

LAWYERS SHOULD BE HONEST WHEN MAKING REFERRALS - ISOLUX INFRASTRUCTURE

Posted on 14/08/2015



Category: [Uncategorized](#)

Tag: [cat-clientview](#)



Law firms' flexibility on fees has a 'positive impact' on clients, but lawyers risk their reputation if they misrepresent firms to which they are referring work, says Isolux Infrastructure's Javier Prados

Given that Isolux Infrastructure operates in a large number of jurisdictions, the organisation relies on having a large selection of external local legal advisers, according to Javier Prados, the company's Madrid-based general counsel. "Instead of having one law firm handle a major project or assignment, Isolux Infrastructure usually likes to divide the work up between two or even three law firms, depending on factors such as expertise, type of project, position within the legal market in that jurisdiction and legal speciality," he explains.

The ability to spread the legal work around is vital for a company that works across three core sectors – toll roads, transmission lines and solar photovoltaic – with a book of projects, valued at \$11 billion, which spans nine jurisdictions around the world from the Americas to Asia. "We have to turn to external law firms for advice on corporate, restructuring, commercial, tax, regulatory and projects matters because we are in markets as diverse as the US, India, Brazil, Peru, Italy, and Japan so we can't rely on one single firm to meet our requirements," Prados says. "We need a large pool of law firms that we can call on depending on the type of legal questions that arise, the jurisdiction in which they are raised and the legal specialities needed to answer the questions."

To this end, Prados – who previously worked in private practice at Skadden Arps Slate Meagher & Flom, White & Case and Uría Menéndez before becoming Isolux Infrastructure's general counsel in June 2011 – has used a considerable number of international law firms. The list includes Latham & Watkins, White & Case, Chadbourne & Parke, Shearman & Sterling, Jones Day and Bird & Bird.

"We do not have an official panel but we do have a selection of firms we work closely with in the various markets in which the company operates," Prados explains. "We know what we like to see in our external law firms, though – we have to know the lawyers and the law firms well, and they have to know about Isolux Infrastructure and our business priorities, they must also have expert knowledge and proof of expertise in certain sectors, such as infrastructure, project finance or disputes."

He adds that Isolux Infrastructure's legal budget, rather than being squeezed, is established using predictions of what type of work is likely to occur in the year ahead. For example, the legal department will have a good idea of the projects that are likely to reach financial close in a certain year or any refinancing work that will need to be done. There is some flexibility but Prados says the legal budget is calculated to reflect the likely legal work, rather than making the legal work fit a predetermined budget.

"Most law firms are certainly becoming more flexible on their fees too," Prados says. "Lawyers are happy to adjust fees and adopt flexible billing structures adapted to the specificities of the project, which will ultimately have a positive impact on us as a client as well as a higher predictability for the law firm," he adds. "If a client is able to predict legal costs, then the budgets can be more precise and this may reduce the challenges related to the levels of fees."

Honesty is the best policy

Prados adds that one thing he dislikes is law firms that misrepresent other firms when making referrals in other jurisdictions. He says sometimes they will provide strong recommendations, vouching for the quality of the law firm, only for it to transpire that the referral firm is not up to scratch.

"Having worked in particular local legal markets – such as India or Brazil – it allows us to have a deep knowledge of them and, thus, I would much prefer a law firm being very honest when making a referral, saying that they don't know about the quality of the other firm rather than saying how amazing they are," he says. "It may reflect badly on the initial law firm if the recommended firm turns out not to be of the quality that was suggested."

Prados expects his nine-lawyer in-house team to be busy on a number of new projects in the US, India and Brazil in the year ahead. He adds: "There is a lot of regulatory matters to deal with, certainly in markets such as India and Brazil, and together with the work focused on increasing the company's projects in several jurisdictions, I envisage that will take up at least 70 per cent of our time."