

# Negotiating with Law Firms

**Author: Richard Stock - *Legal Business World*, 2018 Issue 4 at Page 39**

The 2018 Chief Legal Officer Survey will not be released until November 2018. In the meantime, the 2017 edition (see [www.altmanweil.com/CLO2017/](http://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.

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