



Wigley & Company

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**PROJECT MANAGERS AND LAWYERS:  
A BEAUTIFUL RELATIONSHIP?**

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## **Project Managers and Lawyers: A Beautiful Relationship?**

Lawyers knock out their boilerplate. Project managers cobble together their Gantt charts, and the technical people craft beautiful specifications. But does that mean much, compared to what might be the most important issue in any project: the quality, the experience, and the integrity of the people?

An example. We recently helped a large organisation with the type of multi-million dollar technology project that's known to be inherently risky.

One of the most important reasons why the customer went with the main vendor, rather than others, was the vendor's project manager. He was an outstanding project manager with tons of experience, integrity, fairness and people skills. The customer trusted him and rightly so. And the customer had a project manager with just the same smarts, who got on with the vendor's project manager

The customer's instincts were right. They did a great job and the project succeeded. Of course the vendor's project manager did well by the vendor, but he also did well by the customer too.

We all felt, when drafting the contracts and negotiating with the vendor, that in many ways it was more important that this project manager was in place, than going overboard and having a fancy contract to protect the customer.

We lawyers can get bogged down in the detail of the boilerplate and forget about what is truly important. Often it is not in the boiler plate itself (other than say limitation of liability, and intellectual property in technology contracts). The real issues might be around things such as the people and in the specifications themselves. There is no escaping that the lawyers should largely understand and closely review those, for that often is where the real risk lies, rather than in the boilerplate contracts.

When it comes to reviewing specifications, we find it's much easier to do it with project managers and technical people who have the sort of capability and integrity outlined above. We think lawyers need to make some sort of judgment call about this. There are people (perhaps trending more towards the sales side of the equation) who will simply want to see the project pushed through regardless, with little consideration for the risk down the track. Great project managers do take a holistic approach on these things. While of course they want to get the project out the door on time, they are conscious of the wider issues, the quality, and the risk down the track.

For most of the work we do, a project manager is involved (and generally an in-house lawyer is involved as well). The team work is invigorating and can produce great outcomes. Project managers who are good at the detail (getting outcomes on time etc), meshed with great people skills, are a pleasure to deal with. Having those hard and soft skills in one person makes for great talent and for a challenging job for project managers.

For many large projects of course, use of lawyers can't be avoided. There is too much at stake. We often find that the time and cost of the lawyers is not budgeted in to project plans. This can lead to last minute requests of, usually, in-house lawyers, to give advice on agreements, RFP processes etc. Lawyers are usually stretched with a back-log of work. Often, in-house lawyers don't specialise in the particular area and will outsource to external lawyers. This of course can impact on the project's ability to meet its time commitments, and can also lead to additional costs which have not been budgeted.

Even when budgets are done, either sooner or later, it can be difficult to predict what the legal costs will be (so that one of the project manager's important drivers (relative certainty about costs)) is not met. This is a difficult problem. Taking IT projects for example, they of course often have cost blowouts. For similar reasons, legal costs on those projects can be more than were originally expected as well. This is a common experience across many providers and many projects. It's a hard one to resolve, apart from up-front recognition of the difficulty. Sometimes there will be solutions which can provide greater certainty.

How soon should the lawyers be brought in? Usually its too late, although of course bringing in the lawyers earlier could increase overall time and cost involvement, particularly as a project and its structure goes through twists and turns as often happens. But, time and cost considerations aside, it is better to have the lawyers involved earlier as part of the team dealing with issues such as the RFP, specifications/requirements, public sector procurement compliance, (where public sector agencies are involved), and also helping with lateral solutions and difficult situations. A good example of the latter is the increasing use of independent experts rather than arbitrators as a fall back position for a quick decision on unresolved issues during the course of the project (see our paper at <http://www.wigleylaw.com/mainsite/TyingUpLooseEndsAndDisputeResolutionInIctContracts.html>). Issues around RFP's, procurement processes, and Fair Trading Act risk can be dealt with earlier than later (see our paper at <http://www.wigleylaw.com/TendersRFSCompetitivePurchasingTrapsForUnwaryBuyer.html>) as can liability and limitation of liability issues (see <http://www.wigleylaw.com/LimitationOfLiabilityAndRelatedIssues.html>). We have many other papers at <http://www.wigleylaw.com/LatestArticles.html> that deal with various project and contract issues.

Here is a good example of what can be accomplished. Too many RFP processes allow for little or no communication between vendors and the purchaser during the procurement process. This is largely done for probity reasons, but it sure means in many cases that customers don't get great outcomes. The vendors don't have all of the information they need to put in a good proposal. The lawyers can recommend steps which meet probity needs yet free up the communications as well.

Projects that project managers and lawyers get involved in tend to be such that the legal work is more one-off than precedent and routine based. Legal costs in relative terms can be high, although, lawyer's hourly charge out rates are a relatively minor factor in the true cost and benefit equation (in terms of costs, it's likely that efficiencies, pre-existing knowledge, and so on, will lead to lower costs rather than the hourly rates themselves). Project managers of course generally have strengths in drafting and reviewing legal documents. Working as a team can be a good way of improving outcomes and reducing costs.

Others may disagree, but we think that project managers and lawyers have a responsibility to identify risks which have not otherwise been identified by the organisations, even if they are outside their immediate area of expertise (after all, we've all "*been there done that*"). We often see the product of earlier poor choices, or perhaps an approach favoured by one stakeholder which does not provide the best outcome. Doing something about it requires some courage and can be risky. But we think we have the responsibility and, professionally, I wouldn't want it otherwise. My impression is that project managers generally do a great job in this area, and of course they are faced with competing pressures such as from sales people in vendor organisations, business units and customer organisations, and so on.

It's not an easy role yet, paraphrasing Robert Frost's famous poem, great project managers can make all the difference.

Wigley & Company is a specialist technology (including IT and telecommunications), procurement and marketing law firm founded 11 years ago. With broad experience in acting for both vendors and purchasers, Wigley & Company understands the issues on "both sides of the fence", and so assists its clients in achieving win-win outcomes.

While the firm acts extensively in the commercial sector, it also has a large public sector agency client base, and understands the unique needs of the public sector. While mostly we work for large organisations, we also act for SMEs.

With a strong combination of commercial, legal, technical and strategic smarts, Wigley & Company provides genuinely innovative and pragmatic solutions.

The firm is actively involved in professional organisations (for example, Michael is President of the Technology Law Society and Stuart van Rij its secretary).

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