



## **2-Day Course on Contract Management for Construction Projects**

**By Ir. Lee Boon Chong**

Ir. Lee Boon Chong is Chairman of Project Management Technical Division of IEM for session 2011/2012.

**T**he Project Management Technical Division (PMTD) of IEM organized a 2-day course titled “Contract Management for Construction Projects” on the 7 and 8 November 2011 at Wisma IEM, Petaling Jaya. The talk was conducted by Ir. Lai Sze Ching. A total of seventy eight (78) participants attended the course.

The speaker Ir. Lai kick-started the course by briefing the participants on the legal context of construction contracts and the need for contract management. Construction projects are complex as they are multi-faceted and the implementation involves many parties. A project has to deal with problems that may ultimately affect its objectives; hence it is essential to reinforce the capability of identifying risks of contract management in construction projects closely. Effective contract management is the only way to avoid disputes and litigations in the projects, thereby helping to ensure timely completion without cost overrun.

To start off, a project manager shall understand the nature of the project whether it is a Lump Sum or Re-measurable Contract, Design & Build Contract, Engineering-Procurement-Construction-Commissioning (EPCC) Contract, Project Management Contract (PMC) or others. In Malaysia, parties to construction projects may resort to three (3) types of construction contract namely the Standard Form of Contract (PAM, JKR, IEM etc), the modified Standard Form of Contract or the non-standard form of contract. Generally, the nature and the type of contract adopted would determine the rights and obligations of parties concerned in the project. It is premised that the standard forms allocate risks relatively fairly amongst the parties. The use of standard forms also helps in increasing the familiarity with the contractual provisions therein, hence providing more certainty in the implementation of projects whilst reducing conflict of parties in expectation of the projects.

Ir. Lai pointed out the role of contract management as part of the risk management in a project or organization. By pre-identifying potential issues or risks, the project team shall have proactive counter measures, thereby limiting the impact of risks, increasing the opportunity of success, and minimizing damage to the project. Regardless of the size and nature of project, the project team should be monitoring all aspects of a project right from the tendering process, through contract negotiation and award (where the participants were briefed about the importance of ‘Offer and Acceptance’ – formation of contract etc.), to the commencement and progress of work on which interesting and relevant issues were raised and discussed, namely site possession, performance bond, insurance, failure to provide bonds and insurance, types of insurance, programme of work etc.

The speaker pointed out that keeping of good documentation at the site during the construction stage is an area generally neglected by contractors/employers. Typically these documents include the minutes of site meetings, site diary, progressive reports and photographs and others which not only bear much importance in monitoring the performance of contract, but also serve as good reference for potential claim or litigation. It must be noted that the conduct of parties during construction stage may essentially amend the rights and obligations of parties under the contract.

Alongside with the handing over of site to the employer, contractor is required to observe their obligations under the Defects Liability Period in which it is observed that contentious issues are always related to what is defined as 'defects' and the common arguments by contractors that defects due to misuse or common wear and tear absolve the contractors from warranty.

Ir. Lai concluded that although risks are unavoidable in construction projects, it is still possible to prevent or at the very least manage them before and during a project with good contract management practised by all stakeholders in the project. The Superintending Officer representing the client on one hand and the project manager on the other hand needs to master the provisions of contract as well as the possible approaches to resolving and settling disputes in the contract.

The course ended with an active Q&A session in which the speaker responded to pertinent questions raised by the participants. The session chairman, Ir. Lee Boon Chong presented a certificate of appreciation to Ir. Lai Sze Ching. The course was informative, stimulating and enlightening.