

# Five Tips for Hiring E-Discovery Vendors

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Do your homework to ensure you get the right vendor with the right tools at the right price. It can be difficult to decide whether to retain an e-discovery vendor if a company is unaware of what the organization can do and at what cost. Thus, knowledge of an organization's e-discovery capabilities from the outset is important in making the vendor assessment. **Assess Vendor's Capabilities** The e-discovery reference model includes various components from which a company can assess its specific capabilities. These components are:

- Identification
- Preservation
- Collection
- Processing
- Review
- Analysis
- Production
- Presentation

A company may have the capabilities to excel in one area—such as identification and preservation—but may be lacking in terms of processing capabilities. Knowing the strengths and deficiencies from the beginning can help an organization select an appropriate vendor. **Assess Company's Capabilities** Other issues to consider in examining a company's strengths and deficiencies require an examination of:

1. Whether IT personnel have time to focus on e-discovery issues
2. Whether IT personnel would be good or bad witnesses if their depositions were taken

### 3. Exposure potential of the litigation

#### 4. Type of data being collected.

If a company is facing significant exposure and IT personnel are not experienced in defending their work in litigation, it might be a good idea to hire an experienced vendor. If the e-discovery issues in the case are opinions rather than historical fact, an independent vendor witness may be more appropriate than an in-house witness. Furthermore, if legacy data (data stored in an old format that is difficult to access and is typically stored on a computer's storage system) will be the subject of discovery, a vendor may be more appropriate because many companies lack the necessary software to read and process legacy data. **Consider Type of Service Needed** When a company decides to hire an e-discovery vendor there are a number of considerations that must be taken into account. First, consider the type of services that are needed in the litigation. There are a number of different types of services such as:

1. consulting and professional services
2. data collection and processing
3. data recovery and forensics
4. hosting, review, production, and delivery
5. litigation support

**Use an RFP** In narrowing down the potential vendor to work with, consider utilizing a request for information or a request for project proposal (RFP). The RFP should:

- define the problem
- explain the role of the client, counsel, and staff in the management of the work
- describe for the vendor the technical requirements
- address quality control issues

**Do Your Due Diligence** Once a particular vendor is identified, it is necessary to perform due diligence regarding the vendor, in the following sequence:

1. Consider the number of years the company has been in business, the track record of providing the product or service, insurance and license issues, confidentiality guarantees, and pricing methods.
2. Gather information about the personnel who will be working on the case. It is necessary to screen the experience level of the employees and their ability to guarantee work by a specific date.

3. Gather information concerning project security. The vendor should be able to describe what is done to ensure that a document has not been changed. The vendor should also be able to confirm that a complete, exact copy of the data is stored. It is also necessary to discuss the security of the data from hackers and viruses.
4. Analyze conflicts issues from the beginning of the engagement. Vendors might be privy to confidential information regarding a client's information management system. As a result, it is important to ensure that no conflicts are present from the outset. Also consider whether the vendor may have previously been retained by a competitor of the client.

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