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Statement of Purpose: ILTA is the premier peer networking organization, providing information to members to maximize the value of technology in the support of the legal profession.



EDITOR'S NOTE

Finance and IT departments in firms have been tied together marginally over the years. Typically, the two departments collaborated over the installation of a new product, followed by working out performance and reporting issues. The tie between the two departments is now getting stronger. More technology tools are now available to make the back-end processes work more accurately and efficiently. So, too, tools are used on the front-end to share financial information with our attorneys.

We thank our authors for providing their insight and expertise on e-billing, using SharePoint in the finance arena, combining metrics to track and measure firm profitability and implementing the best tools and practices for cost recovery. We've also thrown in a mini-legal-pro MBA just for fun (but be very careful, you might learn something).

Ken Hansen, Editor

ABOUT ILTA

Providing technology solutions to law firms and legal departments gets more complex every day. Connecting with your peers to exchange ideas with those who have "been there done that" has never been more valuable.

For nearly three decades, the International Legal Technology Association has led the way in sharing knowledge and experience for those faced with challenges in their firms and legal departments. ILTA members come from firms of all sizes and all areas of practice, all sharing a common need to have access to the latest information about products and support services that impact the legal profession.



by Steven B. Levy of Microsoft Corporation

:: The Ten-Minute Legal-Pro MBA

Disclaimer: The MBA granted upon reading this does not come from an accredited institution, confers no rights and privileges and probably doesn't even stand for Master of Business Administration.

However, having a basic grasp of the concepts presented here may help you stand toe-to-toe with folks who do have one of those expensive MBAs. You will understand what they're saying, perhaps even better than they do. Indeed there are practical ways to apply financial concepts within the legal profession.

LP MBA 101: Introduction to Legal Finance

"If I seem unduly clear to you, you must have misunderstood what I said" — Alan Greenspan. What do attorneys and finance folks have in common?

They both speak languages clear to them and often incomprehensible to the uninitiated. However, basic finance thinking can be surprisingly straightforward. It's also indispensable to legal pros — planning and tracking matter finances, examining vendors, deciding when to go to trial and so on.

Don't let these decisions seem more complex than they need be. Don't say, "Only the finance folks understand it, so they can decide for me." Don't say, "Only the finance folks understand it, so I'll just guess." Rather, jump right to the heart of the critical questions.

If you look at legal financials, below are a few critical concepts, presented simply and in a legal context.

LP MBA 201: The Case of Money Versus Time

"I'll gladly pay you Tuesday for a hamburger today" — Wimpy. When I was learning to drive, gas was 25.9 cents/gallon. This morning it was

\$2.59. Clearly two bits doesn't buy today what it did four decades ago or even four years ago.

If I spend \$100K on software this year and it saves me \$110K over the next three years, am I really saving \$10K? (Let's ignore maintenance costs. Also ignore Levy's Law: Anything computer-related costs more than you think.) If you put that \$100K in a bank at only five percent interest, you'd have \$116K after three years. Thus, that software is a bad investment.

Businesses generally won't undertake projects that don't return at least 10 percent annually.

The overall concept is called ROI, return on investment. Add up the costs and benefits, but look at the future value of anything that doesn't get spent or paid immediately, or at least this fiscal year. A return of 10 percent a year from now is a wash, not a gain, since that money isn't worth as much a year out.

Spreadsheets have the @NPV formula (net present value) to help calculate what a project is worth in today's dollars. Remember, most benefits don't come in until the project is complete. If Project X saves \$10K a year but takes a year to do, don't include \$10K return in the first year.

To turn this around, consider payment terms of 2% 10 net 60, meaning, "We'll pay you in full in 60 days, or pay you 98 percent of the bill if you want the cash in 10 days." You get paid sooner, but at what cost? The cost is a 14.6 percent interest rate. With inflation currently under control, this is clearly a good deal for the buyer. It can be a good deal for the seller if they can earn more than that with the cash (see course 202), if they need the cash to pay their own bills (see course 203) or you

have a partner distribution coming up (see course 401). Otherwise, it's a bad bet.

LP MBA 202: Opportunity Cost

"If once it be neglected, ten to one we shall not find like opportunity" – William Shakespeare. Going back to the gas-inflation example, I should have bought 36,000 gallons in 1967, right? (That's roughly the amount of gas I'll have put in my cars during my lifetime.) However, I don't know that I could have found \$9,300 when I was 17, I have no idea where I'd have put the gasoline or what the cost of its storage would have been, and anyone with an outboard engine or lawnmower knows that unused gas turns to varnish in a year. But let's say I scraped together the \$9K.

I could have bought a futures contract, obligating the seller to deliver the gas as I needed it, ten gallons at a time. (Impractical, yes, but it's only an example.) However, even putting the money in the bank at six percent interest would have been a better long-term deal.

But what if that were the money I would have used to pay for two years of college? I'd have my gasoline, but I'd have foregone a college education (not that I learned any of this stuff there). Clearly college has proven worth more than the gasoline.

That's opportunity cost: What else could you do with the money? If I buy gas futures, I can't go to college, given limited funds.

An MBA program needs case studies, so here are the first three. They're thought experiments, without enough detail to furnish clear, right answers — sort of the messy way real life operates.

Case Study 1. Given our current number of attorneys, can we afford to take on this new client? We'd have to hire a bunch of associates right now and probably overpay for them, their office space, etc. Is that the best way to spend our money? Here's where opportunity cost and the time value of money meet. What if the equity partners are clamoring for you to give them that cash in a distribution? They get more money now, but what's the cost of the lost opportunity over time?

Case Study 2. I have IT budget for either an e-billing system or an e-discovery system. Let's assume they cost the same, and the IT staff can only implement and maintain one. E-discovery is hot right now, but will it save more money over the coming years than e-billing? Understand what you give up in each case.

Case Study 3. I need a small fix to my time and billing system, and we need a knowledge management system. The former will take a month, the latter a year, using the same resources. KM is a huge priority for the managing partners; the time and billing glitch is just causing our bills to go out a month late, but we still get paid (a month late). Do the high-priority project first, right? What's the cost of a year's worth of late billings versus the cost of delaying KM for a month?

LP MBA 203: Cash Flow

"We didn't lose the game; we just ran out of time" – Vince Lombardi. This is a critical area to explore with potential vendors. It's also a partnership issue; it affects any start-up or expanding business.

Example: Pretend I'm a vendor with 10 employees. To take on your business I need to add two employees today. I need the initial money from this sale to you to pay off development costs; the next sale plus the maintenance contract will make me profitable, and the sale after that will make me rich.

Here's the rub. Those employees will cost me around \$300K this year (\$100K each in salary plus benefits, office space and so on). I'll clear \$500K above costs on the next sale, which will more than cover the \$300K. The problem is that the next sale is a year out, and these employees need to get paid every other week. Sure, I'll have the money eventually to pay them and then some, but that doesn't help me write paychecks next Friday.

I'm in cash-flow crisis. My financials look rosy. \$500K of profit next year, a cool million the year after that. Except I'm going to be in bankruptcy at the end of the month because I can't pay my employees! I'll never get to that million.

The same goes for a new practice or a rapidly expanding one. The attorneys, paralegals expect to get paid regularly, and we need to drum up business and then won't see the proceeds of the first billings for three months. (Those two percent 10 payment terms are starting to look mighty attractive!)

Obviously there are loans, and the tolerance for risk of the various parties comes into play. The moral is that cash flow is regularly overlooked when examining a rosy picture of the future.

LP MBA 301: Introduction to Risk and Uncertainty

"The early bird may get the worm, but the second mouse gets the cheese" – Steven Wright. Risk and uncertainty are not the same. Risk is probability, with real, verifiable numbers; uncertainty cannot be quantified, because there isn't enough data.

I live in an earthquake zone (Seattle). Risk: An insurer can calculate the risk of damage to my home from a magnitude-8 earthquake; they've seen magnitude-8 quakes hit wood-frame houses in other cities. Uncertainty: What's the likelihood of a magnitude-8 quake striking Seattle in the next 50 years? There was a big one in 1700, and another about 1,100 years ago that apparently caused a chunk of Seattle to drop more than 20 feet, but two random events isn't a basis for calculation.

Yet you need to plan for both risk and uncertainty.

If I have a bunch of retail locations, I can calculate the risk of slip-and-falls and the likely costs of litigating – including the risk of losing – versus settling. I can't calculate the likelihood that someone will file a class action claiming my floors are exceptionally slippery; that's uncertainty. In my planning, I can give that uncertainty no weight (ignore the possibility) or full weighting (close or transfer my retail shops) or something in between, perhaps ask my facilities manager to look into nonskid floor wax. Whichever I choose, I have little or no data on which to base a decision, and I need to make a decision nonetheless.

If you're thinking, "No judge would ever certify that class," you are still making a decision, deciding to give the possibility no weight (or assigning it zero cost).

Case study: You have two associate candidates and one slot. One is from Harvard Law, good grades although not Law Review, seems solid enough. The other is from Wombat Law (accredited but you know nothing about it and have met no other graduates), valedictorian, edited Wombat Law Review, seems really sharp. Which do you hire?

Who is most likely to be a wild success? Who is most likely to be a bust? Whom can you defend to the other partners? You can calculate the risks for the former, but a cloud of uncertainty surrounds the latter.

LP MBA 302: The Psychology of Loss Aversion

"Three percent exceeds two percent by 50 percent, not by one percent" – quoted by Herbert Stein. In a recent UCLA study reported in the journal *Science*, participants could risk \$10 on a 50/50 proposition. It should be a wash, right? Half the time you come out with \$20, the other half with \$0, averaging back to the \$10 you started with. In fact, on average the students needed a payout of \$19 to make it worthwhile to risk \$10, almost a 2:1 payoff on even odds.

That's loss aversion, which is different from risk aversion.

Consider the lottery, sometimes described as a tax on those who can't do math. It has a constant payout: 60.5 percent in Washington, 61 percent in Texas, 56 percent in New York, 50 percent in the U.K. and so on. Intellectually, it's a bad bet. However, as the jackpot increases, so does the number of players; the potential prize overcomes the natural resistance to loss.

In the human brain, emotion can override pure reason.

Go back to the previous case study about the associates. The Wombat candidate will have a potentially far bigger payoff; she sounds much more like equity-partner material. However, she's an unknown; most hiring managers of large firms, according to recent articles, place immense weight on the school. Consider that both can surely succeed as associates for some years, and that fewer and fewer associates are making equity partner. Chances are good they'll both "wash out." Yet managers resist reaching for the much higher success probability because of slightly higher risk.

It's human nature. And that should factor into your calculations.

The math is squishy, which is why this is a level-300 course. Most MBAs hate squishy math. Einstein was a great mathematician, right? Yet he said, "Not everything that counts can be counted." Even if you can't quantify it, you have to examine it and attempt to understand it as free from your biases as you can.

LP MBA 401: Accrual

"Not only is the universe stranger than you imagine, it's stranger than you can imagine" – Arthur C. Clarke. Everything above deals with real dollars; accrual is pure fiction. However, for many businesses, especially public corporations, it's necessary.

Accrual is also used in an interesting manner in some partnerships.

Case study: You, an equity partner, perform 100 hours of work on a matter in December at \$300 per hour. You scramble to get the bill for \$30,000 out New Years Eve, but it doesn't go out until January 3. Your client works on net 60, and you get a check for \$29,100 on March 1 (the client said four hours looking something up on Google was three hours too many). In which month do you put the revenue?

The answer is December, January or March depending on which system you're talking about, but for accounting purposes, most folks would say it goes in December. You don't actually have the cash in your hands, so you accrue it.

That's all accrual is, writing up income in the month you worked for it or an expense in the month you incurred it. For the latter, the hotel stay on January 30 is a January expense even though Marriott didn't post it to AmEx until February 2, and you didn't actually pay the bill until March 1.

Case study part 2: Your firm does distribution on February 1 based on work done through December 31. They properly (for accounting purposes) accrued your revenue in December and thus, it's counted in your distribution. Except ... the firm doesn't have the cash in hand to distribute on February 1. And except ... they didn't actually receive all of the \$30K when the check finally did show up.

In other words, they paid you by borrowing money and, in fact, paid you for a bit of money you actually didn't earn. Even if they don't borrow that money from a bank at interest, there is still opportunity cost. But you can get a great deal on that new boat in February. So does this arrangement make sense?

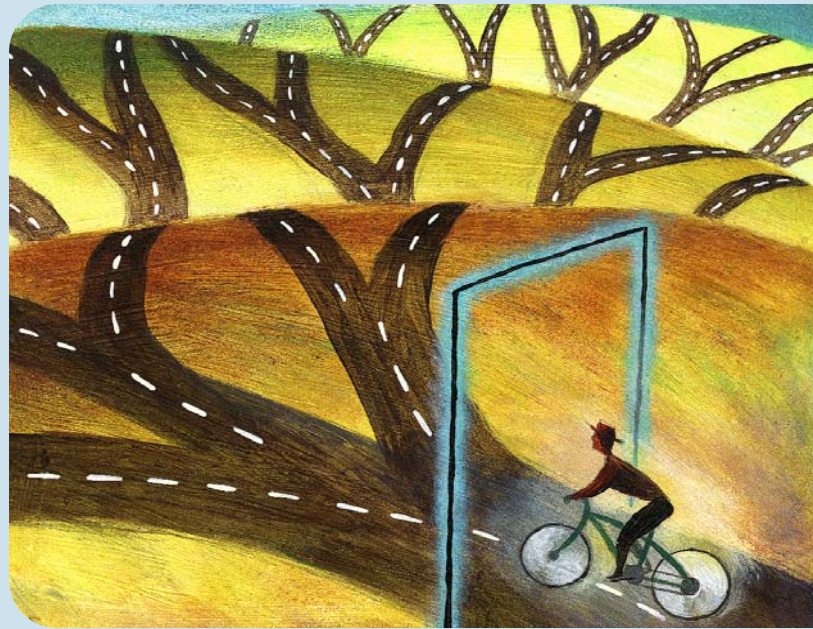
Graduation

I hereby award you a legal-pro MBA, with all the rights and privileges appertaining thereto, which is to say, none at all, except an increased ability to understand what all those other MBAs are talking about and give back as good as you get. You can even call them on some stuff now. And maybe that is worth something after all.



**International Legal
Technology Association**

by Rob Thomas of Serengeti Law



::Selecting an E-Billing Vendor Requires Due Diligence

All is not working perfectly in the legal e-billing world. Last year, the General Counsel Roundtable, an organization of more than 600 law departments, conducted a technology survey which asked law departments to rate their electronic billing systems. Their report showed significant differences in the ratings of the most widely-used systems.

Similarly for law firms, American Lawyer Media Research conducted a recent survey in which more than 600 law firms gave their opinions regarding the benefits and problems of e-billing, as well as their evaluations of specific vendors. The significant differences in ratings among the vendors indicate clear and strong preferences for a very small number of the e-billing vendors.*

The survey data was instructive regarding the relative benefits and concerns that law firms have with e-billing. Three benefits were cited by a majority of law firms: ability to check on the status of invoice approval, ability to submit invoices more quickly and receipt of faster payment from clients. Specific concerns over some e-billing systems were expressed by a significant number of firms: charges levied on firms by some vendors; time-consuming setup; difficulty maintaining authorized timekeepers/rates; required coding of time entries (UTMBS); changes to the LEDES standard; and inadequate notice of bill problems/reductions.

These highlights provide a roadmap to the issues that need to be considered when advising clients on selecting an e-billing system. Due diligence should encompass not only the issues affecting the law departments reviewing bills, but also the law firms submitting bills. If your firm has only limited experience with e-billing, you can be guided by the above survey data and by colleagues at larger firms who can help you assess the most significant differences among vendors.

Making the Most of Marketing Opportunities

Even law firms that have been using e-billing systems for years often aren't aware of the opportunities that some systems offer to generate new business. If your firm hasn't seen the client side of the e-billing systems you are using, you probably aren't aware of how your firm appears in the audit flags, reports and other information generated by the system. It is worth taking a few minutes to look at what the client sees to make sure your firm puts its best foot forward with your clients who are probably using the system to compare your firm with the others who do work for them. Vendors should be willing to give you a quick online tour of the client side of their systems.

In addition, some systems are being used by clients to send new business to law firms that are already connected. Firms can provide descriptive information regarding their areas of practice, jurisdictions, offices and contact information, all of which is used by clients who are searching for new firms with which to do business. For example, in-house counsel at a company that has just been served with a class action consumer claim in a jurisdiction where none of their current firms practice can find firms in that jurisdiction that have experience in that substantive area. When the client finds a firm meeting their criteria, it's easy to begin working together because both are already connected to the same system.

Therefore, your firm should explore how clients may be using e-billing systems to evaluate your firm for new work. You can optimize this free opportunity to market your capabilities to the thousands of in-house counsel around the world who search the system to find qualified law firms with whom it is easy for them to connect.

Talk to the Users

No e-billing system is ideal for all users. It is, therefore, important to talk with a broad range of law departments and law firms who have experience using such systems in the real world. At the outset, you should ask each vendor for two lists: (1) current law departments using their system; and (2) law departments that have stopped using their system, including the reasons why they are no longer customers. From these lists, similar law departments can be identified as potential sources of first-hand information regarding the system.

Try Out the Live System

E-billing vendors should be able to log you into their systems so you can see how they work over your network and those of your clients. There is no substitute for getting onto a live system so you can experience the workflows involved in processing, reviewing, auditing, revising and approving bills, as well as managing budgets and producing reports. After seeing the system in action, it's generally worth taking some additional time to go back and see if it's intuitive to use it on your own.

Be wary of vendors who will not put you onto the live system. It's easy to produce artificial demonstrations that show impressive capabilities. However, we all live in the real world, which is much messier than a scripted presentation. Therefore, get on the live system, learn how to do what you will need to do and make certain the system provides convenient ways to make your work easier. You will then be able to ask informed questions of other firms and law departments that use the system.

Find the Devil in the Details

When you talk with law departments, law firms and vendors about e-billing systems, it is important to focus on the significant differences. The following questions are a starting point for your due diligence checklist from which you can build a matrix to track what you learn to compare and select a vendor:

How much do you charge for each user/law firm; the number or amount of bills processed; the number of projects on the system; system setup and training; ongoing support and training; software maintenance/upgrades; and conversion/upload of an existing database? Are there any charges to law firms? Because vendors charge based upon different factors, your goal should be to calculate the total system cost for comparison across all vendors. This figure should include all costs (including time) that will be incurred by both a law department and all of its law firms. Find out whether charges are fixed for a specific term or will vary month-to-month, depending upon bills, users or other factors.

Corporate clients should assume that they will end up paying, directly or indirectly, any charges by the e-billing vendor to their law firms. Technology costs for a specific client are generally not considered overhead that would be allocated to all clients. Law firm charges can also lead to delayed or partial implementations for those firms who are unwilling to incur the cost. As a result, some vendors do not charge law firms to use their systems, and others are offering a no-charges-to-law-firms (client pays for the system) option.

How many law departments use your system? How many lawyers are in the smallest and the largest, and how many are the size of our clients? When you choose an e-billing system, you are entering a user community. To ensure a long-term fit, law departments should check that other companies like theirs are on the system, making it likely that the system will evolve in ways that meet their needs. You also want to be part of a user community of adequate size, diversity, and growth to ensure that the platform is stable and secure. One of the worst outcomes would be to select a system that ends up being discontinued, is acquired by another vendor who does not extend it or does not have the resources to improve the system as the profession evolves. By getting a list of current and past customers, you can see whether the system is widely used by well-regarded law departments and speak with them directly about their experiences.

How many law firms, and how many of the firms used by our client, submit electronic bills through your system? The more of a client's firms already on the system, the quicker the implementation will be. If less than two-thirds of their law firms are currently processing bills on a system, find out why. Widely-used systems have already implemented most of the law firms used by corporate law departments.

What percentage of law departments using your system is receiving electronic bills from all of their law firms? This is one of the most important and frequently overlooked questions. If an e-billing vendor can only connect your client with some of its law firms, the client will have to maintain two parallel processes: the e-billing system for some bills and a manual process for the rest. This arrangement can lead to wasted time, confusion with inconsistent reports, and fewer savings from having an e-billing system. In addition, spending reports from such an e-billing system will cover only a portion of the client's spending, without a clear delineation of what is included and what is not.

Look for vendors who routinely connect all of the client's law firms. If a vendor will commit to only a certain percentage of overall spending or firms, find out what limitations in their system are preventing them from doing a complete implementation. Such limitations can include an inability to process nonLEDES bills, special bill coding requirements, modifications to the LEDES standard or high costs to firms which make it prohibitive to connect those who have a small volume of bills. Consider other vendors that don't have such limitations.

How long does the entire implementation take? What are the steps involved? Get a detailed implementation schedule from the vendor, with the specific steps and time periods involved, as well as who is responsible for each step. Implementing a multioffice international law department and hundreds of law firms around the world should take no longer than three months, including system configuration, upload of data from a legacy system and training of law department users and firms. Smaller domestic law departments should take two months or less. If a vendor requires a longer time to implement, take a closer look to uncover the problems with their system design, user issues or training that are causing delays.

What hardware, software, or IT support will we need? Most e-billing systems are hosted, meaning the vendor provides all of the hardware

and software that is accessed by both law department and law firm users through encrypted Internet connections. Therefore, there is no hardware or software to install, and no ongoing IT support necessary. If the system is not hosted, find out what will need to be installed both in-house and by outside counsel, how firewall and other connectivity issues will be handled, how the system will be maintained and by whom, and how upgrades are managed, including additional ongoing costs.

Describe how training takes place, including the length of sessions.

This is another great question that is rarely asked. The length of necessary training is a good indication of system ease of use. If training takes more than an hour, it is unlikely that users will retain what they have learned, and ongoing support will probably become an issue. Busy lawyers often refuse to attend lengthy training sessions, pushing the system off to their staff. To ensure full participation, training sessions should be brief and available online so that no one has to leave his or her office. After the initial training sessions, regularly scheduled refresher classes and new user training should be available for corporate users and law firms.

What specific steps do law firms take to submit electronic bills? Do you accept standard LEDES data or require customizations? Do you accept nonLEDES bills, and, if so, how is submission different from LEDES? By taking a close look at the bill submission process, you will get a good sense of whether implementation will be smooth or whether there will be ongoing issues. If a vendor only accepts LEDES formatted bills, some U.S. law firms and most non-U.S. law firms will not be able to use the system. If the vendor requires customizations of the LEDES standard, there will be additional law firm implementation issues. Also, make sure that the system can accept a batch of LEDES invoices, so that law firms don't have to upload them one at a time.

If a vendor has a nonLEDES option, find out how such bills are submitted, how clients obtain the data that is needed for your reports, what formats are accepted (Word, Acrobat, Excel, etc.) and how such bills are reviewed. Some systems permit the quick upload of such nonLEDES bills with summary data for client reports, while others require the re-entry of billing detail for nonLEDES bills (generally not a practical option). Again, the goal should be to have all of a client's bills (both LEDES and nonLEDES) from all of its firms processed electronically in a single system, with reports capable of analyzing all spending.

How does the system inform law firms about bill problems? For law firms submitting bills, systems should provide immediate, detailed feedback identifying any problems, not delayed or vague error messages. This is particularly important if bills are submitted in batches, so that the firm can quickly find and correct errors on specific bills. Such notices should describe math errors, duplicate bills and specific noncompliance with LEDES. Law firms should also be able to quickly check the status of any bill, to see if it has been received, rejected, or approved (including the ability to see all revisions and comments as soon as a bill is approved for payment).

Do law firms have to generate UTBMS task/activity/expense codes to submit bills through the system? Recent articles in the in-house press have discussed the limitations of using UTBMS fee codes. Many law departments have stopped requiring task and activity codes for fee line

items because of the effort required and the ambiguity of the data. UTBMS expense codes, on the other hand, are quickly and accurately generated by most law firm time and billing systems. Find out if the system requires UTBMS codes, if so, which ones, and whether it is worth the time and effort to collect such data. If the system has effective budget tracking (see below), your clients may decide that line item task/activity billing codes are unnecessary.

What types of audits does your system provide? How do reviewers manage those audits and make revisions and comments to bills? How are these changes conveyed to outside counsel? When in-house counsel review bills, they generally want the system to notify them if there are new timekeepers to a project, changes in rates or violation of billing guidelines (including limits on expense charges such as photocopies, faxes, etc.). It is also important, however, to make sure that the system doesn't present lawyers with a large number of "false positives," time-consuming audit flags that don't result in significant bill adjustments. Reviewers should have the option of writing a bill down by a certain amount or making adjustments to individual line items with comments (either internal or to the firm) and automatic bill recalculation. Make sure that approved changes and comments are conveyed back to the firm in a timely manner so they understand why a bill may have been reduced.

How do you handle bills in non-U.S. currency, VAT and the occasional paper bill? If your client works with non-U.S. outside counsel, LEDES 98B will not be sufficient. They can utilize a nonLEDES option to receive their electronic bills, or they can move to the new LEDES XML E-Billing 2.0 format. That format should support most of your alternate currency and VAT requirements and is being implemented in many prevalent law firm financial systems. In addition, it will be important to have a system that converts non-U.S. currencies to the preferred currency of the reviewer, not only for bill review, but also for budget tracking and spending reports. Value-added and other non-U.S. taxes should be tracked separately because they are often reimbursable. Also, you may want to find out whether clients can easily upload an occasional paper bill (after scanning), what additional data must be manually entered for reporting and how to circulate that bill for full review (if it has not already been approved for payment).

How does the system provide invoice approval data to the client's A/P system for payment? Ask for a sample of the electronic file that the system will generate for approved bills to ensure the client has the data required for A/P processing. If their accounting group requires copies of the bills, determine how the system will provide them. If they process a substantial number of legal invoices, find out what is involved in automating the transmission of specified approval data directly into their accounts payable system.

How does the system help the client obtain and manage individual matter budgets? Can they also prepare and track performance against a law department budget? Most clients use e-billing systems to require and track spending against budgets for projects being handled by outside counsel. Find out whether the system will refuse bills until a required matter budget has been submitted by the firm. Take a look at how law firms submit budgets, either by time periods (monthly, quarterly, etc.) or by phase.

Review how the system tracks spending against the budget as part of the client's normal bill review process for the month, fiscal year and since project inception. Check to see whether alerts are provided for matters that are over budget and whether there is a quick way for the client to address bills that exceed the budget. Finally, ask how the system will help the law department assemble and track performance against its own internal budget using law firm matter budgets and spending collected by the system.

Does the system have a means of capturing unbilled law firm time for law department financial accrual reports? Law departments usually have to generate accrual reports of both billed and unbilled time at the end of the year and sometimes quarterly or monthly. Accordingly, some e-billing systems allow law firms to upload spreadsheets of unbilled time so that the corporate law department can easily generate accrual reports.

How does the system help clients find and retain new outside counsel? As described above, some systems allow clients to run searches of all law firms working in the system by name, jurisdiction, practice area and other criteria. This provides a handy way for clients to find and retain new firms that are already connected and offers a valuable marketing opportunity for law firms.

Can the electronic billing connection be used to exchange other electronic information in the same system: documents, status reports, deadlines, notes, exposure estimates and results? In addition to bills, law firms have other important electronic data to be shared with corporate clients including documents, status reports, audit disclosures, deadlines, exposure estimates, etc. Currently, most such information is sent to clients in the form of paper correspondence or e-mail messages. Rather than selecting a system that only processes bills, why not search for a system that also handles the exchange of other electronic information among legal teams? Optimal solutions can collect all of the key information in one place and produce reports that show not only spending, but also the latest status, deadlines, exposure and results. Investigate how each system collects and organizes this additional information and presents it in their reports.

How are reports created? How can clients export data to create their own reports with spreadsheet/database software? What reports are available to law firms? In each system, it is important to run through the workflows to create the most common reports by both clients and law firms. These should include spending, adjustments to bills and budget performance reports along with convenient ways to save regularly generated reports. Also, check how to export data to your own spreadsheet or database so that you can fully customize reports and create presentations.

Find out whether client reports can include nonspending data. For example, a quick snapshot of all of the legal work for a specific business unit should include spending and budget performance as well as key issues, the current status, the next deadline/event and other important information that corporate users will want to see. Run reports that compare similar projects: the duration, fees and expenses, results and predictive accuracy as to costs, duration and results.

What specific upgrades have you done during the past two years, and what are your plans for the coming year? The history of recent upgrades will tell you whether the system is evolving in a direction that will be beneficial to you and your clients. Plans for future upgrades indicate current system limitations as well as the responsiveness of the vendor in meeting the changing needs of law departments. Conversely, if a vendor has done only a few recent upgrades, it may be an indication that the vendor does not have the necessary resources to respond to the changing needs of system users. Be wary of recently released e-billing systems that may not have been tested and refined through past user feedback and upgrades.

A Good Return for Your Efforts

When law firms and clients work together to select an e-billing system, they are far more likely to find one that works well for both sides of the relationship. By taking the time to understand the key differences among systems and learn from the experiences of current users, you can ensure that your due diligence will continue to pay dividends as you work together more efficiently in the system you have selected.

LOC — Setting the E-Billing Standard

by Cathy Reilly of Martin Clearwater & Bell LLP

The LEDES (Legal Electronic Data Exchange Standard) Oversight Committee ("LOC") is an international, voluntary, not-for-profit organization composed of legal industry representatives charged with creating and maintaining open standard formats for the electronic exchange of billing and other information between corporations and law firms. The LOC is dedicated to using open standards which cater to no one organization or group of organizations to uniformly satisfy the complex needs of the legal industry based on five basic principles: keep it simple; make it unambiguous; diverge from existing formats as little as absolutely necessary; only ask for information the law firm is typically able to provide from their financial system; and meet the needs of corporations, law firms and legal industry software vendors to the maximum extent possible consistent with the first four criteria.

The latest format, LEDES XML E-Billing Ver. 2, changes how the math is calculated on an invoice from prior versions; includes the ability to itemize complex taxes, bill alternate fee arrangements, credits and debits on a matter; supports multiple vendor tax identification numbers; eliminates nonmainstream e-billing data elements; and creates consistency in the use of terminology.

In 2007, a standard for the exchange of timekeeper attribute information is being considered by the membership. This standard conveys information required internally by the corporate client and SEC information requirements placed on public companies in the U.S.

For more information on the LEDES Oversight Committee and the LEDES formats, please visit www.ledes.org.

Thinking Strategically About E-Billing

by Daniel Garcia of The eBillingHub

There is no shortage of horror stories about how complex, expensive, ineffective and irritating e-billing is for most law firms. At the same time, clients are demanding e-billing with increasing frequency.

Many firms recognize e-billing is a permanent fixture, and every day a larger percentage of firm revenues depend on e-billing working flawlessly. It's time to look at this issue from a more strategic point of view. The question is simple: Since we have to live with it, can a law firm use industry best practices to turn e-billing into a competitive advantage?

The answer is a resounding “Yes.” Consider these strategic goals and tips on how to achieve them:

Goal #1: Speed Up Payments

Contrary to popular belief, many e-billing clients do indeed process your invoices faster. However, it typically takes a firm substantially longer to get e-bills screened and accepted by the client in the first place. The overall result is a delay in cash flow.

To speed up payments, look for e-billing tools that can put invoices in front of your firm's clients faster and with fewer errors. This will help ensure you won't miss any client processing deadlines (*e.g.*, invoice review or check-cutting dates) as well as position your bills to be “first in line” with respect to those of other firms.

Select e-billing tools that upload invoices automatically so you don't have to upload them manually through a multitude of vendor websites. You'll be surprised how much faster your checks arrive.

Goal #2: Avoid Increasing Labor Costs

Hiring more staff to “deal with e-billing” will not only significantly increase your costs, but it will also create important coordination challenges. Instead, choose e-billing tools that will make your current staff more efficient and enable them to work better as a team.

Effective collaboration will happen if your staff has the technology to help them centralize and share invoice status information. This makes it easier for the key players (billing staff, billing manager, A/R manager) to know exactly where each e-bill is during the process.

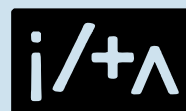
Goal #3: Reduce Risk of Billing Backlogs

The impact of prolonged absence of your e-billing specialist can be profound. Without the proper technology, you may find yourself — more often than you'd like — unable to bill several of your clients for one or more billing cycles during this absence.

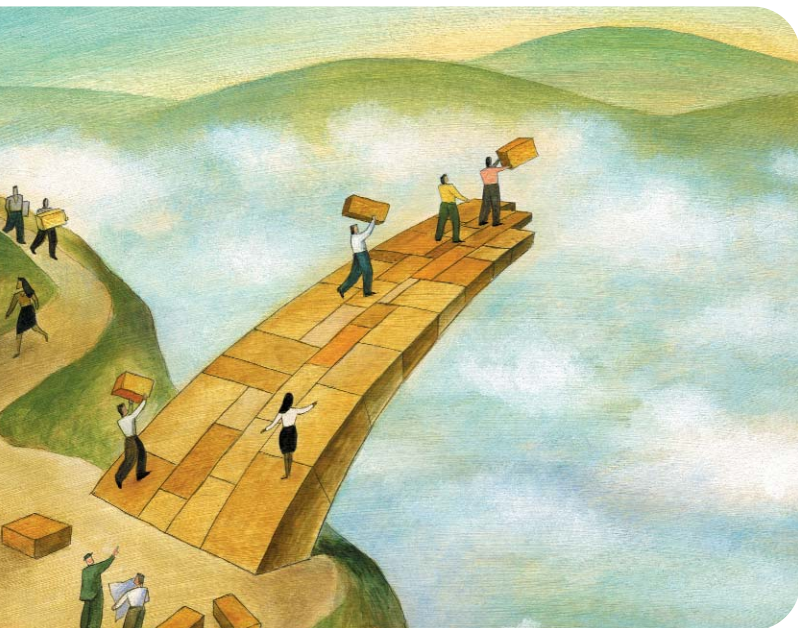
To reduce the risks of billing backlogs, make sure your billing manager knows exactly what has been billed and what is still pending. Your e-billing tools should help people jump in at any time and complete the tasks at hand, even with little or no training. Keep track of every invoice submission and rejection, and make sure you have the ability to track billing progress and fix problems early. Choose tools that provide a high degree of automation and tracking rather than tools that require e-bills to be uploaded and tracked manually.

The Bottom Line

Without the right tools, e-billing can have a negative impact on your cash flow, client profitability and client service. As a finance manager, it's your responsibility to put together the right combination of staff, technology and procedures to ensure that your firm will remain competitive as e-billing continues to grow and becomes an integral part of the firm's operations.



**International Legal
Technology Association**



by Jim Hammond of RainMaker Software, Inc.

:: Enhance Firm Financial Management By Leveraging SharePoint

While both are essential in any law firm, IT and finance departments traditionally have not worked closely together. Neither have attorneys turned to the IT team for financial information. Most likely, your firm's IT and finance groups collaborated primarily during the implementation of a time and billing system as well as worked out performance kinks associated with end-of-the-month billing, report generation and related troubleshooting. In terms of firm management and attorney needs related to finance (e.g., distributing reports, time entry issues), interaction has most likely occurred at the CFO or accounting department levels.

However, in the last year or so, there has been a sea change in how finance, IT and attorneys are delivering, accessing, sharing and utilizing financial information. What is the driving force behind this shift? It's the introduction of Microsoft SharePoint portal technology.

Adoption of SharePoint in the Law Firm Environment

As little as two years ago, firms were just beginning to discuss SharePoint and how it fits in a law firm environment. "What can it really do for us?" Last year, however, ILTA offered numerous SharePoint sessions at the annual conference, all of which were packed with law firm professionals hungry for information on implementing SharePoint-based solutions within the firm. Why the change?

SharePoint is a core portal technology that can be implemented in numerous ways. Prior to the introduction of SharePoint, available portal technologies were proprietary and offered by new or lesser-known vendors. As such, most law firms took a wait-and-see approach. When Microsoft launched SharePoint Server 2007, firms began to take notice of what portals might have to offer.

Microsoft initially offered the base version of SharePoint, Windows SharePoint Services (WSS), free as an integral component of Microsoft

Server 2003. This gave firms risk-free exposure to the technology and time to explore its potential. SharePoint provides a framework for aggregating information for presentation and collaboration among users or teams, including out-of-the-box templates for easy creation of calendars, meeting managers, discussion forums, ready-to-use and custom built "Web parts," shared documents and reports, as well as other collaboration features. In addition, SharePoint is easy to deploy (and use), rich in support and offers complete integration with other Microsoft applications widely used within law firms.

Naturally, as firms familiarized themselves with SharePoint, the realization of its potential grew exponentially and so did demand. SharePoint is now the *de facto* portal standard used in law firms today. With the release of Microsoft Office SharePoint Server 2007 (MOSS) and Microsoft Office 2007, this growth trend only continues to build. Firms that are looking to benefit further from SharePoint's advanced capabilities such as integrated Windows Workflow Foundation and externally-developed Web parts can purchase MOSS licensing as an upgrade to the WSS platform.

To introduce SharePoint, firms often start with the basics: firmwide calendar, contact lists, simple personalization features (e.g., newsfeeds; stock-tickers). However, the real benefit of SharePoint is it enables IT to provide end users with access to information that resides in enterprise systems in an easy-to-use manner that doesn't require multiple logins or extensive training. On the deployment side, IT no longer has to load individual PCs. Instead, an e-mail message with a link to a SharePoint site is all that's needed to get end users up and running.

Moving Beyond the Basics

SharePoint has become the attorney desktop, a landing site where information and updates related to a matter or other topics of interest are aggregated in one place. Web parts take this convenience a step

further. Web parts are vendor-neutral and technology-neutral shortcuts built on XML and SOAP standards for accessing specific information in enterprise systems. Vendors can develop libraries of specific Web parts related to their software providing end users with hard-hitting information snippets. Without having to go into multiple vendor systems (e.g., time and billing, document management, marketing), firm management and attorneys have decision-making information at their fingertips.

Of course, the easier and more accessible technology becomes, the greater the adoption and demand by end users for specific content. If you're an IT professional, you're probably now fielding requests for information to be added to the portal such as, "I want to be able to see the last 10 documents I worked on for a particular matter," or "Can I see, at-a-glance, how much time I billed against a particular client this year?"

Financial-Specific Applications

Through SharePoint and the use of business intelligence-type Web parts, the IT and finance departments can now empower end users with the ability to access need-to-know information easily without having to wait for reports to be generated and without requiring knowledge of the enterprise financial management system. Web parts can be developed for specific financial aspects of the firm, from time entry and accounting (e.g., billing and payments) to realization and profitability analysis.

To get started, a financial-specific site, or landing page, can be created in SharePoint for content related to the firm's financial management system. Here, a highly-personalized view of alerts and reports specific to the requesting attorney can be viewed. Security, rights management and ethical walls guarding access to information are automatically applied as they would be in the enterprise system itself.

Following are some of the critical pieces of financial information that end users will undoubtedly expect to be able to access via SharePoint, and how the firm benefits by making them available:

Cash Reports. Law firms operate on a cash basis, so most partners receive and review cash reports on a daily basis. These reports cover pertinent information such as total cash, fees versus cost, retainer, etc. They typically are generated in the financial management system and then sent in PDF format via e-mail or printed and circulated through office mail. This is a time-consuming and repetitive process, not only for the accounting staff but also for the attorneys.

What if an attorney is on the road or in court for a few days? He or she will return to an inbox (physical or electronic) full of static reports that have to be reviewed and pieced together one-by-one. By making a cash report Web part available in SharePoint, the information is accessible at the attorney's convenience. The attorney can look at the most recent data or even go back to missed days as needed. What's more, Web parts can be created with drill-down capabilities that provide answers to the next level of logical questions. For example, attorneys might first view firm-wide cash position information, and then drill-down to matters where they are the originating attorney.

Billing Payment History. Attorneys are often compensated based on billing or fee receipts. They want to know how much they've billed, what has been paid and to see specific client/matter breakdowns.

Again, using SharePoint, this information can be available right at the attorney desktop in real time.

Opened and Closed Matters. Law firms generate revenue by opening new matters and closing files where work has been completed. Managing this process is key to client satisfaction. Most law firms report on what matters have been opened or closed for a given week or month, which clients are involved, etc. SharePoint can provide this information at a lower cost than manual report distribution.

Recorded Time. Attorneys from junior to senior are closely measured on their recorded time, a clear asset of the firm. Attorneys need to know where they stand with regard to their billable-hour requirements. Although they may not see their billing rates, even first-year associates want to be aware of how many hours they have recorded. Instead of having to ask accounting for a time entry report or go into the time entry system, this information can be gathered through SharePoint, on the fly, and compared to the attorney's goals.

Realization. A key performance indicator of both productivity and profitability, realization analyzes the ratio of recorded time value to billed value and in turn, to the amount actually collected. Business intelligence Web parts will dissect detailed billings, cash collection and both work-in-process and accounts receivable write-offs. Firm managers need to have their finger on the pulse of realization with drill-down capabilities that go beyond the overall firm view to include realization by branch office, particular practice groups, billing attorneys and clients.

Trend Analyses. "Point in time" reporting often doesn't provide a true assessment of the big picture. The firm's management committee, and CFO in particular, will need to measure performance over time to ensure the firm is on target to hit its strategic goals and, if not, to identify the contributing issues. For example, if the ongoing firm total investment budget is \$10 million — ideally composed of \$2.5 million in work-in-process and \$7.5 million in outstanding accounts receivable — then the firm is in a seemingly healthy position.

Firms, however, know that the total investment number fluctuates throughout the year, and the accounts receivable component becomes increasingly more important at year end. SharePoint Web parts can provide a 13-month rolling trend analysis chart that can be used to forecast both year-end cash and corrective actions that might be necessary. If the partners see a negative variance in the trend, drilling down to the branch office or area of law might bring a better understanding of anything in need of immediate attention.

Business Intelligence. SharePoint offers unique business intelligence tools allowing detailed financial modeling and analysis, which can be used to help determine firm profitability goals. Business intelligence-type Web parts enable firms to bypass irrelevant information in order to zero-in on key performance indicators. Further, the newly available Excel Services running on Office SharePoint Server 2007 provide access to real-time, interactive Excel 2007 spreadsheets from a Web browser. These new spreadsheets maintain and efficiently share one central, up-to-date version as compared to static "point-in-time" spreadsheets, while helping to protect proprietary information such as financial models.

These are just a few examples of how SharePoint can be leveraged to deliver actionable financial information to targeted individuals. While finance personnel will still need to work in the enterprise financial management system, end users will no longer need to wait for static reports or spend billable time trying to get at the information themselves. Further, the time required by the finance and IT teams to produce reports and troubleshoot end user issues will be virtually eliminated.

Getting Started

As the IT team plans to develop the firm's SharePoint usage scenarios, be aware that internal department heads may have to be educated as to the possibilities. Most likely, they are familiar only with those scenarios to which they've already been exposed.

Similarly, you may not be aware of all the financial information that is generated and circulated within the firm. Take the time to meet with the partners, CFO and accounting team as well as individual attorneys to understand the kinds of financial information they would benefit from having access to on a routine basis. Be sure to probe for the next logical drill-down related to each data point of interest, so you can ensure the associated Web part that you (or a vendor) develop will meet end users' needs.

Use some of the above scenarios to spark your discussion or begin by discussing the Web parts already provided by your firm's financial software vendor. Because deployment is so easy, test the Web parts with a few key audiences before deploying to the broader user base. Training, if required at all, should be minimal, as users need only understand SharePoint as opposed to any enterprise system.

Not all attorneys are at the same comfort level when it comes to technology. Some partners may still prefer hard-copy reports, whereas some junior, tech-savvy attorneys may continue to demand more information via SharePoint. Fortunately, SharePoint is flexible so that each end user can determine the quantity and types of Web parts they see.

Finally, to increase adoption, be sure to explain the time saving and productivity benefits of leveraging SharePoint technology.

Working with External Vendors

Enterprise-wide software vendors either have or are currently developing ways of aggregating data from their applications as Web parts for SharePoint. You need a clear understanding of what your vendors provide in this regard so you can build your firm's portal offering. Here are some important questions that you should ask your vendors:

Do you provide Web parts?

Are your Web parts compatible with SharePoint?

Do your Web parts respect the security already built into the enterprise system?

What is the licensing for Web parts?

Do you recognize and respect Windows Single Sign-On technology?

Do your Web parts "read" users and provide only the information relevant to them without prompting?

How many Web parts do you have in your library? What do they do?

How many levels of drill-down are offered with your Web parts?

Do your Web parts offer Windows Workflow capabilities?

Can you launch the base enterprise or other applications within the Web parts?

By harnessing the power and simplicity of Microsoft SharePoint, IT and finance can better deliver empowering financial information to key constituents in the law firm. SharePoint does not eliminate the need to work within enterprise systems, but it certainly helps unlock the value of these systems to benefit the firm overall.

ILTA's Core Values

- :: Maximize the value of technology in support of the legal profession
- :: Provide quality, independent, unbiased and accurate information to our members about technology and the practice of law
- :: Maintain vendor independence
- :: Provide quality educational opportunities for our members and ongoing learning for navigating through change
- :: Foster, rely on and celebrate volunteers for their real-world experience and their value as a resource for colleagues
- :: Recruit and retain the highest caliber of professional staff
- :: Act as a vehicle for meaningful peer networking
- :: Respect our colleagues
- :: Commit to the highest standard of professionalism
- :: Maintain a financially sound organization that provides full value for the members' investments
- :: Promote member advocacy with vendors regarding product development and support
- :: Recognize that ILTA is a volunteer-governed organization managed by a professional staff

by Donald A. Gall of Omega Legal Systems



:: Tracking/Measuring Firm Profitability

There's More Than One Path to Success

The majority of information needed to measure your firm's profitability can be found in one place: your financial management system. Finding the right way to mine this information, however, isn't always easy and might take some modifications to make it work for your firm. One firm we work with ("Firm A") focuses mainly on the profitability of the individual working attorney rather than the originating or billing attorneys. It measures that profitability by using the fee-billing analysis within its accounting software. On the other hand, another firm ("Firm B") looks primarily at the areas of law and the kinds of clients the firm takes on.

As both firms would agree, you need to look at multiple data points to understand what needs to be improved to ultimately increase your profitability, or you might be headed in the wrong direction before you know it. A single metric doesn't adequately define a firm's profitability; neither does it provide a good predictor of where the firm's finances are going.

No matter how profitability is measured, both firms are able to increase profitability to varying degrees, and they use the data within their financial management system to do it.

Firm A's More Traditional Approach

Firm A measures profitability like most other law firms do, and this approach works well for them. An annual budget is created based on past revenues and expenditure data, how busy the firm believes the attorneys will be throughout the year and their current billing rates. To determine profitability, Firm A looks at the efficiency — and ultimately the profitability — of each of their attorneys. (Note: To alleviate political decisions as to who "owns" particular clients, the firm focuses exclusively on who actually does the work, not who brings the work to the firm.)

Each month, the firm looks at how many hours these working attorneys have billed and collected versus the efforts they've expended (realization), and how they actually use their time on billable versus nonbillable activities (utilization).

To monitor the net-effective billing rates at which each timekeeper bills, the firm uses the fee-billing analysis report within its financial management system, which looks at time worked, fees billed, fees relieved, mark up/down and average rate billed. Each month, the firm can compare billing rates to what their estimated costs are (included in their annual budget) to be sure they are in line with where they need to be from a profitability standpoint. Operating on an allocated general ledger, Firm A also uses the data to determine individual overhead costs (*e.g.*, salaries, benefits, payroll taxes, professional insurance, etc.) of each timekeeper.

If realization and/or utilization are low, the management team will talk with the attorney about possibly increasing billing rates or working more efficiently, depending on the situation.

Firm A also runs profitability reports on the area of law and its top 30 clients. These retrospective reports summarize how much money was collected, how much was in work-in-process (WIP) before it was billed, how long it took to collect the bill, how much time was written off in A/P and WIP, all on a single report. By reviewing this data, the firm can see which clients are profitable and if any areas of law are unprofitable. The firm also generates more traditional billing and collections reports, listing current billings, what has been paid, outstanding invoices, etc., all vital to the profitability of the firm.

As a result of the multiple data statistics reviewed, Firm A has increased fee income over the last four years and determined it needed to hire additional attorneys to handle its employment law division.

Firm B's More In-Depth, by the "RULES" Approach

To measure and ultimately control profitability, Firm B looks at how efficient its attorneys are, the impact of the associate-partner ratio, the role expenses play, the speed at which invoices are generated and management of WIP. That might sound similar to how Firm A does things, but Firm B more closely follows the RULES of profitability (see sidebar on page 17) and uses these RULES to view things in unique ways.

In addition to realization and utilization, Firm B analyzes leverage, expenses and speed. A few years ago, the firm began evaluating realization by looking more closely at the overall kinds of clients and areas of law instead of taking cues primarily from the perspective of the working attorney or client.

This analysis, for example, showed a strong relationship between write-downs/write-offs and the firm's ultimate realizations in certain areas had nothing to do with how much time the attorney spent on the cases. Some areas of law tended to be unprofitable, and some kinds of clients tended to have the highest percentage of write-offs. The firm started looking more closely at those clients before accepting an engagement. Overall realization increased.

Firm B set goals and measured them against actual billable hours. To measure utilization, the firm did the following:

Evaluated how well it currently was meeting billable hours budgets/goals

Reviewed utilization by individual timekeeper using the attorney billable hour budget report and working attorney statistics within its financial management system

Reviewed firmwide utilization using the attorney average billing rate report, which gives both individual and firm totals for billable hours for a certain period

Measuring leverage of nonequity partners to equity partners is critical. If Firm B is "highly leveraged," it means that fewer partners are sharing the firm's net income. If Firm B were to add additional partners without increasing the firm's gross revenue, the partners' income will decrease. The new — and even the old — partners wouldn't be happy if they have been promised they would make more income as partners. In addition to these partners wanting to make more money, the ownership risks of being a partner demands it. The firm has to expand the revenue they are bringing in either directly by increasing working hours or by generating new business.

By managing its payroll correctly and continuing to bring in work, Firm B continues to be highly leveraged and has associates at the lowest levels working at the highest productivity. This generates more income for the equity partners.

Without a strong budget process as a point of reference, the control of expenses becomes a reactionary process of correcting past spending mistakes instead of the proactive management of expense control.

Firm B evaluated its expense control in a couple of different ways:

Management Level Reports: Income statements compared to budget for month and year-to-date should show enough detail so management feels comfortable, yet not be overly detailed to the point the reports wouldn't be read

Supervisor Level Reports: Supervisors received focused expense reports automatically generated and delivered on a regular schedule.

Firm B was able to do what many firms struggle with: Educate its partners on the fact that realization, utilization and leverage have a greater impact on income than does "penny-pinching" expenses. They didn't ignore expenses, but they realized that many expenses are not as controllable as managing partners may think. Effort would be better spent leaving expense control evaluation to the accounting staff while the managing partners continue to generate revenues.

For example, rent for office space is usually set in a lease covering several years. Nonattorney staff cuts may not be reasonable unless the number of attorneys is reduced also. Controlling widely abused overtime can contribute tens of thousands of dollars to profitability but this may not have nearly as dramatic an impact as would making changes in the elements that create revenue.

Finally, when combined with monitoring billing realization, the speed of billing and collections (or time to payment) gives a comprehensive view of the firm's billing performance and the performance of each partner. In a nutshell, time not billed is like a free loan to the client. The sooner the firm can bill something, the sooner the client has the opportunity to pay the bill. The firm might have collected a lot of money (realization) but it can have more than 12 months worth of inventory between WIP and A/R at any given time. Another maxim of that: The sooner the firm billed a client, the more the client remembered about the details of work the firm did for them and the less likely they were to dispute the bills.

Two especially helpful statistics to measure speed are the number of days of billing currently in WIP and the number of days the firm has in A/R. When added together, it tells how long it takes from when time goes on the books to when money comes in the door. For example, 75 days in WIP and 55 days in A/R means there were 130 days from time on the books to when the money was collected. Knowing this, Firm B decided to send bills out earlier so it would get paid earlier. This decreased write-offs and ultimately increased firm profitability.

Following the RULES allows Firm B to look beyond the standard statistics. Through trial and error, the firm learned that while firms do not need to evaluate all aspects of the RULES to increase profitability, none of them are totally independent of each other. For example, you can't have any realization unless you get some utilization. Leverage doesn't make a lot of sense if you don't get realization from nonpartners to contribute money to the partners.

What This Means for You

You obviously don't have to follow the approaches above exactly to measure and increase profitability, but you should ensure that you are using the data within your financial management system as wisely as possible. To facilitate this process:

Ask the Right Questions. Are you posing appropriate questions to determine how profitable your firm is? Are you evaluating — or emphasizing — the right statistics? For example, are you still paying the attorney with the most billable hours the most money, or have you started to pay attention to how efficient your attorneys really are and how fast they get their bills in so the firm can get paid? Are you still taking on clients in an area of law that isn't profitable for your firm without any other benefits? Are you looking at multiple statistics to get the most value on your profitability?

Develop a Methodology. Do you have a simple methodology to calculate up-to-the-minute costs by timekeeper? This is crucial in calculating profitability, whether on a client basis or a working attorney basis. You need a good means to use the latest data from your financial management system to calculate costs so you can advise your managing partners of each attorney's profitability.

Know Your Accounting System. Do you know what reports your financial management system can give you? Did your vendor help you determine what statistics are most important to you so you get the type of profitability data you want? Does the system maintain your historical data so you can get to it easily? You should be able to set up your system so you can easily create reports reflecting certain criteria in your preferred format (*e.g.*, area of law; the kind of work; flat fee by billing, working or originating attorney; type of industry).

Keep Track of Nonbillable Time. Is the mix of billable versus nonbillable time by your attorneys working for or against your firm's financial goals? Tracking nonbillable time is necessary to feed the future of your firm. You'll want to analyze the amount of time spent on business development, CLE, *pro bono* work and the like to determine if your attorneys are still being profitable.

Analyze Often. Do you need all of the profitability reports within your financial management system? Probably not. But there are quite a few that are crucial for analyzing the results of your

operations: attorney productivity; billing realization; client analysis, including billing and fee realization; top clients paid; and dozens of statistics reports included in the top financial management systems that allow you to slice and dice your transactional data and determine what's working and what's not.

Find the ones that are meaningful to the way you do business and review them regularly, not just at the management meeting. Save paper and copying time by using a report scheduler to automatically e-mail reports to those who need to know.

As these two law firms prove, profitability can be measured in many ways. A combination of metrics will provide the greatest value by using the data within your financial management system to show a more complete picture of what's happening at your firm. Everyone looks at their financial data a little differently, so do what works best for your firm. It might be time to spice things up a bit, though, to really begin seeing the profitability for which your firm has been striving.

RULES* Defined

- Realization:** How much is ultimately collected by the attorney versus the effort expended.
- Utilization:** How timekeepers use their time on billable versus nonbillable activities.
- Leverage:** Ratio of associates or nonequity partners to equity partners in the firm.
- Expenses Control:** A planning process or budget that supports a firm's short- and long-term goals.
- Speed:** The gap between the time a charge is incurred until the date payment is received.

*Developed by the late Robert J. Arndt in the 1990s.



by Richard Hellers of nQueue

:: Information Accountability

Advantages of Software-Based Cost Recovery

Cost recovery tools have been employed by law firms for many years, and they have done a solid job of helping law firms recoup their investments in photocopiers, faxes and telephone costs. While older systems are hardware based, newer systems use a software platform. Cost recovery software is embedded into the machine itself. These new systems provide numerous advantages, including simpler use, ability to track scans, a less expensive upgrade path and the ability to serve as a management tool, providing the firm with more information to improve efficiency and productivity.

The Latest Technology

One of the biggest advantages of software-based cost recovery is that it offers a firm the ability to always have the latest technology. Hardware-based providers literally append terminals onto printers, scanners and multifunctional devices (MFDs). Upgrading, of course, requires new hardware. This can be expensive and disruptive. A software-based system can be upgraded over the Internet, at odd hours, with basically no disruption and no travel costs.

Software upgrades typically are much less expensive for a number of reasons. Hardware must be changed out to add any new functionality. For example, a large Chicago-based firm recently upgraded all its devices — after only two years — just to gain one new feature that it really wanted.

In addition, most cost recovery providers upgrade only the oldest terminals in the fleet (and possibly some of the server software), allowing them to come back every one to three years to upgrade more equipment and software. This never-ending spiral fails to show its full effect because upgrades are done gradually. Software companies normally include upgrades in their annual maintenance contracts, providing a much higher ROI over the course of several years.

Scanning and Printing

One of the biggest questions in cost recovery is whether or not to bill clients for scans. Not only is this information difficult, if not impossible, for traditional hardware-based systems to capture (there is no “signal” produced as there would be when making a copy), but some clients have argued there is no cost involved because no paper or toner was used. However, firms today are beginning to at least track scans because they have found and justified the real cost. Scanned documents take up space on servers, backup devices and take time and manpower to manage.

Many firms today bill for scans as part of an overall “blended” rate, where they offer their clients a lower per page cost for copies, prints and scans. There has been wide acceptance of this model as it offers the client a discounted per page rate while enabling the firm to recover costs across the board.

Newer software-based systems also provide authentic integration with many of the leading MFD providers and the ability to capture scans from any networked scanning device. These systems not only monitor and track scan activity, they also offer the ability for scanned documents to reside in a secure holding area until routed properly, rather than clog up an already overloaded firmwide e-mail system.

Software-based systems also have a distinct advantage in tracking desktop printing. The systems use rule-based popup boxes to capture client and matter information. More advanced programs can be configured globally, so all of the firm’s printers can be managed either as a group or individually without loading software on each PC.

While some firms may have valid rationale for eschewing software-based solutions and sticking with hardware, some of these reasons have been shown to be more myth than fact:

Myth #1 — Software does not work with all devices. Software-based systems can work with any copier, fax or multifunctional device. Most providers have arrangements with major copier companies. Even where they don't, the software can be loaded to a tablet PC to interface with the copier or MFD. While this may not seem like a pure software solution, the tablets are authentic PCs running Microsoft Windows XP, which connect to the network and never need to be replaced to increase functionality when enhancements have been introduced by the vendor. All upgrades can be performed by simply upgrading the software, unlike a terminal which provides no new functionality until it is replaced.

Myth #2 — Traditional hardware companies are now offering software-based solutions. Some traditional hardware vendors are now offering integrated solutions but have a mixed message on their specific direction. They continue to manufacture terminals and author-integrated technology. Firms should ask these companies hard questions about how licensing will be handled moving forward. For example, is it possible to change the brand of MFD at a later date? By implementing a complete software-based solution — either utilizing the MFD panel or tablet PCs — a firm can be sure they will never again be forced to rely on proprietary data collection terminals.

Tracking Web Usage

Because software-based systems generally include an interface between the device and a “platform” that collects and organizes all information from many devices, these systems provide a lot more options for collecting data. For example, some systems can monitor time spent at any website and track that against the firm's validated client and matter information, allowing the law firm to more accurately track research activities and pass the costs back to clients.

These systems are designed specifically to assist firms in better recovering expenses from premium websites such as Lexis, Westlaw and Pacer by requiring entry of client and matter information into a pop-up box when the user accesses premium content on a monitored website.

While some premium sites already collect client and matter information, they are not tied to the firm's time and billing system. Recovering research expenses is a significant difficulty for many firms, because there's nothing to stop users from entering client and matter information like “don't know,” “99999” and “sounds like smith.” Some premium sites allow for the firm's client and matter information to be tracked but require it to be downloaded to the site's database, which risks a breach of confidentiality.

These systems can be configured to monitor actual time spent at any URL through a timer which runs while the browser window is maximized or active and stops when the user exits or minimizes that window. Firms can decide which sites they want to track with client and matter information. Software-based systems help firms analyze who uses which service and for how long, allowing them to negotiate better subscription levels and rates as well as determine which tools are most effective.

Integrating with Third-Party Software

Another advantage of software-based systems is custom integration with other products that work with scans and copies, providing the ability to seamlessly use both the capture and cost recovery software while at the MFD. For example, a popular image capture program requires an “embedded directive” or paper form to be created at the

user's desktop. Integrating with software-based cost recovery systems allows users to skip this step since the cost recovery platform already holds the key information. Users can access the system simply by entering a bit of user, client and matter information right into the MFD, which pulls data from the cost recovery platform to direct the capture and document management systems on how to handle the document.

Print Capture and Rules-Based Tracking

Software-based systems allow the firm to track desktop printing and build rules for capturing client and matter information with the use of a pop-up. Typical rules include charging only for the second and subsequent copies; if the document is longer than 100 pages; or if the copy or print is in color.

Information Accountability

Software-based cost recovery solutions work differently from old-line hardware-based ones. Traditional external, terminal-based systems count copies by measuring a decrease in voltage on the device. They simply count each time the device “flashes.” This provides no ability to differentiate color copies from black-and-white and also does not provide functionality to count scans, prints and Web usage.

A software-based solution collects its information directly from the device's processor. This allows complete and detailed data with 100 percent accuracy. Software-based systems can automatically differentiate between color and black-and-white, count scans and prints to give the firm a much more complete picture of its usage, even down to how much ink and staples are being used.

Traditional cost recovery is really about making sure the firm bills for the copies it makes. But it does not provide the other benefits incumbent in collecting information. A software-based platform includes a database from which the firm can run reports and receive valuable information about its operation. Additionally, these systems can trace who is using the devices and when, providing the firm with the ability to make much better financial decisions. Typical reports include tracking expenses such as copies, prints, scans and premium research for specific clients and/or matter; or scan and print trends by practice group or attorney.

There are a number of things a firm can do with this additional information. One is to increase the defensibility of their cost recovery effort. Better information allows the firm to explain to its clients what it is charging. Again, scans are a good example. While it seems there is no cost, software-based systems help firms show exactly how much server space and employee time is required.

Additionally, many firms choose to (or agree to) not charge for certain things. However, these firms can lose much of the ensuing goodwill unless they specify exactly what they are not charging for. For example, a firm may choose not to bill for the first copy of a printed document. But by invoicing their clients for these prints — and immediately crediting them back — the client understands exactly what the firm is willing to put into its relationship.

Software-based cost recovery systems also do a much better job of providing law firm finance personnel with clarity into internal costs. Costs can be tracked by client, providing transparency into the exact

client profitability. This information can also be quite useful when negotiating equipment leases or relationships with facilities managers. In fact, better information provides other advantages to the firm's bottom line because it can help companies create a better workflow.

Building Better Workflow

With a software-based system, firms and their business management partners (facilities managers) have greater flexibility and can become more efficient with respect to both time and money. The software can provide the firm with a workflow module to allow for seamless integration for the outsourcing firm to manage and track real-time production statistics. Efficiency is created with Web-based job submission and job status notification, not to mention less waste and better staffing.

Case Study: Production Workflow

Firms that have implemented workflow in conjunction with a facilities management provider have experienced significant improvements in job submission, tracking and expense recovery. At any law firm, the IT staff is responsible for making the firm as efficient as possible. One law firm has used a software-based system not only to recover costs from its clients but also to improve efficiency in its copy center.

The firm had been using traditional terminal-based cost recovery that did not assist in workflow. Their project intake procedure was paper-based, and the firm had limited ability to get the status of any particular job. It wanted to track incoming copy jobs as projects and be able to manage and monitor progress automatically, in real time, as well as be able to see a snapshot of all jobs in progress at any time.

After approaching its facilities manager, the firm decided to change to a software-based system. Once complete, it afforded the firm's managers a better understanding of copy center operations and also provided an immediate impact in four key areas: job intake, workflow, operator production and delivery.

Job Intake. Under the old process, a legal assistant would print out a copy of a particular job, fill out a paper form and walk it to the copy center, where the assistant frequently would have to negotiate a deadline with the facilities management staff. Now, the assistant can fill out a job ticket online, check out the electronic version of the document from the firm's document management system and attach it electronically to the online form. The copy center can use its multifunctional devices to output and copy the job. The legal assistant never needs to leave his or her desk. If the job is not currently in the DMS (a box of documents to be scanned for example), the secretary still completes a submission form online and prints a barcode cover page to attach to the project. This still allows for the job to be tracked online and included in all recovery and reporting.

Workflow. The system's automated workflow selects the operator's next job. This optimizes the system, limiting deadline problems and allowing the firm to get the more work from less staff and equipment.

Operator production. At each stage of the job (e.g., copy, bind, quality control), the operator selects the job ID from the tablet PC at the machine. The platform tracks all job productivity such as completion, beginning and end time and waste copies. With this

information, both the facilities management and legal teams can always know the status of any job.

Delivery. All completed work is tracked by when it left the center, the messenger responsible and the time and location of delivery. Because each job ticket includes a bar code, the firm's messengers provide tracking information when the job is picked up or delivered and at any stop along the way.

Perhaps the most important benefit of production workflow is how it helps the firm manage its entire copy center. Because all tracking is done in real time, the team can get a snapshot of the copy center activity at any time. In fact, this snapshot is always available for all to see right in the copy center.

As part of this project, the firm installed a 42-inch plasma screen in the copy center that functions as a kind of scoreboard for the entire copy center operation. At a glance, anyone interested can get an instant and full understanding of the status of every job in the copy center. Legal assistants can see the status of their particular jobs. Managers can instantly see the status of all jobs and make any necessary staffing or equipment adjustments. Jobs that are in danger of missing deadlines are marked with a flame icon to make sure the job gets special attention. With its plasma "scoreboard," the facilities management team misses few deadlines and loses much less time dealing with interrupting status calls.

Now that the system has been in place for a few years, the firm has realized numerous benefits. Its legal assistants are more productive because they can submit and track jobs right from their desks. Their facilities management team is more productive as a result of automated workflow and fewer interruptions. Overall, the firm has found the system to be well worth the cost and effort.

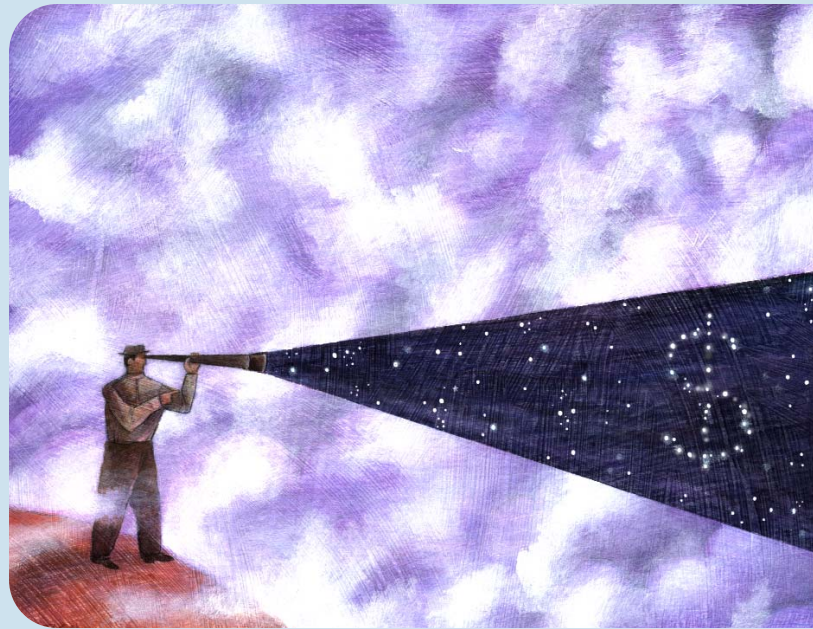
A Win-Win Situation

The advantages of a single, software-based system worldwide are paramount: "Top down" reporting is available for the first time, avoidance of the soft (but staggering) costs of maintenance, vastly simplified backup and routine housekeeping and a dramatically reduced all-in cost. The firm benefits from adopting a device license model; licenses are fully transferable to each new generation of device and new data source on the network. The firm is released from the eternal financial reinvestment in terminals while gaining tremendous information advantages. This overall package of services and data capture achieves the objectives of reducing costs, establishing global standardization and broadening the scope of disbursement capture.



**International Legal
Technology Association**

by Robert C. Mattern of Mattern & Associates, LLC



:: Reduce Costs in Your Operating Budget

There are three areas every firm can examine to generate substantial “hard-dollar” savings in operations: offsite records storage, overflow copying/scanning and output management of printed documents. Here are some recommendations for reducing costs in these areas that will in turn increase the efficiency of your overall operation resulting in “soft” cost savings as well.

Offsite Records Storage

Storage of documents at an offsite location, usually by a third-party vendor, can become a major expenditure without a firmwide strategic plan to manage it. As most everyone would agree, the “paperless office” has never come to fruition. Large organizations with multiple offices in various cities often utilize a variety of offsite storage facilities and vendors. As a result, they may not be able to leverage the best possible pricing for storage. There may be a lack of consistent procedures to manage these documents among the different locations. These situations usually develop over years. Given different contract termination dates, liquidation fees, etc., it may take some time to get your organization on the right path.

To drive savings, there are several key areas to consider:

Take a snapshot of your current situation, including contracts, pricing, terms, performance standards and exit cost (hostage fees). If possible, get a feel through surveys, interviews, focus groups, etc., as to how well individual vendors are performing.

Plot a strategy to consolidate service providers to one or two vendors on a firmwide basis. This may possibly involve “buying out” the hostage fees (also known as permanent withdrawal fees) for one or more vendors.

Encourage competition through a request for proposal process. The RFP should address any hostage or permanent withdrawal fees as well as:

- Performance standards
- Definition of fees
- Criteria for different types of charges (rush, next day, etc.)
- Cancellation provisions

Based on the responses to the RFP, create an “apples to apples” comparison of costs, service levels and criteria for the different fees. If possible, obtain benchmark data on the level of pricing you should be receiving based on your annual spending. Note: In many situations, your current unit pricing is not a good criterion for your current spending due to the increase in square footage. Create a decision matrix (scorecard) for the vendor selection that takes into account all affected areas of the firm: finance, administration, records and IT. Include a vendor performance scorecard (VPS) in the contract with financial penalties if performance criteria are not met.

Monitor the awarded contract. On a monthly/quarterly basis, the vendor should submit the data for the individual performance criteria outlined in the contract. For example, the number of rushes delivered within the designated timeframe, the number of “on-time” deliveries, etc. If your vendor is doing the job correctly, they should be thrilled to supply you with this information. If they hesitate or tell you they don’t have this capability, you probably don’t have the right vendor.

Overflow Copying/Scanning

The next area for potential cost reduction is offsite reproduction (overflow copying or scanning). Every copy or scan that leaves the site and is sent to an overflow vendor drives up the firm’s per-impression fixed costs.

Many organizations negotiate copy contracts that have minimums built in, *e.g.*, 150,000 impressions per month per machine. If your firm is like most organizations, there is no credit if you do not meet these built-in minimums. You also lose any possible cost recovery revenue when these copies are sent offsite. When is it a smart idea to send work offsite? If the spike in volume is sporadic, the deadline is unrealistic based upon your onsite capabilities or the cost of obtaining the necessary equipment to complete the job is not justified by the volume.

To manage your overflow copying and force the volume to your in-house operation, there are several recommended steps:

Upper management must agree with the policy and be willing to enforce it. In many instances, this is an education process; the wasted dollars and missed cost recovery revenue must be justified.

If you start forcing copy or scanning jobs to stay in-house, there is always the danger that the work may not be up to the standards determined by your internal customers. Make sure you have an in-house training program for the operators, a well-managed quality control process and some type of mechanism for end-user feedback.

If work must leave the site, the decision should be made by in-house services, not the end users. The overflow vendors should be selected by an RFP process that results in a primary and secondary vendor. Key criteria that should be included in your overflow contract: no minimum charges; no delivery or rush charges; if the overflow vendor is also your onsite vendor (your copy center is outsourced), then some type of credit should be given for overflow work; and all jobs sent offsite for completion, whether originating from the support services centers or from the end users, should be charged at the pricing established in the contract.

Similar to your offsite records storage contract, there should be some type of monthly/quarterly reporting based on the type of work sent offsite. For example, who sent it offsite, the number of impressions/scans, the type of work and the reason why it was sent offsite. This will assist you in recognizing trends you may want to address through the extension of hours and services or with additional equipment.

If the vendor you select is capable of national coverage and it makes sense for your firm, try to set up a nationally-based contract.

Customer service training is essential for your in-house operation. Anyone on your centralized services team who interacts with end users should have the skills and knowledge to interpret their requests, negotiate deadlines and be creative problem solvers.

Output Management of Printed Documents

Another area to examine is how you manage printing processes for your documents. With overall output volume rising at approximately seven percent per year and copy volume decreasing, what is the most cost effective and efficient way to print a document? Analyze your current situation by conducting a survey to identify:

What is driving your print output (copy, networked print, local print, multifunctional, color and black and white)?

Who is printing what?

Why are they printing it?

How are they printing it?

After you gather this information, define the costs involved with each form of output. These costs should include procurement, service, supplies and maintenance. If your firm currently is not charging for printing, you may want to factor in the cost of a print recovery system so you can charge this output back to your clients.

Even without the chargeback piece, there is still an opportunity for significant financial gain by managing where your output is produced. Most likely, your multifunctional output cost is approximately 50 percent of the cost of your print output. In other words, for every print sent to a multifunctional device, you are saving approximately \$.01 - \$.02 per impression. If you elect to charge these prints back to the client, assuming a 60 percent billable ratio at an average rate of \$.16, you have the possibility of adding \$.11 per impression to your bottom line.

After you have this data, map an output plan that is both cost-effective and efficient. Take into account how the firm is physically laid out, the workflow of the documents and print distribution. Establish a migration plan for your equipment based upon a per unit/impression cost analysis. There is usually an abundance of low-hanging fruit such as older printers that are extremely expensive to operate. It's often difficult to take equipment away from your end users; however, if you add cost-effective output capabilities, such as networking your multifunctional devices for print, it's much easier. By adding "smart capabilities" to your printer and multifunctional fleet, you will not only lower your costs, you will actually increase end-user print capacity.

One common mistake is a firm's reluctance to remove older printers that are running well. The justification is they are paid for (fully-depreciated), so why not keep them around for the end users? This argument usually ignores the service and supply costs for this equipment and will have an impact on your total output costs because they are diverting volume away from more cost-effective output devices.

In rolling out an output management model, it's extremely important to test the model in multiple settings. Out of this test, output rules must be formulated and policies instituted (*e.g.*, more than 50 pages are sent to the multifunctional device, all color copies and jobs greater than 100 pages are sent to the main center, etc.). Make sure monitoring tools are in place and set-up a system to gauge end-user feedback.

Imperative to any expense reduction plan is to know what you are currently spending. If necessary, create a competitive financial situation through a request for proposal process, negotiate a contract that contains service levels and institute a monitoring process that can deliver key indicators of performance success or failure.

Keeping expenses down is a necessary function of effective operations management. If successfully implemented, your new processes should increase the efficiency of your end users and overall support services.

Q.

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