

opentext™

eBOOK

The Anatomy of an Efficient Document Review

A new model for on-budget,
on-time superior results



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How to control document review costs and improve results

The legal industry is experiencing a shift in business-as-usual dispute and investigations activity. Controlling outside counsel costs remains top priority for law department leaders struggling to manage growing workloads while operating under resource constraints, while maintaining the competitive advantage is a top goal of law firms. At the same time, document volumes continue to grow, and the transition to a largely remote workforce has moved cybersecurity and data privacy risks to center stage.

Document review—comprising 70% of total litigation costs—is at a tipping point. The way corporate law departments and their external vendors, including law firms, approach the costliest and most unpredictable component of legal matters is changing before our eyes.

Law department leaders are positioning their organizations for success in the long term by adapting the way they source legal-related services. By shifting eDiscovery review from large teams of law firm associates, contract attorneys and other review staff to smaller, more nimble managed review providers, legal departments have the opportunity to improve results and deliver substantial cost-savings—now and in the long-term.

The anatomy of a highly efficient managed review has numerous characteristics.

A highly efficient team:

- Exploits technology to achieve better control
- Aligns teams to substantially improve quality and reduce the number of bodies
- Enhances QC to reduce costs
- Automates workflows to meet any review objective
- Aligns financial interests with new pricing models
- Works securely while remote

First, let's look at why today's document review model doesn't work.



The large review team bleed

The harsh reality of modern eDiscovery is that document collections—along with risks—continue to grow. That places a mounting pressure on legal and investigation teams to utilize automation and machine learning tools for reducing document volumes. Yet many legal teams staff up with reviewers, believing the more bodies, the faster the review, even when just using basic keyword search.

Here’s a look at how the costs of not using advanced technology, such as technology-assisted review based on continuous active learning, add up:

TAR Managed Review Cost-Savings Over Law Firm and Other Review Resources

	Document collection size	Number of documents reviewed	Review rate	Hours for review	Billable rate	Cost
Outside Counsel - Keyword Search*	650,000	325,000	50 docs/hr	6,500	\$400/hr	\$2,600,000
Managed Review Vendor - Keyword Search*	650,000	325,000	50 docs/hr	6,500	\$55/hr	\$357,500
OpenText Managed Review - TAR**	650,000	130,000	50 docs/hr	2,600	\$55/hr	\$143,000

* Using keyword search; assumes culling 50% of the documents. ** Using OpenText TAR 2.0 technology, with 10% richness, the managed review team typically reviews 20 percent. ** Assumes OpenText billable rate is the same as another managed review vendor.

Even with technology-assisted review (TAR), large review teams generate inconsistencies and risk.

To meet tight deadlines and limit costly eyes-on review, more and more legal teams are using TAR to reduce document volumes. But TAR alone often isn't sufficient. Many organizations still staff up with bodies—the assumption being that the more eyes on documents, the faster the review will go and the fewer dollars spent.



In reality, more bodies impair alignment, increase reviewer inconsistencies and drive up QC costs. Here's a real-life look at a TAR review with 300 reviewers (junior associates and contractors) each day. On average:

- The reviewers found 50% of the documents to be responsive.
- But 50% coded a document as relevant while 50% of reviewers coded a similar document as non-relevant.

This translates into a huge risk of missing critical information to the case, and potentially exposing sensitive documents and waiving privilege.

The larger the team (and even large managed review teams) the more magnified the risks due to lack of expertise in the particular TAR tool and review platform, reviewer fatigue, individual human judgement and inconsistent training.

How do review teams exploit TAR for better control?

Exploiting technology for better control

A foundational element for a successful managed review team is close integration with the technology. Expertise in the tool allows the team to optimize workflow, including quality control (QC), for an efficient and highly accurate review, refine workflows to protect sensitive data, and stop and validate the review.

Technology-assisted review based on continuous active learning (CAL) significantly improves control for reviewer consistency by surfacing likely responsive documents to the top of the pile to review. TAR based on continuous active learning continuously ranks documents to take advantage of additional judgments by reviewers in real-time. As training continues, the algorithm and document rankings continuously improve so the review team finds relevant documents faster.

Moreover, savvy review teams can use TAR based on continuous active learning to stop and validate review at a reasonable recall rate (how many of the relevant documents in a collection have been actually found), saving time and costs of reviewing unnecessary or extra documents.



Aligning teams

Alignment between the managed review team, external counsel and company is critical for reliable and accurate coding.

Alignment—when combined with optimizing TAR based on continuous active learning—can reduce review staff by 500% or more. Here's why.

Alignment creates the opportunity for consistent and comprehensive QC processes for privilege, responsive, non-responsive, PII, PHI, proprietary terms, hot documents and more throughout the review. Daily reviewer reports, decision logs, individual sample QC, testing and feedback provided by the managed review team—while counsel resolves every conflict—ensures an efficient workflow and high accuracy.

Measurably better results with an aligned team

Take the same review project with 300 reviewers per day. With an aligned team, the number of reviewers can be reduced from the typical TAR project with 300 reviewers to fewer than 60.

On average, responsiveness rates increase from 50% to 60%, and the error rate—inconsistent coding calls—is reduced from 50% to just 11%.

Enhancing QC to cut costs and risk

Accurate coding through enhanced QC also can reduce law firm QC costs by 10 times or more. When robust QC processes are employed at the start of a project as part of team alignment, the managed review team can reduce QC by outside counsel to 5% or less, resulting in substantially lower project costs.

Measurably more reliable and accurate coding with enhanced QC reduces outside counsel QC review from 20% to 2.5%

Outside counsel QC percentage	Document collection size	Number of documents reviewed by managed review team	Number of documents for outside counsel review	Outside counsel review rate	Outside counsel hours	Outside counsel billable rate	Cost
Standard: 20%	650,000	130,000	26,000	100 docs/hour	260	\$400/hour	\$104,000
OpenText Managed Review	650,000	130,000	3,250	100 docs/hour	32.5	\$400/hour	\$13,000

Savings of more than \$90,000 in just QC review for a single project.

Automating workflows to meet any review objective

With a nimble managed review team experienced in all types of reviews—not just first-pass review or issue coding—innovation and efficiency drive better results in every project. For example:

- **A straight continuous active learning review using TAR to minimize the number of documents reviewed generates on average 70% cost savings;**
- **A highly automated TAR review to expedite a large review for production such as a third-party subpoena or second request in which fewer than 20% of the documents are reviewed, including a full privilege review;**
- **An investigative review in which a small team uses analytics to aggregate similar documents for responsiveness, critical sampling and review ensures the coding decision accuracy, and quick and accurate results are provided at greater than 90% recall and 90% precision, along with much greater insight into the substance of the documents.**

No matter the context, smart teams can apply the appropriate TAR workflow to substantially improve efficiency, reduce risk and improve outcomes.



Adopting new pricing models

The foundation of any successful partnership involving corporate law department leaders and external vendors must be financial alignment. When it comes to document review, corporate law departments want to control outside counsel costs, but law firms and managed document review providers are incentivized by more billable hours and more documents reviewed.

Alternative fee arrangements (AFAs) are one tool corporate legal departments increasingly use to procure legal services at a fixed cost from their law firms. Forward-thinking managed review providers provide flat-fee, upfront pricing for the review. This ensures budget certainty while underscoring the managed review provider's commitment to delivering the most efficient review possible.

Further, fixed-fee pricing allows law firms to focus on higher-value work while providing their clients with document review services at substantially lower cost and measurably improved quality.

“By partnering with OpenText, it has allowed our attorneys to provide cutting-edge legal services at a fraction of the cost. Utilizing the OpenText continuous active learning technology in addition to their talented document review team allows us to save client financial resources by quickly and more accurately identifying responsive documents.”

Robin Stewart, Head of eDiscovery, Litigator and Partner, Kutak Rock

Working securely while remote

Today, 90% of document review is conducted remotely—and most in-house counsel expect some elements of dispute activity to continue remotely post-pandemic.³ For remote managed review to be effective, there are a number of best-practices to secure and protect sensitive client data.

Key components of a highly secure remote review include:

- Technology, such as Remote Desktop Server with VPN, to control access to the review database and necessary work applications, such as email and billing systems;
- A security program that allows reviewers to access the review platform exclusively via cloud-based virtual desktop infrastructure to ensure that data never leaves the secured hosted or cloud-based environment;
- Tools that prevent activities that could expose clients' sensitive information, such as printing, downloads, screen captures, copy and pastes and other unauthorized use of client data; and,
- Review protocols (such as daily audits) to closely monitor reviewer productivity.

Additionally, in-platform review features should automate the detection and redaction of sensitive data, identify people and places for data privacy compliance, and enable self-triggered QC checks throughout the review.



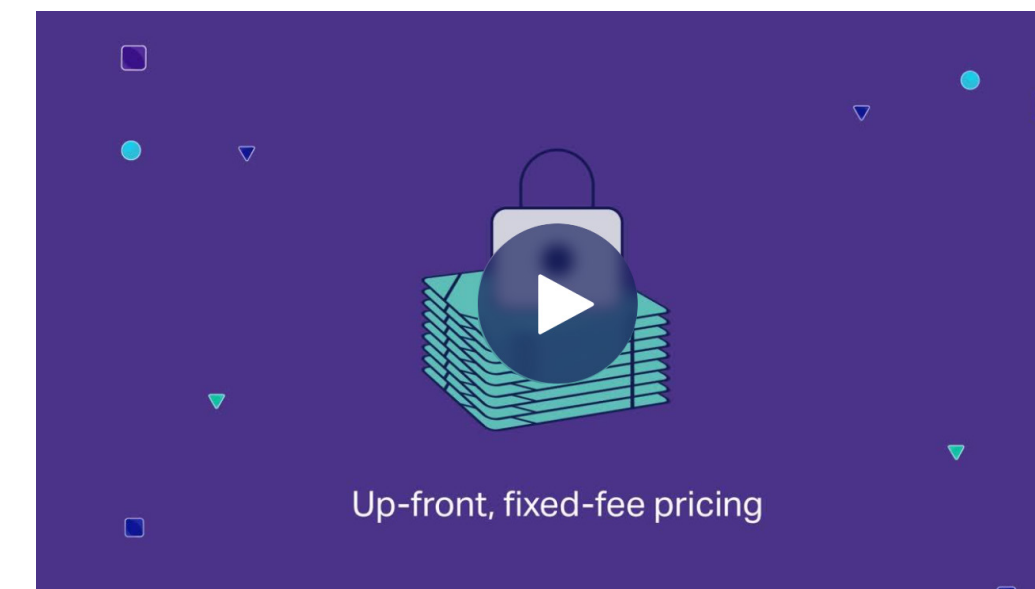
³ Complex Discovery, Revisions and Decisions? New Considerations for eDiscovery Secure Remote Reviews, 2020

Norton Rose Fulbright Litigation trend survey, Sixteenth annual edition, February 2021.

New managed review models drive efficiency and efficacy

It has taken a global pandemic to advance new document review models into wider acceptance. Organizations can more quickly reach their goals by reallocating document review work and leveraging advanced technology and processes made available through external managed review providers.

OpenText Managed Review provides a full-service outsourced review that guarantees fixed-fee pricing and the most cost-effective, efficient and high-quality review. The managed review service, available in North America, the U.K., and E.U., combines proprietary technology-assisted review based on continuous active learning with highly trained and technically savvy attorney reviewers and machine learning experts.



Find out how to take costs and risks out of unpredictable document review projects



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