

Contract Management For Engineers: Procurement, Tendering, Partnering and Claims

Date: 12th - 30th November 2018

Venue: London, United Kingdom



Course Overview

Introduction:

For any organisation to be successful it is essential that a contract management function is in place, with the right knowledge and skills to carry out procurement activities effectively. This requires one or more individuals who can create and manage the organisation's relationships with vendors, service suppliers and contractors. Procurement is often carried out through Competitive Tendering. Partnering is a broad term used to describe a more collaborative approach between the parties in developing and operating a contract. Competitive tendering and partnering might therefore be considered as opposite ends of a procurement spectrum.

While the object of international contracting is to write and manage contracts so as to minimize disputes, some disagreements are inevitable. These can arise from failures by one of the parties, but also often arise from misunderstandings as to obligations under the contract. Therefore, contract claiming also play a very crucial role in the whole process.

The participants will be able to apply the learning to their own organisation's contract management practices and have a better understanding of the essential facets of Procurement, Tendering and Partnering. This course will also look at how claims (and counter claims) arise; how they can be reduced or avoided by good contracts management; how they should be evaluated when received, or prepared when being delivered and how to resolve disputes arising from such claims. It will also, and most importantly, look at ways of avoiding disputed claims in the first place.

Course Objectives:

After completing this course participants will be able to:

- Explain the engagement and management of vendors, service suppliers and contractors
- Demonstrate their knowledge about how to transfer risk through different contract types
- Discuss the key elements of the Procurement Process
- Define partnering and explore the challenges and opportunities of partnering approaches
- Provide an understanding of how and why claims and counterclaims arise
- Explain the differences between claims and counterclaims
- Identify common causes of claims and disputes, and how to avoid them
- Discuss how to develop contracts management procedures to avoid disputes over claims and counterclaims, while resisting unjustified claims
- Provide an understanding of some of the main methods of dispute resolution involving third parties
- Develop an understanding of Traditional and Alternative Dispute Resolution techniques, including different ways of resolving disputes without recourse to courts or arbitration

Who Should Attend:

Anyone involved in contracting and claiming of any kind. Whether an engineer, project manager, or executive, this course will put the mechanics of procurement into perspective.

Course Outline

Module 1: Planning for Best Results

- The role and value of Contract Management
- Commercial, financial and technical aspects of a Contracting Strategy
- Competitive or collaborative strategic choices in procurement
- How are Strategic Alliances / Partnering arrangements different from traditional contracting methods
- Building Trust and Loyalty – Critical Steps in developing Partnering arrangements

Module 2: Contract Formation and Management

- The key elements of a Competitive Tendering Process
- Delivering the contract's objectives in Scope, Cost, Time and Quality
- An assessment of different contract types including partnering
- Using contract strategies to manage supplier risk
- The value of a contract management plan

Module 3: Important Elements of a Contract

- How should the contract be structured?
- How to create a well-written specification / scope of work
- Contract Terms and Conditions
- Key clauses every contract manager should know
- Using industry standard form contracts to achieve good outcomes

Module 4: Bidder Selection, Tender Evaluation and Negotiations

- Sourcing the Bidders – ensuring value and a decision - audit trail
- Developing evaluation criteria – aligned with your required outcomes
- Tips on ensuring an efficient – and effective – tendering process
- Managing the contract award
- Developing and using negotiation skills – key points to consider

Module 5: Managing the Performance of the Contract and Next Steps

- The Criticality Of Good Contract Administration
- Managing Contract Changes – effectively
- Handling contract claims and disputes
- Review and Summary
- Programme highlights and final observations



Course Outline

Module 6: How Claims and Counter Claims Arise

- Causes of typical claims
 - ⇒ Poor drafting of requirements
 - ⇒ Lack of clarity in Scope of Work/Services
 - ⇒ Misunderstanding of legal or technical obligations
 - ◇ By Client
 - ◇ By Contractor/Supplier
 - ⇒ Deliberate “misunderstanding”
- Counter claims – how they differ from claims
 - ⇒ Rights of set-off
- Overview of main contractual provisions relevant to claims and counter claims
 - ⇒ Obligation to perform work
 - ⇒ Standards
 - ⇒ Programme
 - ◇ Acceleration
 - ⇒ Variations
 - ⇒ Extension of time
 - ⇒ Force majeure

Module 7: Types of Claims and Counter Claims

- Types of claims, in construction and other areas – and their distinctive features
- Re-measure disputes
- Variations – disputes on valuation
- Variations – disputes as to whether there is change
- Breaches of contract
- Quality of workmanship
 - ⇒ Re-work
- Rejection of goods
 - ⇒ Full rejection
 - ⇒ Partial rejection
- Liquidated damages and penalties
- Warranty claims
- Special issues with EPC/Turnkey contracts
 - ⇒ Interface problems – are these always the Contractor’s responsibility?
 - ⇒ Tracking change where client involvement is limited
 - ⇒ Special issues with documentation in EPC and turnkey contracts



Course Outline

Module 8: Presenting and Evaluating Claims and Counter Claims

- Requirements for claim presentation
 - ⇒ Notices
 - ⇒ Timing, and time limits
 - ◇ Are time limits binding?
 - ⇒ Format
 - ⇒ Information
 - ⇒ Supporting documents
- Defining features of claims evaluation and management
 - ⇒ Recognising the causes of claims
 - ⇒ Warning signs of disputes
 - ⇒ Recording claims
 - ⇒ Reviewing claims
 - ◇ Requesting further information
 - ◇ Realistic appraisal
 - ◇ When to make admissions – and denials
 - ◇ Offers of settlement
 - ◇ Independent review
 - ⇒ Cumulative effects
 - ⇒ Managing claims quickly and effectively to avoid disputes
 - ⇒ Managing claims and disputes
 - ◇ Involving lawyers
 - ◇ Managing the legal process
 - ◇ Setting goals
 - ◇ Decision trees
 - ◇ Controlling costs – and including them in your thinking



Course Outline

Module 9: Dispute Resolution

- What is a dispute?
- Introduction to dispute resolution methods and techniques
 - ⇒ Stage negotiation – setting up internal dispute resolution within the contract
 - ⇒ Measures of success – win-win negotiation
 - ◇ Understanding what constitutes a “win” for you
 - ◇ What will be a “win” for the other party?
 - ◇ Mirror negotiation/red teams
 - ⇒ Negotiating “without prejudice”
 - ⇒ Making offers
 - ⇒ Compromise
 - ⇒ Bargaining
- Interest-based negotiations
 - ⇒ Moving away from rights-based thinking
 - ⇒ Making the cake bigger – settling other issues
 - ⇒ Non-financial solutions
 - ⇒ Long-term business relationships
- Conflict and its resolution
 - ⇒ Defusing conflict
 - ⇒ Personality clashes and how to avoid them
 - ⇒ Dealing with disputes as they arise – not letting them fester
 - ⇒ Traditional dispute resolution
 - ◇ Litigation
 - * Use of foreign courts
 - * Enforcement
 - ◇ Arbitration
 - * Domestic
 - * International
 - * Single or panel
 - * Enforcement
 - ◇ Issues with evidence and production of documents
- Differences between alternative dispute resolution methods
 - ⇒ Mediation
 - ⇒ Med/Arb and Arb/Med
 - ⇒ Adjudication



Course Outline

Module 10: Finale

- Ethical Concern
 - ⇒ Audit Trails
 - ⇒ Avoiding the suspicion of unethical behaviour
 - ⇒ Problems with settlements based on interests, not rights
 - ⇒ Applying the same anti-corruption systems to claims as to tendering
- Avoidance is better than resolution
 - ⇒ Avoiding claims and counter claims
 - ⇒ Avoiding disputes
 - ⇒ Avoiding litigation and arbitration
- Practical application of techniques
 - ⇒ Opportunities to role play a few straightforward negotiation scenarios involving typical contractual claims, counter claims and disputes
- Final questions and wrap-up

Trainer Profile

Dr. S. Simon Keneth, Contract & Risk Management Guru

Dr. S. Simon Keneth is a trained and certified Risk Management professional in the area of Supply Chain Management and Brand Protection. He attained his Bachelor's Degree in Law and his DBA from the University of Wolverhampton (UK). He then went on to be trained and certified as an auditor and practitioner in the specialized area of Risk Management under the auspices of United States of America Customs and Border Protection (CTPAT Standards); and; Transported Asset Protection Association (TAPA Standards), Asia. He is also a Human Resources Development Trainer certified by the Human Resources Ministry.

He was once the Managing Director of Paradigm Resources, specialized in providing risk management / assessment services for internal / external associates; Consultation on Brand Standards / Management / Protection; Contract Management; Outsourcing & Subcontracting; and; Human Resources training and development programmes on various specialized topics, predominantly, Risk Management related subject matters, either on an one off or Project basis.

Due to his passion for training and knowledge sharing, he is also currently a Lecturer for Asia e University, lecturing both undergraduate and post graduate students on Risk Management module.

With his background of a law degree and also a Doctorate in Business Administration , he is able to invoke legal implications in his programmes to make it more comprehensive and value added substance. In addition, his fluency in English and Bahasa Malaysia enables him to conduct training programmes effectively in both languages.

Prior to his involvement in this field, the facilitator has wide working experience throughout his 15 years of working career in the specialized area of Risk Management, Security Management and Investigations (HR, Security (Operational and Information Security) and Safety, Corporate Governance and Ethics). Being a Head of Department in each of this portfolios, he has acquired substantial job related knowledge and experience in sectors comprising of Manufacturing, Telecommunications, Hospitality Management (Brand Standard & Management) and Contract Manufacturing (Brand Protection and Management). He is also a trained Workplace Counselor and by virtue of his portfolio of having to deal with people of different job hierarchy, he has very profound people management skills, negotiation skills and effective interaction skills. His previous employers and related portfolios were as follows:-

Infineon technologies (M) Sdn Bhd – Security Manager (Backend Manufacturing Plant, Melaka)

Celcom Axiata Sdn Bhd – Manager, Head of Risk Management (Nationwide)

Renaissance Melaka Hotel (Marriott International) – Loss Prevention & Brand Standard Manager (Melaka Hotel Facility)

Flextronics Penang - Loss Prevention Manager (5 Contract Manufacturing Sites in Penang)

Registration Form

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Date: 12th - 30th November 2018

Fees: USD \$5500 per delegate

Venue: London, United Kingdom

Includes: Course Material, Certificate of Attendance, Lunch & Refreshments

DATE:	
COMPANY / ORGANISATION:	
NUMBER OF PARTICIPANTS:	
FULL ADDRESS:	
AUTHORISED BY / JOB TITLE:	
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