



The Fundamentals of Contracting Negotiations Strategies

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Procurement
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The Fundamentals of Contracting Negotiations Strategies

Introduction:

The course will help delegates to develop their ability to negotiate contracts effectively. It will equip them with a range of interpersonal skills, and appreciation of the elements of planning and objective setting in negotiations. There will be an opportunity for delegates to carry out a self-assessment of their skills in key areas of negotiation including team negotiations. Every day significant money is made and lost by organizations as a result of the contractual terms and conditions governing contracts for the purchase of goods, equipment, and services. Since all business activities are governed by contractual relationships, it is increasingly important for all those dealing with outside organizations to have an understanding of how to obtain the best possible agreement for their organization.

Who should attend?

Procurement Managers, Purchasing Staff, Engineering, Operational and Maintenance Personnel, Contracts Engineers, Administrators, and Managers, Commercial, Financial and Insurance Professionals, Project and General Management, Contracts & Contracting Unit Professionals, Project Professionals, Procurement & Purchasing Staff, Purchasing Professionals and Procurement Officers, Commercial Professionals, Contract Administrators, Contract Administration Professionals, Contract Managers and Contract Professionals, Supply officers, Buyers, Project Coordinator's, Project Managers and other Project Professionals, Claims Personnel, Legal Advisers, Contract Strategists, Business Audit Officers, Engineers, Project Construction Professionals, Contract Administrators, Contract Professionals and Project

Coordinators, Buyers, Purchasing Professionals and Procurement Officers, Contracts Managers, Project Managers, Tenders, Contracts, Buyers, Purchasing, Financial Personnel, Tendering, Purchasing, Project Management Professionals, Engineering, Operational, Trade, Finance, and Maintenance Professionals, all others who are involved in the planning, evaluation, preparation and management of tenders, specifications, awards, and contracts that cover the acquisition of materials, equipment, and services and who are in organizations whose leadership want high levels of competency in those involved in these activities, those from a Project Management or General Management background who do not think they have sufficient understanding of contract issues, those new to the function, preparing for a major project, or experienced managers looking for a refresher, anyone involved in the management of risk, those involved in implementing and administering contracts and handling claims and change orders; also those involved in any conflict or dispute with a contracting party and interested to learn how to avoid or resolve these contractual issues, those involved in contract and business related negotiations, those involved in any aspect of implementing, managing or administering contracts in the post-award phase.

Course Objectives:

By the end of this course, delegates will be able to:

- How contracts are created and the main clauses that appear in contracts
- Alternative contracting strategies and structures
- Methods to be used in negotiating contracts
- Commercial issues arising from business agreements written in the English language

- Negotiating contractual variations and claims

Course Outline:

The Fundamentals of Contracting

- The reasons for using contracts
- Basic principles in contract formation
- Examples of formalities for contract formation
- Authority to sign a contract and the principles of agency
- Basic contractual structures
- Use of different types of contract for different business models

Main Contract Provisions and Associated Issues: Managing Risk

- Hierarchy of contract terms
- Warranty, indemnity and Insurance provisions
- Distribution of risk and performance obligations
- Termination, suspension and force majeure
- Selecting the appropriate law to govern the contract
- Collateral warranties and entire agreement

Changes and Variations

- Changes to the contract
- Transfer of rights: assignment and novation
- Variation to the scope of work and variations clauses
- Controlling and managing change
- Minimizing claims and disputes
- Delay and disruption

Standardizing Contractual Documents and Securitizing Performance

- Use of standard form contractual documents
- International standard form agreements
- Bonds, guarantees and letters of assurance

- Managing payment risk
- Reservation of ownership
- Remedies for default rework, re-performance, damages, penalties and performance

Dispute Resolution and Conflict Management

- Using contracts to avoid disputes
- Tiered dispute resolution mechanisms
- The contract clause to encourage negotiation
- Litigation and arbitration
- Modern dispute resolution processes including mediation
- Course review and analysis

Fundamentals of Negotiation

- Negotiation defined
- Disputes and the need for resolution
- Place of negotiation in the contractual resolution process
- Commercial impact of the breakdown of negotiations
- Best alternative to a negotiated agreement (BATNA)
- The four phase process of negotiation

The Negotiator's Toolbox

- Preparation
- Information needs
- Drafting your proposal which will open the discussion
- The negotiation discussion phase
- Bargain and close
- Negotiating position setting

Negotiating Styles, Tactics and Ploys

- Cultural & international issues

- Red, purple & blue negotiators
- Non-verbal communication and the interpretation of body language
- Make time your friend
- Silence and ploys as tactics and how to respond effectively

Personal Fitness and Dealing with Difficult Negotiations

- Interests, positions and escalation
- Stakeholder power behind the interests in negotiation
- Negotiator as a mediator
- Team negotiations
- Proposals and persuasion

Putting it all into Practice

- Negotiation case study
- Team allocation and simulation exercise
- Analysis of performance
- The do's and don'ts of negotiating
- Improving what we do - action planning