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Monday Monday

Connecting the Dots with Karen Kaplowitz

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Rate Negotiations Part 2: Understanding the Client's Metrics. Rate Negotiations Part 1 offered strategies for lawyers whose firms are resisting clients' demands for alternative billing. As the momentum for alternative fees accelerates, we turn to an expert who has worked with many law departments and understands the clients' perspective on alternative fees, Aileen Leventon of QLex Consulting. She helps law firms match the sophistication of their clients in negotiating fee arrangements.

Leventon notes that because general counsel have had to answer to CFOs who treat "legal spending" as one more type of non-revenue producing overhead item that has to be managed, they have developed tools for analyzing their needs and expressing their success in quantitative terms. With the help of financial analysts, database managers, and legal technology vendors, companies use "matter management systems" software to generate statistics on law firm rates, rate structures and staffing arrangements. Using peer benchmarks, usually supplied by third parties, clients produce targeted rates for different types of work, ranked on the risk and economic value to the business of each type, and then evaluate and negotiate with law firms using these criteria.

Clients use metrics to analyze the financial performance of their law firms, separate and apart from their assessment of the quality of their results. Many outside counsel have learned the hard way that relationships, skills, and even great results may be eclipsed by the numbers reflecting their financial performance.

Although law firms are now taking advantage of specialized software and business intelligence tools to measure their profitability and analyze all its components, the depth and quality of data analysis by many law firms still lags behind their clients. To match their clients, to be competitive with other firms, and to create fee proposals that satisfy both clients and firms, Leventon offers these guidelines:

- Thoroughly understand your client's legal business model and your firm's.
- Have a proposal team member who knows how to generate and interpret the metrics so that everyone on the team truly understands them.
- Harness the right data, both yours and the client's.
- Understand the meaning, derivation and application of metrics and how the data is used to produce *measures* of profitability and costs.

To be aligned with clients' decision-making, Leventon also recommends that firms

- Rethink which lawyers are assigned to perform work on different aspects of engagements.
- Address each client's perception and appetite for risk and consider how the firm's own view of risk meshes or conflicts with its standards of client service.
- Generate data by client for each matter based on the type of matter, but evaluate profitability for each major client based on the total return for the portfolio, not on a matter-by-matter basis.

If you are ready to acquire a working knowledge of these new tools, with an understanding of the data inputs and vocabulary, then you will have taken the crucial first steps in building a framework for new billing arrangements that meet your firm's needs as well as those of your clients.

Aileen Leventon is a practicing lawyer, former partner at PricewaterhouseCoopers, and founder of QLex Consulting, which provides training, coaching and counseling on alternative fee arrangements, project management techniques and "business literacy" skills for experienced lawyers. www.qlexconsulting.com.

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