

Chartered Institute of Purchasing and Supply Management of Nigeria (CIPSMN)

Presents a Paper Titled:

The role of Efficient Contract Management in Project Delivery.

By

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***AT THE BATCH “B” MANDATORY PROFESSIONAL DEVELOPMENT
PROGRAMME OF THE INSTITUTE WITH THE THEME: EFFICIENT RESOURCE
MANAGEMENT (ERM) IN NIGERIA: THE STRATEGIC ROLE OF SUSTAINABLE
PROCUREMENT, CONTRACT MANAGEMENT AND PROCUREMENT AUDIT.***

***HELD AT CYPRIAN EKWENSI CENTER FOR ARTS AND CULTURE,
OPPOSITE FORCE CID HEADQUARTERS, AREA 10 GARKI, ABUJA.***

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The role of Efficient Contract Management in Project Delivery

Definitions

PROJECT. :

An activity or usually a number of related activities carried out according to a plan in order to achieve a definite objective within a certain period of time and which will cease when the objective is achieved.

PROJECT MANAGEMENT:

The functions of evaluating, planning and controlling a project so that it is finished on time, to specification and within budget.

Why Project

- Old product on a plateau
- Technology
- Innovation/New Research findings
- Raw materials unavailability
- Feedback from Marketplace
- Expansion Program
- Government Policy etc, etc

Project Evaluation & Selection Criteria

- Project Evaluation is the process of evaluating individual projects, and then choosing to implement some of them so that the objectives of the parent organization can be achieved.
- Criteria
 - (a) Realism (b) Capability
 - (c) Ease of Use (d) Cost (e) flexibility

Selection Models

NON NUMERIC

- (a) The Sacred Cow
- (b) The operating Necessity
- © The Competitive Necessity
- (d) The Product Line Extension
- (e) Comparative Benefit Model result

NUMERIC

- (a) Payback Period
- (b) Average Rate of Return
- (c) Discounted Cash Flow – Present Value Method
- (d) Internal Rate of Return
- (e) Profitability Index C-B Ratio

What Is Project Implementation/Management?

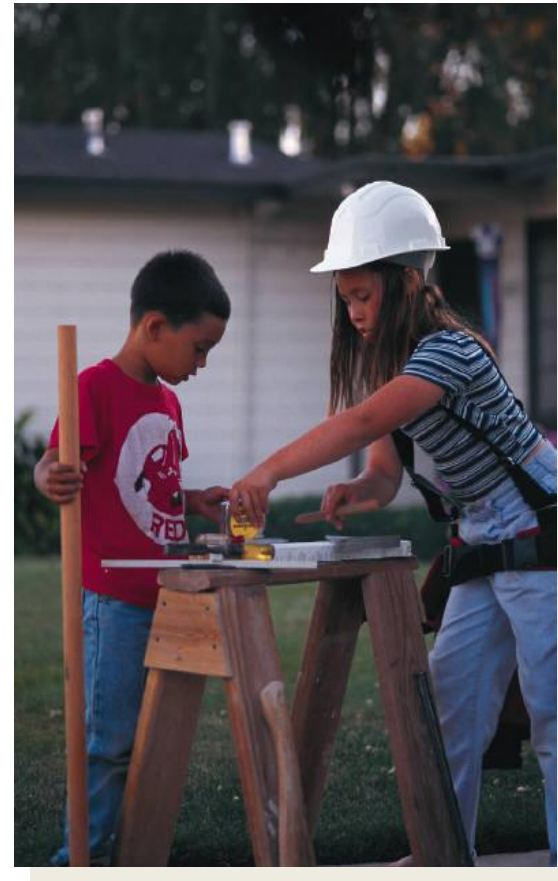
“Project Implementation/management is the application of **knowledge, skills, tools, and techniques** to project activities in order to **meet or exceed stakeholder needs and expectations.**”

Source: Project Management Institute

What Is a Project?

“A project is a **temporary endeavor** undertaken to create a **unique product or service.**”

Source: PMI



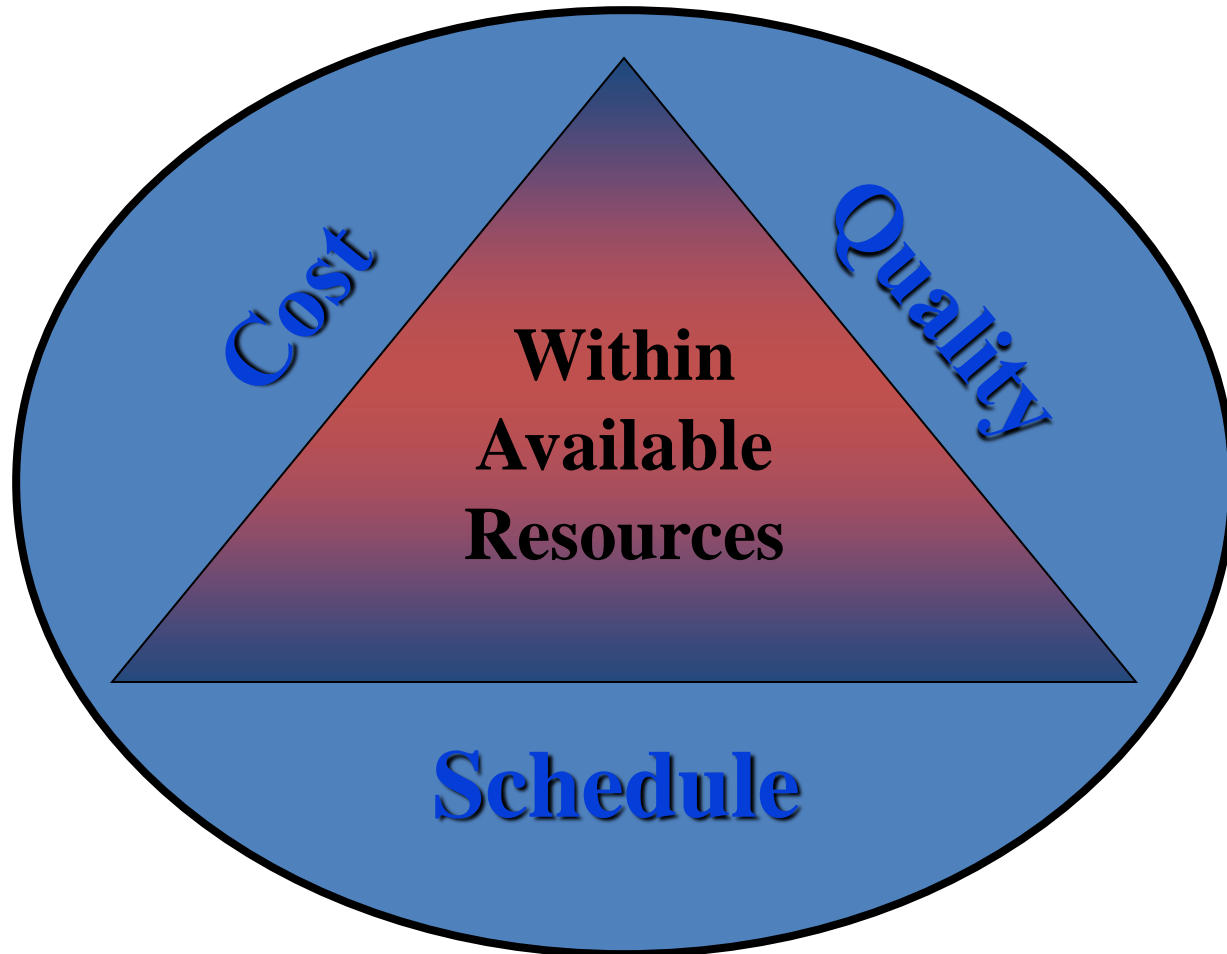
Project Manager

“The person who is responsible for the project and will be held accountable for its success or failure.”



The Triple Constraint

Project Scope



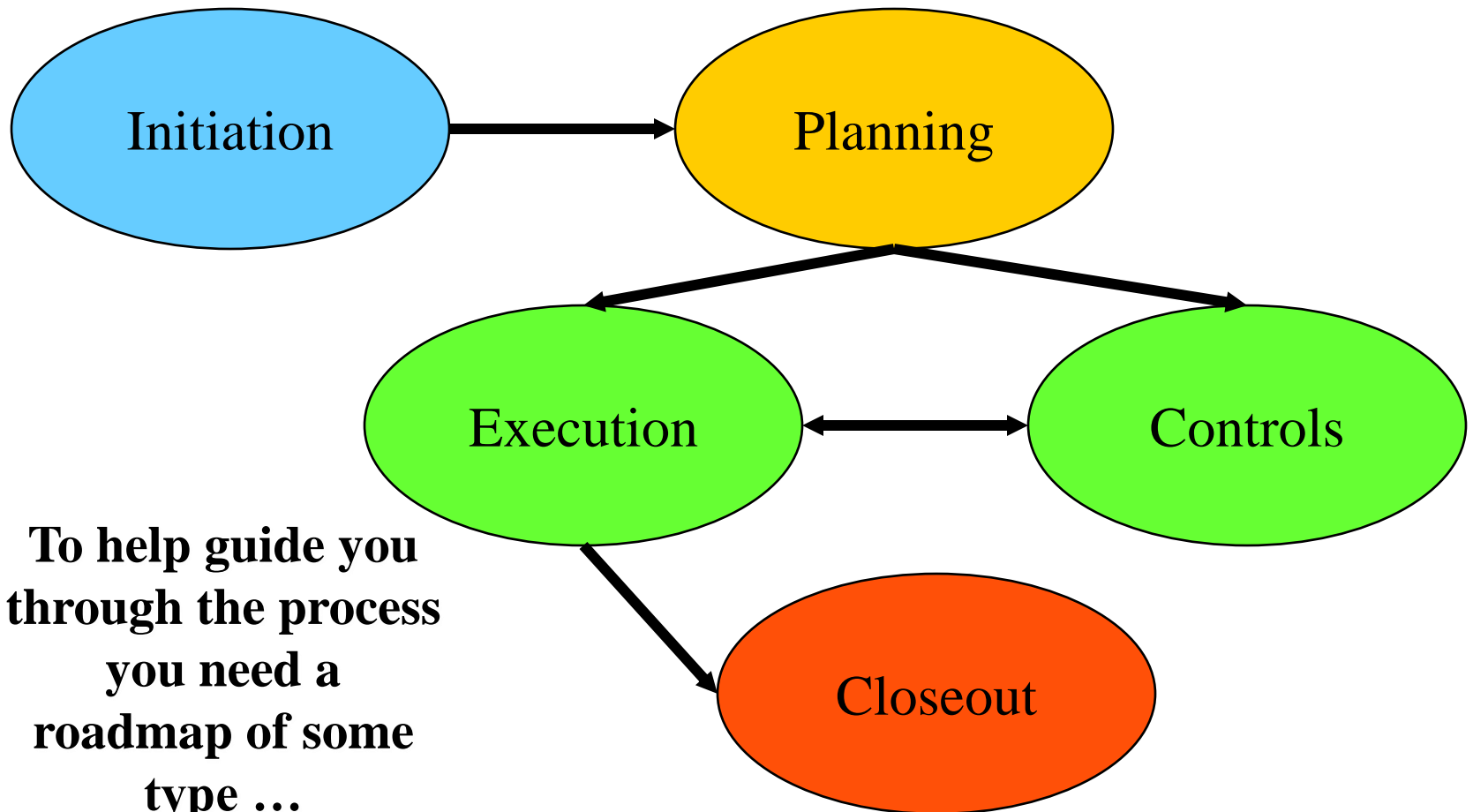
Balancing the “Project Success Triangle”

A clear understanding
of customer priorities
“People” skills
Thorough planning
An organized,
structured process



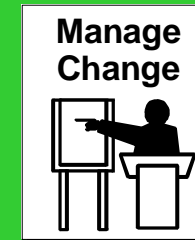
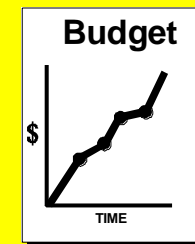
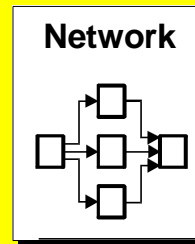
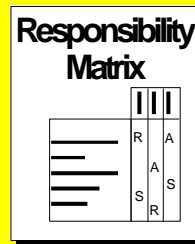
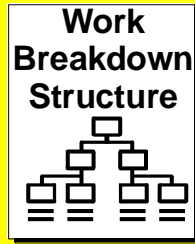
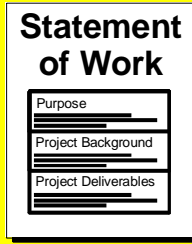
Project Management Process

Source: PMBOK



To help guide you through the process you need a roadmap of some type ...

Roadmap to Project Management Success



Cost Management

- Man-hour services of professional
- Machine hour of machine/instrument
- Hours of computing
- Physical material
- Required cash

Payment Mode

- Fixed price
- Lump price
- Cost reimbursable
 - cost + percentage fee
 - cost + fixed fee
 - cost with guaranty maximum
- Unit rate contract
- Incentive contract

Contract

- What is a Contract ?
 - A contract is an **agreement** made between two or more parties with the intention of creating a legal **relationship** enforceable by law
 - It is the mechanism by which the agreement reached between the parties is reduced to **writing**, and this becomes the **baseline** against which **performance** and other criterion are measured to ensure that the parties thereto meet or exceed their respective **undertakings**.

Fundamental Contract Principles

- **Basis of Contracts**

- Contracts indicate (in writing preferably) the basis of agreement reached between two or more parties, what each parties rights are, and how each party is committing to carry out their obligations, roles and responsibilities;
- The purpose of these agreements is to document the basis of agreement reached and how any key issues such deviation, non-compliance are dealt with.

Objectives of Contracting

- Faithfully document points or aspects **agreed** to;
- How **compliance** and **performance** are going to be measured;
- What **injunctions** and **remedies** are available;
- Specific detail around the **Rights & Obligations, Roles & Responsibilities** of the contract signatories.

Contract Validation

- Parties in agreement
- Agreement be final and sufficiently certain to be enforced
- Parties intend that the agreement should be legally enforceable
- Parties have the capacity to contract

Nigerian Contract Law

- Nigerian Contract Law is based on British Common Law which is informed by principles of Roman Dutch Law, which is the basis of law in large parts of Sub-Saharan Africa, U.K. and parts of Europe
- Nigeria's customary or traditional laws
- Nigeria's Shariah Law
- Legally compliant contract requirements:
 - Offer and acceptance
 - Parties in agreement
 - Agreement be final and sufficiently certain to be enforced
 - Parties intend that the agreement should be legally enforceable
 - Parties have the capacity to contract
 - The formalities prescribed by law, if any, be complied with
 - The performance of the contract be possible
 - That the agreement be lawful

Litigation: Avoidable or Unavoidable

- Definition: To litigate is to **contest** a point or matter in a lawsuit, or to go to Law, or to take a dispute to Court.
- The process of litigation is often a lengthy and **costly** one.
- For the inexperienced or the unprepared, often the only “**winners**” are the legal specialists!

Voidable Contracts

- Where all the essential elements are in place but the contract can still be set aside on the basis that consent was improperly obtained.
- When?
 - Misrepresentation
 - Duress
 - Undue influence
- Until set aside by a competent court of law, it is still a valid and enforceable contract

Litigation: Avoidable or Inevitable

- What can we do to proactively avoid getting into a situation where litigation becomes inevitable?
 - THE S.L.A. !!

Service Level Agreements

- Why the need for SLAs?
- The SLA is a Performance Management Framework
 - Measuring and improving performance
 - Managing the relationship
 - Managing Litigation
- Service Level Agreements aim to:
 - measure agreed criteria,
 - report on them as agreed and
 - how any pre-agreed remedial / improvement action is introduced,
 - In what format and by whom;

Drafting the Service Level Agreement

- Service Level Agreements are specifically designed, drafted and applied mechanisms that enable the participants to a contract, the opportunity to **agree on the criteria** to be measured, the **method** and **frequency** of measurement, the **reporting**, and **M.I.S.** elements.
- Two **essential elements** of the SLA:
 - Delivery Management
 - Improvement / Cost Management
 - Communication Management

The Basis of Developing the SLA

- Develop a comprehensive sourcing strategy (Right product-good or service Right deal)
- This leads to Supplier Evaluation / Selection Criteria (Right Supplier)
- Only then...Development of a Service Level Agreement (Right performance)

Key SLA Principles

- How do you know when you are achieving the contract objectives?
 - **Define** what achievement or non-achievement really means
 - Use **hard measurements** wherever possible
 - Avoid **interpretation** due to ambiguous statements
 - Application **reward-penalty** regimes
 - Trust
 - Accountability
 - Commitment
 - Value-add

SLA Measurement Framework

- Selecting what to Measure
- Deciding on What to Measure
 - In order to set meaningful selection criteria, the Cross Functional Team should first decide what areas need to be analysed
 - The areas will depend upon the nature of what the Supplier is providing (Goods, Services etc), but should include:
 - Quality
 - Service
 - Commercial
 - Technical
 - Environmental
 - Development & Support
 - Processes
 - Using these categories, the cross functional Supplier Management Team can then brain storm specific areas to measure and the criteria to be employed

- Thank You For Your Time.