



IT projects and dispute avoidance

At a glance:



Carry out thorough due diligence: Both the customer and the supplier should carry out thorough due diligence during the partner selection process and prior to contract signature.



Involve the project delivery teams and stakeholders: Consult and align project delivery teams and stakeholders prior to execution of the contract.



Negotiation considerations: During negotiations, make sure both parties have considered the key contractual elements required to assist with dispute avoidance.



Exercise good contract management: Ensure that the contract is implemented, and actively managed, in accordance with its terms.



Early issue management: Consider any potential issues at the earliest opportunity and manage these proactively in line with the contractual terms.

The successful execution of IT projects is crucial for businesses to stay competitive in today's world. However, these projects often come with their own set of challenges, including underestimated costs, misunderstood scope, unexpected delays, and complex governance issues. But, with careful foresight and planning, some of these issues may be avoided altogether.

This article considers some of the key options which may be available to the parties, both before and after contract execution, in order to minimize the risk of disputes and maximize the chance of the project being a success.

Pre-contract: Carry out thorough due diligence

On the customer side, thorough due diligence is essential during the partner selection process and references of the supplier's track record should be obtained (whilst cost is important, it should not be the sole deciding factor). Equally on the supplier side, it is important to undertake due diligence to understand the customer's needs and project requirements in order to understand the scope of the services and their related costs.

Pre-contract: Involve the project delivery teams and stakeholders

It is crucial that project delivery team members and stakeholders are consulted before the contract is executed, so that its terms accurately reflect the practical aspects of how the project will be delivered in practice. Leveraging their technical expertise at

this stage also helps to ensure that roles and responsibilities are clearly delineated and understood, and that the project scope is feasible and realistic (including when compared to the budget available).

Contract negotiations: Key considerations

A non-exhaustive list of key considerations for inclusion in the contract, from the perspective of dispute avoidance, includes: a defined project scope with specific allocation of responsibilities between the parties and their respective project teams; express procedures for managing delays and change (including associated contingencies in time and cost); whether there should be ground(s) for excused performance and an associated requirement for relief notice(s); carefully considered exit provisions covering termination and the obligations of the parties if termination does occur; and tailored dispute resolution provisions.

Post-contract: Exercise good contract management

Effective contract management following the execution of an IT contract can significantly reduce the likelihood of disputes. Other significant benefits include cost reductions, improved efficiency and strengthened compliance.



Conduct handover sessions with the project delivery teams to ensure that they each have a thorough understanding of the contract terms and risk allocation as it relates to their roles and responsibilities.



Follow the governance procedure in the contract. It may assist to produce a key contract summary or matrix for the various delivery teams and stakeholders to ensure the contractual terms are not overlooked in future.



Consider making a member of the executive team accountable for monitoring the project, and support them by putting in place a robust governance structure. This can ensure that potential risks are identified at an early stage and contractual procedures are followed.

Post-contract: Early issue management

Identifying risks at the earliest opportunity, and then proactively managing them in accordance with the contractual terms is key to prevent disputes. [DLA Piper's IT Project Healthcheck tool](#) can assist in assessing any key risks and issues, and parties should seek legal advice at an early stage to determine what options are available.