

Canadian Lawyer's annual corporate counsel survey shows keeping costs down is still the main focus for in-house legal departments as economic recovery has failed to translate into higher budgets and spending.

By Andi Balla

Costs still top priority

The economy might have improved, but the benefits have not yet trickled down to legal departments, according to the latest annual *Canadian Lawyer* corporate counsel survey.

Nearly 80 per cent of the 165 respondents, who came from leading Canadian corporate and government legal departments, say an improving economic climate had no effect on their legal spending. In addition, nearly 30 per cent have seen their legal budgets cut further last year, while 43 per cent remained at the same level of 2008. Only 28 per cent saw increases in the legal department spending.

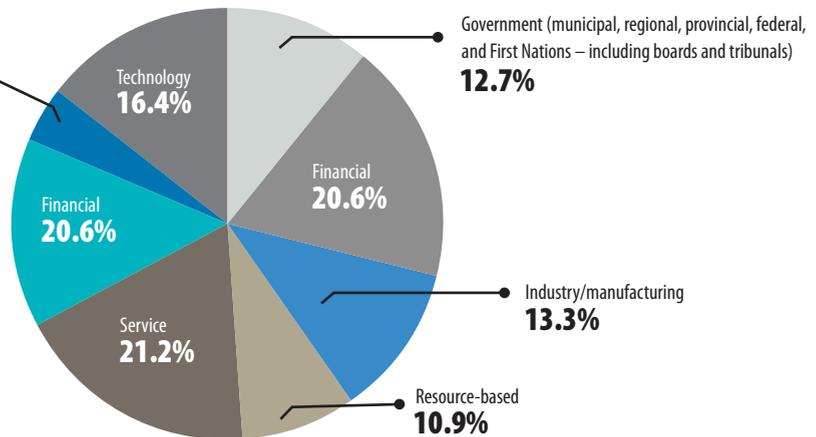
WHAT SECTOR IS YOUR COMPANY/ORGANIZATION IN?

“There is a real disconnect between the economics being reported by bank and government economists and [what is] being experienced commercially by companies — between real today and what is projected to happen on an annualized basis,” says Stephen Mabey, managing director of Applied Strategies Inc. “As a result, legal departments are being held accountable to the same standards or criteria being applied to their counterpart departments.” As a result, it is becoming harder for legal departments to explain to management that their spending and budget patterns need to be different from the rest of the company or organization, says Mabey, and it will be interesting to see if even when the economy reaches previous high levels whether legal departments ever regain the status they had in the past.

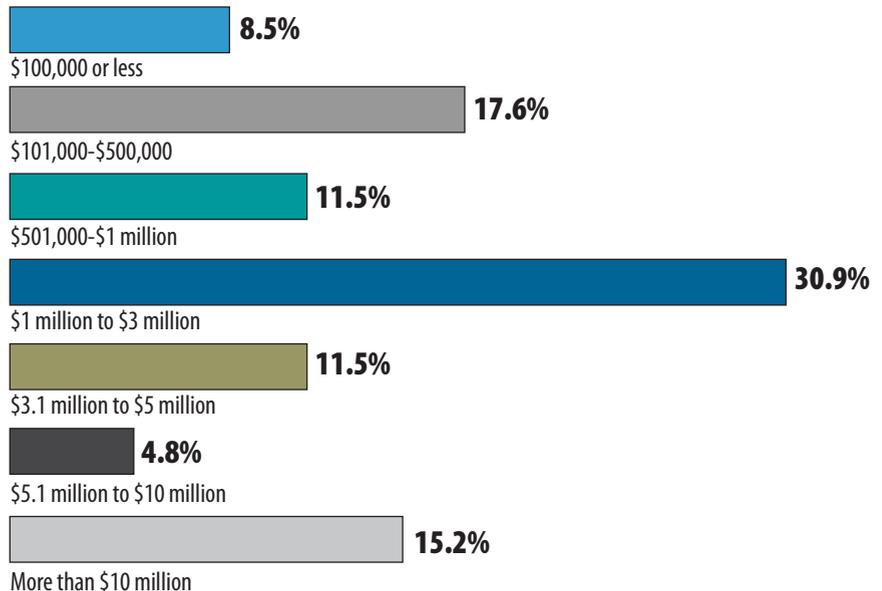
In fact, the survey’s respondents confirm the widely held belief that the cost-cutting moves implemented during the recession are here to stay. Only 5.5 per cent say they are likely to roll back the cuts, 63 per cent say they will not, and 31.5 per cent are not sure.

This year, 165 corporate counsel responded to the *Canadian Lawyer* survey, with 15 per cent coming from legal departments that had \$10 million or more in legal spending in the last fiscal year, 37.6 per cent spent less than \$1 million, and 31 per cent came from departments that had between \$1 million and \$3 million in legal costs. Almost half, 49 per cent, came from small legal departments with less than five lawyers. And there was also an even distribution between the sectors represented, with the service sector leading at 21 per cent, followed by the financial sector at 20.6 per cent as well as industry/manufacturing and government at all levels, both hovering around 13 per cent.

While not every respondent answered every question, the trend remains clear that in-house legal departments are still in saving mode, with 58 per cent of the corporate counsel saying they brought more work inside their departments to deal with the changes in the budgets. And in terms of budgets, 36.4 per cent of those polled say they negotiated



WHAT WAS THE EXTERNAL LEGAL SPEND FOR THE CANADIAN LEGAL DEPARTMENT IN YOUR LAST FISCAL YEAR?



MOST IMPORTANT THINGS LAW FIRMS CAN DO TO IMPROVE WORKING RELATIONSHIPS WITH YOUR COMPANY

- 1 ***Be more concerned with costs***
- 2 ***Be more commercial/practical***
- 3 ***Understand our needs better from a client perspective***
- 4 ***Be more creative/innovative overall***
- 5 ***Be more concerned with results***
- 6 ***Be more proactive***
- 7 ***Other***

“There is an absolute lack of understanding even now, to my amazement, of the tightening of costs inside companies, and law firms keep increasing their internal costs.”

— Survey respondent

new agreements with outside counsel over the past year.

The bad news for law firms is that although 66 per cent of respondents say they believe the volume of total legal work will grow in 2011, 80 per cent admit they are likely to absorb any additional work into the law department rather than sending it out to firms. “The legal profession is feeling pressure both internally . . . and law firms who have not historically shared the pain to any real extent are being asked to now,” says Mabey. “Signs that the legal departments have not made a full recovery . . . include less work going to external counsel with the workload having to be picked up by in-house counsel.”

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Corporate counsel are clear they want their outside legal service providers to keep costs down, with 62.4 per cent ranking it as the most important element in the relationship between them and their law firms but law firms don't seem to be hearing that message. "There is an absolute lack of understanding even now, to my amazement, of the tightening of costs inside companies, and law firms keep increasing their internal costs," writes one senior in-house counsel who responded to the survey. "For example, salary freezes are prevalent in many companies and yet law firms increase their annual rates blaming their costs increase. In a competitive industry you can no longer afford to do that."

Another respondent adds, "Don't charge us for training law firm staff on our procedures."

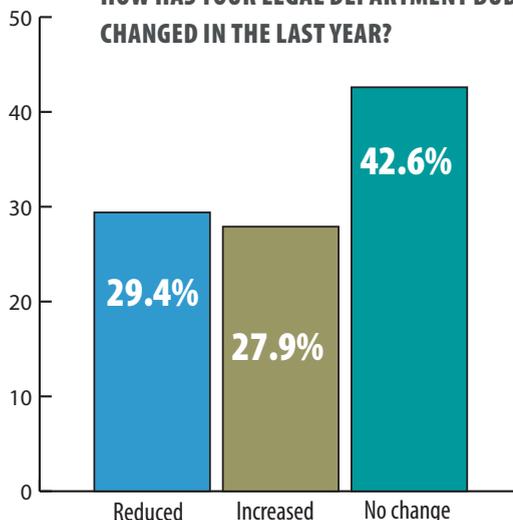
When it comes to billing, although alternative fee arrangements have been the focus of much discussion in the legal community, our survey finds only 4.6 per cent use them, with the majority, 52.7 per cent, still on the billable hour, and 41.2 per cent a combination of billable hours and flat fees.

Again this year, in-house counsel ranked costs as the most important issue law firms should be concerned with in regards to their clients. Other things corporate counsel say law firms should do, in order of importance, include being more commercial/practical, understanding the needs of in-house counsel better from the client perspective, being more creative/innovative, being more concerned with results, and being more proactive.

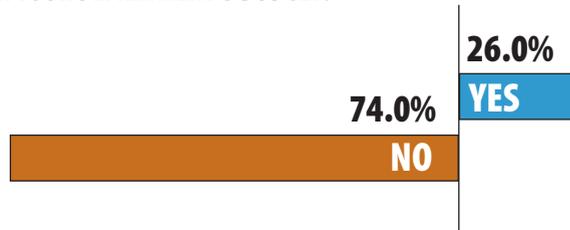
Measuring satisfaction

One of the survey's big findings was that 85.5 per cent of the respondents say they had not been asked by their legal department to complete a satisfaction survey in the past 12 months. Only 8.9 per cent had completed one in person, and 5.6 per cent completed one either over the phone or in writing. Surprisingly, this year's results show a downward trend from last year, when 72 per cent of the respondents said they had

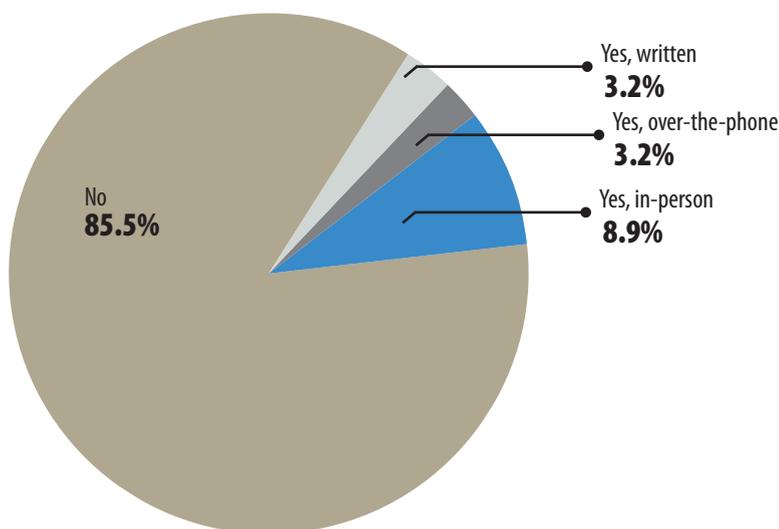
HOW HAS YOUR LEGAL DEPARTMENT BUDGET CHANGED IN THE LAST YEAR?



DO YOU FEEL AN IMPROVING ECONOMIC CLIMATE HAD AN EFFECT ON YOUR DEPARTMENT'S BUDGET?



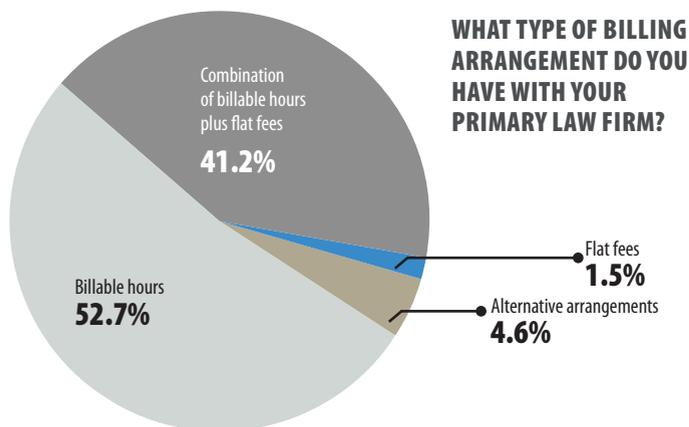
HAS YOUR TOP LAW FIRM ASKED YOUR LAW DEPARTMENT TO COMPLETE A WRITTEN, OVER-THE-PHONE, OR IN-PERSON SATISFACTION SURVEY IN THE LAST 12 MONTHS?



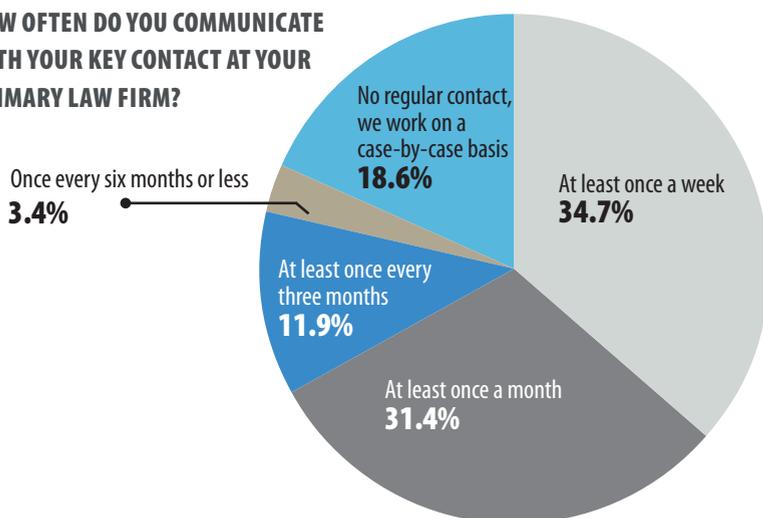
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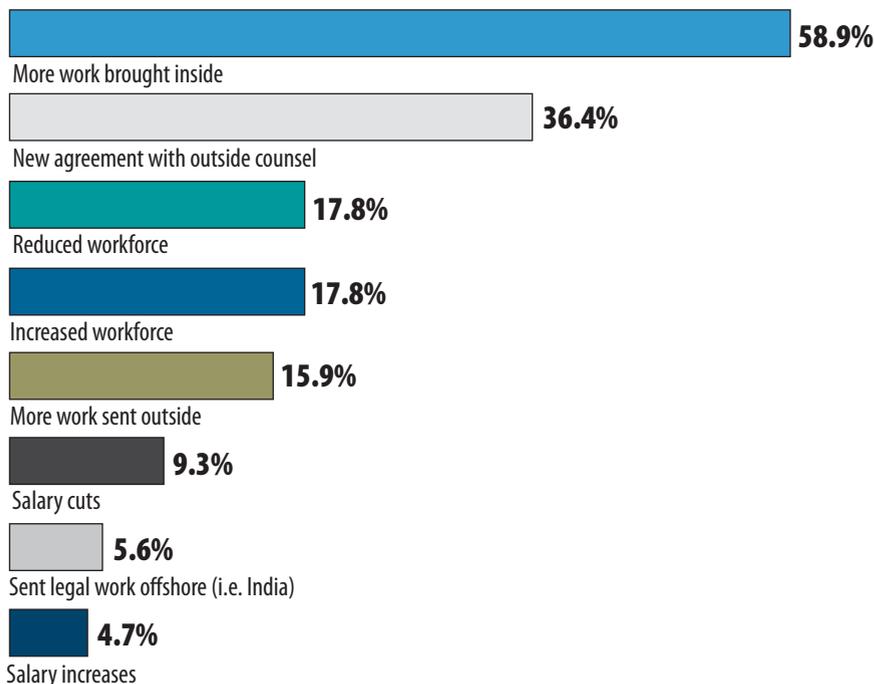
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HOW OFTEN DO YOU COMMUNICATE WITH YOUR KEY CONTACT AT YOUR PRIMARY LAW FIRM?



WHAT STRATEGIES DID YOUR LEGAL DEPARTMENT USE TO DEAL WITH CHANGES IN THE BUDGET?



not been asked to complete any sort of satisfaction survey.

Conducting these satisfaction surveys is very important because it provides far richer information than can be obtained through anecdotal feedback, says John Rogers, CEO of Stewart McKelvey. The Atlantic firm recently hired an external company to complete one-hour, in-person interviews with its top clients, including many in-house lawyers. Rogers says the survey was a positive experience he wished the firm had done sooner. "The only risk for law firms who do carry out the surveys is that they must be prepared to act on what they hear," he says.

Even though an overwhelming number of corporate counsel haven't been surveyed, it doesn't mean there is a total lack of communication between them and the law firms. When asked how often they communicate with the key contact at their primary law firm, 34.7 per cent of the respondents say they do so at least once a week and 31.4 say at least once a month. In 18.6 per cent of cases there was no regular contact as the corporate counsel say they chose to work with firms on a case-by-case basis and communicate with them only when needed.

In this economy, keeping in-house counsel happy is more important than ever as more than half, 56.5 per cent, of those surveyed say they were likely to review their working or financial relationship with their top outside law firm in the next six to nine months. In addition, 26 per cent of respondents say their lead law firm clearly provides better services than its closest competitor. That number is up slightly from last year's 19.5 per cent. An equal number, 30.4 per cent, believe their lead law firm's nearest competitor could do most of the work equally as well or that several other firms could do it equally as well.

However, 65.3 per cent of the respondents say they have not replaced their top legal service provider in the past two years. But 34.7 per cent said they had. Although with much outside legal work now being contracted out through request for proposal processes, many are locked into agreements that last a set number of years.

Latest trends

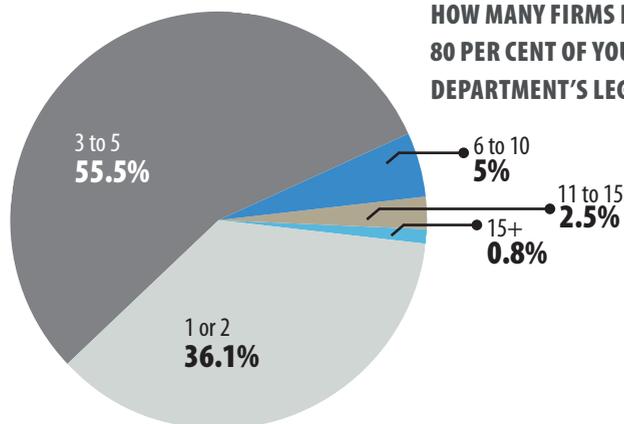
This year's survey also looked at a couple of new trends that have been gaining ground

in legal departments — things like secondments and involving law firms in internal risk-management planning.

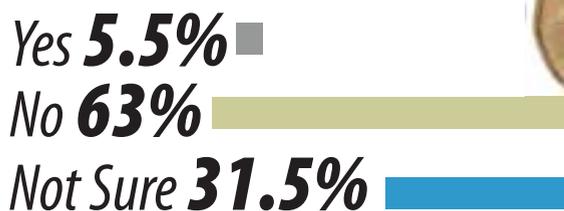
The survey asked about arrangements with law firms to have firm lawyers essentially lent out to their clients for a set period of time through secondments. Forty per cent of those who answered the question say their legal department had seconded lawyers, 11.3 per cent said they haven't but would like to do so, and 48.7 per cent said they had not seconded any lawyers, but they did not have the need.

Confirming anecdotal evidence that companies are starting to ask for more involvement on the part of their primary law firms in internal risk-management strategies, 30.8 per cent of the respondents said they had already done so. 

Some of the results don't add up to 100 per cent due to rounding or because only significant results with high percentages are mentioned in the article.



WITH THE ECONOMY ON THE REBOUND, ARE YOU LIKELY TO ROLL BACK SOME OF THE COST-CUTTING MOVES RELATED TO YOUR RELATIONSHIP WITH THE LAW FIRMS?



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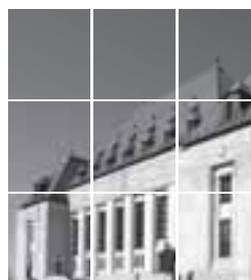
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