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Scope and Influence of Procurement and Supply

[L4M1]

Core

Study Guide

Level 4

Diploma in Procurement and Supply

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CIPS L4M1 Exam Syllabus Topics:

Topic	Details
Topic 1	<ul style="list-style-type: none">Understand and analyse the key steps when procuring goods or services: This section measures that skills of purchasing managers and procurement officers in identifying and evaluating stages in the sourcing process, planning, supplier selection, and contract management.

Topic 2	<ul style="list-style-type: none"> Public, private, charity, not-for-profit, manufacturing, retail, construction, financial, agriculture, and service sectors. It also covers analyzing the impact of the public sector on procurement and supply chain activities public sector objectives, regulations, competition, accountability, and value for money. It finally covers the impact of the private sector on procurement or supply chain activities.
Topic 3	<ul style="list-style-type: none"> Understand and analyse the need for compliance: This section measures skills of compliance officers and sector-specific procurement managers in understanding different economic and industrial sectors such as
Topic 4	<ul style="list-style-type: none"> Understand and analyse aspects of organisational infrastructure that shape the scope of procurement and supply chain functions: This section measures that skill of supply chain strategists and organizational analysts in understanding corporate governance, documented policies, accountability, and ethics. It also covers the impact of organisational policies and procedures on procurement and supply

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CIPS Scope and Influence of Procurement and Supply Sample Questions (Q16-Q21):

NEW QUESTION # 16

Discuss 3 areas of regulation relating to competition that a procurement professional should be aware of (25 points)

Answer:

Explanation:

See the solution in Explanation part below.

Explanation:

How to approach this question

- This question is very vague. Sometimes CIPS do this. It allows for you to be a bit more free in your response, but can also be quite stressful because you don't 100% know what they're after.

- For this question we're looking at competitions, so full tenders where lots of suppliers are invited to bid for an opportunity. This means the type of things we could be discussing include; IP, cartels, merger controls and monopolies.

Example Essay

Procurement professionals operate within a legal framework that regulates competition, aiming to ensure fair business practices and prevent anti-competitive behaviour. Three critical areas of regulation related to competition that procurement professionals should be aware of include intellectual property, cartels, and merger controls.

Intellectual Property (IP):

Intellectual property encompasses creations of the mind, such as inventions, designs, and brand names, protected by law. In the context of procurement, understanding intellectual property is essential when dealing with suppliers' products, technologies, or services that may involve intellectual property rights.

Procurement professionals must be aware of the intellectual property rights associated with the goods or services they are procuring. This includes respecting patents, trademarks, copyrights, and trade secrets owned by suppliers. Due diligence is crucial to ensure that the products or services being procured do not infringe on the intellectual property rights of others, requiring verification of legal ownership and legitimacy. An example of something procurement should look out for include ensuring goods are authentic and not counterfeit.

Cartels:

Cartels involve agreements between competitors to control prices, manipulate markets, or restrict competition.

For procurement professionals, it is imperative to be vigilant and avoid engaging in or unintentionally supporting cartel activities.

Procurement professionals should refrain from participating in anti-competitive behaviour, such as bid-rigging or price-fixing, which are common cartel activities. This involves not colluding with suppliers or competitors to manipulate procurement processes.

Maintaining open and fair competition is essential, ensuring that procurement processes remain transparent, competitive, and free

from attempts to distort market dynamics, thereby preventing the formation of cartels and promoting a level playing field.

One notable example involved the construction industry in the UK. In 2019, the Competition and Markets Authority (CMA) fined three major suppliers to the construction industry for participating in a cartel. The companies, which supplied concrete drainage products, were found to have coordinated their behaviour to share markets, fix prices, and rig bids. The investigation revealed that these companies had breached competition law by engaging in anti-competitive practices that limited competition and negatively impacted customers. The fines imposed were part of the CMA's efforts to deter and penalize such cartel behaviour, emphasizing the importance of fair competition in procurement. The Directors of the companies have also been banned from undertaking the role of Director of any company for 12 years.

Merger Controls:

Merger controls are regulations overseeing the consolidation of companies, mergers, and acquisitions to prevent monopolistic practices and protect fair competition. Procurement professionals need to be aware of these regulations, especially when dealing with suppliers undergoing mergers or acquisitions.

Staying informed about mergers and acquisitions within the supplier base is crucial. If a key supplier undergoes such changes, it may impact the stability of the supply chain or alter market dynamics.

Procurement professionals need to be aware of potential changes in supplier relationships, pricing structures, or product/service availability resulting from mergers. Engaging in proactive risk management and contingency planning is necessary to mitigate any negative impacts on procurement operations.

Mergers are actively watched in the UK by the Competition and Markets Authority, and where rules are broken, the CMA can intervene and even prevent mergers from happening. A notable example of this was the attempted merger between JD Sports and Footasylum - the companies were fined millions of pounds for exchanging information and attempting to collude and distort the marketplace.

In conclusion, procurement professionals play a crucial role in navigating these regulatory landscapes effectively. Understanding intellectual property, avoiding cartel activities, and staying informed about merger controls contribute to fostering fair and transparent competition within the marketplace.

Tutor Notes

- The construction example of a cartel can be found here Supply of precast concrete drainage products: civil investigation - GOV.UK (www.gov.uk) but feel free to use your own!

- The JD/ Footasylum one is here: JD Sports and Footasylum fined £4.7m for competition breach - BBC News. Basically, the CMA got involved because the two firms were sharing private information and having secret meetings, with the intention that they could combine. The CMA thought it was super dodgy and that it would distort the trainer / footwear market in the UK so they fined the companies and told them to stop it.

- The study guide is a bit light on this topic, so I would do a bit of extra research and have an example in your back pocket for if you need it. P. 142 If you want an example of IP issues- Shein is a great company to look at- 'They took my world': fashion giant Shein accused of art theft | Art and design | The Guardian

NEW QUESTION # 17

Sarah is thinking of setting up a charity in the UK which will look after animals that have been abandoned.

What regulations and governing bodies should Sarah be aware of when setting up her charity? (25 Points)

Answer:

Explanation:

See the solution in Explanation part below.

Explanation:

How to approach this question

- Your essay should mention at least one regulation and one governing body particular to the charity section and I would recommend these be the Charities Act 2011 and the Charities Commission.

- If you don't know a lot about the sector you can bring up more generalised regulations and governing bodies, such as financial conduct and the Equalities Act, but make sure it's relevant to Sarah. Her charity is a small, local one, so things like Modern Slavery Act will not be appropriate to talk about.

Example Essay

When setting up a charity in the UK, particularly one focused on animal welfare, there are several regulations and governing bodies that Sarah should be aware of. These ensure that the charity operates legally, ethically, and effectively.

A charity's purpose involves raising awareness and helping someone or something, in Sarah's case this will be local animals and potentially their owners. A charity has to satisfy two aspects: The benefit aspect and The public aspect. In the UK, both aspects are regulated by the Charities Act 2011.

To satisfy a benefit aspect, a charity must have a purpose that must be beneficial to the community it works in

- this must be in a way that is identifiable and capable of being proved by evidence. For Sarah this would be showing that her charity helps animals, potentially by taking them in off the street or removing them from dangerous homes and caring for them.

To satisfy a public aspect, a charity must benefit the public in general, or a sufficient section of the public. In Sarah's case the public

benefit may be in removing stray dogs and cats from the streets where they can transport diseases and potentially attack people. Most charities strive to satisfy both aspects but in some cases this is not possible.

All charities are regulated. Because charities are funded by donations from the public, businesses and sometimes from government, their conduct is regulated closely. Key regulatory bodies that Sarah will have to engage with include:

1. Charity Commission for England and Wales:

As the primary regulator for charities in England and Wales, the Charity Commission oversees the registration and regulation of charities. Sarah's organization must meet the legal definition of a charity and apply for registration if its income is over £5,000 per year.

The Commission ensures compliance with the Charities Act, offering guidance on charity governance, financial management, and reporting.

2. HM Revenue and Customs (HMRC):

Charities can apply to HMRC for recognition as a charity for tax purposes. This status allows for tax reliefs and exemptions, including Gift Aid on donations.

HMRC ensures compliance with tax obligations and scrutinizes the use of charity funds.

3. Data Protection:

Under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018, any charity handling personal data must ensure its protection and comply with data privacy laws.

4. Health and Safety Executive (HSE):

The HSE provides guidelines for workplace safety, which are important if the charity has employees or volunteers.

In conclusion there are many regulations and bodies that Sarah should be aware of when setting up her charity.

Sarah should consider seeking legal advice or consulting with charity advisory services to ensure full compliance with all relevant laws and regulations. Additionally, staying informed about changes in charity law and animal welfare legislation would be beneficial to the smooth operation of her charity.

Tutor Notes

- With case study questions you're not expected to know anything about the specific topic, in this case Animal Charities. If it happens to be something you know about, you can bring in some of your own knowledge, but this isn't a requirement to get a good score. You're not expected to know, for example about the Animal Welfare Act 2006, but if you happen to do so, it could be a nice little thing to add in. Just don't focus your essay on it. However you can make some sensible guesses on what Sarah will be doing, for example I talked about removing stray animals from the street.

- Charities comes up in LO 4.4 p.232

Bottom of Form

Top of Form

NEW QUESTION # 18

Describe the key drivers for organisations who operate in the public, private and third sector (25 marks)

Answer:

Explanation:

See the solution in Explanation part below.

Explanation:

- There's 2 main approaches to layout you could take for this question. Firstly, divide your essay into three sections for the public, private and third sectors and talk about the key drivers for each sector separately.

Alternatively, you could select a couple of drivers and form paragraphs around them, explaining in each paragraph whether the driver is strong or weak or even applicable for the different sectors.

- Drivers you could talk about include attitudes towards money, survival in the industry, differentiation, need for transparency, resources available, stakeholders, regulatory compliance

- Your answer should say why these are drivers in each of the industries, whether these drivers are strong or weak and why.

Example essay:

Organizations across the public, private, and third sectors operate within different paradigms, driven by distinct motivations and constraints. Understanding these key drivers is essential for comprehending how these organizations function and achieve their objectives. This essay explores the fundamental drivers of organizations in each of these sectors, focusing on attitudes towards money, survival, differentiation, need for transparency, resource allocation, and stakeholder management.

Attitudes Towards Money:

The approach to profit significantly differentiates the sectors. In the private sector, profit is a primary driver, essential for survival and rewarding shareholders. Conversely, the public sector is not profit-driven; its primary aim is to provide essential services to society, regardless of financial gain. The third sector, often termed 'not-for-profit', also requires profit generation, but uniquely, all profits are reinvested into the organization to further its aims, rather than being distributed as shareholder dividends. The Public-Sector needs to 'balance the books' but it is not a profit-generating area of the economy. The priority around money is ensuring that taxpayer money

is well spend and that procurement activities represent value for money.

Survival in the Industry:

Survival strategies vary across sectors. Private and third sector organizations must focus keenly on survival, necessitating efficiency and sound business processes. The public sector, by contrast, can continue operating even when inefficient or running at a deficit, as seen in cases like local councils operating with budget shortfalls. This difference underscores a greater urgency for efficient management in the private and third sectors.

Differentiation:

Differentiation is a key driver in the private sector due to competition. Private entities often strive to distinguish their goods or services to gain a competitive edge, either through cost competitiveness or unique offerings. However, differentiation is less of a driver in the public and third sectors, where organizations are often sole providers of certain services or focus on specific social causes without direct competition.

Need for Transparency and Regulatory Compliance:

Transparency and adherence to regulations are paramount in the public and third (not-for-profit) sectors.

These sectors are highly regulated, with public organizations adhering to regulations like the Public Contract Regulations 2015 and third sector organizations following guidelines set by bodies like the Charities Commission. The public's right to information through mechanisms like Freedom of Information requests further underscores this need for transparency. In contrast, the private sector faces less pressure for transparency, though it is not entirely exempt from regulatory compliance.

Resource Availability:

The availability and management of resources are different across sectors. Public and third sector organizations often operate with limited funds, making value for money a critical driver. They must achieve their objectives within these financial constraints. In contrast, the private sector generally has greater flexibility in resource acquisition, able to raise funds through loans or share sales, providing them with a broader scope for investment and expansion.

Stakeholder Management:

Stakeholder dynamics vary significantly among sectors. Public and third sector organizations often have a wide range of stakeholders, though these stakeholders may not wield significant power. Conversely, stakeholders in private organizations, like employees, can exert considerable influence, as seen in cases where employees might strike for better working conditions. Therefore, managing and satisfying stakeholders can be a more pressing concern in the private sector compared to the public sector, where actions like strikes can be legally restricted.

Conclusion:

In summary, organizations in the public, private, and third sectors are driven by different motivations and constraints. While profit is a major driver in the private and third sectors, it serves different purposes in each.

Survival strategies, the need for differentiation, transparency requirements, resource management, and stakeholder relations all vary significantly across these sectors, reflecting the distinct roles and responsibilities they hold in society. Understanding these key drivers is crucial for anyone looking to navigate or interact with these diverse organizational landscapes effectively.

Tutor Notes:

- If you're asked about different sectors of the economy it can be difficult to know what to talk about. An easy way to remember topics you can discuss in your essay is the acronym CAROLS which stands for:

Competition, Activity, Responsibilities, Objectives, Legal Restrictions and Stakeholders. This acronym may generate some ideas of things you can discuss in your essay.

- This question takes some content from different Learning Outcomes throughout L4. Charities are discussed separately from Public and Private Sectors in LO 4.4 p.230.

NEW QUESTION # 19

Describe regulation that govern the Public Sectors and explain how this may impact upon procurement activities (25 marks).

Answer:

Explanation:

See the solution in Explanation part below.

Explanation:

How to approach this question

- You do need to know some legislation for public sector here. This may be difficult if you don't work in the Public Sector. If you're struggling with this, you could also talk about general legislation that governs all types of organisations such as the Equalities Act and Modern Slavery Act.

- This is also a tough question if you're not British. CIPS is a UK based organisation and the syllabus therefore only talks about British legislation. If you're in a different country you could talk about the legislation in your own country, providing the question doesn't specifically mention UK Law.

- Either way I would recommend knowing a couple of pieces of British Legislation. You don't need to be an expert but just state what they are and what the purpose is should be enough to get you a pass.

Example essay

The public sector, which encompasses various governmental and state-owned enterprises, plays a pivotal role in the governance and provision of essential services. This sector operates under a strict framework of regulations and policies, ensuring that its operations are fair, transparent, and accountable. Among the most critical aspects of these operations is procurement, the process through which the public sector acquires goods, services, and works. This essay will explain key regulations governing the public sector, focusing on the Public Contracts Regulations (PCR) 2015, Late Payment Regulations 2016, Equalities Act 2010, and Public Services (Social Value) Act 2012, and explores how these regulations impact procurement activities.

The Public Contracts Regulations (PCR) 2015

The PCR 2015 plays a foundational role in public sector procurement in the UK. It sets out the procedures for procuring contracts, aiming to ensure fairness and transparency in the process. The regulations mandate that all procurement processes must be conducted in a manner that prevents discrimination and allows equal access to potential contractors, regardless of their size or location. For example, the open tendering process under PCR 2015 has enabled a more diverse range of companies, including small and medium-sized enterprises, to participate in government contracts, enhancing competition and innovation. The four 'pillars' of the PCR are derived from EU Procurement Directives and are: non-discrimination, free movement of goods, equality of treatment and transparency.

Late Payment Regulations 2013

The Late Payment Regulations 2013 address a critical aspect of procurement: the timely payment for goods and services. This regulation ensures that public sector organizations pay their suppliers within a stipulated time frame, significantly impacting the financial stability of these suppliers. For instance, the regulation has been particularly beneficial for small businesses that rely on prompt payments to maintain cash flow. The introduction of these regulations has improved the trust between public sector entities and their suppliers, leading to more efficient procurement processes.

Equalities Act 2010

The Equalities Act 2010 is another crucial piece of legislation impacting public sector procurement. This Act prohibits discrimination in the workplace and in the provision of services, extending its influence to the procurement process. Public sector entities must ensure that their procurement decisions do not discriminate against any group and that they promote equality. For instance, when a public sector organization issues a tender, it must ensure that the selection criteria do not unfairly disadvantage any potential supplier based on irrelevant characteristics. This approach not only fosters a more inclusive procurement environment but also helps to tap into a wider talent and supplier pool, enhancing the quality and effectiveness of public services.

Public Services (Social Value) Act 2012

The Public Services (Social Value) Act 2012 marks a significant shift in how procurement is approached in the public sector. This Act requires public sector organizations to consider how the services they procure can improve the economic, social, and environmental well-being of their area. This means that when a public sector entity procures goods or services, it must consider factors beyond just the price and quality. For example, a local government might prioritize suppliers who can demonstrate a commitment to environmental sustainability or who offer employment opportunities to local residents. This approach to procurement encourages a more holistic view of value for money, factoring in the wider impact of procurement decisions on society.

Public Accountability and Freedom of Information Requests

In addition to these specific regulations, the concept of public accountability and the mechanism of Freedom of Information requests play a crucial role in the public sector, especially in procurement activities. Public accountability ensures that entities are answerable to the public and their actions are transparent. Freedom of Information requests enable individuals and organizations to access information held by public authorities, which includes details of procurement decisions and contracts. This transparency is critical in ensuring that procurement activities are conducted ethically and responsibly, deterring corruption and mismanagement.

In conclusion, the regulation of the public sector, particularly in the realm of procurement, are complex.

Regulations such as the PCR 2015, Late Payment Regulations 2016, Equalities Act 2010, and the Public Services (Social Value) Act 2012, along with the principles of public accountability and transparency, ensure that procurement activities are conducted in a fair, transparent, and socially responsible manner. These regulations not only safeguard the interests of suppliers, especially smaller businesses, but also ensure that the public sector remains a model of integrity and efficiency and that taxpayers' money is well spent.

Tutor Notes

- Okay this is important: The PCR 2015 regulations are being rescinded in 2024. They're based on EU Law and the UK has left the EU. I know we left a while ago now but it's taken us a long time to address the issue and figure out what we want to do about it. There was also a pandemic that got in the way of people making any decisions in parliament that weren't to do with Covid. The PCR 2015 will be replaced in late 2024 with new 'British' rather than European rules.

- At the time of writing this (December 2023) we don't 100% know what the new rules are going to look like and if you're taking this exam from November 2024 onwards, I recommend doing a bit of research into the new regulations.

- Now the complicated bit- the CIPS syllabus is valid from 2024-2028 and doesn't address that legislation is changing. I therefore don't really know what they're going to expect when students are taking this exam and the study guide information is out of date. If you're not working in the Public Sector, how are you to know the legislation has changed?

- My advice is this- briefly learn PCR 2015- the four pillars in particular, and when the new legislation comes out, have a quick google and see if these pillars are still the same. The regs aren't going to change THAT much - things like transparency and equal treatment are still going to be really important, but there may be some slight language changes. Plus, if you're able to mention in an essay that there's new legislation, it's going to make you sound super clever.

- LO 4.2 p.211

NEW QUESTION # 20

Describe what is meant by the 5 Rights of Procurement (25 points)

Answer:

Explanation:

See the solution in Explanation part below

Explanation:

How to approach the question

- This question is worth 25 marks so you can imagine what the mark scheme will look like. There are 5 Rights so there will be 5 points for each Right. Naming the Right will be one point, then you have 4 points for a description and example. You should therefore aim to have 4-5 sentences per Right.

- I would recommend using headings for this type of essay- clearly putting your essay into 5 sections for each right. This makes it easy for the examiner to mark.

Proposed Essay structure

- Introduction - what is meant by the 5 Rights

- Price

- Quality

- Quantity

- Time

- Place

- Conclusion - why it's important, all rights are equally as important

Example Essay

Procurement revolves around achieving the delicate balance of acquiring goods and/ or services at the right price, quality, quantity, time, and place. This essay explains why these "Five Rights of Procurement" are important and explains how using this metric can help procurement to make smart choices when they purchase goods or services.

Price:

Firstly, it is important that procurement do not simply seek to find the cheapest option. The First Right is about finding the product/ service at an affordable price that doesn't compromise on quality. Let's say a company is buying office furniture. They might go for a supplier that offers a good balance between cost and quality, ensuring they get good value for their money. Considerations here may include Total Cost of Ownership, the Price Iceberg, and Whole Life Costing. The company therefore may seek to get the best price, but in relation to how long the furniture will last. A cheap chair that will break after one year may not be the best price compared to another chair which will last 10 years.

Quality:

The second right, quality, looks at legal compliance and fitness for purpose. Quality adherence aligns with specifications as well as legislation such as the UK Sale of Goods Act 1979. This helps ensure that items meet their commonly intended purpose and maintains satisfactory condition. Buyers deploy both reactive measures like Quality Control and proactive approaches like Quality Assurance to uphold the stipulated quality. This commitment not only ensures legal compliance but also underpins customer satisfaction, brand reputation, and ethical sourcing policies. An example of quality is an organisation buying a washing machine that conforms to ISO standard 97.060 and has a 2-year warranty.

Quantity:

The third right, quantity, is a strategic consideration about how much of an item to order. It is connected to efficient inventory management. One tool that procurement can use to ensure they order the right quantity of a product is Economic Order Quantity (EOQ) - this serves as a tool for finding the equilibrium between stock-holding costs and avoiding stockouts. Market conditions, supply chain dynamics (e.g. JIT / Lean manufacturing), and organizational policies collectively play a pivotal role in determining the right quantity. For example a confectionary manufacturer will need to order the right number of eggs to make cakes- they will need to consider how many eggs they will need in order to make the cakes, but also take into consideration that they may not need them all at once and that eggs can expire. The use of an MRP system is helpful when determining quantities of products to order.

Time:

Time is about getting things when we need them. In the above example, an egg delivery timing for a confectionary manufacturer will be pivotal to making the cakes on time. Other considerations about time include changing market forces and customer demand. The use of forecasting is therefore extremely useful; particularly if there are peaks in demand for a product, such as toys at Christmas. Moreover, organizations need to avoid bottlenecks and production stoppages, so time (including lead time and delivery time) is an important consideration when making orders.

Place:

Lastly, place is about getting things to the right location. Minimizing environmental impact, reducing risks during transit, and optimizing warehousing practices contribute to achieving the right place. This is particularly important for perishable items such as food, and for items which require specific storage conditions such as chemicals. This involves good planning in terms of logistics, minimizing any impact on the environment during transport and a consideration for safety.

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