

# LESSONS LEARNT ON PHASE I CONTRACT PROCUREMENT & ADMINISTRATION

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**Venue: Avani Maseru**

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# Outline of Presentation

- Purpose
- Conditions of Contract
- Lessons Learnt in the Procurement Process
- Lessons Learnt in Contract Administration
- Addressing these Challenges going Forward

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# Purpose

To provide prospective suppliers/contractors with highlights of the challenges and lessons learnt by LHDA in the procurement and administration of Phase I contracts, with the hope of avoiding some of these problems in subsequent LHDA contracts.



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# Contract Conditions

- FIDIC Suite of Contracts
- Suite used by LHDA
  - White Book – Client/Consultancy Agreement
  - Green Book – Short Form of Contract
  - Red Book/Pink Book – Construction for Building & Engineering Works
  - Yellow Book – Plant and Design-Build
  - Silver Book – EPC/Turnkey
  - Gold Book – Design, Build and Operate
- Contract Conditions given in the General Conditions of the Tender Document
- Contract Conditions are copyright

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# Typical Content of a Tender Document

- Letter of Invitation
- Instructions to Tenderers
- Evaluation & Qualification Criteria
- Scope of Work
- Tender Forms
- LHWP Anti-Corruption Policy
- Form of Agreement
- Particular Conditions of Contract
- General Conditions of Contract
- Tax Requirements

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# Lessons Learnt in the Procurement Process

## Primary Challenge:

- Tenderer's don't read and/or understand the Tender Requirements:
  - Instructions to Tender
  - Works Requirements & Specifications
  - Evaluation Criteria Requirements
  - Risk Associated with the Project



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# Lessons Learnt in the Procurement Process

- Disqualification Criteria
  - Non-attendance of Compulsory Pre-Tender Meeting & Site
  - Unauthorised/Unsigned Tender Submission
  - Late Submission of Tender
  - Participation in more than one Tender (if not allowed for)
  - Material deficiencies in the Proposal/Non-responsive
  - Including Company(s) or Individuals without their consent
  - Violating the provisions in the Anti-Corruption Policy



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# Lessons Learnt in the Procurement Process

- Disqualification Criteria
  - Non-submission of Tender Security (if required)
  - Subcontracting more than specified limit (if not allowed for)
  - Providing a Tender Validity which is shorter than prescribed period
  - Providing alternative Key Staff (if not allowed for)
  - Non-disclosure of Conflict of Interest
  - Non-disclosure of Imposed sanctions
  - Submitting an unidentifiable Tender (unmarked)

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# Lessons Learnt in the Procurement Process

- Cause of Unsuccessful Proposals/Tenders
  - Not providing required information
  - Insufficient details e.g. projects, experience, etc.
  - Non demonstration of experience on similar projects
  - No methodology/Repeating the Scope of Work
  - Project Organogram and not Company Organogram
  - Poor Work Programme

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# Lessons Learnt in Contract Administration

- Contractors don't know the Contract
  - Its legally binding
  - Don't read it
  - Don't have the general conditions of contract
  - Don't know your rights and obligations
  - Don't know the provisions and procedures to claim
  - Don't exercise your contractual rights
  - Don't issue notices timeously
  - Don't know what is "time barred"
  - No copy of the Contract on site.

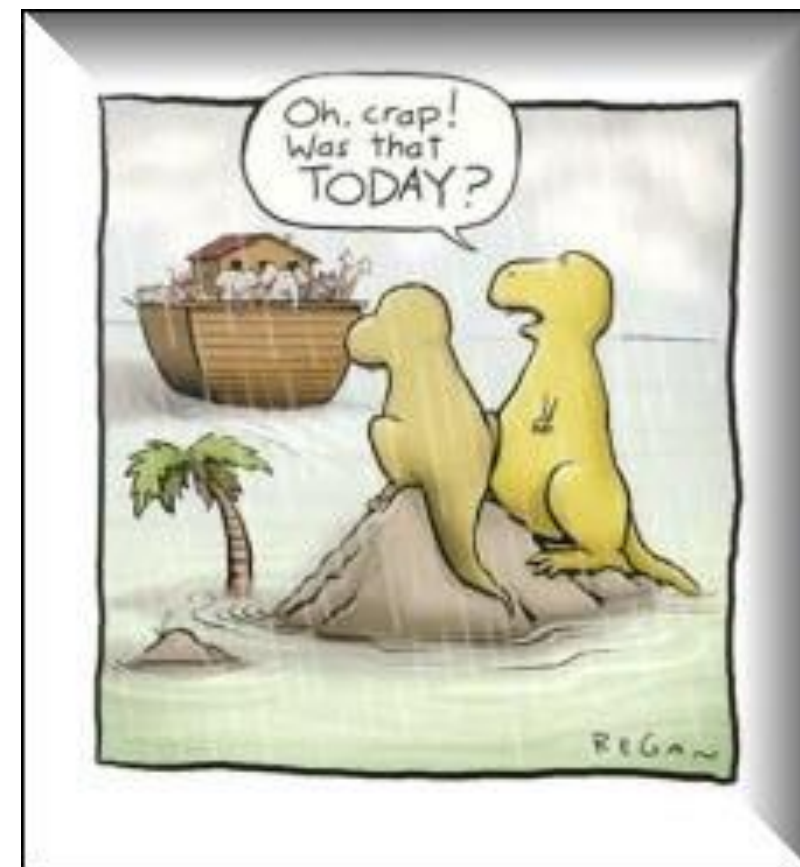


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# Lessons Learnt in Contract Administration

- Contractors don't keep good records
  - No/poor records kept on site
  - No established reporting protocols.
  - Issues that affect communities advise LHDA. Don't resolve on their own.
  - No knowledge of who can stop, instruct or vary the works.



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# Lessons Learnt in Contract Administration

- Finances, Costing, Invoicing, Cash flows
  - Late submission Performance Guarantees – on demand bank guarantee
  - Poor Pricing:
    - Over/Under Pricing (Non competitive)
    - Risk assessment not done
  - Non-payment of Sub-Contractors and/or staff
  - Don't understand fully the importance of maintaining adequate cash flow
  - Front load the Contract
  - Don't exercise advance payment option
  - Invoice incomplete items/items not in the Contract
  - Non-adherence to Tax Requirements



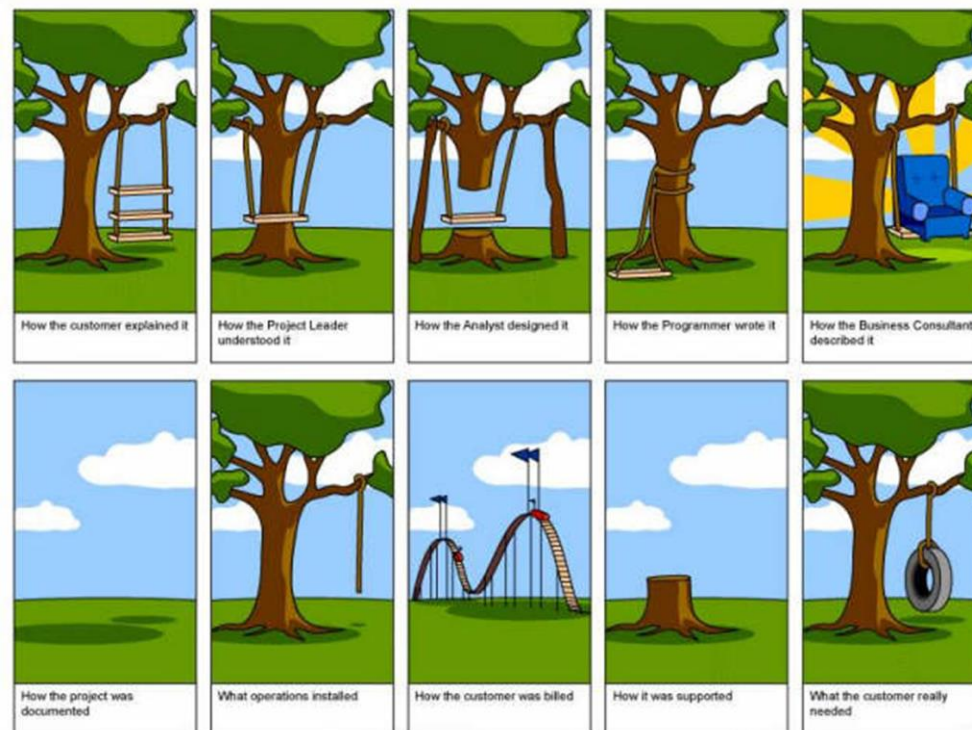
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# Lessons Learnt in Contract Administration

- Non-adherence to Contract Specifications & Requirements

- Non adherence to contract requirements
  - Assume LHDA is like all other Client Bodies
- Not providing what is specified
  - Demolish and reinstate
  - Rejected and replaced
  - Substandard works
- Disputes & Litigation
- Suspension, Non-payment & Termination

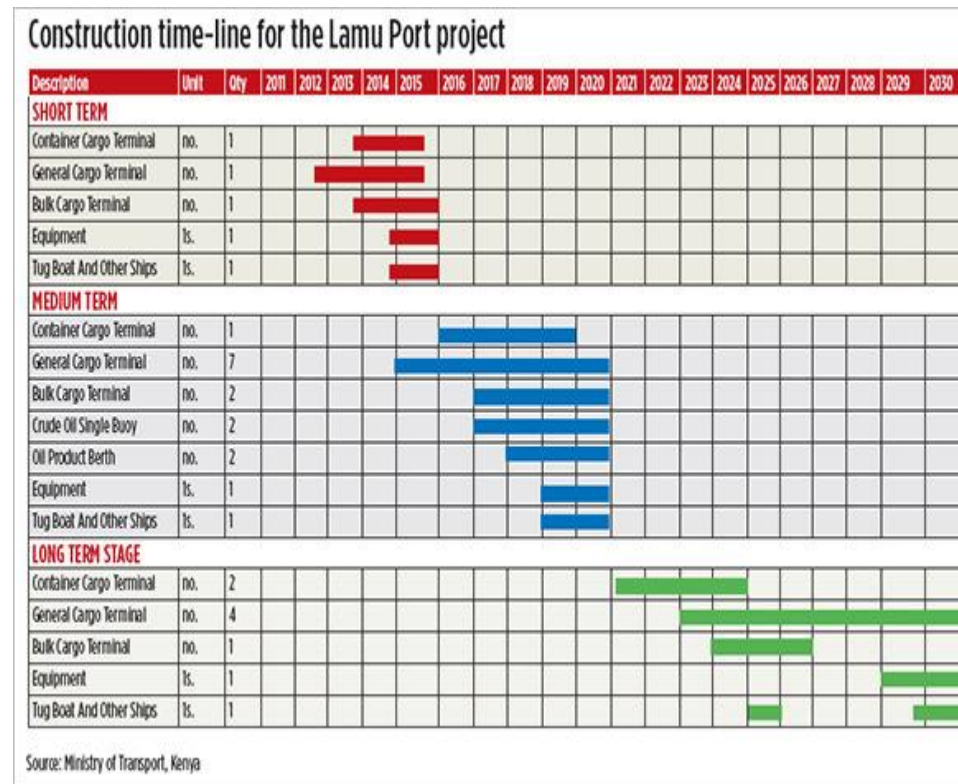


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# Lessons Learnt in Contract Administration

- Contract Timelines & Penalties
  - Poor project scheduling
    - Lack detail
    - No linkages
    - Lead times not included
    - Critical path not included
    - Insufficient float
  - Variations & Claims
  - Failure to meet Contract Completion Date
  - Delay Damages being imposed



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# Lessons Learnt in Contract Administration

- Project Resources
  - Lack of start-up capital
  - Unqualified/Inexperienced staff
  - Inadequate Project Resources (not priced for)
  - Adding/Billing Resources not in the Contract

Don't start a project without resources



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# Lessons Learnt in Contract Administration

- Non adherence to Safety, Health & Environment requirements
  - Injuries & Fatalities
  - No safety procedures/Not used
    - Poor/No site access control
  - Environmental degradation
    - Poor house keeping
    - Poor/No rubbish disposal regime
  - Uninsured works



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# Lessons Learnt in Contract Administration

- Collusion, Fraud & Corruption
  - Collusion between Contractor & Consultant
  - Fraud
  - Bribery



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# Addressing these Challenges going Forward

- LHWP Anti-Corruption Policy
- Revised Procurement Procedures
- Debriefing Meetings
- Standardising RFP/Tender Documents



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