

Electronic Invoice Transmission: Analysis of Law Firm Issues

White Paper

Submitted by:

LEDES Oversight Committee
2006 Common Communication Approach Subcommittee
Patrick Hurley & Andrew Dawson, subcommittee co-chairs
Submitted March, 2007



| | |
|--|----|
| Introduction | 3 |
| Executive Summary | 3 |
| Background | 4 |
| ▪ Need for Communication Standards | 4 |
| ▪ Other Industries | 5 |
| ▪ Logical Next Step for LEDES | 6 |
| ▪ Advantages of LEDES XML | 7 |
| Research Performed | 7 |
| ▪ Research Objectives | 7 |
| ▪ Law Firms | 8 |
| ▪ eBilling / Matter Management Vendors | 9 |
| ▪ Corporate Counsel | 9 |
| ▪ Other Industry Standards | 10 |
| Results Interpretation | 10 |
| ▪ Law Firms | 10 |
| ▪ eBilling / Matter Management Vendors | 13 |
| ▪ Corporate Counsel | 13 |
| Conclusion | 13 |
| Appendix A – Subcommittee Members | 15 |
| Appendix B – Survey Questions | 16 |

Introduction

The Common Communication Approach Subcommittee (CCA) of the LEDES Oversight Committee (LOC) was established at the beginning of 2006. It was formed based on the anecdotal and subjective impressions of a number of members of the LOC that there are foundational problems with the processes surrounding the transmission of electronic invoices in the legal industry. These problems did not appear to relate to any of the standard formats that the LOC has ratified. Rather they appeared to be related to the back-and-forth communication between the disparate software systems and market constituencies involved in the lifecycle of law firm invoicing.

Many LOC members wondered if these anecdotal experiences represented any sort of critical mass or statistical significance in the industry. Others wondered if it would be possible for the LOC to develop standard communication protocols for the transmission of invoicing and other electronic data to reduce these foundational problems.

In order to resolve these questions, the CCA was mandated with the following charter:

- *To recommend to the LOC Board an appropriate course of action to establish and foster a common communication approach for legal industry electronic data sharing*

Executive Summary

The CCA subcommittee was formed with 2 or more members from each of the 3 major constituencies of the LOC: law firms, corporate counsel, and software vendors. Each group was tasked with surveying their peers to determine if and what sort of problems and issues they experienced with the electronic invoice transmission process. In addition, research was performed on transmission standards in other industries.

These efforts, as detailed below, quite clearly show that the problems are only felt by the law firm constituency. The issues that law firms face in an attempt to deal with these problems, however, are significant enough to point to a serious need for some sort of transmission protocols to be developed and ratified by the LOC, and adopted by the industry overall. As the use of electronic invoicing in our industry continues to grow at an exponential pace, the burden placed on law firms grows concurrently. This burden, compensated for by the law firms through additional

personnel and expensive technology, will ultimately counter the positive effect that electronic invoicing should have: it will increase the cost of legal services.

Background

- *Need for Communication Standards*

The objective of the LOC (LEDES Oversight Committee) as identified on the website (www.ledes.org) is: *"It is the goal of the LOC that LEDES be an open standard which caters to no one organization or group of organizations and that LEDES be the single standard used for all billing within the industry."* Since this objective was identified and agreed to by the LEDES membership any discussion around extending the charter of the organization to step outside the boundary of a legal billing standard will need to be ratified by the organization.

The recent introduction and approval of the LEDES XML Ebilling Ver. 2 format has brought the original EDI (Electronic Data Interchange) based standard forward just as the ASC X12 standard has moved forward to be XML based developing standards such as ebXML (<http://www.ebxml.org>) or cXML (<http://www.cxml.org>) . The standards bodies for these definitions recognize that the use of XML as a message construct is just a part of the broader need within the global electronic marketplace. The governing bodies identify the need for secure communication interoperability, at a minimum the ability to provide automated Request-Response or Post transmissions.

Law firms in both formal and informal surveys have indicated that the volume of invoices requested in electronic format, increases significantly year over year. Initial challenges such as multiple distinct formats or content variants based on the LEDES 1998B standard are now addressed by the availability of the LEDES XML Ebilling Ver. 2 format providing for international requirements as well as extensible content. As with ecommerce across other industries the next phase of automation is required to deliver the end-to-end efficiencies promised by the introduction of electronic transfer of information.

The need for a communication standard is driven by the increased volume of electronic documents, the increasing number of corporations requesting electronic invoicing, the increased number of legal spend management companies and matter management companies and the

number of disparate formats or aberrations from standard formats. The eBilling lifecycle is also extended by the introduction of invoice modifications.

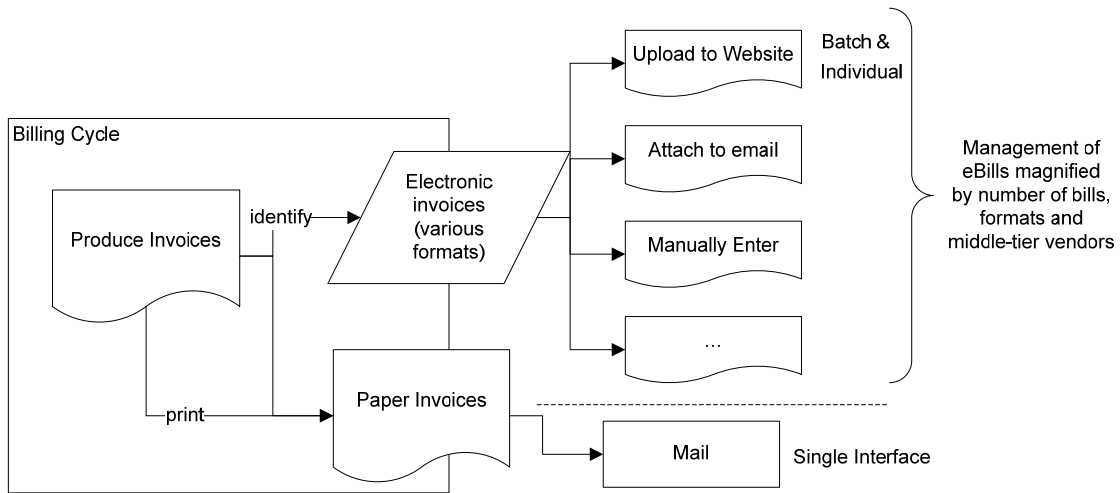


Figure 1 - increasing overhead

Within the LOC membership there are at least 17 vendors listed that provide matter management or spend management services. Each vendor has their own approach to receiving electronic information and further has different approaches to providing feedback to the provisioning firm.

- *Other Industries*

The legal services industry is ultimately an industry where information is both the work product and the raw material for that work product. It is interesting to find that the transfer of related business information between client and supplier is significantly trailing industries that require physical entities or goods to ultimately be the result of electronic data exchange. There are a variety of scales involved in B2B (business to business) communications; however the need for standards of communication was identified quickly after the EDI standards for formats were established. The need for improved communication arose from the increase in demand from both supplier and consumer. The initial point to point communication of EDI provided standard definitions for transaction content but did not provide secure end to end communication and did not translate well to the open nature of the internet based communications. VANs (Value Added Networks) have been one of the common implementations of B2B commerce and reflect the legal Ebilling environment today. In this environment, specialized intermediary's sit between the trading partners sharing data and business processes providing a single point of electronic integration. Ariba and Inovis are examples of how VANs have extended in today's B2B environment (http://www.ariba.com/suppliers/supplier_network.cfm,

<http://www.inovis.com/solutions/communication.jsp>). There are multiple vendors providing this capability and service.

There is still no single communication standard across other industries. Typically a business will support one or more standards providing secure, controlled automated transmission between partners. Typically both supplier and consumer will support more than a single approach to ensure that automated communications can occur across the range of trading partners involved.

The introduction of internet based communications simplified some aspects of B2B communication while exposing others, such as delivery guarantee and security. In today's environment the primary messaging standards are seen as a choice between ebXML, AS2 (superceding AS1) and SOAP. Each of these items are protocols that address security and delivery of content.

AS1: SMTP based communication

AS2: HTTP/HTTPS based communication

AS3: FTP based communication

ebXML: SOAP / Web Services

This list is by no means exhaustive. The B2B industry is large in its own right. The Drummond Group (<http://www.drummondgroup.com>) provides certification services for a broad range of communications standards. Their website provides insight into the number of certified products (companies), the largest listing represents the certification under the AS2 standard.

At this time the CCA subcommittee is not recommending any protocol but has taken this first step to investigating the protocols and standards in place in industries leveraging B2B commerce on a significant scale.

- *Logical Next Step for LEDES*

The Common Communication Approach subcommittee is proposing the following:

- The LOC charter be extended to represent a broader mandate than the production and management of an open electronic billing file format. This action has already implicitly

been undertaken as indicated by the broader set of standards already ratified or proposed as well as the merger with the UTBMS Task Force.

- The LOC identify the need for an automated communication standard as the next required step allowing eBilling and other standard formats to expand in scope providing the expected efficiencies of EDI.

The CCA subcommittee proceeds, to provide recommendations identifying one or more tiers of automated communications that can effectively address the need within the professional services industry

- *Advantages of LEDES XML*

The advantage the LOC has in regards to accelerating the identification and recognition of a communication standard relating to the secure transmission of the ratified standard formats is that the issue has been addressed in a variety of industries, where those industries have also standardized on XML based formats. The LEDES XML EBilling Ver 2.0 format, the newly defined budget standard and the proposed timekeeper attribute format are all based on XML as the defining structure. In providing for XML as the defining structure for electronic documents defined by the LOC the documents will align with a communication standard that supports the LEDES XML EBilling Ver. 2.0 format.

The LEDES XML EBilling Ver 2.0 format, the newly defined budget standard and the proposed timekeeper attribute format are all based on XML as the defining structure and will align with a communication standard that supports the LEDES XML EBilling Ver. 2.0 format.

Research Performed

- *Research Objectives*

The primary tack taken in the research was that each major constituency should be examined differently. Each group experiences different phases of the electronic invoicing lifecycle, with different objectives and motivating factors. The CCA determined early on that it would not be useful to try and come up with a consensus experience and/or recommendation between all three groups. Each group should be surveyed independently, with the focus and questions asked, specifically designed to identify issues unique to that group.

There were, however, overall objectives to be achieved:

- Determine if there are any issues or problems with the processes surrounding the lifecycle of the transmission and receipt of electronic invoices
- Quantify the magnitude, significance and priority of any issues or problems
- Attempt to characterize and enumerate the impact any issues or problems have on our industry
- Determine if there is an appetite for the LOC to develop standards to help with any issues or problems

- *Law Firms*

It became apparent fairly quickly that the law firm constituency would prove to be the group with the issues and problems to discover. Toward that end, the greatest effort was put forth in developing some way to statistically analyze a broad cross-section of law firms' experiences with electronic invoicing.

The CCA spent a great deal of time developing and fine-tuning an internet-based survey that would yield empirically useful data. As much as possible, each question should offer a multiple choice answer that would be appropriate for any given circumstance. Two members of the CCA were tasked with drafting the initial proposal for the survey, and they began by conducting one-on-one interviews, telephonically and at various user-group meetings and conferences, with peers and colleagues from their and other firms. This helped inform their understanding of the breadth and depth of different experiences law firms have with electronic invoicing. They then submitted a draft of the survey to the full subcommittee, which in turn submitted comments and revisions until a final version was agreed. The results of that effort can be seen in Appendix B.

The survey was technically built and delivered via an online survey product called Zoomerang® , with assistance from the International Legal Technology Association (ILTA), who graciously offered use of their Zoomerang® subscription and the services of one of their members to build the survey in the software.

Once available online, notices were sent to all designated voting members of ILTA, all members of the various financial sub-groups within ILTA, as well as to the targeted email client lists of

several software vendor members of the LOC, including Thomson Elite, Aderant and LitNeutral. The survey was left open for approximately two weeks.

- *eBilling / Matter Management Vendors*

The CCA subcommittee included members from three different ebilling/matter management software companies. This constituency is clearly the smallest overall. There are a finite number of companies who provide this service- somewhere around 17- and so it was immediately clear that a formal, random, statistical survey was not needed. The CCA suggested a number of different approaches for this group to survey itself- telephonically, via email, or via a forwarded email from a disinterested party.

There was great concern among this group that any efforts to survey the constituency as a whole would be seen as some sort of competitive play. These companies pride themselves on and focus a lot of effort on the technology around the transmission of electronic invoices, so sharing information of this nature with other competitors was generally thought to be a betrayal of closely guarded intellectual property. Thus, no formal research of this constituency was conducted.

- *Corporate Counsel*

The CCA was only able to attract one corporate counsel member initially, and there was much discussion of how to reach other corporate counsel representatives for any sort of survey or research. An email plea was sent out to every single corporate counsel member of the LOC, and ten respondents offered their assistance.

This sub-group of corporate counsel members met separately via conference call three times, to discuss the overall charter of the CCA, and how best to represent the interests of corporate counsel in this endeavor. It was the unanimous decision of all eleven that corporate counsel are completely shielded from any problems or issues surrounding electronic invoice transmission. From their perspective, electronic invoicing has made great strides toward making their jobs and departments run easier and more efficiently, as well as saving money on outside counsel fees

and expenses. Thus, it was determined that no formal research of this constituency was warranted.

- *Other Industry Standards*

A tangential objective of the CCA's research was to determine if there were any standards in place in other industries that could be adopted and/or modified by the LOC for use in the legal industry. Toward that end, research was conducted on existing standards in the realm of e-commerce, such as AS2, AS3, and cXML, as previously described in more detail.

Results Interpretation

- *Law Firms*

As discussed above, the law firm survey results provide the bulk of interesting and actionable data for the LOC. There were 121 respondents to the survey, representing over 48,215 lawyers and other billing professionals (timekeepers) submitting their bills via electronic invoicing. The law firms ranged in size from 7 to over 2000 timekeepers, with an average size of 400.

Should time and interest allow in the future, it could prove interesting to tabulate and analyze the results of the survey based on the size of the law firm responding, however the responses to most questions left little room for interpretation as to the overall issues facing the industry.

Key highlights:

- 77% of firms use the ABA/ACCA expense codes for disbursements on electronic bills often or very often.
- 35% of firms have de-centralized or semi-centralized billing for paper bills, but only 21% of firms can do that for electronic bills.
- When comparing ease or difficulty of various processes between paper billing and electronic billing, the following items were noted as "somewhat challenging" to "much more difficult" with electronic invoicing:
 - Opening a new matter: 62%
 - Transmitting the bill: 68%
 - Dealing with billing disputes: 81%
 - Adding a timekeeper or changing a timekeeper rate: 89%

- The one area of promised benefit to the law firms when adopting electronic invoicing, receiving payments, did not fare well. Only 26% of respondents felt receiving payment was “much easier” or “somewhat easier.” 35% felt there was no difference between paper and electronic, and 39% felt electronic was “somewhat challenging” to “much more difficult.”
- There was little consistency in experiences with the overall transmission lifecycle. Responses were fairly evenly matched between different ways to track electronic bill status and learn about errors.
- 54% of respondents say that it takes one month or longer from the time of notification of a new matter to the third party system until a bill can be generated.
- 48% say that it takes longer than a month to receive payment.
- 59% of respondents claim that 25% or more of their electronic invoices are challenged as having problems or needing line item adjustments, while 37% say that 75% or more of those invoices didn’t require an adjustment after all.
- When asked how they would prefer to be notified of invoice rejection, 43% would prefer a way to electronically pre-validate an invoice before submission, so that any corrections could be made immediately.
- 21% of respondents have had to add multiple resources to the firm, dedicated to e-billing, while an additional 38% have had to add one dedicated person or part of a full-time equivalent person. Only 27% of respondents stated that electronic billing required no additional resources.
- 6% of respondents have actually dropped a client because they refused to reimburse or cover the costs of third party billing vendors. It is unclear if any of the remaining 94% have ever tried or even considered it.
- On the other hand, 24% of respondents have successfully retained a client after refusing to electronically bill at all.
- A final summary question reveals the true impact of electronic billing on law firms: only 8% of respondents feel that electronic billing streamlines the payment cycle and makes them more efficient, and 10% feel there is little to no difference between paper and electronic billing with regard to efficiency.

- **73% of respondents find that electronic billing is either an additional or huge burden on the firm, from which they gain absolutely no benefit**

There were a variety of interesting, revealing, and often amusing comments posted by the respondents. A few noteworthy ones are listed as follows:

- “[...electronic invoicing] has taken additional time and training of staff. We always try to shy clients away from ebilling.”
- “My biggest complaint is that there are so many different programs. There are definitely differences, with certain ones being more user friendly and efficient.”
- “The time between submitting the invoice and adjustments identified should be quicker.”
- “Incredibly onerous task”
- “The need for [additional resources to handle electronic invoicing] is growing due to the growing interaction required on the websites”
- “If FTP capabilities of submitting invoices was common, e-bills could be easily automated and sent by most any reporting tool and record keeping would be much easier to track.”
- “I absolutely hate them and they cost us more money and give us no benefit.”
- “I have been... through almost every 3rd party e-billing system on the market and I have yet to see that it has accelerated payment of our invoices as advertised. It is not somewhat of a burden, it is a huge burden that only benefits the client.”
- “Everybody wants to exercise exceptions to the “standard.””
- “It’s tedious and awful.”
- “We would like to have more accurate information provided when checking the status of an invoice.”
- “... my true feelings on ebilling are not in the positive range!”

There was a small minority of respondents who felt that, once setup correctly (a time consuming process, agreed upon unanimously), electronic invoicing does improve the payment cycle. And

several respondents commented that they understood their clients' needs for better, more manageable information provided by electronic invoicing. However the preponderant theme throughout all responses was that the proliferation of ebilling vendors with different systems and different requirements has increased their cost of doing business, both the direct cost of the ebilling vendors, and, what seemed to be more important to the respondents, the increased time and resources required on their part to manage the lifecycle of electronic invoicing.

It is important to note that a number of respondents commented on problems related to variations on the standard LEDES formats, which appear to be growing exponentially. These problems were outside the scope of the original intent of the survey, and outside the scope of this white paper.

- *eBilling / Matter Management Vendors*

As described above, the consensus of the three ebilling vendors on the CCA was that a survey was neither needed nor feasible, and would not yield actionable results. From their perspective, there are no issues, per se, and any effort to make things more efficient they would consider a proprietary advantage of their own system, not one shared among their competitors.

- *Corporate Counsel*

Also as described above, the consensus of the corporate counsel sub-group of the CCA was that a survey was not needed in their constituency. They do not experience any issues or problems with the transmission of electronic invoices. However, this group was very supportive of any standards the LOC might propose to make things easier for their outside counsel, as they recognized that increased costs for the law firms would ultimately be passed on to them, in some shape or form.

Conclusion

The law firm survey results clearly point to significant problems with electronic invoicing that negate the original intent of LEDES. If electronic invoicing increases the cost of business for law

firms, those costs will ultimately be reflected in higher billing rates passed along to the corporate counsel. Instead of making things easier, more efficient and ultimately cheaper for corporate counsel, it would appear that the advent of electronic invoicing may be having the opposite effect.

It is the opinion of the CCA that this negative impact could be greatly and in some cases completely reduced by automating the transmission lifecycle through communication protocol standards. If every 3rd party ebilling system had a standard way to receive an invoice, and standard messages to send back to the law firm for confirming receipt, error notification, and payment submission, significant efficiencies could be realized throughout the process.

Thus the conclusion reached by the CCA is that the LOC should endorse the continuation of the subcommittee through 2007, with the following charter:

- *Research and propose technical requirements for a standard transmission protocol for electronic data in the legal industry, and the scope for same.*

Appendix A – Subcommittee Members

| Name | Firm | Constituency |
|----------------|---------------------|----------------------------------|
| Andrew Dawson | Aderant | Co-chair (time & billing vendor) |
| Patrick Hurley | Thomson | Co-chair (time & billing vendor) |
| Bill Mertes | Winston & Strawn | Law Firm |
| Douglas Weiner | Holland & Knight | Law Firm |
| Jeff Hodge | Datacert | Ebilling/matter mgmt vendor |
| Scott Willette | Tymetrix | Ebilling/matter mgmt vendor |
| Tom Melling | Serengeti Law | Ebilling/matter mgmt vendor |
| Steven Levy | Microsoft | Corporate Counsel |
| Jeff Sallee | Proctor & Gamble | Corporate Counsel |
| Nancy Crosby | Dow | Corporate Counsel |
| Dan Winkler | Westfield Insurance | Corporate Counsel |
| Rob Belt | Zurich Insurance | Corporate Counsel |
| Barb Beaudin | Dow | Corporate Counsel |
| Bob Sawa | DuPont | Corporate Counsel |
| Jeremy Scott | Dow | Corporate Counsel |
| Mike Haysley | Waste Management | Corporate Counsel |
| Vickie Stokes | Georgia Pacific | Corporate Counsel |
| Anna Schroder | Textron | Corporate Counsel |

Appendix B – Survey Questions

Question 1: Please rate the frequency of the following methods by which your e-billing person / people discover that a client wishes to implement electronic billing. [For each below, show a scale of 1 (Not very often) to 5 (Most often)]

- Partner in charge of client notifies
- Client sends a notice directly to firm's accounting department
- Third party e-billing vendor contacts firm's accounting department
- Client refused to pay a paper bill
- Other (please describe in comments)

Question 2: Any additional comments you wish to add regarding how your firm discovers that a client wishes to implement electronic billing.

Question 3: Regarding billing responsibilities, paper billing in your firm is:

- Centralized (One location for the entire firm)
- Semi-centralized (A few locations for the entire firm)
- Decentralized (Attorneys / Secretaries are responsible for their own)
- Other (please describe in comments)

Question 4: Regarding billing responsibilities, electronic billing in your firm is:

- Centralized (One location for the entire firm)
- Semi-centralized (A few locations for the entire firm)
- Decentralized (Attorneys / Secretaries are responsible for their own)
- Other (please describe in comments)

Question 5: When new matters are opened for a client, are there instances where you allow a client / third party vendor to electronically open matters in your system?

Question 6: When new matters are opened for a client, are there instances where you are responsible for electronically opening matters in your clients / third party systems?

Question 7: Using a rating of 1 = Not too often and 5 = Very often: How often do you use the standard ABA/ACCA Expense codes for disbursements on electronic bills?

Question 8: Please rate the level of effort to accomplish the following tasks using **electronic** billing: For each of the following, rate:

- 1 (Much easier than paper billing)
- 2 (Somewhat easier than paper billing)
- 3 (Same as paper billing)
- 4 (Somewhat more challenging than paper billing)
- 5 (Much more difficult than paper billing)

- Generating the bill
- Transmitting the bill
- Dealing with billing disputes
- Receiving payment / Relieving the invoice
- Opening a new matter
- Adding a timekeeper or changing a timekeeper rate

Question 9: What is the most common way you track electronic bill status and find out about errors?

- You receive notification (email or phone calls) describing problems and error messages
- You have to go to a web site or call someone to check on status
- Fairly even between being notified and having to check yourself
- Other- please specify

Question 10: When client or third party set-up is required to complete opening of a new matter before billing can begin, what is the typical cycle time from notification to being able to generate the first bill?

- 1-5 Business Days
- 2 Weeks
- 1 Month
- Longer

Question 11: What is the typical cycle time from sending a bill to receiving payment?

- 1-5 Business Days
- 2 Weeks
- 1 Month
- Longer

Question 12: What percentage of your electronic bills are typically challenged by the recipient as having problems or needing line item adjustments (e.g. to correct a billing rate or apply a maximum cost-per-copy limit)? Note this is regardless of whether a change ultimately was needed or not.

- 0-25%
- 25%-50%
- 50%-75%
- 75%-100%

Question 13: Of those challenged bills, what percentage ultimately wind up having adjustments made?

- 0-25%
- 25%-50%
- 50%-75%
- 75%-100%

Question 14: If a client makes an adjustment to an invoice line item, how would you prefer it handled?

- Client rejects the entire invoice ASAP, with reference to each line item that fails or needs to be adjusted and the reason for the adjustment; firm makes adjustments and resubmits (in this scenario, assume that the "no-pay-for-stale-invoices" clock continues to run)
- Client accepts the invoice, makes the changes, and sends notification ASAP
- Client notifies about changes at time of payment
- Firm has electronic way to pre-validate the invoice against the client's rules and thus makes all adjustments themselves before submitting the invoice
- Other, please specify

Question 15: When the client adjusts (or requires that you adjust and resubmit) an invoice line item, which of the following systems do you need to manually / individually update to keep your records accurate? [check all that apply]

- Timekeeper's individual records
- Firm's time/billing system
- Accounts Receivable
- General Ledger
- Pre-bill report or other partner report
- Other, please specify

Question 16: Please provide any additional comments regarding cycle times or how adjustments are handled.

Question 17: What resources have you had to add to deal with electronic billing?

- No additional resources
- Part of a full-time equivalent person is dedicated to e-billing
- One full-time equivalent person is dedicated to e-billing
- Multiple people dedicated to e-billing
- Other, please specify

Question 18: Have you established a distinct e-billing group or department in your firm?

Question 19: Please identify the methods electronic bills are created: [check all that apply]

- Directly from financial system
- Reporting tool (Crystal, SQL Reporting Services, etc.)
- Manual editing of file
- Other in-house developed process
- Outsourced
- Don't create any electronic bill file, but instead law firm manually inputs all invoice details directly into client or third party e-billing system
- Other, please specify

Question 20: Have you ever dropped a client because they refused to reimburse or cover the costs of third party billing vendors?

Question 21: Have you successfully retained a client after refusing to electronically bill?

Question 22: Please indicate which of the following characterizes your experience with e-billing:

- Electronic billing streamlines the payment cycle and makes us more efficient with our attorneys and clients
- Electronic billing is not any better or worse than paper billing in terms of cycle time and effort
- Electronic billing is somewhat of an additional burden which only really benefits our clients
- Electronic billing has created a huge burden which we gain little or no benefit

Question 23: Any other general comments you'd like to make regarding e-billing communications