

SSM 37 - TENDER DESIGN AND EVALUATION

Contractual relationships are an important aspect of Project Management. It is important to have an understanding of how they are used, evaluated and selected to achieve the desired goals and objectives of a project. We will look at how they are created and structured and some of the various methods available to negotiate contracts, and to resolve disputes.

The course will also examine some of the main clauses that appear in contracts, together with a number of alternative contracting strategies and structures. It will then consider methods to be used in negotiating contracts, including techniques relating to negotiating on variations and claims. The various methods and techniques of dealing with commercial disputes arising from contracts will be reviewed, and their application to both local and international settings.

WHO SHOULD ATTEND?

This programme will be of special interest to:

- Programme and Project Professionals
- Project Team Members
- People responsible for managing projects and contracts
- Technical Professionals and Engineers moving into project leadership roles
- Procurement and Purchasing Professionals

PROGRAMME CONTENTS

DAY 1 - What are contracts and how are they created?

- The need for contractual relationships
- The tender process
- Involvement of agents
- What happens if there is no contract, but work is carried out anyway?
- Making contracts enforceable – with particular emphasis on the international context

What is needed to create a valid contract?

- Offer and acceptance
- Intention to create a legal relationship
- Legal formalities in different countries
- Signing and sealing
- Authority to sign
- How to prove authority

DAY 2 - Structure of contracts

- Form of Agreement
- General Terms and Conditions
- Special Terms and Conditions
- Schedules or Appendices
- Risk and title
- INCOTERMS
- Notices and other formalities
- Which law and which courts?

DAY 3 - Collateral documents

Bonds and guarantees

- Tender Bonds
- Advance Payment Bonds
- Performance Bonds
- Parent Company Guarantees
- Retention/Withholding
- Retention Bonds

Tender Letters

- Letters of intent
- Letters of award
- Letters of comfort or awareness

DAY 4 – Changes

Changes to the Contract documents

- Need for consent
- Assignment/Novation
- Waiver

Changes to the scope

- Changes and claims distinguished
- Variation clauses
- Notice provisions
- Valuation of variations and changes

Delay and disruption

- Delay caused by client
- Delay caused by contractor/supplier
- Force majeure

DAY 5 - Resolving disputes

- Negotiation
- Staged dispute resolution clauses
- Litigation
- Arbitration

New best practices in dispute resolution

- Mediation
 - Conciliation
 - Early neutral evaluation
 - Expert determination
 - Pendulum arbitration
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- Final questions and review of course