Government Investigations Experience Sheet

About Government Investigations

The arrival of a government subpoena on the doorstep of your corporate headquarters rarely rates as a welcome development. Yet, the fallout is far worse without a plan in place to manage document discovery throughout the ensuing government investigation.

Failure to adhere to eDiscovery legal requirements and responsibilities while a government investigation is underway can trigger a wide range of sanctions for spoliation of evidence and other possible violations. In these circumstances, the need to have a grasp on all relevant electronic data is even more urgent than in civil disputes, ratcheting up the pressure on your team to respond swiftly and with precision.

Keys to Effective eDiscovery in Government Investigations

Based on experience providing eDiscovery management for responses to government investigations – involving data collections by Discovia on five continents and in 22 countries – we have assembled a list of 10 best practices for effective eDiscovery management during federal investigations.

1. Map the data landscape – Government requests often can be extremely broad, necessitating informed negotiating strategies to limit the scope and ease the burden of eDiscovery.

2. Establish collection goals – Once everyone is clear on where the data can be found, it is time to identify specific goals and milestone deadlines for the anticipated data collection.

3. Respect data privacy laws – Direct outside counsel to work closely with your eDiscovery service provider in evaluating how relevant privacy laws (international, national, state, local, etc.) might impact the eDiscovery process.

4. Strategic on-site and remote collections – On-site collection for physical media is optimal because it offers maximum certainty and legal defensibility, as well as minimizes participation by your corporate IT team.

5. Maintain quality control – While under the shadow of a potential federal enforcement action, it is crucial to have sound quality control procedures to shore up the defensibility of your collections.

6. Early data assessment – With initial collection complete, modern software tools can help reduce the database volume a more manageable size for processing and review.

7. Application of Technology Assisted Review – The largest cost element in eDiscovery is attorney review and selection of records for production and/or privilege. Technology Assisted Review (TAR) is a process that applies review decisions from examined sample records to records that have yet to be individually examined.

8. Secure data transfer – Now that your team has undertaken data collection and processing in a forensically sound and legally defensible manner, ensure that you transfer the electronic information for review just as carefully as it was obtained.

9. Robust hosting platform – Do not assume that all hosting platforms are equal, especially given the heightened scrutiny and high stakes often present in government investigations.

10. Smart production protocols – Lastly, adhere to strict protocols for production that ensure you meet relevant deadlines and produce in the appropriate, government-specified format (e.g., TIFF, Native, Hybrid).

The Discovia Experience

Representative clients for Government Investigations matters must be kept confidential for obvious legal reasons, but they include the following types of engagements:

Healthcare Litigation with Unique Data

Discovia worked with a major medical technology and pharmaceutical company on a large matter involving unique data sources. Our team collected more than 1.2 TB of data from the client and the client needed a solution whereby unique fax instances were found and reviewed (as opposed to processing and reviewing all 1.2 TB). The client’s potential liability hinged on the number of instances an alleged “junk fax” was sent (approximately $16 million in damages). Using Discovia’s forensics expertise, we developed a custom workflow that identified the unique faxes within the relevant date range. This reduced the 1.2 TB of source data to 6,260 files. Our team worked closely with in-house and outside counsel to develop and iterate search terms that were used in the client’s settlement negotiations, and wrote custom tools to link the unique faxes loaded into Relativity to the number of fax instances sent by the client within the relevant time period. This served as a proxy for potential damages. The result of our work was that our client and their outside counsel negotiated a favorable settlement agreement.

Technology Client Facing Large International Investigation

Discovia worked with a multi-national technology client facing a large investigation in Russia with 150+ custodians and large volumes of data in several languages. The total initial collection scope was over 8 TB of custodian data, with 1.3 TB user-generated data or 10,080,503 documents in English, Russian and other foreign languages. Discovia loaded all documents to ICA™ and removed duplicate documents across all custodians, which removed 2,800,918 documents. Our team then iterated on search terms using our unique term-by-term reporting that tests the performance of the client’s search terms. Terms were revised as necessary. Search terms removed 5,118,472 documents. Discovia also used junk file analysis to reduce the reviewable population by another 1,477,855 documents. Together, deduplication, search term iteration and junk file analysis helped the client achieve a 93% data cull rate and reduce the data volume from 10,080,503 to 683,258 documents for review. The documents were translated via the LSI Translation plug-in for Relativity and the client supplied a glossary to enhance machine translation output for the 74,492 Russian documents, resulting in a reduction in the significant relevant file count to just 314 documents. A human light post-edit consisting of 553,241 words was performed on the machine-translated documents. The cost for the post-edited text was 35% of the cost of human translation.

FCPA Matter Involving Software Company

A networking equipment manufacturer engaged Discovia for a multi-month investigation involving foreign language documents in more than 400 datasets. The data included Russian language documents and 74 custodians. We hosted 6 million documents in a Culling database and 1.7 million records in the Review database. Discovia utilized Content Analyst (clustering and categorization tool) and Equivio Relevance (predictive coding tool) to streamline review and provide significant cost savings. As a result of the use of these review enhancement tools, counsel reviewed less than 30% of the documents.
Supporting Multiple Government Investigations/Litigation Stemming from a Single Incident
Discovia processed, hosted and coordinated productions for multiple investigations stemming from a refinery explosion in Anacortes, Washington. The client was facing investigations from multiple agencies and litigation due to a fatal refinery accident. The litigation team needed to review and produce under a variety of unique requirements and the client wanted to re-use work product where possible. Discovia created a single, globally de-duplicated database created to support all review and production requirements. Multiple searches, batches and multiple custom fields were created and used to support review and production to various entities. Our team leveraged certain universal fields, such as those pertaining to privilege, to re-use work product across productions where possible.

The Discovia Difference
Discovia has significant expertise providing eDiscovery management for responses to government investigations, including data collections for clients on five continents and in 22 countries.

Strategic understanding of legal requirements
Our 16-person in-house collections and forensics team has handled a wide range of data collections related to government investigations, including many international collections, and is very well-versed in navigating data security and privacy requirements within specific markets around the world. Our Project Managers with experience in government investigations meet with the client team to customize the downstream workflow, including ECA, processing, productions, and time-lines. Almost every member of our 25-member project management team holds either a JD or paralegal certification and each brings specialized skills and experience to the overall capability of our Client Services team. Finally, we have a team of expert linguists and former litigators to further refine the ECA process for our clients and to leverage our carefully vetted TAR (Technology-Assisted Review) workflows (including Predictive Coding) to achieve consistent cull rates upwards of 90%.

Commitment to data security
Discovia holds data security as a highest priority. We received HIPAA compliance as audited by Schellman & Company. Furthermore, Discovia is fully ISO 27001 compliant for data security and risk management and is one of the very few eDiscovery providers that holds both HIPAA and ISO 27001 compliance. We have housed over 300 TB and 2,500 matters and this data has never been breached or compromised. Our network is configured for high availability, with an uptime of 99.99% and best of breed intrusion detection, our network activity is monitored 24/7 by Secure Works, and physical media is secured in a separate lab, which can only be accessed by cardkey access.

Proven deliverables in the context of an investigation
As one of the largest Relativity providers in the world, we regularly work on large, high-stakes government investigations. Our team’s familiarity with these types of investigations allows us to competently handle all elements, requirements and milestones for such matters, and we know what it takes to successfully produce relevant data to satisfy government inquiries. We have proven our ability to work on any size investigation, as we have handled matters with over 100 TB of collected data. We have established a particular expertise in handling complex government investigations and were named the nation’s Number One provider of government and internal investigation services based on feedback from more than 7,700 attorneys and legal experts in the National Law Journal.

Competent and experienced professional team
Across our organization, we have built a diverse team of experts from various backgrounds in the legal industry and beyond. Our collective team excels at strategically tailoring customized “playbooks” of processes for specific matter-types and to provide a consultative approach to eDiscovery for our clients. Our team has done so numerous times in the context of government investigations, including DOJ/U.S. Attorney’s Office and SEC/FCPA matters. We consistently receive accolades from clients for the innovative workflows that we implement using mainstream technologies to drive superior results.

Competitive pricing and cost savings
In addition to competitive pricing, we also deliver a "no-surprises" approach to budgeting to ensure transparency and deliver predictable cost savings. Discovia runs a highly automated operation, featuring a consistent team of experts who deploy best-in-breed technology on every matter. Our delivery system offers: Consultative case set-up and planning; a predictable, cost-effective financial model; intelligent data culling; savings. Discovia runs a highly automated operation, featuring a consistent team of experts who deploy best-in-breed technology on every matter. Our delivery system offers: Consultative case set-up and planning; a predictable, cost-effective financial model; intelligent data culling processes; enhanced document review optimization tools; and cost governance and reporting.

About Discovia
Discovia provides electronic discovery services to corporations and law firms engaged in litigation, ITC investigations, and internal and regulatory investigations, including HSR Second Requests. Services include onsite and remote data collections, data minimization, data processing and hosting, expert application of leading technology-assisted review tools, document review management, and document productions. Discovia is one of the only eDiscovery services providers to achieve ISO 27001 certification and HIPAA/HITECH compliance for data security according to third-party auditors. Discovia is the first to publish its accuracy rate – 99.7 percent, and typically achieves data culling rates of 95 percent for repeat clients. Discovia is the first eDiscovery services firm to deliver a fixed-price managed services solution, enabling corporate legal departments and law firms to gain a world-class eDiscovery function with complete cost predictability. More information is available at (415) 392-2900 or www.discovia.com.

Contact us to learn more about how we can help your organization Discover Smarter™

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