

## 'Per-Doc' Pricing Can Improve Document Review

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Document review is arguably the most expensive and time-consuming element of e-discovery. It plays a critical role in most matters and usually involves both humans and technology — meaning the costs can add up fast. In fact, a Rand Corporation study found that approximately 73 percent of all production costs are associated with review.

In this article, we compare the traditional billing approach for document review with an alternative solution, and outline why the new model has proven to be more cost-effective and efficient.

### Transparency and Cost-Effective Document Review

Most document review vendors charge for document review by the hour. Prices can range from \$35 per hour all the way to hundreds of dollars per hour (per attorney, of course). This all depends on the level of expertise required, whether you need review attorneys who are licensed or simply hold JDs and whether the reviewers speak and read necessary foreign languages.

One alternative to “per-hour” pricing that some vendors offer is “per-doc” pricing. With per-doc pricing, the cost of the document review is solely based on the number of documents that are reviewed and categorized. Clients often find this pricing model to be superior to others, primarily because of the transparency and certainty it provides. With per-doc pricing, there are no billing surprises and no need for approval for more hours to finish the project. If there were 100,000 documents for review, the cost is based on 100,000, and unless the client adds additional documents, the price won't change.

Clients find that it is much easier to control the discovery costs when they know the price for document review upfront. Additionally, many of the aspects of document review projects that normally cost extra, such as analytics, email threading, quality control checks and document sampling, are all included in per-doc pricing.



## **Lost Productivity Will Cost Money Under Per-Hour Pricing**

One of the biggest ways that per-hour pricing can waste money is with computer and software downtime. If you have 50 document review attorneys on a project, and everyone must stop reviewing for one or two hours while documents are loaded, indexes are built, new keywords are highlighted, etc., those attorneys are generally still getting paid, yet no documents are being reviewed. Similarly, if there's a network or power outage, per-hour pricing means the people sitting in the review room are still being paid, even if they aren't reviewing documents. Something as seemingly small as an update to the software can slow down the team by a few hours while they reacquaint themselves with the software and understand what has changed. Per-hour pricing means the client is losing money during any of these work stoppages.

With per-doc pricing, because the number of documents hasn't changed, neither has the cost. If the software is running slowly, costs do not change. If the review center loses power, and it takes 30 minutes for the backup generator to kick in and for everyone to log back in and find their documents again, it doesn't cost the client any additional money. Just 30 minutes of downtime will cost a client \$1,250 when they are paying 50 review attorneys \$50 an hour. Per-doc pricing means that clients are only paying for one thing — each document that gets reviewed. The client isn't paying for bathroom breaks, coffee breaks, chatting with the attorney at the next desk, etc. (Don't get me wrong, taking bathroom and coffee breaks is absolutely necessary, but making the client pay for them shouldn't be!)

## **Only Pay for Documents Once**

Per-doc pricing also means that errors from the review team are paid for by the review team. When you pay for document review, it should be like everything else you pay for — you want quality results. You expect the documents to be reviewed and categorized correctly. Unfortunately, per-hour priced document review teams have no incentive to get their coding correct on the first pass. Inherent deficiencies — such as newly found attorney names that get added to the privilege list, which necessitates a search for the name in already-reviewed documents — are charged to the client. The vendor charging per-hour pricing may tell you they will do a first pass, a second pass and even a third pass to make sure the documents are reviewed correctly. But each of these passes will cost you. With per-doc pricing, you are paying for each document to be reviewed correctly, period. If it takes the review attorneys three passes to get them all reviewed correctly, then the vendor loses money — not the client. Vendors who can charge on a per-doc pricing model stay in business because they have the processes and controls in place to assure document reviews are completed consistently and correctly according to the review protocol and the guidance provided by counsel.

## **Clients Shouldn't Pay for QC**

Quality control is the step following document review. During this step, as the name implies, reviewers confirm that documents were categorized correctly, important items were caught, all privileged documents were found, document families were coded consistently and so on.

One of the primary differences between per-hour and per-document pricing for review is that quality control review is also an hourly charge — not so with per-doc pricing.

Items that are paid for twice when QC is undertaken in the per-hour model include: confirmation that all documents are categorized correctly, all coding is consistent within families, privilege calls are consistent

within families and across documents with similar content, confidentiality is consistently reflected and more. On the other hand, a per-doc model is all-inclusive. Correct calls become the vendor's responsibility both professionally and, of course, financially. Again, not so on the per-hour plan.

Imagine going to a restaurant and you order your steak medium-rare. Your steak comes to you and it's burned. You expect that the kitchen will bring you another steak properly done, don't you? And you don't expect to pay for two steaks, just the one cooked according to the way you asked for it to be cooked. Paying a vendor for document review should be no different. If you requested that every document discussing the ABC project be categorized as "hot" (not burned!), and a review attorney missed properly categorizing some of those documents, there should be no additional cost to the client to have the vendor correct those documents and to ensure no additional documents were missed.

### **Review Assisted by Technology in Per-Doc Pricing Models**

Per-doc pricing for document review can help make sure you're getting the most cost-effective process for reviewing your various matters' documents. This includes using a document review vendor that has a good blend of technology and dedicated human review attorneys who understand the entire electronic discovery reference model (EDRM) and can review and categorize documents efficiently and defensibly.

Per-doc pricing should include any of the technology tools that allow the review to be more efficient and more accurate. For example, email threading should be included in per-doc pricing. Email threading allows the document review attorneys to categorize emails more accurately and efficiently, since it keeps all the conversations of an email thread together for one review attorney to read, comprehend and categorize. It also allows for more consistent coding for email families, since one reviewer has all the emails and attachments from a single email subject. All technology-assisted review (TAR) options should be discussed with your review vendor to determine if they will aid in culling documents and data.

When you are choosing a vendor for document review, do not let them skimp on technology. While technology should not replace humans for many aspects of document review, there are some areas where it should absolutely be used to assist.

### **For Transparent, Cost-Effective Document Review Pricing, Choose Per-Doc Pricing**

Per-doc pricing models allow for transparent and cost-effective document review. The client knows up front what the costs of the document review will be and that the document review will be completed in accordance with the client's instructions — without accruing any additional costs.

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*Disclosure: The author's company provides services discussed in this article.*

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