Managed Services: A Winning Approach to eDiscovery

The Future is Managed Services

The legal field is poised for significant change, according to Richard Susskind, author of Tomorrow's Lawyers. Susskind states that the future involves commoditization of legal services and legal process outsourcing, along with other advancements driven by technology and process development. In a recent presentation, Susskind quoted Wayne Gretzky. The famous ice hockey player often counseled, "Skate where the puck's going, not where it's been." When it comes to eDiscovery services, the "puck" is headed with great speed towards managed services delivery models.

The Alternatives Don't Work

The "Wild West" era when each legal team developed its own discovery plan absent client input is coming to an end. This approach is fraught with inefficiencies, risks and ever-increasing costs – everything the legal field should be guarding against. Preferred provider models implemented by corporations and law firms have had a positive impact on efficiencies, risk and cost control, but there is still much room for improvement. A stronger plan than a preferred provider model is required to adequately prepare an organization to effectively deal with modern eDiscovery. The other alternative is building an internal eDiscovery unit within your organization. Most organizations underestimate the true cost of this model, forgetting that an effective solution requires state-of-the-art people, processes and technology. Keeping pace with the industry requires significant expertise and ongoing investments. Many have become disenchanted with the build model, realizing that they can achieve a higher ROI by outsourcing portions of their eDiscovery needs.

Managed Services in eDiscovery Defined

Managed services is a term that can have a wide range of meanings. Managed services typically involves a single third-party providing a set of eDiscovery functions to a corporation or law firm over a multi-year period using standardized and repeatable (often custom) processes.

Why is Managed Services the Holy Grail?

It's actually pretty simple. There are two reasons why the future is managed services. First, clients ultimately care about quality – specifically the accuracy of their work product, and timely delivery. The best quality comes from top quality teams working with world-class, standardized processes, honed over time. There is simply no way to get the best quality results using multiple partners and processes. Second, managed services is the right model from a security standpoint. Security has never been more important to law firms and corporations alike. Read the Wall Street Journal on any given day and you'll uncover a breach. Why would any organization want data in any more locations than strictly necessary? Every additional location increases risk dramatically.

Managed Services Flavors

There are many different managed services models. Variables include staffing responsibilities, software licensing, technology infrastructure storage, management and maintenance of technology tools, process development ownership and ongoing innovation efforts. The three most common models are:

Infrastructure Model
The ownership cost of today's leading eDiscovery tools is high. Some organizations simply want access to these tools in a secure, cloud-based environment. Outsourcing management, maintenance and security of technology tools can be very attractive. In some instances, a client licenses the technology directly and the service provider keeps the tools behind its firewall. In other instances, a client leverages partitioned, secure areas of systems that the service providers already own – thus reducing the upfront investment for the client. In this mode process development, staffing and innovation efforts are the responsibility of the client.

Collaboration Model
In addition to access to the latest technology tools, some organizations want to collaborate with experts on process development, staffing and innovation efforts. We know that no one technology is the "silver bullet" that eases all of a client's eDiscovery pain. Developing standard workflows, providing overflow staff support and specialized experts and vetting new eDiscovery technologies require specialized resources and significant bandwidth. This model provides a structure for clients to leverage a service provider's team and expertise to supplement their team. Technology can be owned by the client or service provider and typically the service provider is responsible for the management and maintenance of the system. Under the collaboration model, an organization can leverage an outside service provider to enhance its internal eDiscovery team, processes and technologies.

Fully Outsourced Model
Appreciating the complexity of modern eDiscovery, many organizations choose to outsource eDiscovery to the experts. In the fully outsourced model, an organization contracts with an eDiscovery service provider for all of this work. Most, if not all, of the client's eDiscovery work is performed by the managed services provider. Technology can be owned by the client or by the service provider. If the client provides the software, the systems typically sit behind the service provider's firewall and the service provider manages and maintains the systems. The service provider develops standard workflows, provides the required staff and drives innovation efforts. The most appropriate eDiscovery managed services model depends on each organization's unique needs, goals, litigation portfolio and organizational commitment. When contemplating an eDiscovery service solution, make sure that you are positioned where the puck is headed – not where it's been.