

CHAPTER THREE

The Fundamentals of Traditional Project Management

To this point, the focus of this book has been on introducing the reader to the legal environment and discovery processes in litigation matters. The preceding chapters revolve around the idea that having a solid foundation in the litigation process –whether at a law firm, corporate legal department or service provider— is paramount to providing sound, defensible discovery processes, particularly in the context of electronic discovery. Now the discussion shifts to a relatively new way of thinking about and organizing the processes involved in the discovery aspects of legal practice.

There has been much discussion of late about the use of Legal Project Management (LPM). More than a few books have been written that touch on LPM and the use of project management principals in the context of legal practice. The general idea is that LPM, when for instance applied to the entire operation of law firm practice –from matter intake through appeal in litigations— results in more efficient processes through proactive planning, identification and assignment of tasks, use of budgets, schedules, and quality controls. This in turn will translate into lower legal costs and, ultimately, better legal services for clients. While certainly a laudable goal and one that is worthy of exploration, the fact is that many firms are deeply entrenched in their culture and current processes and it is difficult to penetrate and change the status quo. Introducing LPM across the many practice areas and operations of an entire firm can be an arduous, costly, and time consuming undertaking, and if the support of the firm’s top management is not strong or pockets of resistance arise there is a legitimate concern that an LPM initiative may not succeed. This is not to say that firms should not try LPM; indeed, it has been implemented at several firms. The point is that firm-wide LPM initiatives are not something to be undertaken lightly.

The good news is that few of the risks associated with a firm-wide LPM initiative prevent the individual business units within a firm or any organization from adopting project management principles and applying them to their day-to-day work. As it happens, project management principles are well-suited to the operation of a litigation or practice support department and to discovery projects in particular because much of the overall processes and many tasks are easily

standardized. Application of project management to discovery projects is particularly appropriate given the abundance of repetitive and dependent tasks, the variety of people and organizations involved, and the need to find efficiencies that help better manage the timing and delivery of discovery projects and reduce costs. Moreover, the sometimes massive volumes of disparate types of information and data involved in discovery today strongly suggest that discovery projects and the clients for whom they are undertaken will benefit significantly from the use of project management in electronic discovery.

This book will next explore the basic principles of traditional project management,¹ explain exactly what traditional project management is, and lay a foundation for how it may be used to improve practice-oriented support services in the legal business. But, it is important to first say that project management is not a “thing,” a single practice, or specific tool, that one simply picks up and transposes over the work performed in a particular industry. Rather, it is an operational theory and series of practices; it is a way of thinking, a methodology, or disciplined approach to outcome-oriented work. To be sure, there are principles, defined practices, tools and techniques involved, but more than any one thing, project management should be viewed as an organizational concept or framework geared toward effectiveness, efficiency, quality, cost and risk containment, and the management and leadership of people, process and technology.

What is Project Management?

Project management, defined, is the structured application of skill, knowledge, tools and techniques to organize processes, activities and tasks designed to bring about a desired outcome that efficiently meets a project or business need. While this may seem a somewhat amorphous or abstract concept, it is really quite simple: In the business world, in manufacturing, even in a service industry like the legal business, there are business needs or goals that an organization may be interested in achieving. Typically, the person with the right skills, knowledge and talent is enlisted to achieve these objectives and manage the necessary work. That person brings her industry experience, education and training, understanding of the resources, tools and workflows required to complete discrete tasks and the overall project work, and the ability to interact with different people and organizations needed to perform the actual work. That person is a project manager.

A *project* is a temporary, non-routine endeavor limited by scope, time, and cost that creates a unique product, service, or result that meets the specified requirements or a customer need. The fact that a project is temporary in nature necessitates that there be a clear beginning and end. Just because something is temporary does not necessarily mean it is short in duration. Indeed, projects can be small and brief or very large and last for many years, involving seemingly unlimited resources. Projects have primary characteristics that distinguish them from other work. All projects, have an established objective and a defined scope. The business need and requirements necessary to meet that need are defined in a project plan, and typically require a variety of resources across multiple areas of an organization. Projects generally are undertaken in response to a customer or organizational need. The end of a project is reached when the project objectives have been met, the project is terminated because the project objectives can no longer be met, or the business need for the project ceases to exist.

In contrast, while projects are part of the operations of an organization, it is important to distinguish them from operations. Unlike projects, *operations* involve the everyday, routine, or

¹ The focus in this book is on traditional project management. Other project management methodologies are *Agile*, (a more nimble, iterative version of traditional project management); *Lean* (which emphasizes eliminating waste and increasing efficiency through improvements in speed and cost); and *Six Sigma* (a continuous improvement methodology that seeks to measure and improve operational performance by identifying variations and eliminating waste, leading to less defects and increased quality).

repetitive tasks an entity does to sustain itself. For example, taking a parts order is something an automobile parts manufacturing company may do many times each day; but each order is not a project. Designing and building a system or program to manage those orders, maintain inventory, and feed information to an accounts receivable system, however, would be considered a project. Similarly, the design and building of the part itself would be a project, but the sale of each part is part of operations.

In the legal business, projects may emerge within each case or matter. Indeed, a transaction or a lawsuit might be a project, or some part of the case may be a project. Preparing a motion and brief, for instance, can be broken down into subordinate parts and dubbed a research or writing project. Few lawyers know all of the controlling statutes and case law applicable to a particular legal issue. Typically, they have to do research. They identify the issues to be argued, perform the research, draft the motion, quality-check the brief by proofreading and cite checking, and then file the motion with the court and serve it on opposing counsel. There may even be a team involved, depending upon the number and importance of the issues or size of the brief. This is a typical high-level project workflow for preparing and filing a motion or brief. Other projects may arise in the legal industry as well. Preparing for and using technology during a trial or a hearing to more efficiently and effectively present digital evidence is also a project. And, most relevant here, collecting and processing a company's documents and ESI for attorney review in a litigation or as part of a transactional matter—these are legal projects that combine the need for organization and efficiency with technology, and the expertise of attorneys and litigation support professionals, any of whom may also be project leaders.

Legal projects may come to fruition in a number of ways. There may be a business need—such as merging two companies—or one company may be using another's proprietary information without license, thus resulting in a patent or trademark lawsuit. In the context of litigation in particular, a project arises once a complaint is filed, a subpoena is served, or the government launches an inquiry or investigation. On the transactional side of the law, a merger or bankruptcy could also be considered a project. Regardless of the origin of the project, like any project, it is typically a project sponsor—in the legal business, the client—who identifies the business need and provides the financial resources, most commonly by engaging a law firm to provide legal advice and services.

Who is a Project Manager?

A *project manager* is the person possessing the applicable skills, knowledge, and talent who is assigned by an organization and responsible for overseeing and actively managing, among other things, the scope, time, and cost of a project to achieve project objectives. The project manager must manage the interests and expectations of the people and organizations involved and ensure that the project is completed at scope, on time and within budget. Along the way, project managers measure and manage risk, ensure the quality of deliverables, and manage the personnel and other resources associated with a project—sometimes in a politically charged, stressful, or time-sensitive environment.

The employment of project managers in the legal industry might seem confusing at first. Exactly what role should a project manager play in an industry dominated by lawyers? To begin with, a project manager could also be a lawyer or a paralegal, or—yes—even a judge. A project manager leads, guides, and manages project tasks and stakeholder expectations. Who better to lead a legal project team than a person with the necessary authority, legal skills, knowledge of a case and of legal process?

More commonly, though, a project manager in the discovery context is part of the administrative staff and non-lawyer professionals in a firm or corporate legal department. She plays a supporting role. Project managers in the litigation support industry are individuals who, on a daily

basis, orchestrate the use of technology in the practice of law and assist lawyers with discovery and trial-related tasks. In the past decade or so, we have seen not just the formation and growth of this entirely new industry, but along with it, expansion of the role of the project manager.

One very important thing a project manager in a litigation support setting must keep in mind is the notion that it is the lawyer's job to practice law; it is the project manager's job to provide support and help them practice—to help them be more effective and efficient using technology. This is a core value a project manager in the legal business must understand. A litigation support project manager who is not a lawyer does not—indeed should not—practice law and would therefore not presume to tell a lawyer how to do so; however, the project manager must also be able to tactfully advise the attorney on best practices and the efficient use of technology in his practice.

The mechanics of project management—knowing how to initiate, plan, schedule, estimate, and close—are not all that is required of a project manager. Almost anyone can be taught bottom-up estimating or scheduling—it is basic math. And nearly anyone can sit in a planning meeting to scope out what needs to be done on a project. Similarly, performing quality checks on data loaded to a database is not incredibly difficult work if you know what to look for and what could go wrong. It is not enough just to know industry best practices related to the preservation, collection, processing, review, and production of ESI. Project management involves subtlety and nuance, soft skills, and tact. Project managers must be articulate, have a good command of the written word, and exude confidence—not too much confidence, but enough to make a first- or second-year attorney comfortable with the task at hand. Strong project managers are able to put things in perspective and quickly grasp context. They are decisive, they know what they do not know, and they are able to marshal needed resources. Equally important, they have general business, organizational, and management skills, strong interpersonal skills, and a pleasant demeanor. It may be too much to expect that a project manager command all of these skills, or that he develop them on the job, but these are some of the basic characteristics of project managers who are successful in the legal industry.

All project managers must have experience in the industry in which they work and general project knowledge; that is, an understanding of the body of work within an industry such that they are able to place in context the significance of the work before them. Thus, it is critical that the project manager understand the lifecycle and phases of litigation and transactional legal matters. But experience alone—even combined with initiative or ambition—will only get one so far. Becoming a project manager in a legal setting requires a special blend of other skills or traits that, if they are taught or even capable of being taught, are not taught frequently.

Successful project managers in the legal industry have people skills. They are able to listen when problems arise and persuade others when suggesting or implementing solutions. They have team-building skills, they display empathy, and they motivate other people. They have coping skills as well, enabling them to be patient, to think critically yet creatively, and to understand the plight of project stakeholders and sponsors. They are also tactful and possess the temperament to deal with a wide array of people and personalities. Project managers are analytical and methodical, but also flexible and adaptive to the inevitable changes in scope and plan that accompanies legal practice. They set goals, analyze and measure progress, and report results. To be sure, project managers must be assertive and persuasive, but they also must be outcome-oriented.

Project managers are also leaders. They identify and communicate the project vision, give direction, and establish key processes and expectations. *Leadership*, quite apart from management, is the art of influencing others to achieve results. Almost anyone can be trained to oversee or perform daily administrative tasks; leaders, however, see the future, how the future might be better, and help others to see the same things. Leaders see business needs and opportunities where others

see obstacles and problems, and they know that they can meet those challenges. Leaders take initiative, set an example, and inspire others by rallying enthusiasm around a project. Leaders take the long view and allow their vision to take root. Leaders take on the roles of coach, communicator, listener, and source of advice. Although they are passionate about their work, leaders care about more than just results; leaders also care about those who follow them.

Many project managers in the legal business have succeeded without formal project management education. They learn the essential skills and develop the necessary characteristics over time by doing the work and managing people and processes. As the litigation support and electronic discovery industry matures, however, it is natural that a higher level of competence is expected.

The typical project manager in a litigation support role today is someone with a legal or technology background, or both. They come from the ranks of paralegals, from positions in records management, and from a variety of IT roles. It is also not unusual for young attorneys—mostly those who were unable to land the coveted few and highly competitive first-year associate jobs at law firms—to become involved in litigation support, electronic discovery, and project management. In the end, regardless of their background, it is essential that project managers have a full understanding of the legal process, technology, and—of course—project management. They must have an interest in helping attorneys practice law and in integrating technology into their practice.

Project Management Roles & Responsibilities

Project managers in a litigation support environment understand their role in relation to the other stakeholders on a project. Stakeholders are the driving force behind any project. A *stakeholder* is any person or organization involved in a project whose interests may be affected by its outcome. Stakeholders may include a project sponsor, who typically provides financial support and resources for a project, or a customer or end-user who will actually utilize the finished product or service.

Other stakeholders include the project manager, whose role is to shepherd the project forward from beginning to end; project team members, who apply their individual expertise and skills to carry out the project work; and functional managers within an organization. These managers may be from administrative departments such as human resources or finance, who, while they may not be directly involved in the project work, provide ongoing administrative or support services to the project team. Lastly, stakeholders may include service providers, vendors, or business partners who are typically external companies that provide materials or services needed for a project

In the legal world, stakeholders are no different than in any other setting. The general counsel of a corporation may be the sponsor of a project. As the client, they typically pay the law firm's bills. But, in many cases, an associate general counsel will be the client stakeholder who is substantively involved in day to day decisions on a project. On the law firm side, the engagement or billing partner is typically the lead stakeholder, but again, there may be any number of other attorneys involved in a case, and each of them is a stakeholder as well. Paralegals are also stakeholders and, in some circumstances, they may play a large role in managing a case.

It is important to understand these different roles and responsibilities. In a corporate setting, the general counsel is usually the chief legal officer, and he or she plays a role both in management of business affairs as well as in the legal decisions affecting the company. Depending upon the size of the organization, the general counsel may have other legal staff, such as associate general counsel, staff attorneys, and paralegals who report to the general counsel. Smaller companies may have just one attorney who serves as counsel to the company. In either event, the role of general counsel and the legal department within most organizations is to protect the organization, give

advice to management, measure and manage risk, and ensure it complies with applicable laws. General Counsel also manages transactional legal affairs, and defends or prosecutes lawsuits involving the company.

Law firms, on the other hand, have one thing that most corporate legal departments do not have a lot of: lawyers. For this reason, most corporations rely on law firms as outside counsel to supplement their legal department attorneys and staff, and to provide substantive legal services, legal advice, and expertise on matters that cannot be handled internally.

In the end, and quite apart from the titles individuals may have, it is important that a project manager in a litigation support environment understand and remember the roles and responsibilities of each person involved in a project. It is the project manager's responsibility to manage and meet stakeholder expectations, and to interact with all of the people involved in a project.

Organizational and Environmental Factors

Stakeholders are not the only influential forces on a project. A number of cultural, political, and other enterprise environmental factors influence projects. The structure and culture of an organization can affect how projects are chosen, funded and supported throughout the project lifecycle. Critical to the success of a project is understanding how an organization works, the vision and values of top management, and who within the organization can influence such things as allocation of resources. In short, having buy-in and support from top leaders within an organization can strongly influence not only whether a project is completed, but also whether it gets off the ground in the first place.

And while the internal structure of an organization can affect the nature and substance of projects, many external factors can influence projects as well. Government regulations, the political climate, the economy, and the broader marketplace may affect not only current projects, but also the risk tolerance of an organization when evaluating project initiatives. It may be that these factors do not directly impact the project manager working in the legal business, but certainly factors such as the economy can and will affect whether a lawsuit is even filed. The point here is that both internal and external organizational and environmental factors may affect project work in any organization and the project manager must be sensitive to these facts whether they work at a law firm, corporation, or a service provider.

Organizational Process Assets

Project management as we know it today probably would not exist if some enterprising workers had not determined that certain tools, standards, guidelines, policies, and practices were necessary to carry out standardized project activities. Thus, every organization engaged in project-oriented work develops or adopts organizational process assets to ensure the success of its projects.

Organizational process assets consist of historical information, tools, or other resources that are available to the project team during a project. A simple standardized form that is completed before part of a project may be outsourced is one example of an organizational process asset. Templates, network schedule diagrams, standardized instructions or checklists for performing a task, and written guidelines or best practices are all tools used during project work. There may also be policies and procedures for safety and health, requirements for measuring and ensuring quality, or standards for ethical business or personal practices. Numerous software tools on the market help project managers track project activities, monitor the schedule and cost of a project, and prepare real-time reports on the status of a project. These, too, are process assets in the project management arsenal.

Organizational process assets should be developed, maintained, and stored in a *knowledge base*—a database that contains the process assets of an organization, including not only standard

procedures or instructions, but also historical information about past projects for use as precedent to guide current and future projects. A knowledge management system can be as simple as a spreadsheet with hyperlinks to appropriate documentation, or it might be as elaborate as a relational database that shares information across multiple departments.

The legal industry is no different from others in this regard. The legal business—and the litigation support industry in particular—has developed process standards and best practices that guide attorneys, paralegals, and litigation support personnel, and that provide for quality assurance throughout the lifecycle of a project. Every firm and corporate legal department is different, but as discussed later in this book, standardized and defensible practices and procedures guide successful project outcomes for project managers. Whatever the work an organization is performing, it is important to develop process assets—such as best practices, checklists, and forms—to ensure that the work performed is repeatable, defensible, and that it meets the project’s objectives.

Conclusion

The broad strokes outlined in this chapter are intended to lay a foundation for project management and to influence project-oriented thinking in a legal setting. Understanding the nature of project management, the roles and responsibilities that people play, and the organizational issues unique to project work in a legal environment, is prerequisite to understanding how project management may be integrated into legal discovery projects.



Project Management in Electronic Discovery

It's not just theory. It's practice