

Overview

This unit is about ensuring that contracts are prepared, negotiated and concluded. You will need to demonstrate that you have undertaken the selection of appropriate forms of contract to suit the project. You will have considered any amendments to the form of contract. You will have drafted any necessary preliminaries to the form of contract. You will have obtained legal advice on the drafted form of contract. You will demonstrate that you have verified that the proposed contract satisfies all party's interests and that you have negotiated agreements and any amendments with the concerned parties. You will have brought the contract to a conclusion and satisfied legal requirements to the point of signature

Performance criteria

You must be able to:

Ensure that forms of contract are prepared

- P1 select **forms of contract**, contract clauses and documents for the **form of procurement** proposed
- P2 ensure that standard **forms of contract** are amended so that the clauses and documents are suitable for the **form of procurement** proposed
- P3 ensure that particulars and preliminaries are **drafted** which accurately describe the needs of all the stakeholders in the **form of contract**
- P4 ensure that contract clauses are checked and that appendices and amendments meet statutory requirements
- P5 ensure that non-standard **forms of contract**, clauses and documents are **drafted**, which have legal precedent, where standard **forms of contract** or modified standard forms are not suitable
- P6 obtain legal advice on the implications of **drafting** non-standard clauses and **forms of contract** and explain why this is necessary to the stakeholders in the contract
- P7 obtain necessary checks and approvals for the draft **forms of contract**

Ensure that the contract is negotiated and concluded

You must be able to:

- P8 ensure that the **obligations** of the parties to the **contract** are identified and obtain valid, written proof that they are able to meet the **obligations**
- P9 negotiate **contracts** using a style and manner which maintains good long term relationships with all the stakeholders
- P10 negotiate and agree optimum **contract** terms, conditions and **amendments**
- P11 record the results of negotiations accurately and pass the information on, promptly and in accordance with **legal requirements**, to all the stakeholders
- P12 ensure that accurate copies of the final **contract documents** are prepared and checked to meet **legal requirements** and arrange for them to be signed

Knowledge and understanding

You need to know and understand:

Ensure that forms of contract are prepared

- K1 how to ensure that contract clauses, appendices and amendments are checked and meet statutory requirements (application)
- K2 how to obtain necessary checks and approvals for the draft **forms of contract** (application)
- K3 how and why to select **forms of contract**, contract clauses and documents (evaluation)
- K4 how to ensure that standard **forms of contract** are amended so that the clauses and documents are suitable for the **form of procurement** proposed (application)
- K5 how to obtain legal advice on the implications of drafting non-standard clauses and **forms of contract** and explain why this is necessary (application)
- K6 how and why to draft particulars and preliminaries (evaluation)
- K7 how and why to modify standard forms when they are not suitable and draft non-standard **forms of contract**, clauses and documents (evaluation)

Ensure that the contract is negotiated and concluded

You need to know and understand:

- K8 how to negotiate **contracts** (synthesis)
- K9 how and why to negotiate the optimum **contract** terms, conditions and **amendments** (synthesis)
- K10 how and why to agree the optimum **contract** terms, conditions and **amendments** (evaluation)
- K11 how to record and pass on information about the results of negotiations accurately (application)
- K12 how to ensure that accurate copies of the final **contract documents** are prepared and checked so that they meet **legal requirements** and arrange for them to be signed (application)
- K13 how to obtain valid, written proof that the parties to the contract are able to meet the **obligations** (application)
- K14 how to ensure that the **obligations** of the parties to the contract are identified (application)

Scope/range

Ensure that forms of contract are prepared

- 1 Forms of contract:
 - 1.1 standard
 - 1.2 non standard
- 2 Form of procurement:
 - 2.1 competitive tender
 - 2.2 non-competitive
- 3 Drafted:
 - 3.1 allocation of risks and responsibilities
 - 3.2 structure of contract
 - 3.3 key instructions
 - 3.4 legal factors
 - 3.5 business standing orders

Ensure that the contract is negotiated and concluded

- 4 Obligations:
 - 4.1 insurances
 - 4.2 bonds
 - 4.3 warranties
 - 4.4 statutory
 - 4.5 financial guarantees
 - 4.6 competence of people
 - 4.7 deliverables
- 5 Contracts - type:
 - 5.1 standard
 - 5.2 non-standard
- 6 Amendments:
 - 6.1 allocation of risks and responsibilities
 - 6.2 structure of contract
 - 6.3 key instructions
 - 6.4 legal factors
- 7 Legal requirements:
 - 7.1 statutes

Scope/range

- 7.2 regulations, including European Union regulations
- 7.3 codes of practice and procedure
- 7.4 common law
- 8 Contract documents:
 - 8.1 invitation to tender
 - 8.2 forms of tender
 - 8.3 specifications
 - 8.4 survey reports
 - 8.5 drawings and schedules
 - 8.6 bills of quantities/schedules of rates
 - 8.7 health and safety plans
 - 8.8 scope of services
 - 8.9 terms and conditions

COSCSMO13- SQA Unit Code FM20 04

Ensure that contracts are prepared, negotiated and concluded



COSCSMO13- SQA Unit Code FM20 04

Ensure that contracts are prepared, negotiated and concluded



Developed by ConstructionSkills

Version number

Date Approved December 2008

Indicative review date November 2019

Validity Current

Status Original

Originating organisation ConstructionSkills

Original URN COSCSMO13

Relevant occupations Managers in construction

Suite Construction Senior Management

Keywords Contracts; negotiated; legal; project
