

CIPS L4M3 Practice Exam Questions (Desktop & Web-based)



CIPS Level 4 – Diploma in Procurement and Supply

Commercial Contracting [L4M3]

Sample Exam Questions (Objective Response)

The correct answer will be listed below each question

L4M3 Sample Questions V5 Sept 2020

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CIPS Commercial Contracting Sample Questions (Q163-Q168):

NEW QUESTION # 163

Which of the following are reasons why a purchaser wants to embed a subcontracting clause into the main contract? Select TWO that apply:

- A. To improve supply chain transparency
- B. To induce the conflicts between the main contractor and subcontractors
- C. To keep main contractor liable
- D. To reduce the main contract complexity
- E. To condemn whole liabilities to subcontractors

Answer: A,C

Explanation:

There are number of reasons why the purchaser will want to control the supplier's subcontracting:

- Supply chain transparency: Normally the purchaser has invested a lot of effort into selecting the right contractor. However, the main contractor's selection of subcontractor might not be in such careful manner, which may result in poor performance. Purchaser must know who subcontractors are. Controlling the subcontracting process can help the purchaser control the outcome.
- Contract terms: the purchaser's requirements must be reflected in the subcontracts. The subcontracting clauses may require the main contractor to do this.
- Liability: the main contractor may subcontract the whole or a part of its liabilities. Subcontracting clause may bind the contractor to be liable with the work, it cannot just blame the subcontractor for any faults.

Reference:

LO 3, AC 3.2

NEW QUESTION # 164

Which of the following is a true statement on express and implied terms?

- A. Express terms always take precedent over implied terms
- B. Express terms must always be in writing
- C. Express terms must be prepared by the party with expert knowledge
- D. Implied terms may derive from oral negotiations

Answer: D

Explanation:

Express terms are the terms of the agreement which are expressly agreed between the parties. Ideally, they will be written down in a contract between the parties but where the contract is agreed verbally, they will be the terms discussed and agreed between the parties.

Implied terms are terms implied into the contract by the courts. They are not expressly set out in the contract but are taken to be as effective as if they were and as if they had been included from day one of the contract. The express terms and any implied terms together create the legally binding obligations on the parties.

The types of express terms to be found in a contract are many and varied and will depend on the type of contract. Any term written into the contract is an express term and may refer to price, time scales, warranties and indemnities, limitations on liability, conditions precedent and so on.

An implied term is a term which the courts imply into a contract because it has not been expressly included by the parties. This may be because the parties did not consider it, did not think that any problem would arise in relation to it or simply omitted to include it.

The courts are very reluctant to imply terms into contracts and will only do so in the following circumstances:

1. terms implied under statute
2. terms implied under common law
3. terms implied because of custom or usage
4. terms implied due to previous dealings
5. terms implied 'in fact' or to reflect the parties' intentions

Reference:

- CIPS study guide page 126-132
- Contracts: Express and Implied Terms

NEW QUESTION # 165

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

Answer: C

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 # 166

Michelle contacts Hannah and asks her if she would be interested in purchasing her car for £2000. Hannah immediately takes £2000 to Michelle and says she wants to buy the car. Michelle subsequently refuses to proceed. Has the contract between Michelle and Hannah been made?

- A. Yes, by her performance Hannah has accepted Michelle's offer on selling the car
- B. No, because by refusing to proceed, Michelle rejects Hannah's counter-offer
- **C. No, because Michelle has rejected Hannah's offer on buying the car**
- D. Yes, because both parties have full legal capability to enter into a contract

Answer: C

Explanation:

To solve the question, you must distinguish the following notion:

- Offer: The case of Storer v Manchester City Council [1974] 1 WLR 1403 outlines that an offer is: An expression of willingness to contract on specified terms, with the intention that it is to be binding once accepted
- Acceptance: in order for a contract to be formed, the offer must be accepted. Acceptance represents the meeting of the minds of the parties to the contract - both agree to exchange something for the other (payment, services, goods, etc.).
- Counter offer: is an offer made in response to a prior offer.
- Invitation to treat: An important distinction to make in contract law is that between an offer and an invitation to treat. An invitation to treat is usually an invitation for another party to make an offer. It may also be defined as an indication that a party is open to negotiation.

Here are some key distinctions of offers and invitation to treats.

Offer:

- * Certain promise to be bound
- * Clear and specified terms
- * The conduct or words of the party show certainty
- * There is no room for negotiation

Invitation to treat:

- * There is room for negotiation
- * There is an invitation for offers
- * There is a request for information
- * Lack of certainty

In the scenario above, initially Michelle just gives an invitation to treat because she is asking whether Hannah is interested to buy her car (request for information from Hannah). Hannah may reject or go into a negotiation with Michelle. Then, Hannah makes an offer by taking the money and shows her intention to be legally bound.

At this point, when Hannah's offer is present, Michelle can accept or reject. When she rejects, the contract is not formed. The answer must be "No, because Michelle has rejected Hannah's offer on buying the car".

Reference:

- Definition of Counter Offer
- Formation of the contract
- CIPS study guide page 28-35

LO 1, AC 1.2

NEW QUESTION # 167

The cost in cost reimbursable contract is...?

- A. Profit
- B. Variable cost
- C. Fixed cost
- D. **Actual cost**

Answer: D

Explanation:

A cost reimbursable contract (sometimes called a cost plus contract) is one in which the contractor is reimbursed the actual costs they incur in carrying out the works, plus an additional fee. Option E of the NEC3 Engineering and Construction Contract (ECC) is an example of a cost reimbursable contract.

Reference:

- CIPS study guide page 176-179
- Cost reimbursable contract

LO 3, AC 3.3

NEW QUESTION # 168

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