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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 (Q228-Q233):

NEW QUESTION # 228

In what way might a contract clause be used to stop the supplier from making unwarranted price increases during the term of the contract?

- A. The buyer inserts a price adjustment clause in the contract
- B. The buyer inserts a contract clause that stipulates the invoice payment dates
- C. The buyer deletes any contract clauses that may refer to stage payments
- D. The buyer deletes any contract clauses that may refer to price increases

Answer: A

Explanation:

A price adjustment clause, also known as a price variation or indexation clause, provides a structured method for managing potential changes in price over the contract's duration. This clause ensures that any price increase must be based on predefined and agreed-upon criteria, such as inflation rates or cost indices. This prevents arbitrary or unexpected price increases from the supplier.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.1 - Pricing schedules and contractual provisions relating to pricing.

NEW QUESTION # 229

Under a framework agreement, which of the following are supplier selection mechanisms? Select TWO that apply:

- A. Direct call-off
- B. Rescission of contract
- C. Call off contract
- D. Mini competition
- E. Contract for lease

Answer: A,D

Explanation:

A framework agreement is an agreement with one or more suppliers/providers which sets out terms and conditions under which individual contracts (call-offs) can be made throughout the term of the agreement.

A framework agreement itself is not a contract, but the call-offs made from it are.

Framework arrangements create a streamlined and flexible process for procuring goods, works or services. Where a framework for the same goods, works or services is awarded to several suppliers, there are three possible options for awarding call-off contracts: direct award (or direct call-off), mini-competition or a combination of both.

Option 1 - Apply the terms of the framework agreement (direct award).

Where your requirements match the terms and/or specification of the framework agreement (in the event of any query, you should clarify the situation with the organisation that established the framework), a particular call-off should be awarded without re-opening competition. The call-off should be awarded to the provider who is identified as the most economically advantageous tender based on the award criteria used at the time that the framework was established (i.e. the supplier ranked no. 1). Randomly selecting a supplier off a framework is not permitted.

Option 2 - Hold a mini-competition between capable suppliers.

If your requirements do not match the terms and/or the specification of the framework, you should conduct a mini-competition exercise. Whilst it is not permitted to substantially change the basic terms or specification of the framework, in running a mini-competition it is possible to supplement or refine the basic terms of the framework prior to making a call-off. Examples of such terms are:

- The particular goods/services/works required;
- Particular delivery timescales;
- Particular invoicing arrangements and payment profiles;
- Associated services such as installation, maintenance and training;
- Quantity;
- Functional specification.

Under no circumstances should brand names or brand-specific descriptions of goods be used e.g. BIC Biro Pen, Hewlett-Packard Printer, Dell computer. Descriptions should give reference to the characteristics and outputs of the product or service. Where no other description is possible, any reference should be qualified by adding the words 'or equivalent'.

When a mini-competition exercise is held, all suppliers appointed to the framework that are capable of meeting the requirement must be invited to submit a tender. (This might just relate to suppliers within a particular 'lot'). You must not limit the mini-competition

exercise to selected providers. A time limit for submitting the tender must be set and advised to competing suppliers. This time limit must be reasonable, taking account of the complexity of the requirement.

The call-off must be awarded on the basis of the framework award criteria and new criteria cannot be added, although, where permitted, the weightings may be varied to take account of a particular requirement. However, in adjusting the weightings, care must be taken to ensure that any such changes do not have an adverse effect on competition.

Option 3 - Combination of direct award and mini-competition

To use a combination approach, the procurement documents must state that this route may be used. The procurement documents will also specify which terms may be subject to the re-opening of competition.

Reference:

- Guidance on the Use of Framework Agreements

- CIPS study guide page 60-62

LO 1, AC 1.3

NEW QUESTION # 230

Misrepresentation can be defined as a false statement of material fact made by one of the contracting parties which was intended to (and did) induce the other party to make the contract. What remedies are available in this instance to the innocent party?

- A. Contract is not voidable but damages can still be claimed
- **B. Contract is voidable and damages can be claimed**
- C. Contract is voidable and must be amended and performed
- D. Contract is not voidable and it is too late to take any action

Answer: B

Explanation:

If a party is induced to enter a contract based on a misrepresentation, the contract becomes voidable at the option of the misled party. This means the misled party can either rescind (cancel) the contract or affirm it and seek damages. The nature of the misrepresentation (fraudulent, negligent, or innocent) affects the availability of damages.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 1, Section 1.3.1 - Remedies for breach of contract and misrepresentation.

NEW QUESTION # 231

Which of the following is most likely to be an one-off contract?

- A. Framework Agreement for supply of mono-crystalline silicon
- B. Commercial lease agreement of an office building
- C. Franchise Agreement
- **D. Contract for construction of a power plant**

Answer: D

Explanation:

One-off contracts are used where a supplier is only needed for a single activity unlikely to be repetitive, and where the need of the buyer is concrete and finite. Among the answers, only construction for power plant is one-off since the work is non-repetitive and the need is clearly defined.

A framework agreement is an agreement between one or more businesses or organisations, "the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged".

A Commercial Lease Agreement is a contract used when renting business property to or from another individual or company. It gives the tenant (or renter) the right to use the property for business purposes during the term of the lease in exchange for payment to the landlord.

A franchise agreement is a legally binding document that outlines a franchisor's terms and conditions for a franchisee. Every franchise is governed by these terms, which are generally outlined in a written agreement between both parties.

Reference: CIPS study guide page 55-58

LO 1, AC 1.3

NEW QUESTION # 232

Which of the following is the best definition of "ultra vires"?

- A. From one party
- B. Let the buyer beware
- C. In good faith
- D. Beyond powers

Answer: D

Explanation:

Ultra vires is a Latin phrase, meaning "beyond the powers." Describes actions taken by government bodies or corporations that exceed the scope of power given to them by laws or corporate charters. When referring to the acts of government bodies (e.g., legislatures), a constitution is most often the measuring stick of the proper scope of power.

Reference: CIPS study guide page 42-43

LO 1, AC 1.2

NEW QUESTION # 233

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