



Measuring Cost of Ownership in Document Review

BY PHILIP ALGIERI AND ADAM BESCHLOSS, JULY 14, 2016

Despite technological advances and historically low pricing, legal departments continue to struggle to reduce the cost of document review without sacrificing quality, and potentially increasing the risks associated with review and production.

To best manage the cost of document review, particularly for large-scale complex matters, a firmer understanding of all of the required activities associated with document review, including who is best situated to complete those tasks, how efficiently they are doing so, and at what cost, may be necessary. In short, it can often be the case that the allocation of resources, and how the capabilities of external providers enable a different (and more efficient) allocation of resources, has the highest impact on “total cost.”

As is the case with most services, there are three primary factors to consider:

1. Unit Cost: Hourly or other per unit rates (e.g., per document rates).
2. Process Effectiveness: More effective allocation of work and resources.
3. Process Efficiency: Reduction in “waste,” such as rework and other inefficiencies that may exist in a process.

1. Unit Cost

Many consumers of legal services, and by extension service providers, focus exclusively on Factor 1: unit cost. However, often “the lowest cost” on a per unit basis can produce a higher total cost of ownership due to ineffective or inefficient processes. Add to this the increasing scale and complexity of eDiscovery, we get to the point where the negative impact of wasteful or ineffective processes and lower-quality work product far outpaces any hoped for cost reduction through simple per unit price reductions.

To stabilize, and perhaps even reverse this trend, it will require more than the incremental gain available from unit pricing reductions. What is required is a more dynamic approach to delivering these services based on more efficient and effective processes, improved resource allocation, and better use of technology. This will produce a total cost of discovery that is lower in real terms.

Ultimately a low unit cost has no value if the processes are such that the total cost resulting from sub-optimal processes and poor resource allocation (such as ineffective distribution of work among outside counsel, technology vendor, and document review provider) is in fact higher. While certain wage arbitrage advantages (unit cost) may be beneficial in the short-term, it is unequivocally process expertise and overall capability that delivers sustainable cost advantage.

In short, to calculate value-add and true total cost, the impact of factors two and three (optimized processes) must be included in the calculus.

2. Process Effectiveness

A key aspect of cost containment in document review is properly allocating review and project management tasks among the three providers typically responsible for document review and production. This allocation of resources has perhaps the highest impact on total cost:

1. The document review provider
2. Review platform (technology) provider, and
3. Outside counsel

All document review-related work should be allocated to the lowest-cost resources that are able to effectively complete that specific task and meet the required quality standards.

Under the traditional document review model, in which a document review vendor provides only basic first pass review services with limited, if any, quality control, project management, or detailed issue coding, the law firm and technology vendor must take primary responsibility for a significant number of additional tasks.

The inability of a document review provider to maintain high levels of quality and deliver comprehensive, managed services in multiple areas has a significant and very direct impact on the total cost of review. In such cases, the cost attributable to the document review provider may appear deceptively low as it fails to account for the transfer of work to far more costly providers or more senior and more expensive resources within a service provider.

On the other hand, document review providers that are structured to absorb the maximum delegable work and expertly manage many of the tasks and work streams otherwise shifted to higher cost resources have a significant advantage. They are able to provide a finished product with far less reliance on technology consultants or rework by outside counsel performing these tasks at significantly higher rates.

In other words, to compare the cost and efficacy of review providers, one must consider all tasks associated with a completed document review, not just a subset of tasks such as “first pass review.” In this way, one can better assess the total cost of discovery with regards to document review, rather than the discrete per unit cost basis of just one of the components.

3. Process Efficiency

The Impact of Quality (Effectiveness) on Efficiency

A major contributor to inefficiency in document review is the amount of duplicative work (rework or “waste”) that is completed by the law firm at law firm billing rates. Whether this is due to corrective actions completed because of low quality first-pass review, or overlapping duplicative work completed due to poor process management, the fiscal result is the same: significantly higher cost to meet required quality standards.

A managed document review that includes substantial and statistically valid quality control processes and delivers an accurate and consistent work product avoids much of this waste. While some level of corrective action is to be anticipated given the subjective nature of the work, duplicative efforts or extensive rework must be considered as a failure both in process and execution.

Avoiding Duplicate or Unnecessary Work

Even in those instances where no standardized or well-developed process for law firm QC is present within a clients' legal operations, the number of law firm QC hours required should be reduced solely on the basis of reduced need for re-work or corrective actions.

Additionally, a managed document review provider with true process expertise can help ensure law firm review is streamlined and focused on a smaller (and more appropriate) set of documents or issues.

More specifically, this means designing standardized protocols for law firm quality control activities that allow outside counsel to accomplish their objectives at lower cost, such as:

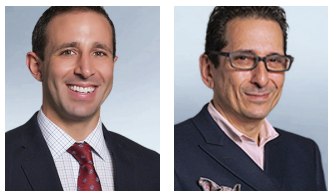
- Determining a statistically valid and defensible level of quality control based on pre-established criteria (for example: matter type, review criteria, total volume, and risk tolerance)
- Creating targeted "high priority" QC pools to more effectively allocate outside counsel QC hours
- Tracking and measuring the results of law firm QC, and
- Tracking corrective actions implemented based on law firm QC and determining whether QC has been sufficient

The end result is not only that the number of law firm hours billed is lower, but their effort is more focused and productive than it otherwise would have been.

Total Cost of Ownership

In conclusion, accounting on a “per unit” basis will often provide a deceptively low cost if all of the “units” needed to provide a finished product are not accounted for and properly managed from a resource allocation perspective. With complex services such as document review, the efficiency of the processes used to manage and deliver the many required tasks will have a direct impact on the total cost of a completed review. Process effectiveness is likewise essential to the efficacy of the review and provides consistency of outcomes, while directly impacting overall review efficiency as well. Efficiency and effectiveness are not “trade-offs” —they must both be present in a well-functioning system.

These three key aspects, 1) the completeness of the managed review service, 2) the efficiency with which it is performed, and 3) the effectiveness of the process in delivering consistent high quality outcomes, are foundational to any cost-effective document review model. A fully managed document review service that comprehends all aspects of the review, and properly aligns human capital, technology and process rigor, will deliver what is ultimately the lowest total cost and highest value: defensible, low risk reviews of high quality delivered consistently over time.



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