Fios

White paper

Reducing chaos in electronic discovery projects

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Reducing chaos in electronic discovery projects

Litigation support professionals who manage electronic discovery projects experience high stakeholder expectations, complex requirements, difficult issue resolution and tight timelines. The process can quickly deteriorate to a state of chaos if not properly managed. The potential for project chaos lurks within many interactive causes, including (1) a high sense of urgency and expectation within the firm and with the client, (2) diverse opinions regarding success definition, (3) a lack of defined and stable initial scope, (4) siloed perspectives across various functional groups and (5) the difficulty of identifying appropriate project roles and staffing. Swirling inside the initial cloud of chaos in complex litigation projects are increased costs resulting from project missteps such as insufficient communication, mismanaged scope, misunderstood requirements and unreasonable project schedules. The chaos, along with the associated escalation of costs, may continue expanding unless appropriate action is taken. Effective use of project management knowledge, skills and tools can lessen the chaos and reduce unnecessary project costs. The goal of this white paper is to introduce practical project management concepts and tools that can be easily leveraged with current litigation support expertise to increase project success.

Project Management Institute: five core concepts for reducing chaos

The project management industry offers abundant information to guide, train and assist individuals interested in acquiring project management knowledge and skills. The Project Management Institute (PMI) is the worldwide recognized body that governs Project Management Professional (PMP) certification, and produces the “bible” of project management entitled *A Guide to the Project Management Book of Knowledge (PMBOK Guide)*. To pass the PMP exam, a student must understand 44 project processes along with the 600+ associated inputs, throughputs, outputs and tools. Since litigation support professionals may not have the time or the desire to invest in becoming PMP-certified, this white paper identifies five core project management concepts that can help manage the chaos of e-discovery projects. The five concepts explored are 1) communication, 2) scope management, 3) requirements documentation and management, 4) developing and managing schedule, and 5) the triple constraint model in managing electronic discovery projects. The author bases his suggestions on 15 years of project management experience, including leading the Fios, Inc. project management team responsible for managing thousands of complex e-discovery matters.

Communication

It is often stated that project management is 95% communication. That percentage is low. Communication is the most critical requirement of effective project management, particularly in e-discovery projects. Litigation teams constantly communicate information on collection completions, number of custodians, file types, culling, metadata, review schedules, production deadlines, etc. to ensure smooth coordination. When a single thought is encoded, sent, received, decoded and understood by another individual, the opportunities for misunderstanding and associated errors are limitless, especially in complex electronic discovery projects.

Developing a communication plan at the start of a project is critical. A communication plan is a documented list of planned communication events. The first step in developing the plan is to identify the communication needs of each stakeholder, such as the partner in charge, the associate managing the case, the review team, the client and the information technology department. What do they need and want to know in the course of the e-discovery phases? What’s the most effective means of delivering the information to them? How often should communication occur? Each communication plan event should have a specific purpose, and be valuable to its recipients even as needs change during the project lifecycle. A status meeting scheduled for three times per week at project inception, for example, may be required less frequently after the project becomes more stable.

Communication Project Plan Components:

1. Deliverable / Description—What is the event? A status report? Daily standup meeting? Describe its purpose.
2. Stakeholder—Who are the recipients of the communication? For example, the partner in-charge, project team, steering committee, client, etc.
3. Method—How is the information being delivered? Email? Face-to-face meeting? Conference call?
4. Frequency—How often will communication occur?
5. Owner—Who is responsible for facilitating the communication?

Equally important to a good communication plan is the perspective of a good project manager regarding communication. The project manager must be a hunter—a hunter of miscommunication. Every project has at least two handfuls of seemingly minor, nearly invisible communication faux pas that, if unaddressed and allowed to continue, can hurt a good project.

Communication Do's:

→ The project manager must own all communication. Observe communication between others in the project. Did the team members truly understand each other? Did a person's "uh-huh" mean a) true acceptance or b) "I do not understand but I do not have time to discuss." Is the owner of the next step clearly identified? Did the email sent by person x seem vague? Watch for body language and other non-verbal language for clues. A project manager must continually probe the environment for communication clues.

→ Use verbal paraphrasing to confirm understanding: "So, what I heard you say is…." It is possible that the person speaking may have stated her point incorrectly or you may have misunderstood what was said. Be sure: always check. This is part of active listening skills.

→ Provide feedback within at least two hours. Project managers juggle many balls during a typical day. If a complete response is not immediately possible, provide a response that lets individuals know that their phone call or email was received: "John, I am working on this issue. I'll get back to you with a status update by end of day." The deafening silence of no response is frustrating and counterproductive.

→ Obtain a direct confirmation. Also, listen for what is not being communicated (but should be). Never assume that no news is good news. Just because a project stakeholder has not communicated the existence of problems, that does not mean that things are going well.

→ Use written paraphrasing to confirm understanding. Long, complicated emails should be boiled down to confirm the writer's core points. Make it short and simple: "So, your main points are (1), (2), (3), right?"

→ Document and distribute important telephone and face-to-face meetings. If a conversation was held that impacts a key task, send an email back to confirm clarity and understanding. It also provides a record of discussion so that action items can be properly executed.

→ Deploy the two-email rule. Once there have been two responses in a back-and-forth email thread, stop emailing. Call the person to resolve the issue. Have a face-to-face conversation. Creating "War and Peace" emails strings is ineffective, inefficient, and creates opportunities for escalating frustration rather than resolution.

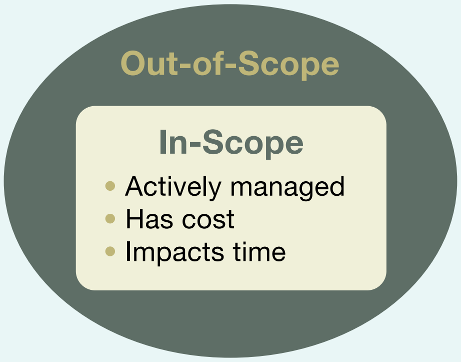
Quick Steps:

1. Conduct a communication plan needs assessment.
2. Develop and implement a communication plan.
3. Implement communication "do's."

Scope management

Managing project scope is an absolute must for project success. Managing scope is an ongoing exercise for litigation support professionals managing e-discovery. Pressures to enlarge scope midway through a project can result in missed production deadlines and increased costs. An insufficiently articulated scope statement, such as "Collect, review and produce all custodian data for matter XYZ," leaves the door ajar for forces to modify scope.

So, how can a litigation support professional manage in this situation? First, understand that items are either 100% in scope or 100% out of scope at any moment or "snapshot" in time. There is no such thing as "sort of" or "maybe" in scope. You can graphically document scope by first drawing a box on a whiteboard. Put your in-scope items inside the box and everything else outside of the box; it is a black and white concept. Inside the box are the in-scope items that have accompanying requirements, costs, schedule and issues to manage. Those items inside the box are receiving firm resource attention, while those items outside the box are not receiving resources. This does not mean that scope should not change. The danger inherent in modifying scope is the illusion that it is cost-free or will not add risk to project quality. Mandatory scope items—those items that are absolute and must be completed for project success—will begin as in-scope and inside the box. Discretionary scope items—those items that are desirable but are not fundamental to success—will begin as out-of-scope items. Discretionary items will remain outside the box until they are consciously revisited and their impact to risk, resources and schedule are fully understood and evaluated. Once a discretionary item impact is recognized and agreed to by stakeholders, the item becomes in scope and it is moved inside the box.



Quick steps:

1. Document scope in clear and unambiguous statements. Think "What has to be completed for project success?" Use numbers, dates and other specifications that improve clarity.
2. Identify what is in scope and what is out of scope. Documenting what is out of scope is critical and helps reduce any confusion around the "sort of" scope pressures. Remember—scope is a black/white, in/out concept at any snapshot in time.
3. Communicate the in-scope and out-of-scope items to key stakeholders.

Requirements documentation and management

Obtaining detailed requirements that are accurate and fully illustrate project scope and business need is the single most difficult and critical phase of any project. Mistakes at this project phase are painful and costly. The longer bad requirements go unnoticed, the more costly they are to repair. Imagine the impact to schedule and cost if someone forgets to document the requirement to collect custodial data at the Katmandu site. So suddenly you are required to collect that data from a foreign location in a foreign language at the ninth hour. Identification and repair estimates as high as 80 times original requirement cost have been reported in some cases. There is no shortcut to good requirements and litigation support project managers will be rewarded for being extraordinarily process and detailed-oriented during this phase.

Solid requirements documentation will result from the following process:

- **Identify and document.** During these steps, the project manager will work with key stakeholders to obtain detailed requirements. It is important to schedule time for focused discussion and not rely upon informal arrangements. Drill down into as much detail as possible. Information providers may not have all details immediately, so follow-up is likely. Document the requirements in a format that is well-organized and easy to reference.
- **Review and edit.** Once initial requirements have been documented, a second-pass review with stakeholders should occur to ensure accuracy and completeness. Mistakes and omissions are often caught during this step. Provide stakeholders with the initial draft documentation prior to the meeting and walk through the requirements line by line. Final review and editing may take more than a single iteration for quality results.
- **Acceptance.** It is important that stakeholders provide their acceptance of the requirements. The importance of this step should be underscored, as the finalized requirements are often referred to during project completion.

Using a solid documentation format is important. Once developed, the document template can be reused with future projects. Organizing the information in an understandable and consistent format helps with requirements management and with managing document change control. It also creates documentation of decisions made that you may need three years from now on appeal. Below are a few suggestions to help manage the requirements documentation.

- Revision history. Place a table tracking the requirements revision history at the top of the first page of the requirements document. As requirements are modified during project implementation (e.g., scope change), it is critical to track the document version. A requirements document is a living document, so expect requirements to change. The requirements document is the sole location for tracking the changes.

REVISION HISTORY			
Date	Author	Description	Document Version
6/4/09	J. Smith	Requirements from initial stakeholder meeting	1.1
6/8/09	J. Smith	Updated requirements after stakeholder review and edit	1.2

- Text and numbering conventions. Each major section of a requirements document should start with a basic description of the intent of the requirements. In addition, each section should have an appropriate numbering convention. This allows more specific reference to requirements. It is much easier to identify a specific requirement such as “II-B-2, MS Excel spreadsheets” than a generic reference to “the spreadsheet requirement on page xx.”

Below is an example of specific requirements documentation on data culling.

Data Culling
The following requirements provide instruction around various data reduction categories, including de-duplication, date culling and miscellaneous files types. Implementing these culling requirements will result in the universe of items to be reviewed.

A. Data De-duplication
   1. All exact duplicates should be removed from items for review.
   2. All near duplicates should be included for review.

B. Date Culling
   1. Only items with dates between 1/1/2007 and 6/15/2008 should be included in the review.
   2. All Microsoft Excel spread sheets should be reviewed, regardless of date.

C. Miscellaneous file types
   1. All system files should be removed from data being reviewed.

Expect pressure to be applied during the requirements phase. For some stakeholders, the requirements process may appear to be a bureaucratic exercise that adds little value. Comments like “You should already know this” or “This is taking too long” should be expected. Your job is to explain why it is necessary and the value (cost saving) that occurs when mistakes are avoided.

Quick Steps:

1. Follow a solid requirements process of identifying, documenting, reviewing, editing and acceptance.
2. Develop (or find online) a usable template to format the documented requirements and be sure to include a revision history table.
3. Communicate the value of good requirements practices to stakeholders who may not initially understand the importance.

Developing and managing schedule

Knowing that a major milestone is going to be late should never be a surprise to anyone. Projects lose time like drops from a faucet that can quickly add up and drown an otherwise successful effort. Tracking, updating and communicating task progress must be a regular event to ensure the project team and key stakeholders are aware of timeline status. Even experienced project managers can become overwhelmed by project schedule tools, methodology and technique. Litigation support professionals can use the following bullet points as a framework for maintaining control of a project schedule.

→ Each major deliverable/milestone must have tasks with identified start dates, durations and end dates.

→ The major deliverables/milestones must roll up into the overall project schedule with the start date (start date for task #1), end date (last day of task n) and duration (days between first day and last day).

→ The project manager must validate task completion dates regularly to confirm completion dates.

→ The project manager must communicate key milestone and overall project schedule status on a regular basis.

→ Risks of task slippage must be identified early on and addressed to mitigate overall impact to milestone / project completion dates.

By definition, a project schedule is a detailed plan of major project phases, milestones, activities and resources sequenced in a logical order with activities assigned durations and dependencies. If you are looking for applications to help manage an e-discovery schedule, a working knowledge of Microsoft Project will help document the schedule and provide credible key milestone completion dates. If nothing else, utilizing Microsoft Project to develop the work breakdown structure (WBS) – i.e., decomposition of tasks and subtasks – will help understand the logical order of task completion. Microsoft Visio also provides an easy-to-use Gantt chart tool for communicating schedules with a small number of tasks.

A seemingly immutable law of project schedules is that project tasks take longer than estimated. This can occur for several reasons, such as underestimation of task effort or personnel changes. While there are several strategies for pulling a project back on track, they all come with a label warning: “Applying these techniques may impact quality.” So use the following techniques with caution, and remember that a schedule can only be shortened by impacting the critical path sequence of tasks:

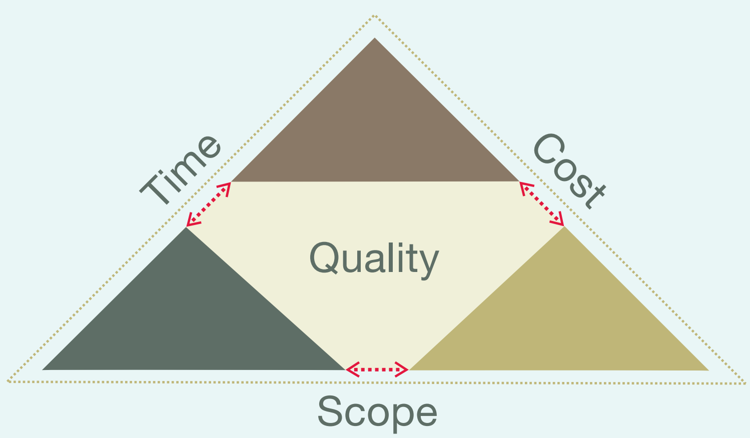
- **Cut scope.** It is rare, but reducing scope is an option for shortening project duration. Before you do this, closely evaluate the impact of eliminating activities and be sure key stakeholders are aligned with the decision.
- **Work overtime.** This is an obvious technique that can be deployed without having to introduce new team members. Working overtime for extended periods of time, however, presents risks to team morale, health and accuracy, and may result in voluntary turnover.
- **Fast-track.** This technique involves changing task sequencing so that tasks that were meant to be sequential (finish task A before starting task B) are modified to allow for some degree of parallel activity (start task B before task A is 100% complete). The obvious risk is that final completion steps on task A may uncover critical issues that negatively impact the start of task B.
- **Crashing.** This is essentially throwing additional bodies at tasks to shorten task duration. It can be effective in completing tasks but will likely not be as efficient. For example, if one person is scheduled to complete a task in 10 days, two people may complete the task in seven days. Adding new resources may impact task coordination efforts and newly added staff may have less experience.

Quick steps:

1. Develop a basic project schedule, one that is easy to understand and track.
2. Update the schedule regularly. Do not let daily small task slippages turn into “surprise” missed deadlines.
3. Communicate schedule information frequently. There should be no surprises to anyone regarding dates.
4. Evaluate benefits and risks of a schedule reduction technique.
5. Develop working knowledge of MS Project.

Triple constraint

Understanding the triple constraint model can provide immediate value in managing e-discovery. The triple constraint, often referred to as the “project management triangle,” can help mitigate chaos by providing a systematic means of understanding and analyzing the impact of project changes. The triple constraint model suggests that a change to one of the three primary project constraints of scope, time and cost also affects the other two constraints. For example, adding more custodians for review (increasing scope) means that the schedule (time) may be extended and cost (resources) will increase to pay for additional reviewers or overtime. Another way to understand the relationships is to imagine a rubber band around the outside edge of the triple constraint triangle. Pulling



the rubber band on one side of the triangle necessarily creates additional tension on the other two sides. As scope, time and cost change requests pass through the triangle, the project manager must learn to instantly recognize potential impact to all three project constraints. The objective of the triple constraint model is not to reject changes. It is to encourage project managers to understand, analyze and manage the potential impact of any changes on project success. The final step when using triple constraint is to evaluate the impact of potential changes on project quality. For example, adding reviewers to address increased scope may mean adding less-qualified individuals or rushing new recruits through training. The reviewers may still be added, but that step should be preceded with triple constraint impact analysis and quality risk evaluation.

Quick steps:

1. Understand the dynamic nature of the triple constraint model.
2. When faced with a change to one of the constraints, analyze the risk and potential impact to the other constraints.
3. Communicate and escalate risks to quality posed by the changes.

Conclusion

Chaos is disorder with no seeming predictive means of resolution, and every e-discovery project will have some level of chaos. The knowledge, skills and tools of project management provide a means of bringing order to the chaos. The information presented in this paper presents just a few project management concepts that can assist and hopefully improve the management of complex e-discovery.

About Fios, Inc.

For over a decade, Fios has helped corporations and law firms reduce risk, control costs and gain management control over the entire spectrum of e-discovery. We are dedicated exclusively to delivering comprehensive services and expert guidance that transform the burdensome nature of electronic discovery into a streamlined, legally defensible business process. Our proven services and methodologies for healthcare organizations are based on an integrated, in-depth knowledge of technology, legal and human resource requirements to meet the ever-changing demands of complex e-discovery. For more information about the company and its services, visit http://www.fiosinc.com.