

How to Improve Collaborative Budgeting

Online collaborative budgeting is becoming easier every year as matter management and e-billing vendors offer systems with increased ease of use and more practical functionality.

System features can be seen generally as being in three categories, going from the simplest to the most sophisticated:

Basic Totals: The system enables the lawyer or administrator to input total budget numbers for fees and expenses in each matter or case record.

Detailed Breakouts: The system enables the in-house lawyer or outside counsel to input expected fees and expenses by phase, perhaps with some breakout detail for key tasks within phases.

Budget Decision Support: The most sophisticated systems go a further step to enable the in-house or outside counsel to describe the case through a multiple choice selection, e.g., a wrongful termination lawsuit involving one plaintiff in the U.S. The system then creates a pro-forma budget – based on actual previous similar case costs or reasonable estimates stored in the system -- for the lawyer to review and modify, task by task, based on the unique aspects of the case.

Over the next few years, Budget Decision Support systems will become the norm because they reduce budgeting errors, save lawyer time, and provide stronger cost controls.

- Cost controls are also increased by the integration of e-billing data with the budgeting process. Several vendors offer this now. The basic idea is that as e-billing is received, the system automatically provides “budget vs. actual” analysis displays, giving in-house lawyers unprecedented “one-button” control over spending.

Another trend driven by the expanded feature set of case management and e-billing vendors is the ability of outside counsel to log-in to the systems, create budgets online, and then have these budgets displayed for in-house lawyers to review, modify and ultimately approve.

- This is a huge step forward. Countless hours have been wasted in trying to reconcile law firm paper billing statements with advance budgets. With new systems, this is done instantly online.

The analytical capabilities of the advanced systems are catching up with the “litigator’s wish list” and are too numerous to review in this resource guide.

- Most relevant to this guide’s topic, newer systems automatically provide alerts to users when their actual fees and expenses are on the verge of exceeding budgets.
- Another key feature is that of providing pre-set alerts when certain types of casts are given budgets or experience actual billings that exceed the norms for those types of cases, thus enabling lawyers and supervisors to “drill down” to these cases quickly and review why the case or matter is exceeding the norms.

Some law firms have developed very advanced case and matter forecasting systems as a way to strengthen their own budget forecasting and create competitive advantages over other firms. For example:

- Wragge & Co, a U.K.-based law firm with headquarters in Birmingham, developed MIDAS, which generates case cost forecasts by utilizing the firm's extensive database of actual costs in similar cases. The system is easily used by support staff and generates comprehensive budget materials in minutes that are ready for client review.
- Lovells LLP, a London-based law firm, has developed Feesability, a computer system that enables clients to access the system and develop automated estimates even without involving a Lovells attorney. The system provides robust case and budget management tools as well as sophisticated tracking and reporting.

Key Policies and Practices

Even the most sophisticated and user friendly budgeting systems are going to produce disappointing results if the appropriate policies and practices are not implemented consistently. If even 10% of the matters in the system do not reflect accurate and complete budget data, the value of system reports is seriously in doubt.

These are among the major problems to overcome, regardless of what type of system, if any, a department has:

- Law firms often have widely varying proprietary approaches to budgeting that can cause in-house attorneys to deal with a complex array of formats and definitions
- Law departments and their matter management platforms have different approaches to budgeting that can cause law firms problems when they try to adapt to the customized approaches of tens or scores of clients
- Historical data on which to base future budgets is not often readily available and it is often incomplete leading to misleading conclusions
- Only a small fraction of law departments have collaborative tech platforms that enable law firm attorneys to log in and participate interactively in budgeting sessions
- Lawyers generally don't relish budget management and put off this task until the last possible time to work on it
- Many legal teams are not skilled at using the budgeting process as a way to x-ray a case and plan for the various likely developments

Steps to Improve Collaborative Budgeting

Clearly, there is a balance to be struck between the demands made upon lawyers and law firms to use standard budgeting templates or systems, and the need to keep the focus on a collegial working environment.

If the general counsel is committed to very effective collaborative budgeting, then it is necessary to develop and enforce some reasonable protocols and follow-through to enforce them.

The following action steps address the problems identified above and will provide a strong foundation once implemented.

Basic Action Steps

Develop a budgeting format that everyone will be able to understand and use, whether it is online or in Excel spreadsheets.

Organize the budgeting format so that it helps in-house and outside lawyers to detail the costs associated with the phases of the matter or case and is thus helpful in planning the case.

Develop accessible historical data about the company's cases and matters to provide a good reference for lawyers wanting to be accurate in their estimates.

Develop a protocol that clarifies the roles and responsibilities of in-house and outside counsel in developing and updating budgets, and include this in engagement letters going forward. Some departments require, for example, that case budgets are updated quarterly.

Designate in-house budgeting "experts" who can work with lawyers to help them develop realistic and complete budgets in the right format.

Use the best available technology in the company if access to the advanced online systems mentioned above is not currently practical. For example, a department could develop a modest application in Lotus Notes or even use Quickbase (www.Quickbase.com) on an interim basis rather than rely on individual spreadsheets circulating among all the players.

Where practical, integrate "actuals" data into the budgeting process so that the budget can be reviewed and updated on a realistic basis.

Focus attention of in-house and outside counsel on cases driving extraordinary costs

Provide incentives – recognition and bonuses -- to both in-house and outside counsel for sustained budgeting accuracy so as to "send a message" to the legal team that reliable and accurate budgets are truly valued.

Advanced Action Steps

- Expand budget planning systems to include alternative case and staffing scenarios to better evaluate case strategies and costs
- Require the documentation of reasons for increases / decreases in case budgets
- Institutionalize post-case evaluations of budget accuracy and recognize best performers
- Use budgeting case studies focusing on “lessons learned” to emphasize the value of budgeting in case planning and strategy analysis
- Conduct law firm specific performance evaluations to fuel discussions with the firm about budgeting proficiency
- Provide focused training for inside-outside legal teams on aspects of budgeting on which they are weakest

Questions to Ask

- Do we have an adequate process in place to get budget forecasts from law firms? Are we getting cooperation from all the law firms? Which ones are chronically late or uncooperative?
- Do our in-house attorneys have a clear understanding of how our budget forecasting process works and are they held accountable for getting, reviewing and approving the budget forecasts from law firms?
- Should we streamline the process by enabling law firms to input budgets through an on-line internet-based system that provides automatic alerts when budgets are overdue?
- Are we confident that our in-house attorneys understand how to interpret budget forecast data from law firms so they understand the choices the law firms are making in the way they manage our cases? Would our in-house attorneys benefit from some coaching on how to interpret budget forecasts?
- Are we asking in-house and outside attorneys to utilize a convoluted or cumbersome budgeting process that makes it difficult for them to provide reliable and up to date budgets?