Understanding How Service Providers Charge for eDiscovery Services

The objective of this document is to briefly define the prominent phases of the eDiscovery lifecycle, the fees associated with the different services performed at each stage if outsourced, and how they are measured. Depending on the scope and size of a matter the services provided and how they're offered can vary significantly from case to case. This short-list is meant to provide a primer for those that have had minimal exposure to large scale discovery consisting of electronic documents and by no means is fully comprehensive of all scenarios that may be encountered.

INFORMATION GOVERNANCE CONSULTING
Hourly
Knowledge workers are staffed on a contract basis to develop proactive Records Information Management and Electronic Discovery Preparedness policies at firm and client locations. Consultants are often seasoned compliance professionals and/or attorneys that have specific technical experience within a discreet vertical to ensure that systems, methodologies, and workflows are in place to streamline the defensible deletion of unneeded business records in addition to creating repeatable processes to react efficiently to regulatory investigations and/or discovery requests. Rates can range from $75 to $400 per hour per consultant depending on the scope and specialty needs of the assignment.

FORENSIC ANALYSIS & ACQUISITION
Hourly/Expenses/Hardware
Certified forensic examiners with specific eDiscovery experience are called upon to assist with the on-site identification, collection, and handling of sensitive data that may be used as evidence. They are also relied upon for expert testimony and/or to objectively validate the findings of other examiners. Hourly rates range from $200 - $300 per hour per examiner, in addition to travel expenses. Delivery media, usually two hard drives per custodian collection (one original, one working copy), are charged separately at cost.

EDISCOVERY PROJECT MANAGEMENT

Hourly

Dedicated primary point of contact tasked with managing resources, delivery timelines, and budget throughout all facets of the discovery lifecycle while maintaining strict tracking of tasks performed. Consults, communicates and documents a reasonable process for collecting, culling, reviewing and producing documents. Collaborates with the case team to provide matter-specific solutions to streamline the process of transitioning discovery data from one phase to the next and prevent scope creep. Relied upon as the expert in varied eDiscovery specific applications, advanced analytical processing, predictive coding, and the creation of custom workflows. Acts as the liaison between clients, case teams, production staff and third-party vendors to translate technical specifications and ensure expectations are clearly understood across all levels. Available around the clock to address any concerns, pivots or changes in the scope of work. Counted on to be the last line of defense to ensure quality control before deliverables are sent out the door. Provides training to end-users, multi-level reporting to each stakeholder, and approves billable items before they're submitted. Rates can range from $175 to $350 an hour depending on the experience level of the Project Manager and/or the scope of work that requires managing.

EARLY CASE ASSESSMENT (ECA)

Gigabyte

The process of receiving, staging, and homogenizing received client data and converting it from an unstructured to a structured format to allow for in-depth analysis and reporting in preparation of advanced culling. Traditionally charged on a per gigabyte basis and includes parsing of system files and duplicates. Rates range anywhere from $50 to $325 per gigabyte of unstructured data depending on the culling and hosting needs upstream.

DATA CULLING

Variable

The process of reducing the volume of data to be reviewed or passed to a hosting platform through a series of different filtering methodologies. Basic filtering starts with the parsing of documents that do not fall within a specific date range and/or contain one of a list of key terms/phrases. Second tier filtering is based on analysis of encountered data types and cross-tabbing the results with top-level clustered information such as email domains and communication frequency. Advanced culling leverages the previous two methodologies combined with advanced algorithms and machine learning mechanisms to group documents together based on percentage of textual similarity (near-dupes), concepts (categorization), conversations (email thread analysis), and communication pairings (relationship analysis). Rates for basic and second tier filtering are often included with the initial ECA ingestion process. Advanced analytics can incur a per document charge up to $0.08 per document depending on the tool being utilized. Select providers offer this advanced functionality at no cost. The bulk of the charges surrounding culling are often billed by a seasoned Project Manager for conducting the analysis and consulting on a preferred culling methodology, or for training an end-user how to do the same. Certain types of cases can often have 2nd Requests, in which case additional charges may apply for new searches on subsets of data that have already been filtered in the past.

NATIVE PROCESSING

Gigabyte

The process of converting the filtered subset(s) of data into a standard format in preparation for loading into a preferred document review platform. Traditional processing includes:

- The creation of an individual database record for each encountered file along with its associated metadata along with the generation of a unique identifier for organizational and relationship purposes;

- The extraction of individual native files (i.e. one .msg file per email), to allow for viewing the record in the original format in which it was created. This is important for file types such as excel spreadsheets that contain complex formulas or layered information such as comments or hidden rows/columns;

- The extraction of body or embedded text into a standalone text file to allow for searching;

- The creation of an html rendering of each file to allow for universal viewing if the native application is not available on the end-user host machine;

- Optionally a tiff or image rendering of each page within a given file to allow for redacting and subsequent electronic endorsement (i.e. Bates stamping), in advance of production;

- A hash or unique fingerprint is generated for each record to identify documents and/or document families that are duplicative;

- A series of indexes used for keyword searching, conversation threading, near-duplicate identification, relationship analysis; etc.

Rates for native file processing can range from $225 to $500 per gigabyte depending on the complexity of the source data and requested output format.

DOCUMENT HOSTING

Monthly Recurring Gigabyte + User License

Housing of processed documents in a specialty web-accessible database with specific functionality designed for discovery review and production. End users can have some or all functionality available to them depending on their designated role to allow for viewing, searching, tagging, coding, foldering, redacting, reporting, and producing documents.

There is often a one-time setup fee associated with creating the database shell to custom client specifications. The other fees are charged monthly; data storage can range from $15 to $50 per gigabyte depending on the platform being used and the volume of data; each named user that is granted access to the system typically requires a license fee ranging from 25$ to $100 per month; other one-time fees can be associated with archiving data, restoring data, or documented destruction of data.

ATTORNEY REVIEW

Hourly

Specialized contract attorneys are often leveraged when the volume of information needed to be reviewed is beyond what a firm can manage internally, or an end-client opts to have a first-pass review completed to cull down the number of non-responsive documents that get passed to outside counsel. Fees associated with each individual attorney are charged on an hourly basis starting at less then $30 per hour and up to $500 per hour. Standard doc-review attorneys for English language source documents will range from less than $30 to $50 per hour depending on where, geographically, the review is being performed and if there are industry specific knowledge requirements (i.e. pharmaceutical, construction, finance, etc.). The fees for individual doc-review attorneys increase if the documents to be reviewed are in a foreign language. If a seasoned veteran of the doc-review realm is needed to act as a team lead to manage the reviewers an attorney is appointed as the dedicated Review Project Manager for the matter typically starting at $125 per hour. The higher end of the scale is typically associated with a senior level attorney that has specific case knowledge to review a discreet set of documents known as a seed or alpha set. This reviewed subset is then used as training for machine learning algorithms that prioritize and cluster documents for predictive coding purposes.

DOCUMENT PRODUCTION

Gigabyte / Hourly

The process of converting documents identified for production into a predetermined format. There are no unified standards in the industry for this process and seldom are the production requirements alike across multiple matters. Traditionally, documents identified as responsive to the discovery request by the review team are isolated and re-processed to create subset databases that can be modified in a discreet fashion and converted to image based records capable of being branded with endorsement language and bates numbers. If the production requirement is similar enough to the source database and formatting it can largely be automated. A per gigabyte charge is applied based on the final size of the production ranging anywhere from $100 to $400 per gigabyte. Hourly charges typically apply only to specialty tasks that require excessive manual intervention and can range from $150 to $225 per hour.

DATA RETENTION

Gigabyte/Monthly

Should the need to store collected, processed, hosting or production data beyond what was provisioned by the original scope of work, or after the completion of a project arises, a monthly storage cost is applied for each gigabyte. Notification is sent to the client offering multiple options at varied price points: keep all data active for immediate retrieval, migrate data to near-line storage for quick recovery, archive data for off-line storage, or universal destruction of the data. The per gigabyte cost can range from $0 - $50 per month depending on the environment it was originally housed in and the speed at which it may need to be restored to active status in the future.

OVERSIMPLIFIED REAL WORLD SCENARIO

Medium sized case

English language documents to be processed, reviewed in linear fashion and produced in less than 60 days. Does not require forensic collection, advanced analytics, predictive coding, or involve complex production requirements.

General assumptions:

- 5,000 Documents per gigabyte

- 20 Custodians

- 5 Gigabytes of email data per custodian (100 GB or 500,000 Documents)

- 75% Reduction after culling (25 GB or 125,000 Documents)

- 10 Contract attorneys reviewing 10 hours a day

- 50 Documents reviewed per hour (5,000 Documents per day)

- 90% Reduction after review (2.5 GB or 12,500 Documents)

- 15 Hours of combined Project Management

Service	Quantity	Measure	Per Unit Cost	Recurring	Subtotal
ECA Ingestion	100	Gigabytes	$ 75	n/a	$ 7,500
Culling	100	Gigabytes	$ -	n/a	$ -
Processing	25	Gigabytes	$ 300	n/a	$ 7,500
Hosting - Setup	1	Database	$ 600	n/a	$ 600
Hosting - Storage	25	Gigabytes	$ 30	Monthly	$ 750
Hosting - License	10	User	$ 50	Monthly	$ 500
Contract Attorneys	10	Attorneys	$ 40	n/a	$ 100,000
Production	2.5	Gigabytes	$ 325	n/a	$ 812.50
Project Management	15	Hours	$225	n/a	$ 3,375

Total $ 121,037.50