

a special supplement to *ACC Docket*

ASSOCIATION OF CORPORATE COUNSEL'S

GC Value Insights

What Multinational General Counsel Value Most

AMERISOURCEBERGEN CORPORATION
BANK OF AMERICA CORP.
CARDINAL HEALTH, INC.
DELL INC.
EXXON MOBIL CORPORATION
FORD MOTOR COMPANY
FREDDIE MAC
HEWLETT-PACKARD COMPANY
JPMORGAN CHASE
MICROSOFT CORPORATION
PFIZER INC.
THE HOME DEPOT COMPANY
THE PROCTER & GAMBLE COMPANY
UNITED TECHNOLOGIES CORPORATION
UNITED PARCEL SERVICE
WALMART-STORES INC.
WELLPOINT, INC.

GC Value Insights

What Multinational General Counsel Value Most

While some believe the current focus on value in the legal arena is a temporary blip, leading general counsel from multinational companies say “no.” According to a recent series of interviews conducted by the Association of Corporate Counsel (ACC), the focus on value is here to stay and GCs intend to maintain — or increase — their law department’s use of value-based fee structures. Moreover, when the global economy stabilizes, corporate law departments plan to continue reinforcing practices that enhance predictability in spend, efficiency and alignment with business goals.

The GC Value Insights includes interviews with legal leaders of Fortune 50-ranked companies who were asked to share insights on what they value most in working with firms, value-based fee structure models, other types of practices they’re implementing that focus on value, legal spend and savings from implementing value practices and more. Not surprisingly, top GCs and law departments are implementing a broad-range of practices that focus on value, saving money and improving results. Indeed, featured law departments with sizeable legal spend — including many with spend in excess of 100 million dollars per year — are very focused on value, communicating this to firms they work with and partnering with firms and other legal service providers to achieve desired objectives.

For information on the ACC Value Challenge (ACC’s initiative to help improve alignment of law department and law firm relationships and to help reconnect cost and value of legal services), tools, resources and upcoming master class and value events, visit: www.acc.com/valuechallenge/index.cfm.

When asked, “What practices add the greatest value or help yield the greatest results?” GCs highlighted “ediscovery practices and fee arrangements with law firms using fixed and flat-fee approaches” among the top value practices. In addition, flat fee and fixed fee structures topped the lists of types of value-based fee structures, with departments using these structures in a variety of contexts across many types of practice areas. The areas include litigation, employment, real estate, environmental, mergers and acquisitions, transactions and intellectual property.

This *Summary of Findings* highlights insights and practices shared by 17 GCs from the following Fortune 50-ranked companies:

AMERISOURCEBERGEN CORPORATION (p.12)	MICROSOFT CORPORATION (p.30)
BANK OF AMERICA CORP. (p.14)	PFIZER INC. (p.32)
CARDINAL HEALTH, INC. (p.16)	THE HOME DEPOT COMPANY (p.34)
DELL INC. (p.18)	THE PROCTER & GAMBLE COMPANY (p.36)
EXXON MOBIL CORPORATION (p.20)	UNITED PARCEL SERVICE (p.38)
FORD MOTOR COMPANY (p.22)	UNITED TECHNOLOGIES CORPORATION (p.40)
FREDDIE MAC (p.24)	WALMART-STORES INC. (p.42)
HEWLETT-PACKARD COMPANY (p.26)	WELLPOINT, INC. (p.44)
JPMORGAN CHASE (p.28)	

The corresponding profiles showcase the landscape of responses and practices implemented by the featured law departments, highlighting each of the law department’s practices.

THE LANDSCAPE

WHAT GCs VALUE MOST IN LAW FIRMS

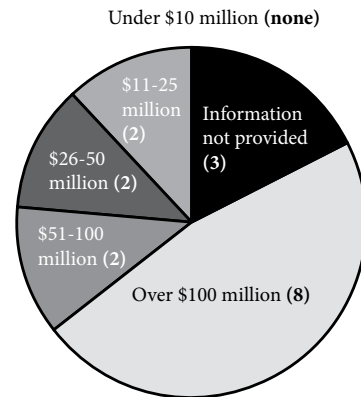
Asked to describe one of the things they value most in firms they work with, GC responses emphasized:

- **Partnership** – considering matters holistically; ability to partner with in-house counsel and other law firms; long-term relationship view; interest in working shoulder-to-shoulder; desire to engage meaningfully; willingness to share risks
- **Understanding the Business and Goals** – being passionate about company goals; helping the law department reach its goals; commitment to understanding what is important; sharing enterprise business objectives; understanding desired outcomes; willingness to invest in knowledge of company’s needs
- **Responsiveness** – providing the right people at the right times; being responsive and performing efficiently and effectively
- **High Quality Work in Cost Effective Manner** – great client service at a competitive cost; helping to reach goals and/or providing superior results in a cost-effective manner; providing services tailored to needs while keeping costs low and quality high
- **Innovation and Flexibility** – willingness to adapt to the law department’s approach; desire to provide innovative ways to help us reach our goals

WHAT THEY SPEND ON LAW FIRM SERVICES

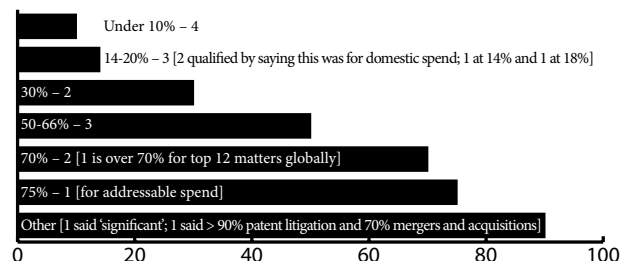
ACC asked the law departments to identify which “spend band” their department most closely fits. Here is what they said:

17 law departments were asked; 3 did not provide information on spend. Response options:



PERCENT OF LAW FIRM SPEND ON A VALUE-BASIS

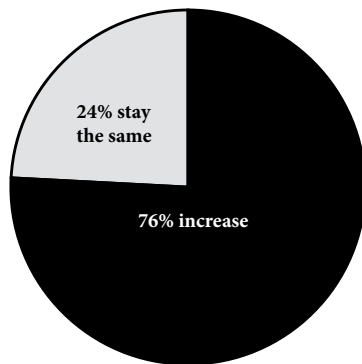
Of the 17 law departments, more than half indicated at least 30 percent of their law firm spend¹ was on a value basis. Four law departments indicated less than 10 percent of spend was on a value basis, and about 35 percent indicated between 50-75 percent was on a value basis. One law department noted that about 30 percent of spend and well over 50 percent of matters were handled using value-based arrangements. In addition, one law department noted that 90 percent of its patent litigation and 70 percent of its mergers and acquisitions work was handled on a value-basis. One law department noted that the percentage of spend on a value basis was “significant.”



¹ One qualified this as addressable spend, and one indicated it was for the top 12 matters globally.

CHANGE IN PERCENT OF VALUE-BASED SPEND OVER NEXT THREE YEARS

GCs were asked if they expect the percent of spend on a value basis to increase, decrease or stay the same over the next three years. Not one GC expected spend on a value basis to decrease. About 76 percent expect the percentage to increase (with one noting a slight increase), and about 24 percent expect the percentage to stay the same.



MOST VALUABLE PRACTICES

GCs were asked to identify one or two practices they found to be most valuable, or that provided the greatest results, from among the various value practices their law departments' implement.

- *Ediscovery practices and value-based fee approaches using fixed or flat fees top the list of most valuable practices.*

Additional practices highlighted as adding the most value and providing good results include:

- Document review practices
- Use of contract counsel
- Practices for managing outside counsel performance
- Use of effective fee terms
- Commitment to diversity
- Outsourcing contract work to legal process outsourcing vendors
- Focus on relationship building with outside counsel
- Value-based fee structures

- Use of RFPs for procuring legal services
- Relationship partners for law firm service providers
- Flex-time policies for in-house and law firm service providers

SAVINGS ATTRIBUTABLE TO VALUE-BASED FEE STRUCTURES & VALUE PRACTICES

What is the estimated cost savings from implementing the various types of value-practices? While a few law departments noted that savings were difficult to quantify, law departments generally noted both "soft" and "hard" estimated savings.

- **Soft savings** – Several leaders emphasized that value to the law department extends beyond 'hard cost savings,' and includes: increased budget predictability, better practices, better outcomes, improved processes that contribute to better decisions, stronger alignment with the business, greater confidence in the work product, decreased document production times and increased consistency across the litigation portfolio.
- **Estimated hard (dollar) savings** – responses sharing estimated percentages of dollar savings fell into three categories: general overall cost savings, savings from implementing value-based fee structures and savings from other types of value practices. *On page 5 is a high-level summary.*

HOW SAVINGS WERE CHARACTERIZED

General Savings	Savings from Value-Based Fee Structures	Savings from Other Value Practices
Millions of dollars	About 10-15%	About 25%
Several Millions of dollars	30-40% by bundling and concentrating work	About 80-90% on some matters due to ediscovery practices
30% over historical costs	10%	Bidding patent work saved 20%
About 15%	Fixed fee patent application work has decreased costs by 40% over the past seven years	Secondment arrangements yield 20-50% savings
Cut outside counsel costs by almost 60% over past four years [note: 66% of arrangements use value-based fee structures]	37% savings in global trademark portfolio fees over four years	Bidding fixed fee in immigration/outsourcing, saved more than 20%
Reduced outside counsel spend as a function of revenue by 25% over past 10+ years		Document review practices using staffing agencies instead of outside counsel, and litigation support practices, resulted in more than 50% savings during the first six months
10-20%		

TYPES OF VALUE-BASED FEE STRUCTURES

Responses received from the 17 law departments indicate that a broad range of value-based fee structures is being implemented. While one GC noted that the law department believes that all fee structures the department uses are value-based (including those based on the billable hour), most law departments described using multiple types of value-based fee structures.

- **Types of Matters** – Value-based fee structures are being used to handle a wide variety of work, including: transactional, litigation, environmental litigation, mergers and acquisitions, labor, employment, patent litigation, patent preparation and prosecution, immigration, corporate and securities, trademark, HIPAA and privacy, consumer class actions, real estate, environmental, plaintiff litigation, recoveries, ERISA benefits, research and development, compliance counseling, “trusted advisor” counseling and more.
- **Scope of Fee Arrangement** – Arrangements can be for: phases of litigation or a project, an entire matter or project, a portfolio or group of matters. For portfolios or groups of matters, scope may be set by defining a number of cases or matters, a geographical area, a type of matter, etc.
- **Duration & Payment Terms** – For portfolios of work or premier provider arrangements, a number of leaders described having annual or multi-year arrangements with monthly payments.

The landscape of fee structures being implemented by the 17 law departments is impressive. Some examples include:

FLAT or FIXED FEES

Per unit, matter, case, project or transaction [employment, patent preparation and prosecution, transactions, employment discrimination, anti-piracy, real estate transactions, employment discrimination, patent litigation, various types of litigation, technology deployment, technology procurement, patent prosecution, immigration matters, ERISA benefits, patent infringement, trade secret, commercial]

Per task, phase or segment [transactions and litigation, labor disputes, employment litigation, patent litigation]

Bulk: do all of 'x' in a designated region for \$x per month [pre-environmental litigation, environmental litigation, various other types of litigation]

Portfolio; Groups of Cases: annual or multi-year arrangements with monthly or quarterly or other interval payments [litigation, intellectual property, research and development, compliance counseling, transactions, trademark, HIPAA and privacy, corporate and securities, employment, pre-environmental litigation, environmental litigation, lost or damaged package litigation, environmental, single plaintiff employment, class actions, general liability litigation]

FIXED or TARGET FEES with success bonus, escape valves, holdback

Credit collections – 10 percent holdback/success fee based on results

Consumer class actions – escape valve if too many or too few

Affirmative recoveries – fixed fee with success bonus

Phases of employment litigation on fixed fees – with success bonuses

Patent cases – phased budgets with caps and kickers

Target fees with bands in litigation and mergers and acquisitions – if within bands, share

Fixed fees with success bonus – litigation

Fixed fees with success bonus: litigation – includes premium for successful summary judgment motions or defeating class action certification motions, etc.

Capped fees; Capped fees with saving sharing – litigation

CONTINGENT FEES – full or partial

Plaintiff litigation

Recoveries

RETAINERS

Access to expertise – monthly fees [corporate and securities, environmental, transactions]

Trusted advisor counseling – monthly fees for trusted advisor panels among premier firms

TYPES OF OTHER VALUE PRACTICES

Value practices implemented by law departments extend well beyond use of value-based fee structures. Following is a list of some of the types of other value practices departments are implementing:

STAFFING PRACTICES

Secondments – generally viewed as a ‘win-win,’ include arrangements where firm lawyers work on site within the law department for defined period of time (time frames described include three or six months or a year)

Part-time lawyers – using in-house lawyers on a part-time or project basis

Flex-time – we have implemented a flex-time policy within our legal department, which gives our attorneys greater flexibility in managing daily life activities with work obligations. In February of 2011 we required our outside counsel to implement flex-time policies for their attorneys

External legal project managers – law department uses project managers from contract vendors to help provide efficient management of discovery process and to help ensure prioritization of process and system

No first year associate charges – law department will not pay for services performed by first year associates

Use of contract counsel for document review and litigation and beyond – including practices that involve having preferred provider and law firms handling litigation use these providers

Legal process outsourcing – includes outsourcing higher volume, lower risk, repeatable work in the areas of litigation, IP and contracts (using both on and off-shore providers)

Insourcing – including bringing ediscovery in-house; also includes handling certain types of litigation and employment claims work in-house; one law department GC noted a strategy of trying to insource almost everything possible

BUDGETS & EBILLING

Budgeting data and analysis – on an ongoing basis, the law department analyzes cost structures and information to refine budgets and forecasts

Rigorous financial and substantive case reporting process – to help guide fee structure and litigation management efforts and includes budget forecasts and interim estimates of spend and reconciliations

Ebilling – enhances efficiency, implements business rules in connection with billing arrangements and guidelines, reduces legal staff time reviewing bills, improves data collection and reporting

EDISCOVERY & DOCUMENT MANAGEMENT

Ediscovery practices – include system for implementing ediscovery practices, in-sourcing, centralizing either in-house or externally under supervision of outside firm, slate of preferred vendors, use of national ediscovery counsel with bundled per-document fee; also noted for one department as including an “evidence lab” that reports through the litigation practice group; one law department described a collaborative process that is part of an ‘ACE’ continuous improvement methodology

Document review practices – include slate of preferred vendors, near-sourcing with review performed by contract lawyers and using off-shore document review services; also includes commoditization for larger matters, a fixed fee per document approach for second pass document review, and/or establishing fixed lower rates

LAW FIRM AND LEGAL SERVICE VENDOR RELATIONSHIPS

Law firm relationship partner practices – including annual meetings with key law firm relationship partners to discuss performance; one law department also described a process for having the firm nominate candidates to become relationship partners with a required nominee slate that includes a candidate that is diverse, a woman and a lawyer on a flex-time schedule

In-house lawyers identify goals and objectives for engagement before contacting outside counsel

In-house leaders – in-house leaders on point for managing relationships with key firms

In-house steering committee – team of in-house leaders who set strategy for alliance program

Vendor management practices – includes coordinating activities of litigation support and e-discovery vendors, working in collaboration with outside counsel

Preferred onshore and offshore support vendors – arrangements with various external legal service providers for services that include ediscovery, document review and copying services

RFP process – for outside counsel and ediscovery vendor selection and for litigation and non-litigation panel firm selection; one law department noted using the process to reduce the number of law firms regularly used from 300 to 46

Live auction/competitive bidding process for vendors – allows vendors bidding on company business to view how they rank against competitors during the process

Convergence; using fewer total but more regional and mid-tier firms – transitioning work to fewer firms, including firms described as regional and/or mid- and lower-tier

Free hours – receiving counseling and advice from law firms without being charged

Special project research services – performed by law firm at no additional cost to the law department

Preferred outside counsel programs – includes having lists of preferred providers; arrangements vary

Metrics – to measure and compare the true value received from outside counsel spend

Law department off-site meetings – including meetings with law firms to share insights

KNOWLEDGE, TRAINING & TECHNOLOGY

CLE training and collaborative workshops – training provided by law firms; collaborative workshops among in-house and law firm lawyers; internal legal college programs for personnel at different levels (including one track for administrative personnel and paralegals and another for attorneys)

Knowledge sharing – increasing capability to package relevant documents and external components that allow limited access to law firm service providers and others within the company

Technology platforms – including website dedicated to communications with firms within the preferred alliance, shared extranets that allow in-house counsel and outside law firms to work collaboratively, law firm access to matter management platforms to help centralize information and eliminate waste

DIVERSITY AND PRO BONO

Pro bono services – performed by members of the law department in conjunction with firms and/or others

Diversity and talent development – commitment to diversity that ensures diverse team members play meaningful roles in assigned projects

Supplier diversity – practices include monitoring and selecting vendors whose talents and experience reflects the company's diverse customer base

Enhanced Diversity Metrics – we are developing a scorecard by which we can review the diversity efforts of law firms and grade them accordingly. This will help our law department determine which law firms to retain

SUBJECT AREA-SPECIFIC PRACTICES

Early case assessments – law firms perform these assessments and seek resolution where possible and practical

Litigation management practices – including frequent case updates to continue periodic review of docket for assessment and resolution and practices that allow the litigation management team to allocate spend by risk, control tasks performed and manage level of resource dedicated to tasks

Significant litigation management program – based on a gated process to enhance coordination and leverage internal expertise; matters that hit a certain dollar threshold qualify for the process, which includes assessment of the matter; analysis of alternative fee structures, outside counsel retention and a debrief gate

Phases for litigation – practice includes separating larger litigation matters into phases and implementing fee arrangements based on the phase of case

Global trademark portfolio review – assessed work and reconfirmed department's approaches relative to other models while also identifying specific areas to become more efficient

Litigation file room – allows department to host relevant documents on a site for access by in-house and law firm lawyers

EFFICIENCY & MISC.

Standardized forms and templates – one law department notes reducing the number of forms by more than 60 percent

Collaborative efficiency efforts – including lean six sigma and legal project management; eliminate low value work and increase efficiencies to do work more cheaply; scale work

Leveraging company programs – law department leverages good practices implemented elsewhere in the company (including print services and travel)

CLO Executive Bulletin

The CLO Executive Bulletin is an e-newsletter designed exclusively for CLOs. Get perspectives from leading CLOs on current legal issues or browse executive briefings that highlight recent ACC public policy initiatives undertaken on behalf of the bar. This e-newsletter also features other resources of particular interest to law department leaders.

www.acc.com/clo



RESOU

ACC Value Champions

ACC Value Champions are law department and law firm leaders who have made great strides in improving the value of legal spending. By implementing pricing and other management practices advocated as part of the ACC Value Challenge, you could be recognized as an ACC Value Champion. Tell us your story.

www.acc.com/valuechamps

Legal Service Management Workshop

For both in-house and outside counsel who have begun to implement value-based fee structures, ACC's Legal Service Management Workshop offers two days of learning and discussion to build the skills needed to implement those new arrangements. You will learn how to assess and set fees, implement project management techniques, and use new tools and technology to build efficiency.

www.acc.com/legalservicemanagement

URCE REMINDERS

ACC Advocacy

ACC is the voice of the in-house bar, fighting for both our members' professional rights and their clients' representational needs before courts, media, government agencies, legislatures and bar groups. See what we're fighting for.

www.acc.com/advocacy

AMERISOURCEBERGEN CORPORATION

2011 Fortune Ranking: #27

Mr. John G. Chou

Senior Vice President, General Counsel & Secretary



“One of the things I value most in firms that provide service to us is firms that aren’t obsessed with economics. It’s very apparent when a firm is driven by economics versus professionalism; lawyers from the firms that are driven by economics seem to operate under an edict of resist cost-efficiency if at all possible. I value firms that think of themselves as being part of a profession, and that provide effective and efficient, creative legal services. I have walked away from firms whose rates continue to increase from year-to-year. I don’t know when it became the ‘norm’ for law firm lawyers to believe they’re entitled to earn \$1 million plus.”

“A key challenge goes to relationships: given the increasingly economic nature of the relationship with law firms, it is challenging to work with lawyers who are friends or even longstanding acquaintances because inevitably there is a need to have difficult conversations about fees. Law firms that are overly focused on economics rather than providing professional service make the relationship side of things challenging.”

AMERISOURCEBERGEN LAW DEPARTMENT

The legal team includes about 45 people (including 21 in-house lawyers), located primarily in Philadelphia, Charlotte and Dallas. Overall, the department includes about 110 people, including corporate security, regulatory affairs and government affairs.

OUTSIDE COUNSEL SPEND

\$11-25 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Less than 10 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase; the percentage of work handled on a value basis will increase. Our budget needs to stay flat, and we plan to move towards implementing more value-based fee structures. We are implementing practices to enhance our internal data collection on outside counsel spend, which will help us explore implementing value-based fees on a portfolio basis in the future.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Flat fees for specific projects** – pre-negotiated flat fee arrangements for specific defined projects, including for projects in the labor and employment area (assessment of pay equity, assessment of job classifications, etc.)
- **Fixed fees for certain types of repetitive cases** – example includes [\$X] for handling an employment discrimination case, etc.
- **Deep discounts plus success fees** – in the merger and acquisition area, 25-40 percent discount from normal rates; if deal closes successfully, then success fee can take the amount paid to full rate or up to 10 percent over in some cases depending on parameters of results

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Secondments** – the law department is receiving secondment services from firms to help fill gaps or handle temporary peaks in work; secondments are at independent contractor rates rather than firm rates
- **Centralized ediscovery** – installing internal system; have slate of legal service vendors that the law department requires law firms to use for ediscovery and discovery database management
- **Document review** – require outside counsel to use pre-selected legal service vendors for document review
- **Training** – leverage outside counsel's expertise and firms provide CLE to law department

ESTIMATED COST SAVINGS

10 – 15 percent on outside counsel fees; up to 25 percent savings for other value practices

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Ediscovery and document reviews – The law department mandates that law firms use approved vendors to manage collection of electronic information and loading into databases; vendors provide services at pre-negotiated rates with the law department; services performed on a virtual basis or at the vendor location; one law firm oversees the ediscovery/document process for the law department.

BANK OF AMERICA CORP.

2011 Fortune Ranking: #5

Mr. Edward O'Keefe

General Counsel



“One of the things I value most in law firms that provide service to us is the partnership we develop. Law firm compensation structures should incent their practitioners to provide superior work product in the most efficient manner. I want external law firms to consider our matters holistically, as a portfolio, and thoughtfully reflect on the manner in which even seemingly unique, complex issues impact the others.”

BANK OF AMERICA LAW DEPARTMENT

The law department has more than 1000 people, including over 500 attorneys. We are located in roughly 60 offices in 17 countries; we have 40 offices in the United States.

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Well over 50 percent of our matters are handled using value-based fee structures. In some practice areas, the percentage is as high as 80-90 percent. Overall, about 30 percent of outside counsel spend is structured using value-based fee arrangements.

As a department, we analyze the risk and value of each matter. Our litigators, for instance, manage legal and reputational risk. We study the manner in which services are delivered and engage the best minds to work as a team in solving more complex matters, which comprise a significant amount of our spend. On the major issues, we employ a 'virtual law firm' concept that includes our in-house attorneys coordinating a virtual team of the best talent in each specialty area from multiple law firms to provide the best service to the company.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

Our department uses an e-billing system, and we've analyzed data from the past five or six years to address several big pockets of work and determine the value of specific legal activities (e.g., a litigation case, a real estate transaction, a problem loan matter, etc.).

Following are some types of value-based fee arrangements we're currently implementing:

- **Bulk or flat fees** – for example, do all of 'x' for a certain region for \$x per month. This type of arrangement concentrates the work and encourages firms to become more efficient while delivering superior work product
- **Fixed fees per matter** – specific negotiated amount for handling a given matter
- **Fixed fees per stage of matter** – primarily in the labor and immigration contexts, sets fixed fees for various stages of a matter; if settled before a stage, then a fixed payment of 'x'
- **Litigation matters** – very strict budgeting for litigation matters, including number of depositions, staffing, etc. Some portions may be on a flat-fee basis and some may be by the hour

The department doesn't consider blended rates to be a very effective means of implementing value-based fee structures. Such an approach incents law firms to staff with more junior talent, and matters requiring hourly work tend to be more complex and less predictable.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Centralized ediscovery systems** – hand-in-hand with centralized e-discovery systems and practices, the department has a document database, and uses contract lawyers overseen by two law firms to handle first level document review; team of contract lawyers is experienced and consistent, which results in accuracy and cost savings.
- **Near-sourced document review by contract lawyers** – hand-in-hand with centralized e-discovery systems and practices, the department has a document database, and uses contract lawyers overseen by two law firms to handle first level document review; team of contract lawyers is experienced and consistent, which results in accuracy and cost savings.
- **Secondments** – usually implemented for short durations (three to six months) and result in two-way downstream positive effect; may use if have a bubble of work or a new product — track to see whether the product and work is growing; gives the department an opportunity to study a situation and determine whether in-house staffing makes sense; arrangements have ranged from no cost to direct cost (e.g. no overhead or profit)
- **Knowledge sharing** – the department is greatly increasing and has capability to package relevant documents and allow limited access to certain law firm service providers and others within the company
- **Litigation file room** – allows us to host relevant documents on a site; in-house counsel and outside firms working on a matter can access the documents; more efficient use of technology helps avoid large email attachments
- **Attorney off-sites** – we hold off-sites with multiple external firms to share insights about both the company and the broader external environment; valuable to leverage expertise in evolving regulatory environment; provokes dialogue and escalates issues
- **Pro bono service** – we strongly encourage pro bono service, including work with Street Law, Council of Children's Rights, and more

ESTIMATED COST SAVINGS

Very significant, about 80-90 percent on some matters by implementing the ediscovery practices noted above. Also, bundling and concentrating work sent to a firm can save about 30-40 percent in costs while driving consistent results.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Flat fees– For either (1) a whole matter, (2) for larger matters — to a certain stage of a matter, or (3) groups of matters; these types of fee structures incent the firm to resolve the work efficiently with exceptional results, while providing predictability and cost management.

CARDINAL HEALTH, INC.

2011 Fortune Ranking: #19

Mr. Stephen Falk

Executive Vice President, General Counsel & Corporate Secretary



“One of the things I value most in firms are those that bring creativity, passion and pragmatism to their legal advice — this helps improve the value we derive from the relationship, the results we achieve and the degree of trust. We tend to hire firms whose lawyers are as passionate about our business and goals as our in-house counsel are — lawyers who are proactively thinking about our issues — not just when they’re on the phone with us or when specifically asked for advice, but when we don’t expect it.”

“A real challenge that we face is improving the alignment of our interests — both financial and strategic — with those of our outside counsel. The best value-based engagements are those that create alignment and incentivize the elimination of waste and excessive work. The firms that are most successful exhibit a firm-wide zeal for value-based arrangements and a demonstrated track record of success with these types of engagements. Firms that struggle are those where the value-based arrangement is a thin veneer covering an underlying economic structure based on the billable hour.”

CARDINAL HEALTH LAW DEPARTMENT

The legal team includes about 60 people (including 35 in-house lawyers), located in about five locations in and throughout the United States.

OUTSIDE COUNSEL SPEND

\$11-25 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

15-20 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Slightly increase; the department will continue to push hard and look for new ways to work with outside firms on a value-basis.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Fixed fee for single plaintiff employment matters** – annual arrangement for a fixed fee, with monthly payments; law department has been implementing these practices for three years
- **Fixed fee for counseling and advice on corporate and securities** – annual arrangement with monthly payments; law department has been implementing these practices for five years
- **Fixed fee for trademark work** – annual arrangement with monthly payments
- **Fixed fee for counseling and advice on HIPAA and Privacy** – annual arrangement with monthly payments
- **Fixed fee with hold-back and success fees based on results** – for credit collection matters; fixed fee plus 10 percent hold-back awarded at each quarter-end based on results (include qualitative parameters)
- **Additional litigation on value-based fee structures** – for both plaintiff and defense work, on a case-by-case basis; the law department reaches out to several firms within preferred provider network, describes project and asks for proposals for handling on a value-basis pursuant to a mini-RFP process

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Secondments** – arrangements with firms that have excess capacity; provides opportunities for firm associates to get training and also to enhance alignment with clients; secondments are usually three months, and fees are on a substantial discount; viewed as win-win
- **Contract counsel for document review and litigation** – law department has preferred provider for contract legal services and firms handling litigation use contract service providers
- **In-house ediscovery team** – law department has almost eliminated use of large outside vendors and now hosts ediscovery in-house; two staff members from the compliance department lead this
- **Transitioning work to fewer firms** – driving more work to firms that are considered mid or lower-tier firms
- **CLE** – law firms are providing CLE and employee training sessions
- **“Free hours”** – counseling and advice without fees associated
- **Special project research** – at no additional cost

ESTIMATED COST SAVINGS

N/A

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

- **Ediscovery** – has been a valuable practice in terms of overall dollars saved; litigation is the largest portion of the law department’s budget—so these practices help control spend
- **Use of contract counsel** – also a valuable practice in terms of dollars saved

DELL INC.

2011 Fortune Ranking: #41

Mr. Lawrence P. Tu

Senior Vice President and General Counsel



“One of the things I value most in firms that provide service to us is their commitment to understanding what is important to us and their willingness and ability to adapt to our approach to law practice. While many firms have the necessary technical expertise, only some will deliver that expertise in a manner that meets our needs. Those are the firms and the lawyers we look for.”

“A key lesson learned is that it is indispensable for us to develop strong relationships with trusted law firms. Without that we cannot do our jobs. A key challenge is establishing and managing those relationships.”

DELL LAW DEPARTMENT

Our law department includes 260 people, including 130 in-house lawyers in approximately 25 locations around the world.

OUTSIDE COUNSEL SPEND

\$51-100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

We currently use value-based fee structures in some but not all practice areas. 90 percent of our patent litigation cases are structured on a fixed fee basis. In addition, 70 percent of our mergers and acquisitions cases are on a fixed fee basis.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Fixed fees** – Examples of areas where we use fixed fees include patent litigation and patent preparation and prosecution. For litigation, we structure fee arrangements by dividing the litigation into phases and setting monthly fixed fees in each phase. With predictable case schedules in most venues, this translates to a fixed fee for the litigation. For patent preparation and prosecution, we set fixed fees for attorney time for new patent filing preparation and for office action responses. The fee for those projects is set ahead of time which adds greater predictability to our spend for budget planning purposes. We also use fixed-fee arrangements for much of our mergers and acquisition work.
- **Contingent fees** – We implement these types of fee structures for plaintiff litigation work.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Convergence efforts** – Is focused on consolidation and selective use of lower-cost and or highly efficient regional and local legal service providers and contractors.
- **Preferred provider discounts** – The law department implements practices that include having a list of preferred providers for outside counsel services; standard negotiated discounts are part of these arrangements.
- **Early case assessments** – We regularly request that counsel provide early case assessments and seek early resolution where possible and practical.
- **Litigation management practices** – We require frequent cases updates to continue periodic review of the docket for assessment and resolution.

ESTIMATED COST SAVINGS

Overall cost savings are difficult to reliably estimate or substantiate. Our expectation is that the value-based fee arrangements that we currently have in place are effectively cost-neutral. However, the key incentive for using these arrangements is that they greatly increase the predictability of spending expense across months and quarters, thereby increasing our budget forecasting and planning accuracy.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

All of the above practices have netted benefits to the law department and company. Benefits of each of the above practices are unique to the different practice areas where we use alternative fee arrangements.

EXXON MOBIL CORPORATION

2011 Fortune Ranking: #2

Mr. S. Jack Balagia, Jr.

Vice President and General Counsel



“Among the characteristics we value in our outside counsel is the ability to partner with in-house counsel, and in some instances with other outside counsel, to work cooperatively in achieving the best results for the clients.”

“We expect our lawyers to be active and engaged in their respective law communities, to be reflective of those communities, and to adhere to the highest ethical standards.”

EXXON MOBIL CORPORATION LAW DEPARTMENT

The Law Department includes over 460 in-house lawyers who support the company's vast operations, involving over 80,000 employees across the globe.

OUTSIDE COUNSEL SPEND

Like other multi-national companies with sophisticated operations, ExxonMobil expends substantial resources on legal services to support worldwide operations.

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

ExxonMobil's law department is consistently mindful of obtaining superior results and excellent value for the resources spent, focusing on both quality and efficiency of law firms and vendors.

The law department spends a significant portion of its outside counsel budget on legal services under fee terms that are value-based, as opposed to hourly rate. Examples include fixed fees or flat fees for various types of work regarding litigation and transactional matters. We find that these value-based fee structures are most effective when the nature of the underlying work is somewhat predictable in terms of volume and repetitive in terms of scope.

We are constantly evaluating alternative approaches including flat fees, value-based fee structures and opportunities to package work to achieve economies of scale. At the same time, we continue to vigorously manage hourly rates with tiered volume discounts where it makes sense to do so.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase; we remain open-minded with respect to value-based fee structures and are interested in exploring all types of fee arrangements that provide value to the company and to firms. In addition, we often have opportunities to work with new firms and new talent, beyond the strong number of core firms on our slate of service providers. One of the factors that hinder more widespread use of value-based billing is that law firms and clients continue to measure the success of the fee arrangement based on hours and hourly rates.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

As noted, we use fixed/flat fees on different types of matters and for different pieces of work. Examples include litigation and transactional matters. We also utilize effective fixed fee agreements in the context of pre-litigation environmental disputes.

- **Flat fees for environmental litigation matters** – The law department has arrangements with firms who handle on a flat fee basis certain types of environmental litigation matters (including pre-trial, trial and appellate work) within a defined geographic region.
- **Flat fees for transactional matters** – Firms handle defined transactional projects on a flat fee basis.
- **Fixed fees for pre-litigation environmental matters** – The law department has arrangements with firms who handle on a flat-fee basis pre-litigation environmental matters (e.g., claims and/or access matters) within a designated geographic area; an amount is set for the year, and payments are made monthly. On a periodic basis, the law firm and law department meet to review the arrangement to ensure that the respective exceptions of the Company and firm are being met.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Annual Law Firm Review Meetings.** We are actively focused on evaluating outside counsel's performance across various domains, including: results, quality, responsiveness, efficiency, diversity, and compliance with ExxonMobil guidelines. This process entails annual meetings with key law firm relationship partners to discuss overall performance and results as tracked by the law department.
- **Diversity and Talent Development.** These are important attributes in terms of ExxonMobil's relationship with its outside counsel. We remain focused on exploring ways to expand diversity and reflect broad perspectives on the legal teams representing ExxonMobil across the country and around the globe. Our commitment to diversity also includes ensuring that diverse team members play a meaningful role in the assigned project.
- **Budgeting and Data Analysis.** The law department regularly analyzes cost structures and financial information to refine budgets and forecasts. Areas of particular focus include sound use of templates and scope assumptions. This information is centrally stored and accessed for future use as well.
- **Centralized Ediscovery.** For several years now, we have been building a robust, centralized ediscovery process that is handled primarily in-house. The centralized team of 15-20 professionals works closely with our global Information Technology organization, and focuses on efficient and coordinated processes designed to meet legal requirements and reduce costs.
- **Vendor Management.** We coordinate the activities of litigation support and ediscovery vendors, working in collaboration with outside counsel. We regularly review these relationships, and perform periodic security and controls examinations to address potential gaps. We further seek to ensure that we receive cost competitive pricing from third party vendors.

ESTIMATED COST SAVINGS

The foregoing efforts have saved the company millions of dollars while enabling the law department and its outside counsel teams to deliver the highest quality legal services. In addition, these improved processes have contributed to better decision-making, stronger alignment with the business, and increased productivity with respect to legal services.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

The most valuable practices are those that enable us — inside and outside counsel together — to efficiently deliver the greatest results for our clients. Keys to success: managing law firm performance, use of effective fee terms, commitment to diversity, and sound management overall.

FORD MOTOR COMPANY

2011 Fortune Ranking: #10

Mr. David Leitch

General Counsel and Group Vice President



“I value law firms that employ and share our enterprise objectives and have a view toward a long-term relationship with Ford. Firms that view their representation of Ford as a way to meet their own short-term objectives are not likely to enjoy a successful relationship with us.”

“The automotive crisis and the economic downturn have made even more clear the need for in-house legal staff to have objectives that are aligned with critical business needs; we cannot operate in isolation from the business itself.”

FORD LAW DEPARTMENT

The law department includes 361 people (including 146 in-house lawyers), located primarily in 11 jurisdictions around the world. The law department also includes the chief tax counsel and her team, plus internal audit.

OUTSIDE COUNSEL SPEND

Over 100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

70 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Stay the same

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Flat fee arrangements for various types of litigation** – annual arrangements with various firms for handling work on a flat fee basis; payments are on a monthly basis

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Ebilling** – adds value by enhancing efficiency, reducing legal staff time reviewing and managing bills, and improves data collection and reporting
- **Centralized in-house ediscovery** – Ford handles ediscovery in-house via a centralized team that reports to a senior in-house lawyer; prior to handling ediscovery in-house, the law department had an outside firm manage its ediscovery
- **Secondments** – associates from some of the firms the law department works closely with have participated in secondment arrangements. In specific, the law department has implemented secondments in the IP and tax areas; some have been at no cost to the law department and some at a reduced fee. Length of secondments has been six months.
- **Insourcing** – the law department insourced its ediscovery work

ESTIMATED COST SAVINGS

Not disclosed

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

The value practice that has probably provided the greatest results to date is use of flat fee retainers for litigation work.

FREDDIE MAC

2011 Fortune Ranking: #20

Mr. Robert E. Bostrom

Former Executive Vice President, General Counsel and Secretary



“One of the things I value most about firms I work with is 24/7 responsiveness, partner attention, expertise, and willingness to truly partner with us.”

“A key challenge is finding the right partner at the right law firm and the willingness to enter into alternative fee arrangements.”

FREDDIE MAC LAW DEPARTMENT

The law department includes 200 people (including 105 in-house lawyers), all located in McLean, VA.

OUTSIDE COUNSEL SPEND

Like other companies with sophisticated operations, Freddie Mac expends internal and external resources on legal services to support its operations. However, Freddie Mac has opted to heavily focus on internal resources because it is more cost effective since the complex and highly specialized nature of our business. We use outside counsel for specific areas of expertise and bet the company litigation.

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Approximately 30%

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Stay the same.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Fixed fees** – a variety of individual or one-off projects are handled on a fixed fee basis.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **e-discovery** – Freddie Mac is taking its discovery practices in-house. Historically, this work was outsourced to an external vendor. The law department is building internal processes with the outside vendor, and has an internal team on point to implement these practices. The new e-discovery services will be 'end-to-end,' and the internal team includes IT discovery professionals supported by in-house lawyers.
- **Contract attorneys** – the law department uses contract attorneys to conduct document review; as part of these practices, the law department issued an RFP to a number of staffing firms to help encourage them to propose more favorable cost structures
- **Part-time lawyers** – the law department is also starting to hire lawyers on a part-time or project basis to handle work for the company.

ESTIMATED COST SAVINGS

Estimated savings from the above and other cost-effective practices is about 30% over historical costs; the percentage is larger if looking at e-discovery savings alone.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

The best value-add practice to date has been the insourcing of e-discovery.

HEWLETT-PACKARD COMPANY

2011 Fortune Ranking: #11

Mr. David W. Healy

General Counsel (Acting)



“A key challenge or lesson learned is that it is critical to spend the time up front to build a successful partnership -- but it's worth it to reap the benefits for the long-term.”

HEWLETT-PACKARD COMPANY LAW DEPARTMENT

The legal team includes approximately 900 employees within the legal department including attorneys and non-attorneys (Legal also manages Privacy, Ethics & Compliance and HP IP Licensing). On a worldwide basis, we have over 450 attorneys working in the Americas, EMEA (Europe, Middle East and Africa) and APJ (Asia, Pacific and Japan).

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Currently, five to 10 percent of fee arrangements are something other than billable hour or flat rate billable hour. HP believes that it is possible to calculate an hourly rate using value criteria, and we believe that all of our fee arrangements are value-based.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Stay the same; we will continue to use value-based fee structures. The exact proportion of our work performed pursuant to a specific fee structure (fixed fee, flat rate, hourly rate, etc.) will depend upon the specifics of the litigation inventory — commodity or small cases versus larger, more complicated cases.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **General** – We believe that all fee structures we use, whether fixed fee, pure billable hour, or some other alternative, are “value-based” fee structures. We make determinations as to which fee structure will provide the best value to the company given the specific case or type of case involved and our current litigation management structure and philosophy.
- **Fixed fee arrangements for groups of cases by type** – e.g., small consumer or employment claims
- **Fixed fee in individualized cases** – including patent infringement, trade secret and commercial cases
- **Fixed fee with a success bonus in individualized cases** – such as affirmative recovery matters
- **Flat rate for ediscovery work**

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **RFP process** – for outside counsel and for discovery vendors that is intended to drive value for HP in litigation
- **“Intense litigation management” process** – intended to drive value in our outside counsel spend by allowing the litigation management team to allocate spend by risk (based upon an understanding of individual case risk as it fits within the entire body of litigation risk), to control tasks performed, and to manage the level of resource dedicated to a task
- **Rigorous financial and substantive case reporting process** – guides the various fee structure and litigation management efforts; the process includes budget forecasts, interim estimates of spend and reconciliations of differences
- **Metrics** – intended to measure and compare the true value in the outside counsel spend rather than relying upon assumptions made about a specific type of fee arrangement
- **In-sourced some types of litigation and have standardized our budget process** – with outside counsel as a means of extracting value and ensuring alignment of expectations regarding spend on a particular litigation matter
- **In-sourced some employment claims work**
- **Centralized ediscovery** – the in-house ediscovery team establishes ediscovery guidelines to be used by vendors and outside counsel. The ediscovery team also runs HP’s RFP for both ediscovery vendors and contract document reviewers
- **Use of contract personnel to conduct document review** – several years ago, we moved to a model that required all firms to use contract document reviewers. That work was primarily on-shore but today, we have the ability to send that work on-shore or off-shore given our vendor relationships
- **Secondments** – used most typically to cover for attorneys out on extended leave
- **Legal process outsourcing (LPO)** – HP legal has aggressively pursued LPO as a key priority for the last two years. The department’s focus on LPO supports its overall goal to provide the best legal support to its clients. By leveraging LPO resources, opportunities are created for HP attorneys, contract managers and contract negotiators to focus their advice on more strategic or complex matters that add more value to our businesses. Outsourced work includes: higher volume, lower risk, and repeatable work in the areas of litigation, IP and contract and procurement support. The services are carried out by a combination of on-shore and off-shore providers in English language. HP is currently expanding support to non-English language services.

ESTIMATED COST SAVINGS

Estimated cost savings are 10 percent.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

- **Centralizing discovery processes and vendors** – This resulted in the most immediate impact; helped ensure that we no longer paid hundreds of dollars an hour for first level document review. HP did this years ago, and at the time, it was revolutionary and there was real pushback from both our in-house attorneys and our outside counsel.
- **Contract work outsourced to LPO providers** – We have found significant value add in the following areas: responding to customers’ requests for tenders or proposals; contract analysis; confidentiality agreements; contractual amendments, addendums, change orders, renewals, extensions, terminations; contract and template comparisons, etc.

JPMORGAN CHASE

2011 Fortune Ranking: #13

Mr. Stephen M. Cutler

Executive Vice President, General Counsel and Head of Legal and Compliance



“One of the things I value most in firms that provide service to us is high quality work that is responsive to the firm’s needs and performed efficiently and effectively.”

“A key challenge or lesson learned is to carefully supervise and closely manage outside counsel because in the end, it is our reputation on the line.”

JPMORGAN CHASE LAW DEPARTMENT

At the end of 2010, our law department includes 1,163 people, including 672 in-house lawyers located in 35 countries locations around the world.

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

In 2010, 14 percent of our domestic spend was value-based.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

Our law department uses value-based fee arrangements in both the transactional and litigation contexts. More specifically:

- **Capped fees** – used more in the litigation context
- **Portfolio retainers** – used more in the litigation context, an entire body of work is handled on a retainer basis (e.g., all class actions or all derivative document work or all of ‘x’ in a year is handled for a set sum); volume and retainer amounts are determined by looking at prior history of spend and workload data
- **Flat fees** – for a specific task or phase or segment of work (used both in the transaction and litigation contexts)
- **Fixed fees** – when the entirety of the work is handled for a set sum (used both in the transaction and litigation contexts)

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Secondments** – use to cover staffing gaps and for special project work; have used secondments for a range of staffing levels, including paralegals and experienced lawyers; offers great exposure to the law department and company’s business processes
- **Centralized ediscovery in-house: “evidence lab”** – the law department has created an evidence lab; the lab reports through the litigation practice group and includes skilled professionals in technology and ediscovery (collection, initial processing and review); the law department works with legal service vendors to host the data and make it available to outside counsel; use of contract vendors is encouraged to provide domestic, second-pass review services
- **Off-shore document review** – the law department sourced and developed cost management practices around anything collateral to the delivery of legal services, and has a relationship with several vendors off-shore to provide document review services; in addition, the off-shore providers are reviewing some contracts and handling some contract negotiations; providers are located in India and the Philippines
- **External legal project managers** – the law department uses project managers from contract vendors to help provide sleek, efficient management of the discovery process and to help ensure smooth prioritization of review, and that the work gets done in the right order by the right resources without redundancies; project managers are independent of the law firms working on matters and report to JPMorgan Chase
- **Commoditization** – for larger matters, a fixed fee per document approach for second-pass document review by outside counsel; establishing fixed low rates for second-pass review by outside counsel and for file management work by paralegals

ESTIMATED COST SAVINGS

We estimate savings of 10 percent of domestic spend from implementation of the above practices (primarily from centralized ediscovery and use of managed review vendors).

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Practices that have provided the greatest results include flat fee and fixed fee arrangements, and centralized ediscovery and managed review vendors.

MICROSOFT CORPORATION

2011 Fortune Ranking: #38

Mr. Brad Smith

General Counsel and Senior Vice President, Legal and Corporate Affairs



“I place a high value on a firm that understands the outcomes we are driving toward and has the laser focus needed to ensure it is putting the right people on the right topics and projects at the times we most need them.”

“There’s no substitution for early collaboration on goals and processes. We’ve learned that when our law firm partners dig into and analyze data with us — whether it’s on rates, or an assessment of fixed-fee opportunities, or planning for diversity — the results are always better and the relationship usually grows stronger in the process.”

MICROSOFT LAW DEPARTMENT- LEGAL AND CORPORATE AFFAIRS (LCA)

Microsoft’s Legal and Corporate Affairs Group (LCA) is a multi-disciplinary team of roughly 1,000 employees. The department includes approximately 460 lawyers, 170 paralegals, 205 business professionals, 115 corporate and government affairs professionals, and 50 business support professionals. LCA has people in 68 locations and 44 countries.

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

51 percent (about 65 percent from the department’s patent and trademark services)

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

Given the range of our business, the size of our department, and the; number of firms we regularly work with, we’ve employed many forms of value-based billing, including flat fees for portfolios or projects, fixed fees with success bonuses, contingency fees and more. For any matter, we try to optimally align the interests of our outside counsel with the interests and needs of our lawyers and our clients. We encourage and reward innovative suggestions from our outside counsel and we regularly review our spend for strategic opportunities.

Following are some specific examples and contexts for using value-based fee arrangements:

- **Fixed fees for patent litigation** – the arrangement includes having a firm handle a defined number of litigation cases (not including appeals) over a three-year period; payments are monthly; the overall fixed fee is set by reviewing average litigation costs and discussing good faith parameters
- **Anti-piracy cases on a fixed fee basis** – the law department has identified a block of cases or matters relating to anti-piracy efforts that can be handled on a fixed fee basis; arrangements generally set a fixed fee per case; the law department also implements some practices to have a firm handle ‘x’ cases per year for a set fee
- **Patent applications and prosecutions on flat fee basis** – the law department sets a flat fee per patent (pre-defined on a per unit basis)
- **Monthly Retainers for Trusted Advisor Relationships** – the law department has identified nine ‘premier provider firms;’ as part of these overall relationships, ‘trusted advisor panels’ consisting of around five to seven lawyers are created by subject matter within the firms; the law department pays a monthly retainer for these services and the firms provide 60 to 90-minute presentations on a given question or topic

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Centralized ediscovery systems** – This is handled by a centralized in-house team that is led by a director of ediscovery (a new role within the department); allows the law department to have primary control over the data and helps to enhance efficiency and avoid reinventing the wheel; in-house team includes paralegals and analysts and practices include a robust technology process.
- **Collaborative efficiency improvement efforts, including:**
 - **Lean six sigma** – The LCA’s primary focus for these efforts has been in the patent application and prosecution process; the LCA teams with a premier provider firm to identify inefficiencies in the workflow, how workflow is assigned, and to determine better ways to provide end-to-end flow.
 - **Legal project management** – We’re implementing legal project management in connection with litigation cases. More specifically, the department is building training in-house and outside counsel to implement these practices (currently in the pilot phase); training includes sessions to help lawyers understand various phases of litigation, including scoping, transparent communications, milestones, checkpoints and after action discussions. In addition, the initial pilot phase includes weekly meetings with outside counsel who will be implementing these practices to discuss tools and elements.
- **Outsourcing** – We have invested a good deal of attention in optimizing outsourcing strategies, and increasing the outsourced work significantly -- especially to India.
- **Secondments** – We have a fair number of secondments (between two and five per year) including some free-of-charge, from our Premier Providers who seek to expose their young attorneys to our business, products and methods.
- **Standardized forms and templates** – We have standardized the forms and templates used for agreements, and have reduced the number of forms by more than 60 percent.

ESTIMATED COST SAVINGS

We’ve experienced savings in a number of areas:

- Fixed fee patent application work cost has decreased by 40 percent over seven years
- Bidding patent litigation work has saved 20 percent
- Fixed fee work on patent litigation has saved more than 20 percent
- Bidding fixed fee work in immigration and outsourcing has saved more than 20 percent
- Secondment arrangements have saved 20-50 percent

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Bidding work on a fixed fee basis has yielded the greatest cost savings.

PFIZER INC.

2011 Fortune Ranking: #31

Ms. Amy Schulman*Senior Vice President and General Counsel*

“What I most value from our firms is a real desire to engage meaningfully with me, my lawyers and the other firms in our Alliance. We want lawyers who are interested in working shoulder-to-shoulder to solve Pfizer’s most pressing problems creatively and efficiently. I value the willingness of firms to embrace a new mind-set and collaborate rather than compete.”

“One of our key challenges in establishing the Alliance arises from our determination to build it together with our firms. We were designing a brand-new way of valuing legal services, and we felt it was critical that our member firms had a say in how we were establishing processes and measuring performance. As a result, we experienced inevitable growing pains as we worked in real time to set expectations for each matter, specifically define value in the Alliance model and track progress. About a year into the Alliance, we brought on a chief counsel who could focus more fully on our operations, and we assigned Pfizer lawyers to act as liaisons for each firm. With the benefit of hindsight, I would have done this much sooner because it dramatically improved the quality of our communication and trouble-shooting”

PFIZER LAW DEPARTMENT

The Pfizer Legal Division includes approximately 900 legal professionals, including about 425 in-house lawyers located in around 30 locations around the globe. These colleagues support the largest biopharmaceutical company within one of the most complex, highly regulated industries in the world. Each of Pfizer’s eight business units (BU) has a dedicated chief counsel and team responsible for proactive counseling and partnership with the business leaders. Broader in-house legal teams based on subject matter expertise, including litigation, intellectual property, research and development/clinical trials, licensing and M&A, and regulatory law — work closely with the BU teams to provide legal support across the company.

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Approximately 75 percent of our addressable outside counsel spend is structured on an annual flat-fee basis with a select group of 19 firms, which constitute the Pfizer Legal Alliance (PLA) firms. The remaining 25 percent is largely work in markets outside the United States not covered by PLA firms or requiring local expertise, local counsel needs in the United States, or highly specialized areas of expertise. To the extent possible, this spend is on a capped-fee basis.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Stay the same

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

The PLA model truly breaks away from the billable hour construct.

- **Fixed fees are established for each firm at the beginning of each year** – They cover a wide range of matters (including litigation, IP, research and development, compliance, tax, business counseling, transactions and more); each firm receives 1/12 of its annual fee each month. The PLA model fosters partnerships, collaboration and efficiencies.
- **Firms have an opportunity to be rewarded with end-of-year bonuses** – For critical successes and demonstration of Alliance values and principles.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Within the Pfizer Legal Alliance (PLA), we have implemented processes and tools** to improve the management of individual matters and the full portfolio, with a strong focus on setting expectations at the outset when new legal matters are initiated.
 - **In-house lawyers identify goals and objectives for engagement before contacting outside counsel** – We ask in-house lawyers to clearly identify their goals and objectives for the engagement — such as staffing and effort level — before contacting outside counsel and then to agree upon these objectives with outside counsel before the engagement is commenced. We believe this approach helps our law firms to improve efficiency and drive toward high-value lawyering.
 - **Pfizer Alliance Leaders** – Each PLA firm has an in-house Pfizer leader on point for managing the day-to-day relationship with that firm. PALs work closely with firm relationship partners, including on overseeing firm portfolios, troubleshooting, soliciting feedback and facilitating secondments (more on this below).
 - **Pfizer Legal Alliance Steering Committee** – The committee sets long-term strategy for the PLA program and annual fees for the firms.
 - **PLA Website** – PLA firms have access to a website dedicated to communications and information for Alliance relationships.
 - **Collaborative Workshops** – Workshops are among lawyers within the Pfizer Legal Division and PLA firms.
 - **Secondments** – We also offer secondment opportunities for PLA firm lawyers to come in-house and work for up to one year with a Pfizer practice group. This helps ensure continuity of critical matters and gives development opportunities to firm lawyers.
- **Centralized legal ediscovery services** – Our legal ediscovery services are centralized within a single external law firm/service provider.
- **Other outsourcing options** – We are considering other outsourcing options for routine contracting processes, document management and discovery.

ESTIMATED COST SAVINGS

A very rough estimate of the aggregate overall cost savings to the legal division is 15 percent of the total annual division budget.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

The use of **fixed annual fees set in the beginning of the year** helps enormously in our ability to forecast and control our budget for the year. This approach enhances the ability of our lawyers to focus on value and priorities throughout the year, as they discuss the core tasks to be performed with their counsel rather than hours billed.

THE HOME DEPOT, INC.

2011 Fortune Ranking: #30

Mr. Jack Van Woerkom (now retired)

Executive Vice President, General Counsel & Corporate Secretary



“One of the things I value most in firms that provide service to us is firms that have people who understand our business and the business of being a lawyer. Law firms need to have talented lawyers who understand the law. It is important to also apply an understanding of the business and be willing to try new things.”

“We are seeing cost-savings from implementing value-based fee structures; but, more importantly, we are receiving more efficient and more productive legal services from outside law firms who are more willing to share.”

HOME DEPOT LAW DEPARTMENT

The legal team includes 124 people (including 46 in-house lawyers plus paralegals, administrative personnel and IT professionals), located primarily in Atlanta, Georgia.

OUTSIDE COUNSEL SPEND

\$51-100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

72 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase; the department will continue to look for ways to increase the percentage of outside legal work handled using value-based fee structures. I'm very committed to using value-based fee structures, including fixed fee arrangements.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Fixed fee for portfolio of cases; single plaintiff employment litigation** – annual arrangement for a fixed fee, with monthly payments; use regional counsel; completing fourth year of implementing this type of arrangement
- **Fixed fee for portfolio of cases; general liability** – one-year arrangement to handle general liability litigation for a fixed fee with monthly payments
- **Real estate deals** – handled on a fixed fee basis
- **Fixed fee retainer for counseling and advice on corporate and securities** – annual arrangement with monthly payments
- **Fixed fee for consumer class actions** – arrangement includes an escape valve if there are too few or too many cases

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Phases for larger litigation** – the law department separates larger litigation matters into phases and implements fee arrangements based on the phase of case/services
- **Document production** – the law department has relationships with multiple outside legal services vendors
- **Staffing guidelines** – will not pay for 1st year associates – law firms are able to staff first years on matters, but the law department will not pay for their services
- **Training** – law firms are providing training for in-house lawyers
- **Insourcing strategy** – the law department has insourced almost everything it can; we try to use outside counsel for a particular area of expertise, geography, or for those situations where additional resources are needed; outside firms can also be helpful in sharing market information and information on what others are doing

ESTIMATED COST SAVINGS

The law department has cut outside spend by almost 50 percent over four years.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

The value practice that has probably provided the greatest results to date is use of fixed fee retainers for single-plaintiff employment matters.

THE PROCTER & GAMBLE COMPANY

2011 Fortune Ranking: #26

Ms. Deborah P. Majoras

Chief Legal Officer and Secretary



“The law firms I value the most are those firms that are willing to partner with our in-house lawyers in every sense of the word — who are willing to add their strengths to ours in a complementary way to achieve the best possible outcome for our client, and who are willing to be bold and creative in sharing the risks and rewards of representing a great company like Procter & Gamble.”

“A key lesson learned is that we will not change the game on incentive-based retention structures unless and until in-house and outside counsel trust each other to share both the upside potential of big wins, and the downside risk of losses. At P&G, we want the best outside counsel in the world to prefer to work with us on our matters because they find our work challenging, exciting, and rewarding ... and we rise and fall together.”

PROCTER & GAMBLE LAW DEPARTMENT

Our law department includes 600 people, including 350 in-house lawyers in approximately 40 countries around the world.

OUTSIDE COUNSEL SPEND

About \$50 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Over 70 percent of the spending — for our top 12 matters globally — is currently covered by some sort of value-based fee structure. In some places around the world, such as Latin America and China, almost all of the litigation is handled using value-based fee structures.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase; as firms and in-house counsel get more expertise on how to structure value-based fees, the amount of matters handled using value-based fee structures will go up.

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

The law department’s preferred firms have been asked to generally implement value-based fee structures to handle the company’s legal work, reserving hourly rate fee structures for those matters where no other structure makes sense.

Following are some types of value-based fee structures currently implemented by the department:

- **Fixed fees** – for all or portions of work, including litigation (e.g., for entire matters or segments of matters)
- **Capped fees** – some cases have an overall fee cap — a not-to-exceed amount negotiated in advance
- **Contingency/success fees** – in the litigation context
- **Capped fees with savings sharing** – for some matters, an overall fee cap may be set; however, if costs come in below the capped amount, the law firm and law department may “share” in the savings
- **Retainers** – flat fee arrangements that generally include monthly payments for access to subject matter expertise. Have implemented this arrangement in a variety of contexts, including corporate and securities, environmental and transactions
- **“Rates for gates”** – different rates or arrangements for different segments of work (e.g., discovery phase may be a capped fee structure, and trial may be on a fixed fee arrangement plus success bonus)

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Leverage company programs** – The law department leverages good practices implemented elsewhere in the company. Examples are managed print services and travel — the law department leverages enterprise-wide arrangements.
- **Increase in efficiency of internal operations** – Eliminate low value work, and increase efficiencies to do work more cheaply; scale work.
- **Training and development** – The law department has developed two “Legal College” programs for personnel at different levels: (1) one is for administrative personnel and paralegals; (2) the other is for attorneys. The Legal Colleges” are specifically designed to help personnel better understand the company’s operations and how the law department relates to those operations. Trainers are in-house staff and clients. Each “Legal College” is approximately 2.5 days; the course is designed to be a primer and includes training on certain business and counseling skills, training on how to build effective client partnerships, and on the purpose, values and principles of the company as well as key legal areas. The law department also recently conducted a “Legal Renewal” effort—an exercise to look at what the company needs legal to be in 2020.
- **Low cost vendors for document review** – Rather than have outside law firms perform document review at law firm rates, the law department uses (and asks its firms to use) lower cost legal service providers for document review services.
- **Preferred outside counsel program** – The law department has a preferred outside counsel program that includes collaborative training and education for law firm and in-house lawyers and discounted rates as well as value-based fee structures.
- **Enhanced training from law firms** – Law firms offer training for in-house counsel at no additional cost.
- **Inourced and centralized e-discovery** – The company created a centralized department staffed by business personnel and supervised by the litigation group; the core ediscovery team consists of around five people.
- **Shared extranets** – In-house counsel and outside law firms work collaboratively using shared extranets for litigation and transaction documents; extranets provide central document repository.
- **Secondments** – Usually implemented for three to six months at a time, secondments include having law firm personnel perform services on site with the law department.
- **E-billing practices** – Implemented business rules in connection with billing arrangements and guidelines, thereby enhancing efficiency and freeing up in-house counsel time.

ESTIMATED COST SAVINGS

We estimate several million dollars of hard savings. However, the value to the law department is significantly higher because overall, the practices result in better partnering, better outcomes and more predictability.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Our department’s focus on relationship-building and frank discussions on which fee structures provide the most value are among the practices that provide the most value. Rather than dancing around the issue, having direct and open conversations that help define common goals and improve alignment results in great value. Some firms are getting really good at this.

UNITED PARCEL SERVICE

2011 Fortune Ranking: #48

Ms. Teri Plummer McClure

SVP of Legal, Compliance & Public Affairs, General Counsel & Corporate Secretary



“I value firms that hear my problem, understand my business and are responsive.”

“Our goal is to be ‘upstream’ in the business process so we can identify issues and solutions early. We have a seat at the table for business planning, strategy development and key initiative reviews. This allows us to prevent problems before they happen. It also helps our lawyers understand business objectives so that, when problems do arise, we can help solve them creatively and responsibly.”

UPS LAW DEPARTMENT

Our department truly is unique. We have only 61 in-house lawyers worldwide, representing a company with 2010 annual revenue of over \$49 billion, which operates in highly-regulated industries with a myriad of risks.

Our in-house lawyers work together seamlessly with a talented group of paralegals, legal assistants and a small, dedicated group of law firms to ensure UPS receives superior legal service at the lowest reasonable cost. The results are positive on all fronts — internal clients are satisfied, firms are rewarded for their efforts but challenged to be more efficient, and our in-house staff is stable, happy and productive.

OUTSIDE COUNSEL SPEND

Not disclosed

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

In 2010, 18 percent of fees paid to outside counsel in the United States were on an alternative fee basis and 82 percent were on an hourly fee basis.

We believe this represents a substantial increase over 2009, and prior years due to the increasing prevalence of non-traditional fee arrangements. Notably, we have encouraged our outside law firms to present us with these arrangements rather than waiting for our in-house lawyers to suggest them. We saw greater success with this during 2010 than ever before.

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Flat-fee for 'lost or damaged' package litigation portfolio** – We have implemented alternative fee arrangements in several employment litigation matters. In one instance, a wage and hour class action that we successfully defeated in 2008, the matter spawned 54 individual cases. For a significant number of these cases, fixed fees were negotiated for various phases of the litigation. For example, fixed fees were established to manage discovery, summary judgment and trial phases. Each successful defense verdict included a success fee, an amount negotiated at the outset of the litigation.
- **Fixed fees for phases of employment litigation matters, plus success fees for results** – We have implemented alternative fee arrangements in several employment litigation matters. In one instance, a wage and hour class action that we successfully defeated in 2008, the matter spawned 54 individual cases. For a significant number of these cases, fixed fees were negotiated for various phases of the litigation. For example, fixed fees were established to manage discovery, summary judgment and trial phases. This fixed fee approach helped us cost-effectively manage a considerable trial schedule throughout 2010. Each successful defense verdict included a success fee, an amount negotiated at the outset of the litigation.
- **Fixed fees for global trademark portfolio** – Several years ago, we initiated a very successful fixed fee program with a US-based firm to manage global work related to our trademark portfolio. The work has been done effectively with reductions in cost year-over-year, without a drop-off in quality.
- **Fixed fees and budget estimates for patent-related work** – For patent-related work, we pay a pre-determined price each time a specific patent-related activity is performed. The firm estimates the number of times each activity will occur and reports regularly throughout the year on performance against that estimate.
- **Fixed fee arrangements for work that supports technology deployment, technology procurement and sponsorships** – We also have initiated a fixed fee arrangement for legal work that supports technology deployment (e.g., licensing in connection with customer-facing shipping systems, billing systems and communications), technology procurement (e.g., procurement of software, technology-enabled equipment and telecommunications equipment) and domestic sponsorships.
- **RFP process for patent cases with value-based fee structures** – We have used a traditional RFP process for patent cases over the last few years with good results. The cases have been awarded to firms that presented aggressive fixed-fee proposals that incorporated phased budgets with caps and incentive kickers for coming in below cost for particular phases of the cases.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- In 2010, we initiated a full review of the global work related to this portfolio, and reconfirmed its value relative to alternative models, while identifying several specific areas in which we can become more efficient, including allocation of internal resources and techniques for managing non US matters. UPS utilized a law firm that does not currently do the work to perform the review. We identified some improvements internally through a process mapping exercise; refreshed the training of our lawyers and paralegals; and also identified some work currently being managed under our flat fee program that we may move in house to further reduce cost and more directly manage our IP assets.
- UPS must review and produce millions of documents to meet its discovery demands. Traditionally, we used outside case counsel to perform document reviews on an hourly basis, using partner-track associates, but we recognized this was not a sustainable model. We have successfully used staffing agencies, both in the United States and abroad, using document reviewers with radically reduced hourly rates. These techniques resulted in millions of dollars of savings by attacking the hourly billing rate of the more traditional law firm associates and paralegals.
- We have selected national ediscovery counsel to provide the highest quality legal services while achieving cost savings and budget predictability. In 2009, we conducted a competitive proposal process among leading firms in the ediscovery field. We negotiated with the winning firm a novel fee arrangement with a bundled per-document fee that combined the costs of document review and the document review tool. We avoid paying hourly fees for document review and project management, and we also avoid paying additional fees to a litigation support vendor for processing, de-duplication, filtering and hosting of electronic data. The bundled rate also includes all charges associated with preparing documents for production, such as IT services, load file fees, and document numbering and branding. The program maintains flexibility to permit document reviews to be conducted by attorneys at the law firm, its offsite document facility or by alternative staffing agencies depending on the needs of a particular case.

ESTIMATED COST SAVINGS

- Over the last four years, we have saved around 37 percent in fees relating to our global trademark portfolio.
- In the first six months of the document review and litigation support arrangement, we had more than 50 percent in cost savings, and the savings continued as the program matured. In addition, we now know how much we will spend on document review at the time data is collected. Additional value-add: we have greater confidence in the work product, have decreased production times and have increased consistency across our litigation portfolio.
- Annual fees for "lost or damaged" package litigation matters have declined by \$1 million since inception of our new value-based fee structures — with no reduction in quality of work; we will also maintain 2010 fee structures in 2011 for this work.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

All of the above arrangements have resulted in material cost savings and have been value-add.

UNITED TECHNOLOGIES CORPORATION

2011 Fortune Ranking: #44

Mr. Charles D. Gill

Senior Vice President and General Counsel



“I value firms that relentlessly focus on delivering value as we view it ... by investing in developing deep knowledge of our needs and offering services and solutions that are tailored and priced on the basis of disciplined processes to keep costs low, quality high, and share risk appropriately.”

“Communication and implementation of key initiatives across a geographically decentralized legal organization is a significant challenge for UTC Legal. Utilization of cross-business unit and cross-functional teams enables us to leverage knowledge, expertise, standard processes and technology.”

UNITED TECHNOLOGIES LAW DEPARTMENT

Our law department includes more than 500 people, including more than 275 in-house lawyers located in approximately 80 locations in more than 20 countries. About 25 of our attorneys are located in UTC's corporate headquarters, and the remaining 250 are embedded in UTC's major business units (Carrier, UTC Fire & Security, Hamilton Sundstrand, Otis, Pratt & Whitney, Sikorsky), UTC Power and the UT Research Center.

OUTSIDE COUNSEL SPEND

Over \$100 million in 2010

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

65 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

Following are some types of value-based fee structures currently implemented by the department:

- **Portfolio fees for environmental** – For environmental cases, annual agreements with two firms to handle matters within a defined portfolio; payments are monthly.

- **Portfolio fees for asbestos cases** – Annual arrangement; single firm handles asbestos matters based on arrangements with various UTC business units; payments are quarterly.
- **Fixed fees for patent prosecution cases** – Fee structures include fixed fees per case; payment intervals are structured around certain phases of the case.
- **Fixed fees for immigration matters** – The law department implements a “menu” approach, with standard fixed fees based on type of immigration matter that is being handled.
- **Target fees with bands** – Used in the litigation and mergers and acquisitions context, this type of fee structure includes negotiating target fees for a case or matter with ‘bands’ that span above and below the fee target; if assumptions change and actual costs exceed bands, then potential for adjustment; if costs are within bands, under- and over-runs of the target are shared in agreed percentages.
- **Fixed fees with success bonuses** – Used primarily in the litigation context.
- **Full or Partial Contingency fees** – Used primarily for plaintiff litigation work.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

We have implemented the following initiatives:

- **Preferred onshore and offshore support vendors** – The law department has implemented arrangements with various external legal service providers for services that include ediscovery, document review and copying services.
- **Legal Hold and Ediscovery programs; ACE (Achieving Competitive Excellence)** – Including software, internal support teams, preferred providers and process mapping/standard work; more specifically the law department utilizes tools within UTC’s ACE continuous improvement methodology, bringing together collaborative teams of in-house, law firm and IT professionals to map litigation processes, and eliminate waste and unnecessary steps.
- **Expansion of access by outside counsel to UTC’s LawTrac and Foundation IP matter management** – Enabling real-time collaboration within centralized platforms and creation of matter “knowledge management;” the law department requires outside counsel to update matters in the law department’s systems, which helps centralize information and eliminate waste. The program includes on-site training sessions with firms to help them understand how the matter management systems work and law department expectations regarding matter updates and information.
- **Significant Litigation Management Program** – Our newly implemented program is based on a gated process to enhance coordination and leverage internal expertise. Matters that hit a certain dollar threshold qualify for this new process, which includes an assessment of the matter, analysis of alternative fee structures and outside counsel retention practices. The program also includes a “debrief” gate to institutionalize lessons learned, including improvements to legal strategies/processes and business products/services.
- **Secondment arrangements** – Both within and outside the United States, secondment arrangements are generally used to help address staffing absences or to provide a focused resource if an area of the business results in an uptick of legal work for an extended period of time. The law department generally reaches out to firms within its preferred network to discuss secondment arrangements, and secondees generally spend some portion of their time working on site with UTC in-house lawyers.

ESTIMATED COST SAVINGS

We have reduced UTC’s outside counsel spending as a function of revenue approximately 25 percent over the past 10+ years of these initiatives, and although peer comparison data is hard to come by, anecdotally we believe we are in the first quartile among peers in cost performance.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

- Alternative fee structures that incentivize efficiency and results.
- UTC’s Legal Hold and Ediscovery programs were developed using input from the law department, outside counsel, corporate IT and our ediscovery vendors. We believe the end result is a comprehensive, well-integrated process providing savings related to outside and inside costs -- all while lowering our risk profile.

WAL-MART STORES, INC.

2011 Fortune Ranking: #1

Mr. Jeffrey J. Gearhart

Executive Vice President, General Counsel and Corporate Secretary



“One of the things that I value most about firms that provide service to us is their desire to provide innovative ways to help us reach our goals in a cost effective manner.”

“A key challenge is utilizing our size and reach to influence law firms to embrace diversity and inclusion.”

WALMART LAW DEPARTMENT

Our law department includes approximately 643 legal professionals, including about 365 in-house lawyers located in the United States and in 11 markets around the world.

OUTSIDE COUNSEL SPEND

Over \$100 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Less than 10 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

Following are some types of value-based fee structures currently implemented by the department:

- **Flat fees for real estate portfolios of work** – Include flat fees with certain firms to handle certain types of real estate work; arrangements are generally for one year, with monthly payments.
- **Flat fees for employment charge work** – Generally structured as annual arrangements with monthly payments; reduced fee per charge on a national scale.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

We have implemented the following initiatives:

- **Secondments with Diversity Focus** – We are working with the Leadership Council for Legal Diversity on a secondment program that focuses on women and diverse attorneys; this is an opportunity for a broader spectrum of diverse attorneys to receive contact with major corporations and develop relationships that will enable more attorneys to develop business. We are currently piloting this program with several large corporate law departments.
- **Flex-Time** – We have implemented a flex-time policy within our legal department, which gives our attorneys greater flexibility in managing daily life activities with work obligations. In February of 2011 we required our outside counsel to implement flex-time policies for their attorneys.
- **Relationship Partners** – We have implemented a practice of requiring our outside counsel to submit the names of five candidates to become the relationship partner. Out of these five candidates, one must be diverse, one must be a woman and one must be on a flex-time schedule. From that list, Walmart chooses the relationship partner. This practice has shifted over \$60 million worth of business into the hands of diverse and women relationship partners.
- **Enhanced Diversity Metrics** – We are developing a scorecard by which we can review the diversity efforts of law firms and grade them accordingly. This will help our law department determine which law firms to retain.
- **Pro Bono Medical/Legal Partnership with Arkansas Children's Hospital** – Internally, we also have implemented a pro bono project called a medical/legal partnership with Arkansas Children's Hospital. With this project, our in-house counsel will provide free legal services to patients in the areas of Medicaid and Access to Education. We are also partnering with law firms to provide free legal services to these patients. The Pro Bono Program was developed based on a desire to give back to the community. As a result, the legal department partnered with several other partners who played key roles. Our ultimate goal is to have such a program in every state.

ESTIMATED COST SAVINGS

Not disclosed

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

Our efforts in changing how relationship partners are chosen as well as implementing a flex-time policy have helped Walmart push the legal community in a direction that is more diverse and inclusive.

WELLPOINT, INC.

2011 Fortune Ranking: #42

Mr. John Cannon

Executive Vice President, General Counsel,
Corporate Secretary and Chief Public Affairs Officer



“One of the things I value most in firms is their ability to understand our business needs and objectives and partner with us to achieve superior results in a cost effective manner.”

“One of our lessons learned is that our legal team, including the outside firms we work with, performs best when we draw on the skills and experience of a talent pool which reflects our diverse customer base.”

WELLPOINT LAW DEPARTMENT

WellPoint's law department includes 193 people, including 96 in-house lawyers located in 29 locations throughout the country. The legal team supports all significant initiatives and transactions that involve the Company and helps to manage risks to the Company's assets and reputation.

OUTSIDE COUNSEL SPEND

\$26-50 million

PERCENTAGE OUTSIDE COUNSEL SPEND CURRENTLY ON A VALUE BASIS

Less than 10 percent

PERCENTAGE ON A VALUE-BASIS TO: INCREASE, DECREASE OR STAY THE SAME?

Increase

TYPES OF VALUE-BASED FEE STRUCTURES CURRENTLY IMPLEMENTING

- **Flat fees** – WellPoint has several different types of flat fee arrangements with firms that handle litigation matters for the company. These arrangements include a fixed fee for handling certain types of litigation from beginning to end (e.g. ERISA benefit disputes); a monthly, capped rate on a particular lawsuit; or a monthly retainer for a set period of time, under which the firm will accept any lawsuit filed in a certain geography during the period.
- **Fixed fees with success bonuses** – With some litigation matters, WellPoint has reached agreements with its firms to cap the fees for the case, but added certain success bonuses, such as a premium for a successful motion for summary judgment, defeating a class certification motion, etc.
- **Contingency fees** – At times, WellPoint has litigation matters involving the recovery of amounts owed to the company. In many of those cases, firms have agreed to accept the matter on a contingency fee basis.

OTHER VALUE PRACTICES IMPLEMENTED BY THE LAW DEPARTMENT

- **Contract Attorneys for Ediscovery** – WellPoint often uses contract attorneys for ediscovery purposes, which allows the company us to conduct ediscovery in a more efficient manner.
- **eCounsel Matter Management Contract Renewal** – The matter management system has provided enhanced abilities to monitor and control outside counsel expense through tracking and reporting; allows for a deep analysis of trends by matter type and geographical areas, costs and other factors. In addition, the matter management platform allows our in-house legal teams to better collaborate with outside counsel and to share key information and receive information and status updates to ensure that our strategies are in alignment.
- **Legal RFP for litigation and non-litigation panel firms** – Working with the WellPoint Procurement Department, the legal department has developed a list of “preferred panel of law firms” for all legal services. Through a rigorous RFP process, WellPoint was able to reduce the number of law firms regularly used from 300 to 46 resulting in significant savings.
- **Live Auction/Competitive Bidding Process for vendors** – The live auction process allows vendors who are bidding on WellPoint business to view how they rank against competitors during the bidding process.
- **Supplier Diversity – increase and monitor** – WellPoint recognizes the importance of diversity. We are committed to being a valuable member of the communities in which we live and operate. Diversity in our supplier base is an important part of that commitment. WellPoint monitors and selects vendors whose talents and experience reflects the company’s diverse customer base.
- **International Law Firms** – WellPoint uses a local law firm for our China joint venture business.

ESTIMATED COST SAVINGS

WellPoint has realized savings of 10-20 percent from implementing various value practices. In addition, contingency fees protect the company from costs if the legal challenge is unsuccessful. If the company recovers, it benefits significantly but likely pays more than the straight litigation cost. This can be a useful approach to consider when significant amounts are at issue, but probability of success is low.

MOST VALUABLE PRACTICES; PROVIDED GREATEST RESULTS

- **Fixed Fee Arrangements**
- **Legal RFP Process**

STRENGTH IN NETWORKING
STRENGTH IN RESOURCES
STRENGTH IN ADVOCACY
STRENGTH IN EDUCATION

STRENGTH IN MEMBERSHIP

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STRENGTH IN NETWORKING
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 Association of
Corporate Counsel



The ACC VALUE Challenge

Driving Value in Legal Spending

The ACC Value Challenge promotes adoption of management practices that enhance the value of legal service spending.

Through the ACC Value Challenge, law departments and law firms:

- Download and/or contribute resources explaining and demonstrating many ways to drive value
- Participate in educational programs to develop skills in structuring value-based fees and using the management skills to drive efficiency and control spending
- Network to share ideas, successes and lessons learned

Some of the many ways to drive value supported by the ACC Value Challenge include:

- Using **Value-Based Fees** (i.e. not based solely on the billable hour) to align firm/client relationships around key objectives;
- Strategically **Allocating Work**, considering the most appropriate use of internal and external resources;
- Employing **Project Management** to effectively define scope and set budgets that stick;
- Identifying and eliminating inefficiencies through **Process Improvement** tools and techniques
- Deploying **Technology** to harness data and support procedures to control spending; and
- Using **Knowledge Management** systems to avoid “re-inventing the wheel.”

We invite you to **take the ACC Value Challenge**. Set targets and employ management practices to:

- Reduce spending;
- Improve predictability of spending, and
- Achieve better legal outcomes

For more information visit
www.acc.com/valuechallenge

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GC Value Insights

What Multinational General Counsel Value Most

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