Solutions for Legal Invoice Audit

by Steven Rudnick and Vivek Khanwalkar

Every year, general counsel, chief legal officers and legal operations departments are tasked with setting strategic and financial goals for their departments. These goals are often aimed at reducing legal expenses and increasing internal audit control compliance. To achieve these goals requires the organization to review and audit incoming legal invoices for compliance with billing guidelines, terms and conditions, and this responsibility is often assigned to already overburdened legal operations teams or managing attorneys. The result is reduced resource and expertise availability to adequately review invoices thoroughly. This leaves money on the table in the form of payment of noncompliant invoice entries and also in terms of a missed opportunity to collaborate with outside counsel to improve efficiency in the delivery of legal services by paying close attention to adherence with thoughtfully developed billing guidelines and case management approaches.

The first step an organization needs to take to begin realizing improved efficiency in legal spend is to develop robust billing guidelines and ensure that outside counsel are educated on and accept these guidelines. While an aggressive approach may seem attractive to larger organizations with high legal spend amounts, a collaborative style often leads to a better outcome where firms understand and agree to the guidelines and case management rationale. The clearer, more detailed and more thoughtful the guidelines, the more likely a firm will be engaged in ensuring its timekeepers understand them and bill accordingly, while also allowing for an easier invoice audit on submitted legal bills. The former is because law firms want to bill correctly so that invoices are paid in full without confrontation and without clients requesting seemingly arbitrary discounts or reductions in what the client feels to be an overly large invoice. The latter stems from the fact that with clear guidelines it quickly becomes evident whether an entry is compliant or noncompliant and much of the gray area of legal invoicing is removed. As a simple example, block billing (billing multiple tasks within a single line item) and vague entries (those that do not adequately describe the task performed) should be disallowed so that firms must describe the completed tasks in detail and clients can more easily determine what work has been performed and whether this work is approved by their guidelines. During the initial firm engagement negotiations, legal billing guideline agreement is key.

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The second step an organization should take to achieve an improved return on legal dollars is to select and implement an enterprise legal management system or other software solution that allows for legal invoice auditing. Tracking and analyzing legal spend and identifying noncompliant invoices for adjustment or rejection are difficult without a robust system in place. Software plays a critical role in the overall invoice audit strategy, and many invoicing and ELM solutions contain built-in features for audit automation, including such items as flagging of noncompliant expenses (such as copy rates in excess of guidelines) and timekeeper rates. It is also helpful if the software selected provides spend trending, budgeting and other forecasting features. As with all systems and AI-based applications, the pros and cons need to be weighed against an organization's needs and goals. An extremely fancy and expensive system won't necessarily provide a return on investment without the proper input and management of experienced professionals. Important considerations associated with the invoice audit systems described include:

- System development and the setup and training time required.
- Updated workflows to address compliance flag acceptance and overrides, as well as invoice approvals and flow control based on specified system logic.

- Rate book maintenance, approvals and checks.
- Compliance flag false positive and false negative hit rates.
- Reporting capability, report generation and flexibility.

However, even if the system in place does not provide some or all of the aforementioned features or if the organization is not in a position to upgrade to a system that does, an external legal invoice auditing vendor can bridge the gap. The vendor can act as a partner to the organization's legal team, assisting in developing billing guidelines as well as invoice flow and audit system checks and logic. These vendors need to be capable of handling multiple types of billing systems, leveraging the benefits and mitigating the drawbacks of each. Whether the client's invoices are paper based or domiciled within the client's systems, the vendor will need to work with the client to develop a playbook that allows invoices to be reviewed in a timely fashion to identify and escalate noncompliant entries as early as possible. The vendor performs the audit as a member of the team or as part of the workflow hierarchy and can leverage the available system as well as its own resources to audit invoices for the application or removal of reduction flags, review task entries for redundancy or other guideline noncompliance, as well as liaising with the managing attorney on compliance findings, thereby freeing up the client's internal team capacity.

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Once the billing guidelines and the ELM/audit software capabilities are analyzed and understood, there are two primary paths to implementing a legal invoice audit program: the first is retrospective (forensic), and the second is concurrent (real time).

Retrospective review often makes sense when the client's resources are limited, but the client would still like to understand its law firms' billing behavior and raise any clear violations with outside vendors for potential refund or credit. If excessive budget increases have been observed, or the managing attorney notices a rise in spending, closer scrutiny can uncover if this is unique to a specific case or a trend across matters handled by the firm. A component of the retrospective review may be to leverage statistical sampling to allow the client to gain an understanding of spend across matters, firms or the department without allocating the time and resources to audit every invoice paid. The statistical sampling plan can be tailored to the organization's risk and accuracy tolerance levels – a larger sample being required for higher accuracy. Such a review provides a snapshot of the potential financial opportunity and the level of firm compliance with the billing guidelines, the findings of which may be the basis for a deeper dive into a specific tranche of invoices for further review.

The concurrent review is the ideal for legal invoice review, because it allows the organization to avoid paying a noncompliant invoice in the first place. Rather than finding out after the fact that an invoice included noncompliant entries and positioning to negotiate for a credit or refund from the law firm, the organization can resolve the invoicing discrepancy or just the offending line entries, via a line-entry reduction, before it is paid. In a mature review model, the noncompliant entries will be highlighted for the law firm for reconsideration and resubmission, allowing the firm the opportunity to correct mistakes in the original billing. This cooperative audit method increases law firm compliance with billing guidelines and improves timekeeper billing behavior as they learn the types of tasks that are allowed or considered insufficient or noncompliant.

The success of an audit program, including remediation negotiation in a retrospective review or invoice/line-item rejection in a concurrent review, is enhanced by involving the organization's relationship manager, managing attorney or procurement group at the outset as this indicates the importance of compliance with legal invoice billing guidelines. Often a strategy of employing a transition period wherein the penalties of noncompliance start low and increase over the course of the intermediate phase encourages the compliance of firms as they adapt to the revised billing requirements. In addition, since many organizations benefit from timely payment of invoices, this variable of delayed payment on submitted invoices must be contemplated in the audit model and workflow design to ensure that early pay discounts are not jeopardized. Once this ongoing relationship is established, the audit program can eventually become business as usual, wherein the noncompliant invoices or entries are brought up with the law firm billing coordinators and resolved without the involvement of senior level staff.

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Legal invoice audit vendors should be experts across multiple systems and behave as partners to organizations in increasing efficiency and driving higher value from legal spend. Invoice auditing is an ongoing journey to improve firm legal billing compliance, and beyond simply reviewing invoices, the vendor should provide analytics and insights into the organization's legal spend based on overall invoicing patterns. A trend analysis over a period of time can measure success as well as firms' engagement with compliant billing. Some metrics that may illustrate this include but are not limited to:

- Dollars associated with noncompliant task entries and overall reduction percentage (%) at the firm, matter and timekeeper level.

- Noncompliant billing flag rates as a percentage of overall fee/expense entries at the firm, matter and timekeeper level.

- False positive and false negative noncompliant flag rates to determine areas for automated flag improvement.

- Weighted scoring methodology to provide a compliant billing score by firm, matter and timekeeper level to assist in evaluating firms and timekeepers for assignment on future cases.

Through increased communication, feedback and appropriate metrics and actions, a firm's legal invoice billing compliance and overall synergistic relationship can be developed and enriched which in turn provides increased value to any organization. ILTA

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