Overview

Gone are the days when in-house counsel have to review stacks of paper bills and manually re-enter billing data into spreadsheets so that they can run basic reports. Electronic billing now delivers legal bills securely from law firms and other vendors directly to the electronic desktops of in-house counsel. With careful evaluation, a legal department can select an e-billing system that will most effectively help the company track pertinent financial and legal data and give important visibility to their outside counsel spending.

Benefits

What is driving the rapid adoption of e-billing in the legal profession?

- **Savings** – Average savings of more than 22% in annual outside legal spending from improved bill review and 26% from budget tracking according to the 10 edition of the Annual ACC-Serengeti survey of ACC members. Some companies achieve even greater savings by processing their bills faster and negotiating an early pay discount from their firms.

- **Efficiency** – Stacks of paper are replaced with online bills that come with analysis. This saves time by making it easy to track, audit, approve/reject, and report on bills without manual data entry, scanning, and filing. Even greater efficiency is possible with systems that also track documents, deadlines, status updates, and other key information directly from outside counsel.

- **Low cost** – Many systems now have total costs well under 1% of legal spending. Most vendors do not charge law firms to submit electronic bills (such vendor charges often increased legal bills when the firms passed them through, directly or indirectly, to the client). E-billing is now no longer just for larger law departments, but is affordable for the smallest law departments that outsource work to outside counsel.

- **Ease of use** – Most systems do not require installation or maintenance of any hardware or software and require little training for general users (with more training for system
administrators). Many systems allow in-house and outside counsel to work together on the vendor-hosted system through encrypted Internet connections.

- **Reporting** – Current reports can be run with a few mouse clicks to see spending categorized any way that in-house counsel want to see it, including actual-to-budget comparisons and analysis of billing audits of hourly rates, timekeepers, expenses, etc. The latest e-billing systems can capture the unbilled time sitting on the books of outside counsel from systems that collect this data from firms for accurate accruals reporting.

- **Broad Acceptance By Law Firms** – Electronic billing has gained broad acceptance in the legal profession, both in the U.S. and abroad. Law firms representing corporate clients are generally submitting electronic bills on multiple systems. A single e-billing format, Legal Electronic Data Exchange Standards ("LEDES") predominates in the U.S. and among larger non-U.S. firms. LEDES is a set of file format specifications, which allows for electronic data interchange between law firm and law department computers. Non-LEDES bills (in Word, .pdf, other formats) from smaller foreign firms are also processed by some systems.

- **Greater Reliance on Metrics and Business Intelligence to Manage Legal Departments** – More corporate counsel rely on technology and data to assess outside counsel performance and create alternative fee structures. Systems that capture results permit reporting that compares duration, fees and expenses, and results for similar projects, to objectively assess which counsel are most efficient and effective. Alternative fee structures, such as fixed fees and incentive-based fees tied to performance, are possible once the law department can analyze historical e-billing data to create benchmarks for average fees and results for specific types of projects.

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**Due Diligence**

The following general areas should be evaluated when selecting an e-billing vendor. For a more detailed matrix of due diligence questions, review the ACC's Leading Practice Profile for Electronic Billing.

- **Getting started** – Talk with your primary law firms to find out which e-billing systems they prefer. Request a current customer list from each vendor to see how many law departments like yours use the system, and also ask for a list of companies that have stopped using it (to explore potential problems). Find out how system setup and trainings are conducted, how long they take, and whether all corporate users and firms will be connected (not just the largest firms). Ask how new users and firms are brought onto the system after the initial setup.

- **E-billing functions** – Compare workflows for bill approval, analysis, audits, and reporting in the live system to make sure that they fit the ways you want to work. Determine whether the system can handle both LEDES and non-LEDES bill formats. Find out whether the system also captures accruals of unbilled time from firms on a schedule set by the law department. Find out how approved e-bills are moved to the accounts payable (A/P) system for payment.

- **International e-billing** – If you receive bills from law firms outside the U.S., make sure that the system can handle those bills, along with foreign currency conversions and Value Added Tax (VAT) reporting. Check to see which of your foreign firms are already using the system with other clients, and ask them if it works well.
- **Tracking other key information** – Find out whether the same system can also track other information from outside counsel, such as documents, deadlines, status updates, exposure estimates, and results—eliminating inefficient processing of paper and emails, and making for more complete reports. Ask whether the system enforces requirements for budgets, periodic status updates, etc., by informing firms that bills will not be processed for payment until all requirements are brought current. Check to see whether the system also captures information online directly from your registered agents.

- **Reporting** – Make sure that the system permits you to easily run and save any reports that you will need, including not only spending but also budget, status, exposure, and results. Find out how reports will permit you to compare different outside counsel using objective and subjective evaluation criteria, so that you can easily identify those that are most efficient and effective. Ask about how you can export data for further analysis or preparing presentations.

- **Security** – Find out whether your e-billing data will be commingled with that of other companies in vendor databases or handled by the vendor, creating potential security or privilege waiver issues. Ask about periodic third-party security checks, independent certifications that security controls are working (SAS 70 Type II audit), and provision for disaster recovery at an alternate site. Look to see whether other law departments who are familiar with data security issues are using the system. Find out what will happen with your data if you decide to stop using the system.

- **Cost** – Find out how cost is determined and whether there will be additional charges down the road for new users or firms, upgrades, maintenance, support, and training, or whether there will be any charges to your law firms or other vendors. Assume that any charges to law firms for e-billing will be recovered from you, directly or indirectly. Ask about how future system costs will be set and whether there is a minimum contract term.

**Conclusion**

In conclusion, thanks to inexpensive, secure, and easy to use systems, many legal departments are reaping the benefits of e-billing systems. Careful and thoughtful evaluation will ensure that the investment in an e-billing system will provide ongoing dividends in the form of time savings and reduced spending.

**Web Resources**