

Commercial awareness for engineers and project staff

Overview

Nowadays not only do we rely on our commercial and sales staff to hit that bottom line but we expect our engineers and project managers to play their part too – not only through their engineering and management skills but by behaving in a commercially minded way in their dealings with their counterparts in customer or supplier organisations. This means understanding, amongst other things, the issues surrounding the commencement of work ahead of contract, having a clear contract baseline, recognising the broader implications of contract change, the need for timeliness and the consequences of failing to meet the contracted timetable.

This practical one-day programme has been designed specifically to give engineers, project staff and others just that understanding. The course is designed principally to provide engineers and project staff with an appreciation of contractual obligations, liabilities, rights and remedies so that they understand the implications of their actions. It is also suitable for business development staff who are negotiating contracts on behalf of the business.

The main focus of the day is on creating an awareness of when a situation may have commercial implications that would harm an organisation's business interests if not recognised and handled appropriately and how taking a positive but more commercial approach to those situations can lead to a more positive outcome for the business. As well as providing an understanding of the commercial imperatives the day also focuses on specific areas affecting engineers and project staff, such as the recognition and management of change, the risks when working outside the contract and managing delays in contracts. The course identifies the different remedies that may apply according to the reasons for the delay and provides some thoughts on pushing back should such situations arise.

Learning objectives

On completion of this programme the participants will:

- appreciate the need for contractual controls and will have a better understanding of their relevance and how they can be applied, particularly the issues of starting work ahead of contract, implementing changes and inadvertently creating a binding contract by their behaviour;
- have gained an understanding of the terminology and procedural issues pertaining to contracting within a programme; and
- be more commercially aware and better equipped for their roles

Who should attend?

- Engineers, project managers and other non-commercial staff who have contact with customers
- Ideal for personnel within a customer-facing organisation who are involved with, or are about to become involved in, a commercial venture
- Suitable for both prime and subcontractors

Course format

An inter-active one-day workshop, using a combination of presentation techniques and informal interaction.

Special features

For maximum benefit from the programme, we recommend that the trainer works with you to tailor the programme to your specific processes and requirements.

The expert trainer

Alison is an independent consultant and trainer specialising in commercial, contractual and bidding issues. She has a particularly strong background in aerospace and defence.

Before starting her consultancy, in 2008, Alison was Commercial Director, Lockheed Martin UK INSYS Ltd where she played a key role in the integration of INSYS into the Lockheed Martin organisation at the same time as drafting and negotiating a wide range of contracts covering design, development and production, SLAs, software development, modelling and licensing, feasibility and research studies, evaluation and loan arrangements to customers in the UK, Europe and the USA. Prior to that she had spent eight years with Hunting Engineering, rising from Assistant Contracts Manager to Company Commercial Manager. While at Hunting she worked in the UK and internationally on contracts valued from several hundred thousand pounds to more than £300m and was deeply involved with all the commercial aspects of bid preparation, contract negotiation and management. Her career began at British Aerospace Dynamics Group (latterly as Contracts Manager – Procurement Contracts) where she spent ten years working on a range of UK and overseas bids and projects.

It was while she was with British Aerospace that she first began delivering training courses on commercial issues. Alison's clients include the trade association ADS, ITT Defence, The Institution of Engineering and Technology, Morgan Armour, Britten Norman, Dytecna, MASS Consultants Ltd, Aircraft Research Association, Pankl Racing Systems, Aspire Consulting, Porchester Microtools, APP Ltd, EDF Energy, Drumgrange, LINCAD, Helmet Integrated Systems Ltd, Cambridge University (Department of Physics), Northrop Grumman, Supreme Group, Chemring, Raytheon and the Niteworks project (a collaboration between MoD and Industry led by BAe Systems). As commercial consultant to the ADS Trade Association and as a member of the ADS Commercial and Legal Board, Alison is very up-to-date with commercial arrangements and issues between industry and MoD and, indeed, for ten years she was Chairman of the Defence Manufacturers Association (DMA) Commercial Committee and she is still a member of DMA Council, a member of the joint Industry/MoD Commercial Policy Group (a high level group reporting at Ministerial level) and industry co-chairman of the Project Management Reform Group (originally part of the 'More Effective Contracting' initiative but now subsumed into the DIS Commercial Issues group).

Course outline

1 Basic contract law – bidding and contract formation

- Purpose of a contract
- Contract formation – the key elements required to create a legally binding agreement
- Completeness and enforceability
- Express and implied terms
- Conditions v warranties
- The use of, and issues arising from, standard forms of sale and purchase
- Use of 'subject to contract'
- Letters of intent
- Authority to commit

2 Change management

- Recognising changes to a contracted requirement
- Pricing change
- Implementation and management of change

3 Key contracting terms and conditions

By the end of this module participants will be able to identify the key principles associated with:

- Pricing
- Getting paid and retaining payment
- Cashflow
- Delivery and acceptance
- Programme delays
- Examining some reasons for non-performance...
 - Customer failure
 - Contractor's failure
 - No fault delays

... and the consequences of non-performance:

- Damages claims
- Liquidated damages
- Force majeure
- Continued performance
- Waiver clauses and recent case law
- Use of best/reasonable endeavours
- Contract termination

4 Warranties, indemnities and liability

- Express and implied warranties
- Limiting liability

5 Protection of information

- Forms of intellectual property
- Background/foreground intellectual property
- Marking intellectual property
- Intellectual property rights
- Copyright
- Software
- Confidentiality agreements
- Internet

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