



CLAIM MANAGEMENT

ROHDE & SCHWARZ

Make ideas real



WHY CLAIM MANAGEMENT?



We need to protect our profits and



Reduce our commercial risks while



Maintaining a fair deal with our contracting party

To achieve the claim management objectives, the following options are available:

- ▶ Protect against claims by contracting parties
- ▶ Transform unjustified or additional requests into profitable change orders
- ▶ Enforce our own claims against contracting parties

DEFINITIONS

Claim

A claim is a (formal) request, demand, or assertion of rights by one contractual party against the other for consideration, compensation or payment under the terms of a legally binding contract.

Claim management

Claim management is the process of identifying, evaluating and documenting contractual deviations early and taking timely measures to assert rights for unjustified requests and to protect against said requests.

Contracting party

Customer, supplier or consortium partner

PARTIES INVOLVED IN CLAIM MANAGEMENT

Sales

The sales manager is responsible for ensuring that the scope of deliveries and services in an offer is comprehensive in order to minimize the risk of claims from the contracting party. This includes the clear definition of the contracting party's own obligations.

Contract management

The contract manager is responsible for negotiating the best possible terms and conditions for Rohde&Schwarz to avoid claims. In addition, the contract manager supports the assigned project manager with claim management by providing commercial and legal guidance and advice during project implementation.

Project management

The project manager is in charge of the implementation of the contractually agreed scope of work. This includes monitoring fulfillment of the contracting party's obligations as stipulated in the contract. By doing so, the project manager on the one hand avoids claims being asserted against Rohde&Schwarz and on the other hand enables claims to be asserted against the contracting party.



MEASURES BEFORE CONTRACT CLOSURE

The offer prepared by sales forms the basis for the resulting contract. Thus, it is already the foundation for any potential claim asserted by the contracting party during project implementation. The following measures can be taken to avoid claims at a later stage.

Technical measures

In addition to the accurate and complete breakdown of the delivery scope and related services (e.g. FAT, training), the offer should specify any dependencies and prerequisites such as:

- ▶ Equipment to be provided by the contracting party, e.g. power supply, IT connection/data transmission capacity
- ▶ Services to be provided by the contracting party, e.g. contracting party's own integration services, access to the site

Commercial measures

During contract negotiations, the contract manager in charge takes care of the commercial and contractual sanity of the contents of the contract. This includes:

- ▶ Stipulation of appropriate grace periods before penalties become due
- ▶ Establishment of an appropriate payment plan and suitable payment securities
- ▶ Definition of reasonable and stringent prerequisites for the achievement of contract effectiveness or the delivery date



MEASURES AFTER CONTRACT CLOSURE

Simple steps to follow for the outgoing claim



1. Collection of facts

The collection of facts forms the basis for a claim assertion. It is crucial that the facts can be evidenced to the contracting party or, if necessary, to a court or arbitration tribunal.

2. Documentation

The facts need to be laid down in writing or, depending on the case, with photographs or other tangible documentation. Suitable documentation includes correspondence, signed minutes of meetings and photographs.

3. Pursuance of the claim

Once the decision has been made to actively pursue a claim, the project manager submits the written claim to the contracting party as soon as possible.

Keep in mind

Know your contracting party: while the methods for claim management are usually the same, there might



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PURSUANCE
OF THE CLAIM

4

NEGOTIATION

4. Negotiation

The project manager has to be prepared that the contracting party will reject the claim and, if possible, submit a counter claim to Rohde&Schwarz. If such a rejection or counter claim is asserted, the project manager needs to thoroughly evaluate whether such a rejection or counter claim is justified.

Discussions resulting therefrom can last several rounds and lead to a claim negotiation meeting or even the initiation of an alternative dispute resolution (ADR) upon mutual agreement of the parties.

The threat of an upcoming arbitration might cause a party to return to negotiations and find a settlement without the use of legal instruments.

be very different approaches on how to deal with claims depending on your contracting party's culture, relationship and business behavior.



SUPPORTING DOCUMENTS

The collection of facts, i.e. a suitable written documentation, forms the basis for proper claim enforcement and for efficient protection against any claims asserted by a contracting party against Rohde&Schwarz.

The [SharePoint template](#) for customer project sites offers an exemplary claim register, a Word template for documentation and a process description.

REMEMBER

Claim management is an essential part of project management.

1. Always watch out for claim potential
2. Document your claims
3. Diligently pursue a claim
4. Negotiate solutions fairly

For more information, see our [PAD-M "Claim Management"](#).

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Claim management

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