

Deloitte Second Request Services

Knowledge, experience, and scalability to help you meet a second request



Attempting to complete a critical merger or acquisition can be a daunting challenge for a company and its antitrust counsel, especially when a Request for Additional Information and Documentary Materials, otherwise known as a “Second Request,” is ordered.

Overview

Common challenges, including identifying sources of potentially responsive information, collecting the information in a timely and well-organized fashion, processing the data for review, and training and supervising a review team to analyze the materials, all contribute to the pressures of meeting a Second Request. Combined with the need to produce properly formatted materials to the Federal Trade Commission or Department of Justice Antitrust Division, a great deal of speed, accuracy, and attention to detail is needed to effectively comply with the request. Equally, a failure in compliance can lead to delay, the collapse of the deal, the payment of sizeable break-up fees, or even worse, protracted litigation over the lost opportunity.

Deloitte Discovery has worked with organizations, law firms, and regulators on some of the largest and most complex Second Requests. We bring the people, technology, resources, and experience to help you keep the deal on track while tackling the formidable challenges posed by Second Request compliance. Leveraging the

knowledge gained from our experience has enabled us to help you to anticipate road blocks and overcome them, as well as to assist you with planning for Second Request compliance from the moment the request is issued. Furthermore, Deloitte Discovery offers true end-to-end coverage of the Second Request process – from preservation through collection, processing, review, and production.

Our solution

Second Requests can create an urgent need to review voluminous documents and data before a transaction can proceed. As a result, it is imperative to promptly identify and collect potentially responsive information from document custodians and from data repositories. Deloitte personnel can work alongside you to collect the data needed for compliance. We bring to our clients the skills and scalability needed to perform enterprise-level search and targeted collections, and our professionals have experience working with in-house IT teams to collect e-mail, file server data, and structured data, either on-site or remotely. We can facilitate the simultaneous harvest of data located throughout the U.S. and around the world.

We also know that along with speed, the ability to have real-time updates on the status of data collection is also important. Our commitment to collaboration throughout the collection process can provide visibility into data collection at each stage.

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People and technology

By using leading technology and other demonstrated eDiscovery tools, we can help counsel organize, cull, and prepare data for review. Moreover, our personnel can assist you in selecting the applicable culling work-flow prioritization strategies for the matter, whether that involves de-duplicating data, crafting basic word searches, or employing the latest technology to facilitate concept clustering or document seeding.

Deloitte couples its Second Request experience with processing technology that has extensive scalability. As a result, we have the processing capacity to stay ahead of even the largest review teams, thus significantly reducing costly and disruptive reviewer down time. We also offer true 24/7 support geared to resolving issues and answering questions whenever they arise. Additionally, our team has experience working with counsel in negotiations with the antitrust agencies to help limit and define the bounds of Second Request compliance. For example, in a recent Second Request, Deloitte not only worked with counsel and the reviewing agency to limit the reach of the request, we also created a web-based platform for use by the agency to review native files produced by the law firm's client and devoted a full-time project manager, who was appropriately walled off from the rest of the Deloitte team, to support the agency's review.

Managed Document Review

Deloitte's experienced team of reviewers can be rapidly trained on the particular facts and issues presented by a Second Request to help accelerate the time it takes to get to review and identify data required to move the investigation along. We employ time-tested and established quality checks to help validate our reviews, and we also use various reports to help provide updates on the pace of review, and to identify documents of potential interest to keep the legal team abreast of the information gathered by our reviewers.

Production

Production requirements and formatting are some of the most critical issues related to Second Request compliance. To address these issues, Deloitte brings the capacity to produce responsive materials in many desired formats – e.g., extracted text with metadata, TIFF images, or native

file format – promptly and efficiently. Furthermore, we also have experience working with the antitrust agencies in setting up web-based review repositories when applicable. We also have quality control procedures in place to check the validity of the production for added comfort, and we have experienced personnel who can assist with production inquiries as compliance deadlines loom.

Our Experience

For a manufacturing company

A national law firm engaged Deloitte on behalf of a Fortune Global 500 manufacturing company, which had received a Second Request from the Department of Justice ("DOJ") Antitrust Division for an \$800 million acquisition.

The Second Request required the rapid collection, processing/hosting, review and production of a large volume of disparate data from both companies for the purpose of responding to the antitrust subpoena. We worked with the Deloitte Touche Tohmatsu Limited member firm in Japan to collaborate in collecting and preserving over 11.5 TB of data from various network repositories for more than 60 custodians in the US and Japan. We then helped the client cull the review population to 1.1 TB of hosted data, helped develop and run highly targeted searches across the review population, and handled the Japanese-to-English translation process. By effectively managing more than 140 active reviewers, we were able to produce 750,000 documents to the DOJ in less than the 60-day required timeframe.

As a result of our efforts, the client effectively and defensibly responded to the Second Request and met the DOJ's aggressive deadlines, which ultimately led to a successful acquisition.

Contacts

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