

CIPS.L4M3.v2025-07-07.q116

Exam Code:	L4M3
Exam Name:	CIPS Commercial Contracting
Certification Provider:	CIPS
Free Question Number:	116
Version:	v2025-07-07
# of views:	1083
# of Questions views:	1160
https://www.freeqas.com/qa/CIPS/L4M3/CIPS.L4M3.v2025-07-07.q116.html	

NEW QUESTION: 1

Which of the following are reasons why a purchaser wants to embed a subcontracting clause into the main contract? Select TWO that apply:

- A. To induce the conflicts between the main contractor and subcontractors
- B. To improve supply chain transparency
- C. To reduce the main contract complexity
- D. To keep main contractor liable
- E. To condemn whole liabilities to subcontractors

Answer: D (LEAVE A REPLY)

There are number of reasons why the purchaser will want to control the supplier's subcontracting:

- Supply chain transparency: Normally the purchaser has invested a lot of effort into selecting the right contractor. However, the main contractor's selection of subcontractor might not be in such careful manner, which may result in poor performance. Purchaser must know who subcontractors are. Controlling the subcontracting process can help the purchaser control the outcome.
- Contract terms: the purchaser's requirements must be reflected in the subcontracts. The subcontracting clauses may require the main contractor to do this.
- Liability: the main contractor may subcontract the whole or a part of its liabilities. Subcontracting clause may bind the contractor to be liable with the work, it cannot just blame the subcontractor for any faults.

Reference: CIPS study guide page 154-155

LO 3, AC 3.2

NEW QUESTION: 2

Which of the following KPIs is qualitative?

1. Openness and co-operation of supplier
2. Responsiveness of supplier
3. Customer satisfactory ratings
4. Cost management
5. OTIF deliveries

- A. 2 and 5 only
- B. 1 and 3 only

C. 2 and 3 only

D. 1 and 4 only

Answer: B ([LEAVE A REPLY](#))

Qualitative KPIs are based on pure opinions about how well or otherwise the goods are performing or the service is being delivered. Most often, these will be linked to, or converted into, a numerical measure. However, such satisfaction surveys often also include free fields for respondents to explain why they feel the way they do, and what they might have liked to have been different.

On the other hand, quantitative KPIs are based on numerical measure with either definite number (e.g., actual number of orders incomplete or otherwise inaccurate during the time period) or as a percentage (e.g. number of inaccurate orders as a percentage of the total number of orders).

Openness and co-operation means that supplier is open and co-operative in its relationship with purchaser, e.g., in terms of joint problem solving. This KPI is qualitative since it is measured by individual judgement.

Responsiveness of supplier means the supplier responds rapidly to requests for information and support without having to be chased. It is measured by the number of times requests chased as a percentage of number of requests. It is a quantitative KPI.

Customer satisfactory ratings means the level of customer's satisfaction. This KPI is measured by periodic survey and it is a qualitative KPI.

Cost management is another quantitative KPI. It can be measured by comparing between the actual costs and the contractual costs.

OTIF (one-time in-full) deliveries is a quantitative KPI. It can be measured by counting the inaccurate deliveries in the period or inaccurate deliveries as a percentage of total number of deliveries for period.

Reference:

LO 2, AC 2.2

NEW QUESTION: 3

John Powers is the managing director of ACC Trading Ltd, which provides components to the automotive industry. His company has been providing number plates to Elite Motors Ltd for many years. As John Powers and Peter Ellis, the MD of Elite, have been friends for a long time, there has never been a formal contract agreed between the companies. Following a downturn in the market, Elite Motors Ltd has now been placed in administration. ACC recently delivered 200 number plates but have not received payment. As the number plates have been fitted to some vehicles, the administrators are being very slow to return them. Which clause in a formal agreement would have helped John?

A. Force Majeure

B. Retention of Title (Romalpa)

C. Liquidated Damages

D. Penalty Clause

Answer: ([SHOW ANSWER](#)**)**

A Retention of Title clause allows the seller to retain ownership of goods until full payment is received. If included in a contract, this clause would have enabled ACC to claim ownership of the number plates and potentially recover them from Elite Motors Ltd, even in administration. It protects suppliers against buyer insolvency.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.2.1 - Retention of Title clauses.

NEW QUESTION: 4

Which of the following are implied terms in sales contracts? Select THREE that apply.

A. Payment method

B. Customer satisfaction

C. Transfer of ownership

D. Risk transfer

E. Fitness for purpose

F. Mode of transportation

Answer: C,D,E (LEAVE A REPLY)

Generally, under the Sale of Goods Acts (in UK, Singapore, Australia,...) or Commercial Codes (in France, Germany, Vietnam,...), the sale contracts have the following implied terms:

- the seller has the right to sell the goods. This is also a condition of the contract
- the goods are free from undisclosed security interests
- the goods supplied under the contract will be reasonably fit for any purpose which the buyer made known to the seller
- sales of unseen goods will be of merchantable quality, and match their description and conform with a sample.
- Passing of risk
- Passing of possession and title

Reference: CIPS study guide page 126-132

LO 3, AC 3.1

NEW QUESTION: 5

Which of the following is a key feature of liquidated damage clauses?

- A.** The amount of damage is predetermined
- B.** Liquidated damage is a penalty
- C.** The amount of liquidated damages must be exceptionally larger than the actual damages incurred
- D.** The liquidated damages are non-negotiable

Answer: (SHOW ANSWER)

Liquidated damages are presented in certain legal contracts as an estimate of otherwise intangible or hard-to-define losses to one of the parties. It is a provision that allows for the payment of a specified sum should one of the parties be in breach of contract.

Understanding Liquidated Damages

Liquidated damages are meant as a fair representation of losses in situations where actual damages are difficult to ascertain. In general, liquidated damages are meant to be fair, rather than punitive.

Liquidated damages may be referred to in a specific contract clause to cover circumstances where a party faces a loss from assets that do not have a direct monetary correlation. For example, if a party in a contract were to leak supply chain pricing information that is vital to a business, this could fall under liquidated damages.

A common example is a design phase for a new product that may involve consultation with outside suppliers and consultants in addition to a company's employees. The underlying plans or designs for a product might not have a set market value. This may be true even if the subsequent product is crucial to the progress and growth of a company. These plans may be deemed to be trade secrets of the business and highly sensitive. If the plans were exposed by a disgruntled employee or supplier, it could greatly hamper the ability to generate revenue from the release of that product. A company would have to make an estimation in advance of what such losses could cost in order to include this in a liquidated damages clause of a contract.

Limitations of Liquidated Damages

It is possible that a liquidated damages clause might not be enforced by the courts. This can occur if the monetary amount of liquidated damages cited in the clause is extraordinarily disproportional to the scope of what was affected by the breached contract.

Such limitations prevent a plaintiff from attempting to claim an unsubstantiated exorbitant amount from a defendant. For instance, a plaintiff might not be able to claim liquidated damages that amount to multiples of its gross revenue if the breach only affected a specific portion of its operations. The concept of liquidated damages is framed around compensation related to some harm and injury to the party rather than a fine imposed on the defendant.

The courts typically require that the parties involved make the most reasonable assessment possible for the liquidated damages clause at the time the contract is signed. This can provide a sense of understanding and reassurance of what is at stake if that aspect of the contract is breached. A liquidated damages clause can also give the parties involved a basis to negotiate from for an out-of-court settlement.

Reference:

- Liquidated Damages

- CIPS study guide page 158-159

LO 3, AC 3.2

NEW QUESTION: 6

Which of the following are commonly used as model forms of contracts in construction in the UK?

A. Select TWO that apply

B. JCT

C. AS

D. NEC

E. CIPS

F. IET

Answer: B,D ([LEAVE A REPLY](#))

- NEC: New Engineering Contract - a family of standard contracts primarily used in construction in the UK; includes works, consultants, services

- JCT: Joint Contracts Tribunal - a family of standard contracts used in construction in the UK; includes works, consultants, subcontracts, services

- AS: Australian Standards contracts - different contracts for a range of purchase types including constructions, consultancy, periodic supply of goods

- IET: Institution of Engineering and Technology which issue jointly agreed model forms covering the design, supply and installation of electrical, electronic and mechanical plant

'including special conditions for the ancillary development of software'

- CIPS: Chartered Institute of Procurement and Supply - CIPS has developed its own suites of standard forms of contract for IT functions including: supply and installation of computer equipment, support and maintenance of bespoke software, servicing of computer equipment.

Reference:

LO3, AC 3.1

NEW QUESTION: 7

Which of the following are true statements about RFQ process? Select TWO that apply.

A. Buying organisation should only send RFQ to pre-qualified suppliers

B. RFQ process requires the suppliers to submit their technical proposals

C. RFQ process creates heavier administrative burdens than tendering process

D. Price is often the only variable in the RFQ and quotations

E. RFQ process is not suitable for low value purchase

Answer: ([SHOW ANSWER](#))

Request for quotations is often used when the only variable is price and the purchase value is under a financial threshold. This process is less formal than ITT. RFQ should be used in the following circumstances:

- Low-value, low-risk purchases

- When the specifications are sufficiently defined or the product/service is standardised

- Where the suppliers are pre-qualified

- Where there is a framework agreement which specifies the contract terms and conditions.

Reference:

LO 1, AC 1.1

NEW QUESTION: 8

MWB operates serviced offices in central London. Rock entered a contractual licence with MWB to occupy office space in Marble Arch and had accumulated licence fees in arrears. The original licence agreement contained a 'No Oral Modification' clause that said: 'All variations to this licence must be agreed, set out in writing and signed on behalf of both parties before they take effect'.

After 6 months, Rock director re-negotiated to extend payment period over phone call and MWB credit controller agreed his proposal. Is this agreement considered as an effective variation to the original licence agreement?

- A. Yes, because parties who agree to altering the original contract orally despite a 'No Oral.
- B. Modification' clause, must have intended to dispense with the clause
- C. No, because the mechanism for variation has been set out in the original contract
- D. Yes, because the credit controller had agreed with Rock director's proposal
- E. No, because Rock director assumed that the variation was effective and convinced credit controller to believe it

Answer: C ([LEAVE A REPLY](#))

The license can be amended during its lifespan. However, in this case, it already has a clause allowing for mechanism of variation which sets out who can authorise changes and prohibits any oral variation. Therefore, the agreement between Rock's director and MWB credit controller is not an effective variation to the license.

Reference: CIPS study guide page 26-27

LO 1, AC 1.1

NEW QUESTION: 9

A buyer and a supplier plan to sign a contract with cost-plus arrangement. If the cost base is \$350 and the markup component is 11% then the invoice price will be...

- A. 393.26
- B. 388.5
- C. 368.5
- D. 362

Answer: ([SHOW ANSWER](#)**)**

Markup is the percentage between the profit and costs. The cost is \$350, markup is 11%. So final price is: 350

+ 350x0.11 = 388.5

Reference: CIPS study guide page 177

LO 3, AC 3.3

NEW QUESTION: 10

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

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

Answer: C ([LEAVE A REPLY](#))

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: 11

Which of the following should be done by procurement professionals right after obtaining a pre-written specification for a critical item so that the added value will be the greatest?

- A.** Evaluate tender or quotation
- B.** Select the best supplier
- C.** Challenge the used specification
- D.** Issue invitation to tender or request for quotation

Answer: C ([LEAVE A REPLY](#))

A previously used specification must always be robustly challenged to see how well it fits the proposed circumstances. Aspects which appear not to fit should be analysed to understand why they were included in the sample specification and whether this changes the view on whether or not they should be omitted or changed.

Reference:

LO 2, AC 2.1

NEW QUESTION: 12

When should liquidated damages clauses be written into a contract?

- A.** When the innocent party wants to punish the breaching party.
- B.** When the breaching party wants to exclude all its liabilities
- C.** When the court approves the damages amount before the contract is executed.
- D.** When the loss to the innocent party will be either too uncertain or too difficult to calculate.

Answer: D ([LEAVE A REPLY](#))

Liquidated damages are presented in certain legal contracts as an estimate of otherwise intangible or hard-to-define losses to one of the parties. It is a provision that allows for the payment of a specified sum should one of the parties be in breach of contract.

Liquidated damages are meant as a fair representation of losses in situations where actual damages are difficult to ascertain. In general, liquidated damages are meant to be fair, rather than punitive.

Limitations of Liquidated Damages

It is possible that a liquidated damages clause might not be enforced by the courts. This can occur if the monetary amount of liquidated damages cited in the clause is extraordinarily disproportional to the scope of what was affected by the breached contract.

Such limitations prevent a plaintiff from attempting to claim an unsubstantiated exorbitant amount from a defendant. For instance, a plaintiff might not be able to claim liquidated damages that amount to multiples of its gross revenue if the breach only affected a specific portion of its operations. The concept of liquidated damages is framed around compensation related to some harm and injury to the party rather than a fine imposed on the defendant.

The courts typically require that the parties involved make the most reasonable assessment possible for the liquidated damages clause at the time the contract is signed. This can provide a sense of understanding and reassurance of what is at stake if that aspect of the contract is breached. A liquidated damages clause can also give the parties involved a basis to negotiate from for an out-of-court settlement.

Reference:

- Liquidated Damages

- CIPS study guide page 158-159

LO 3, AC 3.2

NEW QUESTION: 13

Which of the following are likely to be advantages of using invitation to tender? Select TWO that apply:

Short turnaround times

- A. Quick implementation
- B. Driving forward planning culture
- C. Lower administration costs
- D. Reducing risks of bribery and corruption

Answer: B,D ([LEAVE A REPLY](#))

Advantages of using invitation to tender may be as below:

No Nepotism: Tenders or bids are evaluated on the basis of certain predetermined criteria, such as price, quality and value for money. In other words, the firm offering the highest quality product or service at the lowest price point would win the contract. As most tender documents are opened and evaluated in a public process, I think that there remains little room for nepotism or favoritism of any kind.

Value for Money: From the perspective of the client, tenders offer the greatest value for the amount of money spent. This is due to the fact that the client can choose from a wide pool of potential suppliers to select the ones that can produce the highest quality product or service at the lowest price point. This allows the company, establishment or organization to save money without having to compromise on quality. Therefore, despite being quite time consuming, tendering is, in my opinion, a profitable long-term process from an organization's point of view.

Encourages Competition: The process of tendering helps promote a competitive market. This is because a number of potential contractors, firms or suppliers get a chance to bid for every project. And because selection depends on quality and price, every bidder tries to reduce operational inefficiencies and redundancies as much as possible in order to lower expenses and improve quality. This entire process encourages healthy competition in the market and prevents complacency and laziness, which in turn provides a boost to innovation and new ideas.

Easier Entry: The system of tendering makes it easier and simpler for new firms to enter the market or even a particular industry. This is due to the fact that contracts under this system are awarded on the basis of predetermined, objective criteria. As a result, even a firm that is a new entrant to the market, having no connections or contacts in the industry, can win a prestigious and lucrative contract by providing the highest value for the client's money. This process therefore helps new firms to quickly get a foothold in the market or industry, thus significantly lowering the traditional barriers to entry.

Reference:

- Characteristics and Benefits of the Tendering Process
- CIPS study guide page 6-8

LO 1, AC 1.1

NEW QUESTION: 14

Which of the following is always automatically considered as a contract?

- A. Call-off
- B. Framework arrangement
- C. Performance management framework
- D. Framework agreement

Answer: A ([LEAVE A REPLY](#))

- A call off or a term contract is one which exists for a fixed period of time, rather than for a specific purpose

- A formal framework agreement does have some legal standing but it is not a contract, primarily because there is no consideration involved, but it is an overarching (or umbrella) agreement under which contracts can be created (this holds true in English law but may not be right in other jurisdiction)

- A framework arrangement is a rather loose set-up, without any legal standing. It usually occurs when an organisation has decided for itself to limit the number of suppliers it is willing to work with and, through a purely internal process, sets up an approved list of such suppliers.
- A performance management framework including KPIs and targets, the assessment scheme and incentives, disincentives, bonuses and penalties. It is a schedule to a contract and only legally binding if it is referred from contract clauses.

Reference:

LO 1, AC 1.3

NEW QUESTION: 15

A tire manufacturer entered into a contract with a distributor. In the contract, the distributor is prohibited from selling the tire under the price list. The distributor must pay \$5 for each tire sold in breach. The amount of \$5 is known as...?

- A.** Penalty
- B.** Quantum meruit
- C.** Liquidated damages
- D.** Caveat Emptor

Answer: ([SHOW ANSWER](#))

This scenario is in fact based on a famous case law: Dunlop Pneumatic Tyre Company v New Garage & Motor co [1915] AC 79. In this case law, the House of Lords identified the clause as liquidated damages, and therefore enforceable.

However, if this case had happened in 2015 or afterwards, there would be some legal issues:

- The price agreement is prohibited by Competition Act 1998
- If the agreement is allowed by Competition Act, as in the case Cavendish Square Holding BV (Appellant) v Talal El Makdessi (Respondent), the clause can also be identified as a penalty and it is still enforceable.

Reference:

LO 3, AC 3.2

NEW QUESTION: 16

As a result of a global pandemic, a local hospital is facing significant patient capacity pressures and would like the construction of a new 50-bed ward to be prioritised and fully operational at the earliest opportunity.

Which of the following pricing arrangements would support this aspiration?

- A.** Incentivised contract pricing
- B.** Fixed price economic adjustment pricing
- C.** Time and materials arrangement pricing
- D.** Penetration contract pricing

Answer: ([SHOW ANSWER](#))

Incentivised pricing is designed to motivate suppliers to meet or exceed performance targets by providing financial or other incentives. In urgent projects, such as constructing a hospital ward during a pandemic, incentivised pricing encourages suppliers to accelerate delivery without compromising on quality. This supports the buyer's need for speed and reliability.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.2 - Types of pricing mechanisms and when to use them.

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NEW QUESTION: 17

Which of the following are advantages of using a model form contract in negotiations between buyer and seller?

These contracts can save time in negotiations

Each contract is approved by the courts

These contracts are appropriate for all complexities

The contracts are well-known to both parties

A. 1 and 2

B. 2 and 3

C. 3 and 4

D. 1 and 4

Answer: D (LEAVE A REPLY)

Model contracts are pre-drafted templates commonly accepted in specific industries, helping to reduce negotiation time and increase consistency. They are often familiar to both parties, reducing misunderstandings. However, they are not court-approved by default and may not suit all complex needs without modifications.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.3 - Advantages and limitations of model form contracts.

NEW QUESTION: 18

Which of the following statement is true about one-off contract?

A. Suppliers have many opportunities to improve the quality during the performance of one-off contract

B. One-off contracts can be used for services and works

C. Ad-hoc purchase is not a type of one-off purchase

D. One-off contracts only apply to low-value, low-risk purchase

Answer: B (LEAVE A REPLY)

One-off contract is the type of contract that relates to a single purchase. One-off contracts can be used for goods, services or works. One-off contract can be simple (such as buying a small number of office stationeries) or complex (such as a construction project or buying an aircraft).

A one-off contract lasts "until completion of the obligations of the parties". The performance is unlikely to be improved during contract performance since the duration is relatively shorter than framework agreement or call-off contract.

Ad-hoc purchase is an item bought for a single and non-recurring use or purpose. Ad-hoc purchase is a type of one-off contract.

Reference:

LO 1, AC 1.3

NEW QUESTION: 19

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 voidable and damages can be claimed

B. Contract is not voidable but damages can still 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: A ([LEAVE A REPLY](#))

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: 20

A construction company is undertaking a housing development project. They need lots of bricks and other building materials, but the construction site doesn't have large area for storage of materials. Therefore, the company's suppliers must deliver the building materials with fixed quantity and at fixed time intervals. What type of contract is used between the construction company and its suppliers?

A. Framework agreement

B. Spot transaction

C. One off contract

D. Call off contract

Answer: D ([LEAVE A REPLY](#))

In the scenario, the contract between the company and its suppliers is continuous rather than one-off. So it cannot be one-off contract or spot purchase. The quantity and time is well known and fixed, this type of contract is known as call-off contract or blanket order.

Reference:

LO 1, AC 1.3

NEW QUESTION: 21

In which scenarios would it be appropriate for a procurement organisation to include contractual indexation and/or price adjustment formulae clauses in a services contract? Select TWO that apply.

A. The supplier's directors shall be paid dividends during the term

B. The supplier's contract staffing costs will be subject to regulatory increase

C. The material components were tendered as fixed costs for the term

D. The supplier's preference is to switch to a more expensive material specification

E. The market rates for the supplier's material costs will vary during the term

Answer: A,B,D,E ([LEAVE A REPLY](#))

Indexation and price adjustment clauses are appropriate when future costs are uncertain or likely to change, such as regulatory-driven wage increases (B) or fluctuating material costs (E). These clauses allow adjustments based on objective indices while preserving the integrity of the contract.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.2 - Index-linked pricing and adjustments.

NEW QUESTION: 22

Which of the following are the 'fundamental' labour standards laid down by the International Labour Organisation?

1. Elimination of child labour

2. Payment of a minimum wage

3. The right to collective bargaining

4. Abolition of forced labor

A. 1, 2 and 4 only

B. 2, 3 and 4 only

C. 1, 3 and 4 only

D. 1, 2 and 3 only

Answer: C ([LEAVE A REPLY](#))

ILO Declaration on Fundamental Principles and Rights at Work was adopted in 1948. The Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions.

These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation.

Reference:

- ILO Declaration on Fundamental Principles and Rights at Work

- CIPS study guide page 161-163

LO 3, AC 3.2

NEW QUESTION: 23

Express terms in a contract are stated in which of the following? Select TWO that apply

A. Orality

B. Idea

C. Trade customs

D. Writing form

E. Statutes

Answer: A,D ([LEAVE A REPLY](#))

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.

Reference:

- Contracts: Express and Implied Terms

- CIPS study guide page 126-132

LO 3, AC 3.1

NEW QUESTION: 24

Rochdale Ltd is looking for a new IT system to automate some of its operations. In designing the specification, procurement manager supposes that it should be done solely by the IT department who have deep expertise on this matter. Is procurement manager's opinion appropriate?

A. No, because challenging the user's demand is the role of procurement

B. Yes, because designing complex specification would waste procurement manager's time

C. Yes, because procurement professional has no expertise in IT sector

D. No, because designing complex specification could only be outsourced

Answer: (SHOW ANSWER)

Procurement professionals have a role in challenging specifications. Technical experts can get things wrong and asking naive questions can be useful in bringing these to light. The challenging may include:

- Does the organisation really need these features/functions?

- With this specification, are there many available suppliers in the market?

- How many does the organisation really need?
- etc

Reference: CIPS study guide page 9-10

LO 1, AC 1.1

NEW QUESTION: 25

In order to monitor supplier's performance, an organization decides to draft performance management frameworks. Which of the following are the components of a performance management framework? Select THREE that apply:

- A.** Targets
- B.** KPIs
- C.** Consequences
- D.** Indemnity
- E.** Force majeure
- F.** Justification

Answer: A,B,C ([LEAVE A REPLY](#))

There are three key components of a performance management framework:

- Key performance indicators (KPIs) - What you are measuring
- Targets - the performance level to be achieved
- Consequences - what happens if the measures are not achieved and/or if they are exceeded

Reference:
LO 1, AC 1.1

NEW QUESTION: 26

Which of the following will always give rise to a claim of misrepresentation?

1. Silence
 2. False thought
 3. Statement of fact
 4. Representation by conduct
- A.** 1 and 2 only
 - B.** 1 and 3 only
 - C.** 3 and 4 only
 - D.** 2 and 4 only

Answer: C ([LEAVE A REPLY](#))

A misrepresentation is a false statement of fact or law which induces the representee to enter a contract. Where a statement made during the course of negotiations is classed as a representation rather than a term an action for misrepresentation may be available where the statement turns out to be untrue.

For a party to claim for misrepresentation, there must be a false statement of fact or law as oppose to opinion or estimate of future events. It does not matter whether the incorrect information is given by words or takes the form of misleading conduct.

Silence will not generally amount to a misrepresentation. However, it can become a misrepresentation in some exceptional circumstances.

In the L4M3 study guide, the author states that "A statement of law is not misrepresentation". This is untrue in both common law and civil law systems. In the UK, false statement of law will now amount to an actionable misrepresentation (see *Pankhania v Hackney* [2002] EWHC 2441).

Reference:

- Misrepresentation

- L4M3 study guide page 53-55

LO 1, AC 1.2

NEW QUESTION: 27

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. 3 and 4 only

B. 2 and 4 only

C. 1 and 4 only

D. 1 and 3 only

Answer: C ([LEAVE A REPLY](#))

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: CIPS study guide page 185-188

LO 3, AC 3.3

NEW QUESTION: 28

XYZ Ltd is negotiating a long-term supply contract of important parts with a supplier. Dave, procurement manager teams up with Alla, legal manager to construct a service level agreement. Dave is concerned that poor performance of supplier may cause damages to the operations of the organisation. Which of the following can be used in conjunction with SLA to compensate the buying organisation in case of supplier's poor performance?

1. Warranties
2. Force majeure clauses
3. Penalty clauses
4. Service credits

A. 1 and 3 only

B. 3 and 4 only

C. 1 and 2 only

D. 4 and 2 only

Answer: B ([LEAVE A REPLY](#))

Service level agreement often sets out the minimum quality standards of the services provided, remedies if that standards are not met, consequences if the targets are exceeded.

Penalty clauses and service credits are remedies that are often used in conjunction with service level agreement to ensure the performance and to compensate the purchaser if targets are not met.

Reference:

LO 2, AC 2.2

NEW QUESTION: 29

Which of the following is an invitation to treat?

- A. Purchase order
- B. Invoice
- C. Price list
- D. Tender bid

Answer: C ([LEAVE A REPLY](#))

An invitation to treat is an action inviting other parties to make an offer to form a contract. These actions may sometimes appear to be offers themselves, and the difference can sometimes be difficult to determine. The distinction is important because accepting an offer creates a binding contract while "accepting" an invitation to treat is actually making an offer.

One simple test to distinguish an offer and an invitation to treat is to ask what this statement will become when it is accepted. Now we apply this test to four options:

- Tender bid: Tender bid is submitted by a supplier to an invitation to tender from the buyer. It states the specific quantity, price and other elements. If buyer accepts the bid, there will be a contract between them.

Therefore, a tender bid is an offer.

- Purchase order: Purchase order which is sent by a buyer will state the items, the quantity, the price and terms and conditions. If supplier accepts the purchase order, there will also be a contract between two parties. It is also an offer.

- Price list: Price list is prepared by a supplier. The price list often states the items and unit price. If a buyer accepts it, the contract has not yet been formed since the contract scope has not yet been decided. It is an invitation to treat.

- Invoice: Invoice is often sent after a contract is formed. It is in fact a request for payment, neither offer nor invitation to treat.

Reference:

- CIPS study guide page 29-32

- What Is an Invitation to Treat?

LO 1, AC 1.1

NEW QUESTION: 30

In which of the following conditions, request for quotation produces the best results?

- A. With an ambiguous specification
- B. Under framework agreements
- C. Under a complex process
- D. With strategic items

Answer: B ([LEAVE A REPLY](#))

Request for quotation has valuable function when its use is properly controlled. It works the best under framework agreements where the contract terms are already fixed.

Reference:

LO 1, AC 1.1

NEW QUESTION: 31

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

Answer: B ([LEAVE A REPLY](#))

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: CIPS study guide page 150-153

LO 3, AC 3.2

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NEW QUESTION: 32

Rochdale Ltd is looking for a new IT system to automate some of its operations. In designing the specification, procurement manager supposes that it should be done solely by the IT department who have deep expertise on this matter. Is procurement manager's opinion appropriate?

- A.** No, because challenging the user's demand is the role of procurement
- B.** Yes, because designing complex specification would waste procurement manager's time
- C.** Yes, because procurement professional has no expertise in IT sector
- D.** No, because designing complex specification could only be outsourced

Answer: (SHOW ANSWER)

Procurement professionals have a role in challenging specifications. Technical experts can get things wrong and asking naive questions can be useful in bringing these to light. The challenging may include:

- Does the organisation really need these features/functions?
- With this specification, are there many available suppliers in the market?
- How many does the organisation really need?

etc

Reference:

LO 1, AC 1.1

NEW QUESTION: 33

Which of the following statements is true about model form of contract?

- A.** When model contracts are employed, there are no requirements for legal advice and input
- B.** Model contract form's standard clauses often contain correct legal terminology without recourse to third party experts.

- C. The standard clauses of model contract forms give the offeror legal advantages over the offeree
- D. Only the publishers of model forms of contract can edit the clauses of these forms

Answer: (SHOW ANSWER)

Model forms of contract are published by some industry or professional organisations such as FIDIC, ITC, CIPS,... These forms are often carefully prepared by legal professionals, with correct legal terminology. The standard clauses within these forms are based on fair and balanced risk/reward allocation between the contracting parties. The model contract forms also include standard clauses to be selected or deleted on an as required basis.

Despite being standardised to be used in any jurisdiction, legal advice may be required if the users decide to make variations to the forms.

The correct answer should be "Model contract form's standard clauses often contain correct legal terminology without recourse to third party experts." Reference:

LO 3, AC 3.1

NEW QUESTION: 34

Which of the following should be used in a contract for window cleaning during the next three months?

- A. Variable pricing arrangement
- B. Fixed pricing arrangement
- C. Standard schedule of rates
- D. Cost-plus arrangement

Answer: B (LEAVE A REPLY)

A contract for window cleaning during the next three months is a short-term service contract in which changes of input costs (labour, tools,...) are very unlikely to happen.

Fixed pricing arrangement is useful for small to medium scope project, with short timelines, where what is delivered can be adequately specified and the likelihood of changes to the specification, scope and input costs is limited.

Reference: CIPS study guide page 172-176

LO 3, AC 3.3

NEW QUESTION: 35

The pricing arrangement in which markup is added into cost base to calculate the final price is known as...?

- A. Fixed Price approach
- B. Market based approach
- C. Price indices
- D. Cost plus pricing

Answer: D (LEAVE A REPLY)

The market approach is a method of determining the value of an asset based on the selling price of similar assets.

A fixed-price strategy means you set a price and keep it constant for an extended period of time.

Cost-plus pricing is also known as markup pricing. It's a pricing method where a fixed percentage is added on top of the cost to produce A price index (PI) is a measure of how prices change over a period of time, or in other words, it is a way to measure inflation. There are multiple methods on how to calculate inflation (or deflation).

Reference:

LO 3, AC 3.3

NEW QUESTION: 36

Which of the following clauses addresses fraud, bribery and corruption?

The Company has undertaken commercially reasonable efforts to eliminate Conflict Minerals from each Company Product and any products currently proposed to be manufactured by the Company or on its behalf in the future. "Conflict Minerals" means columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, which originate in the Democratic

Republic of the Congo or other country the exploitation and trade of which is determined by the United States to be financing conflict in the Democratic Republic of the Congo or other country.

A. Customer will be responsible for and shall ensure that while Service Provider employees, agents or contractors are on Customer's premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons.

B. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this

C. Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.

D. Each Party hereby undertakes that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.

Answer: D (LEAVE A REPLY)

This question is intended to let students know about how contractual clauses regarding ethical issues is constructed. The exam paper may not ask about this.

"Each Party hereby undertakes that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.": This is a clause addressing fraud, bribery and corruption. It is created to prevent any undue act by contracting parties. You may find other anti-corruption clause samples in this document.

"Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.": This clause is used to control the subcontracting and subcontractors.

"Customer will be responsible for and shall ensure that while Service Provider employees, agents or contractors are on Customer's premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons.": This clause is used to ensure health and safety standards.

"The Company has undertaken commercially reasonable efforts to eliminate Conflict Minerals from each Company Product and any products currently proposed to be manufactured by the Company or on its behalf in the future. "Conflict Minerals" means columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, which originate in the Democratic Republic of the Congo or other country the exploitation and trade of which is determined by the United States to be financing conflict in the Democratic Republic of the Congo or other country.": This is a clause addressing conflict minerals.

Reference: CIPS study guide page 164-166

LO 3, AC 3.2

NEW QUESTION: 37

Which of the following is used to detail the complex matter that may be verbiage to the main document?

A. Contract variation

B. Schedule

C. Subcontracting

D. Standard terms and conditions

Answer: B (LEAVE A REPLY)

Without further explanation, a schedule may be deemed to form an integral part of the obligations of either or both parties. Obviously, the scope or binding nature of such schedule depends on the way it is referred to in the obligatory language of the main agreement. Accordingly, merely attaching the general terms and conditions of sale without explaining to which part of the sale they apply or which provisions apply does not subject a sale pursuant to the body text of the agreement to those general terms and conditions.

Subcontracting is the practice of assigning, or outsourcing, part of the obligations and tasks under a contract to another party known as a subcontractor.

Reference:

- Schedules, annexes and exhibits

- CIPS study guide page 22-26
LO 1, AC 1.1

NEW QUESTION: 38

Which of the following best defines an 'express' term in general contract arrangements?

- A.** It is a standard set of terms and conditions published by CIPS
- B.** It is not necessarily discussed by the parties, but nonetheless forms part of the contract
- C.** It is the term that is added to the contract by the law or based upon the facts of the case.
- D.** It is clearly agreed between the parties, and is virtually always written down in the contract

Answer: D ([LEAVE A REPLY](#))

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.

Reference:

- Contracts: Express and Implied Terms
- CIPS study guide 126-132
- LO 3, AC 3.1

NEW QUESTION: 39

One of the important features in the formation of a contract is the need to have a 'consensus ad idem' between the contracting parties. 'Consensus ad idem' can be translated as meaning:

- A.** A promise to commit the contract to written form
- B.** A meeting of minds where all parties have the same understanding of the terms
- C.** Let the buyer beware before agreeing the contract
- D.** An agreement on the main item of the contract

Answer: B ([LEAVE A REPLY](#))

'Consensus ad idem' is a Latin term meaning "meeting of the minds." It refers to both parties having the same understanding and intention regarding the contract's terms. This mutual agreement is essential for forming a valid and enforceable contract.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 1, Section 1.1.1 - Essential elements of a valid contract.

NEW QUESTION: 40

In the application of price adjustment formulae, which of the following would be acceptable for a supplier to increase its selling price?

- A.** Rising share prices
- B.** Rising fuel costs
- C.** Rising market expectations
- D.** Rising incidence of defects

Answer: B ([LEAVE A REPLY](#))

Price adjustment formulae are typically tied to objective, external indices such as fuel prices, labour rates, or commodity costs. Rising fuel costs directly affect logistics and production expenses and are a legitimate reason to activate such clauses.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.2 - Economic price adjustment clauses.

NEW QUESTION: 41

Infra Constructions receive a contract for construction of a building, and following terms were agreed upon. "The entire cost of the project will be reimbursed to Infra Constructions (estimated cost of the project being \$ 25 million). The profits will be 20% of the entire cost of a project subject to a max of \$ 5 million." This arrangement is an example of...?

- A. Incentive pricing arrangement
- B. Gain-share/pain-share arrangement
- C. Cost-plus pricing arrangement
- D. Fixed-pricing arrangement

Answer: C ([LEAVE A REPLY](#))

In the contract term, the buyer agrees to pay the contractor the cost of doing project plus a profit. This is an example of cost-plus pricing arrangement.

On the other hand, "Fixed-pricing arrangement" often refers to lump-sum contract or supply/service contract with fixed price. "Incentive pricing arrangement" and "Gain-share/pain-share arrangement" have the same meaning. In this type of arrangement, both supplier and buyer agree on a target (it can be cost, or lead time, or quality, etc). Once the supplier reaches that target, it will be rewarded with a portion of the gain that the buyer gets, and will pay the price if it fails.

Reference:

LO 3, AC 3.3

NEW QUESTION: 42

A category buyer is purchasing medical gases for a hospital, but is experiencing volatile and unfavourable market conditions due to multiple global external factors. Owing to the volatility, the hospital's finance director has tasked the buyer with providing certainty of costs for the next 18 months. Which of the following pricing methods will enable budgeting certainty, despite the highly volatile market conditions?

- A. A fixed pricing arrangement
- B. A cost plus award fee agreement
- C. Fixed pricing with economic price adjustments
- D. A penetration pricing strategy

Answer: A ([LEAVE A REPLY](#))

A fixed pricing arrangement offers the buyer cost certainty by locking in a set price for the duration of the contract, regardless of market volatility. This is crucial in environments requiring tight budget control, such as healthcare procurement. Although suppliers may factor in risk premiums, it is ideal when predictability is the priority.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.2 - Use of fixed pricing to achieve budgetary control.

NEW QUESTION: 43

Which of the following is the international standard for labelling hazardous substances?

- A. GPS
- B. HSE
- C. CODEX STAN 1-1985
- D. GHS

Answer: D ([LEAVE A REPLY](#))

GHS stands for the Globally Harmonized System of Classification and Labelling of Chemicals. GHS defines and classifies the hazards of chemical products, and communicates health and safety information on labels and safety data sheets). The goal is that the same set of rules for classifying hazards, and the same format and content for labels and safety data sheets (SDS) will be adopted and used around the world. An international team of hazard communication experts developed GHS.

The Global Positioning System (GPS), originally NAVSTAR GPS, is a satellite-based radionavigation system owned by the United States government and operated by the United States Space Force. It is one of the global navigation satellite systems (GNSS) that provides geolocation and time information to a GPS receiver anywhere on or near the Earth where there is an unobstructed line of sight to four or more GPS satellites.

Obstacles such as mountains and buildings block the relatively weak GPS signals.

CODEX STAN 1-1985 is general standard for the labelling of packaged goods.

Environment (E), health (H) and safety (S) (together EHS) is a discipline and specialty that studies and implements practical aspects of environmental protection and safety at work. In simple terms it is what organizations must do to make sure that their activities do not cause harm to anyone.

Reference: CIPS study guide page 95

LO 2, AC 2.1

NEW QUESTION: 44

A retailer prefers to display its best selling products and promotion programme on the building windows.

According to rule of contract formation, this act will generally constitute...?

- A.** An invitation to treat
- B.** A legal capacity
- C.** An offer
- D.** A mailbox rule

Answer: A (LEAVE A REPLY)

Fisher v Bell [1960] and Pharmaceutical Society of Great Britain v Boots Cash Chemists [1953] identified that the courts will generally consider goods advertised in shop windows or those with a price tag attached to constitute an invitation to treat. An invitation to treat is a concept in contract law. It refers to an invitation for a party to make an offer enter into contractual negotiations.

Invitations to treat can be anything displayed to a large number of people, as long as there is no defined way to choose who can accept. Items on display in a shop, advertisements, and catalogues are all common examples of invitations to treat.

However, there are cases in the US shows that under some circumstances an advertisement can become an offer (see Leftkowitz v Great Minneapolis Surplus Stores [1957]).

Reference:

- What is an Invitation to Treat in Contract Law?
- CIPS study guide page 29

LO 1, AC 1.2

NEW QUESTION: 45

Ellie is a junior buyer and her supplier asks her to use their contract terms for an order. Which of the following are clauses that may be included in the supplier contract that could pose a risk to Ellie's business?

Select TWO that apply.

- A.** If the contract lists the full specification
- B.** If the contract includes supplier contact details
- C.** If the contract includes a cash discount for early payment
- D.** If the contract includes a price escalation clause
- E.** If the contract includes exclusion clauses

Answer: A,D,E (LEAVE A REPLY)

Price escalation clauses allow suppliers to raise prices during the contract term, potentially undermining budget control. Exclusion clauses limit or remove the supplier's liability, which could leave the buyer unprotected in case of breach or defects. These clauses present clear risks and require careful review or negotiation.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.3 - Risk in supplier- drafted contracts.

NEW QUESTION: 46

Which of the following is a key element for the development of a contract?

- A. Scoping specifications
- B. Contract management
- C. Budget approval
- D. Managing suppliers

Answer: A (LEAVE A REPLY)

Scoping specifications are fundamental in the development of a contract as they define the requirements, standards, and expectations for the goods or services to be provided. This clarity ensures that both parties have a mutual understanding of the deliverables, which is essential for a legally binding agreement. While contract management and supplier management are critical post-contract award activities, and budget approval is an internal process, scoping specifications directly contribute to the contract's formation.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.1.1 - Drafting of specifications to form a binding legal document.

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NEW QUESTION: 47

Key performance indicators (KPIs) are used to measure supplier performance. Which of the following are KPIs that may be used? Select THREE that apply.

- A. Employee attendance
- B. Cost management
- C. Contract standardisation
- D. Quality conformance
- E. Timeliness of delivery
- F. Style of negotiation

Answer: B,D,E (LEAVE A REPLY)

KPIs should measure critical areas of supplier performance. Cost management, quality conformance, and timely delivery are all essential, quantifiable metrics used to track efficiency and contract compliance.

Employee attendance and negotiation style are not standard KPIs.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.3.1 - Selecting and applying KPIs in performance management.

NEW QUESTION: 48

Various terms are used to qualify a party's obligations under contract. Which of the following gives absolute obligation?

- A. Reasonable endeavours
- B. Shall
- C. Best endeavours
- D. Should

Answer: (SHOW ANSWER)

"Shall" denotes a mandatory requirement in contract language and implies absolute obligation. Unlike "reasonable endeavours" or "best endeavours", which indicate a duty to try, "shall" creates a strict, enforceable duty to perform the task specified.
Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.2 - Clauses defining performance obligations.

NEW QUESTION: 49

Which of the following are NOT covered by CISG? Select TWO that apply:

- A. Transfer of risks
- B. Contract validity
- C. Remedies for breach of contracts
- D. Liability of the seller for death or personal injury
- E. Liability to pay damages

Answer: (SHOW ANSWER)

United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention or CISG) Vienna Convention was prepared by the United Nations Commission on International Trade Law (UNCITRAL) and adopted by a diplomatic conference on 11 April 1980. The Convention was welcomed by several countries from different geographic areas, with different legal and political systems. As of 20 August 2020, the Convention has 93 Contracting States. The Convention has proved the effectiveness of a uniform text on international trade law.

What CISG covers, and what it does not

In the 6 first articles of the Convention, the authors set up the boundaries of its application.

First is about where it applies. According to UNCITRAL, the Convention applies to contracts of sale of goods between parties whose places of business are in different States and either both of those States are Contracting States or the rules of private international law lead to the law of a Contracting State. A few States have availed themselves of the authorisation in article 95 to declare that they would apply the Convention only in the former and not in the latter of these two situations. As the Convention becomes more widely adopted, the practical significance of such a declaration will diminish. Finally, the Convention may also apply as the law applicable to the contract if so chosen by the parties. In that case, the operation of the Convention will be subject to any limits on contractual stipulations set by the otherwise applicable law.

Second, the Convention has a list of goods that are not subject to its application in Article 2. Article 3 clarifies the differences between manufacturing contracts and sale contract.

Third, Article 4 and 5 clearly states what CISG does not cover, including grounds for contract invalidity and liabilities to death or injury of person caused by the goods. Finally, the Convention respects the contractual freedom of the trading parties. Trading parties may select this convention as governing law or select other instrument, such as UPICC or domestic laws.

Reference:

- Governing law in International Contracts - Would you choose CISG or UPICC (Part 1)

- CIPS study guide page 49-52

LO 1, AC 1.2

NEW QUESTION: 50

A purchase order can become a contract between supplier and purchaser if it is...?

- A. Received by the supplier
- B. Accepted by the supplier
- C. Issued by the buyer
- D. Edited by the supplier

Answer: B (LEAVE A REPLY)

A purchase order is a document sent from a buyer to a seller, with a request to order a product. The purchase order often has its number, description and quantity of the goods, unit prices and total price, name of issuer, time of delivery, standard terms and conditions, etc. It is effectively an offer to supplier. The purchase order will become a formal contract if supplier accepted it by written notice or by performance (such as deliver the goods to the buyer's premise).

Reference:

LO 1, AC 1.2

NEW QUESTION: 51

A procurement professional is drafting payment terms for a commercial contract. He is considering about payment method if defective products are found. Which of the following should be embedded in payment terms to control this issue?

- A.** Remedies for late payment
- B.** Pay-less notice
- C.** Invoice preparation
- D.** Retention clause

Answer: D ([LEAVE A REPLY](#))

Retention money is the payment for a service or product that is withheld pending the completion of some specified condition. For example, buyer may withhold the amount due until the supplier replace all defective goods.

Pay-less notice is the notice under a contract which states that the invoice will only be partially paid because of some issues such as supplier has to pay the damages.

Remedies for late payment are remedies that supplier may seek when a buyer pay it later than the stated payment terms. Normally, the buyer will be charged an interest rate.

Reference: CIPS study guide page 190-191

LO 3, AC 3.3

NEW QUESTION: 52

Which of the following is always automatically considered as a contract?

- A.** Call-off
- B.** Framework arrangement
- C.** Performance management framework
- D.** Framework agreement

Answer: ([SHOW ANSWER](#)**)**

- A call off or a term contract is one which exists for a fixed period of time, rather than for a specific purpose

- A formal framework agreement does have some legal standing but it is not a contract, primarily because there is no consideration involved, but it is an overarching (or umbrella) agreement under which contracts can be created (this holds true in English law but may not be right in other jurisdiction)

- A framework arrangement is a rather loose set-up, without any legal standing. It usually occurs when an organisation has decided for itself to limit the number of suppliers it is willing to work with and, through a purely internal process, sets up an approved list of such suppliers.

- A performance management framework including KPIs and targets, the assessment scheme and incentives, disincentives, bonuses and penalties. It is a schedule to a contract and only legally binding if it is referred from contract clauses.

Reference: CIPS study guide page 59-63

LO 1, AC 1.3

NEW QUESTION: 53

A large company supplies a lot of products. Their shipments are often delayed and customers are not satisfied.

Which of the following KPIs is most likely to be applied to this situation?

- A. Technical support
- B. OTIF delivery
- C. Delay damages
- D. Consignment stock availability

Answer: ([SHOW ANSWER](#))

If the deliveries often delay, buyer should use KPI to measure how many missed deliveries there are and the percentage of total missed deliveries on total number of deliveries for period. OTIF (one-time in-full) delivery might help.

Consignment stock availability means that the supplier holds adequate range/number of units of stock to offer a reliable service Delay damages are the consequences caused by delay of deliveries Technical support is the acceptable quality of technical information/support provided by supplier for goods supplied.

LO 2, AC 2.2

NEW QUESTION: 54

Standard terms and conditions should become the governing terms for which group of items?

- A. Leverage items
- B. Bottleneck items
- C. Strategic items
- D. Routine items

Answer: ([SHOW ANSWER](#))

Standard terms and conditions are set of terms that is prepared by an organisation. These terms can become the governing terms in low-value, low-risk transactions (or Routine items according to Kraljic's portfolio model). They can be a reference when negotiating for more important contract.

Reference: CIPS study guide page 132-139

LO 3, AC 3.1

NEW QUESTION: 55

Which of the following statements is true about model form of contract?

- A. When model contracts are employed, there are no requirements for legal advice and input
- B. Model contract form's standard clauses often contain correct legal terminology without recourse to third party experts.
- C. The standard clauses of model contract forms give the offeror legal advantages over the offeree
- D. Only the publishers of model forms of contract can edit the clauses of these forms

Answer: ([SHOW ANSWER](#))

Model forms of contract are published by some industry or professional organisations such as FIDIC, ITC, CIPS,... These forms are often carefully prepared by legal professionals, with correct legal terminology. The standard clauses within these forms are based on fair and balanced risk/reward allocation between the contracting parties. The model contract forms also include standard clauses to be selected or deleted on an as required basis.

Despite being standardised to be used in any jurisdiction, legal advice may be required if the users decide to make variations to the forms.

The correct answer should be "Model contract form's standard clauses often contain correct legal terminology without recourse to third party experts." Reference: CIPS study guide page 144-147 LO 3, AC 3.1

NEW QUESTION: 56

Which of the following documents are likely to have legal standing? Select TWO that apply:

- A. Quotation
- B. Request for information

- C. Tender
- D. Requisition
- E. Estimate

Answer: A,C ([LEAVE A REPLY](#))

A quotation and a tender are both firm offers which have legal standing to the offeror. Tenders are more detailed than quotations and will include quality aspects as well as prices.

LO 1, AC 1.1 & AC 1.2

NEW QUESTION: 57

According to mailbox rule in some common law countries, at which point the offeree's acceptance will be effective?

- A. When the letter of acceptance is opened and its contents read by the offeree.
- B. When the letter of acceptance is received by the offeror.
- C. When the letter of acceptance has been written.
- D. When the letter of acceptance has been correctly addressed, its postage paid, and posted.

Answer: ([SHOW ANSWER](#))

When parties do not negotiate face-to-face, a key Question: becomes when things like acceptances, rejections and revocations take effect. The general rule is that acceptances are effective on dispatch (when they are mailed). Everything else becomes effective when the offeror actually receives them. This idea is codified by the "mailbox rule" which states that acceptance is effective on dispatch, even before the offeror has received it. (The one minor exception to this rule involves option contracts for which acceptances are not effective until they are received by the offeror.) Reference:

- The Mailbox Rule
- CIPS study guide page 34

NEW QUESTION: 58

CMS Corp goes into a gainshare agreement with the contractor, EIP Ltd. Both parties agree that the final fee will be calculated on target cost - target fee basis. Which of the following will affect the final fee payable in this gainshare agreement? Select TWO that apply:

- A. Accrual expense
- B. Final price
- C. Purchaser goodwill
- D. Supplier share
- E. Actual cost

Answer: ([SHOW ANSWER](#))

An incentive contract is a sub-segment of a fixed-price or cost-reimbursement contract when there are specific cost or time commitments that are desired for a project. The standard incentive contract will allow for a fixed price to be paid for work to be completed by a specific deadline and at a specific cost.

There are two major types of incentive contracts: Cost-plus-incentive fee and Fixed-price incentive (firm target) contracts. Both types have the same formula for calculating final fee and final price.

The target fee is the amount that will be paid if the actual costs (which can be proven) match the target costs. The actual fee will be adjusted in proportion to the difference between the target cost and the actual cost. The usual calculation is:

Target fee + ((target cost - actual cost) x Supplier share) = final fee. The final price then becomes:

Actual cost + final fee = final price

Reference:

LO 3, AC 3.3

NEW QUESTION: 59

A senior procurement specialist in UK is preparing a specification in which ISO standards are used to send to global suppliers. Is this action appropriate?

- A.** No, the procurement specialist must use BSI standards instead
- B.** Yes, every specification must have ISO standards
- C.** Yes, ISO standards are globally recognisable
- D.** No, ISO standards are unfamiliar to global suppliers

Answer: ([SHOW ANSWER](#))

ISO standards are internationally agreed by worldwide experts. They overcome countries' differences and facilitate global trade. If a buying organisation is sourcing globally, they should use ISO standards within the specification.

Reference: CIPS study guide page 93-94

LO 2, AC 2.1

NEW QUESTION: 60

When a supplier signs an insurance policy with an insurance company, which of the following is transferred to insurance company?

- A.** Right
- B.** Risk
- C.** Legal responsibility
- D.** Contractual obligation

Answer: **B** ([LEAVE A REPLY](#))

An insurance policy transfers a specific set of risks such as the fire and flood risk for a particular asset.

The legal liability does not transfer to the insurance company (known as insurer).

Reference:

LO 3, AC 3.2

NEW QUESTION: 61

A fashion company is drafting a specification for an order in next year. The company wants to expand its supply base in low cost countries. The procurement department is considering applying standard ISO 3759 on method for the preparation, marking and measuring of textile fabrics, garments and fabric assemblies for use in tests for assessing dimensional change after a specified treatment. Which of the following should be taken into account when embedding this standard into the specification?

- A.** Date of publication
- B.** Supplier selection
- C.** Type of specification
- D.** Legality

Answer: **A** ([LEAVE A REPLY](#))

Standards are incorporated into specifications by simply cross-referring to the relevant standard by its number and date of publication. It is important to include the date of publication.

All standards are reviewed from time to time and their content changes. The absence of the publication date will lead to disputes over which version of the standard actually applies to the contract.

Reference:

LO 2, AC 2.1

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NEW QUESTION: 62

Which of the following is the type of insurance that cover the liabilities of service provider such as legal advice, accountancy, technical designs, etc?

- A. PII
- B. Product liability
- C. Employer's liability
- D. Public liability

Answer: A (LEAVE A REPLY)

The most usual forms of insurance cover are as below:

- Employer's liability: Employers' liability insurance, sometimes known as employment practices liability insurance (EPLI), protects employers from financial loss if a worker has a job-related injury or illness not covered by workers' compensation. Employers' liability insurance can be packaged with workers' compensation insurance to further protect companies against the costs associated with workplace injuries, illnesses, and deaths. Employers' liability insurance is also called "part 2" of a workers' compensation policy.
- Public/product liability: Public liability insurance covers you against any claims made against your business - for example if you were held legally liable for personal injury, or for damage done to property. The insurance will also cover you for any legal costs associated with defending claims against your business.
- Professional indemnity insurance (PII): Professional indemnity or liability insurance offers such coverage to professional advice or service providing individuals and companies ensuring protection against any legal costs and damages awarded as a result of claims relating to negligence. Whereas more general forms of liability insurance focus on direct forms of harm such as sustaining injuries, professional indemnity insurance provides a far more detailed and comprehensive form of coverage. The cover protects a firm or individual's liability relating to any financial loss caused by errors or omissions in the service provided as well as any alleged failure to perform on behalf of a client.
- Goods in transit coverage: Goods in transit insurance, sometimes referred to as GIT, covers goods against loss or damage while being moved from one place to another. These goods can be being carried by individuals in their own vehicle, self employed drivers or contractors or by third party carriers. The insurance can cover both domestic and international trips, with specific add-ons available for insurance within Europe.

Reference:

LO 3, AC 3.2

NEW QUESTION: 63

A company needs to source a product from overse

a. It wants to overcome technical barrier to cross-border trade by using standards in the specification. Which of the following is most likely to be incorporated into that specification?

- A. National standards
- B. Company standards
- C. Brands
- D. International standards

Answer: D (LEAVE A REPLY)

Exporting enterprises must sometimes incur additional costs as they adapt their production to the changing legal requirements of the recipient country. Such requirements can thus create technical barriers to trade. Discrepancies between product rules adopted by different countries can involve numerous aspects: weight, size, packaging, ingredients, mandatory labeling, shelf-life conditions, testing and certification procedures etc.

One way to overcome these barriers is to adopt international standards. Overseas companies may be more familiar with international standards without looking at specific regulations of importing countries.

Reference:

- What is a technical barrier to trade?

- CIPS study guide page 88-89

LO 2, AC 2.1

NEW QUESTION: 64

Which of the following key performance indicators are most likely to use numerical data as the main source of information?

The critical evaluation of project deliverables

The subjective responses of a satisfaction survey regarding a service

The instances of late deliveries within a given month

The occurrence of accidents and near misses in a year

A. 1 and 3 only

B. 2 and 4 only

C. 3 and 4 only

D. 1 and 2 only

Answer: C ([LEAVE A REPLY](#))

KPIs that involve actual counts or quantifiable incidents are considered quantitative and use numerical data.

"Late deliveries" and "accidents or near misses" are measured in numbers, making them suitable for numerical performance tracking. The other options relate more to qualitative analysis or subjective feedback.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.3.2 - Quantitative KPIs and performance data.

NEW QUESTION: 65

Parkers Medical Supplies is a distributor of first aid supplies to supermarkets nationwide. A new supplier has approached Parkers with an offer to supply a new and innovative product.

Parkers have never dealt with this company before, so are looking to ensure that the new supplier has the necessary insurance cover as the new product could potentially cause personal injury. Which type of insurance should Parkers insist the new supplier takes out?

A. Employers' liability

B. Public liability

C. Product liability

D. Professional indemnity

Answer: C ([LEAVE A REPLY](#))

Comprehensive and Detailed Explanation From Exact Extract:

In the context of commercial contracting, it's crucial for buyers to ensure that suppliers have appropriate insurance coverage to mitigate potential risks associated with the products or services provided. Product liability insurance specifically covers the supplier against claims of personal injury or property damage caused by products they have supplied. This type of insurance is essential when introducing new or innovative products to the market, as there may be unforeseen risks associated with their use.

According to the CIPS L4M3 Commercial Contracting Study Guide, product liability insurance is designed to protect against claims arising from injuries or damages caused by defective products. This insurance is particularly important when the buyer is introducing a new product from a supplier with whom they have no prior experience, as it provides a safety net against potential legal and financial repercussions.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.2.1 - Key terms in contracts for indemnities and liabilities, sub-contracting, insurances, guarantees, and liquidated damages.

NEW QUESTION: 66

Which of the following should be done by procurement professionals right after obtaining a pre-written specification for a critical item so that the added value will be the greatest?

- A. Evaluate tender or quotation
- B. Select the best supplier
- C. Challenge the used specification
- D. Issue invitation to tender or request for quotation

Answer: C (LEAVE A REPLY)

A previously used specification must always be robustly challenged to see how well it fits the proposed circumstances. Aspects which appear not to fit should be analysed to understand why they were included in the sample specification and whether this changes the view on whether or not they should be omitted or changed.

Reference: CIPS study guide page 80

LO 2, AC 2.1

NEW QUESTION: 67

A procurement manager is setting KPIs measurement for user satisfaction. He also wants to encourage users to share the reason why they feel the way they do. Which of the following types of KPI should the procurement manager apply?

- A. Quantitative measure
- B. Numerical measure
- C. Binary measure
- D. Qualitative assessment

Answer: D (LEAVE A REPLY)

There are 3 types of KPI measure:

- Binary KPIs
- Quantitative KPIs (or numerical)
- Qualitative KPIs

User satisfaction is subjective, therefore, using qualitative assessment is the best answer.

Reference:

LO 2, AC 2.2

NEW QUESTION: 68

Social and environmental criteria are often incorporated into which of the following type of specification?

- A. Design specification
- B. Technical specification
- C. Conformance specification
- D. Output specification

Answer: D (LEAVE A REPLY)

Developing and using generic specifications is as import in the sustainable procurement process as it is in the traditional procurement process. During this stage, human/labour rights and environmental performance criteria should be translated into specifications that meet specific requirements of the specified outcome, desired by the procurement action.

The specification stage is key to all types of contract. Building in environmental and social considerations at this early stage, provides a clear indication to suppliers that sustainability is important to the UN organization.

Consider available alternatives which are less environmentally and socially damaging. Consider all the phases of a product's life cycle (e.g. production, transportation, maintenance, disposal, etc) when determining its cost and environmental impact. Assess the overall environmental and social integrity of suppliers by looking at their policies and practices.

Specifications which are output-based rather than input-based can increase supplier innovation, reduce waste and minimise harmful social and environmental impacts.

Reference:

- Sustainable Procurement
 - CIPS study guide page 95-99
- LO 2, AC 2.1

NEW QUESTION: 69

An organization has a normal tender process that often last 1 month from defining the needs to contract award. Manufacturing department suddenly required a new special part that they could not foresee within a month. Which of the following should be the priority actions of procurement manager in this urgent situation?

Select TWO that apply:

- A.** Design new specification
- B.** Develop relationships with potential suppliers
- C.** Review contract performance
- D.** Get high-level authority approval
- E.** Submit full business justification

Answer: ([SHOW ANSWER](#))

This urgent needs occasionally occur due to a sudden change in circumstances. The process for selecting a replacement supplier must still be controlled. If there is a reason for normal processes to be waived, this must be fully documented and approved at a high level.

Reference: CIPS study guide page 7

LO 1, AC 1.1

NEW QUESTION: 70

Consequences and actions that arise from certain KPI scores must be...? Select TWO that apply.

- A.** Mutually agreed
- B.** Deliberately omitted
- C.** Documented
- D.** Unilaterally imposed by the purchaser
- E.** Terminated

Answer: ([SHOW ANSWER](#))

Supplier performance management and monitoring is a fundamental part of contract management. It starts with setting KPIs, targets and consequences or actions that arise from KPI scores. The measures, objectives and targets used in the monitoring of the supplier's performance must reflect those that were agreed when the contract was let. That is why it is important to specify a commitment to continuous improvement at the outset.

It would be unfair to the supplier to suddenly introduce a range of measures after the contract had begun - however if such an introduction mid-term through the contract is unavoidable then it should be negotiated and agreed in a professional manner and not merely imposed on the supplier.

In conclusion, the details of how KPIs will be monitored and the actions or consequences resulting from scores achieved must be documented and agreed between the parties. This details may be embedded in the specification or the main body of the contract or it may be set out in a SLA.

Reference:

- Performance Monitoring of Suppliers - CIPS Knowledge summary
- CIPS study guide page 101-109

LO 2, AC 2.2

NEW QUESTION: 71

Is a verbal contract legally enforceable?

- A.** Yes, a verbal agreement is just as legally enforceable as a written one
- B.** Yes, but only if you have a witness at the time the verbal agreement was made
- C.** No, only contracts in writing will be legally enforceable
- D.** No, verbal contracts are never legally enforceable

Answer: ([SHOW ANSWER](#))

A verbal contract is generally enforceable in law, provided that it contains all the necessary elements of a valid contract: offer, acceptance, consideration, intention to create legal relations, and capacity. However, certain types of contracts (e.g., for land) may require written form under the Statute of Frauds. Evidence and clarity are the challenges, not enforceability.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 1, Section 1.1.2 - Types of contracts: verbal and written.

NEW QUESTION: 72

What is the purpose of using key performance indicators in procurement and supply?

- A.** To validate the supplier's bid or tender
- B.** To monitor supplier's performance
- C.** To ease the termination process
- D.** To qualify which supplier is suitable

Answer: **B** ([LEAVE A REPLY](#))

Procurement teams use key performance indicators (KPIs) to ensure vendors comply with (and hopefully exceed) the obligations outlined in a contract. They help us better understand suppliers' performance, measure their output over a long period of time, and identify areas where improvement is needed.

Put simply, it's good business sense to make sure you're actually getting what you've paid for. This might be as straightforward as confirming a product or service is delivered on time, which means the KPIs you need to use will be minimal and basic.

Reference:

- Supplier KPIs | 7 Performance Indicators You Should Be Measuring - Una
- CIPS study guide page 101-102

LO 2, AC 2.2

NEW QUESTION: 73

A procurement manager is setting KPIs measurement for user satisfaction. He also wants to encourage users to share the reason why they feel the way they do. Which of the following types of KPI should the procurement manager apply?

- A.** Quantitative measure
- B.** Numerical measure
- C.** Binary measure
- D.** Qualitative assessment

Answer: **D** ([LEAVE A REPLY](#))

There are 3 types of KPI measure:

- Binary KPIs
- Quantitative KPIs (or numerical)
- Qualitative KPIs

User satisfaction is subjective, therefore, using qualitative assessment is the best answer.

Reference: CIPS study guide page 103,118

LO 2, AC 2.2

NEW QUESTION: 74

Which of the following is a true statement on express and implied terms?

- A. Express terms always take precedent over implied terms
- B. Implied terms may derive from oral negotiations
- C. Express terms must always be in writing
- D. Express terms must be prepared by the party with expert knowledge

Answer: B (LEAVE A REPLY)

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.

The types of express terms to be found in a contract are many and varied and will depend on the type of contract. Any term written into the contract is an express term and may refer to price, time scales, warranties and indemnities, limitations on liability, conditions precedent and so on.

An implied term is a term which the courts imply into a contract because it has not been expressly included by the parties. This may be because the parties did not consider it, did not think that any problem would arise in relation to it or simply omitted to include it.

The courts are very reluctant to imply terms into contracts and will only do so in the following circumstances:

1. terms implied under statute
2. terms implied under common law
3. terms implied because of custom or usage
4. terms implied due to previous dealings
5. terms implied 'in fact' or to reflect the parties' intentions

Reference:

- CIPS study guide page 126-132

- Contracts: Express and Implied Terms

LO 3, AC 3.1

NEW QUESTION: 75

A service contract is going to be expired, which data source is good to create specifications for ITT?

1. Incumbent supplier
 2. Maintenance services
 3. Alternative supplier
 4. User's knowledge
- A. 1, 2 and 3
 - B. 1, 3 and 4
 - C. 1, 2 and 4
 - D. 2, 3 and 4

Answer: B (LEAVE A REPLY)

There are a number of shortcuts that can be taken when drafting the specification. These include the following:

- The use of brand names
- The use of recognised standards
- The use of samples
- Information and knowledge from users/other buyers: Drafting a specification should naturally include those already used within the organisation itself, but also variants used by other companies in the same sector and other companies in different sectors
- Information from suppliers: suppliers will always be willing to assist in specification development, as this is one way in which they can seek to influence the design to favour their own products.

Reference:

LO 2, AC 2.1

NEW QUESTION: 76

Which of the following regulates barriers to the trade of goods between Member States of WTO?

- A. NAFTA
- B. GATT
- C. CISG
- D. TRIPS

Answer: B (LEAVE A REPLY)

- The General Agreement on Tariffs and Trade (GATT) is a legal agreement between many countries, whose overall purpose was to promote international trade by reducing or eliminating trade barriers such as tariffs or quotas. According to its preamble, its purpose was the "substantial reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis."
- CISG is the Vienna Convention on Contracts for the International Sale of Goods. This is a voluntary treaty under United Nations Commission on International Trade Law (UNCITRAL). The purpose of the Vienna Convention is to set out a framework for international transactions based on a uniform approach. It establishes substantive rules that regulate the duties and obligations of both parties, including the delivery of goods, contract formation, and remedies for breach of contract.
- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organization (WTO). It sets down minimum standards for the regulation by national governments of many forms of intellectual property (IP) as applied to nationals of other WTO member nations.
- The North American Free Trade Agreement (NAFTA; Spanish: Tratado de Libre Comercio de America del Norte, TLCAN; French: Accord de libre-échange nord-américain, ALENA) is an agreement signed by Canada, Mexico, and the United States, creating a trilateral trade bloc in North America.

Reference: CIPS study guide page 65-67

LO 1, AC 1.3

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NEW QUESTION: 77

Which of the following are features of performance specification?

1. Method of achieving the buyer's desired result
2. What needs to be achieved when using the product

3. Purposes of the product
4. Technical and physical characteristics of the product

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

Answer: D ([LEAVE A REPLY](#))

There are 2 major types of specifications:

1. Performance specifications

These are Specifications that define the purpose of the goods or services in terms of how effectively it will perform. Performance is a logical extension of function. Performance specifications define the task or desired result by focusing on what is to be achieved. They do not describe the method of achieving the desired result.

2. Technical (or conformance) specifications

These are Specifications that define the technical and physical characteristics and/or measurements of a product, such as physical aspects (e.g. dimensions, colour, and surface finish), design details, material properties, energy requirements, processes, maintenance requirements and operational requirements. They are used when functional and performance characteristics are insufficient to define the requirement and are often used for engineering and information technology requirements.

Reference:

- Specification Writing
- CIPS study guide page 9-11

LO 1, AC 1.1

NEW QUESTION: 78

When a contract has been agreed on the basis of a fraudulent misrepresentation, which of the following remedies are available?

- A. Damages only
- B. Rescission only
- C. An injunction only
- D. Both damages and rescission

Answer: ([SHOW ANSWER](#))

An untrue statement of fact or law made by Party A (or its agent) to Party B, which induces Party B to enter a contract with Party A thereby causing Party B loss. An action for misrepresentation can be brought in respect of a misrepresentation of fact or law.

There are three types of misrepresentation:

- Fraudulent misrepresentation: where a false representation has been made knowingly, or without belief in its truth, or recklessly as to its truth.
- Negligent misrepresentation: a representation made carelessly and in breach of duty owed by Party A to Party B to take reasonable care that the representation is accurate. If no "special relationship" exists, there may be a misrepresentation under section 2(1) of the Misrepresentation Act 1967 where a statement is made carelessly or without reasonable grounds for believing its truth.
- Innocent misrepresentation: a representation that is neither fraudulent nor negligent.

The remedies for misrepresentation are rescission and/or damages. For fraudulent and negligent misrepresentation, the claimant may claim rescission and damages. For innocent misrepresentation, the court has a discretion to award damages in lieu of rescission; the court cannot award both (see section 2(2) of the Misrepresentation Act 1967). For more information, see Practice note, Misrepresentation.

Reference:

- Misrepresentation
- CIPS study guide page 55

NEW QUESTION: 79

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

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

Answer: ([SHOW ANSWER](#))

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: 80

Which of the following is regulated by standard ISO 14001?

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

Answer: C (LEAVE A REPLY)

ISO has about 22,000 international standards covering a vast range of aspects of product or service quality. Below are some of the most common ISO standards:

- ISO 9001: Quality management system
- ISO 27001: Information security management
- ISO 5001: Energy management
- ISO 14001: Environmental management

Reference:

- ISO 14001:2015 Environmental management systems - Requirements with guidance for use
- CIPS study guide page 86

LO 2, AC 2.1

NEW QUESTION: 81

Which of the following will be included in a conformance specification?

1. Brand names
2. Description of the operating environments
3. Chemical formulae
4. Required safety level

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

Answer: D (LEAVE A REPLY)

According to CIPS, there are two main types of specification:

- Conformance specification - is more output driven as it outlines the product details exactly which may include the material, dimensions, tolerances, source, ingredients, packaging, storage of the part or material.
- Performance specification - is more output driven in terms of what the part or material must achieve.

Among the four options, only 2. 'Description of the operating environments' and 3. 'Chemical formulae' are possible components of a conformance specification. Brand names can be a part of a performance specification, according to a document published by CIPS and NIGP.

Element 1.2.2: Brand name descriptions

A brand name description is a title, term, symbol, design, or any combination thereof used to describe a product by a unique identifier and its producer. Performance specifications may use brand names to describe the desired output and quality levels of a commodity.

Element 1.2.2a: Advantages of brand name descriptions

- Allow for agency standardization (e.g., fleet standardization for purposes of training and maintenance)
- Meet the expectations of the end user by providing the exact commodity needed
- Reduce the time required to develop the specification

3

Reference:

- CIPS study guide page 8-10
 - Knowledge Byte - Specification Development
 - Principles and Practices of Public Procurement: Specifications
- LO 1, AC 1.1

NEW QUESTION: 82

Which of the following are the conditions for revocation of offer to be valid?

1. The offeree has not received the offer yet
 2. Revocation of offer must be communicated with the offeree
 3. Revocation of offer must be sent via email
 4. Offeree has not accepted the offer yet
- A. 2 and 4 only
 B. 1 and 4 only
 C. 1 and 3 only
 D. 2 and 3 only

Answer: A (LEAVE A REPLY)

A revocation of offer is the withdrawal of a previous offer to engage in some sort of legally binding contract.

The previous offer had to have been such that it would have immediately become legally binding if the other party had formally agreed to it.

A core ruling defining revocation of offers was established by Payne v. Cave. This case established that neither party is bound to an agreement until an offer has been made by one and formally accepted by the other.

If an offer has been made, the offering party has a right to withdraw it up to formal acceptance by the offeree.

Revocation basically serves as formal, legally verifiable notice that a withdrawal was made, and it's valid so long as it is communicated to the offeree before they accept.

The case of Byrne v. Van Tienhoven supports this by establishing that the withdrawal of an offer by telegram is only valid if the telegram is received before the offer is accepted. The case of Dickinson v. Dodds further establishes that the party making the offer can communicate the revocation through a third party.

Reference:

- What Is a Revocation of Offer?

- CIPS study guide page 31

LO 1, AC 1.2

NEW QUESTION: 83

According to rule of contract formation, which of the following is a valid acceptance?

- A.** The person orally agrees to pay the offered price
- B.** The person states that she is able to pay the offered price
- C.** The person asks for a lower price
- D.** The person says that she will think about it overnight

Answer: (SHOW ANSWER)

Once a valid acceptance takes place, a binding contract is formed. It is therefore important to know what constitutes a valid acceptance in order to establish if the parties are bound by the agreement. There are three main rules relating to acceptance:

1. The acceptance must be communicated to the offeree.
2. The terms of the acceptance must exactly match the terms of the offer.
3. The agreement must be certain.

Among the answers:

"The person says that she will think about it overnight" does not match the terms of the offer. The offeree does not assure that she will accept the offer.

"The person asks for a lower price": This is a counter-offer.

"The person states that she is able to pay the offered price" is not certain. The offeree merely provides information on her financial ability.

Reference:

- Contractual agreement - offer and acceptance

- CIPS study guide page 33-35

LO 1, AC 1.2

NEW QUESTION: 84

Northern Province Authority (NPA) seeks to use market dialogue to improve the contract specification for a new procurement tender of a domestic waste collection contract. Which of the following topics would be appropriate for dialogue with potential suppliers?

- A.** Human resourcing
- B.** Contract terms
- C.** Pricing proposals
- D.** Service innovation

Answer: D (LEAVE A REPLY)

Early market dialogue is used to explore supplier capabilities and gather ideas, particularly in complex or innovative services. Discussing service innovation with suppliers helps the buyer shape better specifications and outcomes. Topics like pricing and contract terms should remain within formal procurement stages to ensure fairness.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.1.1 - Use of early market engagement and its limitations.

NEW QUESTION: 85

Consequences and actions that arise from certain KPI scores must be...? Select TWO that apply.

- A. Mutually agreed
- B. Deliberately omitted
- C. Documented
- D. Unilaterally imposed by the purchaser
- E. Terminated

Answer: A,C (LEAVE A REPLY)

Supplier performance management and monitoring is a fundamental part of contract management. It starts with setting KPIs, targets and consequences or actions that arise from KPI scores. The measures, objectives and targets used in the monitoring of the supplier's performance must reflect those that were agreed when the contract was let. That is why it is important to specify a commitment to continuous improvement at the outset. It would be unfair to the supplier to suddenly introduce a range of measures after the contract had begun - however if such an introduction mid-term through the contract is unavoidable then it should be negotiated and agreed in a professional manner and not merely imposed on the supplier.

In conclusion, the details of how KPIs will be monitored and the actions or consequences resulting from scores achieved must be documented and agreed between the parties. This details may be embedded in the specification or the main body of the contract or it may be set out in a SLA.

Reference:

- Performance Monitoring of Suppliers - CIPS Knowledge summary
 - CIPS study guide page 101-109
- LO 2, AC 2.2

NEW QUESTION: 86

Esther Francis has recently changed job from a supply role at Shine Cleaning Services (SCS) to a purchasing role at Southern Commercial Property (SCP). Esther requires industry technical input to develop a cleaning services requirements specification for her new employer. Esther Francis wants to include her former employer SCS in a market engagement exercise to inform the specification. Which of the following would be the most appropriate way to deal with the conflict of interest?

- A. Conduct the market engagement with SCS off the record
- B. Declare the potential conflict of interest to a senior manager of SCS
- C. Ask a colleague to conduct the market engagement with SCS
- D. Conduct market engagement with several capable suppliers, including SCS

Answer: D (LEAVE A REPLY)

The best way to manage conflicts of interest is through transparency and fairness. Including multiple suppliers in the market engagement process ensures no single supplier, including the one with a perceived connection, gains an advantage. This protects the integrity of the procurement process.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.1.1 - Ethical and fair practice in early market engagement.

NEW QUESTION: 87

Which of the following is most likely to reduce ITT preparation time while maintaining the clarity of tendering documents?

- A. Using request for quotation
- B. Standardising documentation whenever possible
- C. Monitoring usage
- D. Eliminating pre-qualification stage from all tendering processes

Answer: B (LEAVE A REPLY)

One of the major disadvantages of tendering process is that it is lengthy, bureaucratic and slow. To reduce the preparation time, buying organisation can:

- Plan forward

- Standardise tendering documents (such as notices, terms and conditions,...) whenever possible
- Train procurement staff
- Write down policies for tender-waiver

Buying organisation should not eliminate the pre-qualification stage from all tendering processes. This stage is used as a filter to select the most competent suppliers for next stage in restricted tendering. To save time in this process, you can design a model questionnaire.

Reference:

LO 1, AC 1.1

NEW QUESTION: 88

Which of the following is the international standard for labelling hazardous substances?

- A. GPS
- B. HSE
- C. CODEX STAN 1-1985
- D. GHS

Answer: D ([LEAVE A REPLY](#))

GHS stands for the Globally Harmonized System of Classification and Labelling of Chemicals. GHS defines and classifies the hazards of chemical products, and communicates health and safety information on labels and safety data sheets). The goal is that the same set of rules for classifying hazards, and the same format and content for labels and safety data sheets (SDS) will be adopted and used around the world. An international team of hazard communication experts developed GHS.

The Global Positioning System (GPS), originally NAVSTAR GPS, is a satellite-based radionavigation system owned by the United States government and operated by the United States Space Force. It is one of the global navigation satellite systems (GNSS) that provides geolocation and time information to a GPS receiver anywhere on or near the Earth where there is an unobstructed line of sight to four or more GPS satellites. Obstacles such as mountains and buildings block the relatively weak GPS signals.

CODEX STAN 1-1985 is general standard for the labelling of packaged goods.

Environment (E), health (H) and safety (S) (together EHS) is a discipline and specialty that studies and implements practical aspects of environmental protection and safety at work. In simple terms it is what organizations must do to make sure that their activities do not cause harm to anyone.

Reference:

LO 2, AC 2.1

NEW QUESTION: 89

XYZ Ltd is negotiating a long-term supply contract of important parts with a supplier. Dave, procurement manager teams up with Alla, legal manager to construct a service level agreement. Dave is concerned that poor performance of supplier may cause damages to the operations of the organisation. Which of the following can be used in conjunction with SLA to compensate the buying organisation in case of supplier's poor performance?

1. Warranties
 2. Force majeure clauses
 3. Penalty clauses
 4. Service credits
- A. 1 and 3 only
 - B. 3 and 4 only
 - C. 1 and 2 only
 - D. 4 and 2 only

Answer: ([SHOW ANSWER](#))

Service level agreement often sets out the minimum quality standards of the services provided, remedies if that standards are not met, consequences if the targets are exceeded. Penalty clauses and service credits are remedies that are often used in conjunction with service level agreement to ensure the performance and to compensate the purchaser if targets are not met.

Reference: CIPS study guide page 110

LO 2, AC 2.2

NEW QUESTION: 90

Which of the following are key features of standard terms and conditions? Select TWO that apply

- A.** Standard terms always comply with implied terms
- B.** Specific to each purchase order
- C.** Non-disclosure
- D.** Non-negotiable
- E.** Designed to be used in repetitive transactions

Answer: ([SHOW ANSWER](#))

The key features, advantages and disadvantages of standard terms are summarised below:

- Form: Concise, generic and designed to be attached to purchase or sales orders
- Non-negotiable
- Ineffective terms: may be replaced by implied terms or national legal code rules, or subject to court 'balance of interest' judgement.
- Advantages: Basic contractual protection for most common circumstances; Avoid having to create new contract for repeat business.
- User friendly
- Usage: Low value, low risk, repetitive transactions
- Coverage: Definitions, relationship to other contracts, formation of the contract, order of precedence, price, invoicing and payment, specification, legal compliance, warrantee and liability, ownership and risk, intellectual property, data management and ethics.
- Disadvantages: Does not allow for specific circumstances; Risk for creating battle of the forms; Can create contractual uncertainty if used with purchase orders under call-off contracts.

Reference:

LO 3, AC 3.1

NEW QUESTION: 91

Which of the following is the most suitable model contract for car lift manufacturing?

- A.** ITC
- B.** FIDIC
- C.** IMechE/IET
- D.** CIPS

Answer: ([SHOW ANSWER](#))

IMechE/IET: Institution of Mechanical Engineers/Institution of Engineering and Technology - two separate institutes that issue jointly agreed model forms covering the design, supply and installation of electrical, electronic and mechanical plant including special conditions for the ancillary development of software. Car lifts are mechanical products, so IMechE/IET is the most suitable model contract for this type of product.

FIDIC is a French language acronym for Federation Internationale Des Ingenieurs-Conseils, which means the international federation of consulting engineers. It was started in 1913 by the trio of France, Belgium and Switzerland. The United Kingdom joined the Federation in 1949. FIDIC is headquartered in Switzerland and now boasts of membership from over 60 different countries. FIDIC published its first contract, titled The Form of contract for works of Civil Engineering construction, in 1957. As the title indicated, this first contract was aimed

at the Civil Engineering sector and it soon became known for the colour of its cover, and thus, The Red Book. It has become the tradition that FIDIC contracts are known in popular parlance by the colour of their cover. This first contract by FIDIC was undertaken jointly with the International federation of Building and Public works. FIDIC's concerted effort at achieving broad consultation and acceptance of its contract forms has seen subsequent editions of its contracts being ratified by the International Federation of Asian and Western Pacific Contractors Association, Associated General Contractors of America and the Inter-American Federation of the Construction Industry, Multilateral Development Banks among others. Because of the broad support it enjoys, FIDIC contracts are the foremost contracts in international construction.

The Chartered Institute of Procurement and Supply (CIPS) has some model contracts for IT functions including: supply and installation of computer equipment, support and maintenance of bespoke software, servicing of computer equipment,...

The International Trade Centre (ITC) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures.

Reference:

LO 3, AC 3.1

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NEW QUESTION: 92

CISG will be most likely to apply to which of the following transactions?

- A. Sale of electricity
- B. Sale of a property
- C. Sale of iron ores
- D. Sale of a ship

Answer: (SHOW ANSWER)

Article 2 of CISG states that:

This Convention does not apply to sales:

(a) of goods bought for personal, family or household use, unless the seller, at any time before or at the conclusion of the contract, neither knew nor ought to have known that the goods were bought for any such use; (b) by auction; (c) on execution or otherwise by authority of law; (d) of stocks, shares, investment securities, negotiable instruments or money; (e) of ships, vessels, hovercraft or aircraft; (f) of electricity.

LO 1, AC 1.2

NEW QUESTION: 93

Foodstuffs may arrive from an overseas supplier in a deteriorated state. Is this covered under the implied term of 'satisfactory quality'?

- A. No, it is sale by sample
- B. No, it is sale by description
- C. Yes, the food is not of a reasonable standard
- D. Yes, as the title has not passed yet

Answer: C (LEAVE A REPLY)

Under the Sale of Goods Act and other applicable legislation, goods must be of satisfactory quality, fit for purpose, and as described. Perishable goods arriving in a spoiled state would not meet the standard of satisfactory quality, even if sold by sample or description. This is an implied term that protects the buyer.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.1 - Implied terms and quality standards.

NEW QUESTION: 94

A senior buyer is preparing specification for the next purchase. He intends to embed social and environmental criteria that align with his organisation's overarching strategy. Which of the following provides the social and environmental objectives that an organisation pursues?

- A. Economic performance
- B. Procurement Systems and Technology
- C. Economy of scale
- D. Organisation's CSR policies

Answer: ([SHOW ANSWER](#))

The organisation should have an overarching strategies or policies which sets out the social and environmental objectives to be pursued via procurement and the supply chain generally. Some of these will be about the specification, but that must be tied in other aspects of the sourcing strategy. These objectives, policies and strategies can be found in corporate social responsibility policy.

Reference:

LO 2, AC 2.1

NEW QUESTION: 95

EAC Facilities Management is planning for a new construction project in the suburban area. They decide to use NEC or FIDIC model form of contract for this project. Is this a right course of action?

- A. Yes, these forms aim at balanced risk/reward allocation between the parties
- B. No, the buyer will bear all the risks derived from the contract
- C. Yes, using these forms will eliminate all the risks
- D. No, the contractor won't understand the legal terminology in the contract forms

Answer: ([SHOW ANSWER](#))

Construction procurement is particularly complex and risky. Forming a contract in construction may take lots of time and energy of both client and contractor. Therefore, standardisation in construction contract would help the buying organisation to save their precious resources. Furthermore, the wording of these model form contracts is accurate as it has been agreed among the professionals within an industry.

One of the advantage of using model forms of contract is the balanced of risk and reward allocation between the contractor, consultant engineer and the client.

Reference:

- An Introduction to FIDIC model contracts
- CIPS study guide page 139-147

LO 3, AC 3.1

NEW QUESTION: 96

Bandpro is a reseller of branded computer products to the private and public sector. The procurement team must purchase 500 items each day solely by multiple phone calls and emails to suppliers. Due to this practice, it takes a lot of time to track and collect relevant documents. Some important documents even get lost, which makes procurement audit more burdensome. Which of the following would increase the robustness of audit trails in procurement activities?

- A. Every evidence must be recorded by paper
- B. Adopt e-procurement
- C. Spend less time on auditing procurement procedures
- D. Rectify non-compliant activities

Answer: (SHOW ANSWER)

Audit trail is a chronological record the sequence of events connected to a given transaction, such as a purchase of raw materials, payroll disbursements, or a detailed financial statement. The record includes all the source documents connected to the transaction, providing context and clarity in the event a review is required. The more comprehensive the documentation, the more effective the audit trail is when used to create financial reports, verify information, and ensure compliance while eliminating fraud.

In the scenario, the procurement team gets the quotation from phone calls and emails which have weak audit trails and lack of transparency. One solution may be increasing the use of e-procurement system.

Reference:

- What is an audit trail?
- CIPS study guide page 6-7

LO 1, AC 1.1

NEW QUESTION: 97

Which of the following are driving forces for increasing use of social and environmental criteria in specifications? Select TWO that apply.,

- A.** Process efficiencies
- B.** Stakeholder pressure
- C.** Insufficient financial resources
- D.** Scarcity of environmentally sustainable suppliers
- E.** Carbon footprint measure

Answer: A,B (LEAVE A REPLY)

Reasons for including social and environmental criteria may include the following:

- Expected Cost Savings and Financial Motives
- Management Support and Commitment
- Employees
- Altruistic Values
- Power Imbalances along the supply chain
- Image and Reputation
- Government Regulations
- Customers
- Competitors

Management, employees, government, customers and competitors are among the stakeholders that make pressures to the organisation on social and environmental criteria.

Reference:

- Drivers and Barriers to the Adoption of Sustainable Procurement in SMEs
- CIPS study guide page 95-96

LO 2, AC 2.1

NEW QUESTION: 98

Which of the following may be a benefit for purchaser in using call off contract?

- A.** Ability to discover new potential suppliers
- B.** No long-term commitment required
- C.** Secured supply
- D.** Maintaining a degree of competition between suppliers

Answer: C ([LEAVE A REPLY](#))

Benefits for the purchaser in using call off contract are as below:

- The benefit of a call off contract is that they allow the supply of materials, goods and services to be secured over multiple delivery dates across the length of a project.
- Agreed prices, either fixed or pre-agreed mechanism for adjustment. This helps with setting and controlling budgets.
- Simple order mechanisms at the point of need
- Schedules of rates pricing enables electronic procure-to-pay systems, which gives greater control and visibility of spend
- The value of spend ad length of contract justify the cost of proper market engagement and tender or negotiation processes resulting in better value for money
- The longer the contract, the greater the opportunities for aligning working practices to create joint efficiency.

Reference:

- Call Off Contracts - What are they and how are they used?
- CIPS study guide page 63-64

LO 1, AC 1.3

NEW QUESTION: 99

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

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

Answer: ([SHOW ANSWER](#))

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: 100

A manufacturing company signed a contract with a raw material supplier. The contract includes a clause on liquidated damages in case of late delivery. Purchaser was obliged to pay after 30 days from delivery.

Eventually raw material was delivered 1 week later than initial plan due to supplier's slow production process.

There is no defect in the delivered batch. Which of the following can be claimed by the manufacturing company?

- A.** Rights to refunds or repairs
- B.** Right of set-off
- C.** Right of third party
- D.** Right of extending payment

Answer: B (LEAVE A REPLY)

In certain circumstances, where two parties have monetary debts against each other, the right to set-off may arise. A right of set-off allows a ("Party 1") to take into account the amount owed to it by the second party ("Party 2") against any amount owed by Party 1 to Party 2, each party must be a debtor and a creditor.

Common law provides the key features that must be present for set-off to arise are;

1. mutuality of debts (each party must be the sole beneficial owner of the debt it is owed and the sole person liable for the debt it owes)
2. the claims each party has must be for non-payment of money

The common law provisions of set-off can be greatly enhanced by the inclusion of a contractual right to set-off (this is discussed further below) so that set-off is applicable in a greater range of situations. If you envisage set-off being a useful right it is not advisable to rely on the implied ability to use it (via common law or equitable set-off). Common law and equitable set-off are subject to various conditions and limitation however, a contractual right of set-off can be drafted to ensure parties are able to agree exactly how and when set-off should be applied.

In the above scenario, the supplier owes the manufacturer the payment for damages, while the manufacturer owes the supplier the payment for goods. This is mutuality of debts, which leads to right of set off.

Reference:

- Set-off on the right foot: a practical guide to set-off
- CIPS study guide page 158-159

LO 3, AC 3.2

NEW QUESTION: 101

The model form contract invented by Institute of Civil Engineers is...?

- A. NEC
- B. IMechE/IET
- C. FIDIC
- D. JCT

Answer: A ([LEAVE A REPLY](#))

NEC - New Engineering Contracts is a family of contracts invented by Institute of Civil Engineers. The contracts are suitable for procuring a diverse range of works, services and supply, ranging from major framework projects through to minor works and the purchase of supplies and goods.

FIDIC is a French language acronym for Federation Internationale Des Ingenieurs-Conseils, which means the international federation of consulting engineers. It was started in 1913 by the trio of France, Belgium and Switzerland. The United Kingdom joined the Federation in 1949. FIDIC is headquartered in Switzerland and now boasts of membership from over 60 different countries. FIDIC published its first contract, titled The Form of contract for works of Civil Engineering construction, in 1957. As the title indicated, this first contract was aimed at the Civil Engineering sector and it soon became known for the colour of its cover, and thus, The Red Book. It has become the tradition that FIDIC contracts are known in popular parlance by the colour of their cover. This first contract by FIDIC was undertaken jointly with the International federation of Building and Public works. FIDIC's concerted effort at achieving broad consultation and acceptance of its contract forms has seen subsequent editions of its contracts being ratified by the International Federation of Asian and Western Pacific Contractors Association, Associated General Contractors of America and the Inter-American Federation of the Construction Industry, Multilateral Development Banks among others. Because of the broad support it enjoys, FIDIC contracts are the foremost contracts in international construction.

The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom. From its establishment in 1931, JCT has expanded the number of contributing organisations.

IMechE/IET: Institution of Mechanical Engineers/Institution of Engineering and Technology - two separate institutes that issue jointly agreed model forms covering the design, supply and installation of electrical, electronic and mechanical plant including special conditions for the ancillary development of software.

Reference:

LO 3, AC 3.1

NEW QUESTION: 102

A large company supplies a lot of products. Their shipments are often delayed and customers are not satisfied. Which of the following KPIs is most likely to be applied to this situation?

- A. Technical support
- B. OTIF delivery
- C. Delay damages
- D. Consignment stock availability

Answer: B ([LEAVE A REPLY](#))

If the deliveries often delay, buyer should use KPI to measure how many missed deliveries there are and the percentage of total missed deliveries on total number of deliveries for period. OTIF (one-time in-full) delivery might help.

Consignment stock availability means that the supplier holds adequate range/number of units of stock to offer a reliable service Delay damages are the consequences caused by delay of deliveries Technical support is the acceptable quality of technical information/support provided by supplier for goods supplied.

LO 2, AC 2.2

NEW QUESTION: 103

Which of the following is likely to reduce risks of different rules regarding when offers and acceptance become effective between legal systems?

- A. Withdrawal protocol
- B. Letter of intent

C. Time lapse

D. Deemed receipt protocol

Answer: D ([LEAVE A REPLY](#))

Regarding rule of offer and acceptance, there are some differences among legal system around the world. For example, mailbox rule is generally applied in common law countries such as UK, US, Australia,.. while it is ignored in civil law countries. To clarify on rule of offer and acceptance in international trade, offerors may use expressed terms in their offers. These terms known as deemed receipt protocol.

Reference:

LO 1, AC 1.2

NEW QUESTION: 104

Company A based in Canada signed a commercial contract with Company B in Egypt. Both countries are Contracting States to Vienna Convention on Contracts for the International Sale of Goods. The contract states that "The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of Canada". Which of the following set of rules will be applied if dispute between contracting parties occurs?

A. CISG

B. Canada's legal system

C. WTO rules

D. Egypt's legal system

Answer: B ([LEAVE A REPLY](#))

Where the sale of goods is between two businesses in different Contracting States, then it is international and the CISG rules of law automatically apply unless they have been excluded. A contract clause stating that the contract is subject to the legal systems and courts of a particular country overrides or excludes the CISG rules, since the local rules of that country would apply instead.

So the answer should be Canada's legal system.

Reference: CIPS study guide page 49-52

LO 1, AC 1.2

NEW QUESTION: 105

Which of the following would be considered as advantages of an industry model form contract?

It provides greater flexibility for negotiation

It reduces the cost of contract development

It is usually designed to be fair to both parties

It removes the need for the buyer to understand it

A. 1 and 2 only

B. 2 and 4 only

C. 1 and 3 only

D. 2 and 3 only

Answer: D ([LEAVE A REPLY](#))

Industry model contracts are pre-written templates that include widely accepted terms. They save time and legal costs during contract development and are generally written to be neutral or fair to both parties. They do not remove the need for buyers to understand the terms and are not necessarily highly flexible.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.3 - Use of industry standard form contracts.

NEW QUESTION: 106

A company needs to source a product from overseas. It wants to overcome technical barriers to cross-border trade by using standards in the specification. Which of the following is most likely to be incorporated into that specification?

- A. National standards
- B. Company standards
- C. Brands
- D. International standards

Answer: ([SHOW ANSWER](#))

Exporting enterprises must sometimes incur additional costs as they adapt their production to the changing legal requirements of the recipient country. Such requirements can thus create technical barriers to trade.

Discrepancies between product rules adopted by different countries can involve numerous aspects: weight, size, packaging, ingredients, mandatory labeling, shelf-life conditions, testing and certification procedures etc.

One way to overcome these barriers is to adopt international standards. Overseas companies may be more familiar with international standards without looking at specific regulations of importing countries.

Reference:

- What is a technical barrier to trade?
- CIPS study guide page 88-89

LO 2, AC 2.1

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NEW QUESTION: 107

Which of the following statements is FALSE on contracts for the leasing of assets?

- A. The party responsible for maintenance, insurance and taxes is subject to negotiation
- B. In lease agreement, the possession and right of use of an asset are transferred to the lessee
- C. The ownership of leased asset is transferred to the lessee at the end of the period
- D. The lessee may bear some risks of ownership, such as the liability to insure the asset

Answer: C ([LEAVE A REPLY](#))

A lease is a contractual arrangement calling for the lessee (user) to pay the lessor (owner) for use of an asset. Some characteristics of Leases are:

- The right to use the lessor's asset is granted in exchange for a fee called the lease payment.
 - The lease payments are usually paid in installments.
 - Leases may be long- or short-term.
 - At its inception a lease agreement constitutes a mutually unperformed contract Though the ownership of the asset is not transferred to the lessee, some responsibilities and risks do.
- The lessor and lessee may negotiate on who is responsible on maintenance, insurance, etc.

Reference:

LO 1, AC 1.3

NEW QUESTION: 108

Which of the following should be applied when measuring frequency of on-time deliveries during a contract period?

- A. Qualitative assessment
- B. Numerical measure
- C. Binary measure
- D. Subjective measure

Answer: B (LEAVE A REPLY)

Number of on-time deliveries can be quantified, then numerical measures can be applied.

Frequency of on-time deliveries is measured as on-time deliveries as a percentage of total no. of deliveries for period.

LO 2, AC 2.2

NEW QUESTION: 109

Michelle contacts Hannah and asks her if she would be interested in purchasing her car for £2000. Hannah immediately takes £2000 to Michelle and says she wants to buy the car.

Michelle subsequently refuses to proceed. Has the contract between Michelle and Hannah been made?

- A. No, because Michelle has rejected Hannah's offer on buying the car
- B. Yes, because both parties have full legal capability to enter into a contract
- C. Yes, by her performance Hannah has accepted Michelle's offer on selling the car
- D. No, because by refusing to proceed, Michelle rejects Hannah's counter-offer

Answer: A (LEAVE A REPLY)

To solve the question, you must distinguish the following notion:

- Offer: The case of *Storer v Manchester City Council* [1974] 1 WLR 1403 outlines that an offer is: An expression of willingness to contract on specified terms, with the intention that it is to be binding once accepted
- Acceptance: in order for a contract to be formed, the offer must be accepted. Acceptance represents the meeting of the minds of the parties to the contract - both agree to exchange something for the other (payment, services, goods, etc.).
- Counter offer: is an offer made in response to a prior offer.
- Invitation to treat: An important distinction to make in contract law is that between an offer and an invitation to treat. An invitation to treat is usually an invitation for another party to make an offer. It may also be defined as an indication that a party is open to negotiation.

Here are some key distinctions of offers and invitation to treats.

Offer:

- * Certain promise to be bound
- * Clear and specified terms
- * The conduct or words of the party show certainty
- * There is no room for negotiation

Invitation to treat:

- * There is room for negotiation
- * There is an invitation for offers
- * There is a request for information
- * Lack of certainty

In the scenario above, initially Michelle just gives an invitation to treat because she is asking whether Hannah is interested to buy her car (request for information from Hannah).

Hannah may reject or go into a negotiation with Michelle. Then, Hannah makes an offer by taking the money and shows her intention to be legally bound. At this point, when Hannah's offer is present, Michelle can accept or reject. When she rejects, the contract is not formed. The answer must be "No, because Michelle has rejected Hannah's offer on buying the car".

Reference:

- Definition of Counter Offer
 - Formation of the contract
 - CIPS study guide page 28-35
- LO 1, AC 1.2

NEW QUESTION: 110

A manufacturing company signed a contract with a raw material supplier. The contract includes a clause on liquidated damages in case of late delivery. Purchaser was obliged to pay after 30 days from delivery. Eventually raw material was delivered 1 week later than initial plan due to supplier's slow production process. There is no defect in the delivered batch. Which of the following can be claimed by the manufacturing company?

- A.** Rights to refunds or repairs
- B.** Right of set-off
- C.** Right of third party
- D.** Right of extending payment

Answer: B (LEAVE A REPLY)

In certain circumstances, where two parties have monetary debts against each other, the right to set-off may arise. A right of set-off allows a ("Party 1") to take into account the amount owed to it by the second party ("Party 2") against any amount owed by Party 1 to Party 2, each party must be a debtor and a creditor.

Common law provides the key features that must be present for set-off to arise are;

1. mutuality of debts (each party must be the sole beneficial owner of the debt it is owed and the sole person liable for the debt it owes)
2. the claims each party has must be for non-payment of money

The common law provisions of set-off can be greatly enhanced by the inclusion of a contractual right to set-off (this is discussed further below) so that set-off is applicable in a greater range of situations. If you envisage set-off being a useful right it is not advisable to rely on the implied ability to use it (via common law or equitable set-off). Common law and equitable set-off are subject to various conditions and limitation however, a contractual right of set-off can be drafted to ensure parties are able to agree exactly how and when set-off should be applied.

In the above scenario, the supplier owes the manufacturer the payment for damages, while the manufacturer owes the supplier the payment for goods. This is mutuality of debts, which leads to right of set off.

Reference:

- Set-off on the right foot: a practical guide to set-off
- CIPS study guide page 158-159

LO 3, AC 3.2

NEW QUESTION: 111

Prior to circulating the service specification to a tendering supplier, it is good practice for the purchasing organisation to request completion of a non-disclosure agreement. Is this statement correct?

- A.** No, because the non-disclosure agreement has no legal standing
- B.** Yes, because the non-disclosure agreement protects intellectual property
- C.** Yes, because the non-disclosure agreement encourages transparent bidding
- D.** No, because the non-disclosure agreement only applies after contracting

Answer: B (LEAVE A REPLY)

Non-disclosure agreements (NDAs) are legally binding documents that protect confidential and proprietary information, including intellectual property, during pre-contractual discussions. NDAs ensure that sensitive data shared during early engagement or tender development is not misused.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.2.1 - Confidentiality agreements and intellectual property protection.

NEW QUESTION: 112

Which of the following best defines an 'express' term in general contract arrangements?

- A.** It is a standard set of terms and conditions published by CIPS
- B.** It is not necessarily discussed by the parties, but nonetheless forms part of the contract
- C.** It is the term that is added to the contract by the law or based upon the facts of the case.
- D.** It is clearly agreed between the parties, and is virtually always written down in the contract

Answer: ([SHOW ANSWER](#))

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.

Reference:

- Contracts: Express and Implied Terms

- CIPS study guide 126-132

LO 3, AC 3.1

NEW QUESTION: 113

When a supplier signs an insurance policy with an insurance company, which of the following is transferred to insurance company?

- A.** Right
- B.** Risk
- C.** Legal responsibility
- D.** Contractual obligation

Answer: **B** ([LEAVE A REPLY](#))

An insurance policy transfers a specific set of risks such as the fire and flood risk for a particular asset.

The legal liability does not transfer to the insurance company (known as insurer).

Reference: CIPS study guide page 150

LO 3, AC 3.2

NEW QUESTION: 114

GPP, the employer, and Prosolia UK, the contractor, entered into five EPC contracts for the development of five different solar power generation plants in the United Kingdom. Four out of the five developments failed to be commissioned by the relevant due dates, with the delays ranging from 44 to 285 days.

Among other claims, GPP, acting through its two investment vehicles, claimed liquidated damages of £500 per day in all four contracts for Prosolia UK's failure to achieve completion of the plants by the due date. The liquidated damages claimed amounted to £1,804,221 across the four delayed contracts.

Prosolia, alongside various other defences, raised the defence that the liquidated damages provision in each contract was a penalty, and therefore unenforceable against it. Is Prosolia contractually obliged to make the payment to the plaintiff?

- A.** No, the amount claimed is too excessive and it may put Prosolia into insolvency. The clause must be void
- B.** No, the clause must be treated as a penalty clause which is unenforceable in UK
- C.** Yes, the amount is a reward to the employer as they have supervised and monitored the projects
- D.** Yes, the clause is a genuine estimate of possible losses that GPP may have suffered and therefore, it is enforceable.

Answer: ([SHOW ANSWER](#))

A liquidated damages clause specifies a predetermined amount of money that must be paid as damages for failure to perform under a contract. The amount of the liquidated damages is supposed to be the parties' best estimate at the time they sign the contract of the damages that would be caused by a breach. If a breach occurs and the liquidated damages clause is enforceable, the parties do not calculate the actual damages (i.e., how much money a party actually lost as a result of the breach). Instead, the breaching party pays the predetermined sum provided by the liquidated damages provision.

To be enforceable, a liquidated damages clause should meet the following criteria.

Damages are difficult to estimate. A court will be more likely to enforce a liquidated damages provision if the damages that will be incurred as a result of a breach of the contract are difficult to estimate when the contract is entered into. In certain situations, injuries are easy to prove. For example, if a breach will result in the loss of sales, it is easy to determine the actual damages by calculating lost profits. Others are more difficult, like the harm caused by breach of a confidentiality agreement or theft of trade secrets. To be enforceable, the damages should be either uncertain or difficult to quantify at the time the contract is entered into.

The amount is reasonable and not a penalty. If the amount of the liquidated damages is grossly disproportionate to the actual harm incurred, a court will likely find it is a penalty or punishment and will not enforce the provision. When making this analysis, courts usually consider what was reasonable at the time the contract was entered into as opposed to when the breach occurred. There have been cases, however, where courts will decide the reasonableness of the damage estimate based on the actual harm at the time of the breach.

The scenario is excerpted and edited based on a real world case law. In that case, the court held that GPP was entitled to liquidated damages under all four of the EPC contracts, ruling that the provisions did not amount to unenforceable penalties in each of the contracts.

Reference:

- CIPS study guide page 158-159
- Liquidated damages in energy projects
- What Is a Liquidated Damages Provision?

LO 3, AC 3.2

NEW QUESTION: 115

Which of the following is the model form of contract for construction which is recommended by World Bank?

- A. ITC
- B. JCT
- C. CIPS
- D. FIDIC

Answer: ([SHOW ANSWER](#))

FIDIC is the International Federation of Consulting Engineers (or Federation Internationale des Ingenieurs Conseils in French). FIDIC has produced many publications, including the model form contracts, best practice guidances, research on sustainability, integrity and risk management. FIDIC model form contracts have been developed by this organisation since 1999, now they consist of several different books which are marked by colours. Thus, FIDIC model contracts also have the nickname "Rainbow suite of contracts". Basically, the "Rainbow Suite" include the following books:

- * Yellow book: Plant and Design-Build Contract (2 editions: 1999 and 2017)
 - * Silver book: EPC/Turnkey Contract (2 editions: 1999 and 2017)
 - * Red book: Construction Contracts (2 editions: 1999 and 2017)
 - * Emerald book: Conditions of Contract for Underground Works (1st Ed 2019)
 - * Blue-Green book: Dredgers Contract (2 editions: 2006 and 2016)
 - * Gold book: Design, Build and Operate Contract Guide
 - * Pink book: Construction Contract Multilateral Development Bank Harmonised Ed (2 editions: 2005 and 2010)
- This type of model contract is commonly used around the world because its author, International Federation of Consulting Engineers, collaborates closely with development banks such as World Bank, Africa Development Bank, Asia Development Bank, etc. Every construction project that is financed by these institutions must adopt the FIDIC contracts.

The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom. From its establishment in 1931, JCT has expanded the number of contributing organisations.

ITC (International Trade Centre) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures. Many small companies are now engaged in international trade, but don't have access to the necessary contract forms to protect themselves. ITC and leading legal experts developed eight generic contract templates that incorporate internationally recognized standards and laws for most small business situations.

CIPS has several model forms of contract designed specifically for IT buying and servicing.

Reference:

LO 3, AC 3.1

NEW QUESTION: 116

Danielle buys a car from Aaron. Not long after, she receives an proposal from Brian, who is interested in buying the car but his budget is very constraint. Then, Brian decides to sign a hire purchase agreement with Danielle which lasts 4 years. Brian lives very far from Danielle, so he hires Charlie to deliver the car to his place. During the transport, Charlie has an accident and the car is written off. At the time of accident, who has the title of the car?

- A. Charlie
- B. Aaron
- C. Brian
- D. Danielle

Answer: D ([LEAVE A REPLY](#))

Hire purchase is an arrangement for buying expensive consumer goods, where the buyer makes an initial down payment and pays the balance plus interest in installments. The ownership of the merchandise is not officially transferred to the buyer until all the payments have been made.

Danielle has purchased the car from Aaron, which means its title has been transferred to her. The accident happens before the last instalment is paid. Therefore, the ownership of the car still belongs to Danielle Reference:

LO 1, AC 1.3

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