

AFA Discussion Document

by Thomas S. Clay

Copyright © 2010 Altman Weil, Inc., Newtown Square, PA, USA
All rights for further publication or reproduction reserved.

Every law firm should be prepared to discuss alternative fees arrangements (AFAs) with their clients. If a Request for Proposal (RFP) includes a request for an alternative fee arrangement, a firm must be able to respond specifically. If a client says “Another lawyer has offered an alternative fee, what can your law firm offer?” the response cannot be “What would you like?” or “I’ll get back to you.”

Doing nothing, waiting to see how other firms handle alternative fee arrangements, or waiting to see what clients ultimately decide once they have greater experience with this tool are not viable options for a successful law firm. As one general counsel said, “If a lawyer cannot offer me an alternative fee, I will find an alternative lawyer.”

A formal AFA Discussion Document for use with clients or potential clients should encompass the following ideas:

- **Why?** Begin by making the case for why an AFA conversation is important to the client. Customizing the statement for each client is obviously most effective.
- **Value:** Establish that an AFA initiative will create added value for the client and can be a win-win for both of your organizations. Although many firms do this fairly generically, some tailor their arguments very particularly to certain instances.
- **Experience and options:** It is absolutely necessary to set forth some examples of other fee arrangements your firm has offered. Choose scenarios that the client can identify with. Here again these can be generic, but it is more persuasive to outline scenarios that are relevant to the client’s particular circumstances. Done well, these can be incredibly compelling.
- **Efficiency:** To the degree possible, set forth details of any internal initiatives, including training, which your firm has undertaken to improve efficiency. Describe the benefit to clients specifically. Every firm claims to be efficient – prove it!

- Process: Talk briefly about the process that you will use to identify opportunities for alternative fee arrangements. The best processes will involve collaboration with the client. Show your willingness to spend time in reviewing and understanding their data and circumstances.
- End with a commitment to continue the conversation about fees and, in particular, alternative fees in whatever way the client deems most useful.

An added benefit of developing this document is that it will cause you to think through each of these issues systematically in advance. And having done so, you will avoid being caught unprepared when a client tells you that a competing law firm has offered an alternative fee arrangement and asks you to respond.

About the Author

Thomas S. Clay, a principal of Altman Weil, Inc., heads complex consulting assignments in strategic planning, law firm management and organization and law firm mergers and acquisitions. He is a thought-leader in the profession helping law firms establish effective and profitable AFA programs. Contact him at tsclay@altmanweil.com.