

Contract Management

2nd Edition

Steven M. Bragg

Table of Contents

Chapter 1 – Contract Law	1
Learning Objectives	1
Introduction.....	1
Sources of Contract Law.....	1
The Nature of Contracts.....	1
Offer.....	2
Offer Terminations	2
Offer Acceptance.....	3
Consideration	3
Accord and Satisfaction	4
Promissory Estoppel.....	4
Contract Contents.....	4
Proper Assent to a Contract.....	5
Duress.....	6
Fraud.....	6
Mistakes	7
Undue Influence.....	7
Ability to Enter into a Contract.....	8
Contracts with Minors	8
Contracts with Mentally Incompetent Individuals	8
Contracts with Intoxicated Individuals.....	9
Illegal Contracts.....	9
Unconscionable Contracts	9
Discharge of Performance	10
Breach of Contract.....	10
Levels of Contractual Performance	10
Monetary Damages	11
Alternative Approaches.....	11
Contracts that Must Be in Writing	12
Basic Concepts.....	12
Contents of a Written Contract	13
Assignment of Rights.....	14
Special Business Arrangements.....	14
Contracts in Restraint of Trade.....	15
Impact of Licensing Arrangements	15
Exculpatory Clauses	15
Types of Contracts.....	16
Plain-Language Contracts.....	17
Summary.....	17
Review Questions.....	18
Review Answers	19
Chapter 2 – Contract Terms and Conditions	21
Learning Objectives	21
Introduction.....	21
Contract Terms and Conditions.....	21
Commercial Terms	24
The Employee or Contractor Designation.....	24
Contract Pricing Arrangements	25
Firm Fixed Price.....	25
Fixed Price with Adjustments	26
Cost plus Pricing.....	26
Time and Materials Pricing.....	27
The Escalation Clause	28

Table of Contents

Summary of Pricing Arrangements.....	29
Contract Payment Arrangements	29
Contract Templates	29
Duration-Based Contractual Issues.....	30
Summary.....	31
Review Questions.....	32
Review Answers	33
Chapter 3 – Contracting Risks.....	35
Learning Objectives	35
Introduction.....	35
Types of Contracting Risks	35
Contracting Risk Mitigation Activities.....	36
Megaproject Issues.....	37
Summary.....	38
Review Questions.....	39
Review Answers	40
Chapter 4 – The Request for Proposals	41
Learning Objectives	41
Introduction.....	41
The Need for Teams	41
Planning for an RFP.....	41
Procurement Strategy	42
Constructing an RFP.....	44
Locating Suppliers	46
The Bidding Process.....	47
Handling Inquiries	48
RFP Confidentiality	48
Evaluating an RFP Response	48
Handling Complaints.....	51
Contract Negotiations	51
Contract Approval Process	52
Contract Clauses	52
Responsibility Clause.....	52
Damages Clause	52
Payment Schedule.....	53
Options Clause	53
Contractual Disputes.....	53
Summary.....	53
Review Questions.....	54
Review Answers	55
Chapter 5 – Project Preparation.....	57
Learning Objectives	57
Introduction.....	57
Project Preparation	57
Step 1: Work Preplanning	57
Step 2: Deployment Planning.....	58
Step 3: Seller Monitoring Planning	58
Step 4: Contract Administration Planning	58
Summary.....	59
Review Questions.....	60
Review Answers	61
Chapter 6 – Monitoring Contract Performance	63
Learning Objectives	63
Introduction.....	63

Table of Contents

Necessary Staffing Levels	63
Monitoring Activities	63
High-Risk Activities	64
Contract Amendments	64
Contract Performance Indicators	64
Timeliness of Design Engineering	64
Seller Productivity	65
Cost to Budget Comparison	65
Change Order Management.....	65
Disputed Work	66
Back Charges	68
Review of Seller Invoices	68
Summary	68
Review Questions	69
Review Answers	70
Chapter 7 – Tender and Acceptance.....	71
Learning Objectives	71
Introduction.....	71
Tender.....	71
Assurance of Performance.....	72
Final Acceptance	72
Summary	73
Review Questions.....	74
Review Answers	75
Chapter 8 – Demobilization and Close Out	77
Learning Objectives	77
Introduction.....	77
Demobilization	77
Activities by the Seller.....	77
Activities by the Buyer.....	78
Contract Close Out	78
Document Retention	79
Summary	80
Review Questions.....	81
Review Answers	82
Chapter 9 – Warranties and Remedies	83
Learning Objectives	83
Introduction.....	83
Express Warranties.....	83
Implied Warranties.....	84
Implied Warranty of Fitness for a Particular Purpose	84
Implied Warranty of Merchantability	84
Construction Warranties.....	84
The Warranty Period.....	85
Warranty Disclaimers.....	85
Remedies	86
Summary	86
Review Questions.....	87
Review Answers	88
Glossary.....	89
Index	91