

# Surveys: In-House Spending Up, Outside Costs Cut

BY GINA PASSARELLA

*Of the Legal Staff*

Two different surveys of chief legal officers from two different consultancies show the same two things: Law departments are increasing internal spending through increased hiring of attorneys and staff and spending less on outside counsel.

The results largely mirror what local general counsel are doing.

The surveys were conducted by Hildebrandt Baker Robbins and Altman Weil and released within a day of each other this week.

For the first time in 10 years, law departments reduced their total legal spending, with much of that focused on cutting outside legal spending, Hildebrandt said. Total legal spending dropped 1 percent in the United States between 2008 and 2009 and 2 percent worldwide during that time period. Spending on outside counsel dropped 5 percent nationally and 6 percent globally, the survey showed, with more than 60 percent of respondents saying they cut outside spend. At the same time, in-house legal spending rose by 1 percent in the United States and worldwide, Hildebrandt said.

"We expect that efforts to reduce spending

will continue, particularly with outside counsel spending, which makes up nearly 60 percent of total legal spending," Hildebrandt's Lauren Chung said in a statement. "The challenge for law departments will be to move beyond the low-hanging fruit and develop more comprehensive and innovative strategies for managing not just legal costs, but also legal risks and services."

Similarly, Altman Weil's survey showed that 63 percent of chief legal officers surveyed this past September and October said they had increased their internal budgets between 2009 and 2010. Of the respondents,

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41 percent plan to hire new in-house lawyers in the next 12 months and 32 percent will increase the number of paralegals on staff.

That doesn't equate to good news for outside counsel. Altman Weil's survey showed 29 percent of respondents plan to decrease their use of outside counsel.

"These results highlight a shift of perspective among CLOs," Altman Weil principal Daniel J. DiLucchio Jr. said in a statement. "Law departments are still going to rely on outside counsel for many things, but they are increasingly serious about finding more cost-effective ways to serve their clients — and that includes adding more internal

resources."

Berwyn, Pa.-based Dollar Financial Corp. has been in an acquisition mode over the last year or so, and General Counsel Roy W. Hibberd said the legal department has relied more on outside counsel in certain specialty areas to help with those deals and financings.

"So we're still employing outside counsel in those specialty areas where we feel it important," Hibberd said, adding later, however, that "a lot more of the bread and butter work, we are doing more in-house."

Since he became general counsel in 2005, Hibberd has moved the legal department from one with attorneys spread across several countries focusing on that country's laws to one that has attorneys specialized in certain practice areas like labor and employment or the Foreign Corrupt Practices Act.

"We end up with some better policies because we end up unifying policies that were geographic driven so we end up using outside counsel less," he said.

Hibberd is also a member of the board of DELVACCA, the Delaware Valley's local chapter of the Association of Corporate Counsel. He said his fellow members universally have said they are bringing more work in-house. At the same time, however, the law firms Hibberd talks to have told him they are busier in 2010 than they were the previous two years. But the work they are doing is more specialized, he said.

"It's all part of the trend in changing the nature of the relationship in how we use outside counsel," Hibberd said.

Melissa MacLeod, general counsel for Starr Restaurants, is a legal department of

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one and isn't in the position to add many more resources. She has hired an associate general counsel to fill in for her when she goes out on maternity leave soon. And while she hopes that could turn into a permanent position upon her return, that isn't clear at the moment, MacLeod said.

What is clear is that the company has made a concerted effort to reduce its outside legal spend. MacLeod has been on-board for three years and was Starr's first general counsel. In the first two years outside spending was cut by more than 50 percent. Not only has she tried to do more in-house, but she has looked to streamline the work with outside counsel to just one person to reduce

costs.

"We do have one or two ... alternative fee arrangements, and I know that was the trend in the past few years, however we found it more useful and more beneficial to limit interaction with outside counsel and streamline requests," MacLeod said.

So now she will draft something in-house and have an outside attorney review it rather than have the outside lawyer "reinvent the wheel," she said.

### WHERE THE WORK MIGHT BE

In looking at the reduction on outside legal spend, Hildebrandt said its survey showed global non-litigation spending, excluding intellectual property costs, decreased the most at 14 percent. It also asked the respondents to predict their demand for legal services across 28 disciplines moving forward.

Among those, regulatory was the highest, with 44 percent of participants expecting an increase in demand in this area. Other areas with significant forecasted increases in demand included employment and labor at 39 percent, government relations at 35 percent and international work, also at 35 percent.

Altman Weil's survey examined some other trends affecting law departments, finding 61 percent of law departments have preferred provider lists, 32 percent plan to decrease the number of law firms they use in the next 12 months and 23 percent of departments are providing project management training to lawyers or plan to do so in the next year.

Fifteen percent of departments are offshoring legal work and 12 percent are offshoring nonlawyer functions. Only 5 percent of chief legal officers reported they do not allow first- and second-year associates

to work on their matters.

Altman Weil's survey also inquired about alternative fee arrangements. The results showed 81 percent of legal departments estimate they will use some form of AFAs in 2010, which is up from 77 percent who did use them last year. On average, 11.9 percent of outside counsel fees were based on non-hourly pricing in 2009 and 14.5 percent of fees are expected to be structured on a non-hourly rate in 2010, the survey showed.

Hildebrandt received 252 responses to its survey from CLOs at companies across 22 different industries. Almost 30 percent of the participants were at companies with more than \$20 billion in revenue. The survey reports data for 2008 and 2009. Altman Weil's survey received 174 responses, with 28 percent hailing from companies with more than \$10 billion in revenue. The survey was conducted over the last two months.