



2022 EDISCOVERY INNOVATION REPORT

Public Sector

Public Sector

Executive Summary

Change comes slowly in the legal industry – and in the public sector. But after two years of pandemic-caused disruption, once-temporary transformations are starting to take hold.

This survey of public-sector legal professionals shows that while modernization remains a low priority for respondents (ranking second to last, overall), when it comes to cloud-based ediscovery, there is broad recognition that legal technology is rapidly moving to the cloud. And for many innovative government lawyers and legal professionals, that change is already here.

In some ways, cloud-based tools are already the norm for public-sector legal professionals. Not only do 73% of respondents agree that cloud-based ediscovery is the right solution for handling the increasing volumes of data, but 69% are also leveraging cloud technology to share documents with collaborators.

More important, the benefits are now more apparent: 73% cited scalability for handling increasing data volumes as the top advantage of cloud-based discovery tools. Additionally, a majority of respondents believe that ease of use (53%) and efficiency (65%) are the other major benefits of utilizing this technology.

Despite slow adoption, the overarching sentiment within the public sector is that cloud-based ediscovery is the present and future of the industry as a whole; 97% of respondents believe that cloud-based ediscovery will be the industry standard within the next two years. In spite of this common belief, the public sector still lags behind other industries in the adoption of modern cloud technology. But one thing is clear. In the minds of the public sector, whether it's in 2022 or in the next couple of years, change is on the horizon.

Key Findings

1. SCALABILITY AND IMPROVED COLLABORATION ARE ENCOURAGING A SHIFT TO THE CLOUD, WITH A MAJORITY ALREADY USING CLOUD TECHNOLOGY

A supermajority of respondents see scalability to handle increasing data volumes as the main advantage of moving to the cloud (Figure 9). Additionally, 69% of respondents already leverage cloud technology to share documents with collaborators (Figure 15). As attitudes toward the cloud continue to shift, so too does its place in the industry, as 96% of respondents envision it becoming the new industry standard within the next two years (Figure 5).

2. DESPITE THE DESIRE FOR EFFICIENCY, MODERNIZATION RANKS LOW ON GOVERNMENT PRIORITIES

Even though improving efficiency was cited as the top priority for respondents, modernizing their ediscovery software (which could help alleviate this pain point) ranked second to last (Figure 12). Additionally, one in five government offices is still leveraging software that hasn't been updated for over three years, and more than half still share data via email, despite it often being cited as an insecure and inefficient channel of collaboration (Figures 8 and 15).

3. DATA SECURITY WITHIN THE CLOUD IS STILL A CONCERN

More than half of respondents cited data security and privacy challenges as the main disadvantage of a cloud-based ediscovery solution, despite the government audience being evenly split between using on-premises software and SaaS, or software as a service, with both at 42% (Figures 10 and 4).

4. DESPITE THE MOVE TO KEEP DISCOVERY IN-HOUSE, BANDWIDTH LIMITATIONS LEAD TO CONTINUED OUTSOURCING

Government offices are allocating resources and staffing toward ediscovery, with 74% of respondents having a dedicated or partially dedicated team managing an in-house ediscovery solution (Figure 7). However, personnel limitations remain a significant challenge, with over half of respondents attributing a lack of staff and bandwidth as the reason for outsourcing their ediscovery process (Figure 6). Furthermore, 38% of respondents report that being understaffed is a big challenge with their current ediscovery process (Figure 11).

What do these findings tell us? Even with a clear consensus that the cloud will be the future of ediscovery, confusion over what modern solutions can provide has caused inertia in the public sector – despite technology's ability to alleviate the very issues (security, efficiency, data management, costs, etc.) that have plagued government offices. Without further adoption, these challenges will persist.

Methodology

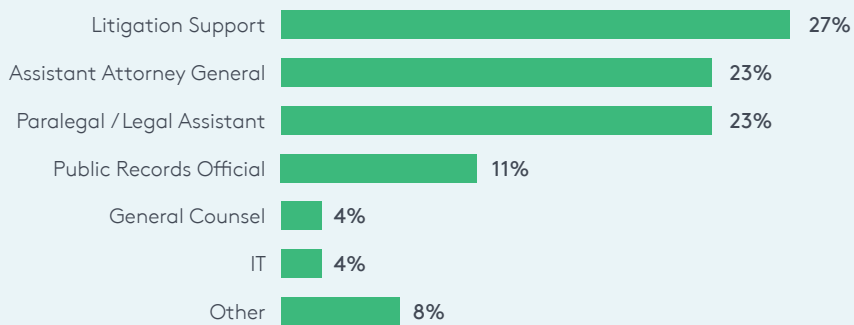
Everlaw conducted this study with ACEDS, or the Association of Certified E-Discovery Specialists, to learn more about key trends in ediscovery innovation. We emailed legal professionals in May 2022 and received 195 completed responses to our survey. This report gathers insights from those respondents working in federal, state, or local government. Respondents were not provided an incentive for participation; however, Everlaw made a \$5,000 donation to Save the Children's emergency fund for Ukraine and to the Innocence Project on behalf of the survey participants.



Survey Demographics

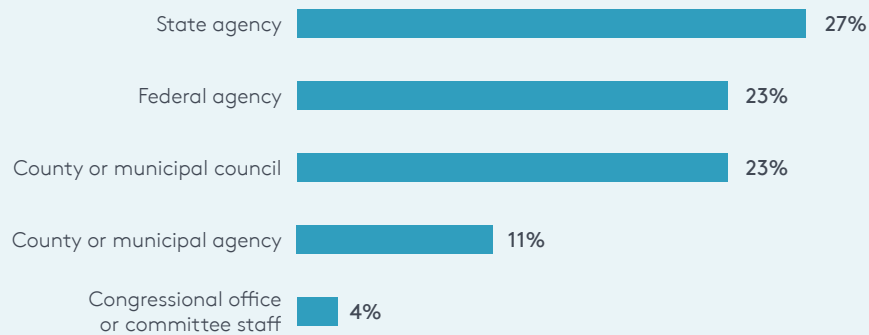
Most Common Roles

Fig. 1



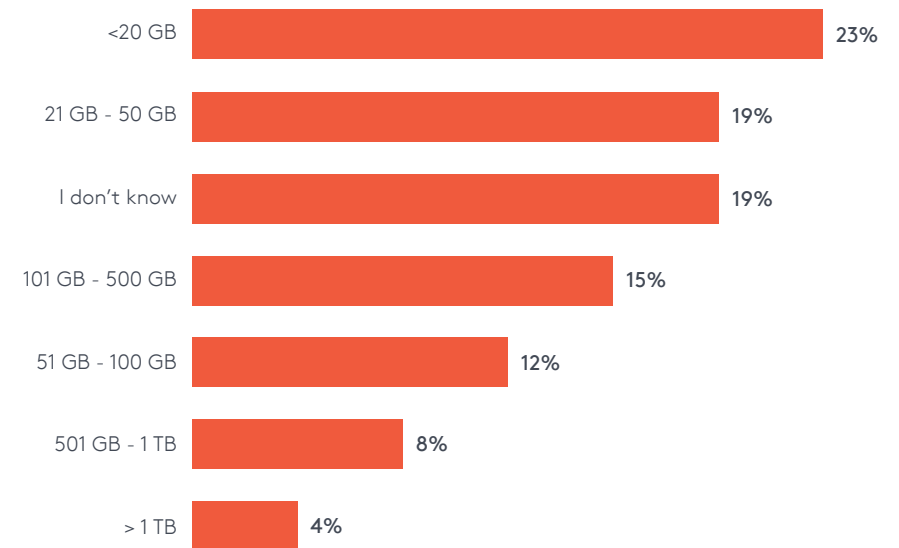
Most Common Division, Agency, or Office

Fig. 2



Average Case Size, Measured by Discovery Data in GBs

Fig. 3

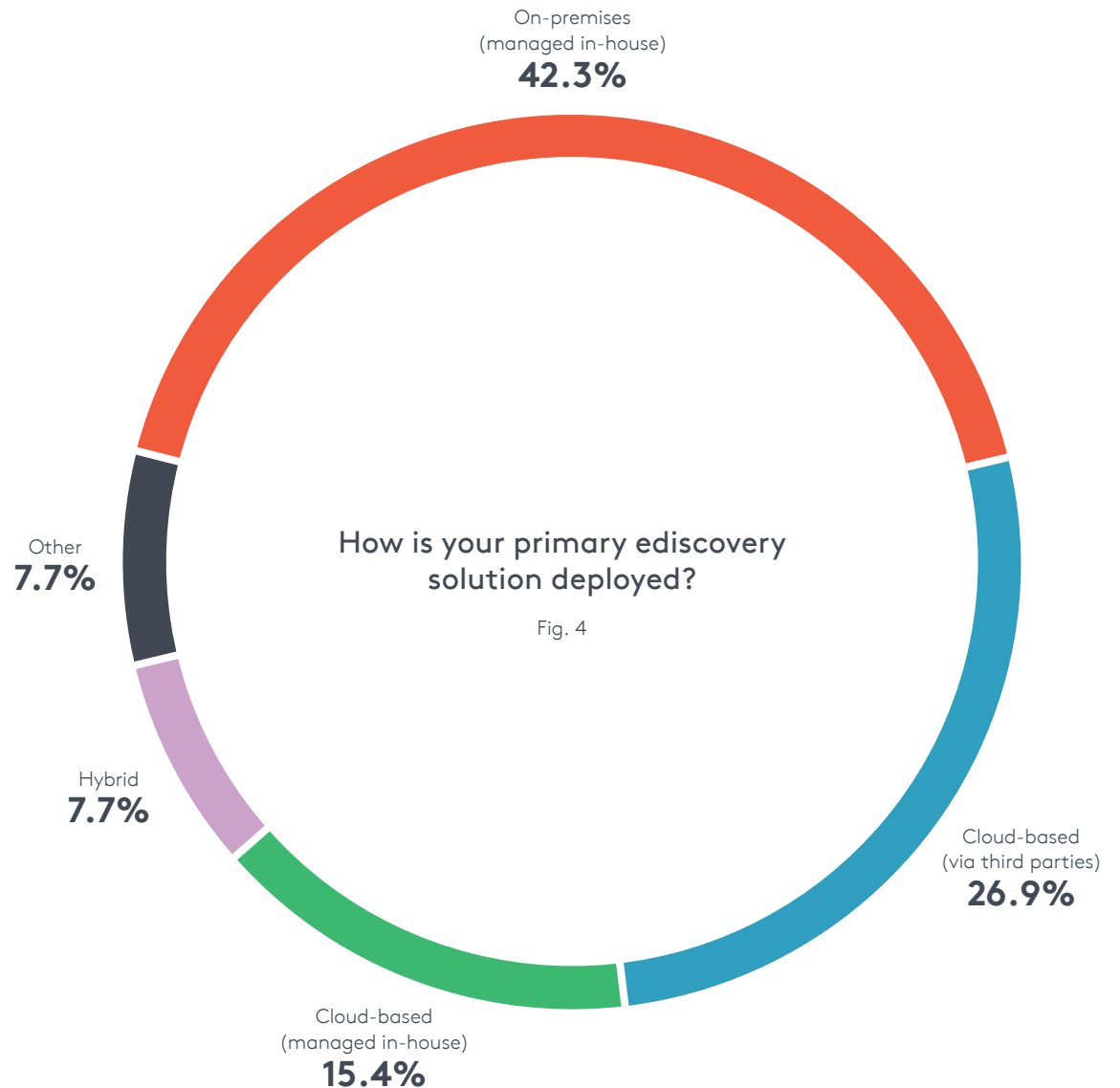


While there are certainly government offices that handle large cases (11% have average cases that are 501+ GB), 42% said that their standard case size is less than 50 GB. That doesn't mean that data is not a challenge, though. More than a third of respondents cited ESI collection and management of complex file types as their biggest obstacles, 38% and 31%, respectively (as noted in Figure 11).

An Even Split: Cloud-Based Ediscovery Matches Adoption Rates of On-Premises Solutions

The government audience has arrived at an inflection point regarding cloud-based software, as it has now matched the adoption rate of on-premises software. Respondents are split down the middle between using on-premises solutions and cloud-based SaaS platforms. Of those who leverage a SaaS platform, more government offices use third-party service providers or outside counsel to manage it.

Overall, the sizable adoption of the cloud demonstrates a deepening trust in SaaS platforms.



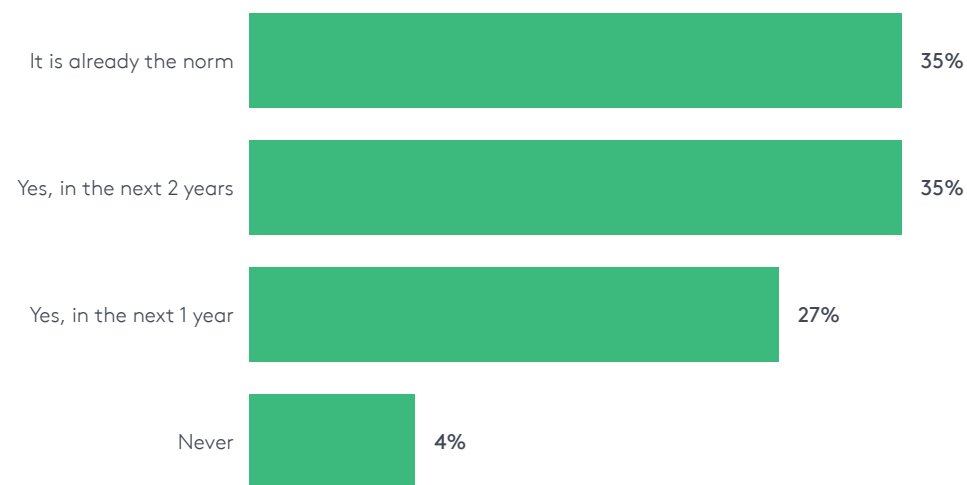
Cloud Is the Future of Ediscovery, but There's Hesitancy

A total of 97% of respondents believe cloud-based ediscovery is either already the industry standard or will be within the next two years, with 27% stating that it will arrive at that designation in the next year. For nearly the entirety of the industry, it's clear the cloud is here to stay.

However, even with this consensus, there still isn't a significant push from the public sector to modernize their ediscovery solution. For example, only 23% of respondents rank modernization as their top priority (as noted in Figure 12).

Do you believe that cloud-based ediscovery will become the standard in the future?

Fig. 5

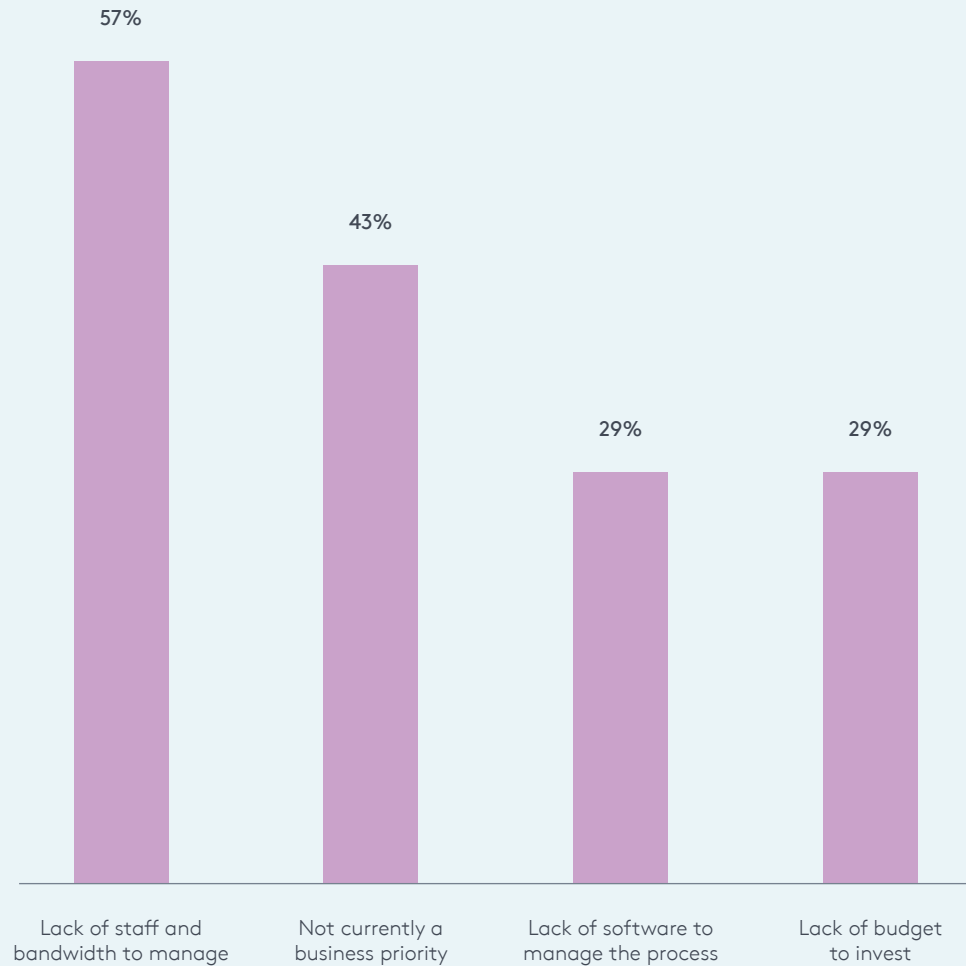


Lack of Bandwidth Has Become a Roadblock for Bringing Ediscovery In-House

Bandwidth constraints and lack of staff to manage ediscovery is the leading reason (57%) why government offices outsource their ediscovery hosting and management. Additionally, 43% of respondents indicated that bringing ediscovery in-house is currently not a business priority – despite cloud-based ediscovery’s ability to act as a force multiplier, expanding legal teams’ abilities to do more, faster, and with greater control.

What are the reasons why you outsource hosting of your ediscovery platform? (Check all that apply.)

Fig. 6

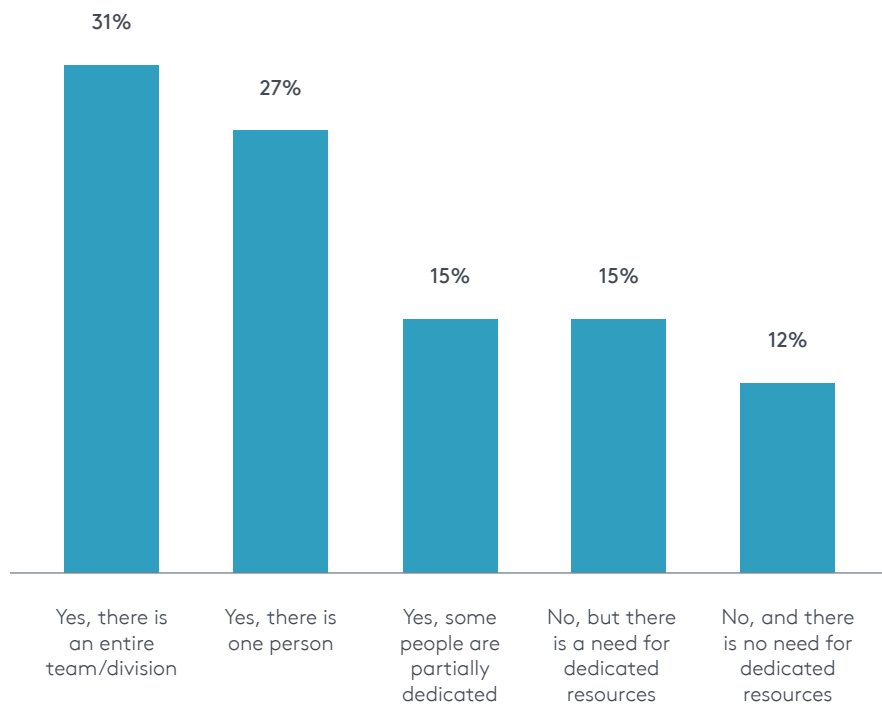


The Use of Outdated Software Is Still Prevalent

Nearly 20% of government offices are using software solutions that have not been updated for over three years – and nearly 8% have not been updated in over five years. Utilizing out-of-date technology can lead to inevitable drawbacks, such as time-consuming workflows, difficulty managing complex data, and most important, significant security risks.

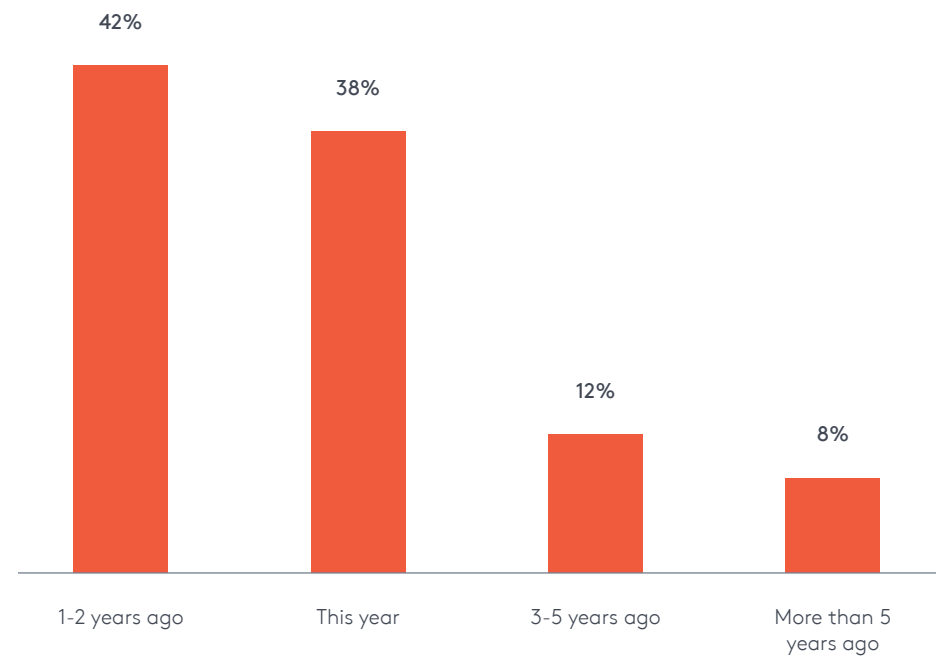
Does your office have a person, team, or division designated to managing ediscovery?

Fig. 7



When was the last time your primary ediscovery software/solution was updated (new vendor or new version)?

Fig. 8



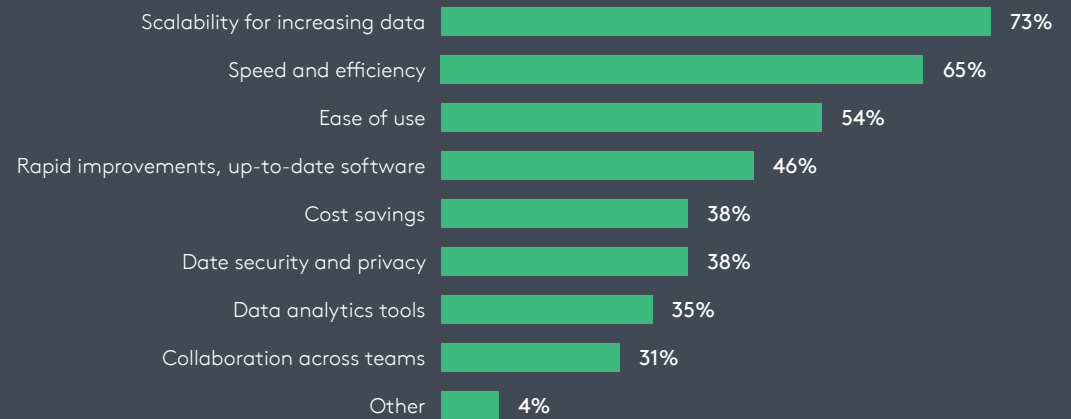
Revisiting the Antiquated Perceptions of the Cloud

In the eyes of the public sector, the top benefits of cloud-based ediscovery center around three core areas: scalability, efficiency, and ease of use. Government offices cited scalability for handling increasing data volumes as the top advantage at 73%, with speed and efficiency and ease of use right behind at 65% and 54%, respectively.

On the other hand, 54% of respondents see data security and privacy challenges as the main disadvantage. This is still the case even though cybersecurity is a particular strength of cloud-based ediscovery (e.g., cloud solutions in AWS GovCloud help safeguard sensitive data, protect accounts and workloads, and strengthen identity management). Security concerns continue to be a sticking point, even though many are using less-secure channels, such as email, to share sensitive data (as noted in Figure 15). The lack of alignment highlights a need for improved education around the type of security cloud-based solutions can provide.

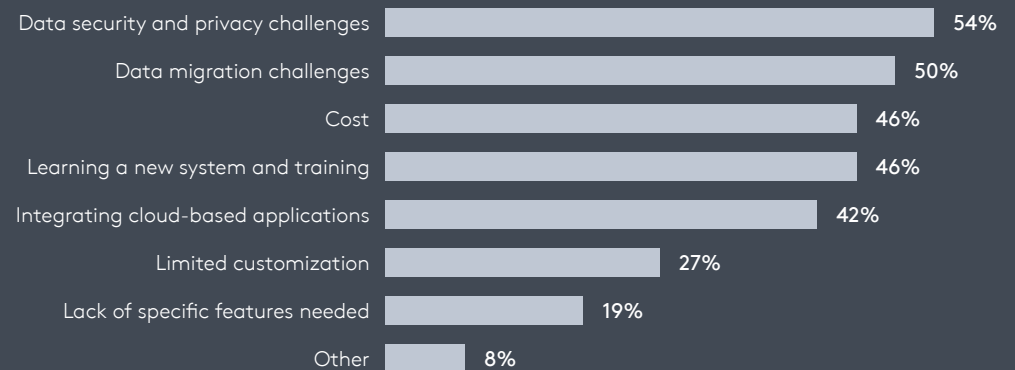
What do you see as the main advantages of a cloud-based ediscovery solution?

Fig. 9



What do you see as the main disadvantages of a cloud-based ediscovery solution?

Fig. 10



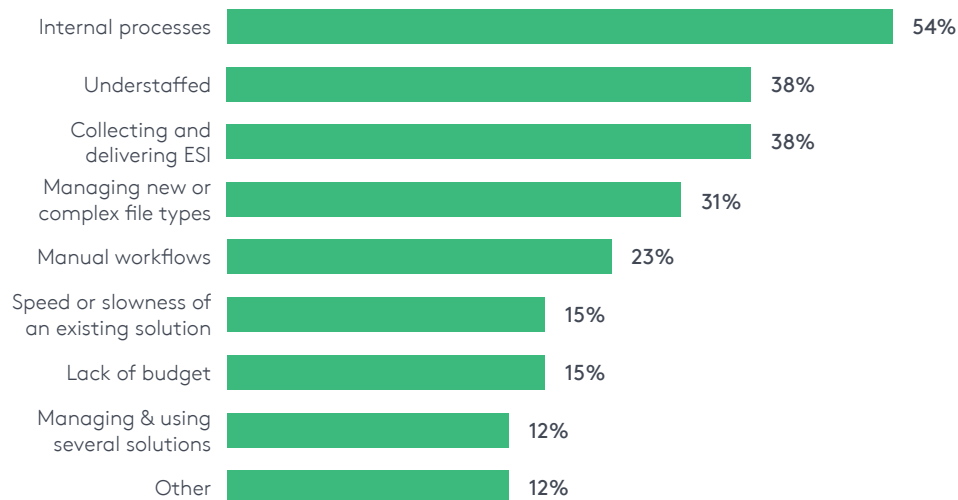
Inefficiencies Create Obstacles During the Ediscovery Process

The biggest challenges respondents have with regard to their current ediscovery processes include tackling internal processes (54%), being understaffed (38%), and collecting and delivering ESI or digital evidence (38%). Surprisingly, lack of budget ranked low (only 15% said budget was a challenge), along with managing and using several solutions (11%).

These findings suggest that internal processes, more than anything, need to be adjusted to help address issues surrounding staffing and managing ESI and that budget is not as big of a hurdle as one may think.

What are the biggest challenges with your current ediscovery process?

Fig. 11

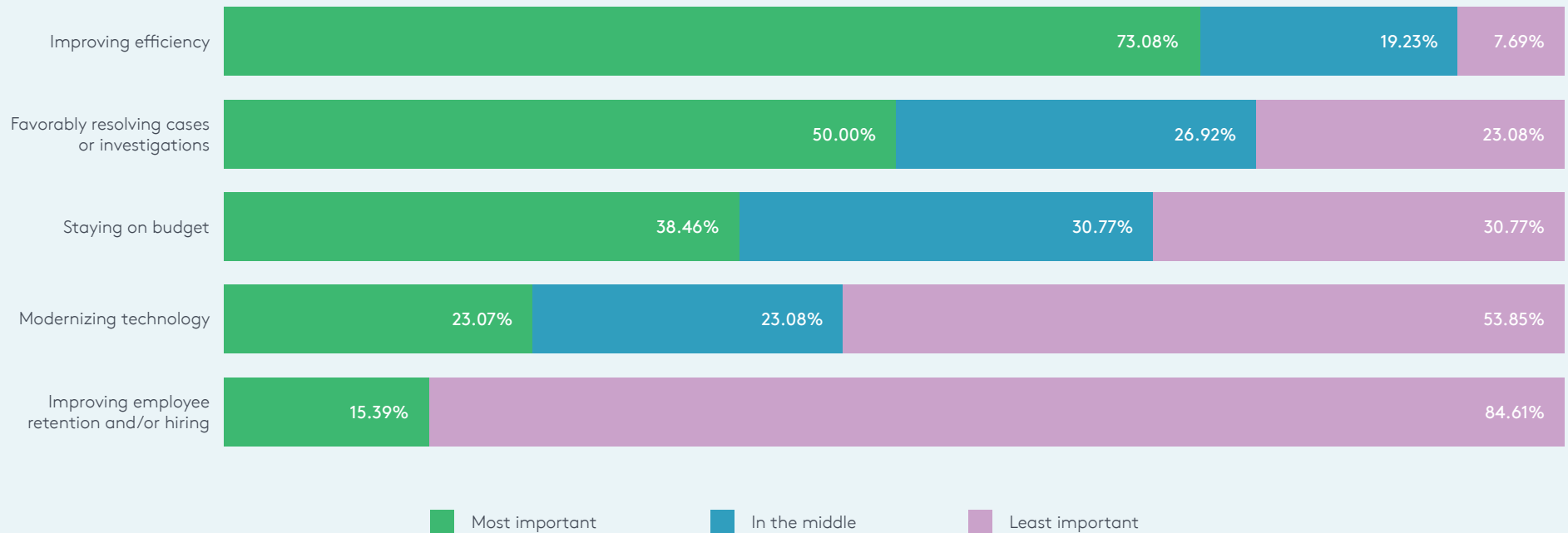


Surprise, Surprise: Improving Efficiency Is Top of Mind

The top priority for respondents is improving efficiency; this includes but is not limited to case close rates and improved FOIA and public records response times. Ironically, even though staffing and bandwidth constraints rank among the top challenges (as noted in Figure 11), improving employee retention and/or attracting new employees is the lowest priority. Also, it's important to note modernizing technology's lower ranking in the chart below, which, if prioritized, could significantly impact the top three items.

Rank your organization's prioritization of the following initiatives.

Fig. 12



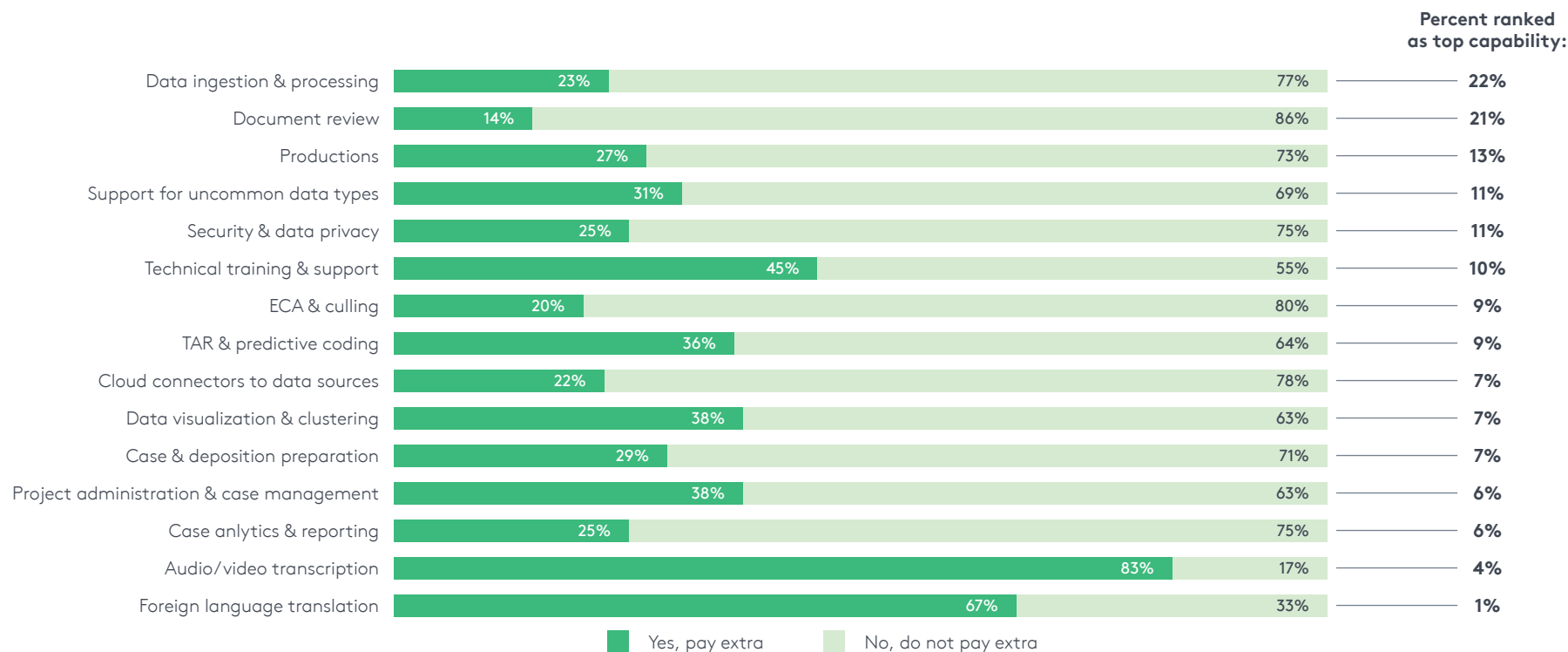
Innovative Strategies and Technology Have Yet to Reach Wide Adoption

The expectations of what ediscovery delivers align with what the industry sees as some of their primary use cases: data ingestion and document review. Respondents stated that these were the top two capabilities they looked for in a solution.

On the flip side, features that involve the handling of novel data, including A/V, or audio/video, transcription, foreign language translation, and cloud connectors, are not ranked as top capabilities. Analytic capabilities, such as data visualizing, advanced analytics, and early case assessment (38%, 36%, and 20%, respectively) still tend to be deprioritized in spite of their widely known benefits.

What are the top five capabilities you look for in an ediscovery solution, and do you pay extra for them?

Fig. 13

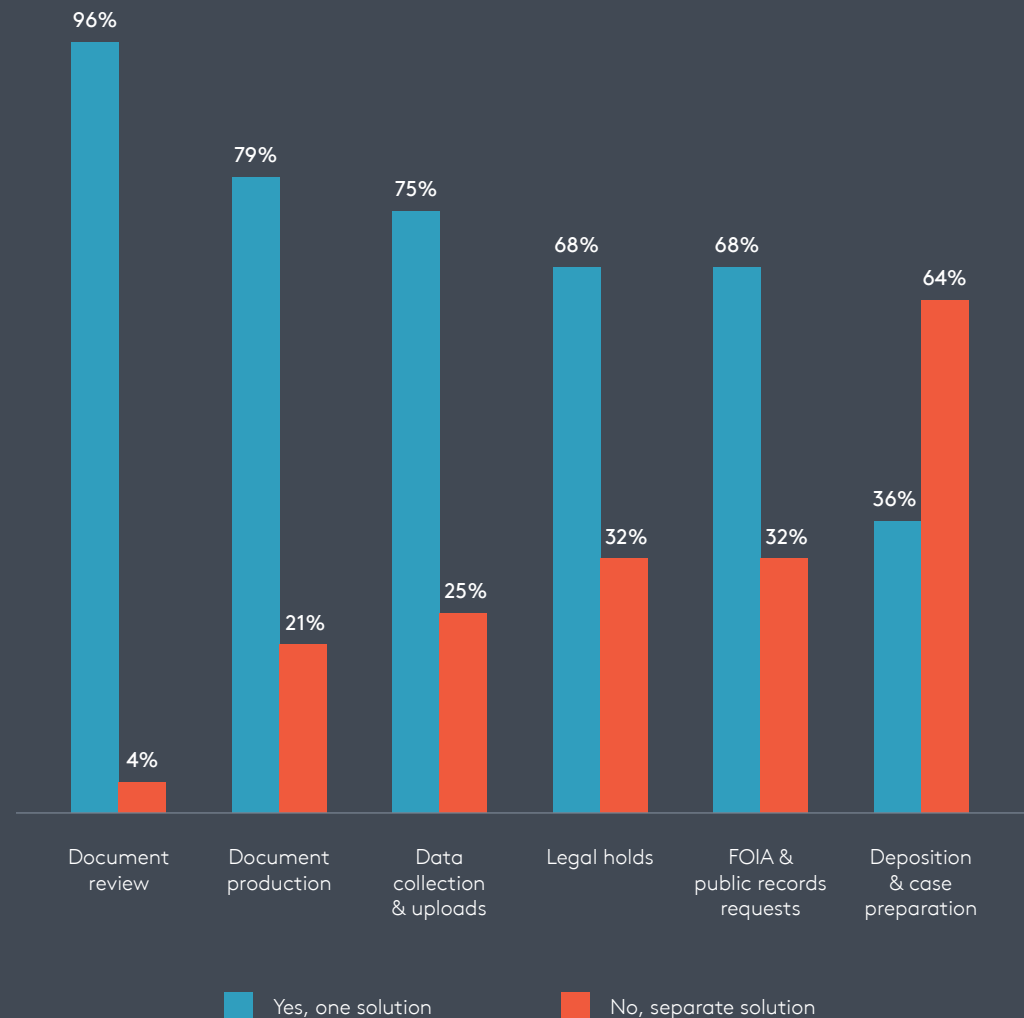


How Ediscovery Is Managed Varies Depending on Use Case

Nearly all respondents (96%) stated that their preference is to have a document review consolidated in a single, all-inclusive platform. Additionally, 79% of respondents said they prefer document production capability within the same platform they use for other tasks. However, 64% prefer to have deposition and case prep in a different solution, indicating a sharp divide between standard document review needs and case preparation.

Which of the following tasks would you prefer to manage in one all-inclusive legal software platform and which via a separate solution?

Fig. 14



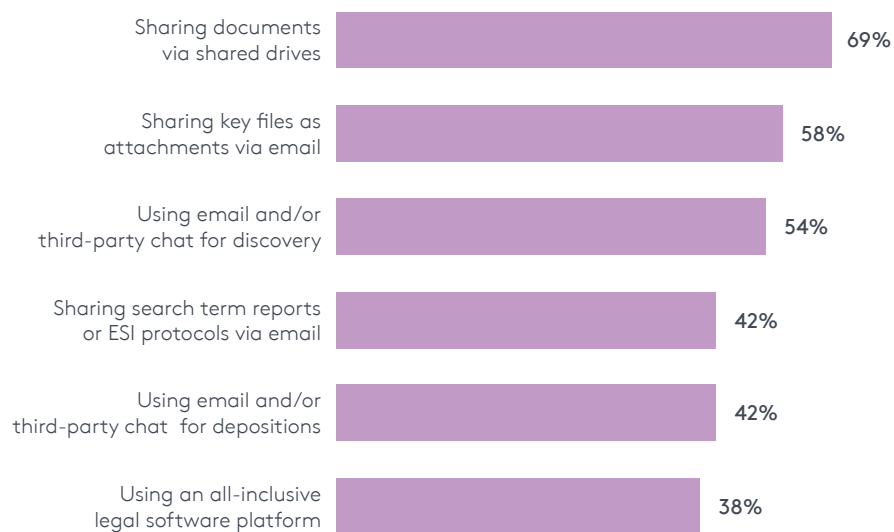
Increased Use of Collaborative Cloud Technology

Respondents are leveraging various types of cloud technology to collaborate with others, with 69% stating they use hard drives like Microsoft SharePoint, Box, and Google Drive, 58% relying on email to share key files and documents, and 38% utilizing an all-inclusive platform. These data points indicate that government offices are not entirely averse to cloud technology, potentially opening for further adoption of new tools and software.

The vast majority of respondents stated that the average size of their team for a particular case is 20 people or fewer. Further, the 58% with teams of just five people or fewer highlight how limited the number of individuals on a case can be – and the importance of tools that can act as a force multiplier.

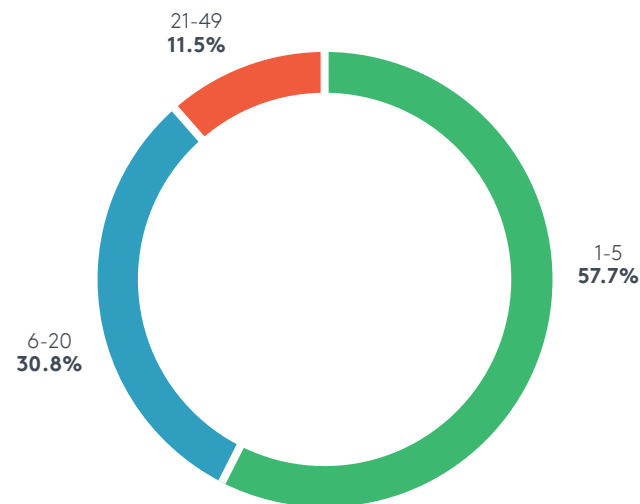
How are you currently using technology to collaborate with those teams?

Fig. 15



In your work, what is the approximate number of people (reviewers, attorneys, investigators, analysts, etc.) collaborating on a typical matter?

Fig. 16



Conclusion: The Slow March to the Cloud

For the public sector, the transition of ediscovery to the cloud is not a question of if it will happen, but when. Adopting cloud-based technology is becoming more appealing as the sizes of data sets involved in regulatory responses, litigation, and investigations continue to balloon and outpace the capabilities of outdated software. Government offices will need to improve efficiency, speed, and security to overcome the challenges they are currently encountering, such as staffing constraints, collecting and delivering ESI, and navigating clunky internal processes.

Despite the consensus that cloud-based technology is the future of ediscovery, many government offices are just starting to consider making the transition. For those still on the fence, remember innovation within cloud technology will only continue to improve over time; that's something that can't be said for on-premises solutions.

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Senior Litigation Support Specialist, State Attorney General's Office



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