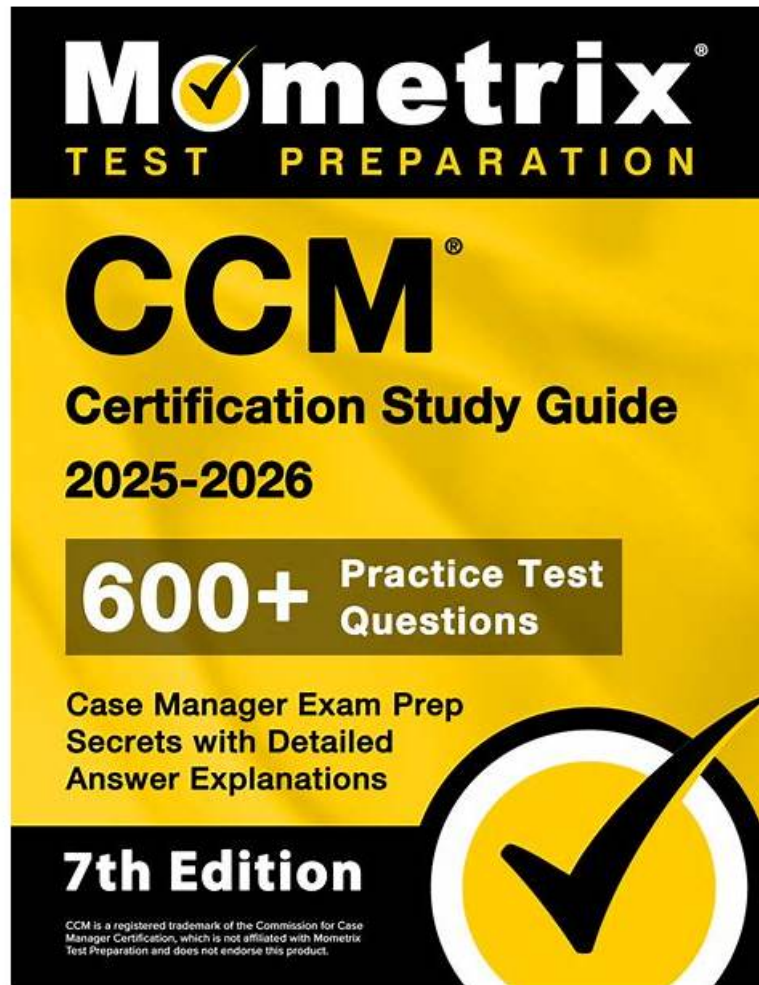


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Medical Professional Certified Case Manager Certification Exam (CCM) Sample Questions (Q13-Q18):

NEW QUESTION # 13

Which two of the following statements are correct regarding Dispute under the FIDIC Red, Yellow, and Silver Books (edition 2017)?

Choose all of the correct answers (multiple possibilities)

- A. If a Party is dissatisfied with the determination and has given Notice of Dissatisfaction (NOD) to the other party within a strict 28-day time limit, a Dispute arises and either Party may proceed under Sub- Clause 21.4 to obtain a DAAB decision on it.
- B. The Dispute must be submitted to the Dispute Avoidance and Adjudication Board (DAAB) within 42 days, otherwise the NOD is deemed to have lapsed and is no longer valid.
- C. In case the Engineer refuses to issue a Performance Certificate or to issue one with a correct date under Sub-Clause 11.9, and the Contractor has disagreed with the requested entitlement or relief in connection with this refusal, Dispute shall be deemed to have arisen.
- D. Both 'Disagreement' and 'Dispute' are defined terms under the Conditions of Contract.

Answer: A,C

Explanation:

Option A is correct. Under Sub-Clause 11.9 (Performance Certificate) refusal or incorrect issuance by the Engineer, combined with disagreement by the Contractor, may cause a Dispute to arise.

Option B is correct. If a Party is dissatisfied with a determination, it must give a Notice of Dissatisfaction (NOD) within 28 days to escalate the matter to a Dispute, allowing either Party to refer it to the DAAB as per Sub-Clause 21.4.

Option C is incorrect. The contract does not specify a 42-day time limit for submission to DAAB after NOD; timelines vary by contract and stage.

Option D is incorrect. 'Disagreement' is not a formally defined term in FIDIC contracts, whereas 'Dispute' is.

References:

FIDIC Red, Yellow, Silver Books 2017 Edition, Sub-Clause 11.9 and Clause 21 - Claims, Disputes, and Adjudication FIDIC Contract Manager Study Guide, Module on Dispute Resolution

NEW QUESTION # 14

Under the FIDIC Construction Contract, which one of the following statements is correct?

- A. For an ad-hoc DAB, a retainer fee for each DAB Member must be paid to the Member on the first day of each calendar month.
- B. Payment to DAB Members must be certified by the Employer.
- C. A DAB must give its decision in writing on any dispute when requested by one of the Parties.
- D. Payments of a DAB Member's retainer fee is the sole responsibility of the Contractor.
- E. If all persons nominated to serve as members of an ad hoc DAB do not sign a DAB Agreement, an appointing entity can make appointments.

Answer: C

Explanation:

Under the FIDIC Conditions of Contract (particularly 2017 editions), the Dispute Adjudication Board (DAB) is a standing or ad hoc body that provides binding decisions on disputes. One key requirement is that the DAB must give its decisions in writing upon request by either Party, ensuring clarity and enforceability.

Option E is correct as the DAB's decision must be documented formally.

Option A is incorrect; the cost of the DAB is generally shared by Employer and Contractor as per the contract.

Option B is incorrect because retainer fees can be paid on different schedules, not necessarily monthly on the first day.

Option C is incorrect; payments to DAB members do not require Employer's certification but are agreed as part of the DAB contract.

Option D is partially true but not a standalone correct statement without additional context.

References:

FIDIC Red, Yellow, Silver Books 2017 Edition, Clause 21 - Disputes and DAB Procedures FIDIC Contract Manager Study Guide, Module on Claims and Dispute Resolution

NEW QUESTION # 15

Which two statements reflect an INCORRECT application of a Golden Principle?

- A. Deleting all the clauses in the General Conditions that refer to the DAAB/DAB.
- B. Any deletions of General Conditions (GC) must be replaced with Particular Conditions (PC) that cover the same scope, and do not leave any roles, duties, obligations, rights, and risk allocation undefined.
- C. The Contractor's right to suspend work (or reduce the rate of work) effective after giving not less than 3 months (in lieu of 21 days) notice to the Employer.
- D. When applying the FIDIC Red Book or Yellow Book, the Commencement Date shall be within 60 days after the Contractor receives the Letter of Acceptance, in lieu of 42 days.

Answer: A,D

Explanation:

FIDIC's Golden Principles emphasize clarity, fairness, and completeness in contract drafting and administration. Incorrect applications often create risks, ambiguities, and disputes.

* Option A is correct and reflects a good application of Golden Principles. When deleting clauses from the General Conditions, these must be replaced adequately in the Particular Conditions so that no essential contractual scope or responsibilities are lost or left undefined.

* Option B is incorrect and reflects an improper deviation from the standard. The standard Commencement Date notification period is 42 days after the Contractor receives the Letter of Acceptance (per Sub-Clause 8.1). Extending it to 60 days without valid reason or clear agreement introduces uncertainty and potential delay.

* Option C can be a legitimate contractual modification, provided it is agreed by the parties. Extending the Contractor's notice period for suspension from 21 days to 3 months is a significant change but not inherently contrary to Golden Principles if done transparently and fairly.

* Option D is incorrect and reflects a poor application of Golden Principles. Deleting all clauses referring to the DAAB/DAB (Dispute Adjudication Board) removes a critical dispute avoidance and resolution mechanism, undermining contract fairness and efficiency. Therefore, Options B and D represent incorrect applications of the Golden Principles.

References:

FIDIC Contract Manager Study Guide, Module on Legal and Ethical Considerations and Golden Principles FIDIC Red Book 2017 Edition, Sub-Clause 8.1 - Commencement of Works FIDIC Red Book 2017 Edition, Clause 21 - Disputes and DAAB

NEW QUESTION # 16

Under the FIDIC Red, Yellow, and Silver Books (edition 2017), if a Dispute is referred to the Dispute Avoidance and Adjudication Board (DAAB) to obtain its decision, the Parties shall suspend performing their obligations in accordance with the Contract, until they receive further directions from the DAAB. Is this statement true or false?

- A. True
- B. False

Answer: B

Explanation:

The statement is false. Under FIDIC 2017 editions, the referral of a dispute to the DAAB does not automatically suspend the Parties' contractual obligations. The works and contract performance generally continue while the dispute is adjudicated, unless otherwise agreed or ordered.

Suspension of obligations can disrupt project progress and is not encouraged by FIDIC procedures, which emphasize dispute resolution without delaying the work.

References:

FIDIC Red, Yellow, and Silver Books 2017 Edition, Clause 21 - Disputes and Adjudication FIDIC Contract Manager Study Guide, Module on Dispute Resolution

NEW QUESTION # 17

The Employer has prepared a contract for a waste-to-energy project based on the FIDIC Yellow Book (edition 1999). You are preparing negotiations on behalf of one of the Subcontractors with the Contractor. The main Contractor will manage the design and build of the Works, whereby the Subcontractor will deliver critical systems regarding power generation and cooling. The Contractor intends to contract the main Contract back-to-back with the Subcontractor. In the proposed back-to-back subcontract, the following amendment is proposed through Particular Conditions:

"Sub-Clause 4.4. The following paragraph is added: The Subcontractor is required to scrutinize the Employer's Requirements in a manner identical to the obligations of the Contractor as stated in Sub-Clause

5.1 of the Main Contract. The Subcontractor will indemnify and hold harmless (up to the maximum liability of the Subcontractor) the Contractor with regard to any error, fault or other defect found in the Employer's Requirements, its items of reference or

Contractor's design of the Works for the scope part for which Subcontractor is contracted." What is your advice to the Subcontractor (SC) in regard to entering this proposed subcontract?

- A. I would advise the SC not to enter this contract, because Sub-Clause 4.4 describes the obligations of SC towards Contractor, but this amendment positions the SC in a vulnerable position for claims regarding all errors, faults or other Defects (whether originating from the Employer's Requirements or the design of the Contractor). Essentially, this means the SC becomes liable for the design part, which is within the scope of Contractor even without SC having the opportunity to review it.
- B. I would advise the SC to enter the Contract with the request to the Contractor to delete this amendment in the Particular Conditions. If the Contractor does not agree to do so, at least the Subcontractor has tried its best.
- C. I would advise the SC not to enter this contract because the Contractor is obliged to act in accordance with good faith. A proposed paragraph like this opposes good faith.
- D. I would advise the SC to discuss this amendment with the insurance company just to be sure there will be no transfer of risks. This amendment is mainly a consequence of the FIDIC Yellow Book structure, where the Contractor has obligations in terms of scrutinizing the Employer's Requirements. This amendment makes this obligation more explicit. If the insurance company has no problems with insuring the parts which will be delivered by SC to Contractor, the SC can accept this risk and enter into the subcontract.

Answer: A

Explanation:

In FIDIC Yellow Book (1999), the Contractor is responsible for scrutinizing the Employer's Requirements per Sub-Clause 5.1 and must notify any discrepancies or errors. However, passing this obligation to a Subcontractor, and requiring the Subcontractor to indemnify the Contractor for errors or defects arising from the Employer's Requirements or the Contractor's design, unfairly shifts risk and liability to the Subcontractor.

The Subcontractor is likely not in a position to fully review or control the Employer's Requirements or the overall Contractor's design. This exposes the Subcontractor to excessive risk, beyond their scope and capacity.

Advice C highlights that the Subcontractor becomes vulnerable to claims for design defects outside their control. This misallocation of risk is generally not recommended and can be challenged during contract negotiation. Good contract management practice and risk allocation principles (FIDIC Contract Manager Study Guide, Module on Claims and Dispute Resolution) support this position. While Options A, B, and D propose different approaches, only C correctly identifies the fundamental contractual and risk management issue that should prevent the Subcontractor from entering the contract as is.

References:

FIDIC Yellow Book 1999, Sub-Clause 5.1 - Contractor's General Obligations FIDIC Contract Manager Study Guide, Module on Claims and Dispute Resolution FIDIC Contract Manager Study Guide, Module on Risk Management

NEW QUESTION # 18

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