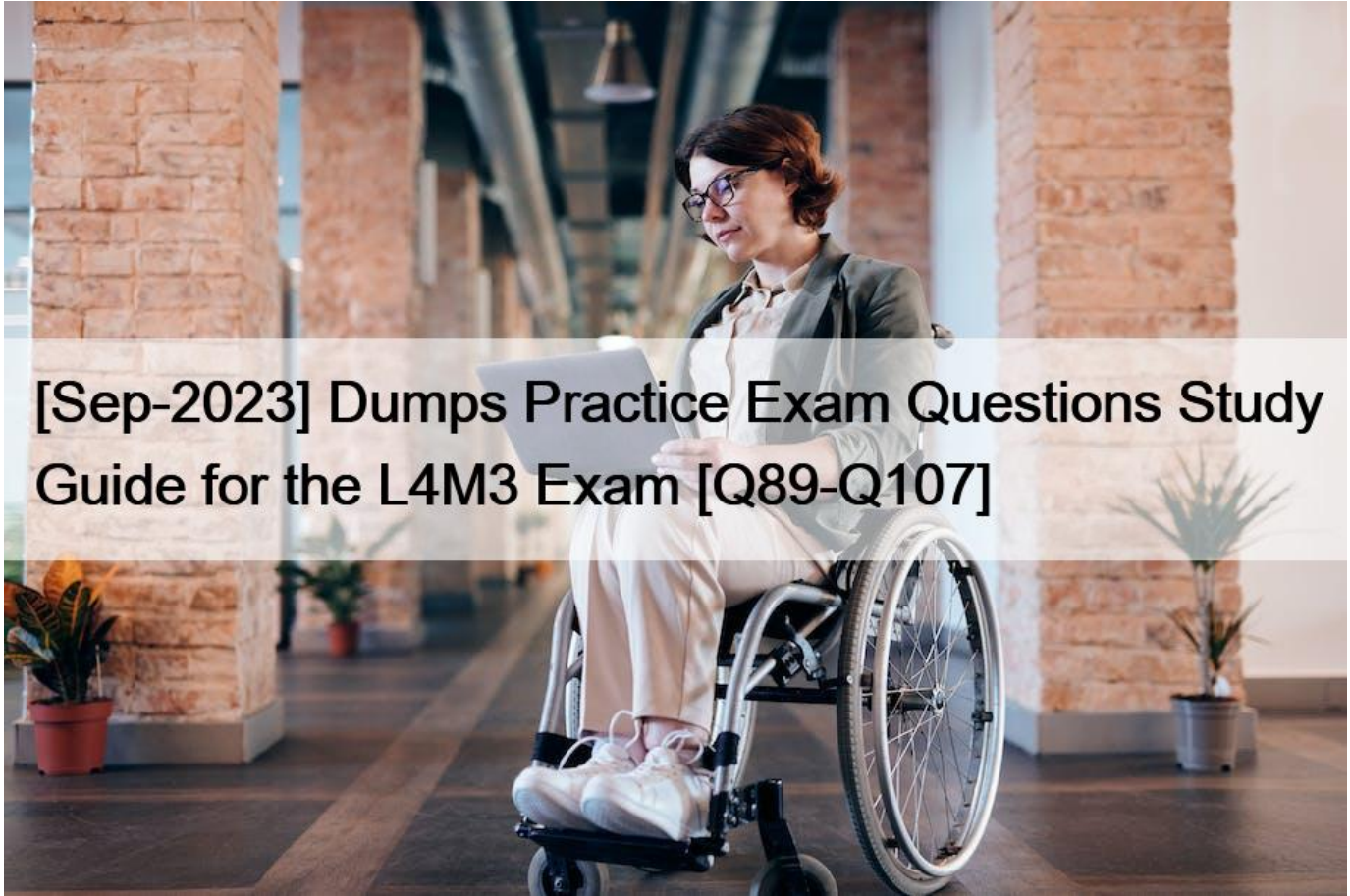


[Sep-2023 Dumps Practice Exam Questions Study Guide for the L4M3 Exam [Q89-Q107]



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L4M3 Dumps with Practice Exam Questions Answers

CIPS L4M3 (CIPS Commercial Contracting) Certification Exam is designed for procurement and supply chain professionals who are interested in enhancing their knowledge and skills in commercial contracting. CIPS Commercial Contracting certification exam is part of the CIPS (Chartered Institute of Procurement and Supply) qualifications and is recognized globally. The CIPS L4M3 exam covers a range of topics related to commercial contracting, including contract management, contract law, and negotiation skills.

NO.89 Which of the following statements is FALSE on contracts for the leasing of assets?

- * The party responsible for maintenance, insurance and taxes is subject to negotiation
- * In lease agreement, the possession and right of use of an asset are transferred to the lessee
- * The ownership of leased asset is transferred to the lessee at the end of the period
- * The lessee may bear some risks of ownership, such as the liability to insure the asset

A lease is a contractual arrangement calling for the lessee (user) to pay the lessor (owner) for use of an asset. Some characteristics of Leases are:

• The right to use the lessor's asset is granted in exchange for a fee called the lease payment.

• The lease payments are usually paid in installments.

• Leases may be long- or short-term.

• At its inception a lease agreement constitutes a mutually unperformed contract. Though the ownership of the asset is not transferred to the lessee, some responsibilities and risks do. The lessor and lessee may negotiate on who is responsible on maintenance, insurance, etc.

Reference:

LO 1, AC 1.3

NO.90 A fashion company is drafting a specification for an order in next year. The company wants to expand its supply base in low cost countries. The procurement department is considering applying standard ISO 3759 on method for the preparation, marking and measuring of textile fabrics, garments and fabric assemblies for use in tests for assessing dimensional change after a specified treatment. Which of the following should be taken into account when embedding this standard into the specification?

- * Date of publication
- * Supplier selection
- * Type of specification
- * Legality

Standards are incorporated into specifications by simply cross-referring to the relevant standard by its number and date of publication. It is important to include the date of publication. All standards are reviewed from time to time and their content changes. The absence of the publication date will lead to disputes over which version of the standard actually applies to the contract.

Reference:

LO 2, AC 2.1

NO.91 CMS Corp goes into a gainshare agreement with the contractor, EIP Ltd. Both parties agree that the final fee will be calculated on target cost • target fee basis. Which of the following will affect the final fee payable in this gainshare agreement? Select TWO that apply:

- * Accrual expense
- * Final price
- * Purchaser goodwill
- * Supplier share
- * Actual cost

An incentive contract is a sub-segment of a fixed-price or cost-reimbursement contract when there are specific cost or time commitments that are desired for a project. The standard incentive contract will allow for a fixed price to be paid for work to be completed by a specific deadline and at a specific cost.

There are two major types of incentive contracts: Cost-plus-incentive fee and Fixed-price incentive (firm target) contracts. Both types have the same formula for calculating final fee and final price.

The target fee is the amount that will be paid if the actual costs (which can be proven) match the target costs. The actual fee will be adjusted in proportion to the difference between the target cost and the actual cost. The usual calculation is:

Target fee + ((target cost • actual cost) x Supplier share) = final fee
The final price then becomes:

Actual cost + final fee = final price

Reference:

LO 3, AC 3.3

NO.92 Which of the following are likely to be advantages of using invitation to tender? Select TWO that apply:

Short turnaround times

- * Quick implementation
- * Driving forward planning culture
- * Lower administration costs
- * Reducing risks of bribery and corruption

Advantages of using invitation to tender may be as below:

No Nepotism: Tenders or bids are evaluated on the basis of certain predetermined criteria, such as price, quality and value for money. In other words, the firm offering the highest quality product or service at the lowest price point would win the contract. As most tender documents are opened and evaluated in a public process, I think that there remains little room for nepotism or favoritism of any kind.

Value for Money: From the perspective of the client, tenders offer the greatest value for the amount of money spent. This is due to the fact that the client can choose from a wide pool of potential suppliers to select the ones that can produce the highest quality product or service at the lowest price point. This allows the company, establishment or organization to save money without having to compromise on quality. Therefore, despite being quite time consuming, tendering is, in my opinion, a profitable long-term process from an organization's point of view.

Encourages Competition: The process of tendering helps promote a competitive market. This is because a number of potential contractors, firms or suppliers get a chance to bid for every project. And because selection depends on quality and price, every bidder tries to reduce operational inefficiencies and redundancies as much as possible in order to lower expenses and improve quality. This entire process encourages healthy competition in the market and prevents complacency and laziness, which in turn provides a boost to innovation and new ideas.

Easier Entry: The system of tendering makes it easier and simpler for new firms to enter the market or even a particular industry. This is due to the fact that contracts under this system are awarded on the basis of predetermined, objective criteria. As a result, even a firm that is a new entrant to the market, having no connections or contacts in the industry, can win a prestigious and lucrative contract by providing the highest value for the client's money. This process therefore helps new firms to quickly get a foothold in the market or industry, thus significantly lowering the traditional barriers to entry.

Reference:

– Characteristics and Benefits of the Tendering Process

– CIPS study guide page 6-8

LO 1, AC 1.1

NO.93 Blakenall District Hospital (BDH) is a large hospital that is a major part of the government's health service. Purchasing staff are in the habit of placing many long-term contracts with suppliers and sub-contractors. Whilst these contracts are usually carried out successfully, prices are often paid that are well over budget. The purchasing manager is concerned to find that, in

some cases, members of staff are forcing suppliers to accept fixed price contracts. The policy has caused several problems such as some suppliers refusing to deal with BDH and a few going out of business mid-way through performing a contract with BDH. This is due to fluctuating market prices of materials. The procurement manager suggests supplier to adopt variable pricing arrangement with price index. Is this a right course of action?

- * No, variable pricing would only benefit the suppliers
- * Yes, this type of arrangement would provide absolute certainty when budgeting
- * Yes, this pricing arrangement would reimburse the fluctuation of material prices
- * No, price adjustment should be applied to short-term supply contract only (3-month duration or less)

Procurement staff in the Hospital is forcing suppliers into fixed price contract. If the costs generally rise, supplier may operate at a loss. This situation can disrupt the relationship, that is the reason why some suppliers refusing to deal with BDH and a few going out of business mid-way.

Alternative methods could be variable pricing arrangement. This method would reimburse the fluctuation of market price. It will also benefit buyer if the market price drops. This type of arrangement should be applied to long-term contracts (i.e. 18 months or more).

Reference:

LO 3, AC 3.3

NO.94 Which of the following are driving forces for increasing use of social and environmental criteria in specifications? Select TWO that apply.,

- * Process efficiencies
- * Stakeholder pressure
- * Insufficient financial resources
- * Scarcity of environmentally sustainable suppliers
- * Carbon footprint measure

Reasons for including social and environmental criteria may include the following:

– Expected Cost Savings and Financial Motives

– Management Support and Commitment

– Employees

– Altruistic Values

– Power Imbalances along the supply chain

– Image and Reputation

– Government Regulations

– Customers

– Competitors

Management, employees, government, customers and competitors are among the stakeholders that make pressures to the organisation on social and environmental criteria.

Reference:

– Drivers and Barriers to the Adoption of Sustainable Procurement in SMEs

– CIPS study guide page 95-96

LO 2, AC 2.1

NO.95 A procurement manager is setting KPIs measurement for user satisfaction. He also wants to encourage users to share the reason why they feel the way they do. Which of the following types of KPI should the procurement manager apply?

- * Quantitative measure
- * Numerical measure
- * Binary measure
- * Qualitative assessment

There are 3 types of KPI measure:

– Binary KPIs

– Quantitative KPIs (or numerical)

– Qualitative KPIs

User satisfaction is subjective, therefore, using qualitative assessment is the best answer.

Reference:

LO 2, AC 2.2

NO.96 Which of the following KPIs is qualitative?

1. Openness and co-operation of supplier
2. Responsiveness of supplier
3. Customer satisfactory ratings
4. Cost management
5. OTIF deliveries

- * 2 and 5 only
- * 1 and 3 only
- * 2 and 3 only
- * 1 and 4 only

Qualitative KPIs are based on pure opinions about how well or otherwise the goods are performing or the service is being delivered. Most often, these will be linked to, or converted into, a numerical measure. However, such satisfaction surveys often also include free fields for respondents to explain why they feel the way they do, and what they might have liked to have been different.

On the other hand, quantitative KPIs are based on numerical measure with either definite number (e.g., actual number of orders incomplete or otherwise inaccurate during the time period) or as a percentage (e.g. number of inaccurate orders as a percentage of the total number of orders).

Openness and co-operation means that supplier is open and co-operative in its relationship with purchaser, e.g., in terms of joint problem solving. This KPI is qualitative since it is measured by individual judgement.

Responsiveness of supplier means the supplier responds rapidly to requests for information and support without having to be chased. It is measured by the number of times requests chased as a percentage of number of requests. It is a quantitative KPI.

Customer satisfactory ratings means the level of customer's satisfaction. This KPI is measured by periodic survey and it is a qualitative KPI.

Cost management is another quantitative KPI. It can be measured by comparing between the actual costs and the contractual costs.

OTIF (one-time in-full) deliveries is a quantitative KPI. It can be measured by counting the inaccurate deliveries in the period or inaccurate deliveries as a percentage of total number of deliveries for period.

Reference:

LO 2, AC 2.2

NO.97 Which of the following is the model form of contract for construction which is recommended by World Bank?

- * ITC
- * JCT
- * CIPS
- * FIDIC

FIDIC is the International Federation of Consulting Engineers (or Federation Internationale des Ingenieurs Conseils in French). FIDIC has produced many publications, including the model form contracts, best practice guidances, research on sustainability, integrity and risk management. FIDIC model form contracts have been developed by this organisation since 1999, now they consist of several different books which are marked by colours. Thus, FIDIC model contracts also have the nickname 'Rainbow suite of contracts'. Basically, the 'Rainbow Suite' include the following books:

- * Yellow book: Plant and Design-Build Contract (2 editions: 1999 and 2017)
- * Silver book: EPC/Turnkey Contract (2 editions: 1999 and 2017)
- * Red book: Construction Contracts (2 editions: 1999 and 2017)
- * Emerald book: Conditions of Contract for Underground Works (1st Ed 2019)
- * Blue-Green book: Dredgers Contract (2 editions: 2006 and 2016)
- * Gold book: Design, Build and Operate Contract Guide
- * Pink book: Construction Contract Multilateral Development Bank Harmonised Ed (2 editions: 2005 and 2010) This type of model contract is commonly used around the world because its author, International Federation of Consulting Engineers, collaborates closely with development banks such as World Bank, Africa Development Bank, Asia Development Bank, etc. Every construction project that is financed by these institutions must adopt the FIDIC contracts.

The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom. From its establishment in 1931, JCT has expanded the number of contributing organisations.

ITC (International Trade Centre) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures. Many small companies are now engaged in international trade, but don't have access to the necessary contract forms to protect themselves. ITC and leading legal experts developed eight generic contract templates that incorporate internationally recognized standards and laws for most small business situations.

CIPS has several model forms of contract designed specifically for IT buying and servicing.

Reference:

LO 3, AC 3.1

NO.98 A buyer and a supplier plan to sign a contract with cost-plus arrangement. If the cost base is \$350 and the markup component is 11% then the invoice price will be

- * 393.26
- * 388.5
- * 368.5
- * 362

Markup is the percentage between the profit and costs. The cost is \$350, markup is 11%. So final price is: $350 + 350 \times 0.11 = 388.5$ Reference:

LO 3, AC 3.3

NO.99 Which of the following is the reason why liquidated damage clauses are embedded into a contract?

- * Because liquidated damages are the only remedy
- * To penalise the supplier for their wrongdoing
- * To avoid argument on correct measure of damage
- * Because compensation will be awarded immediately

Liquidated damages are an amount of money, agreed upon by the parties at the time of the contract signing, that establishes the damages that can be recovered in the event a party breaches the contract. The amount is supposed to reflect the best estimate of actual damages when the parties sign the contract. These usually apply to a specific type of breach, and in construction, it is frequently the failure to complete work on time.

Liquidated damages clauses are usually written as some sort of formula, for example:

Total Contract Price + [(X amount of \$ per day) x (number of days late)] Including a liquidated damages clause can provide many benefits, the most important of which is predictability. When setting a predetermined amount of damages, it allows both parties a chance to negotiate and settle on a number they both feel is fair and reasonable.

From the owner's perspective, this acts like a cheap form of insurance against your contractors. In the event of a breach, the owner can immediately calculate the damages without going through the trouble of proving actual damages. Proving actual damages can be a complicated, lengthy, and costly process.

From a contractor perspective, this allows them to analyze the level of risk involved, and schedule appropriately. It also allows them the opportunity to limit the damage claims of the owner.

Reference:

Construction Contract Clauses: What Is a Liquidated Damages Clause?

– CIPS study guide page 158-159

LO 3, AC 3.2

NO.100 Which of the following will be always automatically deemed as a consideration?

- * Promise to perform over and above an existing obligation
- * Promise given to a third party
- * Implied consideration
- * Past consideration

Consideration only appears in common law countries. Below are some examples of what is and what is not consideration:

– Past consideration is something that has already been done or given. This cannot act as consideration

– Implied consideration: if the detail of a promise to pay is expressed after the provision of goods or services, but there is an implication that such promise would be forthcoming, this may (depending on the facts) be valid consideration.

– A promise given to a third party: this is not normally consideration, and is based on a concept known as privity of contract. Anyone who is not a party to the contract, even if they are beneficiary of it, cannot sue if the terms of the contract are breached.

– A promise to perform over and above an existing obligation: This is always consideration Reference:

– Consideration & Promissory Estoppel

– CIPS study guide page 36-40

LO 1, AC 1.2

NO.101 Which of the following would be useful tools to incentivise supplier innovation over the duration of the contract?

1. Gainshare arrangement
 2. Liquidated damages
 3. Service credits
 4. Fixed bonus payments
- * 3 and 4 only
 - * 2 and 4 only
 - * 1 and 4 only
 - * 1 and 3 only

Gainshare is an incentive for cost control

Liquidated damage is common type of disincentive for late completion

Service credit is a remedy for not achieving targets set out in an SLA

Fixed bonus payment is an incentive for early completion

Reference:

LO 3, AC 3.3

NO.102 The pricing arrangement in which markup is added into cost base to calculate the final price is known as?

- * Fixed Price approach
- * Market based approach
- * Price indices
- * Cost plus pricing

The market approach is a method of determining the value of an asset based on the selling price of similar assets.

A fixed-price strategy means you set a price and keep it constant for an extended period of time.

Cost-plus pricing is also known as markup pricing. It's a pricing method where a fixed percentage is added on top of the cost to produce a price index (PI) is a measure of how prices change over a period of time, or in other words, it is a way to measure inflation. There are multiple methods on how to calculate inflation (or deflation).

Reference:

LO 3, AC 3.3

NO.103 In a sale contract, a clause requires the seller to defend, reimburse, and hold harmless the buyer and its personnel from and against any and all damages arising in connection with some specific circumstances. This clause is an example of?

- * Insurance
- * Liquidated damages
- * Indemnity
- * Force Majeure

An indemnity is a promise by one party to compensate another for the loss suffered as a consequence of a specific event, called the trigger event.

The trigger event can be anything defined by the parties, including:

* A breach of contract;

* A party's fault or negligence;

* A specific action.

An indemnity operates as a transfer of risks between the parties, and changes what they would otherwise be liable for or entitled to under a normal damage claim.

Force Majeure Provisions: A force majeure event refers to the occurrence of an event which is outside the reasonable control of a party and which prevents that party from performing its obligations under a contract.

Liquidated damages are presented in certain legal contracts as an estimate of otherwise intangible or hard-to-define losses to one of the parties. It is a provision that allows for the payment of a specified sum should one of the parties be in breach of contract.

LO 3, AC 3.2

NO.104 Which of the following are reasons why a buying organisation adopts a model contract?

1. Extremely advantageous terms for buyer
 2. Correct legal terminology
 3. Supplier cannot make variation to the model form
 4. Specific to industry
- * 1 and 2 only
 - * 2 and 4 only
 - * 2 and 3 only
 - * 1 and 4 only

Advantages for the use of model forms of contract include:

- * Helps to reduce the time and cost in contract development, particularly in detailed negotiation of terms and conditions.
- * Avoids starting from the beginning each time, avoids re-inventing the wheel; each time.
- * Model contract forms may be widely accepted by both buyers and sellers across the industry or sector.
- * Model contract forms are even handed and designed to be fair to both parties in the contract.
- * Model contract forms include standard clauses that can be selected or deleted on an as required basis.
- * Model contract forms standard clauses are more likely to contain the correct legal terminology without recourse to third party experts.

Disadvantages of this type of contract include:

- * Terms may be less advantageous, than may be achieved through negotiations, particularly where there is one party who is much stronger than the other.
- * The generic contract may be difficult to adapt to the specific circumstances between two parties.
- * Terms may not necessarily include special clauses or requirements to cover a particular or unusual situation.
- * Legal advice and input may still be required, particularly where significant variations to the norm are required.
- * There may be costs associated with training staff in the detailed application of the model forms of contract.

Reference:

– D5 Sample QUESTION and answer

– CIPS study guide page 147

LO 3, AC 3.1

NO.105 In a contract, express terms and implied terms may contradict on the same issues. Under which of the following circumstances, implied terms will override express terms?

- * Implied terms are created by trade customs

- * Contracting parties are silent on a matter that was not included in express terms
- * No circumstances. Express terms always take precedence over implied terms
- * Implied terms are created by law which prevents them to be overridden

Express terms are the terms of the agreement which are expressly agreed between the parties. Ideally, they will be written down in a contract between the parties but where the contract is agreed verbally, they will be the terms discussed and agreed between the parties.

Implied terms are terms implied into the contract by the courts. They are not expressly set out in the contract but are taken to be as effective as if they were and as if they had been included from day one of the contract. The express terms and any implied terms together create the legally binding obligations on the parties.

Express terms are explicit and will normally override implied terms unless the implied term is created by statute and the law states that it cannot be overridden.

Reference:

– Contracts: Express and Implied Terms

– CIPS study guide page 126-132

LO 3, AC 3.1

NO.106 Which of the following will always give rise to a claim of misrepresentation?

1. Silence
 2. False thought
 3. Statement of fact
 4. Representation by conduct
- * 1 and 2 only
 - * 1 and 3 only
 - * 3 and 4 only
 - * 2 and 4 only

A misrepresentation is a false statement of fact or law which induces the representee to enter a contract. Where a statement made during the course of negotiations is classed as a representation rather than a term an action for misrepresentation may be available where the statement turns out to be untrue.

For a party to claim for misrepresentation, there must be a false statement of fact or law as oppose to opinion or estimate of future events. It does not matter whether the incorrect information is given by words or takes the form of misleading conduct.

Silence will not generally amount to a misrepresentation. However, it can become a misrepresentation in some exceptional circumstances.

In the L4M3 study guide, the author states that “A statement of law is not misrepresentation”. This is untrue in both common law and civil law systems. In the UK, false statement of law will now amount to an actionable misrepresentation (see *Pankhania v Hackney* [2002] EWHC 2441).

Reference:

– Misrepresentation

– L4M3 study guide page 53-55

LO 1, AC 1.2

NO.107 Under which of the following scenarios an RFQ is most likely to be used?

- * Purchase of a small number of standardised products under a framework agreement
- * Purchase of complex machinery
- * Design of a unique and complex software code
- * When the buying organisation does not know the requirements in details and needs the input from suppliers

The request for quotations is a procurement method that is used for small value procurements of readily available off-the-shelf goods, small value construction works, or small value services procurements. Request for quotations works best under a framework agreement This procurement method is also known as invitation to quote and shopping, and it does not require the preparation of tender documents to the same extent as open tendering, request for proposals or two-stage tendering.

Among 4 options:

– “Purchase of a small number of standardised products under a framework agreement”; the products are standardised and there is a framework agreement in place, so RFQ is the best solution.

– “Purchase of complex machinery”; Complex machinery is often a large purchase. Furthermore, suppliers’ quality may vary. So RFQ is not suitable, instead, depending on the situation, buyer may opt ITT or RFP to purchase this type of machinery.

– “Design of a unique and complex software code”; Unique and complex software is not off-the-shelf, thus RFQ is not suitable.

– “When the buying organisation does not know the requirements in details and needs the input from suppliers”; When the detailed requirements are unknown, the best solution is request for proposal or developing dialogue with suppliers.

Reference:

– Request for Quotations

– CIPS study guide page 3-4

LO 1, AC 1.1

CIPS L4M3 exam is an essential qualification for procurement professionals who want to advance their careers in the field of commercial contracting. L4M3 exam is recognized globally and is highly respected by employers in industries such as manufacturing, construction, and services. Procurement professionals who pass the exam will have a competitive advantage in the job market and will be well-positioned to take on more senior roles in their organizations.

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