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## A Study of Construction Claim Management Problems in Malaysia

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### Abstract

The frequency of claims is unavoidable given the nature of the contracts, their complexity, the number of parties involved, the risk and the pressure of time constraint in the preparation of the contract documents and the realisation of the work. The significantly increasing number of construction claims indicates the need for the implementation of an effective construction claim management. This paper will look into claim problems experienced by Malaysian contractors in construction projects. To achieve this, questionnaires survey were conducted involving the contractors and consultants. The findings indicate that the lack of site staff awareness to proactively detect claims, inaccessibility or unavailability of relevant documents, and conflicts which arises during owner/contractor negotiation are all critical problems associated with the process of claim management. The problems observed from this research could be used to solve or improve the contractors' claim management system.

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### 1. Introduction

The construction industry is an important part of the Malaysian economy. According to Construction Industry Development Board (CIDB), this industry achieved RM110 billion worth of projects in 2013. The projects include those in the infrastructure, transportation and oil and gas sectors. Completing a project on schedule is a difficult task to achieve in the uncertain, complex, multiparty, and dynamic environment of construction projects (Kartam, 1999). Because of this, the industry is always open to disputes. It is common for the claimant pursuing claim for work or services for defective work, delayed completion, changes of scope, etc. The number of construction claims and

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disputes has been increasing and has become a burden to construction industry (Levin, 1998). Even with the most expert understanding of construction contract and the most reasonable risk-allocation system, claims will continue to present problems if they are poorly managed in practice (Zineldine, 2006). It is very important for contractors to submit claims according to the steps specified in the contract conditions, provide a detail of the additional costs and time, and present satisfactory evidence. On top of that, project owners must follow a comprehensive procedure for tracking and managing the claims submitted by contractors.

Claims management is the process of employing and co-ordinating resources to progress a claim from identification and analysis through preparation, and presentation, before it proceeds to negotiation and settlement (Kululanga, 2011). The key objective of the claim management process is to resolve certain problems in an effective and efficient manner. Avoiding litigation and arbitration in claim settlement is one good practice that successful contractors must keep in mind (Pogorilich, 1992).

Generally, there are 6 stages in a claim process. It starts with identification and followed by notification, examination, documentation, presentation and negotiation of claims (Zaneldine, 2006). Construction claim identification involves timely and accurate recognition of a change. It is the first and critically important step, and it will be followed by a notification to the other party of a potential problem. Evidently, time limit requirements are also very crucial and critical (Levin, 1998). In general, the contract specifies such duties to both parties. Establishing legal and factual ground on which the claim is to be based is done during examination stage. The fourth stage is the documentation. It plays a very important role in the settlement of claims. All the supporting documents needed including drawings, specification, written instruction, cost breakdown, measurement records and many more should be compiled together. However, in reality, the importance of record management is not realized as much as it should be (Ho, 2004). The entire completed document will then be submitted and presented to client for assessment.

Upon receiving the official claim, client will assess and decide on the outcome. They should act fast and avoid procrastination. The final stage is negotiation. This stage concerns the process of negotiation claim to the owner, and mutual resolution of such claim (Ren, 2003). If an agreement cannot be reached and both parties believe that they are in the right position, they should propose an alternative dispute resolution method. If this fails, the remaining choice is to take the matter to court.

## 2. Objectives and Methodology

Objectives of this research are to identify the problems associated with claim process experienced by contractors and the areas related to claim process that can be effectively improved. To ensure the objectives of this research are achieved, questionnaire surveys were used to gather all the data. There are four sections in the questionnaire:

- i. The first section of this questionnaire contains the questions related to the respondents' data such as their position, their working experiences, types of projects that they are involved in and the types of contract that they have used.
- ii. The second section contains questions related to the issues in construction claim process such as the common types of claim experienced by the contractors and the main reasons of claim.
- iii. The third section contains questions specially constructed to gather feedback from the respondents on the problems that arise in every stages of the claim process from the first stage of identification of claim to the final stage of negotiation.
- iv. The fourth section includes open-ended questions asking the respondents to share their ideas, comments and suggestions on how to improve the claim management process in Malaysia.

Data of questionnaire survey were collected from 155 contractors and 49 consultants. They were asked to provide information related to the current issues in claim management, the problems encountered, preferred dispute resolution methods and the suggestion on how to improve the system. They were also asked to provide information related to types of claims, causes of claims, and the frequency of occurrence.

## 3. Results

### 3.1 Respondents

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