

PUBLICATION

Matter Budgets Matter: A Case Study You Can Take to the Bank

Authors: Scott G. Peterson, David A. Rueff, Jr.
June 10, 2019

All attorneys, whether in a small or large firm, are feeling the pressures of client demands for controlling costs. Most attorneys are more than willing to provide the client with their best guess of the potential cost of a matter. The problem with these "back of the napkin" estimates are that: they are rarely qualified as to scope assumptions or risks; the estimate may not be based upon a comparable matter; estimates may be delegated to less experienced team members; and the client, especially those who are non-attorneys, may reasonably interpret the estimate as an all-in cost.

Estimates and budgeting present a unique opportunity to educate your internal team on the proper budget approach and the ways in which budgets can be used to improve client service. The following case study demonstrates how the investment in the development of a "reliable" budget estimate can accomplish these objectives and dramatically improve client trust and satisfaction, and lead to additional work.

A corporate client's legal department approached us with a new mandate – all litigation matters must have a *detailed* budget *immediately*. The initiative was designed to provide another level of transparency and ultimately control costs. We were faced with implementing a new matter onboarding process that would impact attorneys across the Firm within a very short timeline. The following steps had to be accomplished quickly:

- (1) develop a budget template and tool that would standardize and estimate fees for a range of matters handled for the client;
- (2) obtain the consensus of attorneys who worked for the client across multiple offices; and
- (3) develop a consistent process for matter evaluation, estimation and communication to the client.

In 2012, Baker Donelson adopted the ABA Phase and Task code set, which provided our Firm with high quality data to assist in benchmarking our budget estimates. However, we had to distill the data into a format that could be used by our attorneys as a starting point. We identified nine different matter types that would be used to identify budget standards within the client's new mandate. As we analyzed the underlying data, we focused on the duration of the matter, the mix of timekeepers, the cost per matter and the distribution of time across phase/task codes for all of the covered jurisdictions. What we identified provided the key components of information that enabled us to more deeply understand the reason for the client's mandate.

Over a two-year period, the data demonstrated that we were inconsistent in our management of the client's cases across the various jurisdictions. In short, the client's per-matter spend was not systematic; instead, it was random and based upon the experience of the individual lawyer and the team members who were available to manage the work. Although Baker Donelson produced outstanding outcomes for the client, the Firm's spend was impacted by variations in the mix of timekeepers per matter; variations in time for similar tasks; team makeup that was based upon who was available to do the work rather than the optimum team; and variations in the efficiency of team members. As we dug deeper into the data, we also discovered that some team leads were not good business managers of their cases (i.e., they had a high rate of turnover in timekeepers that resulted in multiple associates and junior shareholders appearing on the matter over time).

We realized that our response to the client's budgeting exercise created an opportunity to not only meet the client's goal, but to internally improve the consistency in our management of the client's matters.

The client team engaged the Firm's Legal Project Management Office (LPMO). The LPMO had been working with the team on a process improvement assessment for one of the matter types covered by the client's request. The assessment had identified the optimal workflow for the matter, a reasonable timeline for delivery, areas of waste that could be improved with training and a model for consistent implementation. The streamlined workflow that resulted from this exercise became the foundation for the development of the nine matter types.

To meet the challenges of quickly developing reliable budget estimates and statements of work, a SWAT (special work action team) was formed. That team included attorney-legal project managers (LPMs) from the LPMO, the managing director of the practice group and one of the lead attorneys for the client. Step 1 was to use the Firm's historical data to develop a budget that was characteristic of the average matter in each of the nine matter types. The SWAT developed initial budget templates that included phase, task, subtask, assigned resource, estimate of time, rate and total spend per subtask. The SWAT then made adjustments to resources, subtasks and time estimates based upon the working sessions with the lead attorneys. The end product was nine budget templates that were representative of the services provided to the client across multiple offices and jurisdictions. The scope of the budgets was clarified through the development of statements of work that included a scope statement and itemization of general assumptions and risks typically encountered in the cases.

Due to the traditionally autonomous nature of how attorneys are trained and operate in the delivery of legal services, the SWAT faced a significant challenge in obtaining consensus (Step 2) of the individual teams of attorneys and paralegals to the budget estimates and statements of work. This was accomplished through something very simple but often foreign to law firm operations – communication. Through the leadership of the practice group chair, the budgets were communicated to the lawyer teams and altered to incorporate nuances of particular state law. This ensured that the templates took into account the unique challenges faced by attorneys in different jurisdictions, but more importantly served as a communication vehicle for what the client would expect in the future management of its cases. Buy-in was obtained!

Once the templates were finalized, the next step was to outline a consistent process for using the templates for each new matter and communicating changes to the client through their matter management system. For Step 3, the SWAT evaluated the standard onboarding process for new matters and identified the points at which the budget templates would be prepared, modified and then routed for approval by the client relationship or lead attorneys. Due to the time constraints imposed by the client, the new workflow had to occur within 48 – 72 hours of matter assignment. The SWAT accomplished this objective and developed a comprehensive process map to help educate the client team on the new workflow.

The budgets, statements of work and budget approval framework were all incorporated into a team training program (Step 4). The training program is being conducted on a quarterly to semi-annual basis to keep the concept of controls and efficiency fresh in the minds of the team. This will also afford us the opportunity to present data and best practices, which provides for a continuous feedback loop (Step 5). In addition to accomplishing results for the client, the Firm developed a model that will provide consistent results and spend across the different offices. Our initial results indicate that we have improved the Firm's key performance indicators with the client and reduced write-offs and write-downs for these matter types.

Our approach required an investment of time by both attorneys and administrative personnel. This investment, however, will yield dividends in the form of improved service delivery, reduced write-offs, client resiliency and the opportunity for expanded business with the client. This client-driven initiative has also laid the foundation

for a repeatable and scalable framework that can be implemented for other teams to proactively improve performance metrics with the clients. It has also taught us that more and more clients are making use of the phase and task billing data to measure and compare firm performance, and it is only a matter of time before clients use this information to either weed out underperforming firms or demand improvements. Firms should consider proactively implementing an evaluation and improvement of their performance before being asked by the client – be the participant, not the victim.