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Expense Right-Sizing In a Challenging Economy

By Rob Mattern

The economic outlook for firms heading into 2023 is, as we know, challenging. By the end of 2022, there was substantial slowing in demand growth, so much so that overall demand contracted by 0.1% by the end of the year, according to the latest data from Thomson Reuters. Transactional work was falling off and clients started pulling more work in-house, placing considerable strain on law firm financials which, quite frankly, were already under pressure from a 24-month long war for talent that resulted in the highest associate pay increases on record and ensuing increase in overhead.

The unfortunate combination of falling demand and growing cost of headcount combined to trigger a significant decline in productivity across the market. Thomson Reuters' industry benchmarks show this productivity loss means that the average lawyer in 2022 produced $98,000 less in total fees.

This is not a tenable situation. It is not surprising, then, that layoffs have marked the end of 2022 and beginning of 2023 — Cooley, Strook, Goodwin and Gunderson are just a few of the big names that have been transparent about their layoffs.

Is it all doom and gloom? Of course not. In challenging times there is always opportunity.

For starters, analysts also warn of "over-correcting" when it comes to firm lay-offs. No firm wants to take the route of layoffs, however, long term when the market bounces back, firms could find themselves unprepared. This is similar to what happened when the financial crisis hit in 2008, similar market conditions caused firms to also lay off attorneys — but when the economy came roaring back, many firms were left holding their hats without sufficient capacity to handle a bullish market.

What are other strategies firms can take to rein in expenses during a challenging, down market to avoid further layoffs? Look no further than the firm's back-office operations. Below is a brief overview of five areas where your firm can not just "cut costs" but actually improve operations while doing so. This is expense "right-sizing."

1. Administrative Services

When it comes to administrative support, many firms simply have too many people, doing the wrong tasks at the wrong cost. Even before COVID, the administrative support model was broken. Legal secretaries are an aging (and well-compensated) pool of existing support staff, 20%-40% of whom are expected to retire in the next five years and their replacements are becoming hard to find, with many candidates not suited with the specialized skill set needed in a modern law practice. COVID shifted the expectations attorneys have of their administrative support, but the model has been resistant to change causing attorneys year-over-year to be taking on more administrative burden, not less. This productivity loss was less than optimal but cannot be maintained in a challenged market.

Law firms must take the opportunity to restructure, realign, retool, and rethink their administrative support models. Some leading edge, Am Law 100 firms have taken the path of reinventing it: Fish & Richardson announced the elimination of its litigation secretary role; Morgan Lewis offered a buyout package to all of its legal secretaries nationwide; Fox Rothschild offered 300 support staff separation packages as part of a practice-specific support model; and Reed Smith reduced its secretarial personnel and aim to retrain its remaining secretarial staff into an executive assistant role.

Many of these firms can eliminate these roles because they have created practice-specific support who provide more legal expertise than a traditional secretary, centralized their administrative support in-house by separating its main administrative functions into pools, or have outsourced their main support functions to a service provider who provides expertise in a variety of support services.

In general, these are the three prevailing models where firms can cut significant costs while also improving critical services to the firm's attorneys.

2. Outsourcing Contracts

Reducing operating expenses is a key benefit and driver of outsourcing. Outsourced labor providers leverage their business models and scale to offer services at a lower overall cost than law firms can by hiring labor, onboarding, training, and providing ongoing performance evaluations to labor resources directly.

Utilizing outsourced labor services introduces the ability for firms to flex their labor resources as business needs dictate with no financial impact. A well-structured outsourced labor contract allows for flexibility at any time and without severance or other separation benefit costs. Additionally, outsourcing service providers, at least theoretically, can more quickly source, hire, onboard and train labor resources when the need exists.

But it's important that firms get the best value and performance from your outsourcing service providers. According to the most recent **Altman Weil Law Firms in Transition Survey**, only 37.1% of firms report significant improvement when outsourcing to non-law firm vendors.

Here are the steps we advise firms to take to ensure they achieve a successful engagement with their provider:

- An unbiased assessment of in-house services. Should you even outsource? Will it save you money, will the performance improve?
- Choosing the right partner. Understanding firm's unique cultural needs and goals
- Access to industry-wide data, benchmarks
- Leveraging a competitive RFP
- Culturally attuned transition
- Relationship and contract monitoring

The most important step here is taking this service to the market and running a competitive Request for Proposal process. Not only will your firm do its due diligence and learn about new offerings and new providers, but even when firms remain with their current provider, savings can be upwards of 30% by creating a competitive situation.

3. Output

Even before the shift to work-from-home, most firms were likely over-equipped with MFDs (Multi-functional Devices) and/or printers, doing too little volume, and with a contract that allowed little or no flexibility.

This situation has been significantly exacerbated. As we now face a long-term, more dispersed workforce, firms must also consider how to support the volume of prints & scans performed at home offices — from a service and supplies perspective. In addition, they also must adjust their in-office output capacity to handle a fluctuating labor force.

Firms must address this overcapacity and put in place a strategic, flexible plan that will reduce costs now and in the long run.

4. Off-site Records Storage

Digital transformation is a strategic requirement for law firm operations, but meanwhile legacy paper is costing firms not only in terms of significant dollars but increased risk as well. The cost of off-site records storage has become increasingly burdensome with new add-ons of fuel surcharges, handling fees on top of permanent withdrawal and destruction charges that create a deeper hole year after year to climb out of.

There has never been a better time to examine your off-site situation to ensure your contract(s) allows for cost-effective destruction and a way out of off-site records storage permanently.

We advise firms take a three-pronged approach to successfully get out of off-site records altogether:

- Formulate a game plan to digitize inbound paper on the front-end to stop the flow of paper off-site
- Create an implementable information governance policy with retention schedules that will allow you to destroy records that have met their retention period.
- If you don't have one, negotiate a competitive off-site records storage contract. This will usually entail creating a competitive situation.

5. Legal Research: LexisNexis, Westlaw

Negotiating your legal research contracts is an area where many firms can gain six figure savings without losing any services.

Law firms historically overpay for legal research because of the lack of transparency in the pricing tactics of the leading providers in the space, LexisNexis and Westlaw, period. Firms are challenged to make informed decisions to control the costs of their legal research contracts because of the lack of transparency in their pricing and bundling practices of leading products that increase the complexity of procuring just the right content. As a result, duplicative content, significantly overpaying market rate, and underutilized resources are just a few of the common problems library services face when it comes to legal research.

In conjunction with the demands of the hybrid marketplace, firms have abundant opportunities to right-size their expenses and increase services to end users considering the new environment. It will take creativity, in-depth analysis, excellent negotiation and change management skills but the results will be worth it — a leaner, more flexible administrative operation supported by service providers and their associated contracts that will lay the foundation for future success.

Rob Mattern is President and Founder of Mattern Associates, LLC, a legal business process consulting and cost recovery solutions firm. A member of this newsletter's Board of Editors, Mattern publishes widely, including in American Lawyer, Legal Management magazine and Wall Street Journal.