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CIPS Commercial Contracting

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NEW QUESTION 32

In which of the following section of a specification, requirements for training to use the equipment will be set out?

- A. Implementation
- B. Issue reference
- C. Performance
- D. Consultation requirements

Answer: A

Explanation:

Implementation is a substantive requirement which covers the following areas:

- Will there be a need to train the staff to use the equipment?
- Are there integration requirements with other systems or processes?
- How will this work?
- What are the timescales?
- Are detailed method statements required?

Consultation requirements regards to explicitness of compliance with any national or local legal requirements Reference:

LO 2, AC 2.1

NEW QUESTION 33

Which of the following is regulated by standard ISO 14001?

- A. Information security management
- B. Environmental management
- C. Quality management systems
- D. Energy management

Answer: B

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The second part of the CIPS L4M3 Exam focuses on the drafting and negotiation of commercial contracts. Candidates will learn how to draft effective contracts that meet the needs of both parties. They will also learn about the different negotiation techniques and strategies that can be used to achieve a win-win outcome. This section also covers the importance of effective communication and relationship management in the contracting process.

CIPS Commercial Contracting Sample Questions (Q30-Q35):

NEW QUESTION # 30

A supermarket purchases a new batch of house cleaner from new supplier. The supermarket is concerned about possible damage that the house cleaner may cause to consumers' floor. What type of insurance must they cover?

- **A. Product liability insurance**
- B. Public liability insurance
- C. Professional indemnity insurance
- D. Fire and explosion insurance

Answer: A

Explanation:

Product Liability Insurance is a form of general liability insurance meant to protect a business from financial and legal consequences as a result of bodily injury or property damage due to the use of the business's sold goods or products. Situations that are typically covered by Product Liability Insurance may include:

- A customer harms herself because of the faulty packaging on one of your products
 - A drapery set that a customer purchased from your business was highly flammable and caught on fire, eventually damaging her entire kitchen
 - A customer with a severe allergy finds trace amounts of tree nuts in your homemade gourmet muffins
 - A homemade house cleaner that you sell damaged one of your customer's entire hardwood floor
 - A customer becomes sick with food poisoning after eating old shellfish at your restaurant, goes to the hospital, and incurs medical costs caused by your contaminated food products
 - A customer's pet becomes ill from ingesting some lining in a pet toy product that you sell
- In the scenario above, the supermarket is purchasing and reselling house cleaner, which can be covered by product liability insurance.

Public liability insurance is a type of business insurance that covers the cost of claims made by the public that happen in connection with the business activities.

Professional indemnity (PI) insurance is a commercial policy designed to protect business owners, freelancers and the self-employed if clients claim a service is inadequate.

Reference:

LO 3, AC 3.2

NEW QUESTION # 31

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. Contract for lease
- D. Call off contract
- **E. Mini competition**

Answer: A,E

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 # 32

Which of the following would be useful tools to incentivise supplier innovation over the duration of the contract?

1. Gainshare arrangement
2. Liquidated damages
3. Service credits
4. Fixed bonus payments

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

Answer: A

Explanation:

Gainshare is an incentive for cost control

Liquidated damage is common type of disincentive for late completion

Service credit is a remedy for not achieving targets set out in an SLA

Fixed bonus payment is an incentive for early completion

Reference:

LO 3, AC 3.3

NEW QUESTION # 33

Which of the following is the contract provision that relieves the parties from performing their contractual obligations when certain circumstances like natural disasters, terrorist attacks, etc arise?

- A. Indemnity clause
- **B. Exclusion clause**
- C. Liquidated damage clause
- D. Insurance clause

Answer: B

Explanation:

The contract provision that relieves the parties from performing their contractual obligations when certain circumstances like natural disasters, terrorist attacks, etc arise is called Force majeure. Force majeure is an example of exclusion clause.

An exemption clause in a contract is a term which either limits or excludes a party's liability for a breach of contract. In order for an exclusion clause to be binding and operable upon the parties, the clause must:

1. The clause must be incorporated into the contract as a term.
2. The clause must pass the test of construction.
3. The clause must not be rendered unenforceable by the statutory provisions in the Unfair Contract Terms Act 1977 or the Consumer Rights Act 2015 (enacting the Consumer Rights Bill 2013-14).

Reference:

- Exclusion Clauses Lecture
- CIPS study guide page 149

LO 3, AC 3.2

NEW QUESTION # 34

In a contract, express terms and implied terms may contradict on the same issues. Under which of the following circumstances, implied terms will override express terms?

- **A. Implied terms are created by law which prevents them to be overridden**
- B. No circumstances. Express terms always take precedence over implied terms
- C. Contracting parties are silent on a matter that was not included in express terms
- D. Implied terms are created by trade customs

Answer: A

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.

Express terms are explicit and will normally override implied terms unless the implied term is created by statute and the law states that it cannot be overridden.

Reference:

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

LO 3, AC 3.1

NEW QUESTION # 35

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