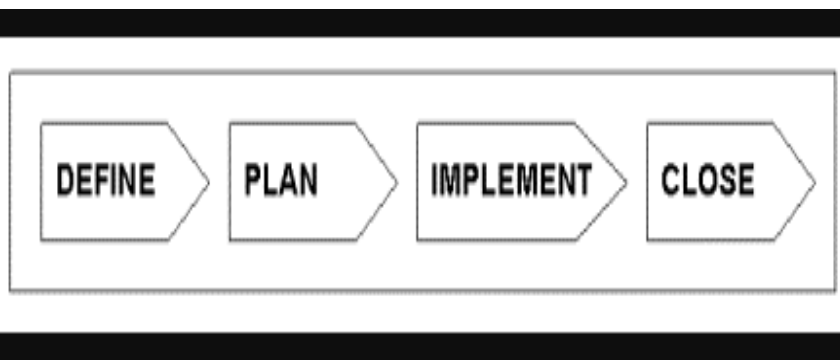


## The Fundamentals of Contract Management

- Contract management is when someone takes on the responsibility of managing contracts for employees or vendors or other parties.
- Contract managers need legal knowledge to accurately lead the contract management process.
- Not all companies have set contract managers, but major defense firms or companies that frequently work with the government tend to use contract managers.

### Contract Management

Our reference process is the project management process.



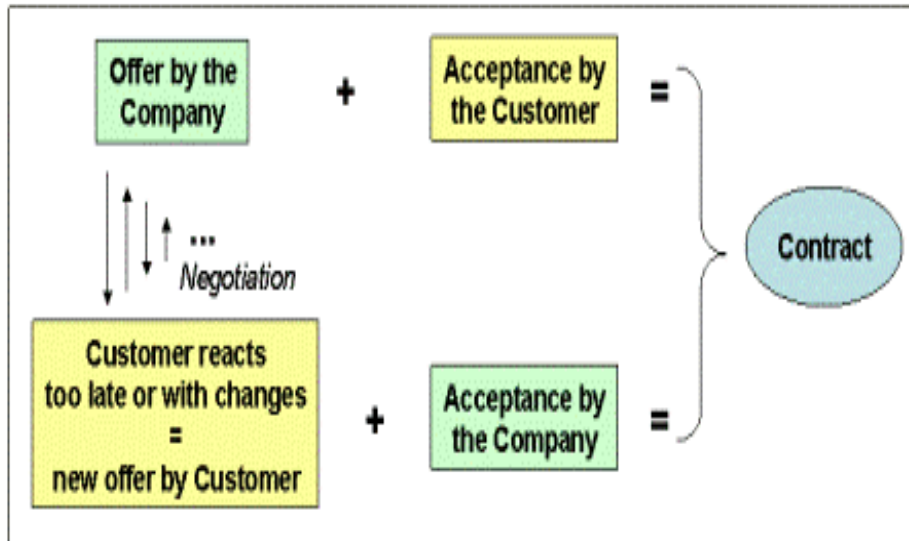
Usually, there are two or more different legal entities or parties involved in the project, normally in customer / contractor or contractor / sub-supplier relationships. These different parties need to sign a contract before starting implementation phase of a project.

In larger projects with a customer / contractor relationship, on the side of the contractor, a proposal team will own the project management process in definition and planning phase until the contract is signed. Then, they will hand over to an implementation team. So, in the first two phases, a proposal manager is in charge who transfers the project responsibility to a project manager for implementation and closure phase.

### What is a contract?

A contract is any agreement between two or more parties where one party agrees to provide certain deliveries or services, and the other party agrees to pay for those deliveries or services.

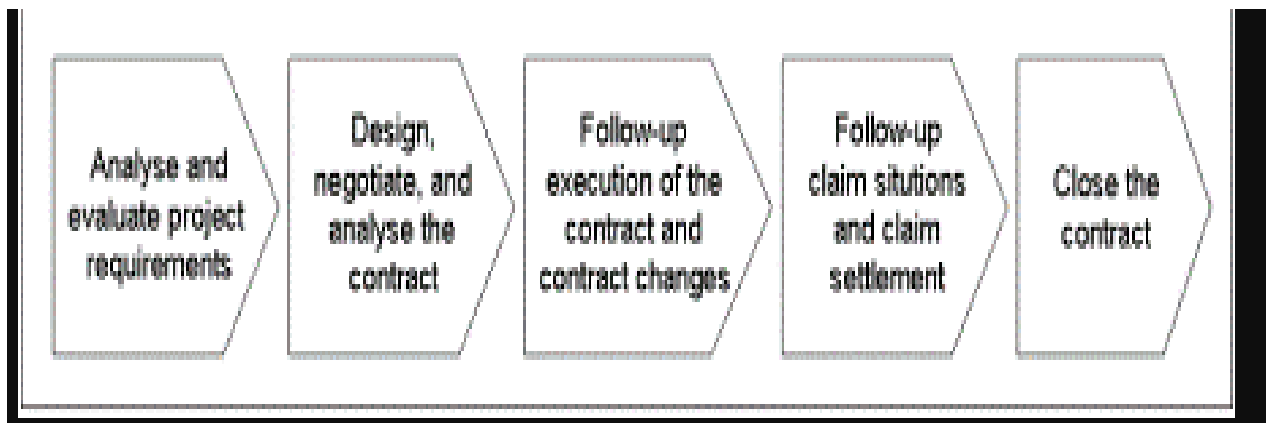
How do we get a contract between two parties?



In extreme cases, it just takes an offer by a company and the simple acceptance of that offer by the customer, and we have a contract. Typically, we will see some negotiation going on between the two parties before one of them accepts the last offer of the other party. However, since it is so easy to end up in a legally binding contract situation, the first step, generally the offer by the company has to be prepared very carefully.

### What is contract management?

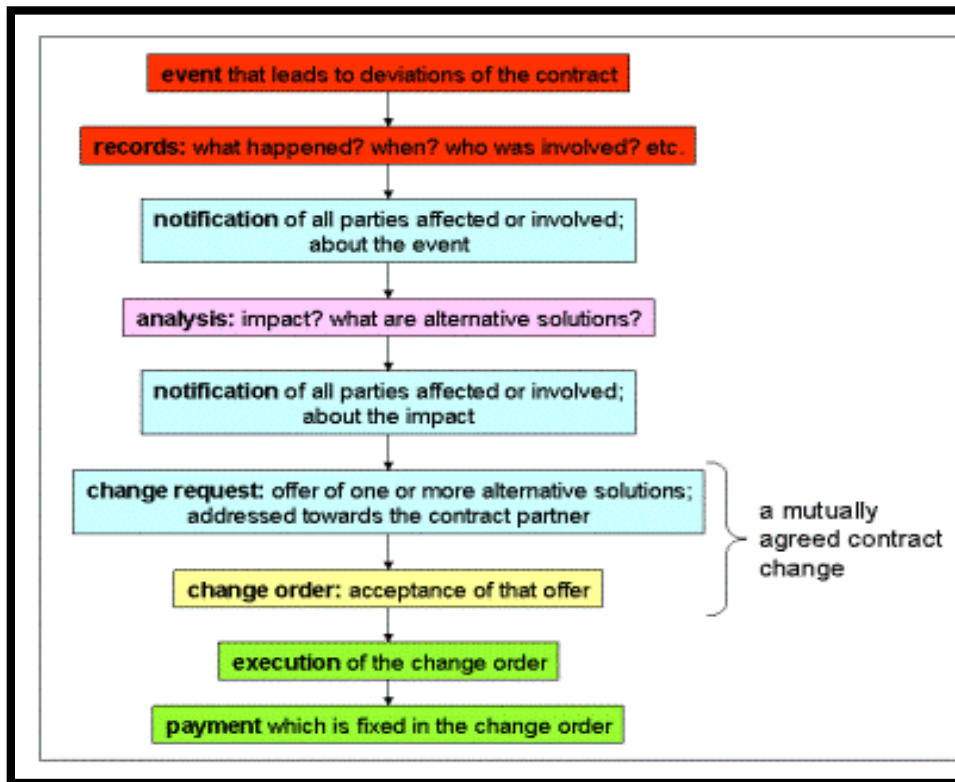
Contract management is a continuous process, starting with analysis and evaluation of the customer's inquiry, and carrying on until contract closure, upon fulfillment of all contractual obligations.



This process overview indicates that contract management activities seem to belong to the responsibilities of the project manager and the whole project team. In fact, they do; however, in larger projects where we have large contracts it is best practice to involve a full-time contract manager who brings in his professional experience, takes responsibility for that process, and ensures the contribution of all team members.

Contract preparation comprises analysis and evaluation of the other parties' requirements, a clear statement of our own requirements, and negotiation in order to reach agreement between the involved parties. After signing the contract, upon handover, the implementation team needs to analyze the contract in order to ensure that they understand what has been signed and needs to be implemented.

As a first tool for contract management, we integrate a change management process into the contract.



There are several steps of escalation which we can integrate into the contract as a third tool of contract management. These are the claim settlement or dispute resolution methods.

**(1) Negotiation between the two contract parties:** In most claim situations, we will be able to settle the case after negotiating with the other party.

**(2) Independent expert opinion:** The contract parties agree to call a neutral third party for determination of specific contract elements, their interpretation, and an expert opinion

on the case.

**(3) Executive tribunal or mini-trial:** This is a process, sometimes called 'mini-trial', in which the parties make formal but abbreviated presentations of their best legal case to a panel of senior executives from each party, usually with a mediator or expert as neutral chairperson. Following the presentations, the executives meet (with or without the mediator or expert) to negotiate a settlement on the basis of what they have heard.

**(4) Dispute review board:** The dispute review board is a 'standing' adjudication panel used in major construction contracts. This board is normally appointed at the beginning of the project and stays in close touch with it, adjudicating disputes as they arise.

**(5) Conciliation or mediation:** Conciliation and mediation are similar. Conciliation refers to a process in which the third party takes a more activist role in putting forward terms of settlement or any opinion on the case between the two parties. While in mediation, the third party provides support to the parties during their negotiation but does not interfere with the content of the case or its settlement.

**(6) Adjudication:** In this process a neutral third-party, the adjudicator, makes summary binding decisions on contractual disputes without following the procedures of arbitration.

**(7) Arbitration:** This is a formal process, agreed by the parties, regularly with three arbitrators who are neutral and independent. They make a final and binding decision as first instance. On average, the process duration is two to three years. It follows the arbitration clauses set by the International Chamber of Commerce (ICC), Paris, and it requires the support of external lawyers.

**(8) Court trial:** After arbitration as first instance, we usually can go for a formal court trial as second and then third instance.

Steps (1) through (6) are not legally binding, but increasingly difficult to ignore or reject. Due to the duration and formal character, arbitration and court trial are the most expensive ways to settle claims. Therefore, it is worthwhile to discuss carefully with the other party before signing the contract which of the first 6 steps could be integrated into the contract.