

May 2009

## ACC Value Challenge

# Practical Ideas to Connect to Value

Following is a list of practical ideas to consider implementing in your law firm or law department. Items are in no particular order; we will add to and change this list over time. If you have ideas to add and corresponding success stories to share, please contact us at: [accvaluechallenge@acc.com](mailto:accvaluechallenge@acc.com).

### A. GETTING STARTED

1. **Schedule a “Meet. Talk. Act.” Meeting** where firms and clients brainstorm on value-based approaches; use the 1-page guide on the ACC web site; prepare minimal handouts to help make the sessions productive. [<http://www.acc.com/advocacy/valuechallenge/MeetTalkAct.cfm>]
2. **Discuss the Covenant with Counsel** with your best firms or clients, with whatever modifications you think appropriate. [<http://www.acc.com/valuechallenge/covenant>]
3. **Don’t over-lawyer ideas that come up** - try some out, especially on a smaller scale if you’re worried about something being too big or getting out of control.

### B. FIXED FEE STRUCTURES; WHOLE PORTFOLIO

1. **Try monthly fixed fees for basic law firm counseling-** company can call law firm personnel with basic questions; define when an item becomes a separate matter, and if something gets out of kilter, you can always revise the arrangement next month. [Drinker Biddle; SU]
2. **Try fixed fees for specific tasks;** look at past experience as a starting point; if estimates in the first few projects are way off, make adjustments. As you get more experience, you’ll also get much better at knowing what the costs should be. [Clorox; Seyfarth]
4. **Try fixed fees for entire matters-** [Cisco; Abbott Simses, Eversheds, Sun Microsystems]
5. **Try defining when a fixed fee shifts off the fixed fee arrangement-** instead of an immediate full stop when a safety valve is activated, consider a 50-50 split for a while. Alternatively, consider a collar, both up and down. [Drinker Biddle; SU]

6. ***Try having the firm take on a whole portfolio of work at a fixed fee for a designated period of time-*** among the benefits of a whole portfolio (especially if it includes both counseling and litigation)- (a) the firm has enough continuity and work flow that it can better manage resources; (b) the firm has an incentive to keep the client out of trouble, manage litigation resources, etc. [Cisco; SU]

## C. BUDGETING AND MANAGEMENT

1. ***Designate one or more analysts-*** to monitor the economics of value approaches being tried within your department or firm; see what works and what needs revision going forward. [Liberty Mutual]
2. ***Link people with comparable skills at the firm and the company-*** such as accounting, IT, marketing, secretaries, paralegals and others to assure the details are being tended to. Also, ask them to come up with additional suggestions on how to improve value.
3. ***Create a value task force-*** within your firm or company to cut through red tape and approve and promote value approaches. Include at least some from the top leadership. [Drinker Biddle]
4. ***Don't hide the ball; share with one another your core economics-*** that's the best way to find solutions that work for both sides. [GECC, SU]
5. ***At the firm, consider a goal of 60%, 70% or more of annual revenue to be value-based retainer-type arrangements-*** should cover your overhead and cash flow; focus on selling the rest of the firm's resources to value-based clients and to others for basic and premium-type work.
6. ***Track what percent of matters (at the firm or company) are offered on a value basis-*** market the results, and set targets for the future.
7. ***Mine your data to understand what matters cost-*** from that base, start dissecting to identify efficiencies and savings to determine what future matters should cost. [Liberty Mutual; Glaxo]
8. ***Use In-house Relationship Managers-*** to help provide a holistic view of services provided by a given firm across the law department and to help nurture the in-house/outside counsel relationship. [The Hartford, Howrey]
9. ***Assess in-house lawyers on accurate budget forecasting-*** include budget forecasts and management in performance objectives for in-house lawyers. [CIGNA]

## D. COMMUNICATION

1. ***Hold retreats-*** with practice groups, offices, etc. on how to implement value approaches. [Clorox, Cardinal, SU]
2. ***Have company and law firm personnel attend one another's retreats-*** at firm and company retreats, highlight value-based success stories and then get participants to brainstorm on what else might be done. [DuPont]
3. ***Develop a 1-page white paper or brochure-*** with 10 or so examples of specific value approaches your firm or company has underway.
4. ***Have outside counsel regularly attend in-house department meetings-*** [GE; SU]

5. ***Have in-house counsel regularly attend designated firm meetings-*** especially educational or client-specific. [GE]
6. ***Publicize success stories-*** in firm newsletters, law department circulars, press releases, ACC Value Challenge tools, ACC chapter meetings, the trade press and elsewhere.
7. ***Hold some panels on how to achieve value relationships-*** at legal committee meetings of industry trade group conventions (associations of retailers, manufacturers, etc.); discuss specific success stories.
8. ***Hold similar sessions with other groups-*** local meetings of GCs and other in-house lawyers, law firm managers, ACC chapters, etc.
9. ***Mention the ACC Value Challenge-*** in press releases announcing new value approaches between firms and clients, at speaking engagements or conferences, in internal communications and newsletters; if it helps, include a quote from an ACC representative or other third party. [FMC Tech; Sun Microsystems; Womble; Allen Matkins]

## E. ASSESSMENTS AND REVIEWS

1. ***Encourage individual lawyer evaluations-*** use matter management systems that allow for automated review posting and compilation, or use the ACC Value Index at the close of every matter (if not more frequently) to share information on lawyers who are doing great “value” work. (The Index will be available online soon.)
2. ***Encourage your firms to evaluate the in-house lawyers*** – demonstrates that improvement is expected on both sides, is continuous and is based on the same criteria. [Allstate]
3. ***Tie a portion of fees to client assessment of performance.*** [FMC Tech]
4. ***Tie a portion of firm lawyers’ compensation to client or firm assessment of performance based on value criteria*** - not just hours billed.
6. ***Tie a portion of your lawyers’ compensation to performance on budgets and quality of service data-*** include a key performance objective on management to budget and quality of data in the system. [CIGNA]
7. ***Adopt a rigorous after-action process at the end of every matter-*** what could the team have done better? What could the company do differently to make sure the good things are not just happenstance, and change the bad things to avoid similar problems in the future? Identify redundant, irrelevant and/or unnecessary work and eliminate it. Make continuous improvement a built-in process. [FMC Tech]
8. ***Have a feedback loop-*** where performance data is discussed on a real team-by-team, and person-by-person basis.

## F. TECHNOLOGY AND KNOWLEDGE MANAGEMENT

1. ***Create a listserv or other communication platform among preferred outside law firms to leverage knowledge-*** use it as a way to enhance efficiencies and share ideas that focus on value for the company. [Cardinal]
2. ***Use technology to enhance efficiencies and leverage learning-*** extranets, e-rooms, listservs, shared databases, matter and document management systems can all help leverage learning and enhance efficiencies. [Abbott Simses]

## G. MISCELLANEOUS

1. ***If continuing to do RFPs, have experts at the firms and companies share best practices of what works and what is a waste of time-*** firms can teach clients what they should be looking for, and vice versa.
2. ***Adopt a “no expense pass-through” policy-*** to make sure the firm is using its best efforts to lower the costs of service to the client
3. ***Be relentless in implementing what continuous improvement tells you needs fixing. Don’t continue to do things just because it’s the way it’s always been done.***
4. ***Outsource, offshore or farm-shore process-oriented work to maximize efficiencies-*** define work processes, provide training and guidelines, audit outsource providers and conduct due diligence; consider for document review, nondisclosure agreement review, additional process-oriented work. [Sun Microsystems; GE; CIT]
5. ***Insource document review-*** completely in-house using contract lawyers as appropriate or using a law firm to oversee review on your corporate campus. [Viacom; Glaxo]
6. ***Train outside lawyers how to use task codes and input data on processes-*** consider having in-house counsel train all outside counsel timekeepers on how to use task codes; data can be powerful to help gain comfort that work is going to appropriate providers and value on alternative fee basis is being set at the right level. [Glaxo, Pfizer]
7. ***Revamp the new associates program-*** six months intensive training at reduced salaries and billing rates, no billable requirement, more mentoring, and emphasis on real lawyering with a client focus. [Drinker Biddle]

## Also, draw on ACC resources-

1. Check the ACC web site for-
  - “Meet. Talk. Act.” (<http://www.acc.com/advocacy/valuechallenge/MeetTalkAct.cfm> )
  - Covenant with Counsel (<http://www.acc.com/valuechallenge/covenant>)
  - Other ACC Value Challenge toolkit items (<http://www.acc.com/advocacy/valuechallenge/toolkit/index.cfm> )

- Economic model (<http://www.acc.com/advocacy/valuechallenge/economicmodel.cfm> )
2. Work with local ACC chapters (<http://www.acc.com/chapters/index.cfm>)
  3. Read the success stories highlighted in *ACC Docket* and other ACC publications (<http://www.acc.com/legalresources/publications/index.cfm> )

**KEY**

Abbott Simses – Abbott, Simses & Kuchler

Allen Matkins- Allen Matkins Leck Gamble Mallory & Natsis LLP

Allstate- The Allstate Insurance Company

Cardinal- Cardinal Health, Inc.

Cisco- Cisco Systems, Inc.

CIT- CIT Corporate Finance

Clorox- The Clorox Company

Drinker Biddle- Drinker Biddle & Reath

Dupont- E.I. du Pont de Nemours and Company

FMC Tech – FMC Technologies

GE- General Electric Company

GECC- General Electric Capital Corporation

Glaxo – Glaxo Smith Kline

Howrey- Howrey LLP

Liberty Mutual- Liberty Mutual Insurance Company

Pfizer-Pfizer Inc.

Seyfarth- Seyfarth Shaw LLP

SU – Stanford project 1993-2000

Sun Microsystems- Sun Microsystems, Inc.

The Hartford- The Hartford Financial Services Group, Inc.

Womble- Womble Carlyle Sandridge & Rice