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RESEARCH HIGHLIGHTS

# E-discovery Market Trends and Challenges

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AUGUST 2021

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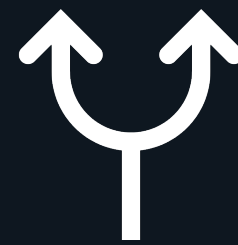
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Speed is the e-discovery capability that  
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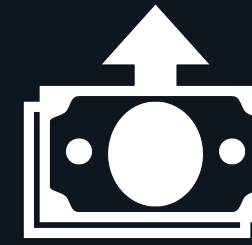
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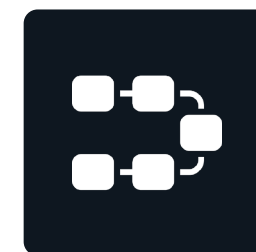
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## Research Objectives

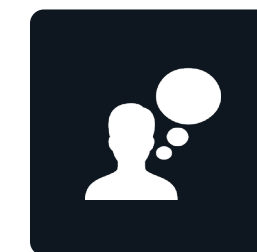
As more data is generated, it becomes increasingly difficult to organize, collect, and analyze. While this complicates many aspects of data management for organizations, the e-discovery process has its own unique set of considerations. The propensity to store data on an increasing number of disparate devices, the rate at which data is growing, and net-new data sources organizations must manage are all creating headaches for individuals involved in the e-discovery process. Whether it's the IT teams that are mining, consolidating, and cleansing data or legal teams responsible for responding to litigation and audit requests, the e-discovery process can be an arduous task.

This eBook outlines new ESG research intended to help readers with responsibility for their organization's e-discovery technologies and processes understand trends in the market and how their organization compares to their peers.

**This eBook is intended to help readers understand the state of the market in terms of:**



**Requirements and challenges in e-discovery workflows and execution.**



**Sentiment toward e-discovery and how sentiments differ between IT and legal personas.**



**Perceptions related to the reliance on the role of outside counsel and trends moving forward.**



**Quantified investment trends and priorities.**

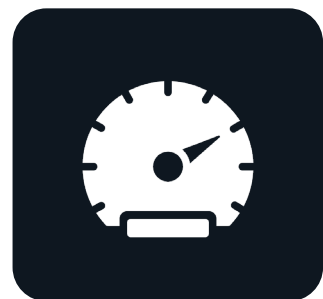
## Research Highlights



**The average number of e-discovery requests, and associated data, is increasing and will only continue to do so.**

The data boom caused by digitization has increased the volumes of data that organizations have under management. Legal and IT professionals responsible for responding to e-discovery requests and internal investigations must be aware that, without the right tools and processes in place, increasing data volumes, complexity, and e-discovery requests will combine to make responding to requests more challenging.

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**Speed (reducing the time needed to fulfill e-discovery search requests) is the capability that respondents most often believe needs significant improvement.**

Regardless of how fast e-discovery tasks can be completed, the majority of survey respondents wanted to accelerate time to discovery.

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**Most organizations report a desire to reduce their reliance on outside counsel when responding to e-discovery requests.**


The ability to complete business tasks in-house is often more cost-effective than engaging a third-party service provider. When it comes to e-discovery, things aren't any different. We see a major disconnect between how e-discovery is currently addressed in terms of engaging outside counsel and what respondents think is the best-case solution for their organization.

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**When asked if they anticipate any change to the cost of e-discovery, a significant portion of respondents reported increases in future spending.**

Whether those budgets materialize in practice is uncertain. Even if they do, organizations' ability to keep pace with increased demand is uncertain.

A woman with dark, curly hair and blue-rimmed glasses is sitting at a desk in an office, working on a laptop. She is wearing a light-colored blazer over a white top. The background shows a window with a view of a building. The text is overlaid on the left side of the image.

**The average number of e-discovery requests, and associated data, is increasing and will only continue to do so.**

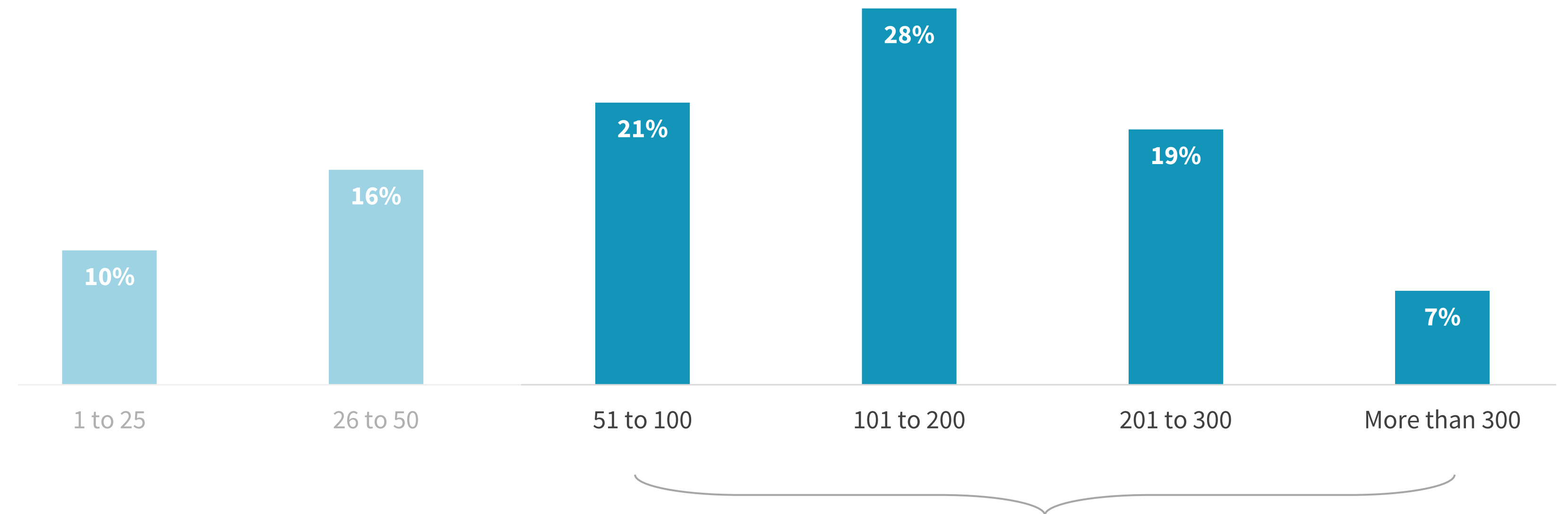
## Organizations Face a Significant E-discovery Burden

In terms of current workload, 75% of organizations completed over 50 e-discovery requests in the last year. In fact, on average, organizations completed around 263 e-discovery requests in the trailing 12 months.

When asked which of the following makes it harder for the organization to satisfy e-discovery requests, the number of requests increasing was a top response (cited by 36% of respondents). It's clear that the significant and increasing volume of requests is an issue that is going to persist and most likely get worse over time.

| The number of e-discovery requests organizations respond to per year.

Mean (trailing 12 months) = **263 requests**



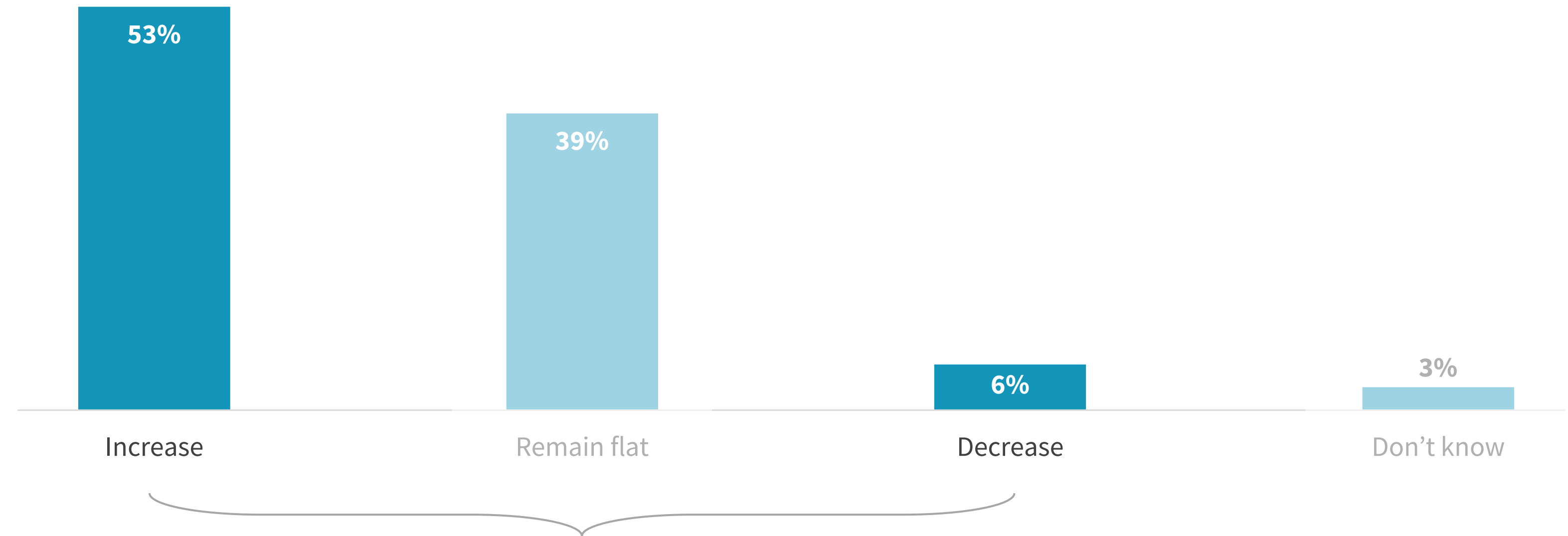
“ In terms of current workload, **75% of organizations completed over 50 e-discovery requests in the last year.**”

## E-discovery Requests Are Expected to Increase

The majority (53%) of organizations expect an increase in e-discovery requests over the next 12-24 months. Organizations forecasting an increase outnumber those expecting a decrease by nearly 9 to 1.

With so many organizations facing e-discovery volume increases, while already citing it as a present-day pain point, IT and legal teams need to find ways to streamline e-discovery processes to avoid being overwhelmed and respond within expected time frames.

| How will your organization's e-discovery burden change over the next 12-24 months?



“ Organizations forecasting an **increase outnumber those expecting a decrease by nearly 9 to 1.**”

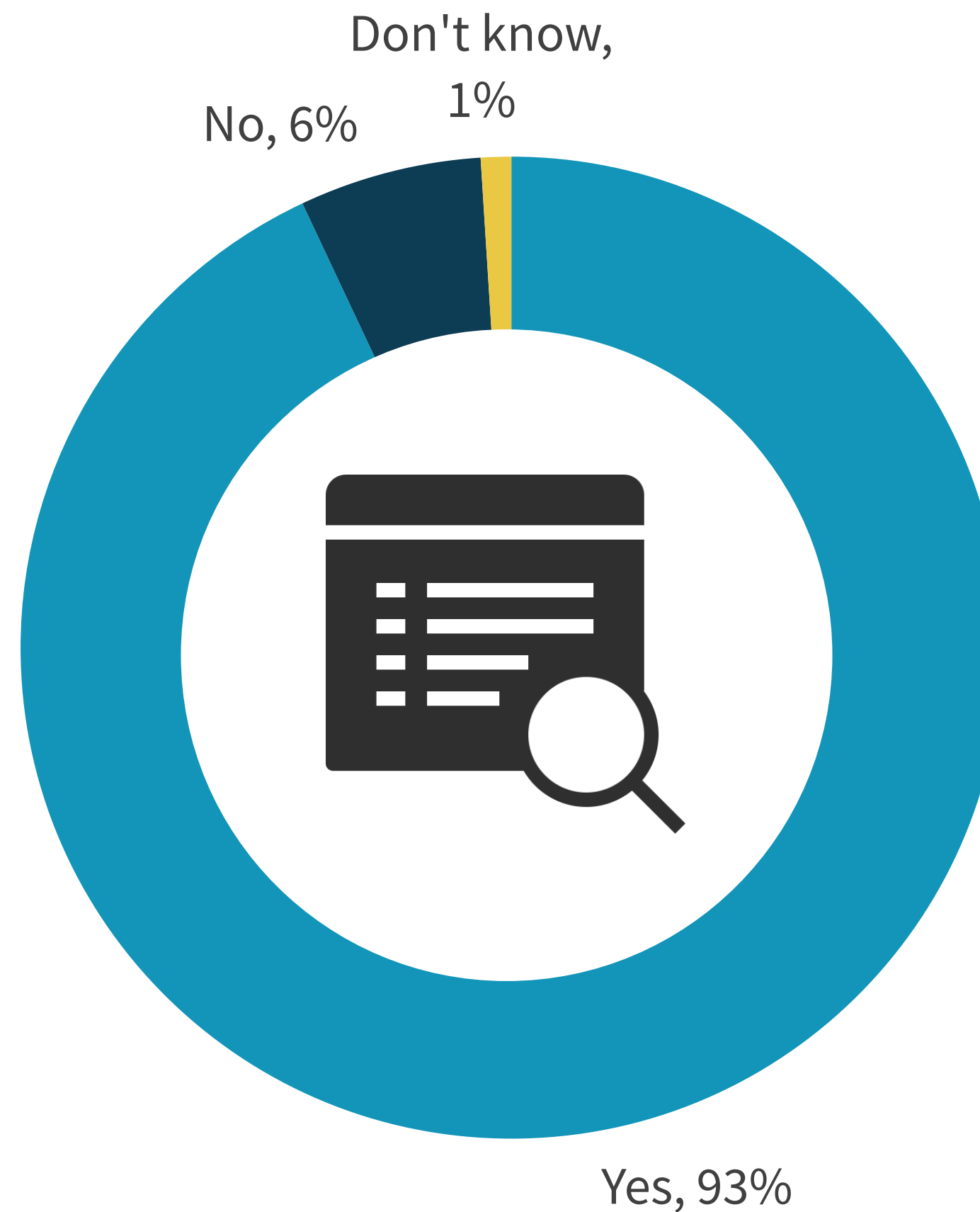
## COVID-19 Taxed IT and Legal Teams, but the End of the Pandemic Will Increase the E-discovery Workload

Respondents were nearly twice as likely to say COVID-19 increased their e-discovery workload as they were to say their workload decreased (39% versus 22%).


Why? While the pandemic put some business operations at a standstill, actionable data was still being generated. The increased use of personal devices for work in remote work scenarios, as well as the increased use of new collaboration tools, created numerous data silos organizations must manage and archive.

However, as organizations resume normal activities in a post-pandemic world, e-discovery workloads aren't expected to just return to normal. Increased economic activity is expected to correlate to increased litigation and audit requests: 93% of respondents expecting an increase in their e-discovery workload believe the end of the COVID-19 pandemic lockdowns will play a significant role in increasing the number of e-discovery requests.

| Will a post-pandemic uptick in activity play a significant role in increasing e-discovery requests for your organization?



“ 93% of respondents expecting an increase in their e-discovery workload believe the end of the COVID-19 pandemic lockdowns **will play a significant role in increasing the number of e-discovery requests.**”

A person stands in the middle of a city street at night. The background is filled with long, horizontal light trails from moving vehicles, creating a sense of motion and speed. The colors of the light trails include green, white, and red. The person is silhouetted against the bright lights. The overall atmosphere is one of a busy, modern urban environment.

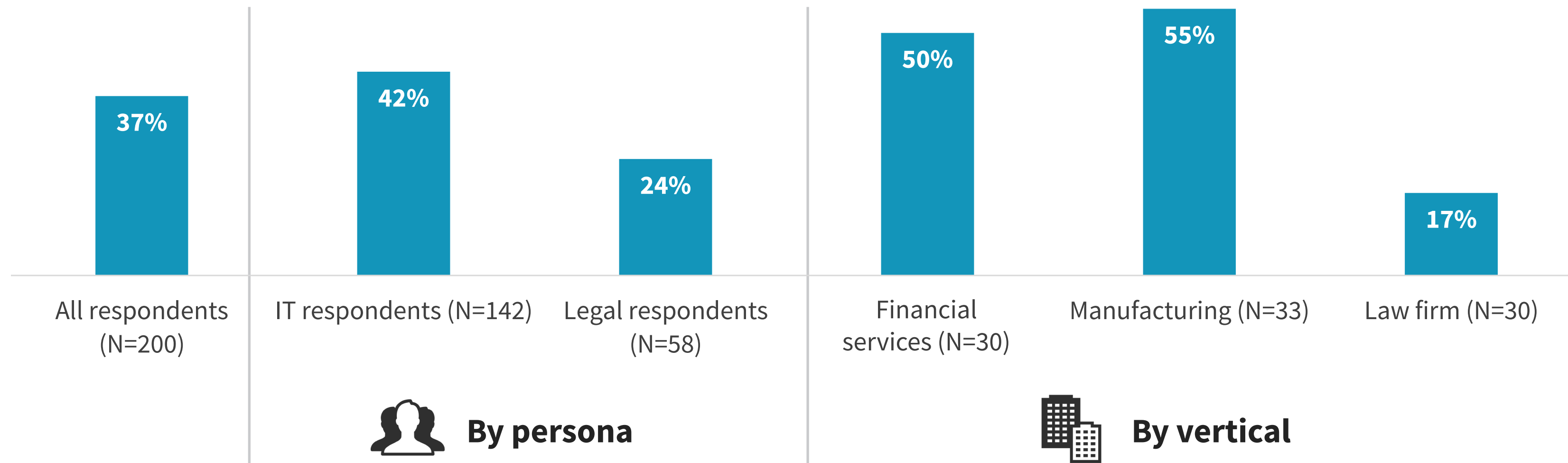
**Speed is the e-discovery capability that respondents most often believe needs significant improvement.**

## Where E-discovery Is Getting Harder

Despite advances in technology, the increase in complexity of storage environments, paired with increasingly onerous compliance mandates and a larger number of e-discovery requests, means many organizations are put in a difficult spot. Nearly 2/5 of respondents say that satisfying e-discovery requests is harder now than it was two years ago. In fact, IT respondents in the survey—the individuals responsible for locating, organizing, and delivering archived data to outside counsel—were much more likely to report that satisfying e-discovery requests is getting more difficult.

Not surprisingly, we find that organizations where e-discovery falls outside of their core competency are particularly likely to be struggling.

| Percent of respondents saying that satisfying e-discovery requests has gotten harder over the last two years.



### THE PROOFPOINT ADVANTAGE:

**“ We are seeing huge savings in IT efficiency because [Proofpoint is] giving those of us in IT time back to work on other tasks. We are getting fewer help desk calls now. Less support is needed from us—less babysitting of software and hardware, and end-users are no longer frustrated.”**

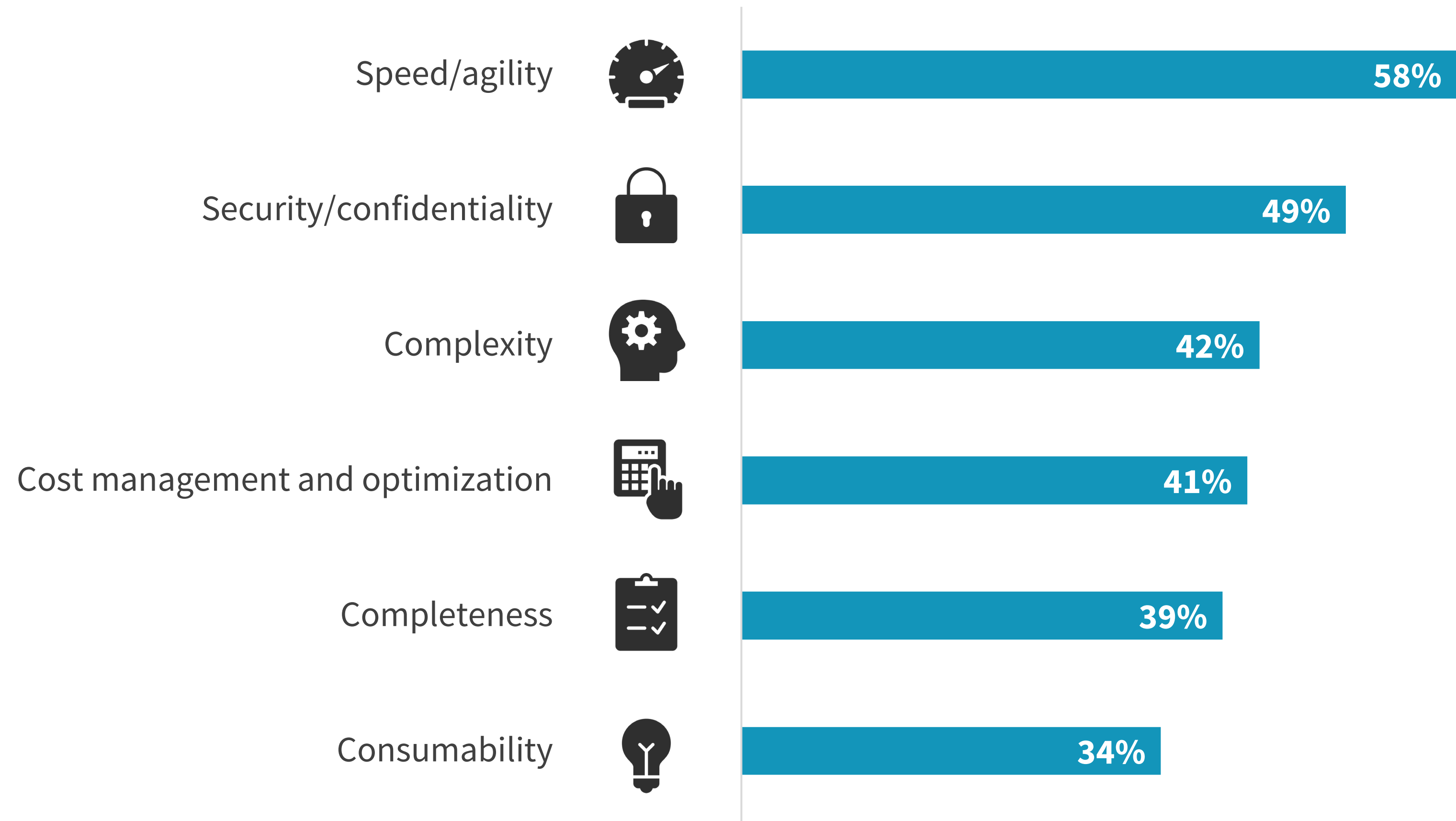
- Senior IT manager at a large electric and natural gas utility

## Organizations Want to Accelerate the E-discovery Process

When respondents were asked what aspects of their e-discovery process need significant improvement, the number one response was speed and agility.

Locating, reviewing, and packaging data for e-discovery is a time-consuming process for most organizations. They are looking to free up IT resources to focus on their primary responsibilities, while at the same time shortening the time it takes to satisfy requests.

| Aspects of the e-discovery process that need significant improvement.



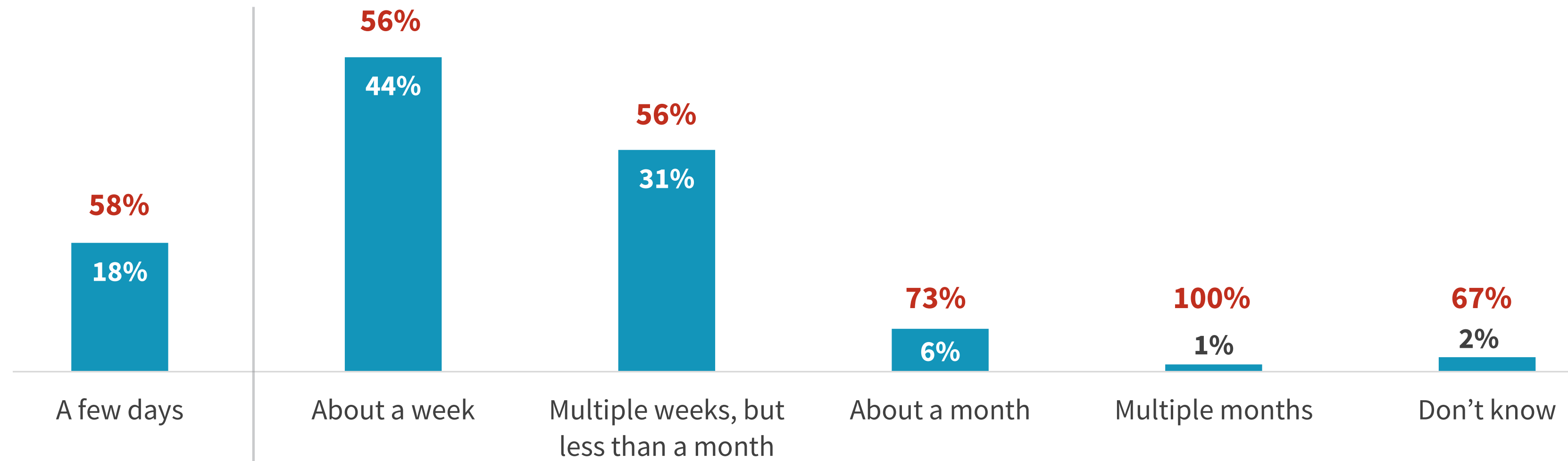
## Organizations Seek Increased Agility Regardless of Current Capabilities

More than 80% of respondents report that it takes a week or longer to address an e-discovery request. These organizations have a clear mandate to move faster.

However, regardless of how quickly e-discovery requests can be turned around, a majority of our respondents want e-discovery to move faster. Due to the aforementioned increase in requests, improving time to delivery is top of mind for many organizations.

| The time it takes IT to find and deliver data needed to respond to e-discovery requests.

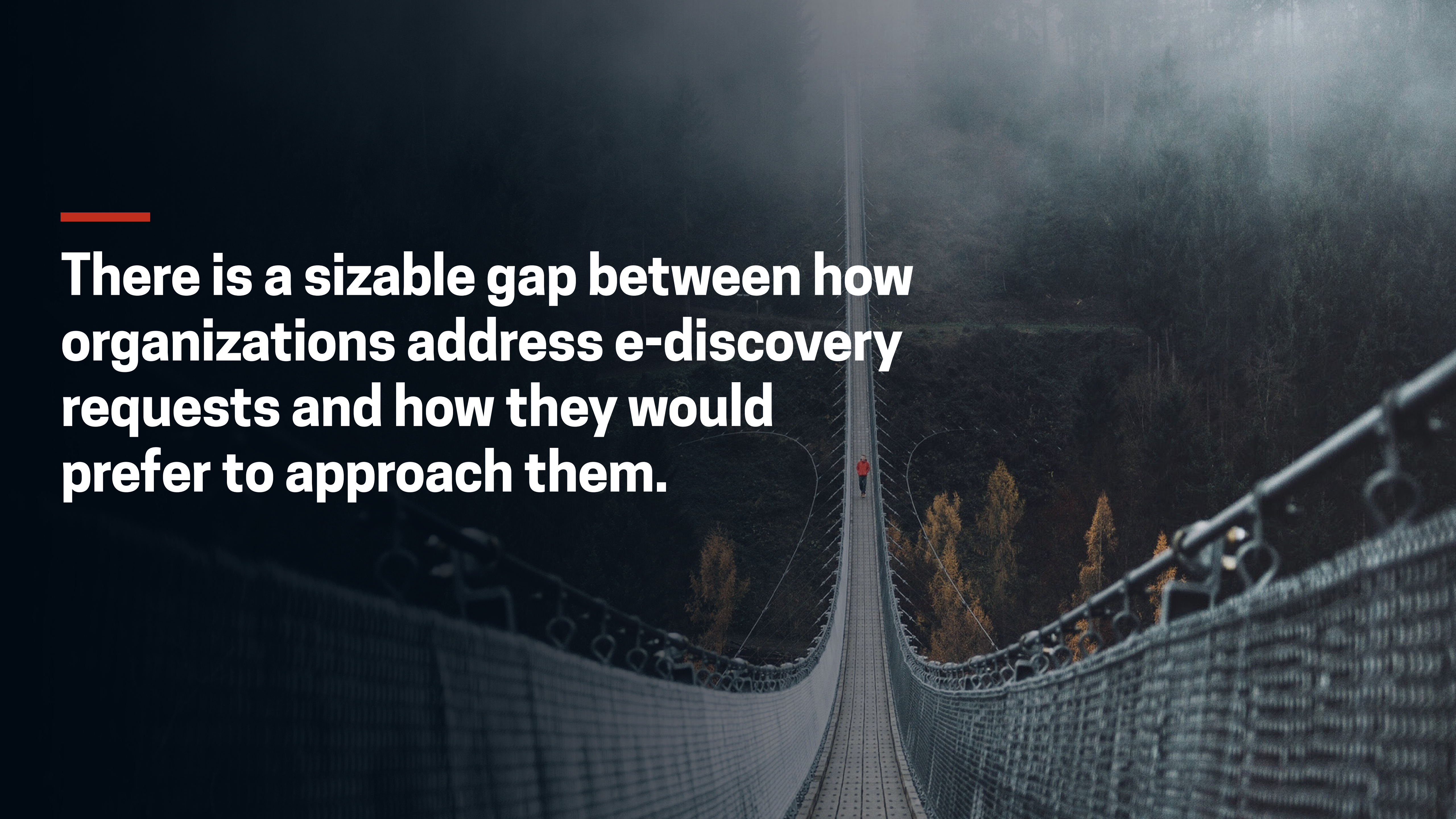
■ Percent of organizations reporting speed needs significant improvement



### THE PROOFPOINT ADVANTAGE:

“With our previous solution, it could take a couple of days just to get a request and then get the results back out to the requestor. **With Proofpoint, we’re talking just minutes for almost every search/retrieval operation performed. Interactive searches happen within seconds.**”

- VP of technology at a large financial and wealth management firm

A person in a red jacket is walking across a suspension bridge that spans a deep, forested valley. The bridge has a metal mesh railing and a wooden deck. The background is a dense forest of tall trees, some with yellow leaves, under a hazy sky. The overall mood is serene and adventurous.

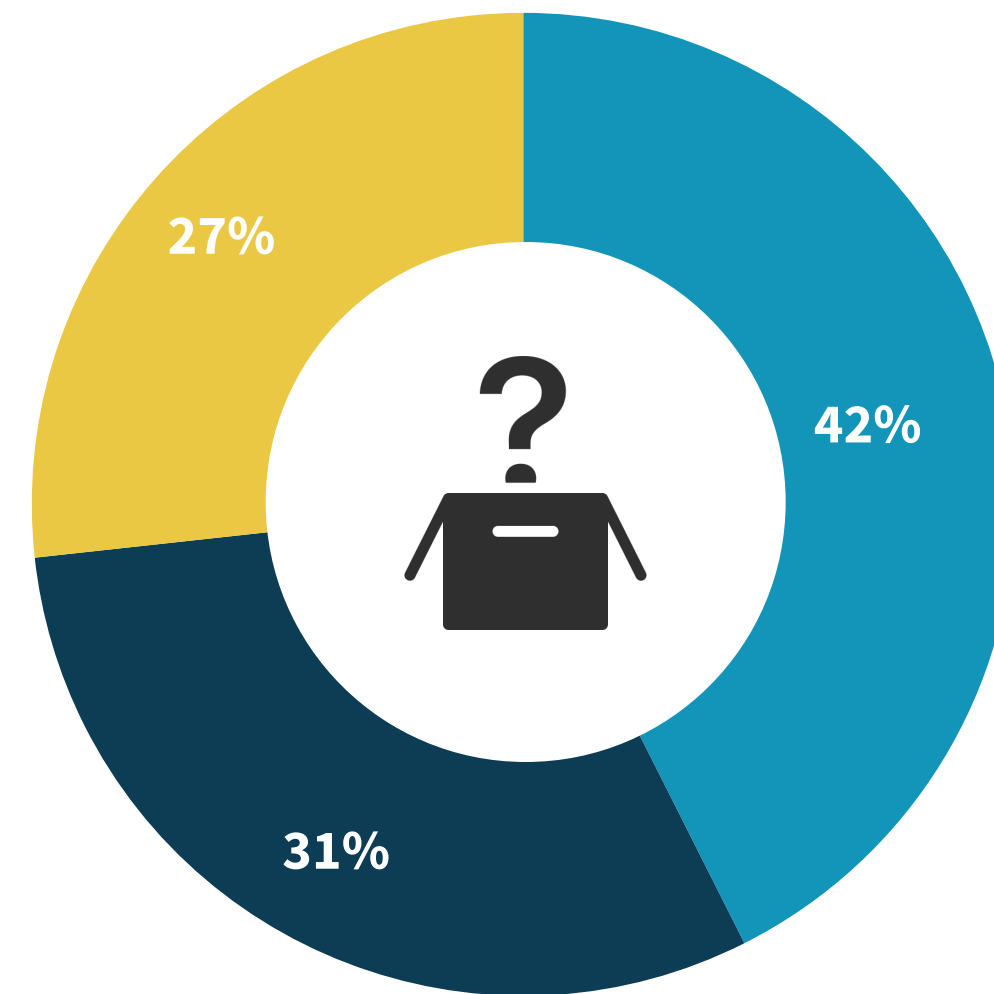
**There is a sizable gap between how organizations address e-discovery requests and how they would prefer to approach them.**

## Organizations Overwhelmingly Want to Reduce Reliance on Outside Counsel

The gap between reality and best-case scenario is clear. **Seven out of ten organizations have a significant reliance on outside counsel in their e-discovery processes.** At the same time, 76% of all organizations want to reduce reliance on outside counsel.

If organizations can effectively move operations in-house, they should achieve greater control and efficiency while reducing expensive legal fees.

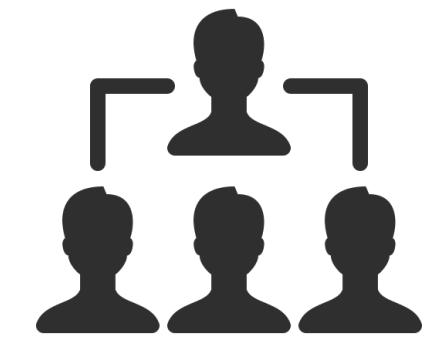
### | How does your organization respond to e-discovery requests?



■ My organization searches for and collects all relevant information and delivers it to outside counsel for review

■ My organization processes and analyzes most relevant information in-house in order to minimize what is delivered to outside counsel for review

■ My organization uses a mix of both approaches depending on the nature of the request



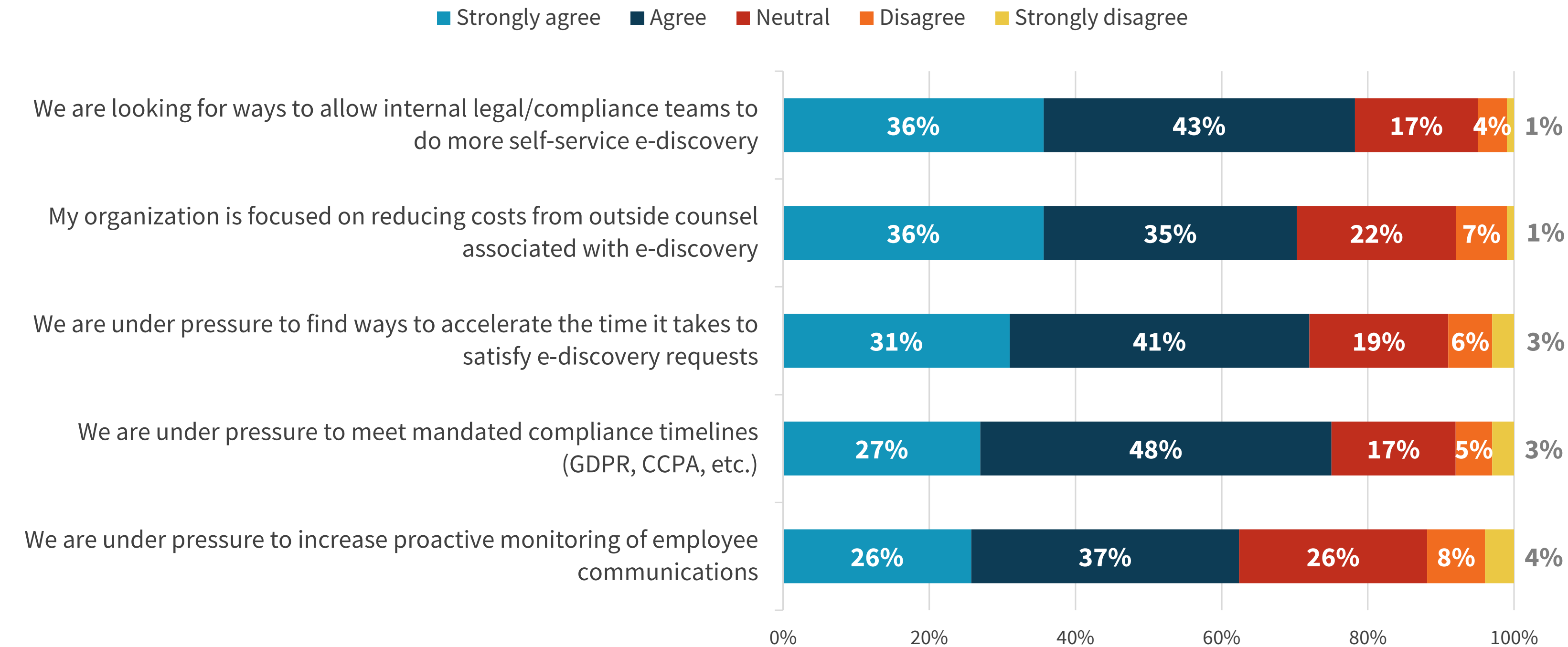
**7 out of 10 organizations have a significant reliance on outside counsel**

“76% of all organizations want to reduce reliance on outside counsel.”

## Organizations Are Looking to Bring E-discovery In-house

The research shows cost is a top consideration for reducing reliance on outside counsel: 71% of organizations are focused on reducing those costs. To accommodate this reduced reliance on outside counsel, organizations recognize that internal teams must do more self-service e-discovery: 79% of organizations are actively looking to increase self-service e-discovery capabilities. The opportunity to streamline e-discovery processes with self-service is also significant, with 75% of respondents reporting that compliance regulations such as General Data Protection Regulation (GDPR) and California Consumer Privacy Act (CCPA) are increasing e-discovery timeline pressures.


Organizations see a need to evolve e-discovery practices and capabilities.



### THE PROOFPOINT ADVANTAGE:

“We were receiving way too many support calls about fixing issues related to formatting losses, data losses, and slow retrieval times. The amount of time it took our Legal, HR, and Labor Relations staff to conduct e-discovery was ridiculous... **The whole transition [to Proofpoint] was beautiful, and the improvement was immediately obvious.**”

- Senior IT manager at a large electric and natural gas utility



**Organizations plan to  
accelerate investment in  
e-discovery solutions.**

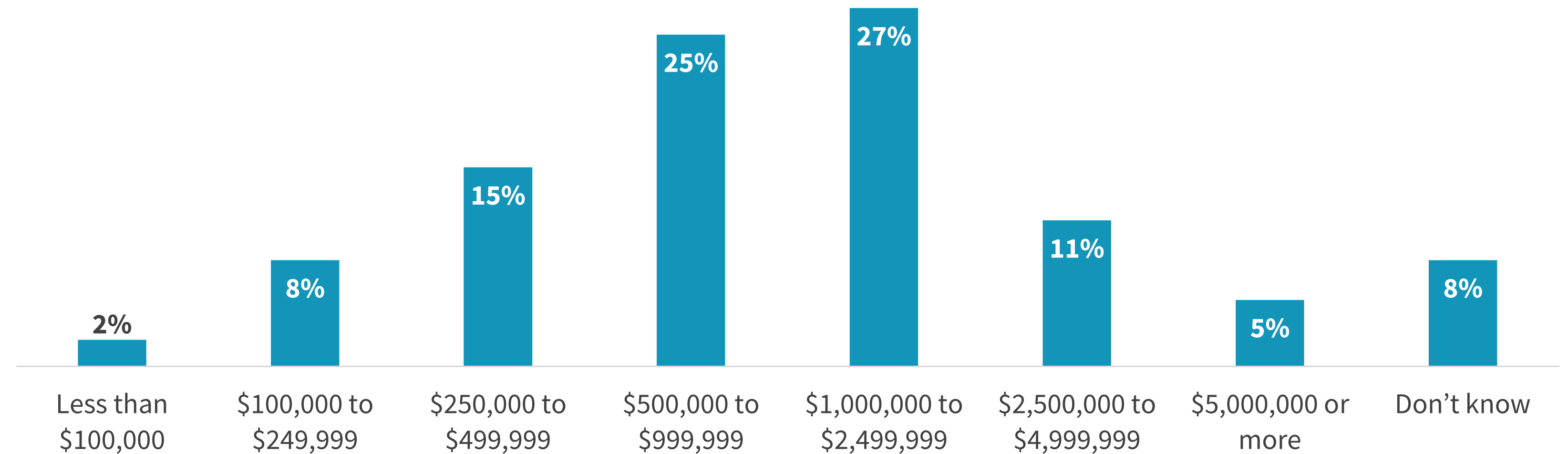
## Current Spending on E-discovery

On average, organizations are spending \$1.5M annually on e-discovery processes, technologies, and services. This is already a sizable figure, especially with e-discovery volumes expected to rise in the next 12-24 months.

“ On average, organizations are spending **\$1.5M annually on e-discovery** processes, technologies, and services.”

| Organizations' annual budget for e-discovery processes, technologies, and services.

Estimated mean = **\$1.5 million**



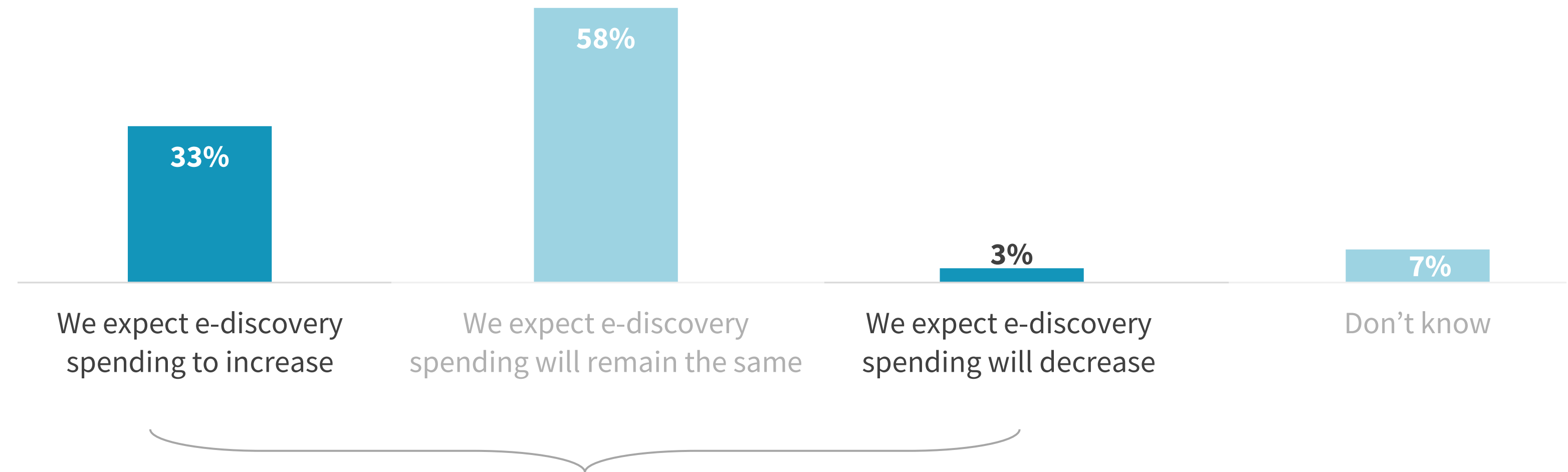
## E-discovery Investments Are Expected to Increase... But Is It Enough?

Despite sizable current investment, given increasing request volume, it is not surprising to note that organizations anticipating an increase in spending outnumber those anticipating a decrease by 11:1.

But will organizations be able to keep up? While 33% anticipate spending to increase, a much larger percentage (53%) anticipate an increased volume of requests. With organizations under pressure to move faster and with resources not necessarily keeping pace with demand, organizations must find more cost-effective and efficient ways to complete e-discovery tasks.

| Expected changes in e-discovery spending over the next 12-24 months.

Average change expected: **+7%**



“ Organizations anticipating an increase in spending outnumber those anticipating a decrease by **11:1.**”

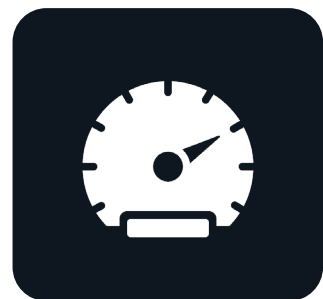
## Recommendations for E-discovery Professionals

Based upon the research presented in this eBook, organizations have many considerations to prepare for when it comes to their e-discovery workload. Over the next 12-24 months, organizations should be aware of the following trends and take action:



### Increased demand:

Most organizations (53%) expect an uptick in the number of e-discovery requests they will satisfy over the next 12-24 months while just 6% expect a reduction. Organizations without the staff, processes, and technologies to satisfy those requests will face challenges.



### A mandate to move faster:

Regardless of how fast e-discovery tasks can be completed today, the desire to accelerate e-discovery processes is consistently a top priority. Organizations must look at solutions that improve time to delivery—for example, by offering faster, guaranteed SLAs for search performance to keep up with increasing volumes of requests.



### Reducing reliance on outside counsel:

With limited budgets and increasing requirements, many organizations look to reduce reliance on outside counsel to close the gap. Organizations should look to solutions that allow them to respond to e-discovery requests in a self-service manner to both accelerate response and lower cost. These solutions should have high performance built-in capabilities, such as search, litigation hold, and export, while offering advanced capabilities, such as analytics, to help uncover insights and streamline processes.

# proofpoint®

## ABOUT PROOFPOINT:

Proofpoint, Inc. (NASDAQ: PFPT) is a leading cybersecurity and compliance company that protects organizations' greatest assets and biggest risks: their people. With an integrated suite of cloud-based solutions, Proofpoint helps companies around the world stop targeted threats, safeguard their data, and make their users more resilient against cyber attacks. Leading organizations of all sizes, including more than half of the Fortune 1000, rely on Proofpoint for people-centric security and compliance solutions that mitigate their most critical risks across email, the cloud, social media, and the web. More information is available at [www.proofpoint.com](http://www.proofpoint.com).

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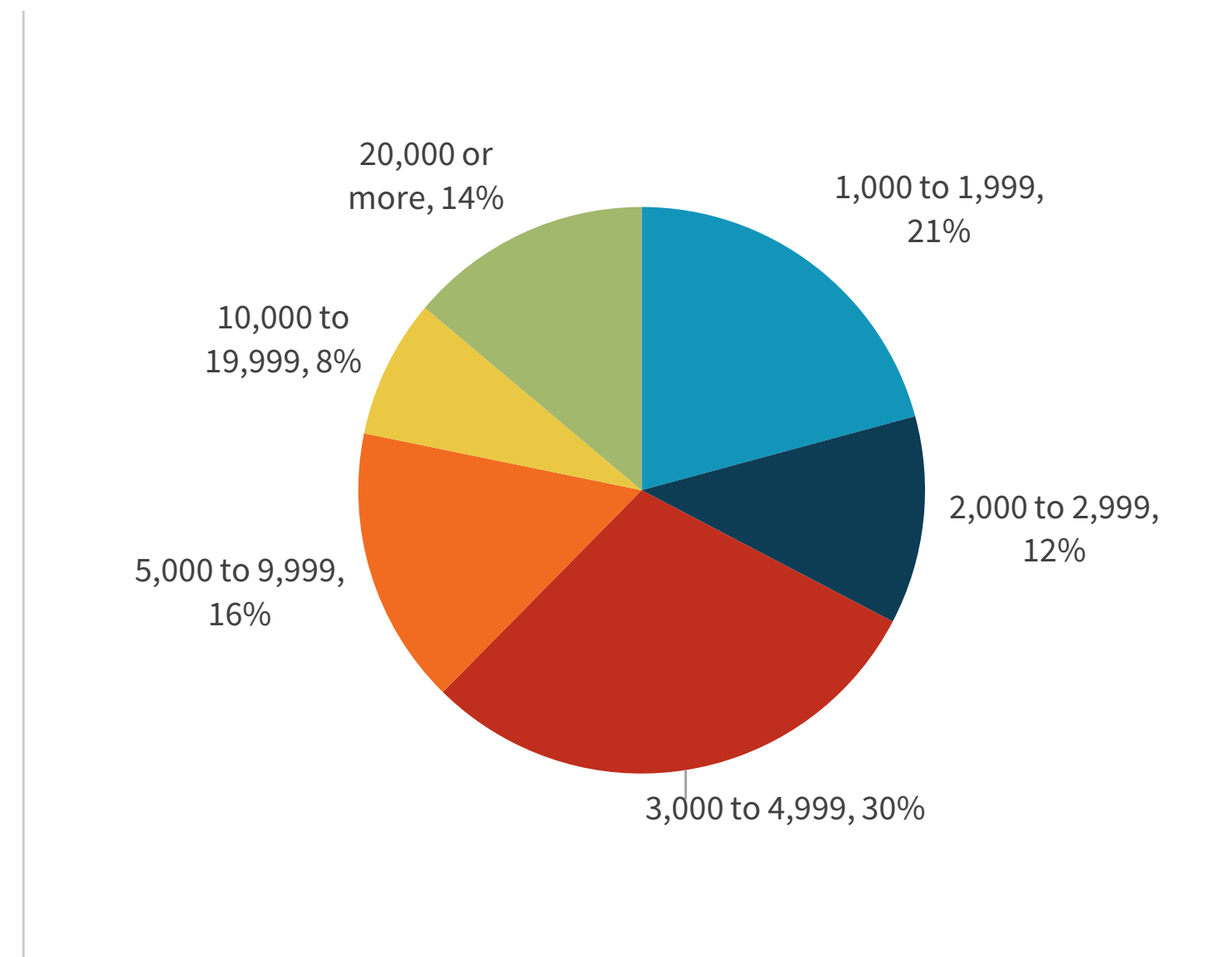
## Research Methodology and Demographics

To gather data for this eBook, ESG conducted a comprehensive online survey of IT decision makers responsible for fulfilling e-discovery requests and with influence on their organization’s compliance solution purchase (71%) and legal/compliance line-of-business professionals knowledgeable about their organization’s e-discovery process and technologies (29%). All respondents were based in the United States and employed at organizations with 1000+ more employees.

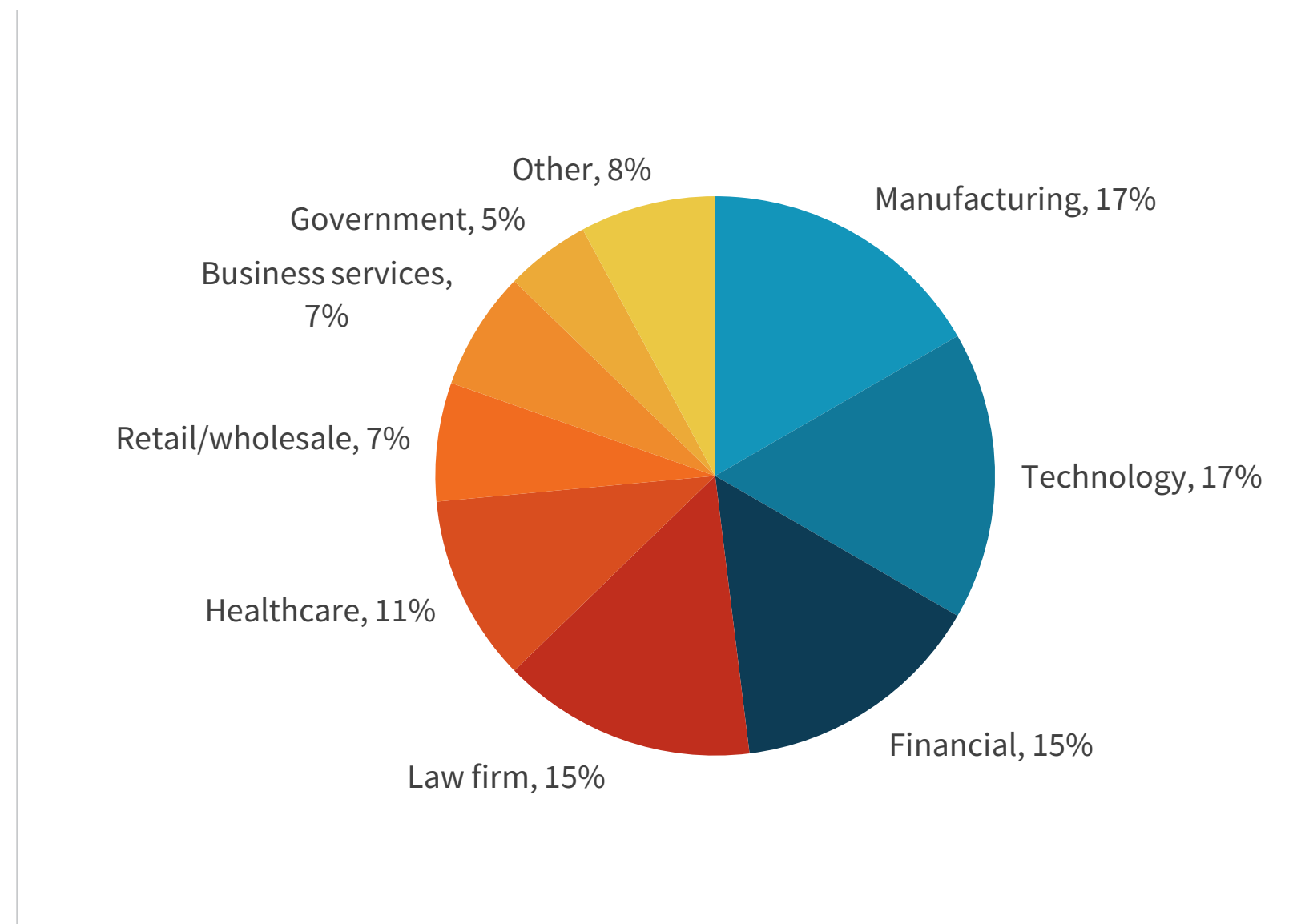
After filtering out unqualified respondents, removing duplicate responses, and screening the remaining completed responses (on several criteria) for data integrity, a final sample of 500 respondents remained. All respondents were provided an incentive to complete the survey in the form of cash awards and/or cash equivalents.

Note: Totals in figures and tables throughout this report may not add up to 100% due to rounding. The margin of error for a sample size of 200 is + or – 7 percentage points.

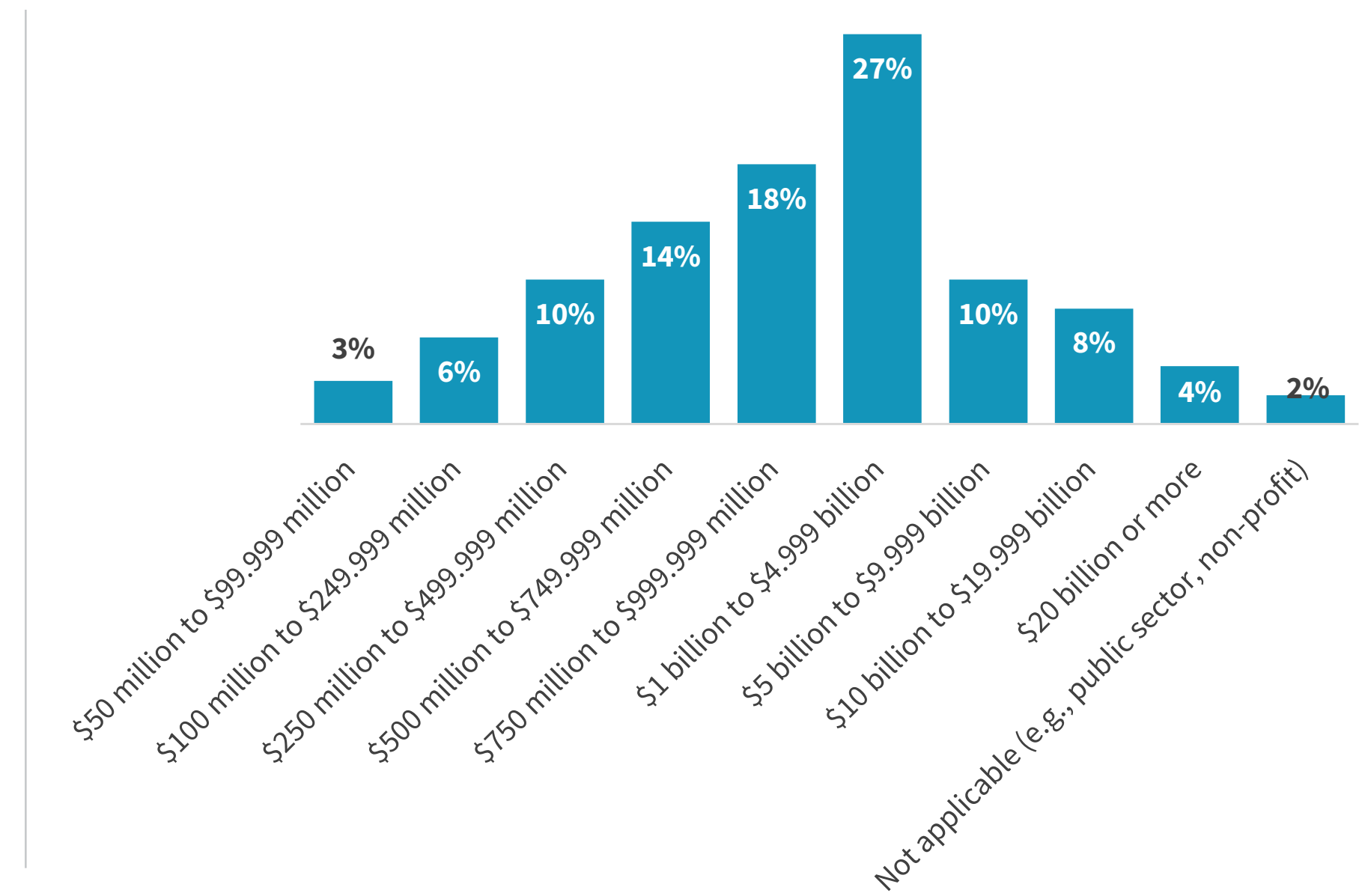
**RESPONDENTS BY NUMBER OF EMPLOYEES**



**RESPONDENTS BY INDUSTRY**



**RESPONDENTS BY REVENUE**



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