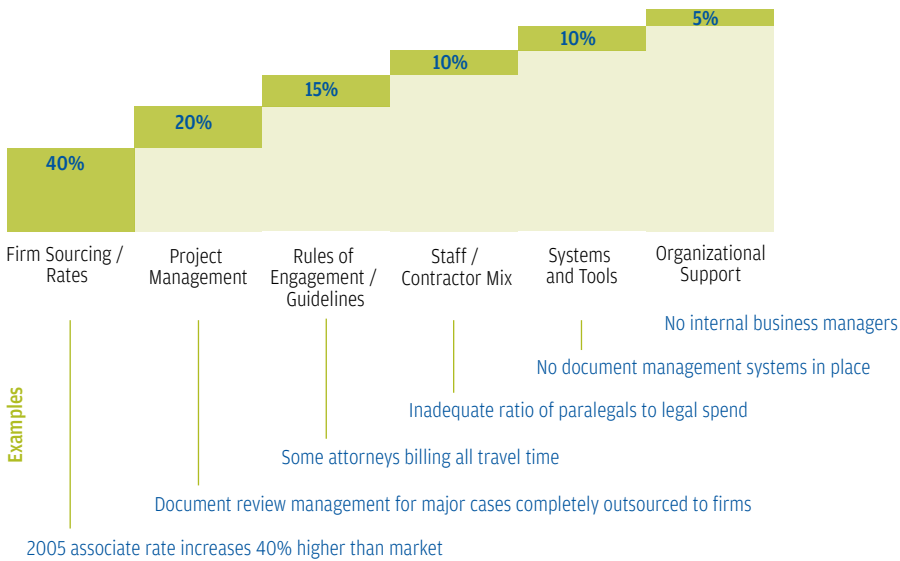
Get better returns on your legal spend

Historically, legal has not been a primary lever of bottom-line improvement strategies. This is understandable. The legal function is unique with its own language, culture, and objectives, and deciphering the nature and fair value of specific legal activities can be difficult for non-practitioners. In particular, procurement specialists have had difficulty defining their role within this complex spend area, caught between delivering savings and mitigating business risk. For companies entrenched in 'bet-the-company' litigation, the situation is amplified. The tendency is for outside counsel to leave no stone unturned, consequently driving up legal

fees, yet the benefit of incorporating spend management processes is considered untimely and risky.

To complicate things further, the use of outside counsel is often based on personal and long-standing relationships, and legal groups tend to operate under their own set of internal policies and procedures. It is generally the case that internal legal teams have crafted relationships with outside firms over a long period of time to deliver the best service structure to the business. However, this expenditure continues to lack the sophisticated methodologies and processes that have delivered huge savings to other areas supported by procurement. In our experience, legal spend optimization offers large returns, but is a unique beast and demands procurement and legal to partner to maximize results. This requires collaborating on a range of value levers.

Exhibit 1:
Key Value Components
% Total Savings



Organization

The first order of business is to structure the legal organization to operate in the most efficient manner possible without compromising quality. Which activities should be conducted in-house? What should be outsourced generally, and what can be outsourced overseas? What should be contracted with outside counsel? For those activities, what tier firm and what reimbursement scheme (e.g., hourly rates or flat fee) are most appropriate? The legal group is best equipped to answer these questions once procurement has provided the frameworks, benchmarks, and analysis to facilitate decision making.

Exhibit 2:
Negotiation Priority Matrix
% Spend Contribution of Firm vs. % Firm Rate Difference

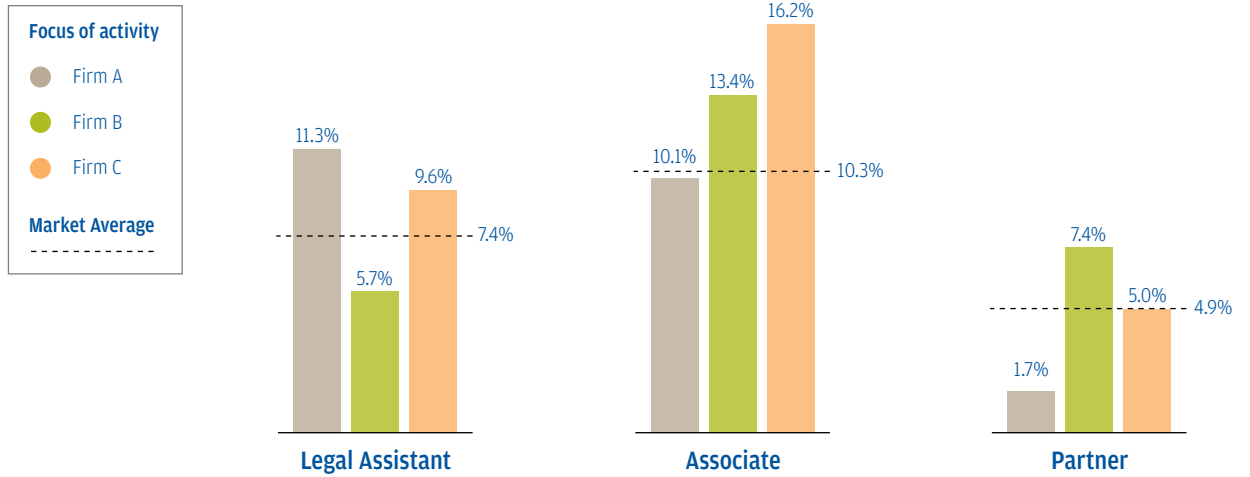


Bill Rates

It is often uncomfortable for in-house legal managers to negotiate fees with their advisors. A procurement team can play the “bad cop” role in these discussions by establishing rate benchmarks and presenting a fact-based argument to the firm when rates are too high given the comparables. Getting the most from bill rate management consists of three core elements:

- **Prioritize:** The focus should be on the firms that are contributing the most to the overall legal expenditure and have rates above market
- **Negotiate:** The goal here is not to squeeze the firms, but rather to ensure that rate ranges by seniority are fair given geography, firm tier, and the type of work in which the firm is engaged (see exhibit 2)
- **Manage:** Once fair rates are established, detailed processes for managing rate increases need to be established (see exhibit 3)

Exhibit 3:
 Historic Rate Increases
 Bill Rate Increase by Firm by Attorney Level (% CAGR)



Staffing

Rates are just one side of the equation; hours are the other. Without controlling hours, any savings realized from reduced rates will quickly disappear. Here, capturing and analyzing activity data by UTBMS (Uniform Task-Based Management System) code can be an invaluable tool in ensuring that activities are appropriately staffed and completed in a timely manner.

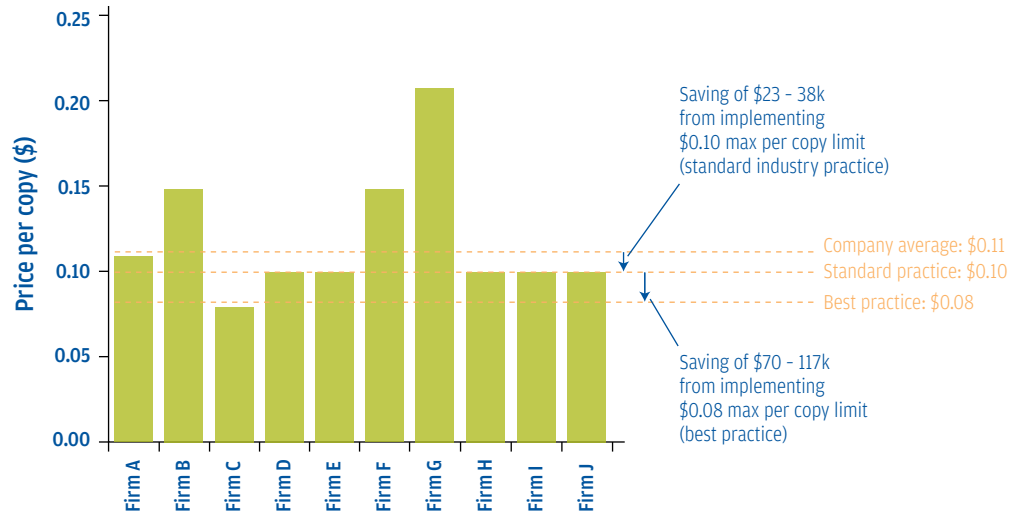
For example, for how many hours has firm X been engaged in discovery, with what level of resources, and at what cost? How does this compare with Firm Y? Procurement will not necessarily have a point of view as to what the correct answer is, but it can support legal with the analysis and insight to provide the needed feedback to outside counsel. This type of data may also highlight other opportunities, such as establishing an in-house paralegal pool to be shared across legal departments.

Policies

All legal departments, regardless of size, should provide explicit retention guidelines to outside firms. This document should detail company policy on travel, staffing, billing, expenses (such as printing costs), confidentiality, etc. and will not only help to control costs, but can prevent misunderstandings down the line by establishing

policy at the beginning of the relationship. There is a range of options along each of these dimensions and procurement can work with legal to provide benchmarks around industry practice. Once policy is established, the relevant business rules should be hard-coded into billing systems to flag violations in real-time.

Exhibit 4:
Policy Driven Savings (Example: Photocopy Pass-through Charges)
Average Photocopy Charge per Copy (\$)



Project / Case Management

Particularly with large litigation cases, outside counsel may subcontract activities (e.g., document collection and review, research, expert opinion) to third parties and pass through costs to the company. Since keeping an eye on cost is not always top of mind for the outside firm, the legal group, with procurement's help, should ensure that these functions are being performed in a cost effective manner. Opportunities may exist, for example, to contract with paralegals or attorneys for routine activities for which the firm might otherwise staff internal resources at full rates.

Information Technology

Technology can enhance efficiencies in numerous ways whether it be e-billing, document management, e-discovery, email archival, case management, or collaboration tools. When compared to bill rates, the efficiency savings from a well-executed IT infrastructure can be very compelling. Procurement can work with IT and legal to facilitate development of a single, consolidated IT strategy to address the major needs of the legal department, as well as help the group work through the vendor selection process.

Simply focusing on forcing legal providers to reduce their rates will not work. Their work is too important and sensitive to risk disruption.

Procurement must lead the way by ...

- better understanding the nature of legal spend
- aggressively pursuing efficiency
- focusing on quality, not just cost

...thereby gaining the confidence of the in-house legal professionals.

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