

Choosing an E-Billing System

Measure Twice, Cut Once

by Rob Thomas of Serengeti Law



Electronic billing is one of the fastest growing technologies for corporate law departments. Recent surveys indicate that roughly 15 percent of corporate legal departments require electronic bills from their law firms, and another 15 percent are considering it.¹ If you are a law firm with corporate clients, you have probably seen an acceleration in the number of requests from clients who want their bills submitted electronically.

Choosing electronic billing and matter management systems are among the most important technology decisions that a law department can make, with significant potential consequences — both positive and negative. The old carpenters' adage, "measure twice, cut once," also applies to taking the time to conduct careful due diligence in this area. In other words, it's better to ask the hard questions now than to have to answer them later when things aren't going well. If your law department or law firm is researching electronic billing, there are some basic steps to follow to make sure that the system that you select works as planned.

All Not Created Equal

All is not yet settled and working perfectly in the legal e-billing world. The General Counsel Roundtable, an

organization of more than 600 law departments, recently conducted a technology survey which asked law departments to rate their electronic billing systems. Their report showed significant differences in the ratings of the most widely-used systems. For some systems, half of their users said that they would not recommend them to other law departments, while other systems were recommended by all of their users. On the law firm side, ILTA surveys of law firm billing departments have also shown significant concerns about some electronic billing systems (*ILTA 2004 E-Billing Survey*, July 2004).

Talk to the Users

No e-billing system is ideal for all users. However, whether you are a law department selecting an e-billing system or a law firm helping a corporate client select a system, you can benefit greatly from taking time to understand the major differences among the e-billing vendors. What are your best sources of information?

Law departments who use a system day in and day out can tell you how the e-billing systems work in the real world. If you are a member of the General Counsel Roundtable, their recent report provides impartial opinions of their member law departments, along with feature summaries for the most common systems. In addition, you should ask each vendor for two lists: current law departments using their system; and law departments who have stopped using their system, including the reasons that they are no longer customers. From these lists you can select law departments similar to yours and ask for specific contact information at those companies.

Law firms that use multiple systems are also excellent sources of comparative information. Law departments are often surprised at the number of their law firms who are already sending electronic bills to other clients. The law firms' billing departments are often the best sources of information about the e-billing systems that they use.

Try Out the Live System

E-billing vendors should be able to provide live online demonstrations so that you can see how their systems work over your network. There is no substitute for getting onto a live system, so that you can experience the workflows involved in reviewing audits, revising and approving bills, managing budgets and producing reports. After the session, take some time to go back and see if the system is intuitive to use on your own.

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

Drill Down

When you talk with law departments, law firms and vendors about how e-billing systems work, it is important to drill down on the many significant differences. The following questions are a starting point for your due diligence checklist, from which you can build a matrix to track what you learn (see Additional Online Resources below).

How many law departments use your system? How many lawyers are in the smallest and the largest, and how many are our size? Can we see a list? When you choose an e-billing system, you are entering a user community. You should make sure that the community has law departments like yours and whose future needs are similar to yours. You also want to be part of a user community of adequate size, diversity and growth to ensure that the platform is stable and secure. One of the worst outcomes would be to select a system that ends up being discontinued, is acquired by another vendor who does not extend it or does not have the resources to improve the system as the profession evolves. By getting a list of current and past customers, you can see whether the system is widely used by well-regarded law departments and speak with them directly about their experiences.

How many law firms total, and how many of our firms, submit electronic bills through your system? The more of your firms already on the system, the quicker your implementation will be. If half to two-thirds of your law firms are not already processing bills on a system, find out why. Widely-used systems have already been implemented in most of the law firms used by corporate law departments. Find out what your law firms think of the system compared with other systems they use.

What percentage of the law departments using your system are receiving electronic bills from all of their law firms?

This is one of the most important but frequently overlooked questions. If your e-billing vendor can only connect you with some of your law firms, then you will have to maintain two parallel processes: the e-billing system for some bills and a manual process for the rest. This arrangement can lead to wasted time and confusion, and reduce many of the savings from having an e-billing system. In addition, when you look

at spending reports from such an e-billing system, they will cover only a portion of your spending, without a clear delineation of what is included and what is not.

Look for vendors who routinely implement all law firms. If a vendor will commit to only a certain percentage of your spending or firms, find out what limitations in their system are keeping them from doing a complete implementation.

How long does the entire implementation take, and what are the steps involved? Get a detailed implementation schedule from the vendor, with the specific steps and time periods involved, as well as who is responsible for each step. Implementing a multi-office, international law department and hundreds of law firms around the world should take no longer than three months — including system configuration, upload of data from a legacy system and training. Smaller domestic law departments should take six to eight weeks. If a vendor requires longer implementation times, take a closer look at their schedule to uncover potential problems with system design, user issues or training.

What hardware, software or IT support will we need? Most e-billing systems are hosted, meaning they provide all of the hardware and software that is accessed by both law department and law firm users through encrypted Internet connections. Therefore, there is no hardware or software to install and no ongoing IT support necessary. If the system is not hosted, find out what will need to be installed both inhouse and by outside counsel, how firewall and other connectivity issues will be handled, how the system will be maintained and by whom, and how upgrades are managed.

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

What specific steps do law firms take to submit electronic bills? Do you accept standard LEDES data or require customizations? Do you accept nonLEDES bills and if so, how is submission different from LEDES? By taking a close look at how law firms submit bills, or even better, talking with your firms that use the systems, you will get a good sense of

whether implementation will be smooth or whether there will be ongoing issues. If a vendor only accepts LEDES formatted bills, some U.S. law firms and most foreign law firms will not be able to use the system. If the vendor requires customizations of the LEDES standard, you will have additional law firm implementation issues. Also, make sure that the system can accept batches of LEDES invoices, so that law firms don't have to upload invoices one at a time.

If a vendor has a nonLEDES option, find out how such bills are submitted, how you obtain the data that is needed for your reports, what formats are accepted (e.g., Word, Acrobat, Excel) and how such bills are reviewed. Again, the goal should be to have all of your bills (LEDES and nonLEDES) processed electronically in a single system, with reports showing all of your spending.

How does the system inform law firms about bill problems?

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

Do law firms have to generate UTBMS task/activity/expense codes to submit bills through the system?

Recent articles in the inhouse press have discussed the limitations of using UTBMS fee codes. Many law departments have stopped requiring task and activity codes for fee line items because of the time required and the ambiguity of the data received. UTBMS expense codes, on the other hand, are quickly and accurately generated by most time and billing systems. Find out if the system requires UTBMS codes, if so which ones, and the practical benefits, if any, from collecting such data. If the system has detailed budget tracking (see below), you may decide that such functionality gives you what you need to track spending without requiring task/activity billing codes.

What types of audits does your system provide? How do reviewers manage those audits and make revisions and comments to bills? How are these changes conveyed to outside counsel?

Check to see if the system alerts you when law firms add new timekeepers to a project, change their rates or violate your billing guidelines (including limits on expense charges such as photocopies and faxes). It is also important to make sure the system doesn't present lawyers with a large number of "false positives," time-consuming audit flags that don't result in significant bill adjustments. Reviewers should have the option

of writing a bill down by a certain amount or making adjustments to individual line items, with comments (either internal or to the firm) and automatic bill recalculation. Make sure approved changes and comments are conveyed back to the firm in a timely manner so that they understand all revisions.

How do you handle bills in non-U.S. currencies, VAT and the occasional paper bill? As mentioned above, if you work with non-U.S. outside counsel, you will need to have a nonLEDES option to receive their electronic bills. In addition, it will be important to have a system that converts foreign currencies to the preferred currency of the reviewer, not only for bill review but also for budget tracking and spending reports. Value-added and other foreign taxes should be tracked separately, because they are often reimbursable. Also, find out how to upload a paper bill (after scanning), what additional data must be manually entered for reporting and how to send that bill for full review (if it has not already been approved for payment).

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

How does the system help us obtain and manage individual matter budgets? How do we prepare and track performance against our law department budget? The most significant savings often come from regularly requiring budgets on projects being handled by outside counsel. Find out whether the system will refuse bills until a required matter budget has been submitted by the firm. Take a look at how law firms submit budgets, both by time periods (e.g., monthly, quarterly) and phase. Review how spending is tracked against the budget as part of the normal bill review process, for the month, fiscal year and since project inception. Check to see whether alerts are provided for matters that are over budget and whether there is a quick way to reject or adjust bills that exceed the budget. Finally, ask how the system will help the law department assemble and track performance against its own internal budget, using law firm matter budgets and spending collected by the system.

How can we use the system to find and add new outside counsel? Some systems allow searches by name, jurisdiction and practice area for law firms that are already connected. This provides a handy way to find new firms who are already

working on the system. After the initial implementation, you may also want to add new firms that are not in the network. For such firms, vendors should have a clear procedure for adding the firm and users to the system and regularly scheduled training sessions. You might also ask whether law firms maintain one profile (e.g., contact info, users) in the system or must complete a separate profile for each client, which could involve issues of time and consistency.

Can we use the electronic billing connection with our law firms to collect other electronic information in the same system: documents, status information, deadlines, notes, exposure estimates and results? In addition to bills, your law firms have other important electronic data, including documents, status reports, audit disclosures, deadlines and exposure estimates. Currently, they are probably sending this information to you in paper correspondence or via e-mail. Rather than locking yourself into a system that only processes bills, why not use the connection with your firms to also collect other information you have to track? The optimal solutions collect all of your key information in one place and produce reports that show not only spending, but also the latest status, deadlines, exposure and results. Investigate how each system collects and organizes this additional information and presents it in their reports.

How are reports created? How do we export our data so that we can create our own reports with our own spreadsheet/database software? Can we compare efficiency, predictive accuracy and results across counsel in similar cases/transactions? In each system, it is important to run through the workflows to create the most common reports. These should include spending, adjustments to bills, and budget performance reports, along with convenient ways to save regularly generated reports. Also check how to export your data (for some or all matters) to your own spreadsheet or database so that you can fully customize reports and graphs. Find out whether your reports include nonspending data (for example, a quick snapshot of all of the legal work for a specific business unit including spending and budget performance, as well as key issues, the current status, the next deadline/event and other important information that your internal users want to see). Also, run reports that compare the performance of different firms handling similar matters, comparing time to complete the matter, fees and expenses, predictive accuracy as to costs and results, and results achieved.

What specific upgrades have you done during the past two years, and what are your plans for the coming year? The history of recent upgrades will tell you whether the system is evolving in a direction that will be beneficial to your law department. Plans for future upgrades indicate current system

limitations and the responsiveness of the vendor to meet the changing needs of law departments. Conversely, few recent upgrades may be an indication that a vendor does not have the necessary resources to respond to customer requests for improvements in the system. Recently released systems may not have been refined through user feedback and upgrades.

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

You should assume that you will end up paying, directly or indirectly, any charges incurred by your law firms — technology costs for a specific client are generally not considered overhead that is allocated to all clients. Law firm charges can also lead to delayed or partial implementations for those firms that are unwilling to incur the cost. You can avoid such implementation issues, as well as system charges coming through your legal bills, by requesting that vendors provide pricing with no law firm charges.

A Good Return for Your Efforts

Most companies find that by using the invoice auditing and budgeting functionality available in electronic billing systems, they can conservatively save five percent on their outside legal spending. This represents an excellent return on the overall system cost, which generally is around one percent of most companies' annual spending. By taking the time to understand the key differences among systems and by learning from the experiences of others, you can ensure that your investment will provide ongoing dividends in the form of time savings and reduced spending.

Endnote

1. *2005 ACC/Serengeti Managing Outside Counsel Report*, www.SerengetiLaw.com/survey.

Additional Online Resources

1. Sample matrix of questions for e-billing vendors and responses: www.SerengetiLaw.com/Matrix.
2. Online law department panel discussion regarding e-billing hosted by the Association of Corporate Counsel (membership not required to listen to presentation or download materials): www.SerengetiLaw.com/ACCpanel.