

# Law Firm Management

## Client Relations

### Attorneys' Fees

#### The Rise of the Pricing Director



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In a survey published in the December issue of the *American Lawyer*, 81 percent of law firm leaders said that more clients are requesting discounts, and 55 percent said clients are requesting deeper discounts. In a separate survey conducted by Altman Weil, 90 percent of managing partners and chairs said that increasing price competition is not temporary, but rather a permanent change in the legal marketplace.

The economic balance of power has shifted to clients. Just a few short years ago large law firms reigned supreme. Now it seems that almost all large corporations and their in-house counsel are asking for some sort of price break from their lawyers—even

from firms they have used for decades. Many General Counsel are seeing their legal budgets reduced, and they are passing the pressure along to their outside law firms.

As a result, large firms see pricing analysis and policy as more important than ever, and some are creating new pricing director positions to help them succeed in an ever more challenging environment.

Stuart Dodds became Baker & McKenzie's first Director of Global Pricing last July, after serving for three years as Global Head of Pricing at Linklaters. His job includes four main components: "We help **set** the price in a proposal, help **get** the price, help our fee earners **manage** the price through project management, and then **review** how effective the pricing approach taken has been on a long-term basis for both our client and our firm. We are building a whole infrastructure within the firm with pricing do's and don'ts." Much of Dodds' time is focused initially on the firm's larger clients, and one key goal is to help assure pricing consistency and rationality for a firm with 70 offices around the world and over 3,750 lawyers.

The same month that Dodds began at Baker & McKenzie, Toby Brown was hired by Vinson & Elkins to serve as its first Pricing Director. The firm's leaders have put out the word that whenever pricing is an issue with an important client, Toby should be consulted early and often. One of the most important aspects of his job is to "create a culture of having conversations about value. Lawyers are really good at talking to clients about legal issues," says Brown. "Now, however, they need to add another dimension to the conversation to include value, pricing and efficiency. . . . Sometimes I think my job is almost 100 percent business development."

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Others with related titles also emphasize how pricing is tied to client satisfaction and new business. Matt Laws, alternative fee arrangement senior manager and head of the pricing group at Reed Smith, says “I see myself as working for the firm and for the client at the same time. I try to find that middle ground, a mutually beneficial arrangement.”

Similarly, Vinson & Elkins’ Brown says “I like to walk the client through a whole list of questions. Sometimes, they won’t immediately understand what their own price sensitivity is. My job is to get them thinking about what matters most to them. I can be seen as an internal consultant to the lawyers in the firm, and also to the clients.”

Although at this time only a small number of firms have a separate pricing director or department, many see it as the wave of the future. “I find it hard to see how major firms could not organize themselves this way,” says Michael Byrd, Assistant Director of Pricing Strategy and Analysis at Mayer Brown. “What we do fits somewhere in between finance and business development. It’s at the same time both numbers-driven and creative.”

Mayer Brown’s Byrd sees the main benefit of a proactive pricing strategy as “increased competitiveness to keep us in the forefront of the market.” Both Byrd, and the partners he works with, believe that in his 18 months at the firm, the new emphasis on pricing has helped increase responsiveness to client needs, increase client satisfaction, and add value.

One key factor that is driving the pricing movement is the new emphasis on alternative fee arrangements (AFAs), including fixed and contingent fees. According to Altman Weil’s 2011 Chief Legal Officer survey, AFAs now account for about 14 percent of all legal fee revenue. This figure is still small compared to the 86 percent that is hourly, but it is measured in the billions and all of the forces of change are headed toward more AFAs. As Joe Morford, managing partner of Tucker Ellis & West put it, “Once we started working for a client with AFAs, not a single one has ever wanted to go back to hourly.”

In the good old days of hourly arrangements with rates that went up every year, it did not require sophisticated financial analysis to send a bill that multiplied each lawyer’s hourly rate by the number of hours spent. But to make AFAs profitable, law firms now need to spend more time thinking about pricing.

At Winston & Strawn, the pricing strategy role is shared by the co-leaders of the firm’s AFA initiative: Kathrine Cain, the manager of business intelligence, and Keri Gavin, the controller. Cain reports to the firm’s director of business development, and Gavin reports to the firm’s CFO, but they work closely together to analyze the information that the firm needs for competitive pricing.

“The partners are encouraged to reach out to us for assistance with requests for alternative fee arrangements and budgets,” Cain says. “Some partners were already very good at defining budgets and pricing strategies, while some were new to the concepts. We coach them through the process of defining a budget and

identifying pricing options that align with their client’s needs and expectations. In the two years since starting the formal initiative, we have made significant strides in providing the tools and techniques to support our lawyers and clients.”

Cain says she and Gavin always consider a wide range of options for AFA proposals, based on the client’s expectations and goals as well as the projected internal rate of return, the anticipated level of staffing for the matter, benchmarks based on previous matters, the firm’s history with that particular client, and other factors.

Fish & Richardson uses a somewhat different model. There, the AFA group is led by Kurt Glitzenstein, a firm partner and patent litigator.

Glitzenstein says that since his firm specializes in intellectual property law, many of his firm’s cases fall into just a few categories, such as patent litigation, Fish & Richardson is able to ask the same questions in nearly every case and obtain useful answers that will help in its pricing.

“We prefer to price on an AFA basis,” he says. “To do that, my staff goes through a case and interviews the lead attorney about the details. Is it a judge whom we know well? How many patents are under litigation? What is the technology? How complex is it? As a result of inquiries like this, we can put together a litigation budget and use it as a guide for pricing. By asking the right questions, we can predict which cases will be more challenging to handle.”

“We think that the fixed-fee arrangements that Fish & Richardson often proposes improve aspects of the lawyer-client relationship,” Glitzenstein says. “Fixed fees allow lawyers and clients to focus on the merits of the case so that they can reach the best result, without the same level of concern as in a traditional hourly fee arrangement that changes to the case strategy, or unexpected developments, will significantly increase the cost to the client.”

Of course, in every firm, ultimately the success or failure of this new pricing movement will depend on buy in from the partners.

Mayer Brown’s Byrd says that although it is not required that partners consult him when they need to respond to an RFP or develop an AFA proposal, it is highly recommended, and that his plate has been full.

Matt Laws, head of the pricing program at Reed Smith, where just about 20 percent of the annual revenue comes from AFAs, says his role “has been very well received . . . Partners do tend to call every time a potential engagement comes up,” Laws says.

Laws says Reed Smith does not have “any strict guidelines about what we can or cannot do to win a client’s business. Any proactive approach to meeting a client’s needs is likely to be approved.”

In fact, Laws says he sometimes finds himself and his team having direct contact with the clients’ financial officers during the bidding process—something that would have been unthinkable only a few years ago. “In the old relationship, partners would work with corporate general counsel. Now, we see finance people and CFOs

from the client companies. The process of online bidding, which has become more and more common, reduces the importance of the historical relationship between the firm and the client.”

Another interesting trend in this area is a growing emphasis on project management. According to Baker & McKenzie’s Dodds: “Over the last 18 months, the biggest change in the legal pricing field is a greater emphasis on project management and how we deliver services. Law firm clients are now looking for demonstrable value and efficiency, and we should not shy away from this challenge” This should not be surprising, given that once a firm is committed to a fixed price or an hourly fee cap, the most important determinant of profitability is being able to meet the client’s needs within a predetermined budget.

That’s why efficiency is on everyone’s minds these days. In the Altman Weil survey quoted at the beginning of this article, managing partners reviewed 15 current trends, and gave their opinions about which were temporary and which were permanent. Price competition was number two on the list, with 90 percent saying it was permanent. The only trend rated higher was the related idea of improving practice efficiency. Ninety-four percent saw that as a permanent change.

The trend of appointing specialized pricing officials and devoting more effort to analyzing pricing is expected to increase. The International Legal Technology Association (ILTA) recently formed a Financial Management Peer Group to support this movement.

“Pricing is both an art and a science,” says Vinson & Elkins’ Brown. “We need to focus on both if we are going to grow our business. There are a host of pricing strategies out there, and lawyers are now just touching the surface. This is a dynamic world and my job is changing on almost a daily basis. The heat is getting turned up on law firms, and the pace of change is accelerating.”

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