

COSBEDMO17 - SQA Unit Code FM7H 04

Prepare and agree forms of contract in built environment design management



Overview

This unit is concerned with procuring the services of contractors and subcontractors. This could be a contract between your contractor and your organisation, or between the contractor and your client, or between your organisation and your client. It is about drafting a contract suitable for the project in hand.

You must have an understanding of the standard forms of contract and how to amend them; and you must be able to prepare draft contracts and have them approved. It is about striking the deal which is best for all parties involved.

You must have a good knowledge of contract procedure and of the current and relevant issues; and you must be able to negotiate fairly and confidently with the contractor.

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Performance criteria

Prepare and modify standard forms of contract

- You must be able to:*
- P1 confirm the standard form of contract, contract clauses and documents appropriate for the form of procurement proposed
 - P2 amend standard forms of contract so that the clauses and documents are suitable for the form of procurement proposed
 - P3 draft particulars and preliminaries which accurately describe the needs of all the people involved in the form of contract
 - P4 check that contract clauses, appendices and amendments meet statutory requirements
 - P5 obtain expert advice on the implications of drafting non-standard clauses and explain why this is necessary to the people involved in the contract
 - P6 obtain necessary checks and approvals for the draft forms of contract

Negotiate and agree a contract

- You must be able to:*
- P7 negotiate contracts using a style and manner which maintains good long term relationships with all the people involved in the contract
 - P8 negotiate and agree the most equitable position, contract terms, conditions and amendments
 - P9 record the results of negotiations accurately and pass the information on, promptly and in accordance with legal requirements, to all the people involved in the contract
 - P10 prepare accurate copies of the final contract documents, check that they meet legal requirements and arrange for them to be signed
 - P11 identify the obligations of the parties to the contract and obtain valid, written proof that they are able to meet the obligations
 - P12 check that all the contract documents are complete, accurate and stored securely

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Knowledge and understanding

You need to know and understand:

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- K1 how to confirm the standard form of contract, contract clauses and documents appropriate for the form of procurement proposed (application)
- K2 how to amend standard forms of contract so that the clauses and documents are suitable for the form of procurement proposed (application)
- K3 how to draft particulars and preliminaries which accurately describe the needs of all the people involved in the form of contract (application)
- K4 how to check that contract clauses, appendices and amendments meet statutory requirements (application)
- K5 how to obtain expert advice on the implications of drafting non-standard clauses and explain why this is necessary to the people involved in the contract (application)
- K6 how to obtain necessary checks and approvals for the draft forms of contract (application)

Negotiate and agree a contract

You need to know and understand:

- K7 how and why to negotiate contracts using a style and manner which maintains good long term relationships with all the people involved in the contract (synthesis)
- K8 how and why to negotiate and agree the most equitable position, contract terms, conditions and amendments (synthesis)
- K9 how to record the results of negotiations accurately and pass the information on, promptly and in accordance with legal requirements, to all the people involved in the contract (application)
- K10 how to prepare accurate copies of the final contract documents, check that they meet legal requirements and arrange for them to be signed (application)
- K11 what to identify as the obligations of the parties to the contract (understanding)

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- K12 how to obtain valid, written proof that they are able to meet the obligations (application)
- K13 how to check that all the contract documents are complete, accurate and stored securely (application)

Additional Information

Scope/range

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1. Contracts - type:

- 1.1. main contract
- 1.2. sub-contract
- 1.3. lump sum
- 1.4. design and construct
- 1.5. schedule based
- 1.6. prime cost based
- 1.7. firm priced
- 1.8. labour and materials
- 1.9. labour only
- 1.10. fluctuating price
- 1.11. goods and material supply only
- 1.12. service contracts

2. Form of procurement:

- 2.1. open competitive
- 2.2. two stage
- 2.3. selected list
- 2.4. negotiated
- 2.5. partnering

3. Amending and drafting:

- 3.1. allocation of risks and responsibilities
- 3.2. structure of contract
- 3.3. key instructions

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4. Contracts requirements - relating to:

- 4.1. legal factors
- 4.2. main contract
- 4.3. sub-contract
- 4.4. lump sum
- 4.5. design and construct
- 4.6. schedule based

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- 4.7. prime cost based
- 4.8. firm price
- 4.9. fluctuating price
- 4.10. labour and materials
- 4.11. labour only
- 4.12. goods and material supply only
- 4.13. service contracts

5. People involved in the contract:

- 5.1. clients
- 5.2. main contractors
- 5.3. sub-contractors
- 5.4. consultants
- 5.5.** third parties

6. Amendments:

- 6.1. allocation of risks and responsibilities
- 6.2. structure of contract
- 6.3. key instructions
- 6.4. information management
- 6.5. Legal requirements:
- 6.6. legal factors
- 6.7. statutes
- 6.8. regulations, including European Union regulations
- 6.9. codes of practice and procedure
- 6.10. common law

7. Contract documents:

- 7.1. invitation to tender
- 7.2. forms of tender
- 7.3. specifications
- 7.4. survey reports
- 7.5. drawings and schedules
- 7.6. bills of quantities/schedules of rates
- 7.7. health and safety plans
- 7.8. scope of services
- 7.9. terms and conditions

8. Obligations:

- 8.1. insurances
- 8.2. bonds
- 8.3. warranties
- 8.4. statutory
- 8.5. financial guarantees
- 8.6. competence of people
- 8.7. information management

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Developed by ConstructionSkills

Version number 2

Date approved December 2012

Indicative review date January 2018

Validity Current

Status Original

Originating organisation ConstructionSkills (CIC)

Original URN COSBEDMO17

Relevant occupations Architects; Civil Engineers; Graphic Designers; Architectural Technologists; Town Planning Technicians; Building Surveyors

Suite Built Environment Design Management

Key words contract; procurement
