

Reining in Legal Spending: How Corporate Counsel Prevents Overruns by Automating Budget Monitoring

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Back in the day, corporate executives viewed the in-house legal department as an essential cost center, and subsequently set a budget and handed over the funds with the expectation that the department would plan and manage its expenditures wisely on its own.

The in-house legal department would work with outside counsel to understand likely costs, accepting there would be a degree of ambiguity around the presented estimates, and operating with the understanding that unforeseeable changes to matter scope, timing, and complexity – particularly for litigation – could derail even the best-reasoned estimates.

Relying on a combination of outside legal teams and/or in-house matter-lead attorneys to create matter-budget estimates – which typically entailed making a series of assumptions based on historical proxies to piece together best-guess budgets – in-house legal departments were essentially flying blind.

Creating and Managing Budgets Effectively

Many in-house legal departments struggle with quantifying

total predicted spend for their outside counsel services, largely because they work with a variety of firms and have varying degrees of budget tracking capabilities. Furthermore, in some instances, it makes sense to manage a unique budget for a specific matter whereas in other cases it's better to group related matters together (by practice area for example) for budget creation and tracking purposes.

Corporate legal departments usually have some influence with the CFO with respect to defining their budgets, which tie back to key-matter assumptions and forecasting estimates. Conversely, there are instances where finance will issue a budget number with the expectation that the department will work within that budget.

Typically, these budgeting decisions depend on the relative importance of certain matters or matter types; for example, if you're defending litigation, finance will be more flexible with budget allocation, whereas if you're applying for patents or performing other predictable, non-critical activities, the budget allocated should drive spending decisions, both with respect to timing and total spend.

Inevitably some matters will run over budget, which is why it's important to put contingency measures in place. When you have visibility across budgets, Legal can monitor the spend throughout the year and research variances to identify early indicators for when budget adjustments are needed.

Improving Accountability

Improving accountability for budget management hinges on formalizing financial planning protocols. Forecasting – which is the first step in the process – entails calculating what you think you're going to spend based on assumptions applied from the previous year's expenditures.

Although you might not know exactly how many single-plaintiff employment cases or litigation cases you're going to have, nor

will you know how long litigation cases are going to drag on, you need to make assumptions to build a reasonable forecast to justify your ask to the finance team.

If circumstances change, resulting in budget impacts, looping in the finance team early and often provides the opportunity to work together on both justification and making the necessary adjustments for resources allocation. Transparency and active collaboration between the legal department and finance team builds trust and shared interest.

While it's important to manage internal stakeholders, it's equally important to hold outside firms accountable for the quality and reliability of their budget estimates. Because law firms traditionally operate on an hourly billing model – and because total hours billed is a significant driver of salary and promotion decisions – firms typically incentivize their attorneys to bill aggressively.

In recent years, corporate legal departments have challenged the status quo with their outside counsel's billing protocols. Subsequently, we're observing the expansion of alternative fee arrangements – which entail things like flat-fee agreements, fixed-fee menus, and volume discounts – and other client-friendly measures to prevent budget overruns.

Building Operational Excellence

As corporate legal departments improve the efficacy of internal budget creation and monitoring, they are better able to control costs with outside legal-service providers. As strategic partners for optimizing legal operations, the legal department now has a seat at the table with executive management.

With the right tools in place, corporate legal departments can achieve the transparency required to control costs and track spending in real-time, and the ability to load-balance budgets when necessary. Further, the legal department can now make

data-driven business cases for important initiatives, backed up by historical precedence and analytical insights that were previously unavailable.

With respect to outside counsel, many law firms are still early in the journey of partnering with their corporate legal clients on tapping into the benefits achieved by improved operations; firms that focus on legal operations as a driver of profitable service delivery are reaping the benefits associated with higher profitability and better business agility.

Making Progress with Legal Budget Management

Resulting from undefined processes and limited data visibility, corporate legal departments – and their outside firms alike – struggle to create trustworthy and efficacious budgets and estimates with confidence. Further, many firms and legal departments lack automated budget monitoring capabilities, which means that they can't catch overruns before they happen.

Because inside counsel now finds itself under increased pressure to prevent budget surprises, legal departments are focused on building their own processes and mechanisms to create reliable and realistic budgets with the expectation that their outside counsel be similarly accountable.

To succeed with this mandate, corporate legal departments need real-time budget monitoring and notification capabilities as well as the tools required to course correct when actuals don't match up with estimates. Using the right enterprise legal management (ELM) software, in-house counsel can improve these outcomes and achieve better business agility and operational efficiency.

5 Best Practices for Effective Budget Management

□ Formalize forecasting to present a compelling case for your

budget ask.

- Loop in the finance team early and often to adjust resource allocations.

- Hold outside firms accountable for the reliability of their budget estimates.

- Pursue alternative fee arrangements for more favorable terms.

- Partner with outside counsel on better collaboration on managing budgets.