

MANAGEMENT

Another Cost-Saving Strategy

Use contract attorneys for routine matters

By Rahul D. Yodh

Smaller operating budgets are the reality that every General Counsel faces in today's economy. You've already cut staff, you've cut other internal resources, you've pared down your roster of outside counsel firms, you've gotten these same firms to reduce their rates to unheard-of levels, and you've incorporated the use of some smaller firms with even lower rates. Now what? What else can you do to fit within your budget constraints while at the same time protect the interests of your organization?

Ask that your outside counsel law firms, small or large, use contract attorneys for the routine matters.

Contract attorneys are not a novel concept. Law firms have been using contract attorneys for large-scale document reviews for years. In the past this was out of necessity, because most law firms just could not spare 50 associates for a four-month document review. Now with many law firms overstaffed and unable to keep all their young associates busy, GCs are more likely to see young associates staffed on some of the smaller projects, such as deposition sum-

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maries, case summaries, privilege logs, document productions and, of course, document reviews. For example, Ted Gizewski, senior attorney at Microsoft, uses contract attorneys on a regular basis for IP transactional matters, such as software licensing and marketing.

Cost Savings

The cost savings of using contract attorneys can be huge. Typical junior associate billing rates range from \$175 at small firms to \$250 or more at large firms. Depending on the complexity of the project, a typical contract attorney with associated agency fees will cost \$50 to \$80 per hour. However, just 50 billable hours at those rates can lead to savings of \$6,000 to \$10,000. Gizewski says that in his experience he has been saving 50 percent or more when using contract attorneys compared to similarly skilled, big-firm attorneys.

Find the Right Talent

At the same time, it is important that GCs select the right contract attorneys for their project. Many law firms have contract attorneys "on call" that they prefer to use. However, many of these contract attorneys are only experienced in document reviews and may not be the right fit for a deposition summary or privilege log. In today's marketplace

there are more highly qualified contract attorney candidates available than ever before. Often times these are individuals who, until recent layoffs, were working for some very prestigious firms.

There are some key steps you need to take in order to implement a strategic, project-based staffing plan:

- Establish a relationship with a staffing agency that is able to source candidates that match your needs.
- Negotiate a discounted rate with the staffing agency in exchange for exclusivity.
- Identify projects that you can utilize contract attorneys on.
- Ask all of your outside counsel law firms to work with the staffing agency that you have established a relationship with. This will allow for uniformity when screening contract attorney candidates and you will be assured of the same level of candidate on each project
- Try to use the same contract attorney candidates on different projects with different outside counsel firms. This could lead to higher levels of efficiency since the contract attorneys would be familiar with your organization.

Inevitable Questions

Before you implement this cost-saving strategy you probably are faced with some inevitable questions.

Am I sacrificing work product for cost savings? After all, if these contract attorneys were highly skilled, wouldn't they have full-time associate positions?

This may have been the case 18 months ago, but since January of 2009 leading law firms around the country have laid off over 4,000 attorneys. Many of these attorneys are now working as contract attorneys. Others choose to work as contract attorneys for lifestyle reasons; they may not be the primary earners in their family and prefer the flexibility. Some others may have recently relocated to the local area and are using contract attorney work to get acclimated to the market.

Who will supervise the contract attorneys? Remember you are only using contract attorneys for specific parts of

the matter. So the senior attorneys who are supervising the associates on other parts of your case will also supervise the contract attorneys and of course bill you for their time accordingly. At the same time, the staffing agency that you have partnered with may be able to assign a project manager to each specific project.

Will my outside counsel law firm have the space and computer equipment necessary to use contract attorneys? Due to recent layoffs, many law firms have extra space and equipment for use by contract attorneys. However, the staffing agency you partnered with should be able to secure space and equipment at a location either in the same building as your outside counsel firm or very close to it.

Why would my outside counsel firm agree to using contract attorneys instead

of their own associates? To put it simply: because they have to. In today's economy the client is in control of the relationship. Law firms have gotten much better at meeting their client's budgetary constraints. At the same time, since the law firm is allowed to inflate the rates of the contract attorneys, they can build in a small profit margin into the rate. The American Bar Association has issued an opinion that allows law firms to inflate the billing rates of contract attorneys a reasonable amount above what it cost the law firm to procure the contract attorney. This still leaves plenty of room for huge cost savings for the client.

The use of contract attorneys is a savvy and advanced strategy that will allow you to maximize every dollar in your budget. ■