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Developing a Preferred e-Discovery Vendor List for Your Firm

Executive Summary: One of the challenges in developing an e-Discovery Preferred Vendor List is keeping up with new vendors, new vendor software/services and ensuring that vendors responding to your RFPs are actually capable of providing the services you require.

Not only is it important that any potential e-Discovery vendor not just "say" they can provide the services required, but they must be able to prove that they are, in fact, providing the same services required by the law firm to three or more clients.

With hundreds of e-Discovery vendors in the market, the Best Practices to be discussed in this article are:

- Prior to past experience or a test project, there is no more powerful or effective way to measure e-Discovery vendors' capabilities than to interview their clients.
- Check references early in the RFP process, before a deadline dictates the speed of your decision.
- Document your discussions as well as the facts with a Client Reference Form.

Six Easy Reference Checking Steps to Follow

A law firm should include reference checking as an integral part of the Preferred Vendor List process. If you have not worked with an e-Discovery Vendor before, there is no more powerful or effective way to first measure their ability to provide a service than to interview their clients.

E-Discovery vendors must provide names and contact information for accounts that are receiving services similar in scope to your projects. You must interview these reference accounts to understand e-Discovery vendors' capabilities and determine how satisfied the reference account is with the e-Discovery vendors' services.

The result of the interview becomes one of the major evaluation factors in choosing an e-Discovery vendor and adding them to your Preferred Vendor List. Reference interviews are generally less than one hour and if the law firm is using a consultant, it may be beneficial to have them present during the interviews.

Step 1: Determine if a Vendor's Reference Account is a Good One

The first element of the process is to determine and communicate to the vendor what type of reference account makes a good candidate for your interview process. Here are i-RFP's recommendations.

Reference accounts should be:

- Similar in size, or larger, than your law firm.
- Receiving substantially similar services from the e-Discovery vendor.
- Have been utilizing the e-Discovery vendor's services for at least two projects or 6 months.

Step 2: Initiate a Methodology

Once you have defined these objectives, the next step is to that allows you to perform reference check interviews. Waiting until a project occurs or wastes valuable time.

These reference check interview meetings give the law firm an opportunity to eliminate e-Discovery vendors whose reference accounts do not support their requirements, either because the e-Discovery vendors could not provide references or the results of the reference interviews were not positive.

There is no point proceeding with an e-Discovery vendor if it cannot demonstrate its capability to provide the services required in your RFPs.

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Step 3: Using the e-Discovery Client Reference Form

When initiating a methodology that allows you to perform reference check interviews, i-RFP recommends a form for collecting reference account information from the e-Discovery vendor. Basic contact information is at the top of the form. The bottom section contains detailed information on the kinds of services that any e-Discovery vendor--seeking --must provide. Here's an example to pass along to an e-Discovery vendor that is seeking to provide services to your firm:

Litigation Support Client Reference Form	
E-Discovery Vendor Name	
Reference Firm Name	
Address	
City, State Zip	
Contact Name	
Title/Position of Contact	
Contact's Phone Number	
Contact's Email	
Brief history of projects, working relationship, cases, documented cost-savings, etc.	

Services Provided By Vendor to this Reference Account		
☐ Analog/Digital file Searching & Analysis	☐ Document Hosting	
☐ Bankruptcy Mail-outs	☐ EDD	
☐ Blowbacks/Prints	☐ Graphics	
☐ CD Mastering	☐ Imaging/Scanning	
☐ Coding (domestic)	☐ Jury Consulting/Research	
☐ Coding (offshore)	☐ Medical Records	
☐ Computer Forensics	☐ Microfilm/fiche	
☐ Consulting	☐ OCR	
☐ Copying	☐ Software Training	
☐ Courtroom Technology	☐ Tape Processing	
☐ Data Conversion	☐ Trial Presentation	
☐ Database Development	☐ Trial Support	
☐ Data Recovery	☐ Unitization	
☐ Digitizing Audio/Video	☐ Video	

Step 4: Reject Incomplete Forms

In order for a reference to be acceptable, the e-Discovery vendor must complete the entire form. Reject all incomplete forms. Law firms need this information to design the interview questionnaire in order to ask the right questions. Instruct your e-Discovery vendor they must provide the name of the actual reference account person so you can schedule the interview easily.

Step 5: Introducing Yourself on the Phone to the Reference Account

i-RFP recommends a planned agenda, like this example:

> **Identify yourself** - Explain you are from the law firm who is considering outsourcing e-Discovery projects/services to [e-Discovery vendor's name].
> **Explain why you are calling** - Your e-Discovery vendor has given your name as a reference and has indicated that you have agreed to accept an in-depth telephone interview call.
> **Confirm** that this is a good time to call, indicating that the call will take approximately 30 minutes. If this is not a good time, schedule a time to call back.
> **Inform** the reference that while we will inform the e-Discovery vendors that we have contacted him/her, we will not share his/her specific comments with the e-Discovery vendors. Promise you will only use their remarks to help the law firm make a decision about using the e-Discovery vendor.
> **Verify** the name, position and relationship between the reference and the service provider.

Step 6: Ask the Right Questions
Asking the right questions is one of the most important parts of the process. Ask the wrong questions and you get the wrong answers! Law firms want to know what the e-Discovery vendors are doing for the reference and the level of satisfaction with the service. An effective way to manage the question and answer process is to prepare questions ahead of time that have enough white space to allow the interviewer(s) to document the answers to the questions in real time.

If the law firm has a particular concern about some element of the service, this is the time to ensure that an e-Discovery vendor can meet those concerns by asking the right questions. Here are some sample questions you could ask:

- How long have you been outsourcing projects with the e-Discovery vendor?
- Please describe your relationship with the e-Discovery vendor.
- Are you generally satisfied with the e-Discovery vendor's services? If yes, why? If you are not satisfied, why not?
- Would you hire them again?
- Are all of your e-Discovery services provided by this e-Discovery vendor or do you multiple vendors?
- Does the e-Discovery vendor proactively, propose a number of cost-effective solutions?
- Are the e-Discovery vendor's bids competitive with other bids? If the bids are higher, why are they more expensive?
- Are you satisfied with the cost structure provided by the e-Discovery vendor?
- Does the e-Discovery vendor have a good reputation within the firm? Industry?
- Does the e-Discovery vendor have the necessary internal resources required to support your projects?
- Does the e-Discovery vendor have a proven record of delivery projects on time & within your budget?
- Have you had any disputes with e-Discovery vendor? If so, are you satisfied with the method of resolution and the overall outcome? Were they responsive to your needs?

Briefly summarize your overall impressions of the call. Do this immediately while the content and overall flow of the conversation is still fresh in your mind. Reference checking is an opportunity to discuss critical success factors….just do it!