

TOP 10 METRICS YOUR LEGAL DEPARTMENT SHOULD BE TRACKING

Unlike other business departments, legal departments have traditionally not busied themselves with tracking graphs, charts, and metrics on their department's performance. This has been changing in recent years as the complexity of running a legal department and the scrutiny legal departments are under from the executive level have increased. The question then becomes, what metrics are the most valuable to manage a legal department and show its value to stakeholders in the company? The following list provides a starting point of metrics legal departments should be tracking.

1. SPEND TO BUDGET

This metric—indeed, most of the metrics on this list—pre-supposes that a more basic metric, overall legal spend, is being tracked. Tracking budgets is one of the most effective ways to predict and control costs for legal departments. A department cannot determine if expectations have been met if there are not budgets to benchmark the spend against, period. Budgets control costs because law firms know that their spend is being tracked, and if they exceed their budgets, they will need to explain why. Tracking budgets and spend over time also provides benchmarks as to what certain types of matters should cost so the legal department can set its own budget on matters based on how much they cost in the past.

In addition to tracking budget for matters, tracking budgets per law firm is also a useful tool for measuring a law firm's ability to accurately estimate budgets. This allows the legal department to stay on top of the firms that are not keeping to their budget (whether under or over budget) so that spending will be as predictable as possible and surprises will be minimized.

2. STAFF WORKLOAD METRICS

Effectively measuring the workload of an in-house staff is an important metric to track so that a department's resources can be efficiently allocated. Tracking matters, outside spend, average spend for a matter type, and spend to budget per in-house lawyer are important metrics to determine the overall workload of in-house staff and whether each lawyer is effectively managing outside counsel costs.

Another metric that is useful to measure is cycle time of matters, or how long a matter is open. By measuring cycle time, legal departments can determine how long an average matter of this type is open (like a contract review matter, for example), red-flag outliers early, and show how cycle times for these matter types have come down over time to demonstrate a legal department's increased efficiency.

3. SPEND BY MATTER TYPE AND BUSINESS UNIT

These metrics help answer a basic question: from where is a department's legal spend being generated? Determining legal spend by practice area (IP, employment/labor, litigation, transactions) can help determine: 1) Is there a practice area that has a surprising amount of legal spend, and if so, why? 2) If there is a great deal of spending in a certain practice area, is it more cost-effective to hire another in-house lawyer to do the work?

Determining from what business unit the legal spend is being generated can help red-flag divisions or subsidiaries that need certain training or greater focus to keep their costs in check. In addition, there are now reporting tools that allow legal departments to benchmark their legal spending against comparative companies' overall spending and spending by matter type. These tools can raise red flags for a legal department if spending patterns differ from the norm in that industry.

4. OUTSIDE COUNSEL EVALUATIONS

There is one principle behind this metric: work should be given to outside counsel that provides the greatest value. How is the value of your outside counsel measured? Leaving aside bet-the-company litigation where outcome is the only measure, value can be determined by a variety of factors such as cost, performance, knowledge of the company culture, and responsiveness, among others. To operate as efficiently as possible, more work should be given to those lawyers that provide the most value. Evaluating counsel periodically (at the close of a matter or at set intervals such as every six months) will allow a department to build a repository of data on the outside counsel. Then when a new matter comes up, finding the best outside counsel to work with is as easy as looking into that evaluation data and picking a highly rated lawyer.

5. OUTSIDE AND INSIDE SPENDING AS A PERCENTAGE OF COMPANY REVENUE

This metric is interesting to track because it calculates the entire cost of your legal department, both internally and externally, rather than just on the outside legal spend. This is another valuable data point to measure a department's efficiency. First, this is a more accurate measure of a reduction in legal costs than the absolute legal spend in dollars (legal spend could go up in a given year and still represent a reduction in legal spend as a percentage of company revenue). Reducing this metric over time would be a powerful selling point to stakeholders looking for proof of the value that the legal department provides. Additionally, tracking this percentage over time helps a legal department find the ideal mix of in-house counsel and outside counsel that provides the greatest value to the company.

6. INVOICE SAVINGS

This is a metric that can be broken down into more detailed categories such as expense guideline reductions, fee earner rate guideline reductions, and hours billed reductions. Much of these savings represent low-hanging fruit—it's simply enforcing your company's billing and expense guidelines. That said, it is surprising how many legal departments fail to adequately review bills for simple guideline violations. Reviewing line items and hours billed can be more time-consuming for in-house lawyers, but is necessary to catch mistakes and overbilling. If these reductions are subtotaled by an in-house lawyer, a general counsel can determine who is reviewing bills properly and who is not. Furthermore, this is a metric that can be used to show stakeholders the efforts of the legal department to control costs.

7. FEE EARNER RATE INCREASES

There are several reasons to track and benchmark fee earner rate increases over time. Tracking rate increases over time allows a legal department to know whether this year's rate increases (and, yes, sadly there are almost never decreases) are abnormal or in line with historical averages. Many legal departments will have a cap on rate increases for their firms or have a rate freeze for the year or for certain matters, so tracking actual rate increases is vital for enforcing these requirements.

Accurately benchmarking fee earner rates has long been on the wish list of legal departments. Rate surveys are useful data points, but they suffer from the same problems of all self-reporting surveys—sometimes the data is reported inaccurately. For example, those that choose to report are self-selected and thus biased, and by the time the data is compiled it may be out of date. Recently, software as a service solutions that track fee earner rates have launched real-time fee earner rates benchmarking and analytics as well. This knowledge is power when negotiating rate increases with outside counsel. For example, if all San Francisco patent lawyers' average increase is 2% this year, you may be less willing to accept a 7% increase from your San Francisco patent lawyer. If your legal department is above the average rates, this raises a red flag that perhaps you're paying too much. If your department is below the average rate, this is a data point to provide to stakeholders as evidence of your department's value and cost savings efforts.

8. LITIGATION EXPOSURE OVER TIME

Nobody, from the board of directors to the general counsel or corporate counsel, likes to be surprised by a bad outcome. Within a legal department's litigation matters, tracking exposure (at least for the larger cases) is an important metric for corporate counsel to be able to manage and reduce that risk. Tracking maximum and minimum exposure, along with likely outcome, allows the legal department to keep key stakeholders apprised of potential risks and avoid embarrassing surprises. These are numbers that boards of directors and other stakeholders often will ask for as well, so better to answer the question before it's asked than be caught unprepared when it is. Furthermore, tracking this number over time allows the legal department to be able to once again demonstrate their value to its stakeholders by showing how the department has reduced the company's exposure over time.

9. INTERNAL TRAININGS VS. ETHICS COMPLAINTS

This is another metric that allows the legal department to manage risk and show value. Tracking ethic complaints and HR violations by business unit allows the legal department to target training to those departments with the most complaints. Showing these trainings and complaints over time shows the effectiveness of the trainings and cost savings by reducing these types of claims.

10. LESSONS LEARNED BY MATTER

Like tracking outside counsel evaluations, tracking lessons learned in legal matters allows a legal department to build up a repository of information on the types of matters they deal with regularly. Whether it is certain types of contracts that a legal department regularly negotiates, common types of litigation cases, or dealing with regulations specific to your industry, collecting and sharing knowledge learned makes for a more efficient and effective legal department. This also is an invaluable resource when there is turnover in a department (the proverbial "hit by a bus" or "won the lottery" scenario) so that hard-won knowledge is not lost when experienced lawyers leave.

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