

LHAG Insights

Technology, Media & Telecommunications



G. Vijay Kumar
Partner

TMT

E: vkg@lh-ag.com



Harvey Ng Yih Xiang
Associate

TMT

E: nyx@lh-ag.com



Nicole Shieh E-Lyn
Associate

TMT

E: sel@lh-ag.com



Wee Yun Zhen
Associate

TMT

E: wyz@lh-ag.com

16 MAY 2023

Mastering IT Agreements: Managing Change Requests

As projects progress, stakeholders often identify necessary changes to the original plan. These changes can range from minor adjustments to major alterations to the project's scope, timeline, or budget. To address this gap, most modern IT agreements incorporate a change request protocol to enable parties to mutually vary the original scope of work.

A change request protocol will generally consist of the following components:

- 1) a request procedure stipulating the change required;
- 2) an evaluation on the costs and project implications resulting from the requested change;
- 3) an approval process for the change request; and
- 4) a procedure to make amendments to the contract to address the potential effects to the project flowing from the requested change.

Each of these components above are crucial to effectively manage change requests and the specific requirements for these components may differ depending on the terms of the contract. While change requests can be valuable, they come with their own set of difficulties, and mismanaging them may

obstruct the success of a project. In this alert, we will outline two significant challenges frequently encountered in change request management and offer guidance in addressing them.

Challenge 1: Non-Adherence with Change Request Protocol

Frequently, disagreements concerning change requests arise not due to the absence of a change request protocol in the contract, but rather because the involved parties have failed to adhere to these terms. Here are several examples of possible non-adherence to a change request protocol:

- a) failure to follow the formal change request procedure after an informal discussion between the client and service provider;
- b) failure to make consequential amendments to the contract to account for impact of the requested change;
- c) failure to advise on costs and timeline implications of implementing the requested change; and
- d) change request approval obtained from an unauthorized personnel.

These failures may result in serious complications to the project, such as project delays and costs overrun that could ultimately lead to the project's failure. In such circumstances, the relationship between parties often become increasingly acrimonious, with the emphasis shifting towards assigning blame.

Recommendation: Diligent Adherence to the Change Request Protocol

In essence, both parties should ensure that the project team and stakeholders are well aware of the terms of the change request protocol and strictly adhere to the same. Achieving this may require the following steps:

- (i) training sessions to improve familiarity with change request protocols;

- (ii) tracking progress of change requests against stipulated timeframes;
- (iii) ensuring that all required documents are submitted; and
- (iv) promptly identifying and addressing deviations from change request protocols.

It is also crucial for both parties not to be lenient if the other party refuses to follow the change request protocol. Taking a lenient approach in such a situation may and most often will expose the lenient party to liability on a later date. Parties should take active steps to promptly resolve any reasons for any non-adherence before resorting to adversarial avenues.

If non-adherence persists, it is essential to review the terms of the contract to identify and enforce the consequences of non-adherence to the change request protocol. Seeking legal advice promptly may also play a critical role in obtaining clarity on the relevant rights and recourse available to enforce adherence. By doing so, parties will be able to assert their rights effectively without implementing irreversible or detrimental actions.

Challenge 2: Inadequate Approval Process

As the approval process is a significant part of the change request protocol, the protocol should clearly define each party's roles and responsibilities during the approval process. Otherwise, the project may be encumbered with unprocessed request forms whereby the project team is forced to wait for the go-ahead before making any necessary modifications. As a result, this may cause a chain reaction of delays leading to missed deadlines and potential penalties. This is also common in change request protocols where a single designated personnel is responsible for the processing, reviewing, and approving of all change requests.

Recommendation: Right Personnel/ Right Structure

Implementing a proper vetting process is critical to ensure that the personnel responsible for approving change requests have the necessary skills and can make informed decisions promptly. The designated personnel should also be given sufficient authority and mandate to minimise the number of change request forms that require approval from upper management. This step will reduce backlogs and



Head Office

Level 6, Menara 1 Dutamas
Solaris Dutamas
No. 1, Jalan Dutamas 1
50480 Kuala Lumpur
Malaysia
Tel: +603 6208 5888
Fax: +603 6201 0122

Johor Office

Suite 21.01
21st Floor, Public Bank Tower
No.19, Jalan Wong Ah Fook
80000 Johor Bahru, Johor
Tel: +607 278 3833
Fax: +607 278 2833

Penang Office

18-33-A3 Gurney Tower
Persiaran Gurney
10250 Georgetown
Pulau Pinang
Tel: +604 299 9668
Fax: +604 299 9628

Email

enquiry@lh-ag.com

Website

www.lh-ag.com

ensure that change requests can be approved or rejected in a timely manner.

Parties should consider whether to implement a tier-ed change request protocol, which provides for clear processes for managing change requests based on their complexity and impact. Lower-tier changes, which are less complex and have a lower impact, are managed through a simpler and faster process. Whereas higher-tier changes, which are more complex and have a higher impact, are subject to a more rigorous and formal process, which involves more stakeholders as well as a more detailed analysis. This approach serves as a filtering mechanism to ensure that resources are allocated efficiently in managing change requests.

Conclusion

To effectively manage change requests, stakeholders should periodically review their agreements and ensure that the agreements provide adequate safeguards against the challenges discussed. Seeking legal advice may be beneficial in amending the contract to achieve this purpose. In conclusion, while the implementation of IT change requests can pose significant challenges, they are not insurmountable. With proactive and diligent efforts to tackle these challenges, project stakeholders can successfully manage change requests, promote project success, and mitigate associated risks.

If you have any queries please contact associates **Harvey Ng Yih Xiang** (nyx@lh-ag.com), **Nicole Shieh Ee-Lyn** (sel@lh-ag.com), **Wee Yun Zhen** (wyz@lh-ag.com) or their team partner, **G. Vijay Kumar** (vkg@lh-ag.com).