

Why Paper Doesn't Fit the Bill

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Simply stated, electronic billing involves outside counsel sending an invoice directly from their computer system to in-house counsel's system.

This relatively straightforward concept is the foundation for transforming in-house counsel's management of outside legal fees into a manageable, streamlined, predictable and efficient process.

Today, most outside law firms still render a paper bill, and most bills coming into an in-house law department are presented in different formats with varying levels of detail.

The most common format is a brief narrative that states the nature of the work undertaken; followed by the amount of monthly fees, the amount of monthly expenses and a sum total for the month.

Some in-house counsel request a breakdown of time and rates by timekeeper, others take it a step further and ask for this breakdown for each working day.

With paper billing, there is generally no

detailed information to store or record in either a manual or computer-based system.

Even if such information were available, it would be impractical to transcribe all of the data from the paper bill to a paper- or computer-based system. This process would take too long and would be prone to errors.

Because there is no way to capture detailed billing information accurately or efficiently with paper billing, in-house counsel do not have a standard or consistent format to:

- benchmark performance by either in-house or outside counsel based on current or past billings;
- develop, monitor, and analyse realistic billing budgets or billing guidelines; and
- focus both in-house and outside counsel on the value of the services being rendered, their financial impact on the corporation, and the end results.

Only computers make this practical, through the use of electronic billing and matter management systems.

The paper billing process is laborious. For most in-house counsel, bills arrive via daily post and are addressed to their billing clerks.

First, the clerk identifies the matter and

the responsible in-house counsel. Fortunate clerks have an in-house matter management system to find these answers quickly. The unlucky ones must sort through index cards or do a search in a word processing document that contains a list of open matters.

Once the matter and the responsible lawyer are identified correctly, the clerk quickly reviews the bill to ensure the numbers add up correctly and pass a general reasonability check (for example, to say that the use of overnight express mail is not excessive).

Often the clerk updates a bill tracking system, which is either a paper log, custom spreadsheet program, or a commercial matter management system.

The clerk then copies the invoice and delivers the original to the appropriate lawyer, either in person or through the post or by fax.

Once the lawyer receives the original bill, he or she will either approve it, or ask for the matter file to analyse the bill for appropriateness (which may be difficult if it only contains a brief narrative) and for progress against budget (if the in-house law department sets and monitors budgets for specific matter types).

Assuming the bill is not lost or misplaced and everything is in order, the lawyer approves the bill and returns it to the billing clerk.

If the bill is for a large sum, it may need a second level of approval. In this case, it goes back to the billing clerk who goes through the routing ritual once again.

Many secretaries make copies of the bills and keep a set of billing files on hand for their lawyers, duplicating the billing clerk's files and adding time, cost and storage space to the process.

The billing clerk receives the approved invoice; updates the billing log or system; makes a copy of it; prepares a cover sheet to the accounts payable (AP) team with all of the appropriate information; and mails or faxes the invoice to this department for final processing and generation of a cheque.

The cheque is generally mailed to outside counsel within the next 30 days — however, in-house counsel do not know whether their invoices have been paid until the following month's general ledger.

There is a tremendous amount of time and effort expended in getting an outside counsel's bill paid, yet there is no other derived or downstream value from this exercise.

Outside law firms should feel fortunate if their paper bill makes it through this lengthy process in any type of timely manner.

The use of electronic billing will not only significantly streamline the paper-based billing process, saving time, space and effort, but will also add significant value to the process.

With electronic billing, in-house counsel assigns a new matter to outside counsel only after having developed:

- a realistic budget for the matter;
- billing guidelines defining how time and disbursements should be managed; and

- a list of standard tasks and task codes to be used for capturing and billing time.

Outside law firms then take necessary steps to set up its time and billing system to conform to in-house counsel's task codes.

The external law firm's system also takes into account the billing guidelines and flags any exceptions before bills are sent to in-house counsel.

The electronic bill that is generated at month end is sent in a format specified by in-house counsel so that it feeds directly into the in-house matter management system (MMS), either by diskette, tape, e-mail or by direct inter-networking between outside and in-house counsel.

With a few key strokes, the billing clerk oversees the transfer of the bill into the MMS. This transfer program also invokes an audit program that checks the bill for proper formatting, for progress against budget and for compliance with billing guidelines.

If there is a task on the bill for a senior partner conducting legal research, or if one person works over 12 hours in a day, the task is reported as an exception and is either kicked back to outside counsel or referred to the in-house lawyer responsible.

If total billings for the matter are within 80% of budget, the matter is flagged for management attention.

The MMS can be engineered to send the in-house attorney an e-mail notice when new bills are received.

The attorney can view these bills online in the MMS and have complete access to the billing history and other matter-related information. Approval is given by selecting an online status change.

The electronic billing process is quick, efficient, and accurate. It saves effort, space, and time. Most importantly, it yields transactional and management information that lets in-house counsel understand the

financial, substantive, and statistical nature of their work.

For outside law firms, it means bills are not lost and are processed quickly.

The potential for common billing-related problems is practically eliminated since these items are defined upfront and then managed throughout the process.

The effective use of electronic billing requires major changes in the in-house law department including:

- an in-house MMS to identify all open matters assigned to outside counsel;
- budgets to manage standard types of matters;
- standard phase and task codes for outside counsel's time and billing for standard matters;
- billing guidelines that direct outside counsel on how to staff and work through tasks; and
- benchmarking to compare the efficiency and costs of one matter performed by one outside law firm to another similar matter undertaken by either a different (or the same) outside law firm or in-house counsel.

Equally important is the need for in-house counsel to make two major changes in their professional orientation.

They must know how to make effective use of the networked PCs on their desktop (they have to interact effectively with their in-house MMS).

They must also adopt a business management orientation toward the setting of budgets and billing guidelines for individual matters.

In-house counsel must actively manage outside counsel's use of those budgets and ensure billing guidelines are being followed when directing and managing the handling of each matter.