

Negotiating with Law Firms

By Richard G. Stock, M.A., FCIS, CMC, Partner with Catalyst Consulting

This is the first in a series of articles about how corporate and government law departments can improve their performance and add measurable value to the organizations



The 2018 Chief Legal Officer Survey will not be released until November 2018. In the meantime, the 2017 edition (see www.altmanweil.com/CLO2017/) is rich with data and analysis. Some 231 companies participated. Particularly interesting are the findings regarding the relationships with and costs of external counsel. Authors Morrison and Wilbur inquired “which outside counsel management techniques produced a significant improvement in performance?” The top four tactics were enforcement of guidelines for billing, expenses, matter staffing and matter management (75.4%), fixed, capped or alternative fee arrangements (74.7%), provision of guidelines for billing, expenses, matter staffing and matter management (62.4%), and mandatory budgets for major matters (59.6%).

Noteworthy is the gap between the provision and enforcement of guidelines. This is troubling when only 37.5% of the law departments report that they routinely perform data analysis of their external legal spend.

I have had the opportunity to negotiate legal fee arrangements for more than 80 law departments over the last two decades. Companies typically receive 10% discounts with some receiving up to 20% depending on volume, duration and exclusivity of the work given to a law firm. Surprisingly, up to 30% of companies with which I have worked over the last 5 years are still paying undiscounted hourly rates. Altman Weil found that 55% of Chief Legal Officers believe that they do not have enough buying power to negotiate more effectively. Some 51% also say that law firms are resisting discounting. Interestingly, 30% of the CLOs do not want to damage good relationships with external counsel by asking for greater discounts.

There is a significant cost to a company that relies on “relationship-based” procurement and pricing of legal services. Our experience suggests that the effect is more than leaving an additional 5% discount on the table with preferred firms. When billing guidelines, matter staffing, and matter budgets are not enforced and when data analytics are not systematically carried out then the number of hours worked may be more than 10% beyond what is needed to get the job done.

In-house counsel are not trained or prepared to manage matter staffing by specialty and complexity. They are even less adept at detailed project budgeting for complex work. In the same way that law firms have brought legal pricing and project management professionals into their ranks in recent years, law departments should formalize and centralize the role of pricing and tracking legal work for complex transactions, litigation and regulatory

work in the company. This is all the more necessary when moving to non-hourly fee arrangements for individual matters and portfolios of legal work. Law departments that invest in such resources can reduce their legal spend with preferred law firms by 15% beyond the best discounts.

Fair and informed negotiation of operating and financial arrangements with preferred law firms in 2018 require companies to enforce guidelines for expenses, billing, matter staffing and matter budgeting. Non-hourly fee arrangements for complex and routine work should be the order of the day. And in-house counsel should be proficient in every aspect if they are to be accountable for the business side of the relationship with external counsel.

About the Author

Richard G. Stock, M.A., FCIS, CMC is a partner with Catalyst Consulting and is based in Canada. The firm has advised corporate and government law departments in 20 countries since 1996. Clients include: Shell, Heineken USA, The Judge Advocate General, Pearson Education, Toyota, SNC Lavalin, Bombardier, National Bank of Canada, TD Bank, Estée Lauder, Intact Financial Services, Ontario Power Generation, DocuSign, Charter Communications, United Steel Workers Benefit Funds, Air Canada, John Deere, Alberta Health Services, Disney, Fairmont, Wal-Mart, USAA, TransLink, Williams, IATA, the Department of Justice, Interac, the Government of Nunavut, and Turkish Airlines. Richard can be contacted at (416) 367-4447 or at rstock@catalystlegal.com. See www.catalystlegal.com. (*more: see next page*)

Scheduled Presentations | Meet Richard G. Stock

Author of the new LegalBusinessWorld Series on 'How corporate and government law departments can improve their performance and add measurable value to the organizations'.

Richard Stock, B.A, M.A, FCIS, CMC, has consulted to more than 200 law departments over the years, covering every major industry sector. He has written more than 390 columns, articles and books and is an experienced conference presenter to corporate counsel in Europe, Canada, the US, the Middle East and Australia. His approach to managing workloads and workflows for law departments, and his innovation with data analytics and performance-based fee arrangements was instrumental in securing an ACC Value Champs award for HIROC-BLG in 2013.

Richard is a member of Certified Management Consultants – Canada, a Fellow of the Institute of Chartered Secretaries and Administrators, a member of the American Bar Association, and a regular member of the Buying Legal Council.

He advises law departments about their business plans, demand forecasting for legal services, managing workflows and workloads, organization and resources, performance and metrics, RFPs and fees for external counsel , and special studies.

Richard will be speaking at the following venues

“Challenges and Success of Leading a Multinational Law Department”, CCCA2018 National Conference & ICW Summit, Panel, Toronto, ON, April 30, 2018. Presented with McDonalds Restaurants, Four Seasons Hotels, McCain, and IBI Group.

“The Critical Elements of Non-Hourly Pricing for Counsel”, Buying Legal Council EMEA Conference. London, UK, June 12, 2018.

“Trends and Issues: Workflows and Workloads for In-House Counsel”, CCCA Alberta North Chapter. Edmonton. June 27, 2018.