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Follow the Money

Alexei Oreskovic

Corporate Counsel

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For Bellsouth Corporation's chief litigation counsel Henry Walker, you can never have enough information. He's always tried to stay on top of outside counsel invoices at the Atlanta-based company.

But starting this month, he's added a new tool to his tracking arsenal: e-billing. The new system, which is scheduled to go live New Year's Day, will make it easy for him to see exactly where -- for discovery, depositions, and other expenses -- his litigation dollar is going, in real time.

Dozens of other legal departments are embracing e-billing, too. One of them, The Home Depot, Inc., found it could finally get on top of its monthly expenses with the system it implemented two years ago. Like BellSouth, the Atlanta-based retailer went through months of designing, implementing, and debugging.

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But, says Libby Troughton, Home Depot legal department's technical support manager, it was worth it. The paper clutter that once clogged the department's financial reporting pipeline turned into a trove of valuable data.

Although the completely paperless office may still be a long way off for most lawyers, an increasing number of corporate legal departments are at least doing away with old-fashioned, hard copy invoices.

According to Corporate Counsel's 2004 In-House Tech Survey [May 2004], 41 percent of the respondents say they receive bills from law firms electronically. "Most big corporations are talking about [e-billing], are in the process of doing it, or have done it," says Troughton, who declines to say how much Home Depot spent on its system.

E-billing isn't just about getting firms to submit their invoices by e-mail, however. At its best, the technology can improve the legal department's efficiency, shorten turnaround time for paying bills, and help a company get a grip on the myriad cases and outside counsel running on its meter.

E-billing software automatically routes outside counsel invoices to in-house lawyers for review, and ultimately to the accounts payable department. And all invoices that pass through the system are kept in a central database, where the legal department can analyze the information at its leisure.

These measures can translate into significant savings.

How much does it cost? About half a dozen vendors now offer electronic billing software, and they use a variety of models and pricing plans. Some vendors charge annual fees, which can range from the low six figures to more than \$1 million a year, depending on the size of the department and the features it chooses. Others take a percentage of the invoices processed by their software, typically in the 1 — 2 percent range. On a basic level, e-billing eliminates the need to pore through stacks of paper.

But there's more.

As law departments set up their software, they can give the system guidelines to evaluate bills as they arrive. In addition to keeping a list of approved rates, the department can specify, for example, how much it will pay for photocopies, or which travel expenses it will reimburse.



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Invoices that don't adhere to the guidelines are automatically sent back to the law firms for adjustment; the firm's billing administrator quickly receives an e-mail with the flagged invoices or is directed to a Web page identifying the issue, depending on the software.

"Sometimes there will be a misunderstanding about what the actual rates are. And we've even had instances where the math doesn't add up," says BellSouth's Walker. "This clearly disciplines the system so that if the rate isn't what we understand it to be, it gets kicked back."

The software also flags items that aren't outright billing guideline violations but are worth a second look, such as lavish hotel bills or over-the-top meals. Some products also provide a way for outside lawyers to appeal an item online that appears to violate the client's guidelines.

Law departments are reluctant to give specific details about how much money the software has saved them, but the dozen in-house lawyers and tech support personnel interviewed for this story all say that the software is extremely effective at spotting problem expenditures.

One convert, James Michalowicz, who uses e-billing software at his current job as Princeton-based Tyco International Ltd.'s litigation program manager, did an analysis of legal fees in his previous job at Wilmington-based E.I. du Pont de Nemours and Company.

Michalowicz, who left DuPont for Tyco a year ago, says that over a nine-month period the DuPont legal department caught \$1.3 million in outside counsel fees that were either unapproved or noncompliant with its e-billing guidelines.

Thanks to standard electronic data formats, e-billing software synchronizes easily with the time-and-billing software many outside counsel use to create their invoices.

But that kind of data-sharing doesn't always sit well with law firms. And outside counsel are often dismayed to learn that they may have to pay to play.

Several vendors, including DataCert, Inc., in Houston and Tripoint Systems Development Corporation in Chicago, levy a subscription fee on firms that submit invoices through their systems.

To get reluctant firms to go along, corporate law departments often use a carrot-and-stick approach. They tell firms they'll be paid faster -- and explain that not participating could mean getting dropped. \

Home Depot's Troughton says that while some of the company's firms balked at first, they all came around in the end.

In any event, many firms concede that e-billing is the future, like it or not. Paul Glad, the managing partner of the San Francisco office of Chicago's Sonnenschein, Nath & Rosenthal, estimates that as much as 20 percent of the firm's clients use e-billing. The service fees, he says, are more than offset by the amount of legal work it gets from clients.

"The bills are high enough that the cost of the e-billing, or the fee, is not a meaningful barrier," says Glad. While he says that setting up a billing relationship for a new matter can often take too long with electronic billing systems (in some cases, he's waited several months to be assigned a case identifier number that he can bill his work to), the process can speed up the time it takes to collect receivables -- often within a month.

Ultimately, say some in-house attorneys, e-billing's true potential lies in fostering a more productive relationship between the law firm and the client. By analyzing the various metrics captured in e-billing software, legal departments cannot only figure out how much they're paying, but take steps to get better results from outside counsel.

Tyco's Michalowicz provides a concrete example. He says Tyco recently assigned all of its product liability cases to a single firm, Kansas City, Missouri's Shook, Hardy & Bacon, which will get a bonus if it meets various goals and milestones that can be tracked in the e-billing software.

"Once you choose your strategic partner, you really want these systems to be able to support you jointly," says Michalowicz. "So you both have a good story to tell."

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