

## Alternative Fee Arrangements: Yesterday and Today

**A**lternative fee arrangements ("AFAs") are not new to the law firm industry, but they have gained traction in recent years. While AFAs have long been a response to clients' demands to lower fees, today, law firms are increasingly taking a proactive approach and offering alternatives to the hourly billing system upfront. These law firms have realized that it may be prudent to do so in order to help maintain a client relationship and gain a competitive advantage.

According to legal consulting firm Altman Weil's 2011 *Law Firms in Transition Survey*, AFAs are used by 95 percent of all law firms and by 100 percent of firms with 250 or more lawyers. Yet, the study continues to cite that despite the prevalence and growth of AFAs, only 12 percent of firms reported that non-hourly projects are more profitable than hourly billing. An additional 37 percent reported them to be about as profitable as projects billed on an hourly basis.

In our experience, we have found that the most successful law firms keep the following in mind when it comes to AFAs:

1. **Client perception is reality.**  
Regardless of the reason you may propose an AFA, the most important

### What's Considered an AFA?

AFAs include any fee arrangement that is not based on hours multiplied by rates. These include blended hourly rate, fixed- or flat-fee plus hourly rate, and tax-based rate arrangements. AFAs are separate from alternative billing arrangements. To read more about the advantages and disadvantages of some of the primary AFAs, [read one of our newsletters from our archive.](#)

consideration is the client's perception. The value of the legal services from the client's perception is that the benefit justifies the fee. AFAs can help firms communicate the value and the results of the services rendered. They should also pair the client's needs and expectations with the method that most equitably measures the value of the service.

2. **Proper tracking will help develop best practices.** Some law firms have created committees to track each AFA from start to finish. By recording the details of each engagement and the results, firms can build a library

of scenarios and the AFAs used for each and then leverage them for future engagements.

3. **Hourly billing is still a strong option.**  
Tasks that are especially time intensive or perhaps out of the control of the law firm still lend themselves best to an hourly basis approach. Yet, even with that being the case, client demands may force you into an AFA.

AFAs have been prevalent in the industry long enough that it is clear that the paradigm shift in the attorney-client relationship is here to stay. Successful firms will remain proactive by analyzing the variables related to AFAs that work best not only to maintain the client relationship, but to positively impact the firm's bottom line. ■

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