

Layoffs Create Deep Pool of In-House Candidates

Cost cuts spur clients to do it themselves.

BY SUSAN PYE AND LINDA KATZ

A surprising thing is happening among companies spurred by the financial crisis to take a sharp pencil to operating budgets and scrutinize spending.

As business contracts and companies trim outside legal costs, seek fee reductions and alternative billing arrangements, and pare rosters of outside firms altogether, epic layoffs within large law firms have been the obvious result.

The immediate fallout has been the creation of an enormous pool of available legal talent not seen in decades. From junior to senior-level lawyers, there is a degree of talent and experience that was highly sought after and would have sparked bidding wars among employers just one year ago. Now, lawyers seeking positions are facing long and frustrating job searches.

A less obvious byproduct of the economic crisis is a microtrend in which some companies are looking at the carnage in the legal world and seeing an opportunity to strategically hire high-quality lawyers and bring them in-house.

They increasingly are turning to contract lawyers, whose ranks also have swelled with talented and experienced candidates seeking work.

After all, in many cases the work is not going away. While corporate legal departments usually are not revenue producers, one can make a compelling argument that strategic hiring creates value, particularly in times like these.

A December 2008 Altman Weil survey of corporate law department general counsel underscores the phenomenon in the marketplace, albeit still on an isolated level. The survey found that more than 80% of general counsel plan to cut outside legal expenses in 2009, while 65% plan to bring more legal work in-house. Among the top concerns of general counsel in 2009 is the "unpredictable nature of legal spending." "Law Department Cost Control," Altman Weil Flash Survey, Altman Weil, November 2008.

The economic crisis appears to have created some strategic demand for legal personnel within corporate legal departments.

OPPORTUNITY FROM CRISIS

Some chief executives and general counsel looking closely at the balance sheet are concluding that the economic crisis has created an opportunity to recruit high-caliber lawyers. These lawyers can make an immediate impact on the bottom line by performing valuable, sophisticated work while positioning an organization

to grow when the economy improves. Investing in the face of such economic uncertainty is challenging, but previous downcycles have proven its value.

As London School of Business Management Professor Donald Sull has pointed out, history shows that industry winners and losers often are forged during these periods. The challenge is recognizing opportunity when it materializes. Sull has noted that household names like Toyota, Samsung, Nokia and Cisco each emerged from previous downturns stronger by seizing these opportunities and innovating while competitors were in retreat.

An example is Intel Corp. Although it is suffering in the downturn along with the rest of the high-tech manufacturing sector, Intel is investing \$7 billion to add jobs and new manufacturing facilities in New Mexico, Oregon and Arizona. "Intel to Spend Heavily on U.S. Plants, Wall St. J., Feb. 11, 2009.

This bold and long-term investment will position the company to produce its next generation of computer chip at a time when its peers are cutting back and retrenching.

When it comes to hiring within corporate legal departments, some guidelines suggest when a company should consider adding in-house counsel. Any company, regardless of size, that has recurring, routine legal costs paid to

outside firms stands to benefit by hiring a lawyer and bringing the work inside. The cost of a lawyer, including base salary and benefits, is significantly less than the cost of fees paid to outside counsel for recurring work.

Moreover, in-house lawyers are in a better position to look out for the company's interests by having a closer and more immediate relationship to its commercial interests and risk tolerance. Businesses able to hire now stand to attract experienced and talented employees at a competitive price; moreover, these employees will be grateful and loyal to the company when the economy improves.

Businesses are starting to recognize in-house hiring opportunities. At one Houston-based engineering and construction company, the general counsel was able to convince upper management to add to the lawyer head count simply because of the strong talent pool. The company was able to recruit a lawyer with on-point experience.

When it was still a job seekers' market, such a lawyer would have sparked a war of escalating offers and counteroffers and very likely would have remained at the previous position after securing a raise. Whipsawing like that is simply not occurring in this market.

Likewise, at a Houston-area service company that conducted a search with Pye Legal Group, the general counsel initially planned to hire a senior lawyer and a paralegal. After surveying the candidate pool, the general counsel made a decision that really speaks to the talent available right now in the legal marketplace. Instead of following through with the original plan and hiring a paralegal, he brought in a junior lawyer instead. He concluded that such a talented and versatile lawyer would

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not be as easy to find once the economy picks up and demand increases.

The depth of legal talent available today extends to contract lawyers, too. Law firms and in-house legal departments are taking advantage of this resource in different ways. Law firms are increasingly turning to contract labor for routine and recurring document-review assignments as a way to keep costs down and pass savings through to clients.

Contract labor is also an attractive temporary solution for an increasing number of businesses. Companies facing hiring freezes or that are otherwise reluctant to commit to long-term hiring are finding high-caliber contract lawyers with valuable expertise in specialized practice areas like corporate compliance, securities, energy, environmental law and banking. The depth of talent and experience is a direct result of the layoffs occurring in the legal industry. Just last fall, for example, energy companies had a hard time finding contract lawyers because they were in such demand.

MAKING IT PERMANENT

Although contract labor clearly is considered a potential area for significant savings for legal departments, far more valuable is the opportunity to convert hires from contract to permanent status and make strategic long-term hires that have the ability to boost a company's inherent value and help with the bottom line.

Within business legal departments, the need is for attorneys with excellent judgment who can thrive with more direct and frequent client contact than what occurs in the typical law firm, whether it's being pulled aside in the hallway for quick, practical advice or tactfully providing unpopular advice to an executive—and coming out unscathed. These kinds of qualities generally can only be determined by a recruiter who spends serious face time with a candidate.

It is unclear if we are seeing a shift in the legal marketplace; however, it is clear that legal employers are facing an economic landscape that has drastically changed in the past year. In-house opportunities and contract legal work are the isolated bright spots at the moment.

Regardless of how and when the economy improves, some strategic thinkers in the business world are not waiting for a recovery to act.

Taking advantage of the available talent today will give businesses a competitive advantage when the economy rebounds.

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