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How companies are reducing legal expenses by working smarter

Focus: Law

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Patty Tascarella

Senior Reporter- *Pittsburgh Business Times*

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When it wanted to cut expenses, MSA Safety Inc.'s legal department took its cue from a continuous improvement initiative adopted a few years ago by the Cranberry-based maker of products to protect people in hazardous or life-threatening situations. Working with outside law firms, MSA's in-house team of five lawyers was able to lower the company's legal defense expenses by 20 percent, according to Associate General Counsel Stephanie Scullo.

It came down to being better organized, eliminating inefficiencies and making the best use of resources through technology, communication and planning, Scullo said.

It's not so much about using fewer outside lawyers these days as it is about working smarter, according to Pittsburgh attorneys.

Implemented in 2011, the approach MSA's legal department took centered on the company's collaboration with law firm **Reed Smith LLP** for legal management practices that improved efficiency, reduced costs and achieved better outcomes.

The initiative brought MSA recognition in the form of the 2014 Value Champion award by the Association of Corporate Counsel last June.

The MSA team started by centralizing all data in an accessible platform using cloud technology, which improved accuracy and cut the time required to compile key metrics.

"We streamlined how data is coming into and moves out of our system," Scullo said. "Having three people touch the same document because everyone doesn't have access to the same database, that's an inefficiency. If we make it so everyone has access to a master

database, which we did, a document is only uploaded once. Even (for something) as simple as processing a check for payment, if I have to send it from MSA to one lawyer who sends it to another who sends it to another, that's a lot of touches, a lot of weeks."

Next, MSA built a virtual law firm of experienced lawyers around the country — Sciullo said it uses about two dozen firms — with Reed Smith serving as national coordinating counsel.

Many of MSA's outside counsel have represented the company for 10, 20 and even 30 years, Sciullo said, so it invested its efforts first with those firms whose institutional knowledge of MSA would not be easily replaced.

"We were committed to driving value on more than just rate reductions or discounts," Sciullo said. "Within our existing network, we elevated a select group to defend our most complex cases as part of our virtual law firm."

The virtual firm is designed to match the most qualified people with MSA's most important projects, regardless of the attorney's geographic location. This shift from a geographic model to one based on expertise and experience has led to greater efficiencies, Sciullo said.

"Counsel with substantive expertise can complete tasks without a learning curve," she said. "Knowledge-sharing reduces duplicative drafting, which previously occurred because one firm did not have access to work product created by another."

Reed Smith and MSA jointly developed a targeted annual budget aiming for greater savings than the prior year based on improved efficiencies.

"Reed Smith helped us design a top-down case assessment process to scope the risks posed by each active case," Sciullo said. "This process allows us to slot cases for specific defense attention based on risk, reducing duplication and overprocessing."

Cost-cutting is one of the reasons why many public companies have been able to post strong earnings after the recession. They can't dictate what their customers will buy, but they can strive to control or contain expense.

Henry Sneath, partner/principal at Picadio Sneath Miller & Norton PC, said he believes the insurance companies were the pioneers in imposing cost restrictions on legal services more than 20 years ago. Because the insurance sector is such an enormous consumer of legal services, it had the clout to give take-it-or-leave-it mandates to outside law firms, Sneath said.

"They brought in auditors to review the bills and set up guidance, and if you wanted to do the work, you lived by those guidelines," Sneath said.

That's trickled down to large companies, which have become particularly sensitive to controlling costs in the wake of the recession, and then to smaller ones.

Carmeuse Lime & Stone Vice President and General Counsel Kevin Whyte, who also is president of the Pittsburgh chapter of the Association of Corporate Counsel, said he believes the biggest shifts to bring work inside occurred in the wake of the recession.

Daniel DiLucchio, principal at legal consulting firm **Altman Weil Inc.**, agrees.

"Basically, I've not seen a significant change over the last year or two," he said.

DiLucchio said he believes the impact of the Great Recession on in-house law departments has been twofold.

"Internal department resources have been constrained in many cases, but at the same time, law departments have gained more leverage over external resources," he said. "Chief legal officers are buyers in what is currently a strong buyer's market."

Still, in an effort to cut their legal expenses from dealing with outside firms, some companies have been beefing up their internal legal departments.

Lori Carpenter, president of recruitment firm Carpenter Legal Search, said demand remains strong from corporations building internal law departments.

"We are aware of more newly created in-house positions today for which clients will be hiring in the new year versus a year ago," Carpenter said.

A recent study of chief legal officers by Altman Weil found that while 43 percent of CLOs plan to keep their department the same size, 42 percent expect to hire and just 11 percent anticipate cuts.

Altman Weil has conducted the annual survey since 2000.

The most recent findings, released in late 2014, found that pulling work in-house remains a top strategy, although its growth rate has slowed in the past two years. A Pittsburgh breakout was not available.

About 40 percent of the respondents said they shifted law firm work to in-house lawyer staff; 36 percent moved work to lower-priced firms; and 34 percent reduced the total amount of work sent to outside counsel.

Meanwhile, 28 percent of those surveyed said shifting work in-house is the measure resulting in the greatest cost reduction, followed by getting law firms to reduce their price.

The methods CLOs used in the past 12 months to contain costs were direct price reductions from outside counsel and alternative or fixed-fee arrangements, according to the survey.

A whopping 90.5 percent said they've received price reductions from outside law firms over the past year.

The most common reduction, according to half the respondents, was between 6 percent and 10 percent. But the number of in-house law departments receiving average discounts of more than 10 percent was 36 percent this year, a jump from 28 percent last year.

The lower rates may have some strings attached.

"In my experience, such discounts are hard to obtain, absent a strong commitment to use the firm a certain amount," Whyte said. "I do believe that in certain circumstances agreeing to use a firm for certain business in exchange for a discount can make a lot of sense."

And sometimes looking to outside help is the best deal.

"It can actually happen that a law firm can be your cheapest bet," said Susan Apel, who recently rejoined law firm K&L Gates as a partner after more than nine years as general counsel of the Ellwood Group, a steel and metals manufacturer.

"There's no spinning the wheels," Apel said. "They understand the issue and the time it takes them to get an answer for you and help you deal with it is less."

Carmeuse Lime & Stone tends to send legal matters that are very specialized to outside firms, Whyte said.

"Because we're very spread out and have plants located throughout the eastern U.S., if there's a state-specific legal issue involving environmental or labor matters, we'll engage outside counsel to help us," Whyte said.

Whyte normally asks for a budget up front but said he remains flexible.

"I'll say I'm not going to necessarily hold you to it, but I want to have an idea in mind of what it can cost," he said. "If I get an email and see four different lawyers copied, I'll pick up the phone and ask, 'Do you really need five people to look at this brief?'"

Infographic