

## How to Train Staff to Properly Manage Budgets

### Overview

Begin with the end in mind . . . defining budgeting purpose and goals

For example: Craft accurate information and provide timely reports about . . .

- Scope of work to be performed
- Staffing and project plans (who will do what, and when)
- Amount of money to be paid for the different pieces work
- Timing of the accruals and/or payments
- Reasonable modifications as the matter progresses

**(Practice Tip:** partner with Finance and outside counsel to get agreement on processes and templates that suit everyone's needs)

### Define the scope of work to be performed

- List components that are known, breaking the matter up into phases or projects
  - Litigation Example:
    - Review complaint
    - Interview X number of witnesses and analyze their key documents to assess case early on
    - Provide assessment of the key legal issues identified at the outset
    - Draft answer, affirmative defenses and counter-claims (if any)
  - Transaction Example (e.g. licensing):
    - Draft and negotiate term sheet

- Draft and negotiate license agreement
  - Prepare ancillary agreements (if any)
  - Handle closing
- List components that are unknown, but can reasonably be projected (based on experience of in-side and outside counsel, and the company's historical data on prior matters like this).
- Litigation example: assume 10 depositions total (5 offensive, 5 defensive)
  - Transaction example: perform X, Y and Z items of due diligence
- Make some provisions for components that are unknown and that are hard to reasonably project at this point in time
- Set forth "soft" assumptions (to be revisited later) based on best information available now
  - This is in contrast to the "firmer" assumptions as to what can reasonably be projected (above).

### **Craft staffing and project plans to describe who will do what, when, and how**

- Look for right number of people to efficiently staff the team
- Better to have fewer people with intensive involvement – not more people involved sporadically
  - Consider outlining in-house counsel's role in the project plan as well. A "RACI" chart can be very helpful in this regard, addressing different roles in terms of who is: Responsible, Accountable, Consulted and Informed.
- Seek the correct levels of seniority by project within the matter
- Is the project complex (requiring more experienced attorneys), or more straightforward (requiring less experienced attorneys)?

- Even for straightforward projects, consider whether a more experienced attorney would be able to complete the work more efficiently and cost-effectively. To make this determination you will likely need “per project” cost figures, as opposed to just hourly rates.
- Look for cost effective ways to supplement the core team in completing various projects:
  - Other law firms (smaller, higher value) for certain projects
  - Vendors
  - Temp attorneys

### **Determine the amount of money to be paid for the various stages or pieces of work involved**

- Ask the firm for projections “per phase” or “per unit”
  - Example of “per phase”: how much to handle all Early Case Assessment work in the first 90 days, or how much to draft and negotiate the term sheet?
  - Example of “per unit”: how much is the fully-loaded, all-in cost for each deposition?

These “per unit” figures are a very helpful baseline to use when it is difficult to project how many will take place. You can still calculate what each would cost.

- Solicit in-house counsels’ view on what the various pieces of work should cost
- Mine the company’s historical information
  - How much has the company paid in the past for this type of project?
  - What do other firms charge for this piece of work?
- Consider (and try to quantify) the overall value of the matter in the company’s portfolio
- Using all of these data points, craft a budget addressing the amount of money to be paid for the various pieces of work, and consider basing a portion of outside counsel’s

compensation on delivering superior outcomes (e.g. hold-back subject to success multiplier)

- Address vendor expenses as well, and determine whether outside counsel are responsible for managing those figures to budget as well

*(Practice tip:* Once the budget is crafted, be clear as to what it represents – a good faith estimate, or a quote that must be adhered to barring any unforeseen events)

### **Devise a forecasting plan to address timing of the payments / accruals**

- How often forecasts and “progress vs. budget” reports be provided?
  - Quarterly?
  - Any high level “dashboard” update provided monthly with each invoice?
- In what format?
- Who is involved (Just lawyers? Finance managers from the client and firm?)
- Set periodic “progress vs. budget” meetings – knowing that these are on the horizon will shape behavior

### **Monitor progress . . . key questions:**

- Have the activity assumptions been reasonably accurate? If not, what adjustments are needed?
- How are we doing in terms of progress vs. budget?
- Are the amounts invoiced compliant with company budgeting and billing guidelines?

*(Practice tip:* If the answer to all three is yes – then this can reduce the amount of time spent reviewing each invoice line-by-line, moving instead to a periodic spot check approach).

### Addressing budget scenarios and variations:

- Activity assumptions progress as assumed, and expenditures match budget (ideal)
- Activity assumptions progress as assumed, and expenditures exceed budget (bad)
- Activities turned out to be more voluminous or complex than assumed, and expenditures still meet budget (good)
- Activities turned out to be more voluminous or complex than assumed, and expenditures exceed original budget (challenging . . . likely requires adjustments to account for increased volume or complexity – but ask whether there are other projects or matters in the portfolio that are under-budget to free up dollars so the department can “self-fund” this overage)
- Activities turned out to be less voluminous or complex than assumed, and expenditures meet original budget (can be bad – budget should have been reduced)
- Key take-away: matters progress differently, so you may need to adjust assumptions up and down
  - “Over budget” does not always indicate inefficiency, if volume or complexity has increased
  - “Under budget” does not always indicate efficiency if volume or complexity has diminished

### Setting the budget for next year

- Start from a baseline of zero
- Many of this year’s activities were already completed and paid for, so they should not carry over. Instead, build a new work plan for the coming year from the bottom up.

**(Practice tip:** at the end of the year, evaluate your law firms on their ability to craft budgets and effectively adhere to them. Over time, you will build a performance profile to help ensure against overly optimistic budget estimates or bids).