



Accelerating change to
drive legal operations
performance

ELM Solutions

The Call for Innovation in the Law Department





Introduction

How does the corporate legal function deliver value to the company? That's the question driving today's law department leaders. It's a different world from just 10 years ago when the focus was solely on the quality of legal advice. While that advice still needs to be of the highest quality, general counsel and chief legal officers are rapidly responding to internal and external pressures to adopt a broader, more strategic approach to law department management.

CEOs now expect their law departments to be managed like other business units. This means keeping a keen focus on cost control and the company's bottom line, as well as on driving innovation and competitive advantage. To effectively manage in this new world, the new function of legal operations has emerged to propel corporate law departments into the future.

Legal operations professionals now play a critical role in shaping in-house practice and are increasingly charged with driving significant efficiencies, controlling costs and scoping out the best way to perform legal services in alignment with the priorities and goals of the company and the business units they serve.

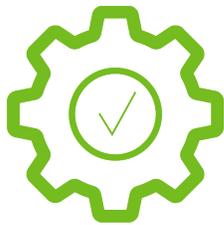
This mission is never truly complete. Corporate law departments are building new strategies to move from the long-standing concept of "legal as a cost driver" to a new reality of "legal as a value driver" for their businesses. Fortunately, many legal departments have access to an array of tools, technologies, data and other resources to help them operate more strategically. This white paper will highlight how innovative law departments are heeding the calls to better manage costs and transform their operations to deliver exceptional performance.



The Call for Innovation

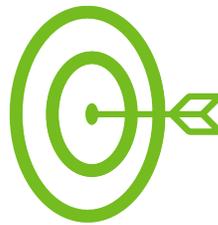
Savvy legal operations experts are driving change and innovation with a combination of pulling the “right levers” at the “right time” to obtain desired results and ensuring that each lever is used to maximum effect. To manage effectively, many are responding to a call for improvement focused on three areas to drive change: efficiency, value and insight.

Call for Efficiency



Technology and processes to streamline work and improve productivity

Call for Value



Optimizing legal services by matching the right resources with the right work at the right price

Call for Insight



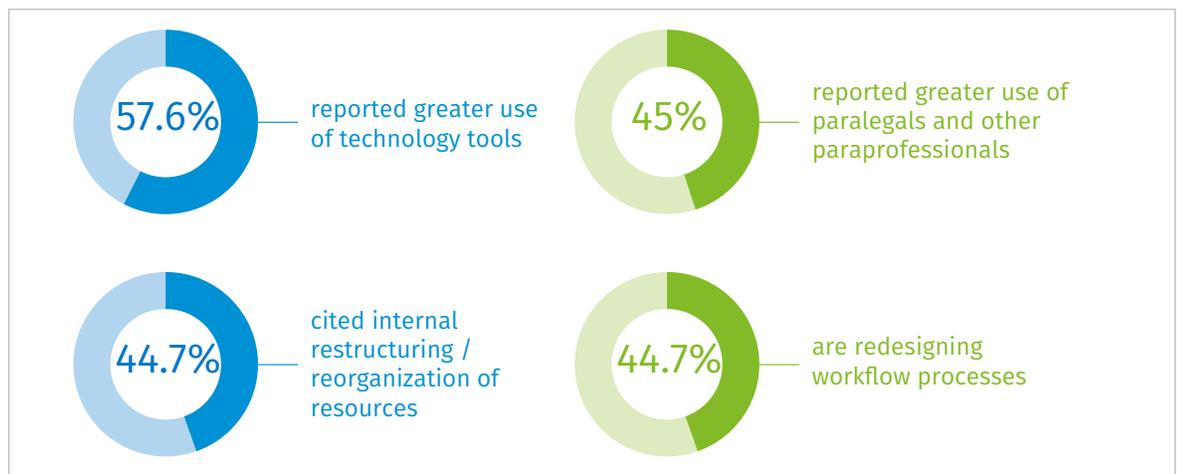
Business intelligence to inform data-driven decisions



The Call for Efficiency

Legal departments are undertaking efforts to improve productivity and operational efficiencies across their teams. Leaders are charged with doing more with less and identifying and deploying new technologies and process changes to better manage internal resources and outside counsel to drive innovation in how legal work is performed and delivered. Efficiency is cited by law departments as a top focus area for cost control and an obvious starting point because of the financial benefits inherent in streamlining workflows and saving time.

Top Efficiency initiatives for Corporate Legal Departments



Source: Chief Legal Officer Survey, Altman Weill, 2017

As legal departments continue to push for more cost-effective solutions, standardized processes and right-sourcing of work to achieve their goals, they are also rethinking legal service delivery with a more holistic strategy. Most promising is the opportunity to work strategically to provide better service for internal clients and better demonstrate value to the organization; fewer operational activities for attorneys allow more time to focus on legal work.

Here are just a few ways legal departments are driving efficiencies:

- Enforcing best practices via business process management tools, such as automated workflows and submission and tracking of service requests
- Optimizing in-house staff use by outsourcing certain legal work, such as bill review and e-discovery
- Leveraging detailed metrics that aid in decision-making and highlight opportunities for improvement
- Comparing outside counsel rates and performance against industry benchmarks for efficient counsel selection



The Call for Efficiency

Road Map from Good to Great: Legal Department Efficiency

The industry wide call for efficiency has prompted legal departments to minimize wasted time and money while increasing productivity. The first step taken is often the lowest-cost one: evaluating and analyzing department processes and workflows that are ripe for automation or streamlining.

Talking to legal department staff pinpoints where their barriers to productivity are. Are they frustrated trying to locate current matter-related documents? Are they spending too much of their day switching between email, matter management and document management applications? Do burdensome manual processes take time away from their value-add work?

For example, a legal department in a growing company may be seeing a sharp increase in their internal service requests. Email messages from colleagues and spreadsheets where work is manually tracked cannot efficiently scale in a department that gets busier every quarter. In this setting an automated system for requesting and tracking work can introduce significant added efficiency, particularly if it is on the same platform as the matter management solution.

Another effective tool is the e-billing component of the department's enterprise legal management system, which routes invoices properly and automates the approval process. This tool also includes rules-based automated components that check and validate invoices, catch billing errors and identify and reject noncompliant rates, fees and other billing-related items.

For some organizations, it may be even more efficient to engage an external bill review service, especially if the provider utilizes advanced technology, such as a machine learning, along with human expert review in its process to ensure identification of all the potential noncompliant activities.





The Call for Efficiency

Good to Great in the Real World: Efficiency

Good: Capturing Invoice Data

A legal operations manager was hired to implement a new enterprise legal management system to streamline workflow and efficiencies in the department and use the available data more strategically to reduce cost. She found that the company had been capturing a great deal of billing data from outside counsel, which was good; however, it was not being put to good use.

Further exploration of the data uncovered that the company's list of approved law firms was overly large, contained redundancies and lacked cohesion, as each department had its own favored outside counsel. She knew from experience this was inefficient, as it diverted management resources to unnecessary firms and reduced the company's negotiating leverage.

Great: Leveraging Data to Swiftly Improve Law Firm Management

The GC agreed that they needed to pare down the approved counsel and appreciated that doing so would meet with resistance within the legal department. So they began by requiring each legal operating group to stack rank their law firms, and cut the bottom 20 percent. They then asked each remaining firm to provide information on their technology and analytics, recent published articles, areas of expertise, diversity, security protocols and several other criteria, which was captured and managed in a new enterprise legal management system and used to further concentrate the panel. As a result, about 80 percent of projects went to 22 law firms.

They determined that there would be formal annual evaluations for outside counsel billing more 200 hours in the year or serving as lead counsel on a completed matter with results reportable within the new ELM system. Outside counsel were scored at matter closing on the extent to which their advice was actionable, accurate, risk-aligned, timely, and innovative. Reductions were made for any reworking required.

Each law firm and lawyer received a "report card," with those with a poor track record slated for removal from the referral list. Areas of special accomplishment as well as opportunities for growth were highlighted.

As a result, this client experienced a documented reduction in cost due to the gain in efficiency. Additionally, unanticipated adverse events and "surprises" were virtually eliminated, and relationships with internal business partners were greatly enhanced.



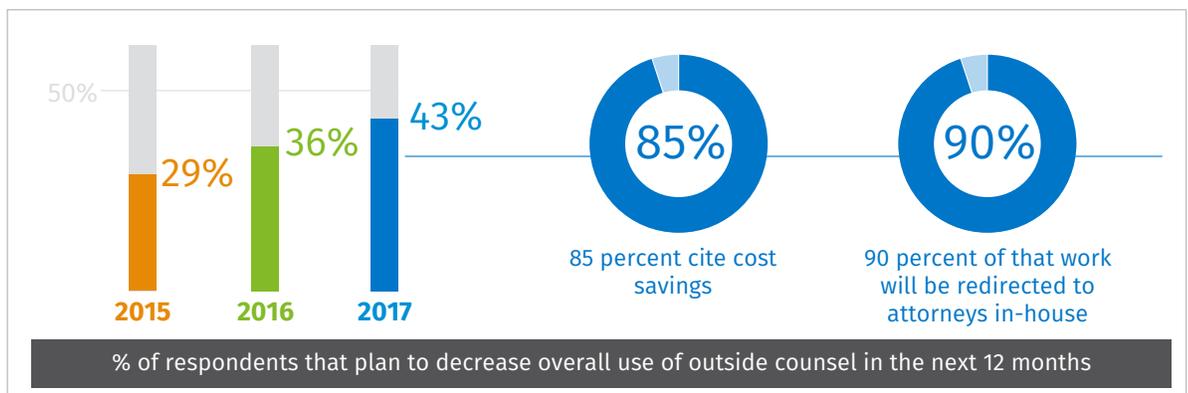


The Call for Value

Many legal departments are rethinking legal service delivery to determine better ways to manage costs, achieve their goals and, most importantly, demonstrate value. Rather than simply relying on outside counsel, they are deciding whether to do the work in-house, use outside counsel or try alternative service providers (ASPs) based on the kinds of work that need to be performed, expertise needed, level of resources required and staffing. Put simply, these legal departments are matching the right resources with the right work at the right time and for the right price – all with an eye to maximizing value.

Tools and data are used to drive these kinds of strategic sourcing decisions. For example, benchmarking data is commonly being used for more effective negotiation of rates to ensure good value from outside counsel. Metrics and scorecards that track internal and outside counsel performance can also drive decisions about staffing levels, firm and attorney selection – and frequently the data leads the department to outsource or bring work in-house.

Plans to decrease use of outside counsel has risen progressively



Source: ALM Intelligence Corporate Counsel Agenda Survey, 2016

Despite the insourcing trend, significant work is still being performed by outside counsel – especially in litigation – so attention must remain on effectively managing the relationship and not just in terms of cost, but in terms of value. There is often a gap between the value that law firms believe they are delivering and the legal department's perception.

The Call for Value

To address this, many forward-thinking and leading firms are finding new and innovative ways to deliver more value beyond cutting costs.

In the call for value, many legal departments have come to expect the following practices from their outside counsel:

- **Financial management.** The most proactive law firms initiate discussions about pricing and budgets, develop realistic matter budgets, manage them well and communicate any required budget edits in advance to clients to ensure transparency and predictability. In addition, well-planned timekeeper rate management provides a means to effectively control rates and have visibility on potential rises.
- **Project management.** The use of legal project management (LPM) methodologies can improve service delivery and facilitate good planning, communication and collaboration between teams. Firms that leverage an LPM approach can show how they use best practices for effective matter scoping, budgeting, communication, clarity in monitoring progress, and overall management of matters.
- **Staffing models.** Modern legal service delivery models require a consultative approaches to manage legal work through alternative staffing strategies. Law firms that proactively suggest alternative service providers as a way to fill client demand for more cost-effective service will be valued.
- **Business alignment.** Firms need to demonstrate solid knowledge and understanding of a client's business and have alignment with the organization's core values.



The Call for Value

Road Map from Good to Great: Value

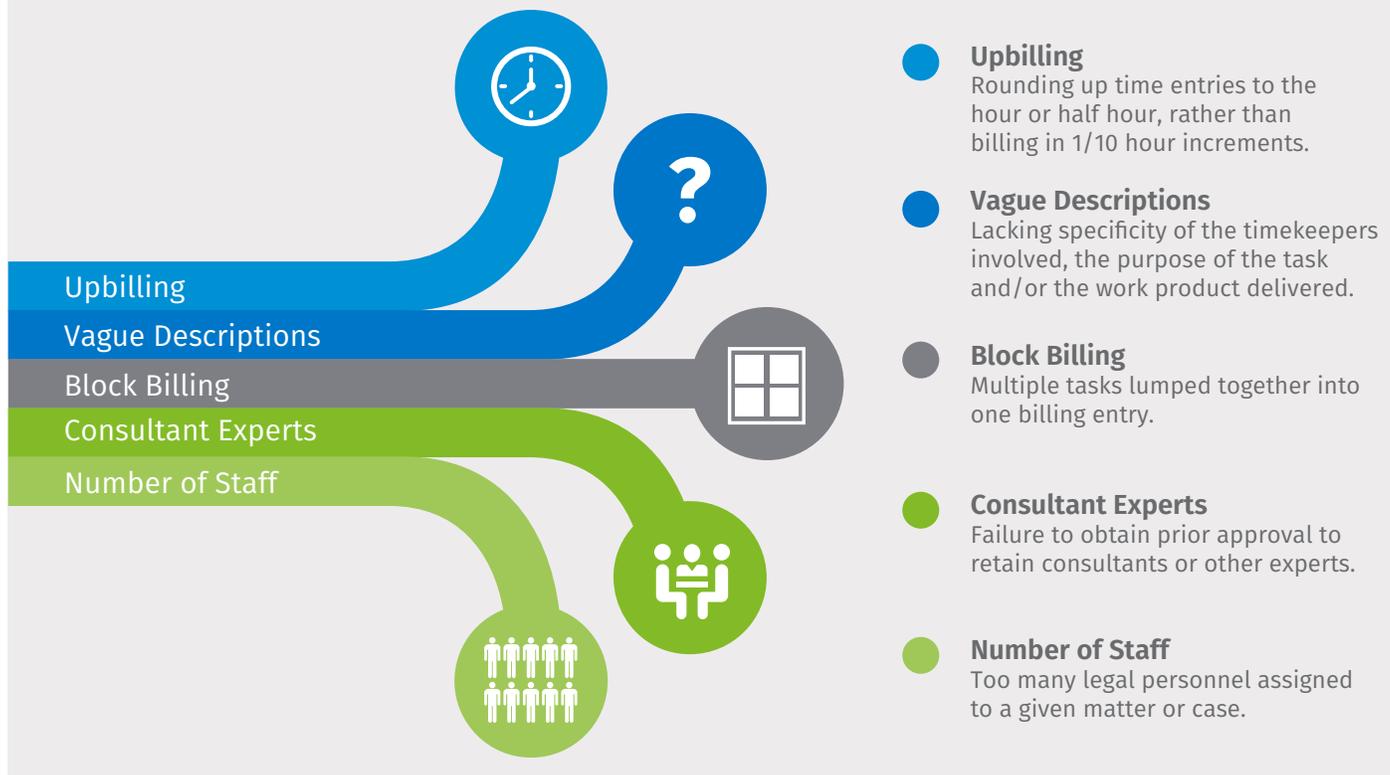
The shift in focus from cost to value has many law departments working to optimize management of outside counsel. Leading law departments are employing range of different options to identify and gain more value from their firms.

Outside counsel guidelines

Outside counsel guidelines provide the foundation for a solid and productive relationship between clients and legal service providers. Guidelines that are well-defined, current, and enforceable set a clear understanding of all expectations around service and billing. And importantly, provide a basis for what should and should not be included on invoices.

Start by reviewing your billing guidelines to be sure they reflect current priorities and business goals. Do they prompt communication at critical junctures in a matter? Do they capture your staffing preferences? Have they been updated recently to reflect your department's burgeoning priorities, such as data security or diversity and inclusion? Build an annual review and update of billing guidelines into your standard processes.

Top 5 Outside Counsel Billing Violations that diminish value



The Call for Value

Panel management

Legal departments have gained efficiencies, cost savings and greater value by implementing strategic panel management initiatives to consolidate work with fewer firms. By matching work with firms that demonstrate a solid knowledge of the business, a track record of consistently staffing matters with the best available talent and in-depth subject matter and practice area expertise, legal departments are better able to negotiate more favorable rates and arrangements with a core group of firms. More importantly, the firms can leverage their expertise and greater understanding of the client to deliver more value.

Setting up metrics and key performance indicators (KPIs) – and communicating them to outside counsel is important for ongoing measurement and evaluation of panel firms. Meanwhile, firms that understand how clients evaluate performance can create better pricing models, develop areas of specialty and measure themselves against success criteria. Tracking of metrics combined with good communication is necessary to optimize value delivered by each firm.

Budgeting

Increased scrutiny on budgets and better cost control have led to better overall financial management discipline. As a result, legal departments are demanding ever more predictability and accuracy in budgets from outside counsel as well as their own managers. By analyzing and benchmarking historical legal spend on similar matters, by business line and practice area and including parameters such as risk level, hours worked, number of cases, staffing levels and duration, law departments are able to not only better forecast how much a particular matter is likely to cost, but also make complex risk-based analyses to ensure they are meeting the needs of their clients and the business.





The Call for Value

Good to Great in the Real World: Value

Good: Standard Bill Review

An East Coast consumer sales company with a large in-house legal team introduced a number of new disciplines, metrics and performance reports to improve its billing practices. The current practice for invoices that appeared to have incorrect billing was for a senior member of the legal department to speak with the firm to address the issue and reach resolution.

While these occurrences were infrequent, the GC wanted to know if noncompliance with good billing practices was resulting in overpayment to firms. To quantify the extent of possible improper billing, he ran a legal fee and expense adjustment report, which showed surprising results. All adjustments over the prior twelve months totaled less than 1 percent, and only 10 percent of the in-house attorneys took any adjustments at all during that time period. These results seemed almost too perfect and invited an opportunity to dig deeper.

Great: Expert Bill Analysis

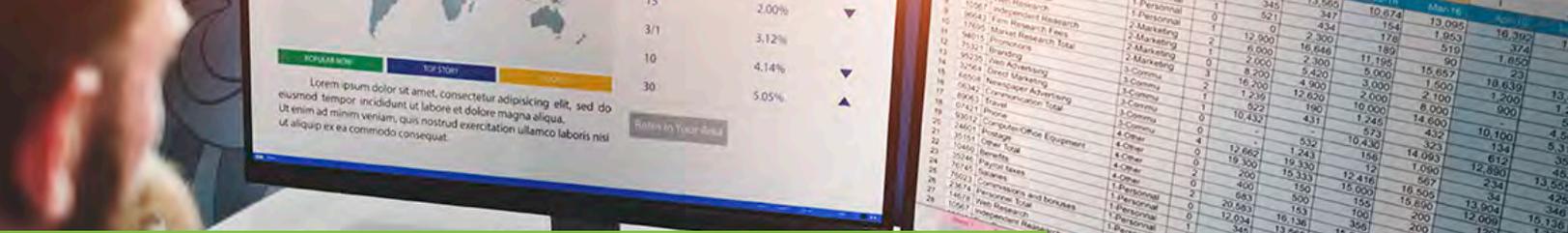
An external invoice analysis service was deployed to examine the company's existing billing guidelines and review the many paid invoices of more than \$10 million. This analysis would help identify additional invoice adjustment opportunities that the internal team had missed.

The analysis which was enhanced by computer-supported intelligence highlighted questionable billing practices that even the most experienced attorneys would not have found easily or efficiently. These included the identification of individuals who tended to round up to the nearest half hour and billing multiple tasks as one line item entry. The external invoice analysis team was able to document every adjustment, along with the specific rule violated, to show the exact billing guideline that was noncompliant.

Additional analytics revealed the most common violations by specific attorneys at each firm. The analysis showed that 13.9 percent of all billing entries violated billing guidelines, resulting in 9.4 percent in excessive charges. In addition, three of the 17 law firms demonstrated systemically poor billing practices, with six individuals generating grossly inflated billings. The analysis also showed specific invoice line items that violated billing rules.

The GC was so impressed with the analysis that the external provider was hired to conduct a review of all the company's legal bills on an ongoing basis, which resulted in significant savings of 4-5 percent.





The Call for Insight

It goes without saying that data, analytics and business intelligence are essential to effective law department management. Turning rich, available data into insights to inform data-driven decisions has increasingly been a focus for many law departments. The opportunities to use data and information in a transformative and strategic way have never been so tangible.

Technology advances in artificial intelligence and machine learning, advanced reporting and data visualizations, benchmarking data and other metrics are proving to be a key part of the corporate legal department's agenda for advancing their analytics initiatives. With some of these advances, in combination with enterprise legal management technology, the insight and analysis on legal billing and invoices alone can help law departments deliver significant cost savings.

Many companies use the data from their e-billing systems to report on a department's financial performance, and too often they don't look beyond it to uncover the data's true value to their business.

As the depth and breadth of legal spend data grow, analysis becomes more sophisticated to inform better decision-making. The spend data captured by your e-billing system can help with multiple aspects of legal operations management, including outside counsel and vendor selection, structuring of AFAs, staffing and resource allocation, budgeting and much more.

When making decisions about where to source work, it is essential to have good data available on both internal and external options. Law firm scorecards that contain both objective and subjective information on previous matters can be an effective tool to inform high-quality counsel selection and support the design of an effective panel management strategy.



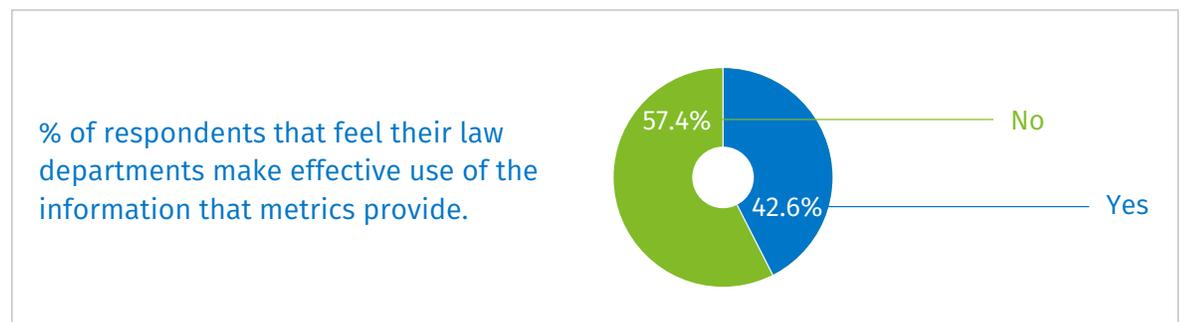
The Call for Insight

Road Map from Good to Great: Insight

Developing the right reporting and metrics program

Getting a handle on internal data and identifying all cost drivers and areas for improvement are a critical foundation for understanding areas for improvement and the creation of key performance metrics. And using benchmark data from external sources in conjunction with internal data is valuable because it allows for law departments to reliably evaluate performance against peers and measure progress over time. For example, benchmarking data can confirm if your department is paying fair market rates and can show you whether your matters are being closed at a typical rate within each practice area. Almost any kind of metric can be compared against external benchmarks for further insight.

Only 42% of law departments feel they are effectively using the information that metrics provide



Source: Ninth Annual Law Department Operations Survey, Blickstein Group and Consilio, 2017

Keep in mind that it takes time for your metrics program to move through the maturity curve. Start by answering simple questions with data you are already collecting or could easily begin collecting. Analytic exercises rarely pay off for vague questions such as “What patterns do the data points show?” Instead, ask more directed questions like “What is the average life span of matters in each practice area?” or “How much are we spending on litigation in a certain practice area?”

Examples of basic metrics to begin with include:

- **Matter activity.** Run by practice area or assigned attorney to reveal areas of particularly high performance and those where slow matter progress may need attention.
- **Invoice status.** Use this metric to determine how smoothly bills are making their way through to payment and reveal potential bottlenecks.
- **Net matter spend.** Compare spend on matters to spot those that might be consuming too many resources.
- **Spend by open invoice.** Identify the most expensive invoices in review to ensure proper scrutiny of large bills and to plan for large invoices that will soon be due for payment.



The Call for Insight

Examples of more advanced metrics to add later:

- **Timely submission of budgets.** Determine which law firms meet your requirements for budget submission timing and flag those that are consistently late.
- **Adherence to budgets.** Track firms that stick to budgets, which tend to edit budgets and when they are submitted.
- **Average time to perform reviews.** Compare time that your in-house attorneys take in reviewing invoices so that you can address any challenges that may be slowing some reviewers down.
- **Role of timekeepers billing to a particular task.** Highlights those firms that need to apply more discipline in ensuring that appropriate timekeepers are assigned to tasks.

Alternative Fee Arrangements

Alternative fee arrangements have been used widely for many years with good reason: they reduce costs and improve the predictability and control of legal spend. However, the key to effective AFAs is having the right data and being able to understand the implications.

Understanding current market pricing for similar services helps determine whether an AFA would be appropriate and, if so, which arrangement would work best. Measuring the effectiveness of your AFAs and capturing and reporting on the value set the stage for additional benefits in the future.

The most appropriate type of AFA for any particular matter depends on the goal operations professionals are trying to achieve. For example, contingency fees that tie compensation to matter outcome are a useful method of sharing risk with outside counsel but will not necessarily reduce overall costs. Blended hourly rates impose a single rate regardless of an attorney's role or seniority, limiting overuse of costly partners, but leaving in place the incentive to bill more hours. Discounted rates may reduce costs, but do not necessarily increase predictability.

AFAs are here to stay.



Source: The 2017 Altman Weil Law Firms in Transition Survey

Measure and Evaluate

Set up goals and key milestones to keep on track. Depending on your program, you may decide to track and run metrics on a quarterly basis, at annual outside counsel review time, at matter close or some other interval. Taking action on your findings at those times is the key to driving results. For example, if operations professionals see a decrease in on-time budget submissions, they can work with the firm to correct it before it becomes a long-term issue. While this may be a difficult conversation, clear metrics and data provide the transparency to make it objective.

Another strategy is to create a dashboard with metrics that highlight the value your program is bringing to the company. Such visibility will provide senior management with the tools they need to evaluate your efforts and recognize your success.



The Call for Insight

Good to Great in the Real World: Insight

Good: Selective use of AFAs

A client with significant litigation, which drove about two-thirds of its legal costs, was using alternative fee arrangements only on a few matters. While the AFAs did seem to reduce cost, there was no formal analysis to quantify the performance and determine whether AFAs helped matters close more quickly and/or produce better results.

While the company was satisfied with how litigated matters were being managed and the costs and outcomes generated were acceptable to the business, the general counsel believed that the legal department could significantly improve its performance with a more directed AFA program.

Great: Expanded strategic use of AFAs

The legal department carried out an extensive analysis of closed litigation matters where AFAs had been used and examined information on each closed matter, segmented by matter type and severity, and the level of resources assigned along with losses and settlement payments. This analysis revealed wide discrepancies in value among law firms, even for similar matters, as well as a lack of consistent application of UTBMS codes.

The GC saw an opportunity to offer the most efficient firms an increased book of business at greater aggregated profit, but at a lower per-matter cost. As a result, over the next year, AFA use increased from about 5 percent of matters to 50 percent. The firms were expected to manage each matter to an acceptable resolution and were given some autonomy in how resources were deployed; the client demanded only that the firms:

- Accurately capture time, resource use and UTBMS task code information
- Provide matter updates on a set schedule
- Resolve matters as quickly as possible after receiving approval from the in-house attorney

The program significantly decreased the in-house workload, reduced the average matter life cycle and improved loss and settlement results by over 8 percent, all while lowering per-case costs and improving predictability. In addition, the improved UTBMS code data was used to develop fee arrangement models that the team then presented to additional law firms in different jurisdictions, which allowed the legal department to expand the AFA effort to more than 70 percent of matters.





The Call for Action

Getting Started

Legal operations executives play a critical role along with GCs in shaping in house practice and driving innovation through key initiatives that contribute meaningfully to company goals. Leading professionals push past the status quo, challenge norms and look to implement ideas that will improve their organizations. They drive change.

They continuously look across all aspects of the department and ask, “Where can we be more effective and efficient? How can we reimagine an end-to-end experience? What kind of technology, people and processes do we need to help us accomplish our goals? The answers to these questions will be different based on the particular legal department’s size and maturity, its strategy and company objectives.

The Value of Prioritization

A legal department cannot fight all these battles at once. Success comes from prioritizing the spectrum of choices and deciding which levers to pull while sequencing efforts to ensure that each lever is used to maximum effect.

A commitment to correct priorities and the specific improvements you want to deliver is essential; it also allows you to break large efforts in manageable pieces. “Boil the ocean” efforts are often costly and generate poor results, so it’s often better to start small and then scale up.

For example, a law department implementing a new technology tool for managing agreements may decide to roll out only nondisclosure agreements initially to make sure the process works correctly and then add other kinds of agreements one at a time. Similarly, a phased approach to implementing your enterprise legal management solution (which includes e-billing and matter management) can reap similar benefits. Smaller projects like this help staff members get used to the new tools and process, so that a transformation in how they work is easy and disruption minimized.

A clear question can help you to start defining those priorities.

A question such as “How can we reduce costs?” could lead to an analysis of which work should be kept in-house and which should be sent to outside counsel. On the other hand, it could prompt more focus on strategic use and enforcement of outside counsel billing guidelines or could lead to establishing a value-based fee arrangement on a specific group of matters. Data from your enterprise legal management system can provide an enormous range of information to support your efforts.

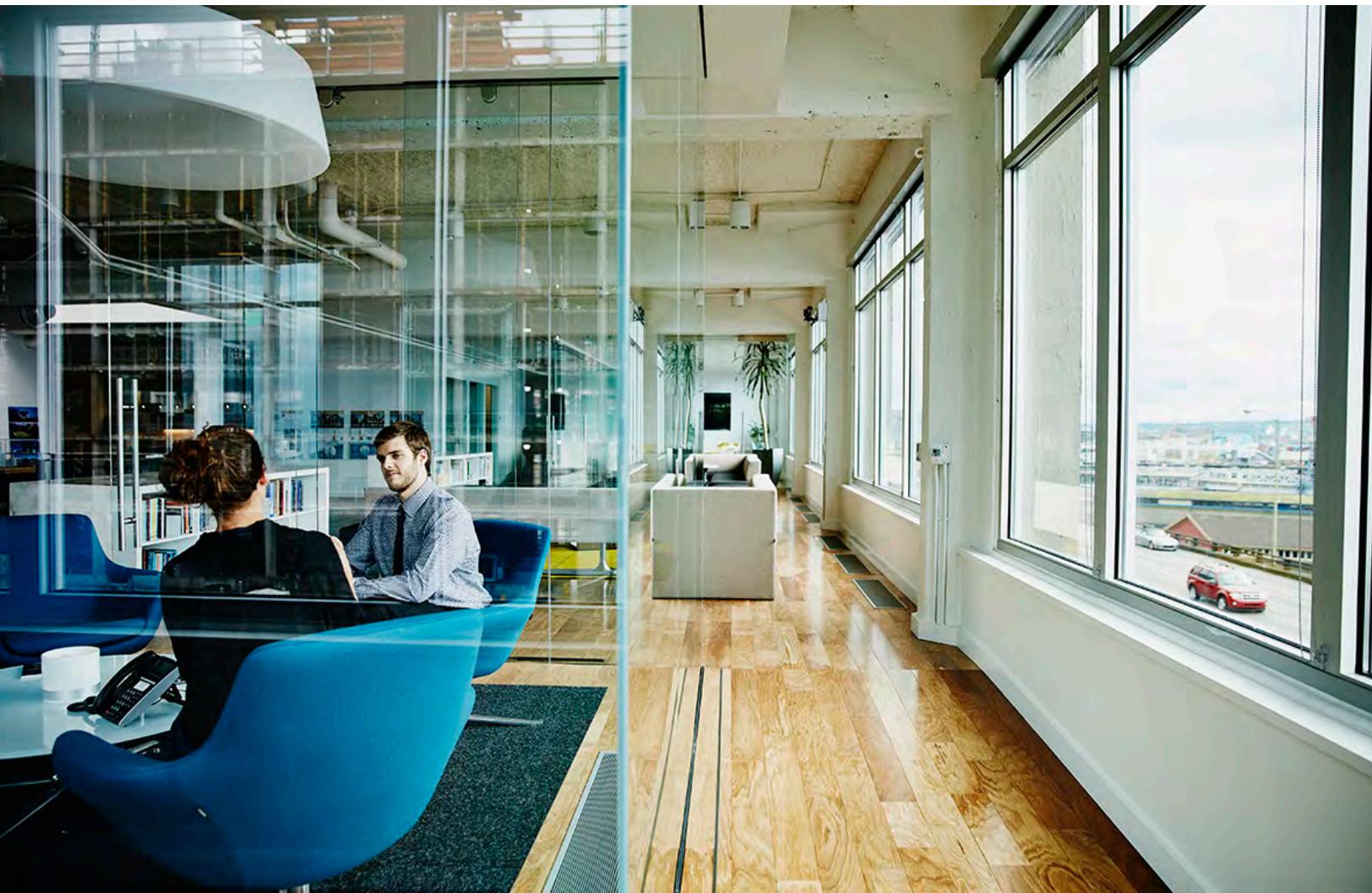
Examples of other good questions include:

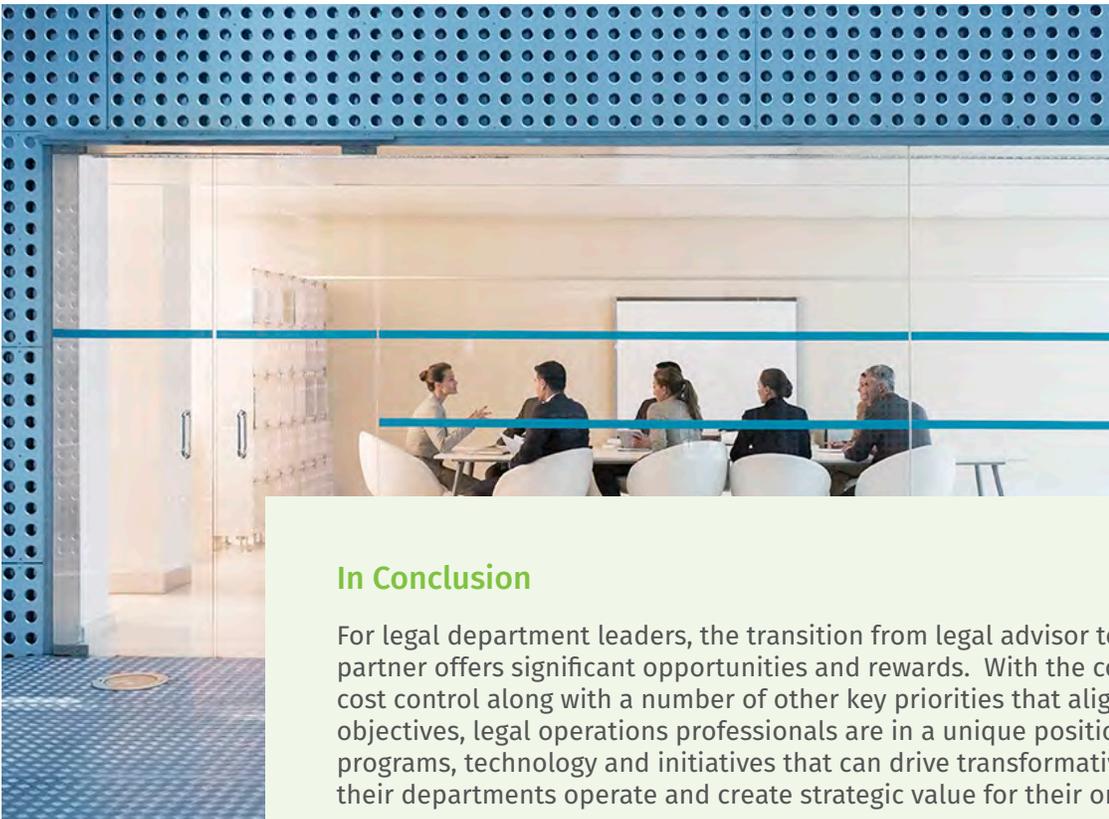
- Do our AFAs save us money and result in good outcomes?
- Can we increase predictability of our legal spend?
- Would consolidating our law firm panel provide a legal or business advantage?
- How can we provide better service to our internal clients?

Fail Fast

When undertaking any key initiative with a high potential for improvement, it is important to firmly establish goals and objectives and set up key performance metrics and reports to evaluate and measure progress along the way.

If the early results are positive, you will know you are moving in the right direction and may decide to stay the course or make some minor enhancements to ensure your efforts are invested optimally and with low risk. Conversely, if initial results are disappointing, this information provides the opportunity to “fail fast,” learn quickly and course correct right away.





In Conclusion

For legal department leaders, the transition from legal advisor to strategic business partner offers significant opportunities and rewards. With the continued focus on cost control along with a number of other key priorities that align with company objectives, legal operations professionals are in a unique position to deliver programs, technology and initiatives that can drive transformative change in how their departments operate and create strategic value for their organizations.

There's no time to waste. The call for greater efficiency, value and insight is mobilizing how corporate legal departments in all industries and across geographies are taking their departments to the next level. **Where will you start?**

Learn more about Wolters Kluwer solutions for Corporate Legal Departments:

Email us at elmsolutionssales@wolterskluwer.com

or call us at 1-800-780-3681.

www.wkelmsolutions.com