eDiscovery Vendor Selection: Guideposts to Find the Right Fit

Selection of an ediscovery provider is no small undertaking for an organization. The provider market is fiercely competitive and similar technology solutions make differentiators among providers challenging to distinguish. When endeavoring to select a new provider or audit an existing panel, keeping a framework around your unique organizational and industry-specific needs will help ease the process. Keep three priorities in perspective when evaluating a vendor to help you select teams that best match your needs:

1. Determine the best fit for your objectives.

2. Get the best technology and custom-designed solutions for your data.

3. Blueprint program roles and responsibilities.

Determine the best fit for your objectives

It is no secret that ediscovery budgets can be as large and volatile as their related data volumes and keeping a program budget under control is a top priority. Initial ediscovery vendor pricing comparisons and subsequent ongoing budget management efforts tend to take an inordinate amount of time and orchestration to compare various options and providers who all bill differently. Fortunately for buyers of ediscovery services, while there is still much untapped business intelligence data to be reported, metric tracking is improving in the industry, making apples-to-apples comparisons across providers

more attainable and allowing the buying organization to make informed, cost-conscious vendor fit selections. To address the need for consistent and thorough reporting, ediscovery buyers are beginning to rely on sophisticated dashboards with matter-level data profiles, enterprise cost tracking and comparison capabilities that sufficiently negate the benefit of maintaining provider status quo. As you, the buyer, become more empowered with cost and performance information, securing a new, better fit may become as enticing as ever. The first step in the evaluation process is to determine if your program needs an all-in-one provider, if you should bring some or all of the technology in house, or if you should secure specialized services for different components of the Electronic Discovery Reference Model (EDRM).

Comparing the models to narrow your front-runners.

- For **in house** considerations, bringing some or all of the process behind your organization's firewall can offer maximum control and potential customization. You may find areas of cost savings by dedicating your internal resources with skills and institutional knowledge most fitting your data landscape. The enormous cost of investing in the process with internal tools and resources can be prohibitively expensive for small to mid-sized litigation portfolios and in-house resource constraints can hinder scalability as volume and matter counts increase. Overhead costs to manage system upgrades, incident responses, and certification updates can also mount quickly.

- **All-in-one providers** that offer proprietary processing and review are built to absorb such costs and can usually facilitate large volumes of data that require minimal flexibility. Many ediscovery buyers have historically found the all-in-one model popular thanks to simplified billing, reduced communication channels, and homogenous reporting. Before buyers had access to DIY enterprise reporting through vendor dashboards, the all-in-one vendor generally offered a customer comparatively greater process oversight while foregoing some cost savings. This system produces consistent invoicing, but is less nimble to leverage new technology and less designed to trim down volume in each phase of a workflow to reduce the total cost of the document set. Consider that the revenue model based on billing for document review inherently detracts from volume reduction incentives, and an organization is now motivated to shop around for better vendor fit.

- The third model employs a team of **specialized service providers** across both data processing and review to enable maximum volume reduction and provide a natural accountability bonus as both providers work to shine. Your organization will want to ensure that these saved costs are not wasted through inefficiencies as data is relayed to your review team. Be bold when vetting exactly how the service provider proposes to support review efforts including system up-time standards, response times SLAs and service continuity expectations.

The majority of corporations will confirm that the bulk of their ediscovery costs are associated with document review, ranging from 65 percent to 85 percent, with 73 percent listed in the 2014 Rand Report, "Where the Money Goes." Where your focus is in control, or invoice consistency, or cost reduction, each of these models presents an advantage. As process control and billing visibility increase, many organizations can find cost reduction a reality through the third model by using provider(s) offering the most expertise in document reduction, independent of their review provider.

Get the best technology and custom designed solutions for your data

Technology and tool options improve continuously, and with new versions, applications, features, and workflows, keeping up requires executive-level commitment and resource support. For your organization, keeping up may come in the form of increased headcount and infrastructure purchases, a SaaS model, or a vendor model for some or all of the services needed to run your ediscovery program.

A fully proprietary solution, typically requires (or allows) minimal application development to accommodate customized workflow needs, creating a comparatively streamlined handling of your data from raw ingestion through to imaging, production, and storage with the end-to-end process handled exclusively by that vendor's experts. Many such vendors may attempt to service all industries with the same proprietary tool set, but data and communication mediums vary across industries. It is important to select a vendor that is distinctly skilled to service your organizational and industry-specific areas of cost savings or efficiency opportunities.

Conversely to the all-in-one model, providers who elect to weave together third-party offerings must plan around the engineering roadmaps of other organizations before touting superior solutions. Once in place, third-party tools come with a suite of external support for maximum reliability and uptime. Both models show merits depending on the team and resources at your disposal.

If you have unique migration needs, legacy systems, tight government deadlines, or internal tools, you want to learn how your current or prospective vendor plans to most affordably craft their workflow. Additionally, part of your program may be handled behind your firewall, so your vendor should be able to work within that model. Be sure to communicate estimates of your data volumes and ensure your vendor has the throughput capability to service the project while still meeting the dynamic data reduction efforts you feel are most competitive. They should be able to speak to

each of these points with specific examples to assure you that they are experts with the tool(s) with fully vetted solutions to your projects.

Utilizing established third-party tools increases the support network available to both you and your vendor, and helps ensure that the tools are functioning without bugs or ongoing testing on your active matters. An additional benefit of this model is the host of innovative applications providers can quickly build onto tools with open APIs. Typically such applications can be utilized on a matter-by-matter basis to suit the litigation, or as a standard for further volume reduction. Innovative providers will be eager to share their product and service roadmaps with you to demonstrate their skill and ability. You want a provider who will also explore custom solutions to address unique problems and augment their tools to address your needs.

It can be difficult to differentiate the benefits among the technology options when so few benchmarks are standard in the industry and most all product messaging claims superior speed, reliability, and scalability. As your ediscovery program evolves, each step can be optimized using specific technology for your needs to run ECA, data processing, filtering, hosting, analytics, predictive coding, redaction, and production work. Ask prospective vendors the following questions to ensure they can speak to their experience with their chosen technology over time and how they will apply it to your data.

- What version of each tool do they chose to use and why?
- What have they learned?
- How have they optimized?
- What are they building into their roadmap and why?
- How can workflows for your data be customized for maximum savings?

Blueprint program roles and responsibilities

Time invested in planning up front pays dividends downstream in most every business scenario. eDiscovery programs are no different. Because the pace and visibility of litigation cannot be fully controlled, an updated blueprint or playbook will help you mitigate risk, reduce spend and ease the burden of preparing for litigation. Your vendor should be experienced in assisting you in addressing the full spectrum of the EDRM, no matter where your team began or where you want your program to go.

Early in the process, a strong vendor can provide a consultative assessment of your organization's overall litigation readiness. This should include a review of your data storage mapping, retention policies, legal hold practices, forensics practices, collection strategies, migration planning, personnel needs, and consultation of commonly overlooked or underprepared areas specific to your industry. Consulting on at least a cursory level at the onset of a relationship ensures that the client-vendor partnership begins strong and allows your vendor to carry more weight in helping your organization stay responsibly and defensibly positioned. Ongoing consulting updates will ensure that your evolving investments and best practices contribute to bottom line savings.

Organizations with discovery programs of all sizes and maturities can and should benefit from clear ownership and guidance supported by their provider for the most efficient workflows. An expert vendor will be able to suggest internal modifications that your team may benefit greatly from, with little or no cost incurred. Planning sophisticated document reduction will involve participation from both your IT and legal teams, as well as a tandem effort with your provider's experts in strategic data governance, targeted collection, and custom processing filters. Once work begins, your vendor's project management team is key to maintaining responsive and proactive support of each case. Look for a vendor with business continuity built into their staffing structure. Ask why their project management is the best fit for you. They should be

able to lay out how they plan to accommodate your unique business needs on a daily support level and longer-term partnership.

WHAT DO THE NUMBERS SAY?

With the technology component addressed, and the fit established, you will want to be able to track your new program's success. Enterprise reporting across matters and workflows is the ultimate key to budget management. Your vendor should be working every year to hone their program for your data and suggest new ideas and efficiencies to help guide you. Ask how they are performing this duty for current longstanding clients. Vendors earn client loyalty and longevity when consistent review savings are reflected year-over-year. This should be an important checkpoint for any existing vendor to re-earn your business in the face of competitive offerings.

- What metrics does your provider offer?
- How easily can you access that information?
- How can that reporting help you make sense of costs from other vendors?
- How are your savings determined?

Conclusion

You may find that as your organization changes, so too do your ediscovery needs. For example, you may find that your existing practices no longer address the full scale of technology changes implemented by other departments or decision makers. Office 365 adoption is currently one such disruptor causing new needs to surface. The three models discussed may move in or out of contention as you scale your solutions up or down.

At Lighthouse, we see time and again that organizations who reach out for ediscovery consulting and support early and often tend to realize the greatest savings as their landscapes shift. To be sure you are working with the right provider, do not dismiss the human gut-check. You should feel a sense of partnership that you are both pulling in the same direction, which is to continuously cut your ediscovery costs. A partner who is on deck to provide new ideas to push your ediscovery program towards best practices will pride themselves on demonstrating real savings. Regardless of the model that most closely fits your current needs, be sure this is a value the vendor advocates.

About Lighthouse

Lighthouse provides software and services to manage the increasingly complex landscape of enterprise data for compliance and legal teams. Lighthouse leads by developing proprietary technology that integrates with industry-leading third-party software, automating workflows, and creating an easy-to-use, end-to-end platform. Lighthouse also delivers unique proprietary applications and advisory services that are highly valuable for large, complex matters, and a new SaaS platform designed for in-house teams. Whether reacting to incidents like litigation or governmental investigations, or designing programs to proactively minimize the potential for future incidents, Lighthouse partners with multinational industry leaders, top global law firms, and the world's leading software provider as a channel partner.

Connect with us to see how Lighthouse can best support you.

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