

**Talk on “PAM Form of Building Contract 2006 – Role of Contract Administrator.”**

by Ir. Chew Weng Yuen

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The Engineering Education Technical Division had co-organized a talk entitled “PAM Form of Building Contract 2006 – Role of Contract Administrator” with Engineers Australia Malaysia Chapter, and the Institution of Mechanical Engineers Malaysia Branch, on 29th June 2016, at Wisma IEM. The talk was delivered by Ar. Jonathan Lai Su Chung who is a registered architect with the Board of Architects, Malaysia (LAM) and a Corporate member of the Malaysia Institute of Architects (PAM). The talk was an extension of the talk that was delivered by Ar. Jonathan Lai on 14th June, 2016.

There were 30 participants in the talk, and Ar. Jonathan Lai commenced by defining the meaning of a Contract as “*an agreement enforceable by law*” (Section 2(h) of the Contract Act). He then went on to describe the Building Contract as normally employed in the construction industry. He also illustrated a traditional general contracting organization structure whereby the relationship between the Employer, the Professional team, the Main Contractor, the Direct Contractors, the Domestic Sub-Contractors, the Domestic Suppliers, the Nominated Sub-Contractors, and the Nominated Suppliers were all clearly defined.

Ar. Jonathan Lai then informed of the various types of the standard Form of Contract that were being employed in the public sector. These are as follows;

- a. JKR 203A (with Bills of Quantities),
- b. JKR 203 (with drawings and specifications),
- c. JKR 203N (NSC Sub-Contract),
- d. JKR 203P (Nominated Supplier Sub-Contract),
- e. JKR Design & Build Contract,
- f. CIDB standard Form of Contract for Building Works, and
- g. CIDB standard Form of Sub-Contract for Building Works.

As for the private sector, the standard Form of Contract that were normally being employed are;

- a. PAM 2006 (with Quantities),
- b. PAM 2006 (without Quantities),
- c. PAM 2006 (Sub-Contract),
- d. IEM.CE89 (For Civil Engineering Works),
- e. IEM.CES90 (Sub-Contract), and
- f. IEM.ME94 (For M&E Works).

Ar. Jonathan Lai then proceeded to elaborate on the PAM Form of Building Contract 2006. He informed that in most of the standard Form of Building Construction Contracts in Malaysia, the role of the Contract Administrator falls in the hands of the Architect, Engineer, or the Employer's representative. He added that the contract administrator's responsibility is to administrate the building contract. Generally, there is no legal requirement that the contract administrator should be the building's designer, or architect. However, PAM 2006 contract does require the Contract Administrator to be either an Architect or any other form of practice registered under the Architects Act 1967 and approved by the Board of Architects, Malaysia (Article 7(c)).

Ar. Jonathan Lai mentioned that the Architect's duties as the Contract Administrator usually starts when the building contract is being formed. Amongst the tasks that need to be performed at this stage are the organizing and coordinating meetings, order building contractor to provide the necessary documents such as work programme, performance bond, insurance cover note, organization chart, and others in order to effect the mobilization stage of the works. The functions of the Architect as the Contract Administrator and his duties comes to an end upon the issuance of the Final Certificate in the contract (*Functus officio*).

PAM 2006 Building Contract also expressed that the Architect can delegate his/her duties to the Engineer (Article 4), the Quantity Surveyor (Article 5), and Specialist Consultants (Article 6). However, such delegation must be expressly agreed by the Employer and the Contractor. Notwithstanding, the Architect remains responsible for the delegated duties.

In general, the Architect as the Contract Administrator is responsible for coordinating the actions required for the performance of the contract, including providing guidance and monitoring the necessary to assure that the contracting obligations are fulfilled by the contracting parties. The Architect is obliged to follow the provisions of the contract and his role, powers, and responsibilities are defined by the said building contract. He has no power to vary the terms of the contract. However, he has the power to issue instructions that may consist of variations pertaining to the works, removal of defective items, works or persons from the site. The Architect also determines the contractor's entitlements under the contract, and issuing of certificates. In addition, the Architect also decides on the interpretation of the contract (Clause 1.4). Ar. Jonathan Lai informed that under PAM 2006 contract, the Architect's decision is final unless his/her certificate is opened up, reviewed and revised by an arbitrator (Clause 34.8).

Ar. Jonathan Lai surmised that as the Contract Administrator, the Architect acts as an Agent of the Employer, an independent Certifier, and also a Quasi-arbiter. He then discussed each of these roles of the Architect in detail.

The talk was exceptionally interactive as Ar. Jonathan Lai preferred to engage and encourage active discussion with the participants throughout the duration of the session. The talk ended with the presentation of a memento to Ar. Jonathan Lai.



Ir. Chew Weng Yuen of the Engineering Education Technical Division presenting a memento to Ar. Jonathan Lai.