

CONTRACTS STRATEGY AND MANAGEMENT



**TMC132
Tenders &
Contract
Management**

COURSE TITLE

CONTRACTS STRATEGY & MANAGEMENT

COURSE DATE/ VENUE

25 – 29 August 2019

Amsterdam, Netherlands

COURSE REFERENCE

TCM132

COURSE DURATION

05 days

DISCIPLINE

Tenders & Contract Management

COURSE INTRODUCTION

High quality Contract and Tender Management are essential activities in achieving improved levels of performance for all organizations. Providing the high value added activities available from contract and procurement operations requires the continuous involvement of knowledgeable professionals and management who understand and implement the best practices in Contract Management and Tendering for the acquisition of goods, equipment, and services. Included in the many topics covered in this training session to move contracts from the tactical to a more important strategic focus are:

- Contract Management And Tendering Is A Profession, Not Just A Job
- Elements Of A Good Procurement & Competitive Bidding Process
- Developing Tender Evaluation Criteria
- Selecting The Right Contract Type
- Contract Preparation
- Contract Management

COURSE OBJECTIVE

Upon successful completion of this course, the delegates will be able to:

- ✓ Discuss elements of good procurement process
- ✓ Learn methods of Tender evaluation
- ✓ Review Contract Strategies
- ✓ Explore steps in developing performance based service contracts
- ✓ See examples of important commercial contract clauses
- ✓ Present the essential elements of a contract
- ✓ Give examples and Sources Of Contract Checklist
- ✓ Provide an understanding of how and why claims and counterclaims arise
- ✓ Explain the differences between claims and counterclaims
- ✓ Identify common causes of claims and disputes, and how to avoid them
- ✓ Discuss how to develop contracts management procedures to avoid disputes over claims and counterclaims, while resisting unjustified claims
- ✓ Enhance understanding of basic negotiation techniques to be used when resolving disputes
- ✓ Provide an understanding of some of the main methods of dispute resolution involving third parties

COURSE AUDIENCE

- Contracts, Purchasing, and Project personnel
- Engineering, Operational, and Maintenance personnel
- And all others who are involved in the planning, evaluation, preparation and management of tenders, awards, and contract performance 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

COURSE CONTENT

DAY 1

Contract management and tendering - when does the process start?

- What You Need To Know To Be Competent at Contract Management
- Elements Of A Good Procurement and Competitive Bidding Process
- Standards Of Ethical Practice
- Example Policy “Relations With Suppliers
- Selecting The Right Contracting Strategy
- Types Of Statement Of Work
- The Importance Of The Contract
- Basic Contract Types
- Basic Types Of Project Deliver

Developing the tender

- Objectives Of The Contract
- Tender And Contract Check Lists
- The Important Integration Clause
- Inspection, Acceptance, Rejection
- Clauses For Defects In Material And Workmanship
- Developing Performance-Based Service Contracts
- Penalty/Liquidated Damages Clause
- Clauses For Spare Parts

DAY 2

Important elements of the contract

- Saving With Economic Price Adjustment Clauses
- Force Majeure Clauses
- Contract Changes Clauses
- Methods Of Payment
- Progress Payments

- Letters Of Intent, Award, And Side Agreements

Bidder selection and tender evaluation

- Selecting The Bidders
- We Want More Than The Lowest Price
- How Do You Know You Got A Good Price?
- Use Of Price Indexes
- Electronic Evaluations
- Requesting Cost Breakdowns And Evaluations Of Cost Breakdowns

Managing the contract performance

- The Criticality Of Good Contract Administration
- Contract Changes
- Determining Status And Expediting
- Contractor Payments
- How Contracts End
- Remedies For Breach Of Contract
- Types Of Bonds and Guarantees
- Negotiation Tips

DAY 3

How Claims and Counter Claims arise

- Causes of typical claims
 - Poor drafting of requirements
 - Lack of clarity in Scope of Work/Services
 - Misunderstanding of legal or technical obligations
 - By Client
 - By Contractor/Supplier
 - Deliberate “misunderstanding”
- Counter claims - how they differ from claims
 - Rights of set-off
- Overview of main contractual provisions relevant to claims and counter claims

- Obligation to perform work
- Standards
- Programme
 - Acceleration
- Variations
- Extension of time
- Force majeure

DAY 4

Types of Claims and Counter claims

- Types of claims, in construction and other areas - and their distinctive features
 - Re-measure disputes
 - Variations - disputes on valuation
 - Variations - disputes as to whether there is change
 - Breaches of contract
 - Quality of workmanship
 - Re-work
 - Rejection of goods
 - Full rejection
 - Partial rejection
 - Liquidated damages and penalties
 - Warranty claims
 - Special issues with EPC/Turnkey contracts
 - Interface problems - are these always the Contractor's responsibility?
 - Tracking change where client involvement is limited
 - Special issues with documentation in EPC and turnkey contracts

DAY 5

Dispute Resolution

What is a dispute?

Introduction to dispute resolution methods and techniques

- Stage negotiation - setting up internal dispute resolution within the contract
- Measures of success - win-win negotiation
 - Understanding what constitutes a “win” for you
 - What will be a “win” for the other party?
 - Mirror negotiation/red teams
- Negotiating “without prejudice”
- Making offers
- Compromise
- Bargaining

Interest-based negotiations

- Moving away from rights-based thinking
- Making the cake bigger - settling other issues
- Non-financial solutions
- Long-term business relationships

Conflict and its resolution

- Defusing conflict
- Personality clashes and how to avoid them
- Dealing with disputes as they arise - not letting them fester
- Traditional dispute resolution
 - Litigation
 - Use of foreign courts
 - Enforcement
 - Arbitration
 - Domestic
 - International
 - Single or panel
 - Enforcement
 - Issues with evidence and production of documents

Differences between alternative dispute resolution methods

- Mediation
- Med/Arb and Arb/Med
- Adjudication
- Expert determination
- Early Neutral Evaluation
- Mini-Arbitration
- Dispute Review Boards
- Pendulum arbitration

COURSE CERTIFICATE

TRAINIT ACADEMY will award an internationally recognized certificate(s) for each delegate on completion of training.

COURSE FEES

\$6,150 per Delegate. This rate includes participant's manual, Hand-Outs, buffet lunch, coffee/tea on arrival, morning & afternoon of each day.

COURSE METHODOLOGY

The training course will be highly participatory and the course leader will present, guide and facilitate learning, using a range of methods including formal presentation, discussions, sector-specific case studies and exercises. Above all, the course leader will make extensive use of real-life case examples in which he has been personally involved. You will also be encouraged to raise your own questions and to share in the development of the right answers using your own analysis and experiences. Tests of multiple-choice type will be made available on daily basis to examine the effectiveness of delivering the course.

- 30% Lectures
- 30% Workshops and work presentation
- 20% Case studies & Practical Exercises
- 10% Role Play
- 10% Videos, Software or Simulators (as applicable) & General Discussions