

PROJECT MANAGEMENT



Engineering & Construction Contracts Master class

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Introduction:

Engineering and construction projects have a history of contractual disputes and conflict. These problems have reduced the efficiency and profitability of developments, and have not been to the benefit of either clients or contractors. Both engineering and construction tend to attract contractual problems because of the complex nature of the work itself, and also the complicated commercial arrangements involved. The purpose of this course is to help candidates understand the reasons why such problems arise and how to avoid them in the future. Many contracts are now being conducted in a different way to the traditional approach, with more openness between the parties, and this has, in some cases at least, reduced conflict and increased profitability for all parties.

Who Should Attend?

Contracts, Purchasing, and Project Personnel, Engineering, Operational, and Maintenance Personnel, Project and Contracts Management Professionals, Tendering, Purchasing, Contract Administration Professionals and Personnel, Engineering, Operational, Finance, Maintenance Professionals, Managers and executives in the procurement, finance, legal, risk and supplier relations department, Business Managers, Commercial staff, Project Engineers, Procurement staff, Legal staff, Contracts analysts & Officers, Contract Leaders & Engineers, Cost & Planning Engineers, Contract Administrators, Contracting Unit Supervisors, Claims Managers and Business Audit Officers, Contract Strategists, Project Managers, General Managers involved in contract negotiation and disputes, Commercial Managers, Buyers, Purchasing Managers, Tenders Managers, Supply Chain Managers & Executives, Procurement Managers & Personnel, Construction Managers, those involved in the planning, evaluation, preparation and management of tenders, awards and contract performance that cover the acquisition of materials, equipment and services.

Course Objectives:

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

- Understand how contracts work, and why they sometimes cause problems
- Address some specific clauses and provisions that are a common source of problems
- Develop thinking around more collaborative approaches to working on engineering and construction contracts
- Recognize the dangers that such approaches bring, and how to minimize problems
- Look at engineering and construction contracting in an international context
- Understand how to resolve disputes quickly and efficiently

Course Outline:

The Fundamentals of Engineering & Construction Contracts

- Why contracts are necessary
- How contracts are formed
- Particular issues with engineering and construction contracts
- Use of standard forms
- FIDIC, NEC, LOGIC
- Differences in bargaining positions
- Problems with competitive tendering
- Problems with different industries – including between engineering and construction
- Issues with different legal systems

Some Major Problem Clauses in Engineering & Construction Contracts

- Design responsibility
- Requiring contractors to warrant the design of others
- Standard of work
- Fitness for purpose
- International/National/Company standards
- Standards for professional services
- Variations
- Force majeure
- Intellectual property
- Limits of liability
- Indemnities
- Insurance

Traditional Approaches to Engineering & Construction Contracts

- Lump sum/fixed price
- Bill of Quantities/Schedule of Rates
- Adding incentive fees
- Escalation
- Dealing with general price inflation
- Economic Price Adjustment
- Problems with volatile materials (or labour) markets
- Selecting the right index
- Call-off contracts

Looking Beyond the Traditional Approaches

- Risk and reward structures
- Build Operate Transfer
- Open Book approaches
- Collaborative working
- Advantages
- Dangers and how to avoid them

Disputes: Avoidance and Resolution

- How disputes arise
- Methods to avoid disputes or deal with them quickly as they arise
- Negotiation techniques
- Traditional third party approaches
- Courts
- Arbitration
- Adjudication
- Some alternative approaches
- Mediation
- Conciliation
- Early Neutral Evaluation
- Expert determination
- Dispute Review Boards and similar arrangements
- Pendulum arbitration

