

 LLM



# Cut Costs and Increase Profits with Legal Metrics

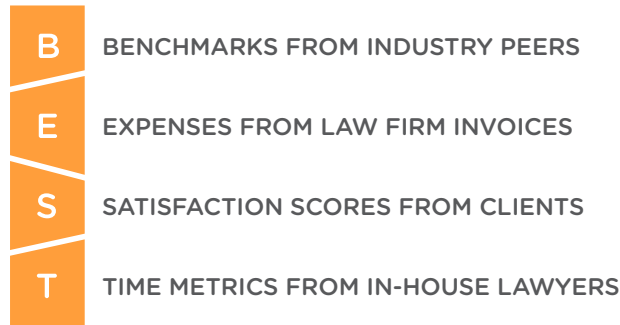
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How Corporations and Firms Can Go from Collecting Data to Taking Action

As the legal industry continues to undergo significant change, metrics are emerging as a valuable tool for both inside and outside counsel. They contribute to cost predictability, forecasting and savings, increased transparency and trust, the development and execution of a successful case strategy and improved project management.

For corporate legal departments that are being asked to cut costs and do more with less, metrics provide important insight for key decisions. To help manage in-house counsel, for example, Rees Morrison of Altman Weil recommends four metrics, represented by the acronym BEST<sup>1</sup>.

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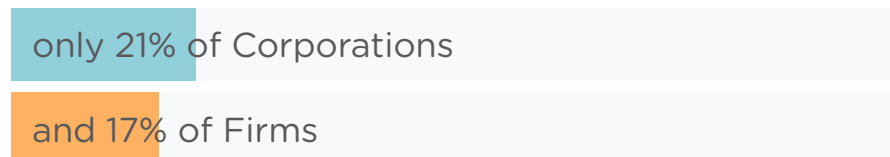


Metrics can also help inside counsel select, manage and evaluate outside counsel.

For firms, metrics can quantify success, build stronger client relationships, and deliver information that's critical to maintaining profitability and competitiveness in the growing buyer's market.

Industry changes are reflected in results from surveys such as Altman Weil and LLM's own. Both corporate counsel and firms reported cutting costs as the top requested change. LLM's survey revealed that only 21 percent of corporations and 17 percent of firms are capturing metrics that can help inform future cost decisions.

#### LLM'S SURVEY SAYS:



#### ARE CAPTURING METRICS THAT INFORM EFFICIENCY DECISIONS

So while an increase in metrics use would benefit corporations and firms, *how* they're being used is significant. Simply collecting data for data's sake accomplishes nothing. Collected data must drive action.

Let's say an organization is trying to lower costs and increase efficiency. If they are like most firms and corporations, they are using at least four different legal software systems to do their job, requiring users and data to switch between tools inefficiently. By identifying specific tasks, such as collaborating on timelines or building binders, and tracking how long the tasks take in the current environment, the organization can establish a baseline. As new solutions are implemented to centralize data and reduce workflow inefficiencies, the task completion metric can help iteratively evaluate the effectiveness of the new processes and further spur change.

This white paper will explore specific metrics for corporate legal departments and law firms, how to collect as well as troubleshoot them and, most important, the actions to take once the valuable data is in hand.

 What gets measured, gets managed.

-Peter F. Drucker

## GETTING DOWN TO BUSINESS

A question for counsel: Do you consider your corporate legal department or law firm a business?

According to metrics advocate and managing partner Lawrence Buckfire, firms should definitely view themselves in this way<sup>2</sup>. For Buckfire, a firm provides a service, so it should be run like other businesses, such as a retail store or restaurant. He believes that many firms, including his own at one time, don't gather and analyze business data. It's not enough, he said, to just be in the office every day, seemingly on top of it all. His observation: "The firms that scrutinized their metrics were better positioned to prosper in the future. They also seemed to be in better control of their practice."

This business perspective can apply to corporations as well. Corporate legal departments need to effectively provide services and value within the corporation. Those that run like a business by implementing budgets and metrics can then track and evaluate how efficiently and accurately those services and value are being provided. The data also increases a corporation's ability to make informed business decisions about bids and resources, whether inside or outside counsel.

## METRICS FOR CORPORATE LEGAL DEPARTMENTS AND LAW FIRMS

### BUDGETING

We begin by exploring some of the budgeting metrics that can be used by both corporate legal departments and law firms.

#### CORPORATIONS

- Spend vs. Budget
- Vendor Spend
- Bids (accuracy, percentage per firm)
- Spend by business unit
- Invoices not submitted on time by firm or attorney

#### FIRMS

- Spend vs. Budget
- Vendor Spend
- Bids (accuracy, win rate)
- Spend by practice group
- Average time to submit bill



To obtain basic underlying information, counsel should track overall anticipated costs (budget) and actual spend. This can begin per project, such as litigation, investigation, contract and more. These metrics can then roll up into broader reports, like for legal service type or the department/practice area as a whole.

The macroscopic view of a metric like spend versus budget for an entire practice area provides insight into where spend is going and if the area could benefit from changes in cost strategy. For example, shifting transactional work to volume-based fee arrangements or evaluating which resources to allocate for certain department projects. Summarizing the spend versus budget metric for different fee arrangements can help show their effectiveness at controlling spend. Reporting can also allow for multiple levels of comparison. For example, compare the effectiveness of fee arrangements for different firm partnerships to evaluate which AFA type works best with which firms.

What follows are a few common budgeting challenges and the solutions that tracking and metrics can provide.

CHALLENGE	METRICS	ADDITIONAL STEPS
<b>Costs are high. You aren't sure why but want to rein them in.</b>	Break out the budget into easy to identify categories or phases and track spend to that cost driver.	<ul style="list-style-type: none"> <li>• Communicate early, adjust strategy accordingly and apply resources to these decisions.</li> <li>• Apply this information to future pricing and fee arrangements.</li> </ul>
<b>Budget estimates are way off from actual spend.</b>	Use variance to track budget planning accuracy compared to spend. Drill down to various categories or phases of budget to see where variance is most often occurring and why.	<ul style="list-style-type: none"> <li>• In real time, use identified variance to increase communication with the vendor.</li> <li>• Perform post-mortem analysis to influence future budget planning.</li> <li>• If using multiple bids or RFPs, track accuracy of vendors for improved decision making.</li> </ul>
<b>Spend is too hard to track.</b>	Add in compliance metrics, like invoice or expense timeliness.	<ul style="list-style-type: none"> <li>• Communicate expectations and importance placed on spend tracking.</li> <li>• Incentivize compliance through penalties or reward structures. Include compliance metrics in evaluations of the project and personnel. Make it a component of granting holdback/success fees or even future business.</li> </ul>

## CORPORATE LEGAL DEPARTMENTS

Metrics can help address some major corporate legal department questions:

Where's our money going? What's the quality of service we're getting for our money? Is our data accurate? Are we competitive on costs?

Some of the metrics corporations can track to help answer these questions include:

- **Spend vs. Budget (macro level)**
  - › Spend by firm
  - › Spend by legal service type
  - › Inside/outside spend as percentage of revenue
  - › Inside vs. outside spend
  - › Total outside counsel spend
- **Firms' scorecards/evaluations**
- **Data collection and compliance metrics "junk in, junk out"**
- **Rate metrics**
  - › Track and benchmark timekeeper rate increases
  - › Percentage of hours received at discount rates
  - › Average cost per hour of inside counsel time

Junk in results  
in junk out.

One of the first areas that should be addressed is the accuracy of the collected data that makes up important business metrics like spend. Is information being entered in a timely manner or at all? Is it being entered consistently and accurately? The quality of data and adherence to policies are also important. Bottom line: Junk in results in junk out.

Counsel should use data quality metrics to identify and change practices that result in low quality data feeding into business metrics that will drive larger decisions. These include metrics around compliance of collection and accurate entry of the data. Some organizations even tie these compliance metrics into overall performance reviews of a department or individual.

Track what's important to you. If you're concerned with outside counsel costs or whether work can be moved internally, then track inside versus outside spend and costs associated with internal employees. Metrics can help demonstrate the value of your department and savings achieved when work is taken in-house. If outside counsel is providing value but overrunning budgets, then break down spend by cost drivers. Determine where the cost overrun occurs and communicate the necessary change —whether it's strategy, expense policy or which resources are used for tasks.



## FIRMS

Metrics can help optimize business and make a firm more profitable overall. They can also help a firm gain insight into the efficacy of the bidding process by measuring the frequency of wins and their accuracy and make adjustments accordingly. This becomes especially helpful when you're being required to use AFAs.

- **Annual Spend**
  - › By practice area
- **Spend by timekeeper (TK) level**
- **Average hourly billed rates by timekeeper level**
- **All costs settled vs. bid rate**
- **Frequency of bid wins**
- **Accuracy of bids**



You can't improve what you don't measure and generally, whatever you measure ... improves.

-Peter F. Drucker

## LITIGATION

- **Spend by matter type**
- **Average cost of open matters**
- **Total cost of outcome**
- **Outliers**

You can also track metrics specific to practice areas. In litigation, this might be budget versus spend breakdowns by matter type and average or total cost of open matters. Monitor cases with high risk or that are anticipated outliers to forecast spend and prevent surprises. From a firm perspective this keeps communication open and clients aware. Tracking total cost of outcome allows firms to evaluate the risk to their client's business and also shows what value the firm brings.

## ALTERNATIVE FEE ARRANGEMENTS (AFAs)

As the use of AFAs by corporations and firms continues to grow — to cut costs and increase predictability and transparency — it's important to gather pertinent data to measure their success.

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The core metric for AFAs continues to be spend versus budget broken down further by phase and cost drivers. The success of the AFA then becomes an evaluation of those factors as compared to spend in previous traditional fee structures.

- **Did you save money?**
- **Were costs reduced at a certain phase or for a certain cost driver?**
- **Did communication increase with outside counsel such that strategy decisions were made in a timelier manner to avoid cost overruns?**

As the types and quantity of AFAs increases, the metric tracking options can include:

- **The number of AFAs being used**
- **By what matter type**
- **What percentage per department or practice area**
- **What percentage of total legal spend, total expenses by firm for particular groups of matters and how they perform in comparison**
- **What was the total cost of outcomes by type**

Historical metrics based on phase or stage of litigation — length, resources and spend -- can be used to inform pricing around AFAs, bids and resource allocation.



Don't measure anything unless the data helps you make a better decision or change your actions.

-Seth Godin

## COLLECTION, ADOPTION AND ANALYSIS

So how does a corporation or firm collect the numerous metrics available? There are a variety of sources data may originate from. For example:

- **Matter management and budgeting systems**
- **Monthly reports**
- **Spending reports with external fees and expenses from accounting/finance**
- **Detailed budget reports for matters**
- **Internal evaluations and scorecards of outside counsel's performance**
- **Feedback from inside and outside counsel**



A recommended starting point is to identify where you currently use or keep this data (the business data source and owner), then work towards how to access that information and centralize it. Other related questions can include:

- **How frequently is the data collected?**

This is dependent on the data source and what exactly you are looking to track.

- **How frequently is the data reported?**

This is dependent on the metric and audience. Individual matters may track expense compliance daily, weekly or track spend to the budget weekly or monthly. Larger department-, firm- or organization-level spend reports may occur only quarterly or yearly.

- **Is there a formula to be applied?**

This is dependent on the metric you're tracking. For example, to determine legal spend as percentage of revenue, take the data (spend) and plug it into a formula with other data (revenue). Alternatively, it could be compliance metrics, like average days to submit time keeping or expenses.

Encouraging adoption and compliance of collecting metrics is also important. Expectations for how and what to collect should be set, and the input and collection of the metrics should be simple. Creating some conformity around what should be tracked for different types of projects (M&A, litigation, investigations, etc.) will help too. Software will aid in the ease of tracking as well as compliance by creating a repeatable template for employees to use for these projects. A simple and clear process will aid in adoption and compliance, leading to more complete data to review.

Within some corporations or firms, a lack of buy-in both in providing or using data could be an issue. Therefore, it's important to reward success, communicate to your team — whether internal or external — why the data is important and consider making compliance a part of the evaluation process.

Problems can arise from metrics' quality and quantity. For example, data may not be complete or reliable. Another issue is users may incorrectly categorize tasks if there are too many options or they're not clearly defined. The misinterpretation of collected data can also take place. Therefore, it's always useful to re-evaluate and audit the data being collected. This can be a defined process for auditing invoices or a quality check defined on an annual basis. If information is being misidentified, then reach a consensus as a team/organization to reduce the number of options or provide clearer guidelines and definitions.

Collecting data alone isn't enough. Simply tracking metrics isn't going to facilitate change. Your business needs to generate specific questions that align with the group's goals. To answer the questions, data metrics need to be identified. And to know what actions to take, this data needs to be analyzed over time.

With budgets, start by tracking spend on cases. More accurately, track spend versus budget to see if your corporation or firm is over or under, and how often. And then it's imperative to move to the larger goal. For example, identifying why you're over more often than not. If you want to adopt an AFA model, you must evaluate their success. Or maybe you want to evaluate the bidding process. If you're a legal department, this could be whether one firm has been more accurate in its bids compared to another. If you're a firm, whether a bid will mostly likely fail.

Software will aid in the ease of tracking as well as compliance by creating a repeatable template for employees to use for these projects.



Metrics are for doing, not for staring.  
Never measure just because you can.

-Stijn Debrouwere





Review and analysis can be greatly aided by tools available now. Using software to visualize the data makes it much easier to digest this information. Software automation for reporting and alerts minimizes risk. Also, using one centralized system where all the data is being captured, tracked and analyzed will make the entire process — collecting, adoption, compliance and analysis — easier, resulting in better insights and decisions.

## NOW WHAT? TOP 10 ACTIONS TO TAKE FROM METRICS

Now that you know more about the value in tracking metrics, here are the top 10 ways you can put them into action for real results.

- 1 Validate success and identify areas for change. Taken together, these steps provide an iterative process for continual value and improvement.
- 2 Use information to improve future planning and ensure lessons have been learned.
- 3 Determine ways to track information that allows for transparency and accountability.
- 4 Clarify and improve relationships: Negotiate and document needs, asks, wants, such as resource allocation, expense and billing policies to meet goals or provide client value.
- 5 Move work if relationship or metrics do not meet corporate goals.
- 6 Act on rates using data: Increase value via volume discounts, rate reviews and requesting AFAs when it makes sense.
- 7 Act on the process by implementing or responding to RFPs and bids in a knowledgeable way based on metrics that reflect historic pricing for similar work, prior experience and evaluation of firm or needs of client.
- 8 Use reports and historic data to compare and evaluate success and failure of AFAs. Institute changes in the type of AFA or structure to ensure inside and outside counsel's goals align, and that they meet financial, risk and value success in AFA structure.
- 9 Move beyond bids and AFAs to integrate historical spend metrics into strategic decisions on complex and high-risk projects.
- 10 Report, Analyze, Validate, Institute Change(s), Plan and Reference historically.



## CONCLUSION

Whether you're a corporation looking to cut costs, gain efficiency and better manage in-house counsel or a firm hoping to improve transparency, maintain profitability and increase competitiveness, metrics can add up to insight, action and success. Processes and software systems exist to facilitate validating, centralizing and visualizing your data. It only takes clearly defined goals for measurements, proper collection, and analysis to empower you to take action and create effective change for your business.

## REFERENCES

- <sup>1</sup> Rees Morrison, *BEST Metrics: Turning Data into Action Improves In-House Performance*, *Metropolitan Corporate Counsel*, (March 1, 2015), available at <http://www.metrocorpcounsel.com/articles/32198/best-metrics-turning-data-action-improves-house-performance>.
- <sup>2</sup> Lawrence Buckfire, *Five Business Metrics That Every Law Firm Should Track*, *Forbes*, (March 24, 2016), available at <http://www.forbes.com/sites/forbeslegalcouncil/2016/03/24/five-business-metrics-that-every-law-firm-should-track/#74f7e88e3837>.



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