CONTRACTOR DEVELOPMENT ROADSHOW – GAUTENG

TECHNICAL MASTER CLASS FOR BEGINNERS

Vanderbijlpark– Emfuleni Local Municipality, Gauteng
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OVERVIEW

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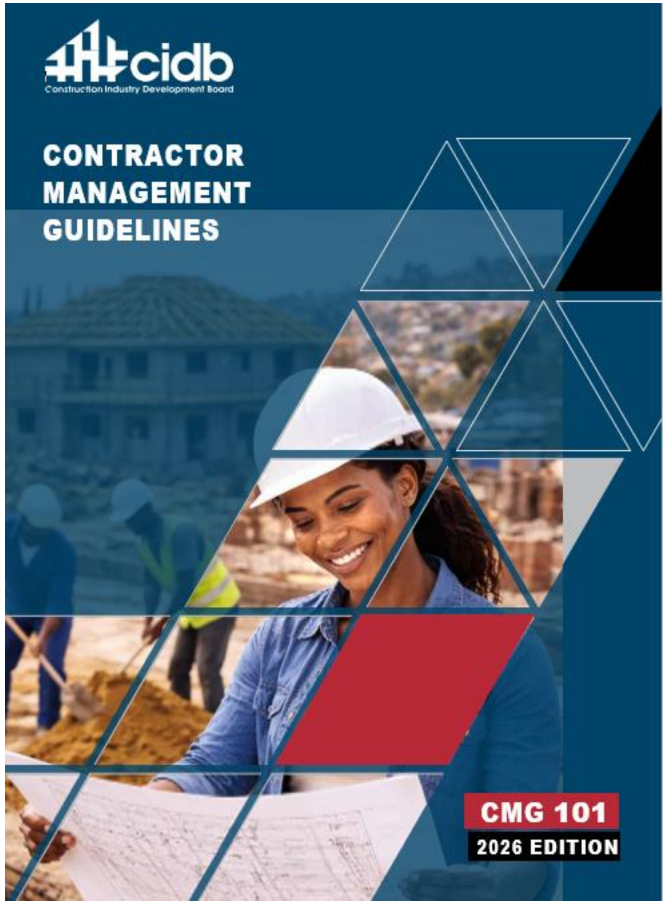
- Contractual Considerations

Project and Contract Management
- Administering the Contract
- Preparing to Start the Contract
- Managing Health and Safety
- Site Establishment and Administration
- Finishing the Project



Purpose of the CMG 101 document

Supporting New Contractors

The document helps new construction contractors understand the industry environment and establish sustainable businesses.

Industry Knowledge Gap

Failure often stems from a lack of knowledge of industry structure, legal requirements, and business management.

Regulatory and Legal Compliance

The guideline explains key regulatory and statutory requirements for legally registering and operating construction businesses.

Promoting Sustainable Growth

Focuses on developing robust business plans that encourage long-term growth over short-term survival.

INTRODUCTION TO THE CONSTRUCTION INDUSTRY

Construction Works

The cidb Act 38 of 2000, defines construction works "as the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure."

Construction - may take any of the following forms:

- **Building and assembly** involves assembling different elements according to the plan and specifications to create a finished structure.
- **Maintenance and repairs:** ongoing activities to keep the structure in good condition and address any necessary repairs.
- **Expansion and improvements:** modifications to existing structures to enhance functionality or expand their capacity.
- **Demolition and decommissioning:** final stages of a project, including the removal of structures

Questions

The construction industry refers to

a. Only building houses

b. A conglomeration of industries adding value to fixed assets

c. Manufacturing consumer goods

d. Selling raw materials

Which activity enhances the capacity of existing structures?

a. Maintenance

b. Expansion and improvements

c. Demolition

d. Pre-construction

Role Players in the Construction Industry

Employer/Client's Role

The Employer/Client -

- Initiates and funds the project
- Sets scope, budget, and objectives of the project
- Appoints contractors and consultants

Professional Team

- Appointed by the client/employer
- Size of the team depends on project complexity
- Responsible for the design and oversight

Typically Includes:-

- **Architect** - Responsible for the design and planning of the building, translating the client's vision into physical form.
- **Engineers** (Civil, Structural, Mechanical, Electrical) - Engineers design technical elements ensuring safety, functionality, and structural performance.

- **Resident Engineer -** a Resident Engineer (RE) is a construction professional who acts as the on-site representative for the client or owner, overseeing the construction project and ensuring it adheres to design plans, specifications, and contractual obligations.
- **Quantity Surveyor** - is employed on building projects to manage costs, measure works, prepare bills of quantities, and certify payments.
- **Project Manager** - Project Managers coordinate project delivery. Manages the completion of a project on time, within budget, and to the required quality.
- **Health & Safety Agent** - Ensures the safety of workers on the construction site, implementing safety protocols and procedures to ensure legal compliance

- **The Contractor**
  - Executes and completes construction works
  - May appoint a project or contracts manager, who will oversee the entire construction process, from planning to completion, ensuring the project meets all requirements
  - Not part of the professional consultant team

Questions

Which professional determines the thickness of concrete slabs?

a. Civil engineer

b. Structural engineer

c. Mechanical engineer

d. Quantity surveyor.

Who ensures compliance with municipal regulations in civil projects?

a. Civil engineer

b. Architect

c. Quantity surveyor

d. Project manager

REGISTERING A BUSINESS

Business Types

Business Structure Options

Contractors can choose from sole proprietorships, partnerships, or companies based on their needs and risk tolerance.

- **Sole Proprietorship**

Sole proprietorships are easy to establish but expose owners to personal liability with no legal separation.

- **Partnership**

Partnerships share ownership, resources, and liability, increasing capacity but also shared risks.

- **Company**

Companies provide legal separation, protecting personal assets and support compliance and sustainability, governed by the Companies Act, and Directors have legal responsibilities

COMPLIANCE WITH STATUTORY REQUIREMENTS

Statutory Compliance

- South African law is established in Acts of Parliament and Regulations issued by ministers in terms of an Act of Parliament. (cidb Act 38 of 2000)
- Failure to comply with statutory requirements may result in fines or penalties being imposed and, in extreme cases, the imposition of jail terms. Failure to comply with statutory requirements can easily result in the failure of a business.
- **Ignorance of the law is not a defence**

Chapter 3 of the cidb Act

- 18(1) A contractor may not undertake, carry out, or complete any construction works or portion thereof for public sector contracts, awarded in terms of competitive tender or quotation, unless he or she is **registered** with the board and holds **a valid registration** issued by the board.
- Note: Accordingly, a sub-contractor conducting construction works for public sector contracts, awarded in terms of competitive tender or quotation, must be registered with the cidb.

- 18(2) Any contractor who carries out or attempts to carry out any construction works or portion thereof under a public sector contract and who is not a registered contractor of the Board in terms of this Act, is guilty of an offence and is liable, on conviction, to a fine not exceeding ten per cent of the value of the contract so carried out.
- Note: the section prohibits a contractor from carrying out, or completing any works or portion of the works for public sector contracts that have been awarded in terms of competitive tender or quotation, unless they are registered with the cidb. The section furthermore carries a criminal sanction.

Awarding of the contract contrary to the Act and the cidb regulations constitutes a reportable criminal offence against the contractor.

Regulatory Compliance

Construction Industry Development Board (cidb):

- **Mandatory Registration**
  - Contractors must register with cidb to work in public sector construction projects in South Africa.

The following contractors are exempt from registration with the cidb:

- Labour-only contractors – Contractors who are provided with the bulk of construction materials required for construction by the employer or an agent of the employer need not register.
- Once-off joint ventures do not have to register, provided that each partner of the joint venture is separately registered with the cidb.
- Home builders – Contractors who are registered with the NHBRC as homebuilders are exempt from registering with the cidb unless they also wish to tender for other types of public sector construction work (regulation 4 (1)).

- **Grading System**
  - cidb assigns grades from 1 to 9
  - A contractor's grading designation is determined by the financial and works capability of the business. Financial capability relates to financial history (turnover), the highest value recently completed contracts, and the amount of working capital that can be raised to sustain a contract.

- **Growth and Progression**
  - New contractors start at Grade 1 and can progress to higher grades as they gain experience and financial strength.

- **Registration Period**
  - Valid for 3 years
  - Renewal is required to remain active on the cidb Register of Contractors (ROC)

- www.cidb.org.za

South African Revenue Services (SARS)

- Value Added Tax (VAT)
- Income Tax
- Employee Tax

❑ www.sars.gov.za

Department of Employment and Labour (DOEL):

- Compensation for Occupational Injuries and Diseases (COIDA)
- Unemployment Insurance Fund (UIF)

❑ www.labour.gov.za

National Treasury (NT):

- Central Supplier Database (CSD)

❑ www.treasury.gov.za

Questions

What is NOT a statutory requirement?

a. CIDB registration

b. Tax compliance

c. Health and safety compliance

d. Owning construction vehicles

Statutory compliance helps construction businesses

a. Increase liability

b. Operate legally and avoid penalties

c. Avoid CIDB registration

d. Reduce income

FINDING WORK OPPORTUNITIES

The Business World

The business world comprises many enterprises that are selling goods which people need (products) and/or doing something for other people (services).

Construction businesses sell their services and products to a client through a contract that is either agreed verbally or is committed to in writing.

To be financially sustainable, any business must invoice or bill clients more than the total of all the monies that are expended in the course of running the business.

The amount invoiced and subsequently paid is known as income and the amount of money spent on expenses is known as expenditure.

To operate as a successful business in the construction industry, income per contract should always be greater than the expenditure per contract.

Sources of Work Opportunities

Construction businesses have many avenues to pursue to find work opportunities. If they decide to operate in the public sector, they can look for opportunities in the Government:

- Tender Bulletin, e-tender portal,
- newspapers,
- the cidb i-Tender service on the cidb website (www.cidb.org.za)
- Local Municipality's tender notice board, or
- Networking with other construction businesses is also good, since information on work that one construction business does not want to do can be very useful to another construction business. This also opens up subcontracting possibilities.

Private and Public Sector Tenders and Quotations

- The Public Sector has many rules that govern the way in which they can procure goods, services, or works.
- Section 217 of the Constitution requires that any procurement by a public sector client must be fair, equitable, transparent, competitive, and cost-effective.
- The documentation used to invite quotations and tenders in the public sector are very similar; the difference in the two processes is how they are advertised and who is authorised to award the contract.
- Construction businesses are required to submit tender offers in the form of offer and acceptance whenever quotations or tenders are called for and written contracts are entered into with a public sector client.
- The Private Sector is not required by law to follow any rules relating to procurement (buying) of goods, services, or works. They generally choose the lowest price out of all the tenders they receive and will choose a higher price only if they do not feel confident that the company with the lowest price can do a proper job. They are also free to negotiate contracts or to invite a limited number of construction businesses to submit tenders or quotations based on whatever criteria they choose.

Request for Quotations (RFQ) vs Tender

- **Purpose and Use**

RFQs are suited for smaller, simpler projects; Tenders target larger, complex projects requiring detailed proposals.

- **Process and Evaluation**

RFQs involve fixed-price quotes, while tenders require competitive submissions evaluated on multiple criteria.

- **Contractual Outcome**

Both RFQs and tenders lead to binding contracts once accepted, formalizing the procurement agreement.

- **Preparation Benefits**

Understanding differences helps contractors prepare accurate submissions and comply with procurement rules.

Obtaining Information on Tender Opportunities

The Notice and Invitation to Tender (first page of a tender document prepared in accordance with the requirements of the cidb Standard for Uniformity in Construction Procurement should contain at least the following information:

- A reference number.
- The name of the employer.
- The title of the proposed contract.
- A brief description of the supplies and services or engineering and construction works which are required.
- The closing date and time for the submission of tenders.
- The date, time and place of the compulsory clarification meeting, if any.
- The time and place for collecting the procurement documents.

- This information enables prospective tenderers to make informed decisions regarding the tender opportunity.
- Construction businesses should not pursue tendering opportunities outside of their cidb contractor grading designations or where they don't satisfy any stated eligibility criteria.
- **If they do so, the employer will not evaluate their tender.**
- Estimates of these requirements are provided in the Tender Notice and Invitation to Tender. Eligibility criteria should be stated in Clause F.2.1 of the Tender Data
- When collecting a tender document, it is important to sign and fill in the construction business's contact particulars in any register that the employer may have.
- This will allow the employer to inform the construction business if the closing date for the tender is extended or to issue addenda (changes to the tender document).

Questions

A tender becomes binding when

a. It is advertised

b. Submitted

c. Accepted by the employer

d. Reviewed by consultants

What is the purpose of analysing tender requirements?

a. To increase project risk

b. To understand submission obligations

c. To compare competitors' prices

d. To avoid submitting documents

Finding Work Opportunities other than Tendering

- **Joint Ventures**

Joint ventures enable contractors to combine resources and skills for larger, complex projects.

- **Subcontracting Opportunities**

Subcontracting allows contractors to specialize or join projects led by larger firms.

- **Contractor Development Programmes**

Contractor Development Programmes build capacity, skills, and sustainability among emerging contractors.

Benefits of these alternative pathways

These pathways provide experience, reduce risks, and support gradual business growth.

Joint Ventures

Contractors may form joint ventures for a number of reasons, including:

- The project is too large or complex for one company to undertake with its available resources.
- The project requires specialist skills or abilities which the company is unable to provide on its own.
- In developing countries, including South Africa, the skills and expertise of emerging contractors can be developed through their association in a joint ventures with well-established, experienced companies.

Subcontracting

The practice of subcontracting portions of a construction works contract to others is a well-established practice in SA and elsewhere in the world. The reasons for subcontracting vary between the different types of construction works contracts. In some contracts, there may be a need to acquire specialist capabilities to perform certain aspects of the work. In others, there may be a need to subcontract portions of the work to increase the contracting capacity of the contractor or to satisfy client requirements or expectations relating to the engagement of small and micro enterprises or local enterprises in a contract

There are three types of subcontractors:

- A domestic subcontractor is a subcontractor appointed by the main contractor at his discretion, in which case the contractor is free to negotiate the prices and terms for subcontracting.
- A nominated subcontractor is a subcontractor nominated by the employer which the contractor is obliged to appoint as a subcontractor.
- A selected subcontractor is a subcontractor selected by the contractor in consultation with the employer in terms of the requirements of the contract.

Contractor Development Programmes

Contractor Development Programme (CDP) is a deliberate and managed process to achieve targeted developmental outcomes that improve cidb registered contractors:

- Grading status
- Performance and quality
- Equity and targeted ownership

There are two (2) methods of delivering contractor development

Direct Targeting (Incubator)

Indirect Targeting

- Structured JVs
- Subcontracting
- Construction Management
- Unbundling
- cidb Standard for Indirect Targeting for Enterprise Development

Questions

Domestic subcontracting may occur when

a. The contractor wants full control of pricing and terms

b. Employer selects the subcontractor

c. CIDB assigns subcontractors

d. The subcontractor has Grade 9

Subcontracting is commonly used to

a. Transfer all risks to clients

b. Obtain specialist capabilities

c. Reduce project quality

d. Avoid main contractor responsibility

FINANCIAL MANAGEMENT

Financing a Construction Business

- Financial management is central to contractor success
- Poor financial management is a major cause of failure
- Money must be planned, controlled, and monitored

- Contractors need money to start and operate
- Money is required for day-to-day operations (labour, materials, plant, and overheads)
  - Initial investment must generate a return (finance decisions affect profitability)

Sources of Finance

- Equity capital – owner or investor contributions
- Borrowed capital – bank loans and overdrafts
- Retained profits – reinvesting earnings
- Development Finance Institutions support growth
  - NEF - www.nefcorp.co.za
  - SEDFA – www.sedfa.org.za
  - GEP – www.gep.co.za

Keeping Records and Accounts

- Accounting tracks money coming into and leaving the business
- Each project should have its own financial records
- Office overheads must be controlled
- Records support loan and funding applications
- Financial records indicate business health

Income, Expenditure, and Profit

- Income must exceed expenditure for survival
- Income differs from cash received
- Expenditure includes all business and project costs
- Profit is income minus expenses
- Losses must be funded from reserves or loans

Questions

Financial management in a construction business is important because it

a. Reduces workload

b. Ensures finances are properly planned, controlled, and used

c. Removes business risk

d. Eliminates the need for accountants

Working capital refers to

a. Equipment used on site

b. Money needed for daily operations until client payment

c. Long-term investments

d. Office furniture

TENDERING FOR PUBLIC SECTOR WORK

Tendering Considerations

- Market segment must be identified
- Understand Competitors - competitors influence pricing
- Assess Risk and Profitability - risks must be analysed, and profitability must be assessed
- Decide whether to Tender - not all tenders should be pursued

Tender Process and Submission

- Tender documents must be read carefully
- Understand the eligibility requirements
- Clarification/site tender briefing meetings - clarification meetings may be compulsory
- Site inspections reduce uncertainty for accurate pricing
- Complete returnable documents - Tender checklist improves compliance
- Complete and accurate submissions are essential
- Submit before closing time

Public Sector Procurement

- Public procurement is legally regulated
- cidb Standard for Uniformity applies - Uniformity in tender documents
- Procurement must be fair, equitable, transparent, competitive, and cost-effective (Section 217 of the Constitution)
- Ethical behaviour is required

Eligibility and Compliance

- cidb registration is mandatory
- Contractor grading limits tender value
- Eligibility criteria must be met
- Proof of attendance of the compulsory site clarification meeting is required
- Non-compliant tenders will be rejected

Tender Evaluation

- Tenders are evaluated on functionality (technical assessment of the bidder)
- Thereafter, price and preference points are applied
- Corrupt practices result in disqualification
- Preferred tenderer must be acceptable

Questions

Failure to attend a compulsory meeting

a. Reduces points

b. Renders tender non-responsive

c. Requires penalty fees

d. Extends the closing date

Non-responsive tenders include those that

a. Fail to meet eligibility criteria

b. Are submitted early

c. Are printed in black and white

d. Include discounts

PRICING STRATEGIES & PRICING A TENDER

Pricing Strategies

- Bills of Quantities (BOQ) price measured work obtained from drawings, specifications, and site conditions (site briefing meeting) – the **most common form of pricing strategy.**
- Schedules of Rates price uncertain quantities – contractor submits rates only and is paid an amount for work completed based on the rate.
- Lump-sum Prices – employer pays the contractor a fixed total price upon completion.
- Cost reimbursable contracts pay actual costs – the contractor is paid an agreed percentage fee for overheads and profit, and is reimbursed at market-related rates for predetermined cost items
- Target cost shares savings and overruns

Pricing a Tender

- Work content must be identified
- Labour, plant, and materials are priced
- General items are included
- Risk allowances must be considered
- Final price must be competitive and profitable

Making a Tender Submission

Follow the instructions for:

- pricing the tender offer;
- submitting a tender offer; and
- ensure that the employer receives the tender offer before the closing date and time for tenders.

The construction business should also confirm how many copies of documents and which certificates need to be included in the tender submission.

Questions

Pricing strategies commonly used in construction include

a. Lump sum, bills of quantities, schedules of rates

b. Discounts only

c. Negotiated fees only

d. Labour-only pricing

A bill of quantities (BOQ) lists

a. Staff allocations

b. Project quantities measured in detail

c. Supplier contacts

d. Tender conditions only

CONTRACTUAL CONSIDERATIONS

Construction Contracts

- A contract creates legal obligations between a client/employer and the contractor
- Contracts define rights and responsibilities and may be entered into in several ways
  - verbal Offers
  - the signing of a formal contract document
  - exchange of letters
- Standard forms reduce disputes – There are four forms of contract endorsed by the cidb
  - FIDIC (French Initials for International Federation of Consulting Engineers) (1999) (Short contract and Red, Yellow, and Silver Books).
  - General Conditions of Contract for Construction Works (GCC).
  - JBCC Series 2000 (Principal Building Agreement and Minor Works Agreement).
  - New Engineering Contract (NEC3) (Engineering and Construction Contract and Engineering and Construction Short Contract).

- Proper contract formation is essential - A construction contract should, in its simplest form, describe the following:
  - What will be done
  - How long will it take to complete the works
  - How much and when the employer will pay
  - What will be done if there are changes and delays in the work
  - What work methods and quality will apply

Managing Contracts

- Interim (Monthly) Payment Certificate (IPC) – based on work done for the month
- Variations affect price and time (scope changes)
- Retention secures defect correction (money withheld by client from IPC)
- Disputes must follow contractual procedures (dispute resolution mechanisms)
- Contractor’s lien protects payment rights – (right of retention of the site/property)

Poor contract management affects profitability

Questions

A contract becomes valid once

a. The client emails approval

b. There is an offer and unconditional acceptance

c. Work begins

d. Contractor submits a quote

For a contract to be valid, parties must have

a. The same supplier

b. Legal capacity

c. The same grading

d. Identical pricing

PROJECT AND CONTRACT MANAGEMENT

ADMINISTERING A CONTRACT

Contract Administration

- Management of contractual rights and obligations
- Ensures compliance with agreed conditions
- Prevents disputes and financial loss
- Supports effective project control

Conditions of Contract

- Defines responsibilities of the employer and contractor (the employer provides the site and right to access, while the contractor provides the works)
- Timing of the works (sets start and completion dates), and defect procedures
- Payment, variations and claims (assessment of the works and amounts certified, time for payment, etc.)
- Allocates risks and insurances (understanding each parties risks and what insurances will be taken out)
- Provides termination (reasons for termination, procedures, and payment to be made upon termination) and dispute resolution mechanisms (adjudication, arbitration, mediation, litigation – court of law or a combination thereof).

Contract Communication

- ➢ must be written and recorded
- ➢ addressed to the correct contract representative
- ➢ includes notices, instructions, and claims
- ➢ poor communication leads to disputes

Managing Time

- ➢ Programme shows activity sequence
  - Identifies critical path, activities with no float (spare time)
  - Used to assess extension-of-time claims
- ➢ Delays affect completion and penalties

Completion and Penalties

- ➢ Completion means works ready for occupation
- ➢ Triggers reduction of retention
- ➢ Late completion attracts penalties

Questions

What do “conditions of contract” describe?

a. The weather during construction

b. Rights and obligations of contracting parties

c. The contractor’s profit margin

d. The client’s marketing plan

Which method is usually quicker and less formal than litigation?

a. Adjudication

b. Court trial

c. Tax audit

d. Tender evaluation

PREPARING TO START THE CONTRACT

Pre-Contract Start Requirements

At the start of any contract, contractors need to deliver certain items in terms of the contract.

- Proof of insurance that the contractor is required to have.
- Provision of a performance bond (if not opting for retention)
- Preliminary contractual construction programme – showing logical sequencing of activities to be undertaken.

Resourcing the Project

- Identify labour requirements – how many people are required on site for each activity
- Plan material quantities – identify the gross quantities of each type of material that will be required to construct the works.
- Plant & equipment required - allocate equipment wisely (do you need to provide a batching plant or will you make use of ready-mix concrete)
- Support smooth production

MANAGING HEALTH AND SAFETY

Legal Framework

- Occupational Health and Safety Act (Act 85 of 1993), supplemented by several regulations like Construction Regulations, National Building Regulations, etc.
- Compensation for Occupational Injuries and Diseases Act (Act 130 of 1993)(COIDA)
- Employer duty of care
- Legal penalties for non-compliance

Workplace Accidents

- Unplanned events causing injury
- Common injuries: hands, feet, eyes
- Most injuries are preventable
- PPE is essential

Long-Term Health Risks

- Noise exposure
- Dust and silicosis
- Welding fumes

Health & Safety Controls

- Risk assessments
- Safety plans
- Training and induction
- Incident reporting

Questions

A workplace accident is best defined as

a. A planned event with expected outcomes

b. An unplanned event with undesirable outcomes

c. A disciplinary issue

d. A medical condition

Construction sites are considered high-risk environments because

a. They are temporary

b. Many activities occur simultaneously

c. They are noisy

d. Equipment is expensive

SITE ESTABLISHMENT AND ADMINISTRATION

Site Establishment

- Early mobilisation essential
- Efficient layout improves productivity
- Reduces accidents
- Enhances site professionalism

Site Layout Considerations

- Offices and storage
- Access routes
- Security
- Neighbouring properties

Site Facilities

- Worker facilities
- Ablutions and water
- Storage sheds
- Equipment areas

Site Administration

- Supports production and control
- Ensures compliance
- Provides legal record
- Improves project outcomes

Record Keeping

- Site diary
- Drawing registers
- Correspondence (site meeting minutes, site instruction book, RFI, email, etc.)
- Photographic records
- Labour and equipment records (timesheets and equipment usage)

Stores and Inventory

- Material control
- Prevent wastage
- Secure storage
- Stock reconciliation (cost control)

Questions

When planning site layout, neighbouring properties should be considered to

a. Reduce local employment

b. Avoid disturbance and complaints

c. Increase the running time of the equipment

d. Ignore distractions

Effective site administration primarily supports

a. Only safety compliance

b. Only cost control

c. Production, quality, and contractual compliance

d. Payroll processing only

FINISHING THE PROJECT

Completion

- Works ready for occupation
- Defects liability period begins where the contractor is obligated to make good on any shortcomings
- Retention reduced
- Securities released

Snag Lists

- Identify defects – corrections needed to be undertaken
- Track corrections
- Confirm rectification
- Support certification

Post-Completion

- Clear the site, ensure all rubble, equipment, and unused material are removed
- Close financial accounts, recover deposits paid for temporary connections like water, electricity
- Return guarantees to subcontractors
- Provide record drawings – as-built drawings

Questions

Project completion generally refers to the stage when

a. All payments are made

b. Construction work is substantially complete

c. The defects period expires

d. Final accounts are agreed

Finishing the project requires careful attention to

a. Quality

b. Documentation

c. Contractual procedures

d. All of the above

CONCLUSION

Conclusion

- Sound contract administration protects the rights of all parties
- Good planning ensures profitability
- Safety and quality are non-negotiable
- Professional completion builds reputation

THANK YOU

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