



Brian Farrington Limited Procurement and Business Solutions People *November 2005 Newsletter*

Dr Ken Lysons.

A personal word from our Managing Director.

It is with great sadness that I have to advise our readers that Dr Ken Lysons passed away late in October. His passing is just a few weeks after our book 'Purchasing & Supply Chain Management' was published. Ken was, rightly, very proud of that achievement. I have greatly enjoyed working with Ken over the past year.

Ken was an exceptional man with a very wide range of interests. It was a privilege to know him as a friend and colleague over many years.

Contractual Matters.

We are currently engaged in assignments that require us to analyse contracts where there are elements of contractor breach of contract.

It is a sobering experience to read a contract that, at the time of signing, seemed robust. However, faced with specific breaches it looks less than robust. We think the situation can be changed at the time contracts are being drafted.

The process must be linked to risk management processes. The work that needs doing is to use imagination to ask 'What can go wrong?' Having identified the worst case scenarios they should be tested with the detail of the contract.

We can give you an example from an outsourcing contract. If there is a failing service it could be sound practice to have a Step In Rights clause. That would mean the client taking over the service to get things back on track. It sounds simple until you ask about the use of the contractor's IT systems and the use of the contractor's staff who would, of course, have been transferred under TUPE. Whilst you contemplate these implications what will you do about withholding payment for the duration of the step in? Will you also consider applying damages as provided for in the contract? What happens to the IPRs that already exist and

those that may be created whilst a step in is taking place?

This example deals with one potential issue. Many contracts are not subjected to this degree of challenge.

Our International Research.

On previous occasions we have mentioned our international research. We have been reading a report on the purchase of voting machines in the USA by the Department of Elections and Registration. One of the conclusions was that the department spent \$15,445 m and could have saved \$8,565 m by improved procurement practices.

The report was produced after an investigation, or, put another way, after due diligence. The department paid nearly four times the going rate for installation. How do they now know? The investigators obtained written quotations from other installers.

It is shown that the department's employees participated more in the installation than did the supplier's employees! Payments for installation amounted to \$922,000 when the cost to the supplier was \$71,630. This represents a profit of 92%.

This should be enough to convince our profession to insist on suppliers providing cost models at the time of tendering. It should also be enough to convince everyone that buyers need training in cost and pricing decisions made by suppliers.

The resistance of some suppliers to cost disclosure is extreme. We have heard it all. The information is confidential. Our Head Office will not let us release the information. It is not our company policy to release a cost breakdown. We urge you not to yield to these excuses.

Distance Learning Opportunities.

There are many international organisations and large national organisations who could benefit from distance learning.

We have a solution that builds upon the book referred to earlier in this newsletter. There are case studies throughout the book. Under special arrangements with the publisher there is an on-line instructor's manual with a summary of each chapter, salient points and a structured 'answer' to the case studies.

It is now possible to contract with us for a structured learning programme, embracing the qualities of distance learning.

For further details on the format and benefits of our approach please contact Steve Ashcroft.

Quality Management.

In January we will, again, be subjected to our annual assessment for our BS EN ISO 9001:2000 quality system.

Do you have this system in your buying operation? We suggest that you consider it very seriously. The discipline it imposes will not, initially, be welcome, but it provides an excellent challenge to the way in which quality standards are applied.

Hawksmere courses
Our successful working relationship with Hawksmere, the leading specialist open-course marketing firm continues to grow. Courses planned in early 2006 cover issues including DEFCONs, IT & software procurement, six sigma in purchasing, outsourcing and winning public sector tenders. All available as in-house courses.

Your view

Questions?
Queries?
Comments?

Contact: Stephen Ashcroft
T: +44 (0)1744 20698
s.ashcroft@brianfarrington.com