



10 Ways to Make Your Legal Department a Profit Center

Law Department Management



Whether you are new to your in-house role or looking for a win to bolster a performance review, there is no better way to improve your legal department's reputation than to show bottom line budget focus. Here's a top 10 list of ways to bring actual dollars into your organization or show financial discipline and engagement not normally associated with the legal function.

1. Check state unclaimed property websites.

It is estimated that there is over US\$49 billion in unclaimed property in the United States. Although there are outside services that will assist you in recovering this property (and take a healthy contingency fee for doing so), almost every state has an official website that lists property that has been escheated to it.

These sites are set up to be user friendly, and you can easily do this work internally with limited legal resources. Check these lists for your corporation's name, current and past assumed names, common abbreviations and misspellings of your corporate name, and the addresses of prior offices and facilities. Even if the dollars listed are small, filing a claim may identify larger claims that are not yet posted.

Additionally, the existence of these claims might highlight a process inefficiency that is resulting in lost or misdirected payments. Outside services don't have incentive to fix these defects for you and would benefit if these broken processes remain broken. If you are regularly getting inquiries from third parties about helping with unclaimed property, you are not getting all that you are entitled to.

2. Cull surety bond, retainers, and cash deposit lists.

Look to see how your Treasury group manages requests for surety bonds, retainers, and cash deposits. Oftentimes, these costs are booked at the time that the request is made, and there is little to no effort later to close these out, even if the reason for the requested outlay has ceased.

In some cases, a larger bond is only needed initially and can be refunded or reduced once a business relationship is established or converted to a less costly form, like replacing a letter of credit with a parent guarantee. In other cases, you can replace multiple deposits with one covering multiple subsidiaries if your company has acquired other entities. Finally, ask for the prompt return or crediting of any law firm retainers that have been outstanding for more than a year.

3. Oversee class action payouts.

Monitor and make sure that your organizations make claims under class actions settlements. Confirm that your procurement group — and especially your mail department — know that these form notices and post cards should get quickly routed to legal, as otherwise they will likely just go to busy people who will view class action claims as low priority work or not understand that something must be done and simply discard them.

Make sure that you register to receive future notices about pending class actions, perhaps by even creating a unique email address for receiving information on these cases as personnel may change during the long pending periods of some of these cases.

When you actually receive a class action notice of a settlement, assume this means the administrator has already concluded you are a legitimate claimant. At that point, your organization is walking past money on the sidewalk.

At the very least, have someone contact the administrator to find out how much it believes you are entitled to, and whether a claim can be made for that without any additional work on your part. Often, a discussion with the class action administrator will allow you to locate other subsidiaries or locations that are entitled to recovery without you having to do much additional work to document the claim.

In one instance, the claim administrator told us exactly what product purchases it had that qualified for a settlement check and we used that list to confirm that we properly queried our procurement system for all relevant purchases. In the end, we submitted a claim for all the purchases that the claims administrator located, but also determined that many other purchases had been missed because they had been directly shipped to individual locations.

This added US\$250k to our recovery. As icing on the cake, we had procurement reach out to its vendor contacts about the alleged misconduct underlying the class action which resulted in additional discounts to preserve the business relationships.

4. Pay provisions are too complex to leave to pay clerks.

Pay calculations, especially under union contracts, are complicated, yet payroll software program set up is often done by relatively junior personnel and then never carefully reviewed. A little attention by legal personnel can yield big wins for the department. Confirm that caps on benefits are applied.

For example, check if someone is getting a 401k match on more than the annual maximum of her

pay or whether a union agreement places limits on the maximum fringe payment that are applied per employee or per year. Don't assume that the lack of worker complaints means that these calculations are correct — if you are overpaying, no one will ever complain!

5. Look closely at what counts as an “hour worked” for hourly workers.

It is amazing the payoff that comes from explaining to operations and human resources that it needs to track both hours of pay and hours of work. When hourly employees are allowed to leave work early with pay, those hours should be tracked as non-work hours, as in most cases they should not count towards when overtime kicks in, or even when benefits keyed to hours worked are paid.

Similarly, pay penalties, such as missed lunch payments, or minimum call-in time, should not be treated as work hours unless the employee actually works those hours or a contractual requirement treats it as such. Often, earlier computer systems could not address so many hour codes, but this is usually now only a question of process changes and not computer limitations.

6. Assess property tax challenges.

If you haven't challenged your tax assessment for property in the past five years, you are probably paying too much. In many communities, overworked assessors have little to compare your industrial properties to, and errors can build up over time if not reviewed regularly. But even if you are regularly challenging the tax bills, there is more you can do to drive savings. Look at proactive ways to reduce taxes on underutilized property.

For example, consider renting out property held for future use to farmers, or planting a crop on the property to obtain a lower property tax classification. When renting property for long periods, clarify who can make property tax challenges and that any reduction is applied to your rental payments. Otherwise, you are paying the full assessment without incenting the landlord to challenge the tax, or giving the landlord the benefit of any reduction without sharing it with you.

7. Pay attention to payment deadlines and your financial calendar.

Salesmen are keenly aware of what time period a commission will fall into, but your legal staff should also try to set payment dates so that more money is held by your employer at quarter end to bolster its balance sheet. This also ensures that expenses are pushed into a future, or otherwise more advantageous, quarter.

Checking to see when a counterparty's fiscal year ends may provide you with additional leverage to get a transaction closed or identify instances where more flexible terms for your client will not harm the counterparty's bottom line. Even more important, keep the calendar in mind for when costs within legal's control are incurred.

If you are negotiating a major severance payment or installments on an alternative fee arrangement are being paid, consider in which fiscal period the cost will fall and when the cash will go out the door.

8. Highlight portions of your legal spend that can move within budget

periods and that are discretionary.

Few legal departments identify with particularity costs that they will incur more than in the next budget period, but doing so can yield valuable conversations and savings. For example, patent and trademark maintenance fees are easily predictable years out, as are costs for corporate registrations.

By identifying these fixed costs separately on your budget, you can remove them from budget challenges and cost cutting performance reviews. Moreover, by highlighting the future costs of these items, you can provide business units more time to assess whether these future costs will be warranted.

In some instances, there is a wide window for paying certain costs. In that case, you may have the opportunity to decide in which budget period these costs will be incurred by paying them earlier or later.

9. Use data to drive discounts with a smaller group of firms.

Share within your company that you are closely monitoring your outside law firms' performance and efficiency. As part of that discussion, share what services the law firms are providing for free, what they charge for, and how much. Often, managers have no idea what is showing up on bills and will be shocked by hourly rates and legal expenses (even when discounted).

Use this shared data to justify significantly reducing the number of firms you use in exchange for greater discounts and free services, for including your team in issues before they go to outside legal resources, and for imposing stricter limits on the remaining firms' billing practices through standard billing guides. Having your clients on your side for these efforts cannot be understated.

10. Take advantage of free CLE offered by firms or speaker discounts to reduce costly seminars and travel.

Often, seminars will offer to discount or waive registration fees if you provide a speaker for a program. Moreover, law firms are usually delighted to come for a "lunch and learn" and have an opportunity to showcase their staff's talents to your department.

Involve your whole department in ways to make the most out of limited resources in this area, and perhaps identify that a portion of the savings in travel and registration fees that can be repurposed for special departmental events.

Conclusion

We hope that these practical suggestions will provide you with greater credibility within your organizations and look forward to hearing about your successes with these items and others that you have used to drive efficiency within your department and organization.

Of course, while these items have worked in the past, we are not providing legal advice or representing that these suggestions will yield the same results in your particular jurisdiction. Please conduct your own analysis to confirm that these suggestions comply with the applicable laws,

regulations, or rules related to revenue recognition and expense characterization, in your situation.

Douglas Graham



Veteran In-house Counsel

Multiple Major Corporations

Douglas A. Graham estimates that he has delivered over US\$30 million to legal department bottom lines at United Airlines, Tribune Company, Exelon Corporation, Oil-Dri Corporation, and Intren Holdings by utilizing the tools described in his article, "[Ten Ways to Make Your Department a Profit Center](#)," and also has been able to demonstrate double digit reductions in legal outlays compared to competitors and predecessors. He has held general counsel roles for the past 11 years and has over 30 years of in-house experience. Prior to moving in-house, Doug was a lawyer at Jenner & Block in Chicago. He is a graduate of the University of Michigan Law School.

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Wendy L. Hufford is the founder and president of Effective Dispute Management, LLC, a dispute resolution and legal process improvement consulting firm. She is the former SVP, general counsel, and corporate secretary of Ascena Retail Group, Inc., a Fortune 500 retail company that held iconic brands such as Ann Taylor, LOFT, Justice, and Lane Bryant, where she was responsible for leading legal, compliance, risk and government affairs of the company from 2018-2020.

She was previously chief operating officer of the legal department and VP of US litigation, risk management and human resources at Boehringer Ingelheim USA from 2015-2018. From 2010-2014, she was VP, deputy general counsel and assistant secretary of ITT Corporation. Prior to that, she was EVP and chief litigation counsel of Cardinal Health in Dublin, Ohio from 2006 to 2009. In these three roles, she generated combined savings of over US\$30 million in legal department savings. Early in her career, she held in-house litigation roles at GE Consumer Finance and Credit Suisse First Boston, worked in private practice at Davis Polk & Wardwell and served as a law clerk in the Southern District Court of New York. She is a graduate of Colgate University and The Yale Law School.