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Key elements
of an efficient
subpoena and
law enforcement
response process

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Organizations that receive, process, and respond to large volumes of third-party subpoenas and law enforcement requests are often challenged by not having an established end-to-end workflow and controls-based approach.

Here are key elements to consider when developing or assessing your subpoena and law enforcement request processing strategy:

Streamline intake

Your subpoena and law enforcement request intake process might begin with your registered agent. If you do not have a registered agent, are physically receiving process or other requests at multiple office locations or performing a lot of manual data entry of information, you are probably looking at an approach that is cumbersome, costly, and error prone.

Consider streamlining your intake process and integrating it with your service of process (SOP) registered agent. Also consider the use of an online portal that would allow an issuing party to submit subpoena information directly, minimizing delays and the cost and risk of errors associated with manual data capture. This could be a proprietary, web-based direct request system or repurposed commercially available systems for law enforcement to log their requests.

Your objectives should include timely receipt of process, confirmation that necessary data points are accurately and consistently entered, and reduction in the number of duplicate documents being served. These goals also support more accurate reporting. Some companies are seeing positive results using automated steps during the triage stage to sort and direct requests.

Establish an efficient workflow

Depending upon the nature of the inquiry, a request may need to be sent to one or more departments to compile and review the documents needed to complete a response. The lack of an established workflow causes delay and inefficiency. This is especially true when a company has a complex organizational structure and consistently high subpoena and law enforcement request volumes.

A repeatable and defensible response workflow is essential. Develop a workflow that wholly addresses your subpoena and law enforcement response process from intake to production and payment, if possible. Consider utilizing tools that efficiently and accurately route matters based on subject matter or the urgent nature of the response.

Every manual step that you execute – capturing subpoena metadata, tracking deadlines, generating invoices, creating external media, and preparing shipping materials, tracking payments--is an opportunity for improvement.

A thoughtfully designed and focused process to track request status and turnaround times will allow for timely management reaction to variances. Knowing when a record type or request type is starting to take longer and creating backlogs allows for timely management response and reallocation of resources. Finally, consider engaging an alternative legal service provider (ALSP) experienced in designing efficient repeatable compliant workflow. process and workflows.

Ensure secure data delivery

Outmoded and insecure data transfer methods continue to be a challenge for subpoena response teams. Many are still shipping responses on external media that could be in violation of company security protocols. Tools such as ShareFile and other readily available secure file sharing tools can deliver documents safely and add an extra level of security with password authentication for an issuer to access documents. Regardless of the shipment method, documents should be password protected, with a separate communication to requestor with password instructions.

Track your metrics

It is impossible to measure operational efficiency and control costs without accurate reporting. Consider which data points are vital and ensure your SOP or request management platform is set up to capture what is needed. Issuers, types, subject matter, numbers handled, turnaround times, subpoenas per employee, cost recovery-- these and other metrics are fundamental to managing your team and telling your story in an effective way.

Foundationally, ensure your key metrics are captured and reporting occurs on a consistent basis. Infrequent tracking and reporting could result in response delays, subpoena backlogs, staffing issues, mismanaged workloads and even lost revenue. Frequent tracking and reporting will place your organization in the best position to identify and address risks, demonstrate your response team's value, as well as showcase what you must do to make subpoena processing a cost recovery exercise instead of an ordinary cost of doing business.

Recover your costs

Organizations often have shared that they do not recover third-party subpoena response costs because they are unsure of how much to bill or there is no process in place to consistently enforce, collect, and track payment. Inefficient processes to track collections prevent you from sending accurate reminders of nonpayment. Simply sending a request for payment with your response documents will not likely yield the best results but is a start to recovering some of your fixed costs. Many states allow for the responders to be reimbursed for "reasonable expenses" incurred in responding. Consult with your legal team, determine what is reasonable for your efforts, and investigate what your industry peers are doing regarding reimbursements.

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