



# White Paper

OCTOBER 2016



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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 support of the legal profession.

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## From The Director

The specialized field of financial management in legal is evolving as more processes are streamlined, data are collected and client expectations broaden. The efficient management of funds to accomplish the organization's goals requires more than elaborate graphs and charts, it takes methodic planning, the right processes and tools, and vision and creativity. Slices of the financial management pie are served up in this white paper, and you're sure to find a flavor you like.

Our authors provide blueprints for creating and renewing client relationships and rates, integrating legal project management techniques with financial analytics, selecting and migrating to a new financial system, reducing files and cost with information governance, and focusing on client-facing key performance indicators. We've tapped into wonderful content from ILTACON 2016 with articles on the cost-benefit analysis process and law department analytics tools. You'll also find highlights from the “2016 ILTA/InsideLegal Tech Purchasing Survey” and ILTACON TV interviews. Needless to say, there's some meat and potatoes to go with that pie.

Many thanks are extended to the contributors to this digital white paper. Enjoy, and share more than graphs and charts with a peer!



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# Creating and Renewing Client Relationships and Fee Arrangements

by Keith Lipman of Prosperoware



Client purchasing behaviors have changed. Outside counsel spending under alternate fee arrangements (AFAs) jumped to 35.6 percent of total spending in 2015, up from 21.7 percent in 2013. Reporting this in their “State of Alternative Fee Arrangements 2016,” BTI Consulting cited improved client focus, predictability in budgets, a more streamlined approach to work and double-digit savings as reasons.

The problem is that law firms rarely take a holistic, strategic approach to their fee arrangements, instead thinking only about one client at a time. To maintain profitability and work efficiency, firms must standardize the process of creating and renewing client relationships and fee arrangements.

## The Rise of Discounts

While a large class of clients continue to use standard hourly arrangements, those rates are habitually discounted. Discounts are the least strategic approach to pricing change and yet are widespread. According to the Altman Weil 2016 “Law Firms in Transition Survey,” a median of 21 to 30 percent of all law firm fees came from discounted rates in 2015. In larger firms, discounted fees accounted for a median of 31 to 40 percent of total fees.

Altman Weil states that a large majority of firms (88 percent) report they are initiating conversations with clients about pricing and budgeting and that nearly all firms (97 percent) bill at least some of their work on a basis other than traditional hourly rates.

Ralph Baxter explains in his blog post “Straight Talk Between Corporate Clients and Their Law Firms” that clients like their law firms and would prefer to continue using them, especially since engaging

## **A median of 21 to 30 percent of all law firm fees came from discounted rates in 2015.**

new providers would involve transaction costs. However, their need for progress is intense, and persuading law firms to change their ways has proven elusive.

Altman Weil notes that clients have felt compelled to move work in-house (37 percent) or to new providers, and to adopt alternative fee arrangements (AFAs) and impose outside counsel guidelines (OCGs) to achieve their goals.

### **OCGs: Each Deal Is Unique and Complex**

The question of profitability is further complicated by an increasing number of clients issuing outside counsel guidelines. Typical guidelines comprise a large of set of financial and non-financial business provisions that can be as precise as dictating how matters are to be staffed, as micro-detailed as stipulating reimbursement for photocopying and as urgent as rules on conflict and data security.

Substantively, OCGs have become vendor contracts and need to be treated as such: Terms must be met in order to receive payment, and contracts are full of tripwires that firms must avoid or risk jeopardizing payment. Bills could be rejected; often firms must resort to invoice write-downs. Law firm respondents to IADC's 2015 "Inside/Outside Counsel Relationship Survey" said that delays in processing bills have joined rate levels and staffing limitations as the biggest challenges in working with in-house counsel.

Write-downs can be significant as some of the guidelines include rules specifying who may work on a matter and in what capacity. There are also risks of legal liability in many of the OCG contracts as they provide for indemnification, widen who is considered a client for conflicts teams and stipulate contractual reporting on data breaches.

This is to be expected: 31 percent of chief legal officers responding to the Association of Corporate Counsel's "Chief Legal Officer (CLO) 2016 Survey" report that their company has been targeted by a regulator or other government entity for an enforcement action and they fully expect their vendor-firms will be similarly scrutinized.

The Federal Trade Commission and other organizations have begun holding law firms responsible for their security infrastructures.

### **Rate Renewal**

The formation and renewal of these arrangements is handled in different ways. Some clients proactively issue requests for information (RFIs) regularly, typically every two to five years. These RFIs are designed to renew relationships with the respective firms; their goal is to measure the success of the representation and, more important, renew the financial aspects of the relationship.

Besides using RFIs, some clients hold reverse auctions. In a reverse auction, firms are invited to bid for work, the lowest bidder usually being the winner. This mechanism provides a structured process to renew the relationship. It also prevents the raising of hourly rates outside of the RFI.

Historically, most firms have sought proactively to raise their rates annually. When the majority of clients were on standard rates, firms were comfortable sending notice of the rate increase and dealing with any clients that pushed back. As the number of clients with unique deals has increased, there is now a need to be more process-oriented and have a broader plan for managing the rate renewal process.

## **Delays in processing bills have joined rate levels and staffing limitations as the biggest challenges in working with in-house counsel.**

### **The Arrangement Process**

An arrangement comprises the combination of fee type, payment terms, outside counsel guidelines and any other aspects that control the delivery of legal work. The process of creating and renewing an arrangement is circular since building a repeatable process is critical to forming a healthy client relationship that brings value to both the firm and the client. Law firm partners have often been uncomfortable discussing arrangements because they perceive a conflict between rate negotiations and delivering good client service. Building a systematized process that provides transparency can alleviate this conflict.

A properly managed relationship should follow these six steps:

- » Modeling
- » Presentation and negotiation
- » Formation
- » Monitoring
- » Notice of renewal (whether led by firm or client)
- » Repeat!

### **Modeling: Is it Profitable?**

One of the most critical aspects to consider when forming a relationship is whether it will be profitable. Discounted fees and alternative fees combine under the general term “non-standard fees,” and firms often require computational analysis for them. Not so with traditional hourly fee arrangements, although these can quickly become unprofitable with discounting. A 10 percent discount in rates can translate to a 25 percent reduction in profit. Because of this, many firms have recently instituted approval processes to make sure

work being undertaken is profitable. Such processes typically require modeling at the client or matter level. A highly discounted client rate can require a model for each individual matter to ensure it can be delivered profitably.

While firms might not share matter costing models with their partners, most finance teams will typically create them. The models determine the cost per hour to perform work and provide a simple mechanism for computing profit margin. There are numerous approaches to calculating cost models. The only other mechanisms for measuring profitability outside of cost models are combinations of realization/recovery and leverage/gearing.

For new work, the modeling of a potential matter or client relationship can be based on:

- » Hours and resources (person or class/level)
- » An amount, with a ratio of staffing
- » Leveraging *a priori* matters as the starting point

For an existing relationship, it is often easiest to leverage the prior year’s work for modeling the upcoming year; many clients will look at the same information in evaluating the firm. It is critical to take both an inward and an outward view in reviewing prior years. The inward view requires determining the financial health of the relationship. Some internal questions include:

- » Is the firm making money?
- » Are realization and leverage (ratio of partners to non-partners) acceptable?

**The process of creating and renewing an arrangement is circular since building a repeatable process is critical to forming a healthy client relationship.**

- » How do clients with similar revenue compare?
- » What is the cash flow? Is the client paying on time, and is the billing lawyer issuing bills on time?
- » What are the write-downs and write-offs? How much time is spent re-issuing invoices to make the client happy?

The outward financial view requires looking at the data from the client's point of view. Procurement and legal operations will want to determine if they are purchasing services at the market rate. The questions that come out of a review of metrics include:

- » Is the correct level of resources providing the work (i.e., what are the ratios of partner, senior associate, associate, junior associate and paralegal time)?
- » What is the average rate for hourly matters?
- » What is the history of rate increases?

Beyond the financial side, there are non-financial metrics that clients may consider, including:

- » Internal surveys on responsiveness and quality of service
- » Proactive advice
- » Ancillary services such as continuing education
- » Investment in understanding the organization's business
- » Contributions to the community, diversity and green initiatives

With the advent of a variety of unique arrangements, the functions of pricing and business development now are joined at the hip. Generating proposals, responding to RFIs and renewing relationships have become tightly integrated and should form parts of a singular process.

### **Negotiation and Formation: Capture the Deal Terms**

The negotiation of any arrangement could require the creation of multiple models to allow a complete negotiation to occur and to provide a baseline of what is acceptable. Once the negotiation is complete, capture the deal terms in a manageable manner. This has been a significant challenge; most legacy technologies used have not been designed for tracking this level of complexity.





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## Monitoring: Make Data Consumable and Accessible

Forming non-standard relationships without subsequently monitoring them can lead to problems. The challenge is these types of matters do not allow for any margin in inefficiency and can quickly turn from profit to loss.

The most effective way to monitor is to put data in front of partners in an engaging and easily understandable manner. When partners have data readily consumable and accessible on their desktops, tablets and smartphones, they can stay informed about what is happening on their matters and avoid “pre-bill surprise,” possibly eliminating the subsequent need for write-downs or write-offs.

Proactive alerting can also be a tremendous advantage and is an important aspect of any solution. For partners to deliver excellent client service, they should know when they are nearing budget limits or when billing is required due to the start or end of a milestone.

## Notice of Renewal

The ability to manage the renewal process proactively is important. Many outside counsel guidelines require a minimum notice period before rates can be raised. Failure to meet these critical deadlines can cause a reduction in revenue. By leveraging an automated system to track notice and renewal dates, firms can avoid missing such deadlines.

## Actionable Arrangements

Law firms require technology that allows the arrangement to become actionable, giving partners the ability to manage their matters and readily understand every time entry or expense that might violate a client’s OCGs and therefore not payable. Partners must be empowered to take rapid action to avoid unnecessary write-down and write-offs and prevent leakage. **ILTA**



# Enhancing Legal Operations by Integrating LPM Techniques with Matter Management, E-Billing and Financial Analytics

by David Rueff of Baker Donelson and Scott Rosenberg of LegalShift



For over 25 years, in-house lawyers have been using matter management systems (MMSs) to store matter-related information, track critical financial and performance data, automate invoice processing, and report project progress/status. An MMS is typically employed to relieve in-house counsel of some of the administrative tasks associated with managing outside counsel. These tools have been enhanced over the years to incorporate a broad range of features and functions, many primarily focused on vendor management, to where they are now often referred to as enterprise legal management solutions.

Law departments have tried to use MMSs to support vendor collaboration and build trust between in-house lawyers and outside counsel, but this has not turned out to be effective because this is not the purpose of an MMS. What general counsel are seeking is behavioral change, not just efficiency gain and spend control; thus, in-house counsel and outside lawyers should turn to legal project management to achieve greater client satisfaction.

## The Limitations of an MMS-Only Approach

MMSs are based around the core concepts that outside counsel management should involve front-end budget development, key matter data capture and auditing for compliance with outside counsel guidelines. This approach has several limitations:

- » It assumes that outside counsel can budget effectively, which may or may not be the case, and that outside counsel is not delegating the task to an associate or paralegal who lacks the skill and knowledge to itemize the matter's time and resources.

**Only 36 percent of firms with over 40 attorneys, 22 percent of firms with 10-39 attorneys and five percent of firms with one to nine attorneys are using legal analytics software.**

- » It fails to acknowledge the administrative investment of both in-house and outside counsel if the budget is poorly conceived (*i.e.*, if more changes require evaluation and approval).
- » It does not take into account that lawyers rarely engage with an MMS, so data input is typically performed by administrative personnel rather than those most familiar with the engagement.
- » It assumes that outside counsel's budget includes work not compliant with outside counsel guidelines, necessitating a burdensome bill auditing, write off and appeal process.

## The False Promise of Data Analytics

Data analytics is all the rage. Software vendors, consultants and legal process outsourcers (LPOs) have developed and are actively promoting tools promising better management of legal matters and improved outside counsel oversight. With its ability to capture myriad financial and performance information, manipulate them in ways once requiring an incredible amount of man-hours and present them in a dashboard view to aid in visualization of challenges and opportunities, one would think data analytics was the ultimate management solution. And yet Mitrastech's 2015 "Catching the Wave" white paper shows that only 36 percent of firms with over 40 attorneys, 22 percent of firms with 10-39 attorneys and five percent of firms with one to nine attorneys are using legal analytics software. If analytics can be used to transform the interactions of in-house and outside counsel who participate in legal operations, why is it so rarely used?

The underlying cause of lawyer dissatisfaction with practice support technologies such as an MMS is their overreliance on the data within them to provide desired *behavioral change*. Having tools to aid in financial analytics does not support vendor collaboration; nor does it build trust between in-house and outside counsel. The process is merely reactive, only aiding decision-making once the damage has already been done. It is like asking the doctor to treat only your symptoms rather than the underlying disease. What cure allows us to achieve desired operational excellence?

One answer lies in a renewed focus on people and process via legal project management (LPM) coupled with improved data capture and financial analytics.



**LPM is more than just doing things better; LPM is about changing the underlying dynamics of the relationship between in-house and outside counsel.**

## The Irrational Belief That Process Improvement Is the First Step

Most people understand that process improvement initiatives will provide a positive outcome. Six Sigma, Agile, Lean, TQM...the landscape is full of false prophets claiming these techniques can achieve lower labor costs and mitigate risk. The reality is that not every lawyer or law firm has the skill, expertise or time to apply these techniques and dissect an engagement. Implementing process improvement requires a team that is ready, willing and able to invest the time necessary to focus the microscope on their delivery methods to identify waste and opportunities for improvement.

According to Lambert and Rueff in “The Power of Legal Project Management”:

*“While both process improvement and project management offer great opportunity for legal professionals to improve their service delivery model, improve client retention, and win more new business, **to date, more lawyers are adopting project management approaches first because it requires less behavioral change.** To implement LPM, you do not have to be convinced of the need to undertake an entire overhaul of a type of legal work as would be done through legal process improvement (LPI).”*

While process improvement offers techniques for determining the best way to carry out a work process, LPM offers a straightforward step-by-step improvement methodology that can be employed in any matter (litigation or transactional) to define, plan, execute and evaluate projects (*i.e.*, matters).

LPM does not require the unraveling of all processes associated with the delivery of a legal service, but instead ensures the lawyer or team develops an accurate, realistic budget and actively manages the budget, schedules, staff and deliverables throughout the life of the matter. LPM applies more discipline to the initial engagement with the client and encourages timely monitoring to ensure that the objectives of the client are satisfied.

## LPM: It Is Much More Than Efficiency

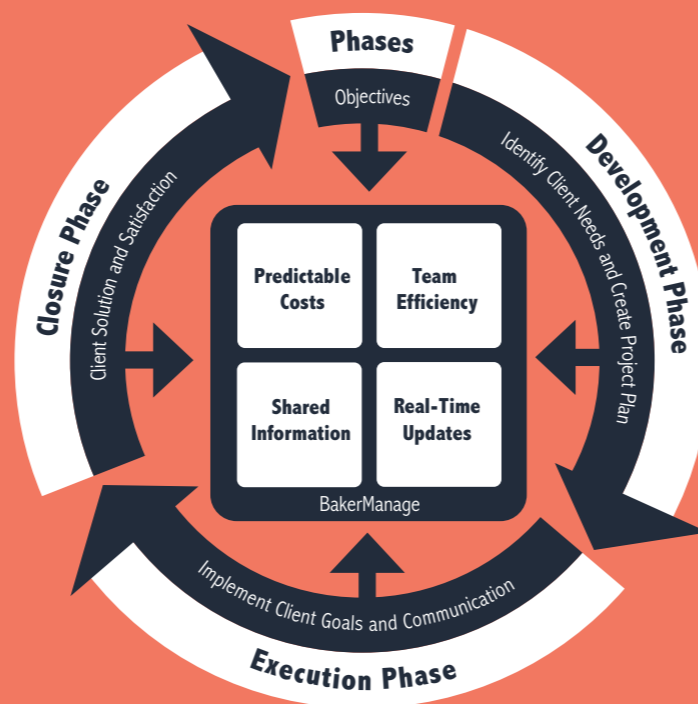
LPM is a method for improving efficiency in the management of legal matters. Yet many still believe it is nice but not necessary, particularly when compared to the value behind matter management, e-billing and financial analytics. Most in-house lawyers believe the cost savings to be realized by an MMS overshadow the potential savings of LPM. How can the impact of soft dollar efficiency compare to that of hard dollar cost savings?

Thinking of LPM only in terms of productivity and efficiency gains completely misses the point. LPM is more than just doing things better; LPM is about changing the underlying dynamics of the relationship between in-house and outside counsel. Let’s look at this in the context of the three main stages of good legal project management:

- ① **Development:** Identify client needs and develop a project plan. This allows us to do a better job of communicating with the client upfront to set expectations, clarify project details and define parameters. Better scoping avoids misunderstandings and ambiguity of work to be performed. All of this upfront work is critical to the development of a reliable budget, which not only provides the client with clearer expectations of potential legal

## The Three Stages of Good LPM

According to Baker Donelson's internal LPM methodology, BakerManage™



“management by exception,” where only significant deviations are the focus of client managers. Execution further reduces cost by reducing the time spent overseeing project resources.

- 3 **Closure:** The measurement of client satisfaction determines the degree to which services meet client expectations. Measuring and discussing work performance reduces costs of the next development effort by accounting for lessons learned, and it forces outside counsel to recognize where they stand in the eyes of the client, which is critical in maintaining a good ongoing relationship.

While designed to achieve performance efficiency, risk avoidance and/or cost reduction, LPM is really about client satisfaction and setting expectations before work begins. Through LPM, the relationship between in-house and outside counsel changes from an audit-driven reactive response to a proactive partnering based on clarity, transparency, confidence and trust.

## Matter Management ≠ Legal Project Management

Rather than Lean, Six Sigma or other process improvement methodologies, corporate counsel would be best served by focusing on their most important operational procedures:

- » Daily matter administration
- » Work allocation
- » Oversight of internal resources
- » Building trust with external partners.

**Through LPM, the relationship between in-house and outside counsel changes from an audit-driven reactive response to a proactive partnering based on clarity, transparency, confidence and trust.**

spend (and therefore with the ability to make strategic decisions about the defense or prosecution of matters), but also serves as a management tool for the team who will work on the matter. Just as important, development leads to cost savings by identifying non-value-added activities for which general counsel will not pay.

- 2 **Execution:** Implement the client's goals and communicate status. Execution done well results in significant savings by removing waste, such as high cost, low value and duplicative efforts. Proper execution also builds trust between the client and firm. The relationship changes from one of wariness and cynicism to



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**Relationship Between LPM & MMS**



LPM tools and techniques are the means for doing just that. Unlike data analytics, the LPM discipline is proactive in its approach and specific in its focus on standard deviations that require further analysis and action.

This does not mean LPM obviates the need for MMS solutions. You cannot manage what you cannot measure, and having the tools to store data, measure performance and communicate status complement good LPM processes. LPM is as much about people and process as it is about technology. To focus solely on implementing an MMS (technology) without LPM (people/process) would not provide desired behavioral change.

By way of budget prioritization and for those yet to deploy an MMS, it is best to begin by establishing a solid LPM foundation by creating development, execution and closure policies and procedures. For those who

already have an MMS in place, focus your efforts on building out good LPM processes. Consider the following formula for success:

$$\text{Operational Excellence} = \text{MMS (technology)} + \text{LPM (people/process)}$$

Adding legal project management will provide a higher state of operational achievement than matter management alone. One without the other is just treating the symptom without enabling the cure. **ILTA**

# 2016 Tech Purchasing Survey Highlights

by JoAnna Forshee of InsideLegal



The entire 2016 survey report can be downloaded at [www.insidelegal.com](http://www.insidelegal.com).

This year's edition of the ILTA/InsideLegal Technology Purchasing Survey marks the eleventh year of InsideLegal's survey of ILTA law firm members' technology spending and purchasing patterns. The survey, which is distributed to all ILTA member law firms, includes detailed technology budget data; updated information on firms' purchasing influences and patterns; legal IT department trends and challenges; and expansive sections on specific legal technology purchases — both last year's and those planned for the upcoming year.

Here's a recap of key findings:

## Budgets: Not Bulging, but Better

- » 53% of all respondents cited increased budgets, up 12% from 2015
- » 39% of small firms (1-49 attys), 38% of medium firms (50-199 attys) and 23% of large firms (200+ attys) represent the increase
- » 60% spend 1-3.99% of total firm revenue on technology
- » 24% spend 4-5.99% of total firm revenue on technology
- » 22% spend \$5,001-\$8,000 per attorney on technology, followed by 20% who indicated spending \$8,001-\$11,000

## Purchasing: Back to the Basics, Flash Forward

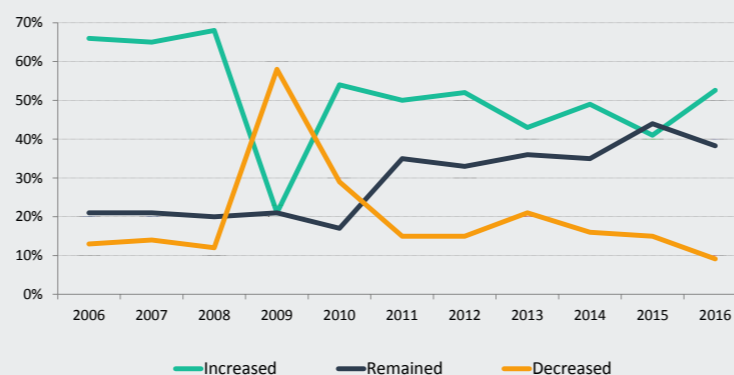
- » The top five technology purchases included desktop hardware/ PCs (61%); laptops/notebooks (59%); network upgrades/servers (53%); printers/multifunctional devices (44%); and antivirus/ antispam/spyware software (44%)



**JOANNA FORSHEE**

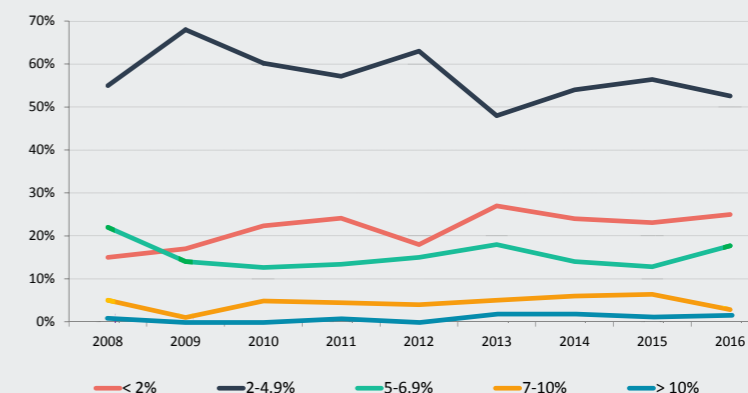
JoAnna Forshee is the CEO and founder of Envision Agency and InsideLegal, the insider's guide to doing business in legal technology in the U.S. and internationally. She has spent the last 17 years promoting the legal technology industry and its thought leaders and is the co-producer of Ignite Law (with Matt Homann). JoAnna heads up InsideLegal's market research and social media programs and educates the legal community through speaking and writing. She was recently named to the ABA LTRC's "Women of Legal Tech 2016" list, is a 2015 Fastcase 50 honoree and was winner of the 2004 Lex Proficio Award for Lifetime Achievement in the Advancement of Legal Marketing. She can be contacted at [jf@insidelegal.com](mailto:jf@insidelegal.com).

Did your current budget for purchasing technology increase, decrease or remain the same from last year?



What approximate percentage of total firm revenue do you spend on technology?

(excluding IT staff salaries/benefits and training)



- » 32% of all respondents are planning to upgrade operating systems within the next 12 months versus 16% in 2015
- » 25% of all respondents are planning to upgrade to cloud storage within the next 12 months versus 15% in 2015
- » 17% of survey respondents purchased analytics software within the last 12 months, an 11% increase from 2015
- » Newly added application/service areas included security awareness training services, software and content (27%) and security monitoring services for the network (27%).

## Outsourcing: Trends and Challenges

- » The top three outsourced technology services included: printer repair/maintenance, website design/services and security assessment/penetration testing services
- » When asked how artificial Intelligence (AI) will influence legal, respondents mentioned e-discovery (71%), document automation (41%), legal research (41%), contract analysis/automation (34%) and case/outcome predictions (24%)
- » Firms' top IT challenges include security management (67%), user adoption/lack of training (42%), risk management/compliance (40%), and email management (39%) **ILTA**

# Selecting Your Firm's New Financial System

by Jim Dusenbery of Source Consulting Group



For those in legal and other professional services, accurate and timely accounting and billing practices are vital for lasting success. In an increasingly technological world, this means selecting a proper financial system to fit your firm's unique needs holds more weight than ever before. If proper product expertise is not paired with practical selection procedures, firms run the risks of selecting inadequate software, making a decision based off of current requirements with little consideration of the future, paying too much for too little and, ultimately, being dissatisfied with their selection.

The ultimate goal of implementing a new financial system is to provide your firm with improved capabilities over your current system in terms of the overall technology, reduction of the bill-to-collect cycle time, lower maintenance expenditures and improved process efficiency. A poor choice now can result in a decade or more of frustration and lost revenue. Here are recommendations to help your firm avoid the pitfalls of poor system selection procedures.

## Develop a Plan

The first thing any firm looking to implement a new financial system should do is develop a comprehensive plan of action. There are various options available that should be considered. A common misconception many firms have is that they will inevitably stick with their current vendor regardless of what else is available, as if updating to the newest model will solve their problems. Before starting their selection work, firms should drop any preconceived notions about systems and vendors until further analysis is completed. Customer loyalty is a great thing if you are the one providing the service. If not, it makes sense to consider alternatives.

**Your firm needs to know what kinds of questions to ask vendors regarding things like functionality, pricing, capabilities and future support.**

Several topics should be discussed in a project kickoff meeting, such as:

- » Current processes
- » Challenges
- » Plans for growth
- » Any homegrown solutions that can or cannot be replaced

Get every issue on the table and determine what is required and desired out of a new financial system, as this is a tremendous opportunity to clean up data, improve processes and increase efficiency.

After you have an idea of what you're looking for, include a plan to determine which products on the market fulfill your needs.

Some firms keep their selection work in-house, but this often leads to shifting priorities that inhibit progress. Other firms utilize third-party consulting firms, but if the right firm is not selected, you risk entering a painful, protracted agreement. Both can work well, and both have their dangers. Whichever route your firm chooses, have a timeline in place with established checkpoints and knowledgeable individuals available with clearly defined roles.

Other important points to consider when establishing a timeline and developing a plan include:

- » If your firm cannot afford a long implementation, certain software might not be for you.
- » Schedule vendor demonstrations in your timeline to get definitive explanations of the capabilities of different software instead of relying on what you have heard about various products.
- » Throughout the selection process, document everything. Thorough documentation is convenient when the time comes to explain to management why you believe certain products are better than others. This can include score cards, evaluation forms, price comparison documentation and/or a comprehensive selection report comprising decision points that led to the product selection.
- » Define a target date for reaching a decision. Some firms begin selection work only to put it off for another year.



**Before starting their selection work, firms should drop any preconceived notions about systems and vendors until further analysis is completed.**

## Identify Needs

Distinguishing between wants and needs can be a tricky process, especially when working with people who have settled into their routines. Just because your firm's old software performed a function one way does not mean it was the best way. It is common for people to be averse to change; it is uncommon to find individuals capable of implementing change smoothly. Having the proper product expertise available to you is instrumental when identifying necessities over desires.

Once requirements are determined and various product offerings are analyzed against these needs, weigh your firm's needs and compare the software. Products will inevitably have features your firm requires, but miss others. In some circumstances, a combination of solutions might be appropriate.

## Working with System Vendors

We don't know what we don't know. When working with system vendors, it pays to know what to ask, just as it pays to demand in-depth answers. Your firm needs to know what kinds of questions to ask vendors regarding functionality, pricing, capabilities and future support, and your firm must be able to ask in a detailed way. If your firm asks for "X," but the vendor interprets "X" as "Y," they might think they supply "X" when they don't.

In a real-world example, you might ask a vendor if their software can accommodate multiple languages, and the vendor might say yes. However, if you specifically ask whether their product can accommodate character languages, such as Japanese or Chinese, you might receive a different answer. A vendor should explain comprehensively the specific process that "X" represents.

A high level of detail should be visible in vendor demonstrations as well. If a vendor treats the demonstration as simply another 90-minute performance, this should raise red flags. The demonstrations should give you a clear look into the system, and the presenter should answer your questions in depth during the session. If they need to get back to you on an item, make sure the issue is addressed, and pay attention to how quickly they respond.

Before making the final decision on a system, remember to consider the unfortunate reality that something at some point will go wrong. Confidence that the vendor can fix these problems is invaluable. Consider this point when negotiating contracts with vendors.

## Consider Professional Assistance

Many firms turn to professional experts to guide them through the selection process and subsequent implementation, while other firms believe they have the necessary resources to manage the project in-house. Only your firm can decide which route to take, but many options are on the table.

Bringing on a third party to assist with your financial system selection has the potential to lead to a long-term business relationship. If your firm hires third-party help, there are several questions to ask to help you select the right company:

- » Are they product-neutral, or do they participate in reseller agreements with system vendors?
- » Do they have experience working with firms of different sizes, or will we be getting one-size-fits-all treatment?



**JIM DUSENBERY**

Jim Dusenbery has a wide background working with law and other professional services firms to select, implement and optimize their financial systems. Contact him at [jdusenbery@sourcegroup.com](mailto:jdusenbery@sourcegroup.com).

- » Are they experts in a range of products, or do they only know select systems?
- » When was their most recent selection work, and how long did it last?
- » Do they possess the expertise to review our vendor contract and identify reasonable maintenance costs, user and system support hours, premium costs for off-hour support, and related nuances?
- » Are they aware of industry trends and what other firms are doing?

In addition, third-party firms should never tell you which system or systems to select — they should only facilitate the process.

## Did Your Firm Make the Right Financial System Selection?

No financial system selection is perfect, as there will always be bumps along the way. However, following these tips will ensure your firm is prepared for what lies ahead. Spending the time and resources to gather and apply proper product expertise and selection procedures now will save your firm handsomely in the future. **ILTA**



Filmed on location at ILTACON 2016, these captivating interviews discuss innovative projects and strategies, important issues the ILTA membership will face in the next year, and provocative thoughts from some of ILTA's thought leaders.



Toby Brown, Chief Practice Management Officer at Perkins Coie, shares the importance of interacting with clients to determine the drivers for their pricing needs, his views on leadership and his work on a new initiative for matter coding standards.



Chris Emerson discusses his role in innovation as Chief Practice Economics Officer at Bryan Cave. He works with attorneys and internal departments to develop strategic relationships with clients and find creative solutions to client needs.



Michael Guernon, Director of New Business Intake & Conflicts at Orrick, Herrington & Sutcliffe, discusses risk management and compliance trends, upcoming challenges, best practices, responding to client pressures and meeting and managing outside counsel guidelines.



Professor Dan Katz talks about his work in the Law Lab at Chicago-Kent College of Law, where he focuses on process improvements through technology, and his work for LexPredict, where he focuses on legal analytics. According to Katz, "Lawyers working together with analytics are better than lawyers alone or analytics alone."

[see more interviews >>](#)

# Migrating on Our Own Terms: A Finance System Conversion

by Frank Schipani of Gilbert LLP



Many law firm CFOs and COOs say they are struggling with their financial management systems. The normal cycle of upgrades every few years is being disrupted by vendor consolidation and changes to vendor offerings. The three big companies in law firm financial software — Thomson, Lexis and Aderant — have each acquired smaller companies, but they are not necessarily giving those acquired products as much attention as their customers would like. In some cases, they have ended development of the acquired products. As a result, more firms than ever are looking at the future of their financial management systems and making changes — my firm among them.

## Dwindling Offerings in a Growing Market

According to the latest ILTA technology survey, about 60 percent of responding firms and 91 percent of large firms (over 150 attorneys) use Aderant Expert or an Elite product. Smaller firms report more variety, with Juris, Rippe and Kingston, ProLaw, Omega, Rainmaker, Tabs3, and Orion reported by at least one percent of responding firms.

Aderant has purchased many smaller packages, such as Omega, Rainmaker and Javelin. Lexis and Thomson own Juris and ProLaw, respectively. The overall market continues to be dominated by Aderant Expert and Elite (Enterprise or 3E). Thomson is ending development of their Elite Enterprise product and encouraging their customers to migrate to Elite 3E, but many are now looking at less expensive alternatives.

With Juris, ProLaw, Omega, Javelin and Rainmaker now part of larger companies, customers wonder how well they will be supported going forward. Will the products still be developed and supported? Juris continues to be supported and developed by Lexis, and ProLaw

## **There are more firms than ever contemplating the future of their financial management system.**

is alive and well within the Thomson empire, though it might not get as much corporate love as its Elite siblings. Rippe and Kingston, Tabs3 (Software Technology, Inc.) and Orion have remained independent companies focused on financial management software.

All of this means there are more firms than ever contemplating the future of their financial management system. Proactive firms are taking a hard look at their needs and available alternatives, not just accepting whatever their current vendor wants to hand them.

Despite some consolidation, there is still a great variety of products available. Chances are more than one will meet your needs.

### **Making the Decision**

My firm used Omega from 2008 to 2014. Once Aderant announced its acquisition of Omega in 2012, many Omega employees with whom we had worked for years left the company. Not long after, Aderant announced it would no longer develop Omega and encouraged existing customers to switch to another Aderant product. Maintenance costs continued to rise rapidly, and, by 2013, we had little to show for the money we sent Aderant's way.

It was clear Omega would not remain viable for us, so I made the case for a switch. I wanted our firm to choose an alternative and migrate on our own terms. A firm can be forced into a move if it finds itself running a system that cannot be upgraded nor run well on modern server and workstation platforms.

By the end of 2013, I had budgeted money for a system conversion and made plans to work with our finance team on the selection process. We headed to the Legaltech conference in New York to get a quick look at several candidates — conferences are a great way to

“speed date” vendors. In two short days at Legaltech, we met with representatives from Rippe & Kingston, Orion, ProLaw, Tabs3, Aderant, Elite and PerfectLaw. We then narrowed the field to the three we wanted to bring to our office for extensive demos.

Moving efficiently through the selection phase was critical to keeping the project on a reasonable timetable. Scheduling a finance conversion around tax season, year-end processing and the holidays is tough, and we learned the actual migration would probably take about four months once we got on our chosen vendor's schedule. We were not the only firm wanting to switch, so migration schedules were filling up fast.

Going into the next phase of the vendor selection process, we needed a good idea of what we wanted to achieve. We worked quickly to put together a requirements list, which included the processes and procedures of our current finance system we wanted to keep plus a list of areas for improvement, such as better reporting, better vendor support and a more user-friendly interface. We also considered capabilities we would want in the future:

- » A hosted system instead of an on-premises one
- » The ability to provide dashboards to partners to give them better insight into the performance of their matters
- » A way to consolidate other practice management functions, such as conflicts, records and docketing, into the new product



**FRANK SCHIPANI**

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Having this list of wants and needs is essential to choosing the right product and can help you narrow things down to one or two vendor possibilities pretty quickly.

Orion and Rippe & Kingston were good matches for our firm. We made our final selection, checked references and contacted peer firms within ILTA for additional insight. When our contract with Rippe was finalized, we contacted Orion by phone to lay out as best we could why we had selected their competitor. Call me old-fashioned, but I think it is very important to show respect and gratitude when vendors put a lot of effort into earning our business. As anyone in legal technology knows, it's a small world.

## Time for the Move

Then it was on to the scary part — migration. One thing we liked about Rippe was their detailed migration project plan. We started our activities right away. We needed a third party to convert our data to a format usable by the vendor, so we found one who had Omega-to-Rippe experience. Remember to lean on your peers in ILTA and other professional networks for this step; someone probably has faced the same challenge and can make helpful suggestions.

Overall, our migration went smoothly. The biggest problem with a system conversion can be messy data, particularly with financial data. We did a test conversion a month before the real one and corrected several issues in the old system before the final conversion took place. If you know you have messy data, you might as well fix it now.

We also took steps to ensure that all of our stakeholders were on board with the coming change. We talked to partners about the new capabilities they would have and explained to timekeepers that we

would continue using iTimeKeep so they would see little difference. We used the excuse of a system migration to improve our timekeeping firmwide, working individually with most attorneys to find the most accurate time entry process for them.

With the vendor, we meticulously planned every detail of the migration weekend. I made two copies of the database for conversion on two encrypted hard drives and shipped them in two separate overnight deliveries to hedge against FedEx losing one of my packages.

## On Our Own Terms

A finance system conversion can be daunting but it does not have to be overwhelming. As with any critical administrative function, evaluate available options every few years. Learn what other firms are doing and what other vendors offer. You might discover the product you have can do more or that it is holding you back. If you need to migrate, do not wait until a vendor consolidation or decision to stop support pushes you into it. Gather your stakeholders, figure out your current and future needs, and plan it on your own terms. **ILTA**

# The Cost-Benefit Analysis Process: Making an Educated Decision

by Neil Cameron of Neil Cameron Consulting



The original idea of cost-benefit analysis (CBA) was set out in broad terms by the French civil engineer and self-taught economist Jules Dupuit in an article in 1848. In 1936, the U.S. Federal Navigation Act required a cost-benefit analysis for a proposed federal waterway infrastructure, and Ronald Reagan mandated the use of CBA in the U.S. regulatory process. The process has been widely adopted by governments, businesses and accountants as a tool to determine the worth of any potential investment project.

In the law firm IT world, CBAs have often been unduly simplistic and therefore inaccurate. What issues should IT teams consider as they plan and execute the CBA process? With some reasonable forward thinking, IT teams can put forward a solid CBA that will be more realistic — and less likely to be ignored.

## Definitions and Beginnings

Betterevaluation.org defines CBA as:

*“A technique used to compare the total costs of a programme/project with its benefits, using a common metric (most commonly monetary units). This enables the calculation of the net cost or benefit associated with the programme.”*

The adopted process of undertaking a CBA is to:

- » Select measurements and measure all costs and benefit elements
- » Predict the outcome of costs and benefits over a relevant time period

**Economic reality rarely lives up to expectations, largely because costs are woefully underestimated and benefits are similarly overestimated.**

- » Calculate the net present value of project options and apply an appropriate discount rate
- » Perform a sensitivity analysis

A cost-benefit analysis should not be confused with the return on investment (ROI) methodology. CBAs seek to measure the relative sum gain of any project investment whereas ROI measures investment effectiveness for the generation of profit and is expressed as net profit divided by total assets. As macroeconomist Olivier Blanchard points out, a key difference between the two is that whereas CBA should be undertaken beforehand and confirmed afterwards, *“ROI can only be calculated AFTER the investment has yielded a return.”*

There are two key reasons to conduct a CBA:

- » As a fundamental aspect of any project, especially a large IT project, to help determine whether it is worth undertaking (although a CBA should not be the sole criterion for a decision to proceed)
- » As a tool for comparing the financial benefits of different IT investment opportunities, especially as part of a detailed IT strategy

Before beginning the analysis, document what to analyze and compare. For each measurable opportunity, define the scope of the system and determine what high-level requirements it needs to provide, which systems it will replace, and with which other current or planned

systems it will need to integrate. It is also helpful to consider who will use the new system.

Next, get a good handle on the costs. CBAs often have a bad reputation because economic reality rarely lives up to expectations, largely because costs are woefully underestimated and benefits are similarly overestimated. Now is the time to address the first of those potential problems by defining all costs at a realistic level, bearing contingencies in mind.

## Costs

To identify all likely true costs, first identify the categories of expenditures and take a practical view of what will fall under those categories. Apart from the headline costs of hardware and software, there is a wide range of other obvious and less obvious costs. These could include preselection costs, such as relevant procurement costs of selecting the preferred software and vendor, and other relevant consultancy expenditures, which could be ongoing. There might also be installation and commissioning costs associated with hardware and software.

After the system is installed, there will be annual software (and maybe hardware) maintenance, or as is increasingly common, annual software licence payments instead of a one-off software licence. In complex systems, there could be a combination of both one-off and annual payments for different modules.

Throughout the implementation, there could be expenditures on project or program planning and management (internal or external), change management, vendor implementation consulting and a wide range of other one-off or ongoing items, such as:



## Consider any factors that may temporarily or permanently inhibit expected benefits.

- » Additional consultancy
- » Data cleansing
- » Data migration
- » IT staff training
- » Key staff backfilling
- » Migration support
- » New IT support staff
- » New management staff
- » Temporary staff
- » Training

There are common pitfalls in assessing potential tangible benefits (*i.e.*, increased sales or reduced costs). For example, if implementing one of the new generation of automated time-capture systems, the obvious tangible financial benefit would be increased capture of chargeable time. Real-world experience indicates there are undoubtedly significant potential benefits with these systems when they are properly implemented and users are well-trained. However, the increase in recorded chargeable time must be assessed realistically, and it must also be discounted by the firm's average realization rate since not all of the chargeable time will actually be billed. In addition, the resulting potential benefits must be phased, as there is likely to be a short-term drop in recorded chargeable time as users learn the new software. Consider any factors that may temporarily or permanently inhibit expected benefits.

Next look at intangible benefits, those that cannot be accounted for in a direct financial manner. These factors also must be considered when determining a project's worth. They include things such as:

- » Better quality
- » Higher speed
- » Better client service
- » Increased staff satisfaction
- » Better consistency
- » Better risk management

A discussion on all these factors could lead to the identification of related financial benefits; if this happens, such opportunities should be exploited where reasonably credible. Examples could include:

Better quality	Fewer complaints, the ability to increase fees, reduced professional indemnity (PI) insurance premiums
Higher speed	The ability to increase fees, productivity gains
Better client service	More new work, the ability to increase fees
Increased staff satisfaction	Reduced staff turnover
Better risk management	Reduced negligence damages, reduced PI insurance premiums
Better consistency	Increased client satisfaction

## Financial Analysis

With all these numbers in place, complete the formal part of the traditional CBA. This involves assimilating the data over a selected time period, usually three to five years, and applying a net present value (NPV) calculation with a specified discount interest rate. It is normal at this stage to conduct a sensitivity analysis in which the costs and benefits are varied within limits to gain an understanding of how sensitive the overall model is to errors in estimations.

**Sometimes a project that brings no financial benefit or even a financial loss might be worth doing because it is vital to the business.**

Useful financial outputs at this stage would include:

- » Gross and net costs and benefits over the given time period
- » A cumulative assessment of costs and benefits over the same time period
- » Identification of the break-even point, the financial year the costs are recovered by the estimated benefits
- » Additional cumulative analyses lines with 50 percent benefits as a shorthand of sensitivity analysis, which will show a new break-even point

This is often the only information provided to senior management on which to decide as to whether a proposed IT investment should proceed.

### **Non-Financial Issues**

Relevant non-financial information must be presented to management along with financial information. Only an overall appreciation of all relevant data will lead to a foundation-based business judgement. Such non-financial data should include the following analyses:

- » Risk
- » Urgency
- » Integrations and dependencies
- » Business impact

### **Risk, Urgency, Integrations and Dependencies**

It is useful to divide the risk elements between business risks and technical risks. Business risks include issues such as:

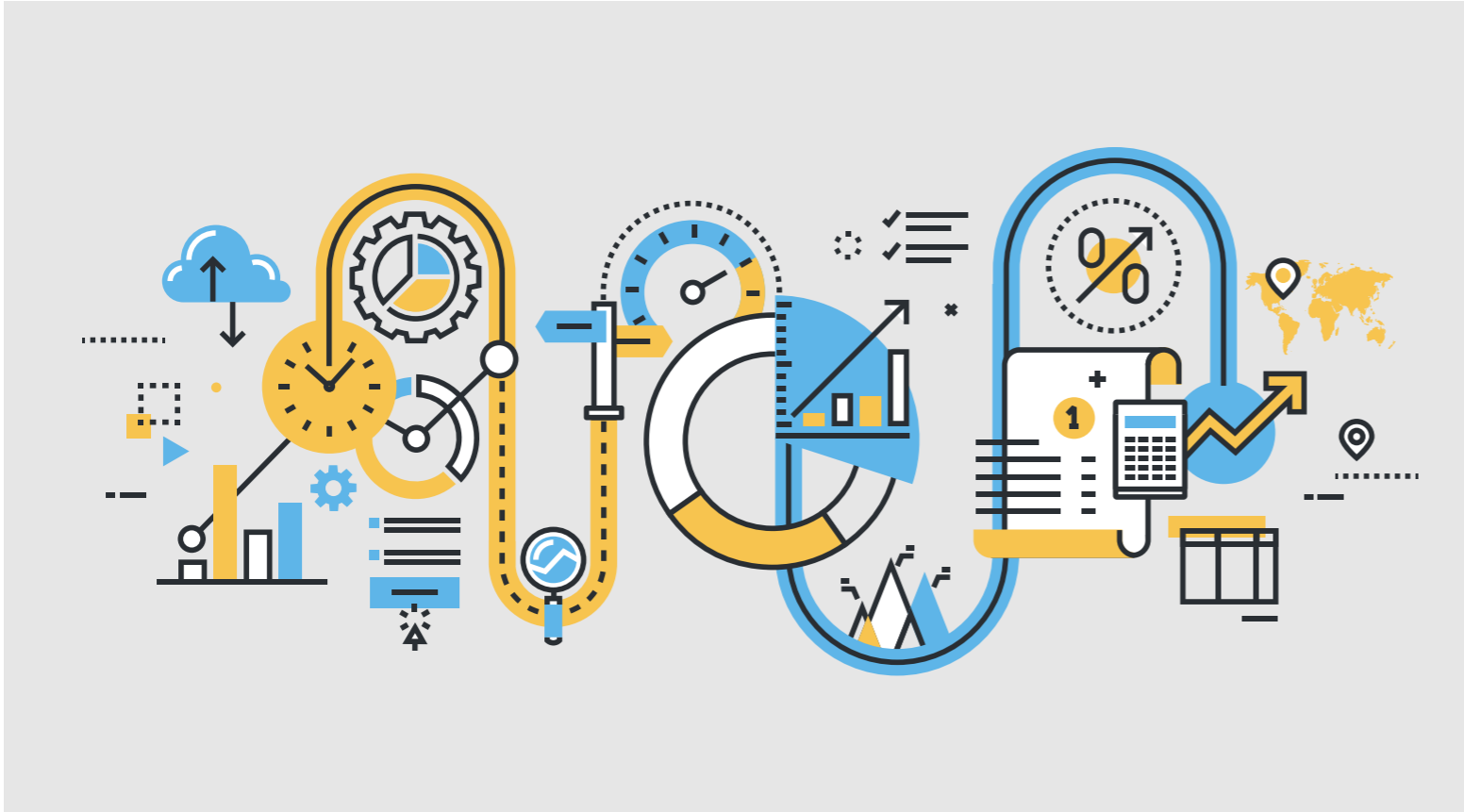
- » A high degree of organizational change
- » Uncertain benefits
- » A “Big Bang” implementation
- » Potential for cost escalation

Technical risks are things such as:

- » Adoption of leading-edge technology
- » Investment requiring integration of many other systems
- » The system requiring a high-performance or network bandwidth

To compare systems for both types of risk, it is good practice to score them for the likelihood of the risk occurring and weight them for the degree of harm an occurrence would cause. Multiply these two numbers to get a weighted risk quotient for each risk; add them all together for an overall risk factor for the project. With an understanding of significant risks in hand, identify what risk avoidance or amelioration tactics you intend to use to manage them.

The degree of urgency for a new system is relevant for determining the desirability of proceeding and assisting in prioritizing between new projects. Business urgency might be that the system is required to facilitate a key new business opportunity, while a technical urgency could be a “burning platform” that needs replacement soon or it could fail.



Finally, the organization must always consider the extent of the integration requirements between the proposed system and other systems currently running, and any dependencies between it and any other existing or planned systems.

### Issues with the “Traditional” CBA

Standard CBAs tend to give undue weight to purely financial criteria and have occasionally come into disrepute. An example is the Ford Pinto gas tank placement scandal in 1978. According to a *Popular Mechanics* article, the car was designed in 1970 with the gas tank

behind the rear axle. After it was already in production, Ford undertook rear-end collision tests. Out of 11 carefully coordinated crashes, the gas tank ruptured eight times and often burst into flames.

Ford considered redesigning the car but then did a CBA. Experts calculated the value of a human life at around \$200,000 with a serious burn injury being valued at \$67,000. Using an estimate of 180 deaths and 180 serious burns, possible liability costs worked out to around \$49.5 million. Meanwhile, they calculated the cost to redesign and rework the Pinto’s gas tank at close to \$137 million.

Twenty-seven people were determined to have been killed in rear-end-crash explosions involving Pintos. In one of the few cases brought to trial, a California jury awarded a severely burned boy \$650,000 in ordinary damages and another \$125 million in punitive damages, registering their disgust at Ford memos introduced in evidence that betrayed the company’s cold-hearted CBA calculations.

Even after a judge reduced the amount to \$3.5 million on appeal, this was far more than the company had ever counted on paying. It was a real wake-up call for Ford, whose legal teams went to work settling many pending cases out of court.

### Other Issues with CBA

Sometimes a project needs to go ahead irrespective of the economics; it might be vital to the continued existence of the business, further some fundamental business objective or be a business or technical prerequisite to some other vital new system.

**If the firm believes such a small change is feasible, saying yes becomes easy.**

The key issue with a traditional CBA is that reality is never as rosy as we envision. There are several reasons for this, such as:

- » **The Planning Fallacy:** A natural tendency to underestimate task completion times
- » **Focalism:** The tendency during decision-making to anchor, or overly rely on, information or a specific value and then adjust to that value to account for other elements of the circumstances
- » **Impression Management:** The attempt to impress your boss or peers with performance
- » **Optimism Bias:** Plain old wishful thinking, a tendency to underestimate costs and overestimate benefits
- » **Negligence:** Missing important things
- » **Strategic Misrepresentation:** Stretching the truth because you know an initiative will not get approval unless the figures are good

There are a number of techniques one can use to improve the CBA process and avoid falling into the gotchas above, including:

- » Do not determine business benefit estimates yourself; get representatives from the business (“sponsors”) to identify them or at least sign off on your estimates of potential benefits

- » Be aware of sponsors’ pet projects and get them to show and justify any assumptions behind their thinking
- » Be pessimistic and err on the side of underestimating benefits and overestimating costs
- » Do not assume all benefits accrue from day one; they must be phased in over time
- » Make allowance for a drop in productivity during migration to any new system
- » Never forget the importance, cost and time of change management
- » Never forget the importance, cost and time of training
- » Measure your actual costs and benefits against the initial CBA estimates (few organizations do this)
- » Learn from your mistakes for future CBA exercises (known as “reference class forecasting,” this process is regarded as the holy grail of continuous planning improvement)

## **An Objective Assessment**

Sometimes a project that brings no financial benefit or even a financial loss might be worth doing because it is vital to the business, furthers a fundamental business objective or is a prerequisite to some other vital new system.

**Normal CBAs often render figures regarded by the business as unrealistic (e.g., a 20 percent increase in turnover); here, the benefit factors identified reflect tiny improvements. If the firm believes such a small change is feasible, saying yes becomes easy.**

How do we measure these criteria? It is not as difficult as it sounds:

- » Have the firm's senior management team agree on key current business objectives. These may already exist or can be derived from the firm's existing business strategy. Where no strategy document exists, it is usually possible to determine these objectives during a two-hour workshop with the management team.
- » Next get senior management to prioritize each of these objectives as high, medium and low. They will initially not want to assess any strategic objective as being low; persuade them by helping them see it is only a relative low. High priorities should be weighted more heavily than low-priority objectives.
- » Evaluate each project to determine how the fully functioning system will help the firm achieve each business objective (try a scale of one to five).
- » Multiply the project score by the priority weight
- » Compare the relative business impact scores of the projects

This is not a finite science; it is a simple way of producing an objective assessment of a subjective comparison. It has proven very useful as a way of assessing what is otherwise a key missing element in a standard CBA.

## Marginal Benefits Analysis

Another alternative to following the usual practice of trying to squeeze every possible ounce of financial benefit out of the process, potentially leading to overestimation of benefits, is identifying only the quantum of behavioral change and consequent benefits that would cover the projected investment over the required planning period (aka a marginal benefits analysis).

Begin by identifying the main potential headings of benefits that apply to all proposed systems. Examples include:

- » Increase in the capture of chargeable time
- » Minutes saved per consultant per day
- » Increase in proposal/project win rate
- » Increase in effective project realization

Develop a spreadsheet model to identify what financial benefit would be brought about by a small increment in relation to each benefit class:

Increase in the capture of chargeable time	one minute per day
Minutes saved per consultant per day	one minute per day
Increase in proposal/project win rate	one percent
Increase in effective project realization	one percent



### NEIL CAMERON

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Wrapped into this model is the necessary net present value calculations and interest. This can provide you with the financial benefits of each such increment, for example:

One minute more of billable time captured	£200k annually
One minute saved per consultant per day	£36k annually
One percent of increased business	£100k annually
One percent of increased realization	£400 annually

Then you can flex the model in relation to each of the core projects only by the amount required to cover the proposed investment.

Normal CBAs often render figures regarded by the business as unrealistic (*e.g.*, a 20 percent increase in turnover); here, the benefit factors identified reflect tiny improvements. If the firm believes such a small change is feasible, saying yes becomes easy.

### Educated Decisions Abound

The traditional methodology of a cost-benefits analysis and additional analyses can help you make educated business decisions as to whether to proceed with any proposed potential IT initiative. Keep in mind risk, urgency, integrations, dependencies and non-financial issues as you complete your next CBA. **ILTA**



Download the ILTACON session recording and presentation materials on this topic >>



### MORE ONLINE!

## Why the Bottom Line Should Be Top of Mind



**Joe Buser of Traveling Coaches interviews Tim Armstrong, COO of Vinson & Elkins, LLP**

As law firms continue to evolve, they are looking more like other businesses. Organizational changes, mergers and an emphasis on the bottom line are changing the way law firms operate. No one knows this better than Tim Armstrong, COO of Vinson & Elkins, LLP (V&E). Now in his twenty-third year at V&E, Tim has played several roles, including CIO and CFO, before ascending to his current position in 2009. During his tenure, he has seen the firm grow not only in size but also in complexity. He has witnessed economic booms and busts; throughout it all, V&E continues to thrive.

**[read this article >>](#)**

# Can We See What They See? A Preview of Law Department Analytics Tools and Metrics

by Pratik Patel of Elevate Services



In 2015, Altman Weil conducted a “Chief Legal Officer Survey,” which concluded that one of the top three priorities for increasing law department efficiency and service delivery lies in the collection and analysis of metrics. While this typically ranks high on the “wish list,” the recent rise of lawyer-friendly analytics tools and the addition of legal analytics gurus to in-house legal operations teams have enabled general counsel to benefit from an “ask and you shall receive” approach to data intelligence.

## What Are Law Departments Measuring?

Historically, law department measurements and tracking have been focused on spend. Information-tracking has typically been decentralized to numerous tools; the most connected information is usually contained within the matter management and e-billing solution. Mounting pressure on cost control and accessibility to spend data through e-billing systems led to spend metrics becoming the benchmark for metrics sophistication.

Law departments now face increased pressure to identify departmental strengths and weaknesses, beyond spend alone. They are discovering their ability to measure and track several metrics that demonstrate overall value of legal service delivery. As a result, law departments are taking a more balanced approach to performance. The following metrics now serve as a rising benchmark for measurement and tracking sophistication:

- » **Demand:** Measuring what comes in and out of the law department in terms of requests, by type, by whom, cycle time, etc.

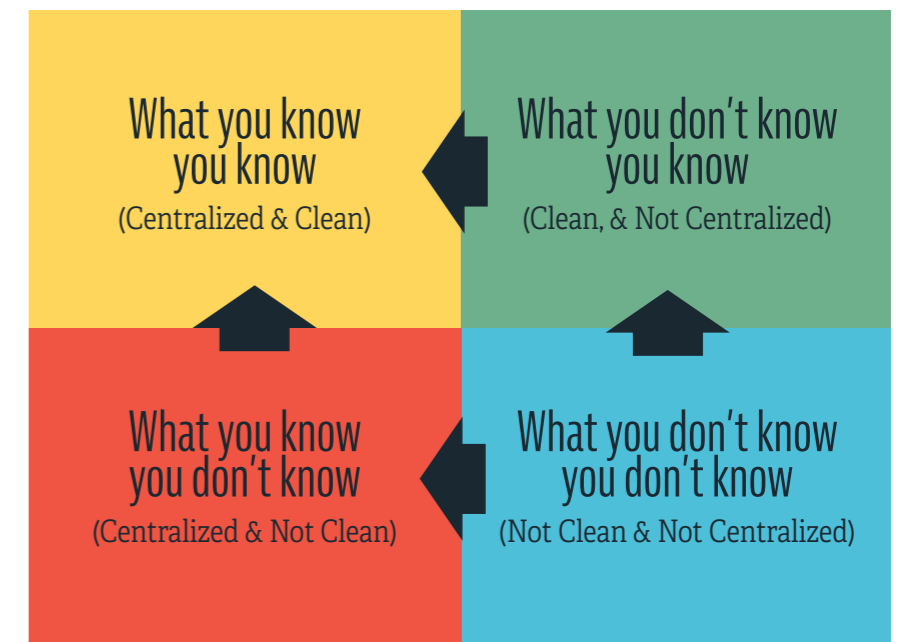
**Law firms need to know what information their clients are gathering on them and understand their competitive standing among their peers.**

- » **Resourcing:** Measuring who does what work (internal and external) based on type and complexity of the matter or legal task
- » **Spend:** Measuring how much money is spent by total matter and by task
- » **Quality/Satisfaction:** Measuring satisfaction of how overall services were performed and in-house counsel's satisfaction of outside counsel performance
- » **Results:** Measuring value contributed to the business, in terms of revenue opportunity generated, level of deterred risk or overall saved legal costs



## Where Do You Sit?

You should be able to identify your current standing under one of the categories depicted in the following diagram.



While law departments generally fall under the “what you know you don't know” category, many are rapidly moving into “what you know you know.” This means they have mostly defined *what* needs to be measured and are now exploring *how* to tap into the data goldmine and begin analysis. Some law departments are still struggling to define what they don't know; however, collaboration groups like the Corporate Legal Operations Consortium (CLOC) are addressing this problem by rapidly devising and sharing industry standards and knowledge around legal operations.

## **Law departments increasingly expect firms to be prepared with their own versions of annual performance scorecards, productivity metrics and intelligence tools.**

Law firms are recognizing that their law department clients are a step ahead, by using data and analytics tools to understand and compare firm performance. Conversely, many firms are in the “what you don’t know you don’t know” category, curious to understand what data law departments are measuring and which metrics are being prioritized. The rise of semi-annual business reviews between law departments and firms has improved transparency, opening the doorway for firms to learn what matters and begin the move into the “what you know you don’t know” category.

Law firms need to know what information their clients are gathering on them and understand their competitive standing among their peers. Firms can use and leverage proper data analysis to achieve good value, enhanced productivity, lower costs and positive results for their clients.

The key objective is for law firms to know where the market is within a law department, to achieve a peer view into the law department domain.

### **What Tools Are Being Used?**

Several analytic tools are rising to the challenge to deliver simple, yet sophisticated, solutions to help law departments and law firms centralize and measure these dimensions. Some are lawyer-focused, providing a user experience and interface designed to allow lawyers a self-serve approach to gathering intelligence. A few allow both in-house counsel and law firms to access analytics for real-time collaboration. A key differentiating factor of these analytics tools is that they come prebaked with the metrics that matter and the ability to configure additional intelligence based on the department’s needs.

HBR’s CounselCommand and Elevate’s Cael Vision are two law department analytics tools that provide law departments a balanced mix of centralized dashboards with categories including, but not limited to, demand, resourcing and spend across multiple areas of law, such as litigation, contracts and IP.

Tools like Consilio’s Sky Analytics, ELM’s LegalVIEW, LexisNexis’s CounselLink, Serengeti’s Intelligence and HBR’s CounselCommand serve as spend-related, market benchmarking tools used heavily by law departments to analyze and compare market-based rates and staffing.

Niche analytics products are also available. These tools target specific legal business challenges. LexPredict is an innovative decision tool that helps lawyers analyze and predict outcomes of litigation matters. KMStandards is a contracts analytics tool that helps commercial lawyers model playbooks from existing agreements, audit contract sets and review incoming contracts. Cael OnRamp is a pre- and post-diligence analytics tool that helps corporate transactional groups assess risks with high-volume regulatory and revenue contracts. Lex Machina is a diversified legal analytics engine that focuses on providing market intelligence on securities, patents, copyrights and trademark litigation. Data from these tools can be used to increase accuracy, productivity and efficiency of the work being delivered.

Some law departments are innovating and integrating their own intelligence solutions with tools like QlikView or Tableau, which provide an easy and configurable way to build and generate meaningful analytics. The only caveat is that in these cases, the law department must know:



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- » *What to measure*
- » *Where to get the data*
- » *How to maintain the solution*

This model is appropriate for departments that have dedicated teams for managing reporting needs.

## The Role of Law Firms

Law departments will look to their trusted advisors (law firms) to participate in the delivery of data intelligence as part of overall service delivery. Law departments are defining the curve, but also seeking means for collaboration, so firms can contribute intelligent information to reduce the pressure on in-house teams.

Law departments increasingly expect firms to be prepared with their own versions of annual performance scorecards, productivity metrics and intelligence tools that demonstrate an efficient approach to service delivery. Soon, it will become more important for firms to make their own recommendations on how and what to measure.

While it is important for law firms to focus their analytics efforts on financials, pricing and profitability, it is even more important that they demonstrate innovation on client-focused metrics. Firm-client programs such as [Gowlings WLG Practical](#) and [Fisher Focus](#) are examples of client-focused programs that generate measurements and analysis based on the client's priorities.

## A View to the Future

Law firms must learn to better understand their clients' data interests in relation to value-based performance categories. Access

to data metrics used by law departments to assess firm offerings not only enables a firm to provide objective proof that they can provide desired results, but also allows for justification of, and evidence for, value-based pricing.

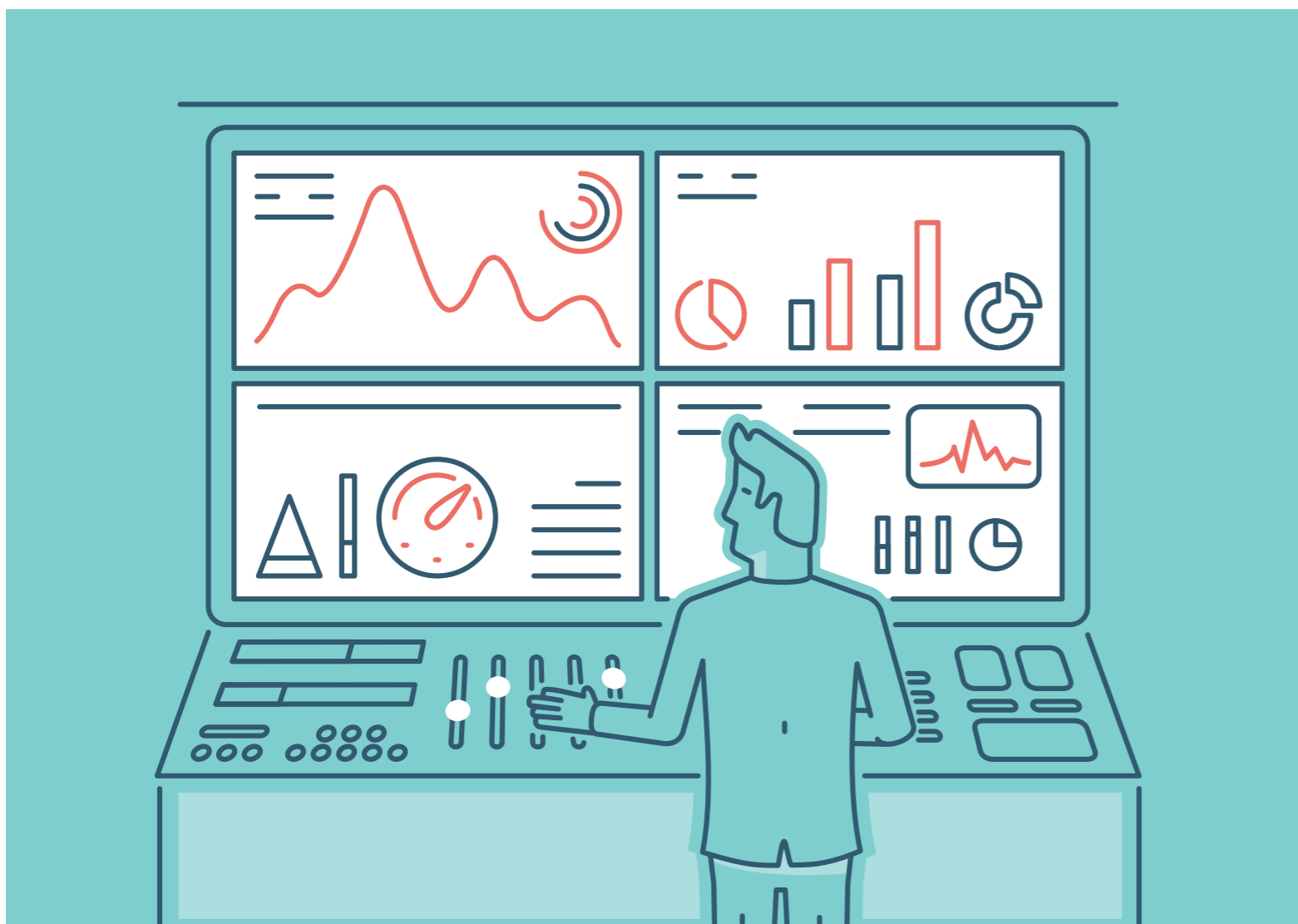
To achieve this, and make future improvements to the process, collaboration is key. Law firms must participate in defining scorecards and identifying key benchmarks based on area of law. Law firms and law departments must work together and collaborate on mutual platforms to better understand each other and promote transparent and effective business relationships. Progressive tools on the market can facilitate this much-needed collaboration through two-way, real-time access. **ILTA**



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# Law Firm KPIs: Making the Leap from Inward- to Client-Facing

by Peter Zver of Tikit North America



Key performance indicators (KPIs) are a dime a dozen these days. For decades now, and especially after the economic downturn in 2008, legal technology experts and law firm management consultants have been preaching KPIs and reprimanding law firms for not having their own financial house in order. This again popularized the old business adage “you must measure to manage” and heightened awareness among law firm leadership that meaningful KPIs should drive firm business decisions.

Within the last five years, there has been a shift from internally focused measurement to understanding and better communicating client-facing metrics. By increasing metrics transparency, we can establish a mutual baseline of measuring what moves the needle and better manage client relationships.

## Metrics Galore! Where To Focus

KPI dashboards, often visualized via data from the firm’s financial or practice management systems, have almost become too convenient for firm management. They can believe that if it’s not on their dashboard, it’s not important, which should prompt you to ask the following questions:

- » Do the performance indicators reflect the firm’s strategy and goals?
- » What makes them **key** to the firm’s success?
- » Are they actionable, and can they create a behavioral change?

Full-scale KPI dashboard deployments with a full spectrum of industry KPIs are pleasing to quantitative analysts, but that does not affect firm performance in the slightest. An alternative plan would be to:

## Properly measured metrics rely heavily on knowing your audience and understanding how they consume information.

- » Select five key KPIs
- » Connect them to your business plan
- » Market the business plan and the KPIs as one, resulting in them becoming highly actionable, engrained in the firm vocabulary and, hence, directly affecting performance

With big data and evolving analytics tools that help visualize, interpret and increasingly predict critical law firm business indicators, most law firms now have far more financial, client/matter, contact and file data available to them to leverage KPIs to manage their business.

However, in line with the new law firm-client relationship, which emphasises collaboration and transparency, metrics now hitting the mainstream include “velocity of capture” related to time inventory measurement and legal technology proficiency assessment scores that address the cost-effectiveness of legal service delivery. These metrics can be used to gain a competitive advantage in business development and secure existing client relationships.

### Time Measurement: More Relevant Than Ever

Properly measured metrics rely heavily on knowing your audience and understanding how they consume information.

Pundits told us decades ago that timekeeping would be ancient history by now, but recording time is more critical than ever, regardless of billing arrangements, hourly rates or fixed fees. Firms involved with alternative fee arrangements (AFAs) are relying on modern

timekeeping techniques and metrics to help them provide proper cost-value ratios and pricing intelligence.

From a firm’s perspective, the effective recording, registration and notification of time spent on client matters are at the heart of turning a great legal performance into a great business result. Time “lost” during that process, for various reasons, can make all the difference in terms of user and client technology confidence and, ultimately, profitability.

Effective time recording is all about velocity, which means eliminating the lag in time between doing work and recording it, between recording it and submitting it internally, and before billing the client. The more firms can get rid of these lags, the faster they will get paid in full for completed work, justifying billings based on transparently accurate records.

This is also important to general counsel, who are under pressure to ensure they are being correctly billed by legal advisers. They are now increasingly likely to demand access to individual lawyers’ records. As one firm CIO commented:

*“Our focus on modern timekeeping techniques using consumer technologies has led us to realize more than a 40 percent increase in entry granularity, which has contributed to more timely and accurate client invoicing.”*

### Technology Proficient? Prove It!

Beyond velocity metrics, which provide a good snapshot of timekeeping proficiency and translate this prowess to clients in the form of KPIs and billing transparency, another area firms can measure and manage performance and positively affect firm-client service is technology competency.



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Client due diligence focused on getting value for money from their legal services provider is becoming ever more stringent. Pressures associated with measuring the level of technological competency at law firms and how this efficiency (or inefficiency) is contributing to their legal spend has resulted in independent checks and balances offered by the likes of the Legal Technology Core Competencies Certification Coalition (LTC4) and the formation of the Legal Technology Assessment (LTA), both of which provide firms with proficiency report cards.

In terms of prioritizing technologies to master, firms must assess which technologies will have the most impact on service levels to clients and staff in the short term. This might include technology that helps with document creation, collaboration and management.

One of the most interesting things about what's going on in the landscape of metrics is that while there is ample ability to measure big data and analyze the complexities of enormous data sets, many firms are overlooking mundane, repetitive tasks. If optimized, these could heavily influence cost-efficiency and value-creation related to client service.

Justin Hectus, Director of Information at Keesal, Young & Logan (KYL) and KPI, metrics and technology assessment evangelist, looked at usage across all applications to determine who is using which applications, how much and how well. He notes:

*"If our attorneys are knee-deep in a specific set of applications, we can custom-tailor training to ensure they are using those technologies to the greatest effect, often resulting in certification. Instead of relying on perceptions,*

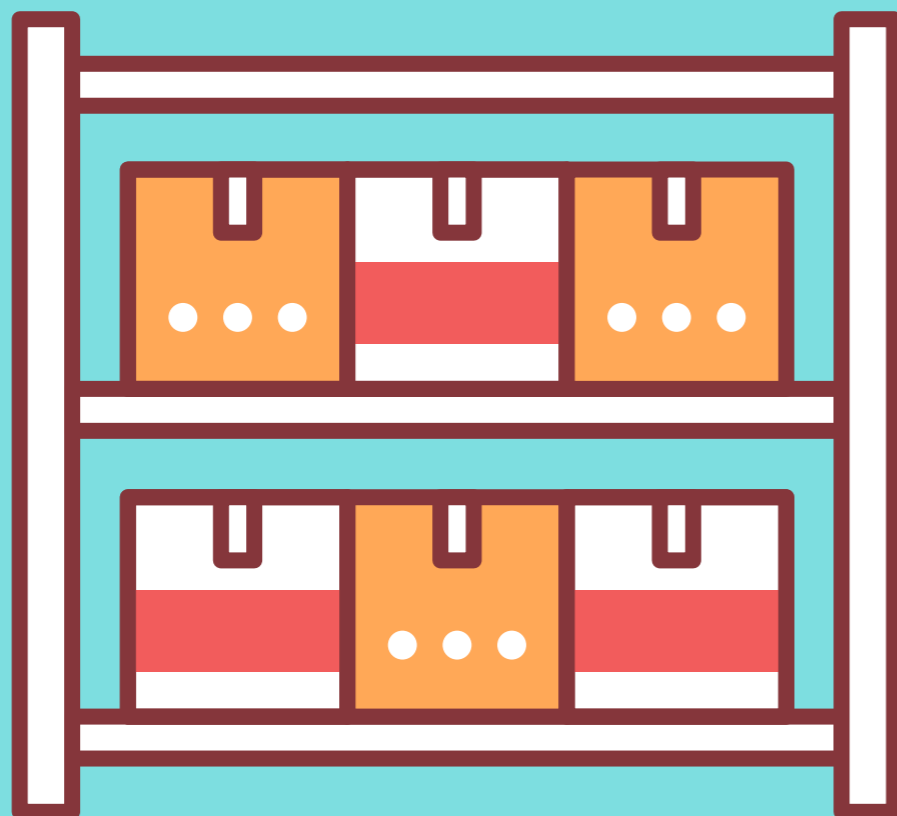
*we can use this new data reality [what's actually happening vs. where usage and productivity should be based on client expectations] and develop a measured action plan. This 360-degree perspective provides a clear picture and road map ahead. There is considerable value to be had from measuring baseline technology use via structured assessments and maximizing related usage and effectiveness. It is important to create transparency so you connect the dots between what's in the best interest of the client, which is objectively the most important thing, and what the end users are doing."*

## The Future of Metrics

When it comes to KPIs, focus on measure-to-manage principals and prioritize metrics that will not only help measure basic internal firm performance but provide useful data and benchmarks for the firm's clients. Velocity of time-capture metrics are a good example of data that, if measured properly, will lead to improved user timekeeping performance and increased data accuracy and transparency for clients. In addition, technology proficiency assessments and certifications are increasingly gaining traction in their role as effective firm-client communication tools and customer service enhancers. Knowing the technology proficiency of your legal team, utilizing benchmarks to make improvements and certifying such knowledge will provide the firm's clients with compelling evidence of cost-effective legal services delivery. **ILTA**

# How Information Governance Initiatives Create Sustainable Cost Containment

by John Zahradnick of InOutsource



As law firms attempt to reduce costs associated with managing physical files, information governance (IG) professionals are often tasked with renegotiating offsite document storage contracts. These efforts focus, naturally, on the contracted rates in order to reduce bottom-line spending, but entering negotiations with only the goal of reducing the cost of storage-per-box is like wearing blinders. By ignoring the policies and processes related to records management, firms miss critical opportunities to improve workflows, increase efficiency and reduce overall storage volumes — all of which can lead to increased risks and costs. The only effective way to reduce spending on offsite storage accounts is to create IG policies that limit growth of inventory and eventually reduce account volumes. This goal can be accomplished when cost containment initiatives are coupled with a healthy IG policy, efficient processes and a robust records management system.

## Engaging Partners and Decision-Makers

To approach offsite storage cost containment through an IG lens, legal professionals must first engage senior management to understand the strategic goals that affect information governance. Dialogues with the C-suite, risk management and practice group leaders will illuminate other considerations in addition to line-item pricing.

General counsel or other risk partners often assist IG policy creation in determining time frames in which to retain client matter files. IG professionals should work with firm management to consider what is necessary to retain in client-matter files once a matter has concluded. Today, most, if not all, of a physical client-matter file comprises electronic content that has been printed. Discuss with risk management the merits of keeping only the electronic version of these

**The goal is not to dictate to shareholders or partners how best to manage files during client engagement but to determine what is most practical for long-term storage and review.**

files. Getting their validation early will help practice group leaders feel more confident about relying on the electronic content.

Have honest discussions about the integrity of client data retained by the firm, allowing risk managers to determine acceptable risk tolerance for final disposition and eventual destruction of files. In addition, outside counsel guidelines on risk should be considered alongside firm guidelines. By including working knowledge of the policies set forth by outside counsel, firms can bring to light daily practices that might violate these agreements. Working with leaders in different practice areas within the firm allows for the inclusion of client engagement guidelines. Involving decision-makers from practice groups also fosters a sense of cooperation that will improve the implementation of final disposition projects.

### Office Space Planning

Other than approving budgetary numbers and contract terms, the role of the C-suite is often overlooked during the cost containment process. Engaging the C-suite in discussions around the firm's strategic goals is a necessary step in creating a well-informed policy.

Space planning assessments are huge opportunities to reduce spending. An office space planning assessment is an all-too-often overlooked component of cost containment and IG initiatives. Work with the C-suite to flesh out what the firm's goals are in the coming years for office space, especially in top-dollar real estate districts like New York City. Are you still keeping closed or inactive files in a high-density file room on a floor different from your lawyers? While that space might be cheaper than your prime office space, the price tag can still be hefty.

There are many questions to ask related to space planning:

- » How many linear feet of shelving are assigned to each attorney?
- » How much assigned space is utilized?
- » How old are the files occupying those shelves?
- » What do those shelving units add to the cost of office space?

The data sources and reports required to perform this analysis will come from several diverse sources, presenting a perfect use case for an analytics software solution. Determine what your firm is paying for real estate space occupied by physical files and compare it to the cost of offsite storage; you might find that onsite space is more costly than storing client-matter files offsite.

If you decide to shut down the onsite storage space, plan carefully with your storage vendor. Setting a consistent pickup and delivery schedule with your vendor will allow for timely delivery of files lawyers request for review. Boxes can usually be ordered in the afternoon and received midmorning without incurring excessive rush charges, and clearly communicating delivery time frames and service parameters will help set expectations with legal assistants and attorneys. Engaging practice group leaders will help you understand the workflows and needs of each practice area so you can develop delivery service-level agreements with your vendor.

Negotiating a low fee for a standard delivery will not be helpful if the service parameters do not fit the needs of your staff and result in too many rush delivery charges. While some rush orders are inevitable, incurring them regularly can be avoided. Understanding how practice groups access matter-related documents will lead IG professionals to ask another important question: What documents are being stored electronically and in physical form?

### Physical Records vs. Electronic Records

In your conversations with key decision-makers, find out what each practice group must keep in physical form long-term. During matter review, which documents are helpful to have in physical form and

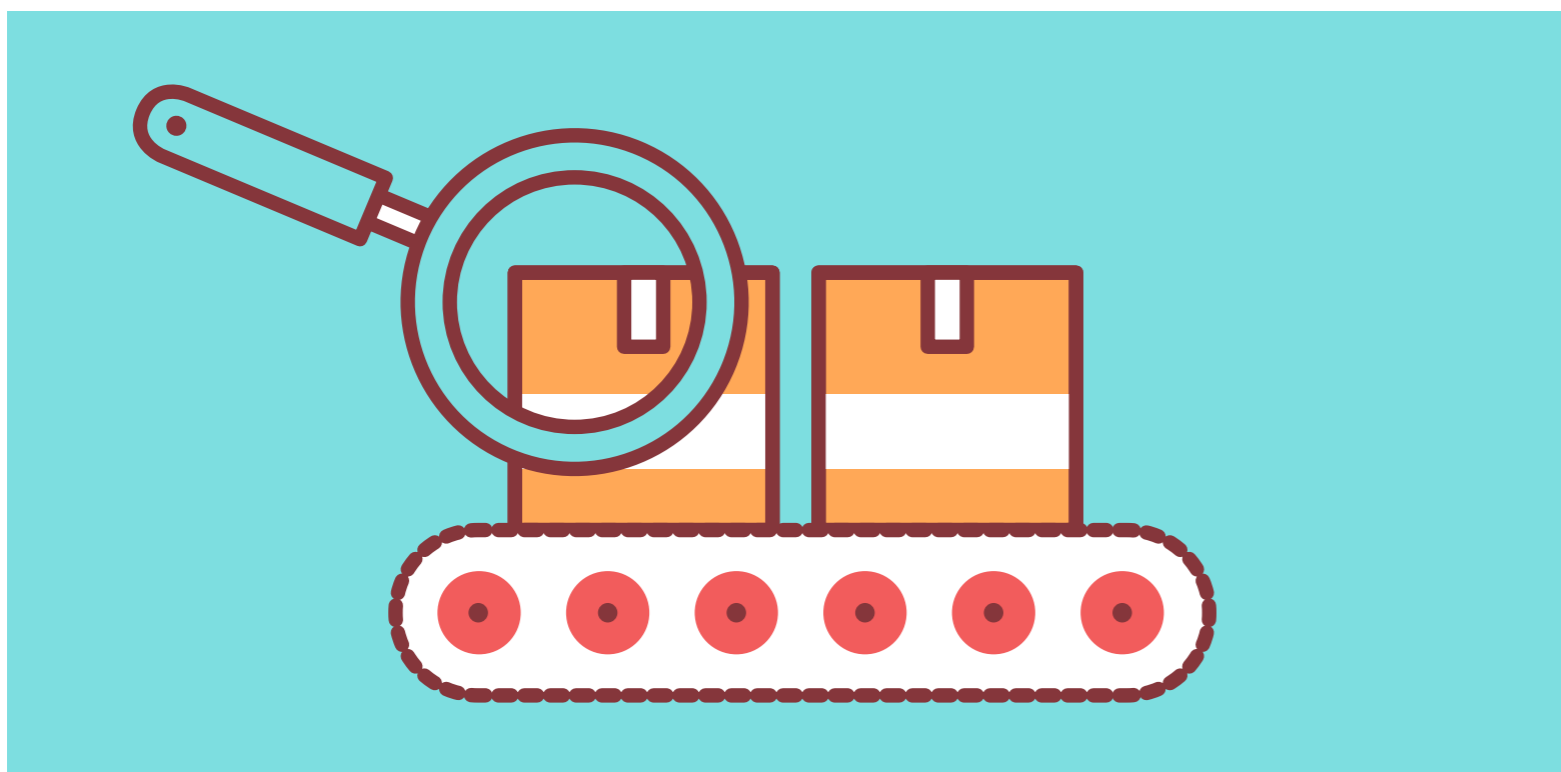
which can live electronically? The majority of matter-related documents now come into firms electronically. Email messages, for example, come to the firm in electronic form and are saved in the document management system. Some email messages are printed if an attorney wishes to have them on hand while the matter is active; later, they will be sent to storage to collect dust. Should the physical form be kept?

The goal is not to dictate to shareholders or partners how best to manage files during client engagement but to determine what is most practical for long-term storage and review. While email messages might be useful to have on hand during the engagement, they will be most likely referenced later in their electronic form. Therefore, email messages should live in the document management system, and printed versions should be shredded before the physical file goes to storage. Incorporating similar processes into IG and cost-containment initiatives will help the firm control the growth of storage volumes.

### Timing and Vendor Incentives

Conversations with risk partners can take six months to a year or more, so it is wise to engage management well before your offsite storage contract expires. Easier said than done, right? If you find your offsite storage contract expiring in a few months and discussions still ongoing, review your contract for any auto-renewal clauses so you can avoid being locked into your original contract terms.

Once you have engaged management, you can approach the process from an informed position to negotiate favorable terms for your firm. Vendors will often present firms with incentives, such as offering certain services at a reduced rate or free of charge. These services typically include archival destruction, permanent withdrawal,



**Without a system in place that has robust functionality for managing retention and workflow management, controlling growth will be nearly impossible.**

discounts on audit rooms or (and this is a hard one to pass up) an extremely discounted storage rate.

For example, a vendor might offer 1,000 cubic feet of archival destruction for free. At face value, this might seem like a great deal. But if you have engaged risk management and know that your firm will not tolerate the risk of destroying files not reviewed by an attorney, then you know to pass it up.

### **Controlling the Volume of Storage Accounts**

Once management has been engaged and favorable contract terms negotiated, the next and most important step in cost containment is to control the volume of your storage accounts. The most valuable item in your IG tool box is not a detailed policy nor an engaged management team: it is a records management system. Without a system in place that has robust functionality for managing retention and workflow management, controlling growth will be nearly impossible.

An ideal records management system can house virtually the entire process surrounding retention and disposition, beginning with alerting users of retention eligibility all the way through approval of final disposition. Attempting to manage retention solely through reports and approvals sent via email complicates the process by failing to provide a clear history of decisions and actions taken by attorneys and records staff.

Firms have often relied on vendor systems to manage their offsite storage inventory, usually in addition to information captured in a legacy records system. This is a redundant and convoluted way to manage records usually relying on tying box contents to a client, matter or attorney. When a box is retrieved from storage, it sits in the

office while the firm continues to pay for offsite storage. Consider this alternative:

- » Retrieve the box
- » Empty the contents
- » Fill it with new contents
- » Send the box back to storage

This sidesteps two common pitfalls: The firm avoids paying for boxes not in storage, and it reduces the net growth of storage inventories each month.

Most firms have boxes that have been outcarded for years. The firm could have a couple hundred to over a thousand boxes outcarded with no real way to track down the boxes or files. Reliably utilizing the circulation capacity of a records management system and regularly performing location audits will allow you to track barcoded files throughout the office.

Does the firm continue to pay for storage in the hope that the box will resurface? The choice is to permanently withdraw the carton from the system and incur a fee or continue to pay for storage. Had there been a process to empty and refill the carton, the box would have been returned to storage, eliminating a charge for a new box and reducing net growth for the firm.

### **Reducing the Volume of Existing Inventory**

While curbing net growth of offsite storage accounts is an important first step, it is not enough. To contain the rising costs of offsite storage agreements, firms must reduce the overall volume of



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existing inventory. Enacting final disposition on closed matters is the unavoidable solution. Getting collective buy-in from risk management and practice group leaders will result in an informed policy that is reasonable in the eyes of attorneys and other timekeepers. Creating an aggressive policy with the goal of rapidly reducing inventory might not be a practical approach; the objective is to work within the firm's risk tolerance and practice group processes.

Again, more important than the policy is having the tools to manage the process. Today's firms need a solution that goes beyond running reports for retention-eligible files and matters. An effective solution should include built-in retention capabilities that streamline the process for disposition reviewers and IG staff. When a retention manager can kick off the notification process, send reminders, manage approvals and streamline the process for requesting files for review, it frees records staff from their email inboxes while providing a clear trail of decisions made on each file.

Reducing the excessive costs associated with offsite storage accounts is a great way for firms to increase profitability while simultaneously reducing risk. To reduce spending on storage of client-matter files without cyclically renegotiating price schedules and contract terms, IG professionals must look at the total picture, not just compare price schedules. Engaging senior management will create a holistic picture of the firm's strategic goals, which facilitates a conversation regarding cost-effective use of space and file storage. This allows IG professionals to work with practice group leaders to determine the official file of record and move toward reliance on the document management system. Understanding the firm's goals and the needs of each practice group allows firms to advocate for better

contract terms, effective price schedules and incentives to promote final disposition. Implementation of a robust and modern records solution that can support and manage firm processes will be the single most important tool to reduce storage volumes.

The cost per cubic foot of storage matters far less than the sheer number of cubic feet you are using to store files. Taking steps now to institute a strong information governance policy and smart steps to containing costs will relieve your firm of excess spending on physical records storage. **ILTA**