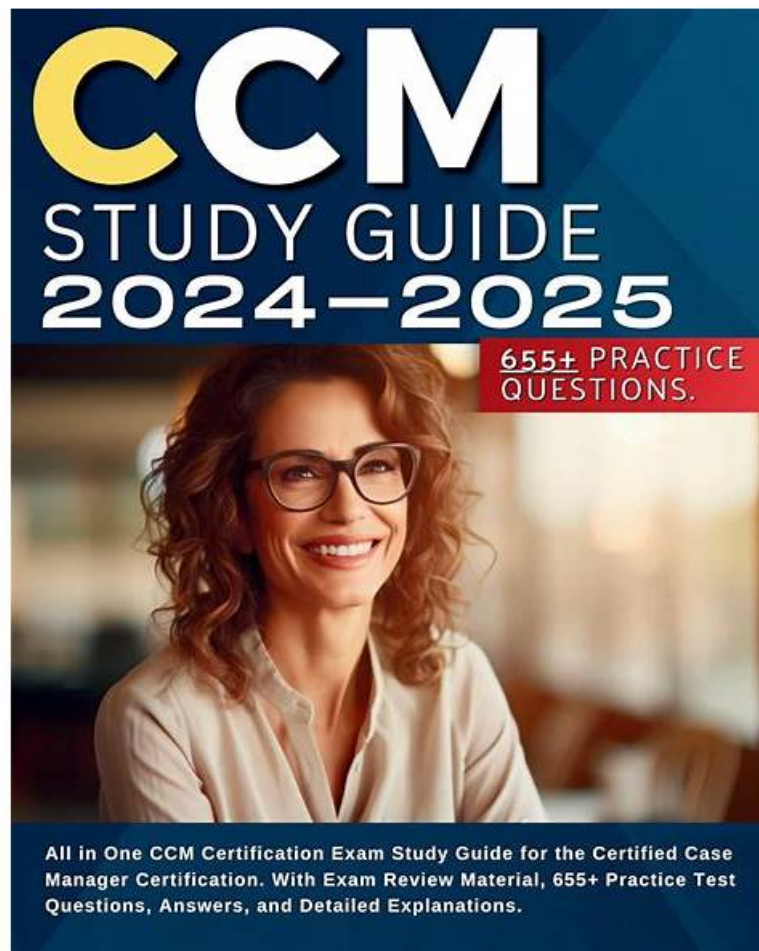


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Sample Questions (Q24-Q29):

NEW QUESTION # 24

You are the Contract Manager of the Engineer in a condominium project under FIDIC Yellow Book (edition 2017), with Time for Completion of 5 months.

The Contractor received a Letter of Acceptance on 1 May 2022. The Contract Agreement was signed on 1 June 2022. The Contract Agreement states that the Commencement Date shall be notified by the Engineer, but it shall be no later than 14 days after the signing of the Contract Agreement, subject to the issuance of the construction permit.

1 July 2022 is the first day the Engineer was at Site. On the same day, the Engineer issued a Notice to the Contractor that the Commencement Date shall be 15 July 2022. However, the construction permit was issued only on 1 August 2022.

The Project was completed on 1 December 2022. After completion, the Employer submitted a claim for Delay Damages. Following consultations, the Parties could not reach agreement on the Commencement Date.

What is the correct Commencement Date?

- A. 12 June 2022
- B. 15 July 2022
- C. 1 August 2022
- D. 15 June 2022

Answer: C

Explanation:

According to the FIDIC Yellow Book 2017, the Commencement Date is the date notified by the Engineer as the date on which the Contractor shall start the execution of the Works (Sub-Clause 8.1). In this case, although the Engineer notified 15 July 2022 as the Commencement Date, it was subject to the issuance of the construction permit. Since the construction permit was only obtained on 1 August 2022, work could not legally commence before that date.

FIDIC recognizes that the Contractor cannot be expected to start before all necessary permissions are granted.

Hence, the effective Commencement Date must be the earliest date on which the Contractor can legally commence work, i.e., the date when the permit was issued (1 August 2022). The contract's requirement that the Commencement Date notification occur no later than 14 days after signing is subject to actual readiness conditions (permit availability).

Therefore, for purposes of delay and completion, the Commencement Date is 1 August 2022. This affects the calculation of the Time for Completion and any delay claims accordingly.

References:

FIDIC Yellow Book 2017 Edition, Sub-Clause 8.1 - Commencement of Works

FIDIC Yellow Book 2017 Edition, Sub-Clause 2.1 - Right of Access to Site and Permits FIDIC Contract Manager Study Guide, Module on Contract Formation and Execution

NEW QUESTION # 25

When does discharge become effective under the FIDIC Red Book (edition 1999)? (1 correct answer applies)

- A. When the Employer counter signs a discharge notice as issued by the Contractor, following full payment and return of the Performance Security.
- B. When the Contractor receives full payment certified through the Final Payment Certificate and return of the Performance Security.
- C. When the Contractor receives its Performance Security from the Employer.
- D. When the Contractor receives full payment certified through the Final Payment Certificate.

Answer: B

Explanation:

Under the FIDIC Red Book 1999, discharge becomes effective when the Contractor has received full payment certified by the Final Payment Certificate and the return of the Performance Security (Sub-Clause 14.10).

Both elements must be completed for the contract to be considered fully discharged, releasing the Contractor from further obligations or liabilities under the contract.

Option A is incomplete as payment alone does not fully discharge the Contractor.

Option B is incomplete as return of Performance Security alone is insufficient.

Option D is incorrect because the contract does not require a discharge notice signed by the Employer beyond these conditions.

References:

FIDIC Red Book 1999 Edition, Sub-Clause 14.10 - Final Payment and Discharge FIDIC Contract Manager Study Guide, Module on Project Close-Out and Final Account

NEW QUESTION # 26

The Contractor is entitled to an advance payment, it has obtained such payment and it has not yet been entirely paid back. Under FIDIC Red Book (edition 1999), in which two situations will the outstanding balance of the advance payment become immediately due?

Choose all of the correct answers (multiple possibilities).

- A. If advance payment is not completely repaid before the Performance Certificate is issued.
- **B. If the advance payment is not completely repaid before termination of the Contract.**
- C. If the advance payment is not completely repaid before the Taking-Over Certificate is issued.
- **D. If the advance payment is not completely repaid before Time for Completion.**

Answer: B,D

Explanation:

Under the FIDIC Red Book 1999, advance payment is a sum paid to the Contractor to help cash flow early in the project. It must be repaid through deductions from interim payments according to a specified schedule.

* Sub-Clause 14.5 (Advance Payment) states that the Contractor must repay the advance payment by installments, typically by the Time for Completion. If the advance payment has not been fully repaid by the Time for Completion, the outstanding balance becomes immediately due and payable by the Contractor (Option A). This ensures the Employer recovers the advance by the time the project completes.

* Additionally, upon termination of the Contract (Sub-Clause 15.2 or relevant termination clauses), any outstanding balance of the advance payment becomes immediately due (Option D). This protects the Employer's financial interest if the Contract ends prematurely.

* Option B (before the Performance Certificate is issued) and Option C (before the Taking-Over Certificate is issued) are not explicitly linked in FIDIC Red Book 1999 to triggering immediate repayment of the advance payment. The Taking-Over Certificate marks practical completion and may precede the final repayment schedule, while the Performance Certificate is issued after the Defects Notification Period.

Therefore, the correct situations for immediate repayment of outstanding advance payment balance are before Time for Completion and upon termination of the Contract.

References:

FIDIC Red Book 1999 Edition, Sub-Clause 14.5 - Advance Payment

FIDIC Red Book 1999 Edition, Sub-Clause 15.2 - Termination by Employer (Payment obligations) FIDIC Contract Manager Study Guide, Module on Payment Procedures and Financial Management

NEW QUESTION # 27

Under the FIDIC Red and Yellow Books (edition 1999), which two of the following statements are correct regarding the issuance of Interim Payment by the Engineer?

(Choose all correct answers - multiple possibilities)

- **A. If the Employer considers itself entitled to claim against the Contractor, notice and particulars must first be submitted under Sub-Clause 2.5. The Employer's entitlement is then to be agreed or determined by the Engineer, and then, incorporated as a deduction in a Payment Certificate.**
- B. The Employer is bound by the Certificate issued by the Engineer and must make payment in full, irrespective of any entitlement to compensation arising from any claim which the Employer may have against the Contractor.
- C. The Employer is not bound by the Certificate issued by the Engineer.
- **D. The Employer is bound by the Certificate issued by the Engineer, and must make payment in full, except for any compensation arising from any claim which the Employer may have against the Contractor.**

Answer: A,D

Explanation:

Under the FIDIC Red Book and Yellow Book, 1999 editions, the Engineer issues Interim Payment Certificates certifying the amounts due to the Contractor for completed works and materials on site (Sub-Clause 14.6). The Employer is generally bound by the Payment Certificate and must pay accordingly, except where there is a lawful set-off or compensation claim against the Contractor.

Option A is correct because the Employer must pay the amount certified except for compensation claims that may be offset against the payment (Sub-Clause 14.6).

Option D is also correct: If the Employer intends to claim against the Contractor (e.g., for damages or defects), it must notify the Contractor under Sub-Clause 2.5 and provide particulars. The Engineer then assesses and decides on the claim and incorporates

any agreed deductions into the Payment Certificate.

Option B is incorrect because the Employer is indeed bound by the Payment Certificate unless lawful deductions or disputes arise. Option C is incorrect as the Employer can withhold amounts due for compensation claims once these are properly notified and substantiated.

References:

FIDIC Red and Yellow Books, 1999 Edition, Sub-Clause 14.6 - Interim Payments FIDIC Red and Yellow Books, 1999 Edition, Sub-Clause 2.5 - Employer's Claims FIDIC Contract Manager Study Guide, Module on Payment Procedures and Financial Management

NEW QUESTION # 28

What does discharge confirm under the FIDIC Red Book (edition 1999)?

- A. None of the above three statements is correct.
- B. It confirms interim settlement of all money due to the Contractor
- **C. It confirms full and final settlement of all money due to the Contractor.**
- D. It confirms the immediate end to the Contract unconditionally whenever issued.

Answer: C

Explanation:

Discharge under FIDIC Red Book 1999 confirms full and final settlement of all money due to the Contractor.

It signifies the Contractor's acceptance of the Final Payment Certificate and releases the Employer from further financial obligations related to the contract.

Options A and C misrepresent the nature of discharge.

Discharge is not a unilateral immediate termination but a financial closure.

References:

FIDIC Red Book 1999 Edition, Sub-Clause 14.13 - Discharge

FIDIC Contract Manager Study Guide, Module on Final Account and Discharge

NEW QUESTION # 29

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