Vendor Selection

- Methods of Selection
  - RFPS
  - SOWs
  - Engagement Letters
- Resources to Identify Vendors
  - Previous RFPs
  - Request for Information (RFI)
  - Peer Recommendations
    - ILTA site
  - Industry Groups

Vendor Security/Confidentiality

- **Security**
  - Can vendor provide formal documentation on physical security parameters of their data processing facility?
  - Does the vendor have formal policies for data security and management?
  - What certifications does the vendor have around data security?
  - Has the vendor hired a third party to evaluate their data security and/or compliance with applicable regulations, including HIPAA and HITECH?
  - Is the vendor processing center ISO27001 certified? SAS70 certified?
  - How often are the security policies reviewed and updated?
  - Has the vendor had any security breaches or incidents involving potential exposure of PII or PHI in the last three years?
    - If so, please list them.
  - Does the vendor have a data security team or data security officer on site at your facility?
  - How many people within the organization are specifically tasked with managing and maintaining the security and integrity of client data?
  - What levels of security are enacted for physical access to the data processing facility?
    - Key Card?
    - Man Trap?
    - Biometric Access?
    - Video Surveillance?
  - Is the vendor Safe Harbor certified to allow international data transfer?
  - Will work be completed entirely onsite, will data be transmitted physically or electronically to a processing/hosting facility, or will all collections be performed remotely?
  - Is data going to be hosted in a specific physical environment or on a cloud-based server?

  - What components related to data privacy and specifically, PII, PCI, and PHI data are included in contracts, especially those related to indemnification, liability limitations, and insurance requirements?
- **Confidentiality**
  - What experience do you have working with and representing financial organizations, healthcare organizations or other organizations dealing with highly confidential data, PII, PCI, PHI ?
  - HIPAA/HITECH related data
  - Have you undertaken any specific efforts to comply with the new regulations around HIPAA & HITECH?
  - PCI Data
  - Have you undertaken efforts to achieve PCI Compliance?
  - PII Data
  - What special efforts are utilized to manage communication of PII?
  - Data encryption in transit?
  - Data encryption at rest?
  - Secured email systems that password encrypt data files/attachments?
  - Limitations on sending key PII data (social security numbers, bank account numbers) via regular email?
  - Confidentiality agreements
  - Conflict check/management

Kick-off Meeting

After outside vendor has been identified and contract, SOW, engagement letter executed

- Schedule a call for all parties to meet
- Introduce each member of the team
  - Name
  - Role on Team
- Establish the SPOC (Single Point of Contact) for Vendor and Client
  - Explain SPOC roles and communicate procedures for client and vendor teams
- Establish communication schedules and forms
  - Calls
  - Email
  - Dashboard
  - Reports (which fields included)
  - Frequency of project plan/deadline updates
    - Expected information in weekly/monthly updates
    - Will all calls be followed up with written recap by vendor to ensure accurate communication?
- Change management process
  - Change logs
  - Establish who can make changes
- Review report formats and delivery schedule. Review any necessary report format modifications or custom reports and their estimated costs, if any.
- Expectation Setting
  - Initial cost estimates and what services/deliverables are included in this scope
  - Expected time for completion of various project deliverables as well as overall project time
  - External project deadlines
- Is formal Early Case Assessment necessary/useful in this matter
- Form of Production discussion
  - Metadata fields required in database
  - Native production vs hybrid
  - Tiff, OCR, Redactions and Log formats
  - Specific coding needs for production export may require vendor to create specialized routines, get this ironed out before production deadline

Helpful Hints:

- Consider establishing level of technical expertise of key members of project team, so appropriate/accessible language is used
- Encourage client to communicate all deadlines proactively – no surprises that could possibly be avoided.
- Encourage vendor to proactively communicate at all times and outline expectations of delivery turn-around such as data loading, creating productions, processing for analytics.

Points of Contact

Matter Name ______________________________

Project Start Date ______________________________

Name	Client/Firm /Vendor	Role	Email	Phone Number
	Client	Managing Attorney		
	Client	Client In-House Attorney		
	Client	Paralegal		
	Client	IT/eDiscovery		
	Client			
	Client			
	Firm	Managing Attorney		
	Firm	Associate		
	Firm	Litigation Support Project Manager		
	Firm	Litigation Support Project Manager Backup		
	Firm			
	Vendor	Project Manager		
	Vendor	Project Manager Backup		
	Vendor			

Date	
Matter Name	

Meeting Notes

In Attendance

Points of Discussion

Action Items	Responsible Party	Due Date

Technology

- What systems will be utilized?
    - Collection
    - Culling/Processing
    - Review Platform/Host Data

- **Collection**
    - Identify potential sources of data, ESI (Electronically Sourced Information) and priorities
        - Initial custodians
        - International data?
        - Identify systems at client location(s) for collection
            - Email
            - Network
            - Data Management System (DMS)
            - Cloud based systems
            - Specialized Databases
    - Which method of collection needs to be utilized?
        - Forensic collection
            - Does vendor have forensic collection methods or will third party need to be hired?
        - Client Collection
            - Targeted Collection
            - Collection Tool
        - Collection Vendor
    - Chain of Custody Forms
    - Outline priorities for collection, processing, review and production
    - Outline custodian priorities that may affect deduplication methods

- **Culling**
  - Will the data be culled in culling only software or in Review Platform?
    - How will the data be culled?
      - Search terms
      - Date range
  - Initial reporting of search term hits to validate search term list
  - If data is in culling software
    - Confirm full family pulled for search terms, date search
  - If data is culled in Review Platform
    - Will the data be coded or near-lined?
  - How will this process be documented for future use and to share with opposing counsel?

- **Processing**
  - Consider what will be needed per production order
  - Specifications to consider:
    - time zone selection
    - compound document information
    - email settings
    - use of NIST
    - track changes information
    - hidden information within files
    - text extraction
    - OCR when needed
    - deduplication
      - MD5 or SHA?
      - Global or custodian based?
      - Are Email attachments deduped for review only?
  - Reporting
    - Exception Report after data is processed?
    - Deduplication reporting (when necessary)
  - Export for Review Platform
    - Data
      - Which metadata fields are required for database and production order
      - Additional fields needed for tracking
        - Custodian
        - Collection Source
        - Collection Date

        - Images
            - Tiffs or Export Natives for Review (Tiff on the Fly in Review Platform)
        - Extracted Text/OCR
        - Natives

- **Review Platform**
    - What platforms are available from vendor and which are best suited for the matter?
        - Identify legal team members that will need access
        - What are the costs associated with this access, monthly user fees?
        - Separate permissions for different types of reviewers?
    - Automated workflow within review platform
        - What are the steps?
    - Are there additional tools/analytics available that would assist in culling data pool?
        - Initial reporting of search term hits to validate search term list
    - Is predictive coding available for review?
        - Is it appropriate for the matter?
        - If so, who will be responsible for 'training' initial document population (seed set)?
    - Review Protocol needed from client/outside counsel
        - Coding layout – what will the reviewers look for
            - (Is there a separate charge for creating coding layout?)
        - Privilege fields coded
        - Redaction of metadata fields needed?
        - What updates/reports will be generated?
        - How often will updates/reports on review be provided?
        - What fields/metrics will be included?
        - Is there a separate Review project manager?
        - What does Review QC process look like?
        - Can the review software auto translate foreign language documents?
        - Redactions
            - Can the user Tiff on the Fly for redactions?
            - black box or white box?
    - Who handles production?
        - Client, vendor, or law firm?

- **Production Format**
    - Footer Information
        - Bates Labeling
        - Confidential footer
    - Image Format
        - Single-page Tiffs
        - Multi-page PDFS
        - Note: Once produced, will production documents be hosted by vendor (for use by legal team)?
    - Additional cost for this?
    - Load Files
        - Format specified in production order
        - Metadata fields included
    - Extracted Text/OCR (for Redacted Only)
    - Natives
        - Naming format?
    - Production Media
        - Encryption software to be used for production?
        - Standardized password format?
        - Once produced, will production documents be hosted by vendor (for use by legal team)? Additional cost for this?
        - Final Production QC
            - Have vendor mail production copy and file copy to producing party and not directly to opposing counsel
- Production Issues
    - How to handle issues with production?
    - Identify source of issue
- Privilege log creation
    - Can fields be exported from review software by end user?
    - Can client user do this or will vendor project manager have to do this?

Database Management

- Who is managing the database – vendor/client?
- Is vendor available 24/7?
- Is database available 24/7?
- Disaster recovery plan?
- Consider a test run of data through all phases, ASAP, to confirm load/export formats and viability of database workflow

Training

- Who is training users – vendor/client?
- User support coverage 24/7?
- Are training materials sufficient and have they been distributed?

Codify Reporting

- Schedule
- Who creates the reports and who receives them?
    - Formats
- Available Customization
- Online / Real time reporting available via client dashboard?
- Understand extent of workflow automation at vendor and its impact on through-put, staffing and reporting
- Will additional QC steps need to be put in place?
- Confirm any and all data transfer methods between vendor and client(s) and any necessary infrastructure modifications, passwords, etc.

Codify Billing

- Invoices to
    - Firm(s)
    - Law Dept
- Who is authorized to request additional work/changes?
- How will scope change, change requests be addressed from billing perspective? (change order vs amendment to SOW)
- Who will/will not be checking invoices?
- What is invoice schedule/format?
    - Client matter number(s)
    - Task codes
- Request and "okay" Vendor sample invoice
- Confirm cost, time and procedures associated with removing data from vendor, if necessary.

Project Post-Mortem

- Data Remediation Options
- Vendor storage of data results (onsite, near-line, off-line)
- Vendor destruction of data
- Vendor returns data to client
- Every case should include a follow up call/report identifying key milestones in a case, what worked well, what problems were encountered and how were they resolved?