



**NATIONAL CONSTRUCTION COUNCIL
MINISTRY OF WORKS
NATIONAL CONSTRUCTION COUNCIL**



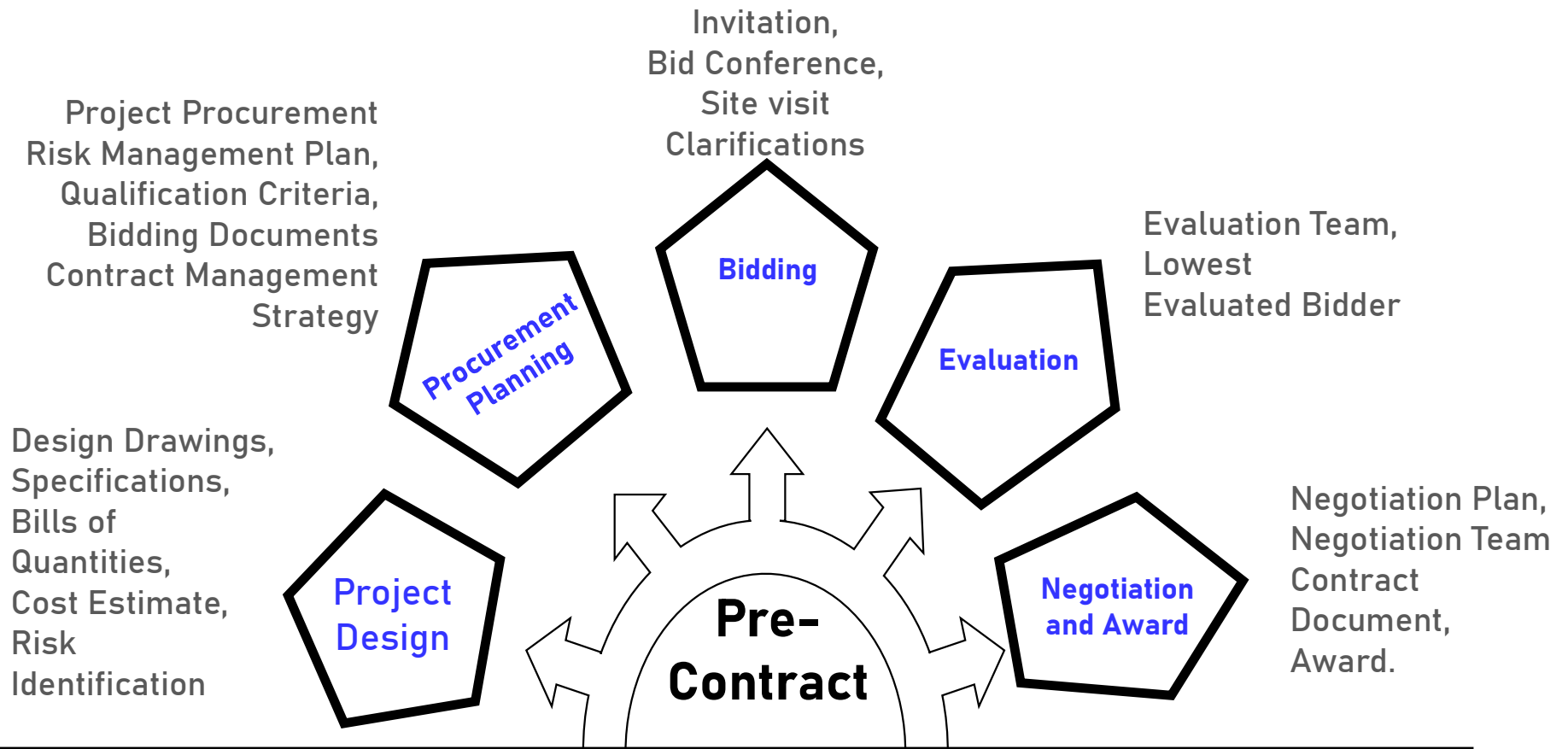
INTRODUCTION TO CONSTRUCTION CONTRACT MANAGEMENT

Introduction -1: Contract Management/ Administration

- **Contract Management:**
 - whole process of handling a contract from the beginning to the end.
 - planning the contract details,
 - negotiating terms,
 - ensuring the contract is carried out correctly, and
 - making necessary adjustments along the way.
- **Contract Administration**
 - Focuses on the daily tasks of ensuring the contract is complied with



Introduction -2: Pre- Contract Stages



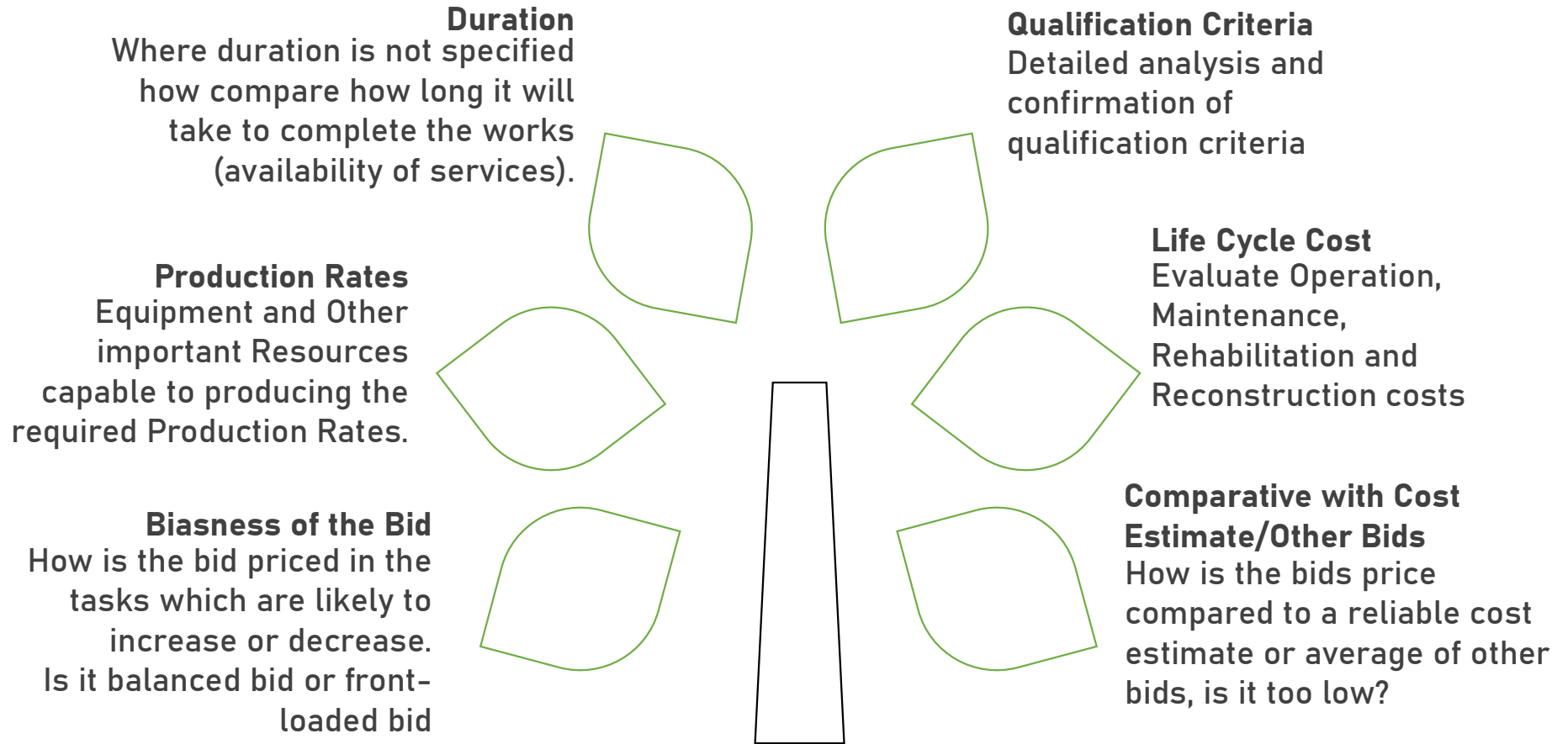
Introduction 3: Lowest Evaluated Bidder

Kanuni 220: Kubainisha zabuni yenye bei ya chini zaidi iliyofanyiwa tathmini

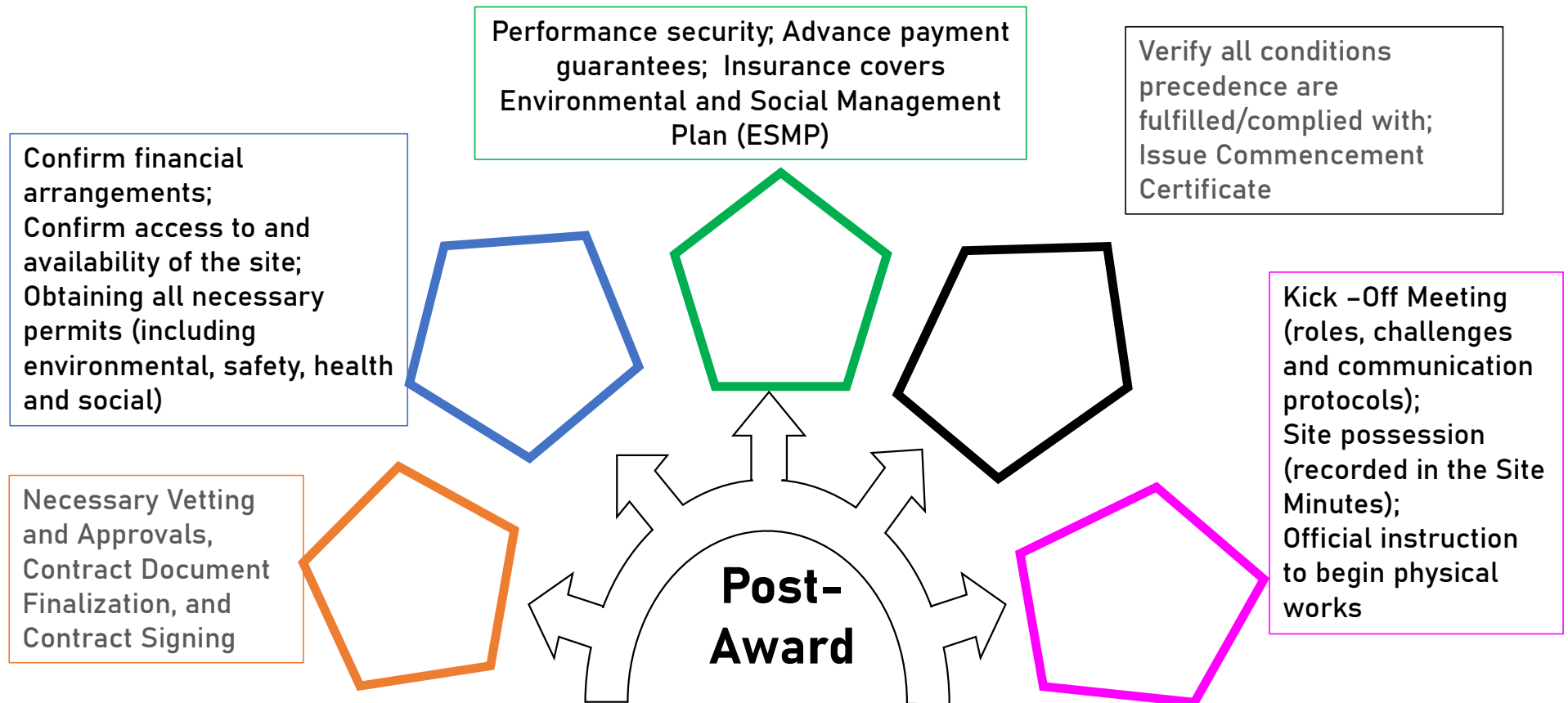
- Katika kubaini zabuni yenye bei ya chini zaidi iliyofanyiwa tathmini, taasisi nunuzi inaweza kuzingatia yafuatayo:
 - a) bei ya zabuni, kwa kuzingatia kigezo cha ukomo wa upendeleo wowote kilichotumika;
 - b) gharama ya uendeshaji, matengenezo na ukarabati wa kazi za ujenzi, muda wa kukamilisha kazi za ujenzi, sifa za utendaji wa kazi za ujenzi, masharti ya malipo na dhamana katika kazi za ujenzi.

- The bid price should be interrogated to ensure it is competitive. (The importance of adequate design and cost estimate)
- If you fail to understand the true cost of works or have a bias towards low-cost bids you risk, once the contract is entered into:
 - contracts running into trouble as a result of actual costs being higher and contractors needing to find ways to cut costs post award;
 - contractors focusing their efforts on cost reduction measures rather than the delivery of quality works;
 - Contractors seeking contract changes to counter the fact that they are unable to deliver to the contracted cost;
 - The contractor may be less likely to support the client during a crisis, and will manage strictly to the letter of the contract;

Lowest Evaluated Bid...2: Aspects to Evaluate Further



Introduction -4 (Pre-commencement Process)



Site Meetings (Kick Off Meeting)

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| <ul style="list-style-type: none">• Site Inspection to confirm the following:• 1.1 Start and End of Project• 1.2 Address any setting Out Issues• 1.3 Any Service Connections/Relocations and Special Protection requirement• 1.4 Location for Site Establishment• 2. Confirmation of Significant Item from Site Inspection• 3. Confirmation Outstanding Items from both Parties in Terms of the Contract Documents• 4. Mobilization Status• 4.1 Minimum Equipment as per Contract• 4.2 Key Staff as per Contract for Parties• 5. Procedures for Contract Administration• 5.1 Programme of work• 5.2 Issuance of instructions, variation Orders and Claims• 5.3 Measurement for Payment• 5.4 Preparation of payment Certificate | <ul style="list-style-type: none">• 5.5 Submission and Approval of Shop Drawings• 5.6 Procedure for testing and Inspections• 5.7 Technical Issues• 6. Clarify Powers Delegated to Resident Engineer• 7. Project Organization Structure and Communications Procedures• 8. Verify Validity and Existence Securities and Insurances• 9. Contractor's Relationship to Local Property Owners and Service Providers and Local Government Leadership• 10. General Site Organization and Management• 11. General Site Security and Safety• 12. Site Environmental Issues – Provision and implementation of ESMP• 13. Handing Over Documents, Drawings, Site Diary• 14. Issuance of Certificate of Commencement |
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Contract Management Strategy

- Contract management strategy is the approach to be adopted to enable the proper management of the contractor performance during contract implementation
- Put in place a contract management team of the right size and composition commensurate to the scale and complexity of the project involved.
- Communication Management: define the manner in which the various stakeholders will communicate during the contract implementation period
- Identify all responsibilities to be implemented by the parties and track their implementation with regard to
 - Schedule/duration management
 - Quality management
 - Cost/payment management
 - Change management
 - Claims management
 - Disputes management
 - Health and safety management
 - Environmental and social management
 - Tax and levies obligations
 - Employment obligations
 - etc



Communication Management

Monthly Meetings

Monthly meetings between the Implementation Agency, the engineer and the contractor to discuss more strategic issues such as overall work progress, payment issues (payments processed and planned), proposed variations or claims, etc..

Monthly or Bi-Monthly Meetings

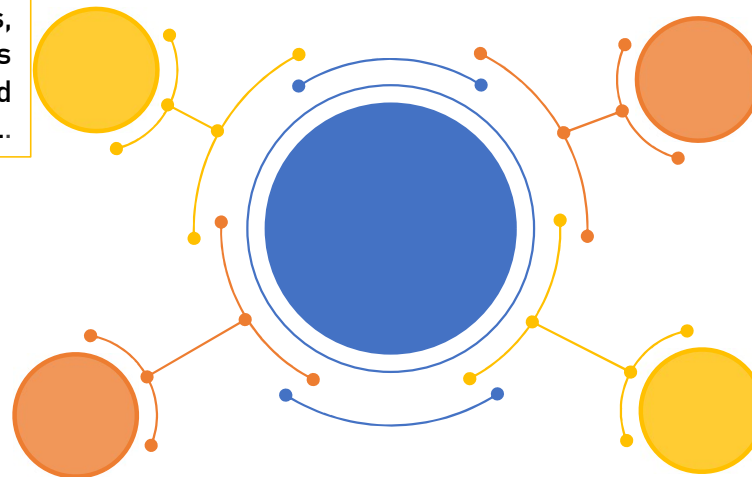
Between the Project Manager and representatives of the Client to discuss any correctives/remedial measures should be envisaged to maintain (or put back) the project on track, as well as any issues regarding the PM's contract itself

Weekly Meetings

Weekly meetings between the supervision engineer and the contractor to discuss and resolve day to day technical or administrative issues;

Quarterly Meetings

Quarterly meetings could also be planned with representatives of the employer, other concerned government stakeholders (line ministries) and representatives of the financiers (ADB and others).



Permits, Licenses and Approvals

- Lists all permits, licenses, and approvals that should be obtained, either by the Client or the Contractor before all or part of the works can start (or shortly after).
- This may include
 - planning consent;
 - building permits;
 - registration with the local engineering or contractor council;
 - utilities removal or relocation;
 - customs or tax exemptions.



Contract Start-Up Activities and Submittals



- Provision of performance security
 - Evidence of the employer's financial arrangements
 - Effective access to and possession of the site
 - Provision of Advance Payment Guarantee
 - Submission and certification of application for advance payment
 - Payment of advance payment
 - Preparation and submission of the construction and/or Contractor's environmental management plan, including the health and safety management plan
 - Notice of commencement date
 - Submission of detailed program
 - Provision of insurances
 - Appointment of dispute board and signing of the Dispute Agreement(s) by the parties
 - Establishment of site boundaries, compound, offices etc.
 - Mobilization of Contractor's equipment
 - Mobilization of Contractor's personnel
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Risk Management

- **Cross-cutting risks throughout the whole contract life**
 - Insolvency risk of the Contractor
 - Legal risk (contract interpretation difficulties and/or contract provisions inconsistent with applicable national laws)
 - Dispute risks between the parties
 - Risk of personal injury to people and/or physical damage or loss to the works or to third party property
 - Insurable risks
 - Risk of contract administration
 - Changes in law and regulations
 - Permits and authorizations
 - Contractor's non excusable delay
- **Risks pertaining to the contract procurement period**
 - Rushed procurement process
 - Capacity of the bid evaluation team
 - Capacity of the contract negotiation team

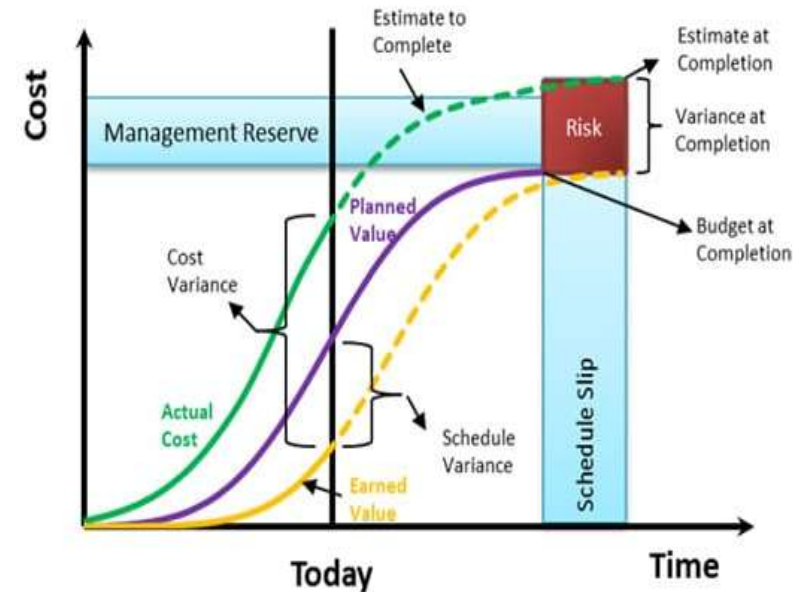
- **Risks pertaining to the design period**
 - Input data and site condition risks
- **Risks pertaining to the construction period**
 - Input data and site conditions risks
 - Weather risks
 - Land clearance for access to the site
- **Risks pertaining to the operation period (if applicable)**
 - Nonperforming facility and/or failure to reach production output
 - Availability and suitability of inputs from the Client (e.g., water, power, personnel, etc.)
 - Early failure of main equipment

Quality Management Aspects

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| <ul style="list-style-type: none">• Approval on sources of materials<ul style="list-style-type: none">• Check approvals on contractor's sources including proposed potential supplies and mined materials• Control of materials on site<ul style="list-style-type: none">• Check procedures of checking materials upon arrival on materials on site• Check on material utilization• Visual verification of quality materials used<ul style="list-style-type: none">• Check on whether the reported quality of materials used is visually compliant• Approval process of work done<ul style="list-style-type: none">• Check whether Request for Inspections and Request for Approval are used• Check rejection process of substandard works• Visual verification of quality work done<ul style="list-style-type: none">• Check on whether the reported quality of work done is visually compliant | <ul style="list-style-type: none">• Supervision of Testing<ul style="list-style-type: none">• Check whether tests are supervised by qualified and experience personnel• Approval process of test results<ul style="list-style-type: none">• Check whether test results are signed and approved by the designated qualified and experience personnel• Manufacturer's certification of materials<ul style="list-style-type: none">• Check whether manufacturers' certificates for all manufactured materials are provided in the language of the contract• Handling of rejected materials<ul style="list-style-type: none">• Check whether rejected materials are removed from site• Check whether sub-standard works are corrected remedied• Check whether treatment of rejected works complies with the contract• |
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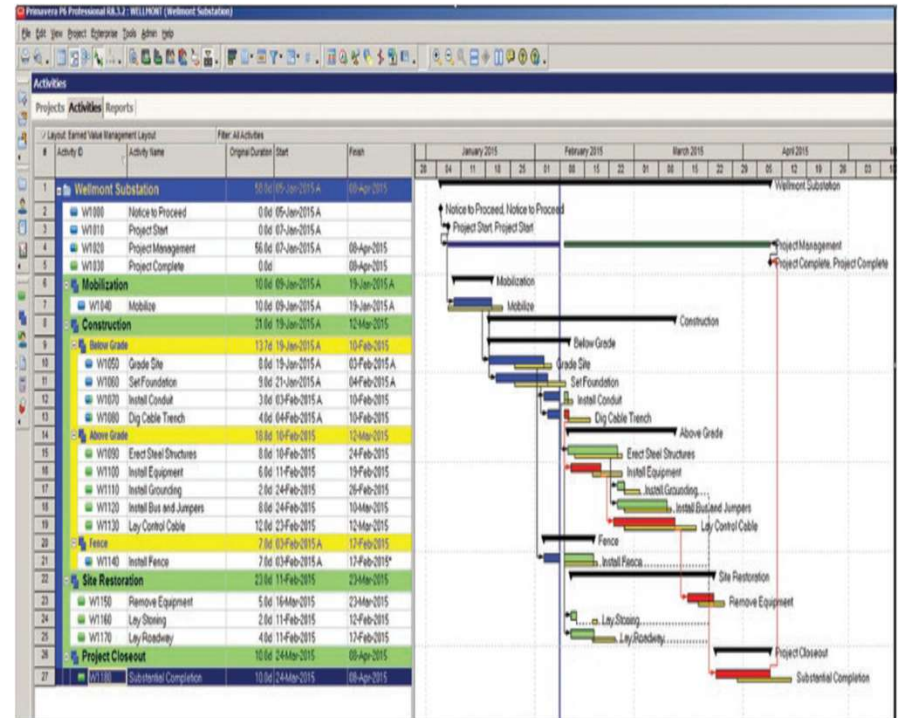
Payment Management and Cost Monitoring

- Advance Payment
- Interim Payments
 - Verify that **the IPC amount meets the requirement** of the minimum amount as specified in the Contract;
 - Verify that a **letter submitting an IPC reflect the amount in the IPC** and that the Bank details of the Contractor are clearly indicated;
 - Ensure that **the IPC is signed and stamped by the PM and authorized contractor's representative** including supporting documents such as measurement sheets, test results, evidence of payments on preliminary and general items.
 - Confirm that **advance payment recovery and retention amounts** are correctly applied;
 - Check and confirm the **validity of guarantees (advance payment and performance security) and insurance**;
 - Check and confirm that **quantities and measurements submitted by the contractor align with on-site** verifications conducted by the PM or the Engineer; and
 - Payment should only be certified for work that meets the standards set out in the contract specifications.
- Project Cashflows
- Final Payments



Time/Schedule and Progress Management

- Monitor Program, Construction Activities, Resources
- Update and Revised Program
- Periodic Co-Ordination Meetings
- Timely Shop Drawings and Samples Submission
- Schedules of Materials and construction drawings submissions and approvals tied to Program
- Monitor Labor and Plant Productivity, Materials Deliveries (Long-Lead Items), Identify Shortages
- Labor, Plant or Materials Deficiencies
- Identify Potential Variance: Scheduled v/s Actual Progress



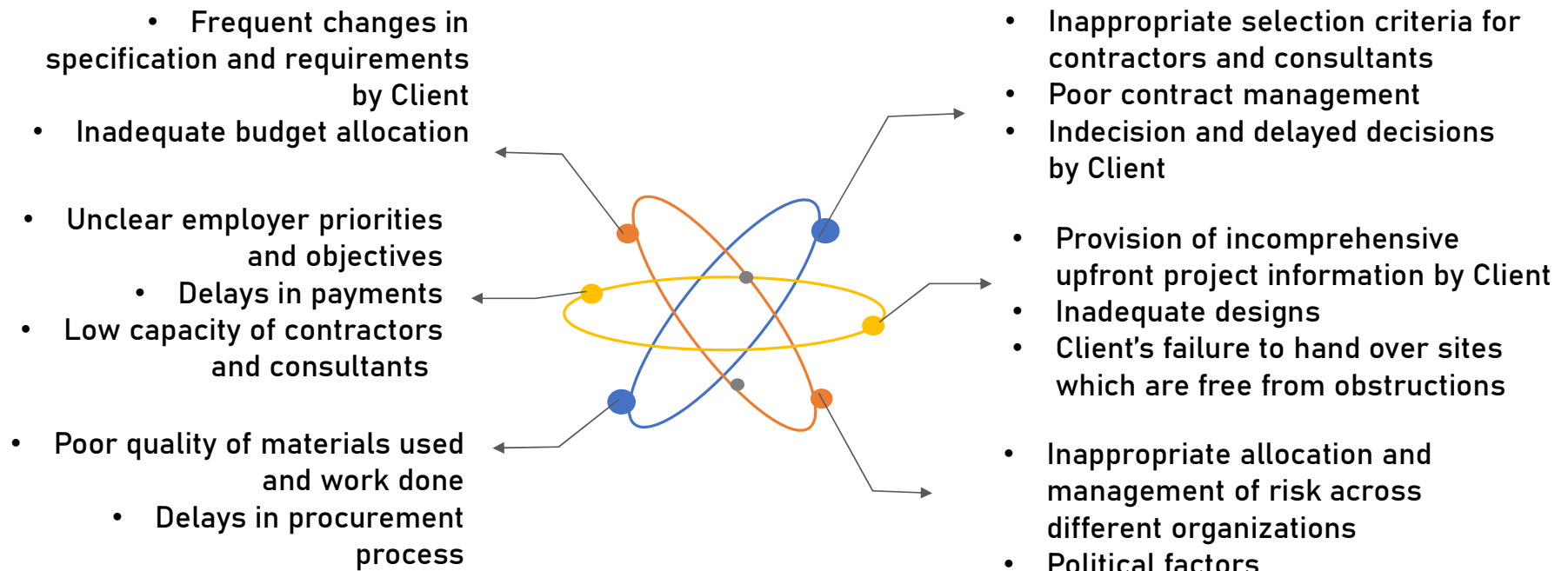
Change Management (Variations)

- A variation is usually a change to works or services that is instructed to the Contractor. The
 - changes to the quantities of any item of work included in the Contract (however, such changes do not necessarily constitute a Variation);
 - changes to the quality and other characteristics of any item of work;
 - changes to the levels, positions, and/or dimensions of any part of the Works;
 - omission of any work unless it is to be carried out by others;
 - any additional work, Plant, Materials, or services necessary for the Permanent Works, including any associated Tests on Completion, boreholes, and other testing and exploratory work; or
 - changes to the sequence or timing of the execution of the Works.

- **Mandatory Approvals:** The Project Manager should ensure compliance with legal requirements.
 - If the variation involves a cost change (positive or negative), written approval from the Employer is required before issuing the instruction or variation.
- Additionally, pursuant to **Sub-Section 95(1) (b) of the PPA 2023**, if the variation is likely to change the contract price by more than fifteen percent (15%), approval from the budget approving authority is mandatory.

Management of Claims (Causes of Claims)

- A **claim** is a request from the contractor to the PM for extra payments or for an extension of time or both, which the contractor believes to be, either compensation events or variations.



Good Practice for Claims Minimization

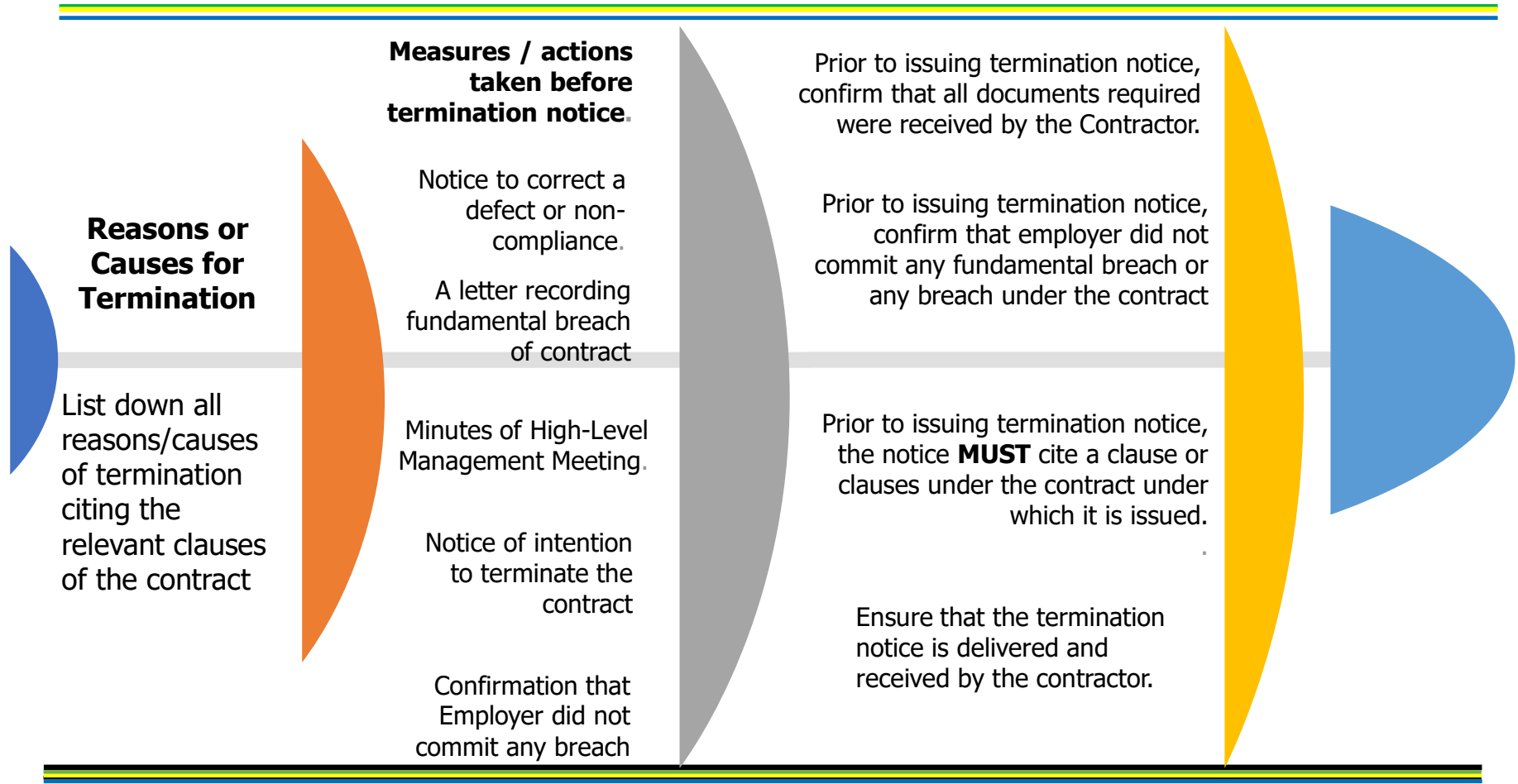


- **Prepare comprehensive** (complete and accurate) requirements;
 - **Prepare tender and contract documents** that are complete, realistic and accurate;
 - **Provide contractors access to sites** that are free from any obstructions;
 - **Pay contractors promptly**, as per contract terms;
 - **Record and notify problems** and delays caused by each party;
 - **Critically review all contract documents** together, not in isolation; and
 - **Always cite relevant clauses** when writing letters while administering the contract.
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Termination of Contract (Employer)

- An option if the Contractor has committed a fundamental breach of contract which are normally listed in respective contracts.
 - Termination procedures of a contract entered into between a procuring entity and a private entity are enshrined **under section 97 of PPA 2023, Regulations 319 and 320 of PPR 2024.**
 - Key points to be considered are:
 - Termination to be done **based on the provisions in the contract;**
 - The procuring entity not to **terminate any contract without obtaining a written advice from the office of the Attorney General (AG);**
 - Sub-Regulation 319(2) stipulates that after obtaining the advice to terminate the PE is required to follow procedures stated in the Contract and **issue notice as stated in the contract;**
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Termination of Contract ...



Project Completion, commissioning and Closure activities

• Contractor Obligations

- Test on Completion
- Application for a taking over certificate
- Statement at Completion
- Remedying of Defects
- Clearance of Site
- Application for Final Payment Certificate

• PM/Employer Obligations

- Issuance of the Taking Over Certificate
 - Notification of Defects
 - End of Defects Liability Period (DLP) and extension thereof (if applicable)
 - Issuance of Performance Certificate
 - Return of Performance Security
 - Issuance of Final Payment Certificate
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Project Completion, commissioning and Closure

- The procedures for Taking-Over of the whole works or sectional taking over are stipulated in the contract.
 - The contractor may apply by notice to the PM for a certificate of completion of the works not earlier than the period stated in the Contract (normally not earlier than 14 days) before the works will, in the Contractor's opinion, be complete and ready for taking over.
 - PM shall, within 28 days after receiving the Contractor's application:
 - a) issue the Certificate of Completion to the contractor, stating the date on which the works or section were completed in accordance with the contract, except for any minor outstanding works and defects which will not substantially affect the use of the works or section for their intended purpose (either until or whilst this work is completed and these defects are remedied); or
 - b) reject the application, giving reasons and specifying the work required to be done by the Contractor to enable the Certificate of Completion to be issued. The contractor is to then complete this work before issuing further notice under the contract.
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Issuance of Certificate of Completion

- If the Employer does use any part of the Works before the Certificate of Completion is issued:
 - a) the part which is used shall be deemed to have been taken over as from the date on which it is used;
 - b) the Contractor shall cease to be liable for the care of such part as from this date when responsibility shall pass to the Employer, and
 - c) if requested by the Contractor, the PM / the Engineer shall issue a Certificate of Completion for this part.
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Compilation and Management of Snag List

- Prior to Taking-Over the works or section thereof, an inspection is carried out to identify any outstanding works and to decide whether or not the works can be declared substantially completed and acceptable for use considering safety, environment, functionality and quality.
 - During the inspection, a list of uncompleted or defective works is prepared.
 - The list includes both physical aspects and administrative procedures and obligations of the Contractor such as valid insurance covers, completed facilities for the PM, conditions of facilities reverting to the Employer upon completion of the project, reinstatement of the borrow pits, and environmental issues for on-site and off-site areas affected by the project.
 - If the project is declared complete, the Certificate of Completion specifies the date by which all the defects listed must be remedied (rectified).
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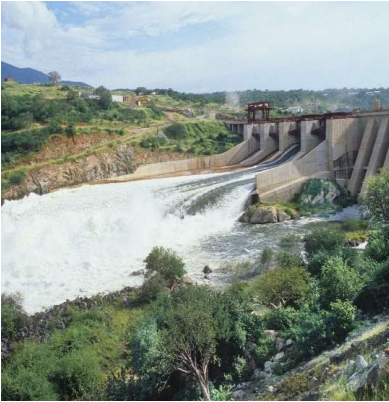
Management of Defects Liability Period (DLP)

- Defects Notification Period (DNP), commences on the date when the Employer takes over the works, and the date when the Certificate of Completion of the works, commonly also known as Taking-over Certificate or substantial completion certificate is issued.
 - The Employer puts the facility in use.
 - Although the facility is in use, it is still under the maintenance period by the Contractor on defects identified during the final inspection and included in the snag (punch) list and any other defects that occur that are associated with poor workmanship by the Contractor.
 - Contracts require contractors to complete outstanding works and remedying defects within the date stated in a Certificate of Completion of the Works
 - All works should be executed at the risk and cost of the Contractor, if and to the extent that the work is attributable to (a) any design for which the Contractor is responsible; (b) plant, materials or workmanship not being in accordance with the Contract; or (c) failure by the Contractor to comply with any other obligation.
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Management of Defects Liability Period (DLP) ...

- **If the Contractor fails to remedy the defect or damage by set date** and this remedial work was to be executed at the cost of the Contractor, **the Employer may (at his option):**
 - carry out the work himself or by others, in a reasonable manner and at the Contractor's cost, but the Contractor shall have no responsibility for this work; and the Contractor shall pay to the Employer the costs reasonably incurred by the Employer in remedying the defect or damage;
 - require **the PM / the Engineer to agree or determine a reasonable reduction** in the Contract Price; or
 - if the defect or damage deprives the Employer of substantial benefit of the Works or any major part of the works, terminate the contract as a whole, or in respect of such major part which cannot be put to the intended use.
 - Employer shall then be entitled to recover all sums paid for the Works or for such part (as the case may be), plus financing costs and the cost of dismantling the same, clearing the Site and returning plant and materials to the Contractor.
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Common issues in Works Contracts



- Misuse of mobilization advance by the contractor for purposes not related to contract.
 - Delays in handing over possession of an encumbrance-free site.
 - Resettlement issues or local disturbances at site.
 - Non-submission of work program.
 - Delay in submission of insurance documents.
 - Late or non-submission of a quality assurance plan.
 - The whole contract is unofficially sold/sub-let to another unskilled contractor who has no capacity to manage the contract.
 - Use of unauthorized sub-contractors.
 - Delay in procurement of construction materials by the contractor due to non-availability of materials or a sudden increase in price of materials in the market.
 - Delay in mobilization of key personnel and equipment.
 - Poor quality or non-conformance of deliverables produced by contractor.
 - Lack of proper pre- or post-delivery inspection of goods.
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Common issues in Works...2



- Non-payment by contractors to subcontractors or material suppliers.
 - Non-compliance with environmental protection measures and safety rules.
 - Non-submission of technical test reports.
 - Lack of communication, non-submission of monthly progress reports.
 - Variations and extension of time are granted without justification.
 - Disagreement on claims or rates of new items.
 - Incomplete or delayed submission/processing of contract variation requests.
 - Late processing of interim certificates and final payments by the Clients.
 - Delay in defects correction.
 - Improper application of contractual-based termination provisions.
 - Delays in actioning dispute resolution mechanism (e.g., dispute adjudication board).
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Common issues in Consultancy Services Contracts



- Key personnel lack practical experience of the specific field of expertise.
 - Practical knowledge and experience of the consultants in the areas of expertise are found to be not consistent as mentioned in their CVs.
 - The team leader fails to maintain good relations with the Client, contract team, other officials, or with the team members.
 - Delays in mobilization of the consultant team.
 - Unjustified claims with time and/or cost impacts.
 - Frequent replacement of personnel.
 - Lack of capacity of the Client to manage the consultant performance and outputs and consultant's delay in the timely delivery of the agreed deliverables by increasing expert inputs, in case of a time-based contract.
 - Substandard quality of deliverables.
 - Deviations from agreed terms of reference.
 - Late processing of interim and final payments by the Client.
 - Delays in actioning dispute resolution mechanisms.
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Services Offered by NCC

- Cost estimates for works
- Tender Documents Preparation and Review
- Technical Audits for Quality Assurance
- Value for Money Audits
- Works Valuation and Payment Certificate Verification
- Price Adjustment services
- Claims management
- Contract and Project Management
- Dispute Resolution
- Provision of Training in above aspects



ASANTE SANA

