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CIPS Commercial Contracting Sample Questions (Q56-Q61):

NEW QUESTION # 56

Which of the following should be specially noticed in market dialogue with suppliers in specification development?

- A. Market dialogue is banned in the public sector
- B. The buying organisation must avoid social media at all cost
- C. Market dialogue should only be conducted with well-known supplier
- D. Both parties must respect confidentiality

Answer: D

Explanation:

Being clear on your objectives helps you to design the best approach to the dialogue. There are some notices in developing dialogue with suppliers:

- All meetings should be documented
- Respect commercial confidentiality. Although insights gained from one conversation lead to questions in another, you must be very careful not to allow this to happen in a way that breaches the confidentiality of the first conversation.

Reference:

LO 2, AC 2.1

NEW QUESTION # 57

A retailer prefers to display its best selling products and promotion programme on the building windows. According to rule of contract formation, this act will generally constitute...?

- A. A mailbox rule
- B. An offer
- C. An invitation to treat
- D. A legal capacity

Answer: C

Explanation:

Fisher v Bell [1960] and Pharmaceutical Society of Great Britain v Boots Cash Chemists [1953] identified that the courts will generally consider goods advertised in shop windows or those with a price tag attached to constitute an invitation to treat. An invitation to treat is a concept in contract law. It refers to an invitation for a party to make an offer enter into contractual negotiations. Invitations to treat can be anything displayed to a large number of people, as long as there is no defined way to choose who can accept. Items on display in a shop, advertisements, and catalogues are all common examples of invitations to treat.

However, there are cases in the US shows that under some circumstances an advertisement can become an offer (see Leftkowitz v Great Minneapolis Surplus Stores [1957]).

Reference:

- What is an Invitation to Treat in Contract Law?

- CIPS study guide page 29

LO 1, AC 1.2

NEW QUESTION # 58

Bethy sees a coat on shop window with a \$100 price tag. She comes and asks the shop owner to buy it. The owner states that the price has not been updated and the current price for the coat is \$120. Bethy says the owner should honour the quoted price on window shop. Is Bethy correct?

- A. No, the display on shop window is just an invitation to treat and the owner may change the price at his will
- B. Yes, \$120 for a coat is extremely unreasonable and the owner's later offer therefore void
- C. Yes, the owner has made an offer by showing his product on the shop window and he must honour that offer
- D. No, the owner is revoking his initial offer to sell at \$100 and he is proposing new offer to Bethy

Answer: A

Explanation:

Based on two famous precedents, Fisher v. Bell (1961) and Pharmaceutical Society of Great Britain v. Boots Cash Chemists (1953), the display on shop window is considered as an invitation to treat. The shop owner can change the price when his customer asks to buy.

Reference: CIPS study guide page 29

LO 1, AC 1.2

NEW QUESTION # 59

Which of the following are likely to be advantages of using invitation to tender? Select TWO that apply:

Short turnaround times

- A. Lower administration costs

- B. Quick implementation
- C. Driving forward planning culture
- D. Reducing risks of bribery and corruption

Answer: C,D

Explanation:

Advantages of using invitation to tender may be as below:

No Nepotism: Tenders or bids are evaluated on the basis of certain predetermined criteria, such as price, quality and value for money. In other words, the firm offering the highest quality product or service at the lowest price point would win the contract. As most tender documents are opened and evaluated in a public process, I think that there remains little room for nepotism or favoritism of any kind.

Value for Money: From the perspective of the client, tenders offer the greatest value for the amount of money spent. This is due to the fact that the client can choose from a wide pool of potential suppliers to select the ones that can produce the highest quality product or service at the lowest price point. This allows the company, establishment or organization to save money without having to compromise on quality. Therefore, despite being quite time consuming, tendering is, in my opinion, a profitable long-term process from an organization's point of view.

Encourages Competition: The process of tendering helps promote a competitive market. This is because a number of potential contractors, firms or suppliers get a chance to bid for every project. And because selection depends on quality and price, every bidder tries to reduce operational inefficiencies and redundancies as much as possible in order to lower expenses and improve quality. This entire process encourages healthy competition in the market and prevents complacency and laziness, which in turn provides a boost to innovation and new ideas.

Easier Entry: The system of tendering makes it easier and simpler for new firms to enter the market or even a particular industry. This is due to the fact that contracts under this system are awarded on the basis of predetermined, objective criteria. As a result, even a firm that is a new entrant to the market, having no connections or contacts in the industry, can win a prestigious and lucrative contract by providing the highest value for the client's money. This process therefore helps new firms to quickly get a foothold in the market or industry, thus significantly lowering the traditional barriers to entry.

Reference:

- Characteristics and Benefits of the Tendering Process
- CIPS study guide page 6-8

LO 1, AC 1.1

NEW QUESTION # 60

In common law, which of the following documents is legally binding without the need for consideration?

- A. One-off contract
- B. Hire purchase agreement
- C. Deed
- D. Blanket order

Answer: C

Explanation:

In common law (the legal system in which most rules come from case law or precedents, such as UK, US, Australia, etc), the contract is legally binding if it has the following requirements:

- Offer
- Acceptance
- Certainty & Intention to Create Legal Relations
- Consideration & Promissory Estoppel
- Legal capacity

According to these rules, 'Blanket order', 'One-off purchase', and 'Hire purchase agreement' are contractually binding. One of the reason is that they have consideration.

However, there is a type of legal instruments that does not need consideration to be legally binding. They are called 'Deeds'. A deed (anciently "an evidence") is any legal instrument in writing which passes, affirms or confirms an interest, right, or property and that is signed, attested, delivered, and in some jurisdictions, sealed. It is commonly associated with transferring (conveyancing) title to property. At common law, to be valid and enforceable, a deed must meet several requirements:

- It must state on its face that it is a deed, using wording like "This Deed..." or "executed as a deed".
- It must indicate that the instrument itself conveys some privilege or thing to someone.
- The grantor must have the legal ability to grant the thing or privilege, and the grantee must have the legal capacity to receive it.
- It must be executed by the grantor in presence of the prescribed number of witnesses, known as instrumentary witnesses (this is

known as being in solemn form).

- In some jurisdictions, a seal must be affixed to it. Originally, affixing seals made persons parties to the deed and signatures optional, but seals are now outdated in most jurisdictions, so the signatures of the grantor and witnesses are primary.
- It must be delivered to (delivery) and, in some jurisdictions, accepted by the grantee (acceptance).

Reference:

- Deed - Wikipedia
- Formation of the contract
- CIPS study guide page 40

LO 1, AC 1.2

NEW QUESTION # 61

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