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## CIPS Commercial Contracting Sample Questions (Q39-Q44):

### NEW QUESTION # 39

You are to do the KPIs and targets for international supplier and the following was done

1. Delivery in an hour
2. Return orders in an hour

Is that a good thing or not?

- A. Yes, the higher the targets are, the better the outcomes will be
- B. No, the local suppliers are always the best choice
- **C. No, because the KPIs are not a realistic and justified**
- D. Yes, because these targets will propel the suppliers to continuous improvement

**Answer: C**

Explanation:

KPIs and the targets for supplier should be SMART:

- Specific: What exactly do you want to achieve?
  - Measurable: How will you identify that you have achieved your goal?
  - Achievable: Is your goal really attainable?
  - Relevant: Is it relevant to you or, in other words, does it align with where you want to be?
  - Time-bound (or timely): When will you deliver your goal, and what are the key milestones?
- The two KPIs (Delivery in one hour, Return orders in one hour) are not realistic and achievable for international suppliers. Therefore, you should not put such high targets for supplier.

Reference:

- What Are SMART KPIs? (Spoiler: They Don't Really Exist!)
  - CIPS study guide page 107-108
- LO 2, AC 2.2

#### NEW QUESTION # 40

Which of the following might be considered as advantages, to the supplier, of key performance indicators (KPIs)? Select TWO that apply.

- A. They help the supplier to share their best cost-saving systems with their competitors
- **B. They help the supplier to focus on specific critical success factors and maximise on effectiveness**
- C. They help the supplier to achieve higher productivity by cutting down on other aspects like quality
- **D. They help the supplier to avoid confusion arising from unclear expectation from buyers**
- E. They help the supplier to ensure that they do not exceed the target performance levels

**Answer: B,D**

Explanation:

From the supplier's perspective, well-constructed KPIs:

\* Focus on critical success factors (A) - allows the supplier to allocate resources effectively and improve performance where it matters most.

\* Clarify expectations (C) - clear KPIs reduce confusion and misunderstandings about what the buyer actually needs.

Options B, D and E are either negative or nonsensical from a supplier-advantage viewpoint:

\* Cutting quality (B) is not a legitimate advantage; it increases risk.

\* Sharing best systems with competitors (D) is definitely not an advantage.

\* Ensuring they do not exceed performance levels (E) is not beneficial; suppliers often want to exceed targets for reputation or gain-share.

Reference: CIPS L4M3 Commercial Contracting - Benefits of KPIs for buyers and suppliers.

#### NEW QUESTION # 41

Which of the following will always give rise to a claim of misrepresentation?

1. Silence
2. False thought
3. Statement of fact
4. Representation by conduct

- A. 1 and 2 only
- B. 1 and 3 only
- **C. 3 and 4 only**
- D. 2 and 4 only

**Answer: C**

Explanation:

A misrepresentation is a false statement of fact or law which induces the representee to enter a contract.

Where a statement made during the course of negotiations is classed as a representation rather than a term an action for misrepresentation may be available where the statement turns out to be untrue.

For a party to claim for misrepresentation, there must be a false statement of fact or law as oppose to opinion or estimate of future events. It does not matter whether the incorrect information is given by words or takes the form of misleading conduct.

Silence will not generally amount to a misrepresentation. However, it can become a misrepresentation in some exceptional circumstances.

In the L4M3 study guide, the author states that "A statement of law is not misrepresentation". This is untrue in both common law and

civil law systems. In the UK, false statement of law will now amount to an actionable misrepresentation (see *Pankhania v Hackney* [2002] EWHC 2441).

Reference:

- Misrepresentation
- L4M3 study guide page 53-55
- LO 1, AC 1.2

#### NEW QUESTION # 42

Various terms are used to qualify a party's obligations under contract. Which of the following gives absolute obligation?

- A. Best endeavours
- B. Should
- C. Reasonable endeavours
- **D. Shall**

**Answer: D**

Explanation:

"Shall" denotes a mandatory requirement in contract language and implies absolute obligation. Unlike "reasonable endeavours" or "best endeavours", which indicate a duty to try, "shall" creates a strict, enforceable duty to perform the task specified.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.2 - Clauses defining performance obligations.

#### NEW QUESTION # 43

Company A sends a purchase order complete with a set of conditions of contract for the provision of professional services to Company B. Company B responds with an invoice complete with a set of its own conditions of contract. Company A pays the invoice. Which conditions of contract take legal precedence?

- A. Company A's
- B. Neither Company A's nor Company B's
- C. Both Company A's and Company B's
- **D. Company B's**

**Answer: D**

Explanation:

This scenario illustrates the "battle of the forms," where each party attempts to impose its own terms. The general legal principle is that the last set of terms sent before performance (in this case, Company B's invoice) takes precedence if the other party proceeds without objection (Company A's payment). Therefore, Company B's terms would likely govern the contract.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 1, Section 1.2.3 - Principles relating to the battle of the forms and precedence of contract terms.

#### NEW QUESTION # 44

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