

Increased Efficiency—A Key Goal of Project Planning

Everyone involved with LPM talks about “efficiency.” But what does “efficiency” really mean? There does not seem to be much concrete discussion of what that concept does and does not mean and how to achieve it.

We want to start a dialog about this subject so that we all have a similar understanding about what we mean by “efficiency” and so that we avoid some problems developing because of different assumptions about the term.

What “efficiency” always includes:

1. **planning-related efficiency:** the elimination of wasted time due to inadequate communication about (1) what tasks need to be done by what members of the team and what tasks don’t need to be done or are being done by others, (2) how long each task is expected to take based upon the scope of the task, and (3) the sequencing of the work so that tasks are done in the order that eliminates overlap or the need to redo certain aspects of the work.
2. **timing-related efficiency:** starting and stopping tasks requires more time than proceeding on a consistent timetable. The obvious example is preparing for a trial; if the trial is postponed, a good deal of the preparatory work will need to be repeated. Drafting documents can be similar; if you start

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drafting a set of documents and then have to put them aside for several days or more partway through, you will probably end up repeating some of the work. Another aspect of timing-related efficiency is doing work on an urgent basis. While sometimes urgency does improve focus, eliminates stops and starts, and keeps the scope of work limited to that which is essential, it often results in poor sequencing of tasks, duplication of effort because more people need to be involved than is ideal, and miscommunication because of stress and lack of time.

3. **process-related efficiency:** having forms, checklists, precedents, and technological tools in place avoids the need to create things from scratch, or to think through problems that have already been solved. This is why knowledge management is an important aspect of LPM.
4. **staffing-related efficiency:** using the appropriate personnel for the tasks at hand. We know that those with experience doing tasks usually do them in less time; we also know that those who are specialized have knowledge and skill that eliminates the need for research or analysis, at least to a degree. It is also the case that people who are used to working with one another, understand each other's expectations, and communicate well with each other, will get things done more quickly. Using an ideal combination of people can increase efficiency. On the other hand, poor delegation skills, inadequate communication, personal friction, inexperience, or a mismatch of talent and skill to the task, will result in considerable waste and duplication of effort.

What “efficiency” can often include:

1. **goal-related efficiency:** understanding the client's ultimate goal, and how we can best achieve that goal, is also a critical aspect of efficiency. For instance, it may be the case that the client's goal is to settle a litigation matter early to, among

other things, avoid negative publicity. Understanding that goal and designing a strategy—and the allocation of effort and time—consistent with that goal leads to the greatest opportunity to achieve an efficient result. However, it should also be recognized that pricing certain goals, such as early settlement, can be counterproductive if things don't work out as planned. In that case, for example, work that might have been done more efficiently early in the case but was postponed in the hope of avoiding it altogether may have to be done later in a hurried and poorly planned manner.

2. cost-/benefit-related efficiency: limiting the scope of work to those tasks that are most likely to have appropriate results. This is a very tricky concept of efficiency but is one of the most often discussed, usually in the context of the lawyers “who leave no stone unturned.” What is “efficient” in any given case will usually vary depending upon the amount of money (or other thing of value to the client) that is at stake, the client's tolerance for risk, the particular lawyer's judgment about the risk, and the client's goal. The more that is at stake, the lower the tolerance for risk. This is what we are talking about when we speak of proportionality. It is also true that some lawyers (and clients) will evaluate the same risks differently. It is critical that the lawyer and the client be in agreement on the level of risk that both are comfortable with and that the lawyer and the law firm be similarly in agreement. That is because our reputation rests on providing a certain level of service. Even if a particular client is comfortable in taking risks that we as lawyers recommend against, in some cases, we as a law firm should not agree to proceed in that way.

What may be included in “efficiency” but is best thought of in a different way:

3. Does “efficiency” equal “speed?” While we all think of efficiency as equating at some level with getting things done more quickly (as with the “efficiency experts” of old who were always pictured with a stop watch, timing how long it took to complete a task), we submit that this is a problematic way of looking at efficiency in terms of legal project management. All things being equal, the person who can write the same letter or brief or contract more quickly but with the same quality as another person is more efficient. But while we should all strive to work with focus and diligence, it is a simple fact that some people do things more quickly than others. With a group of highly talented lawyers, people with similar experience will probably accomplish tasks at a reasonably similar pace. Although those who work more deliberately may want to consider ways to accomplish the same amount in less time, they should not do so at the expense of the quality of their work.
4. Does “efficiency” also mean spending less time on a task? Assuming that all the other elements of efficiency mentioned above have been taken into account, we would say that the answer in almost every case should be no. If the scope of the task is clear, proportionate to the problem, and necessary to the overall work, it should be done well—meaning to the standards of excellence of the firm. This can be a difficult point to address because one often sees statements like “we need a Chevy and not a Cadillac” for this task, or the work on this task only needs to be “good enough.” The problem stemming from statements such as these is that it is hard to know what they mean. Making choices about what work should be done in light of the potential risk and cost makes sense; not taking the time to write a careful agreement does not. If a quality problem comes up later, no one will accept the argument that the work was only intended to be “good

enough,” while if a problem comes up due to a scope of work that was reasonable under the circumstances, it at least ought to be.

There are no “right” or “wrong” answers regarding the definition of efficiency in legal organizations or to how it is used. There are so many possible ways to define it or achieve it so the authors wanted to offer some “food for thought” for legal organizations who want to consider different types of efficiency for which to strive.