Why controlling eDiscovery cost is, in fact, possible

Your General Counsel is writing blank checks.

Well, maybe not literally. But the way your company is handling eDiscovery is pretty much the same thing.

Case in point: Your company gets a request for information. Whether that request comes via discovery in a court case or from a regulatory agency, there's inevitably a short turnaround time for response.

Your General Counsel's first instinct? Throw more resources at it. And that usually means outside resources. At high hourly rates.

Another costly mistake? Dumping lots of data on those resources, guaranteeing lots of billable hours showing up on incoming bills.

As CFO, you're responsible to your company for controlling costs. But when the legal department approaches eDiscovery problems this way, costs can quickly spiral out of control.

The myth driving this mode of operation is that giving all the data to outside resources is the best way to mitigate risk. In your General Counsel's mind, that's the top priority.

And to a degree, he or she is right. Coming up with responsive documents quickly can mean the difference between a favorable settlement and expensive sanctions.

But taking ownership of the eDiscovery process in-house not only cuts costs, it also improves results. That's a result both you and your General Counsel can agree on.

The "myth" part of this equation comes from an outdated view of eDiscovery. It's true that eDiscovery tools used to be expensive, unwieldy, and user-hostile, with limited capabilities.

But the newest eDiscovery tools leverage artificial intelligence to do smarter, semi-automated data analysis. That means that, with a modicum of training and a minimum of expense, your company could have a small, highly-responsive in-house team ready to spring into action when information requests come in.

That small response team can perform AI-driven analyses on your company's data, eliminating obviously nonresponsive documents quickly before handing the rest off to those high hourly rate consultants and counsel.

How much culling could you do in-house? That first-level review could reduce the data set to be analyzed by as much as 90%. Handing off one-tenth of the data to an hourly-paid outside resource will be a lot less expensive!

And using Software as a Service (SaaS) eDiscovery solutions means your IT people aren't screaming for a blown-out budget to support the legal department. There are no internal servers to maintain. And if your IT people define security standards tightly during the vendor selection process, your data is safe.

eDiscovery accounts for anywhere from 20% to 50% of the total cost of a U.S. federal civil case. That doesn't even include all the "soft costs" you incur such as business interruption. The data collection process can cost anywhere from $125 to $6,700 per gigabyte, and legal review of that data could cost from $1,800 to $30,000 per gigabyte. That legal review can add up to over 70% of the total eDiscovery bill.

That's a cost you've got to get under control.

Your General Counsel may argue that cutting costs equals cutting corners, and cutting corners is risky. But that's only half right. Cutting legal costs is about intelligently examining data and only pulling in outside counsel for tasks that require their specific expertise (at their high hourly rates).

As a rule, your IT personnel are mostly concerned about the underlying technologies, while your legal department is focused on process. It's up to you to ensure that the marriage of technology and process is successful, because that's what controls cost.

Find out how your company can leverage sophisticated eDiscovery tools to manage risk and still control eDiscovery costs by downloading our latest whitepaper, "Expect the unexpected: how to control the hidden costs of eDiscovery".