

How to Manage Billing Data to Improve Value and Enable Alternative Fees . . . Even if You Don't Have an E-billing System

- **Overview**

- Defining your goals -- what are you trying to measure and improve?
- Tracking the various components
- Frequency of reports
- Assessments to increase value

- **Defining your goals -- what are you trying to measure and improve?**

Legal Departments review their billing and spending data for a host of reasons, most of them focused on achieving greater value. If this is your end goal, it is helpful to identify the markers to help you get there. Are you seeking to measure . . .

- Staffing efficiency . . . Do you have the right number of outside lawyers staffed to the matter, and right mix of seniority for the given tasks?
- Rates . . . What rates are you paying per outside lawyer? Per paralegal and other non-lawyers? Do the invoices reflect what you agreed to at the outset? Any hidden rate increases? What are the average blended rates you are paying on the matter?
- Cost of deliverables . . . What did you pay for that summary judgment motion, or for that appeal? How much should a project cost relative to other similar projects in your portfolio?
- Proper application of discounts . . . Are the law firms properly applying the discount you agreed to at the outset? If you did not negotiate discounts, where are there opportunities to do so?
- Time it takes to pay invoices . . . How long does it take your team to review and approve outside counsel invoices? Are you taking full advantage of any early pay

discounts that your law firms may offer (and if not, is that by choice or by default)?

- Percentage of time written off . . . What percent of outside counsel fees invoiced does your team write-off as being unwarranted or non-compliant with company billing guidelines? Is this the right amount?
- Compliance with billing and budgeting guidelines . . . In general, how well are your outside counsel complying with your department's budgeting and billing guidelines? If you don't have any guidelines in place, would you benefit from adopting some?
- Diversity data . . . What percent of hours billed or dollars earned come from women or minority attorneys? How is this distributed in terms of seniority?
- Comparative value from various law firms . . . Which law firms deliver superior value on similar projects? How can this contribute to better assigning decisions in the future?
- Opportunities for alternative fees . . . Where are opportunities to implement more effective fee structures to get away from the hourly rate approach?
- Whether outside counsel is meeting budget . . . Are budgets well crafted to begin with, and are outside counsel's periodic forecasts reliable so that you can soundly manage the Legal Department's finances as the year progresses?

(Practice tip: While all of these are helpful, at the outset is often the most productive time to pick a few to focus on. And instead of just focusing on rates – that's only part of the equation – better results often come from tracking “per project” fees, or the “cost of deliverables.” This will help show the business that you are managing costs, even in an environment where volume increases. Over time, though, it would be helpful track all of these categories. The Appendix below sets forth a suggested framework for allocating the initial tracking responsibilities between law firm and client, *in lieu* of an e-billing system.)

- **Tracking the various components**

The list above sets out the various categories of information to track, but what are good ways to assemble this information without an e-billing system? The answer lies in using

metrics to enable comparative analysis. You can involve your inside team and your outside lawyers in helping to perform the assessments.

Item:	Means to Assess:
Staffing efficiency	<p>-Take the total amount spent per year on a major matter, and divide it by the number of law firm timekeepers who billed to that matter, to arrive at the average spend per timekeeper.</p> <p>-Ask your law firm for a report on hours billed by timekeeper on a major matter, and run an excel pie chart showing the distribution graphically.</p> <p>-Both of these will show whether you have a smaller, core team that is well immersed as opposed to lots of extraneous folks billing with less involvement</p>
Rates	<p>-Create a rate card showing rates for like timekeepers across comparable firms (e.g. Firm A charge X for a 6th year associate, while Firm B charges Y). Do the same to track year-over-year rate increases.</p> <p>-Having this all in one place makes for powerful comparisons (especially when firms are seeking to increase rates).</p>
Application of discounts	<p>-Create a discount tracker showing side-by-side comparison of the discounts you are getting from your firms.</p> <p>-This can help you model the impact of consolidation if you were to assign future work to fewer firms (and presumably get better terms from higher levels of spending, i.e. tiered volume discounts).</p>
Cost of deliverables	<p>-Ask your firms for details on what you paid on an “all in” basis for various deliverables like: a licensing transaction; a real estate deal; a summary judgment brief; fees per deposition; trial representation, etc. Then compare the corresponding figures from various firms across multiple matters.</p> <p>-This enables you to assess comparative firm value on an “all in</p>

	basis,” which is much more powerful than just lining up rates.
Time it takes to pay invoices	-Ask your law firms for a report on the average time period between invoice submission and payment. -This enables you to see whether you in-house lawyers are reviewing invoices in timely fashion, and taking advantage of any early-pay discounts your firms might offer.
Percentage of time written off	-Ask your in-house attorney to track the percentage of invoiced amounts written off 1) for failure to comply with billing guidelines and/or 2) because the charges do not reflect good value. Review this report periodically to see if the levels are where you think they should be
Compliance with billing and budgeting guidelines	-Ask firms to verify that invoices are reviewed in advance on their end to ensure compliance with your company’s billing guidelines. Periodically spot-check this.
Diversity data	-Ask firms for a report showing the percentage of hours or fees billed by women and attorneys of color. Address this if the results are not where you think they should be.
Opportunities for alternative fees	-Use good templates for budgeting, staffing and project management to deconstruct matter into components, then look for opportunities to bill by project or deliverable.
Whether outside counsel is meeting budget	-Ask outside counsel for a dashboard report on progress against budget as the year progresses. (Many clients ask for this information with each invoice submitted.)

- **Suggested frequency of reports**

- Monthly . . . for budget and forecast updates on major matters with high spend
- Quarterly . . . for budget and forecast updates on most matters

Semi-yearly or yearly . . . for the other performance indicators listed above

(Practice tip: want to balance administrative feasibility with the need for timely data to course correct as warranted.)

Appendix: Dividing Tracking Efforts between Law Firm & Client

Item	Client Tracks in the First Instance	Law Firm Tracks and Verifies in the First Instance; Client spot checks
Staffing efficiency	X	
Rates invoiced match engagement letter		X
Invoices properly apply agreed-upon discounts		X
Percentage of invoiced amounts written-off	X	
Average time between invoice submission and payment	X	
All-in costs of various projects or deliverables		X
Comparative law firm cost / value on various projects (measuring "all in" figures on apples-to-apples basis)	X	
Compliance with budgeting and billing guidelines	X	X
Opportunities to implement alternative fees	X	X
Quality / reliability of budgets and forecasts	X	X

(Practice tip: asking the law firm to track this data will shape behavior – that delivers benefits in and of itself.)