



# CIOB

## SINGAPORE CENTRE NEWSLETTER

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*Photo by Daniel Cheong*

## Foreword by the President

“2008 outlook presents an exciting & challenging year for construction professionals in Singapore. On one hand the tremendous amount of new works in the pipeline, which is a relief for many construction & consultancy firms alike, after many years of negative or flat growth in the construction sector but on the other, the challenges remain in the execution and delivery part with already noticeable crunch in the overall manpower available. However, many within the industry will agree that this is a good problem to have.



CIOB Singapore Centre enters the new year in great anticipation of the needs of the industry and its professionals. Towards this end, the up Coming International Construction Conference for 2008 on 20 February focusing in the area of Regional Outlook & Sustainability jointly organized by the CIOB Singapore Centre and the National University of Singapore addresses some of the current issues within the industry.

The new council wishes to thank the previous council under the able leadership of Christopher Chua for their hardwork & bring into being the awareness of the CIOB Centre and its role in the local industry. Given all of us in the present council are professionals with full time jobs, running the CIOB Singapore Centre requires a lot of sacrifices and more hands will make light work. In this respect, the new council looks out to all levels of CIOB membership to step forward and assist in the centre's work. This is an exciting year with many activities planned for the membership. The forward journey is challenging, but the new council is steadfast in its commitment to serve all its members. And we look forward to making the CIOB Singapore Centre into one of the leading local construction professional body and raise it membership profile across the construction industry.”

**Cheah Ming Foo**  
President



*Printed by Stamford Press*



# Report on the Annual General Meeting

The annual general meeting was held on 24 September 07 at 6.30pm at the Pines Club. The meeting was chaired by outgoing President Mr Christopher Chuah. The meeting was relatively well attended by members and the proceedings went on smoothly.

A new board was elected uncontested. Mr Christopher Chuah has stepped down as President and the position is now assumed by Mr Cheah Ming Foo. Mr Kobus Niehaus has stepped down as the Vice President and Mr Christopher Chuah elected in his place. The list of new council members is set out below.

Ms Eugenie Lip and Mr Kobus Niehaus have both stepped down from the council and the President, on behalf of the council took the opportunity to thank them for their contributions for the past one year and wished them all the best in their future endeavours. The President gave a detailed report on the activities and events that were held in the year. Overall the participation rate was encouraging and he said the council would be organizing more of such events for the members. President also highlighted the Inaugural Construction Conference that was held in the Goodwood Park Hotel earlier last year which was a resounding success judging from the participation and choice of speakers.



As the newly elected President was unable to attend the meeting due to medical reasons, he was unable to deliver his inaugural speech. The outgoing President thanked all members for their support and especially all the members who have been regularly turning up at our events and talks and exhorted the members to continue in their unstinting support for the CIOB and its activities. Lastly he invited everyone present to join him for the dinner at the Pines Room.

## New Council for year 2007/2008

<b>President:</b>	Mr Cheah Ming Foo
<b>Vice President:</b>	Mr Christopher Chuah
<b>Treasurer:</b>	Mr Henry Tng
<b>Secretary:</b>	Mr Chor How Choon
<b>Assistant Treasurer:</b>	Mr Kenneth Jones
<b>Assistant Secretary:</b>	Mr Alan Cen Zewei
<b>Social Secretary:</b>	Mr Frankie Fong
<b>R &amp; D Secretary:</b>	Mr David Shuttleworth

<b>Committee Members:</b>	Mr Joseph Tong
	Mr Paul Checketts
	Mr Nick Fun
	Mr Wilson Chueng
	Mr Leslie Harland

<b>Honorary Auditor:</b>	Mr S N Chatterji
	Ms Shirley Wong



## The New Experienced Practitioner's Assessment (EPA) Route to membership: A Course Provider's Perspective

And so we say goodbye to the CIOB's Direct Membership Examination. The DMX, as it was fondly known, has served us well since 1986 and has been the conduit by which a significant number of experienced construction practitioners have achieved Chartered status.

However, changes in both the construction and the education sectors now put the ageing DMX very close to its 'sell by' date and, after much review and evaluation, the Experienced Practitioner's Assessment (EPA) is now officially launched. September will see the new EPA replace the old DMX – which will be good news to many in the construction industry.

The new EPA is composed of four modules:

- Construction Technology
- Management
- Health, Safety and the Environment
- Contract and Commercial Practice

A significant departure from the old DMX is the deletion of an optional subject which, for many candidates, presented something of a dilemma. However, it is likely that the assessment methods of the new EPA will be viewed as the most radical change, with two of the four modules (Construction Technology and Health, Safety & the Environment) being assessed by written assignments. The remaining two modules (Contract & Commercial Practice, and Management) are assessed by a single examination in each case.

This change, in effect, reduces the examination element of the old DMX by a half – which will come as welcome news to those individuals who do not relish the thought of sitting two grueling days of rigorous examinations, as was the case under the old DMX. In effect, candidates should have 50% of the programme modules under their belt in advance of the examinations covering the last two modules.

Content-wise, the new modules have been brought up to date to reflect current concerns and contemporary themes. For example, the management module includes risk management, social responsibility and effective business management. The Contract and Commercial Practice module will allow focus on the new JCT 2005 Forms of Contract, which are proving to be very much more user friendly than their predecessors – for example, no Nominated Subcontractors! – and the number of Certificates down to seven from more than a dozen under the old JCT 98.

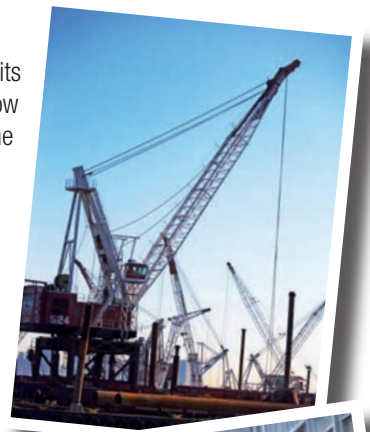
Of particular significance is the new stand-alone Health, Safety and the Environment module. Few would argue that these aspects of construction are not at the top of our concern agenda, and the Learning Outcomes of this new module reflect this concern. EPA candidates will learn best practice with regard to hazard analysis and risk assessment, the development of safe systems of working, as well as the legislation that affects us in the construction industry.

The Environmental element of the module will see candidates studying environmental good practice at the pre-design stage, at the construction phase and also in the occupancy phase. In both cases – health & safety, and environmental concern – the Learning Outcomes do not simply stop at statutory dictates but go on to examine our moral and ethical obligations to society, and the global environment as a whole.

Clearly, the metamorphosis of the old DMX into the new EPA is for the better, particularly with regard to the depth and span of content of each of the modules, together with the revision of the methods of assessment – even the dropping of the word 'examination' from the qualification title will please those of use who still have nightmares of the school gym and the dreaded end of term examinations!

*Chris Westacott FCIQB is a former Head of Construction in FE and now leads a successful training & development practice, offering the new EPA as a taught, evening programme at various venues in London and the south, with distance learning also available.*

*For further information on the new EPA programme contact [westacott@lineone.net](mailto:westacott@lineone.net)*



# CIOB Singapore - NUS 2nd International Construction Conference 2008 -

## “Construction: Regional Outlook and Sustainability”



The second International Construction Conference organised by CIOB Singapore and NUS was held on 20 February 2008 at Goodwood Park Hotel.

The emphasis of this year's conference was on sustainability which is a key concern in the construction industry on a global scale.

Speakers for the conference included Professor Li Shirong who works in the Chongqing Foreign Trade and Economic Relations Commission as Deputy Director. She spoke about the rapid development of China's economy and in turn the impact on its construction industry. She also spoke about the policies and actions the Chinese government have taken which included a case study on air quality improvement.



Mr Michael Brown, Deputy Chief Executive Officer CIOB, followed with a presentation on the global issue of construction sustainability, the problem of global warming and what the construction industry can do to address this.

Ms Malee Vilee, the Assistant Director of International Enterprise was one of the speakers who spoke about Free Trade Agreements and how to leverage on the tariff concessions to stay competitive.

The other speakers included Professor George Ofori and Dr Asanga from the Building Department of NUS. Professor Ofori's talk was about leadership in sustainability in the construction industry while Dr Asanga spoke about transnational infrastructure development projects.



Mr Davis Suff, Executive Director from Gammon Instruction spoke about sustainability and the environment and what Gammon is doing to contribute to this. Mr Keith Buckley, Executive Project Director of Hsin Chong Engineering (Macau) spoke about the Macau casinos that his company was responsible for building. Finally Mr Nicholas Jones ended the conference with his presentation on the performance indexation of plants for improved energy efficiency.

The conference was attended by more than a 100 people from various backgrounds and countries in the building industry ranging from the government sectors to the people in the legal and education sectors. Some the companies who were represented included Hexacon Construction, Johnson Controls, Gammon Construction, Land Transport Authority, Singapore Mass Rapid Transit, Surbana, Wong Partnership and NUS. Members from CIOB Singapore as well as CIOB Hong Kong, China and Malaysia also attended the conference.



We would like to thank the sponsors for their invaluable contribution to the conference. The sponsors for the conference were Dragages Singapore, Gammon Construction, CH2M Hill, Sato Kogyo, Johnson Controls, Wong Partnership, Mace and VSL Intrafor.

The conference was a resounding success and we look forward to the next one.



# Efficient Contract Administration & Management

By Leslie Harland MSc (Bath) MRICS MCIQB MInstCES ACIArb

## Introduction

Contract management means different things to different people. It may be defined as the process that ensures both parties to a contract fully meet their respective obligations as effectively and efficiently as possible in order to deliver the business and operational objectives required from the contract. The seed for effective contract management begins at the earliest stage of defining the procurement requirement and with contracts varying in value, size, duration and complexity different types of contract management practice will apply. The focus of this paper is concerned with contract management at the time the contract is being finalised and then the ongoing management of the terms of the contract, the common pitfalls and how to recognise and avoid them.

## Out with the old and in with the new!

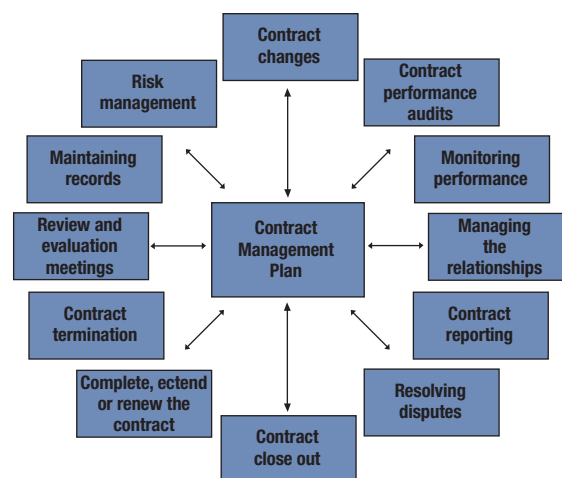
For many, contract management starts when the contract has been signed and ends when the administrative actions taken at contract closeout have been completed and the contractor has received final payment. During the technical work phase, few project personnel will refer to the contract for guidance, ignoring risk management protocols for notices, approvals and other “paperwork” allowing contractual safeguards to go by the wayside. Frequently, this will result in miscommunications - the major cause of disputes and claims.

The study “Contract Management 2002” by KPMG Consulting confirmed that contract management represents a complex business task, which can present considerable risks for a company. According to KPMG, the essential risks and optimisation potentials arise from the formation of contracts and information on contracts. The usual difficulty in retrieving contracts, the risks in terms of contract matter, the loss of contracts and the failure to observe deadlines are seen as essential dangers.

Lessons have been learnt with organisation now looking at contract life cycle management for enhanced visibility, control and performance which requires companies to improve processes and tools they use to manage the various activities involved in contract management.

## Contract Management Planning

The ‘Best in Class’ companies now see contract management planning as an essential component in its acquisition strategy. A contract management plan contains all the key information about how a contract will be managed and the systems and processes to ensure that the contractor complies with the terms and conditions during the performance of the contract. A typical contract management plan will address the following:



The contract management plan is a living document and should be reviewed and updated throughout the procurement process and life of the contract. Its achievement comes through:

- Adhering to the adopted strategy
- Preserving the contractual risk balance
- Meeting in full all contractual obligations and liabilities
- Managing residual risk and changes effectively as they arise

The essential skills of contract management are to know, in practical detail what has to be done to meet the high level contract objectives and then to control the various activities and inputs which must combine effectively to deliver those objectives. On complex contracts, knowledge and control should focus on integration at the interface between responsibilities which commonly undermine performance. Internal interfaces between departments and or functions are often the most problematic.

### Finalising the Contract – Getting it right the first time

A properly crafted and appropriate contract is an essential part of every successful construction project. Construction is an inherently risky endeavour involving a multitude of parties; the owner, prime contractor, subcontractor, vendors, architects, engineers and others. Each of these parties directly impacts the others' performance and the overall success of the project. With interrelatedness comes great risk. Well drafted construction contracts effectively allocate this and other risks, thereby reducing the uncertainty surrounding the project and facilitating the parties' ability to plan for the future.

In a typical scenario, a project architect or owner's representative will prepare the initial draft of a construction contract; business and contracts professionals for the various parties will review the drafts, revise them and settle the final detailed terms and conditions (with or without negotiation).

Unfortunately, parties often enter into contracts that are inapplicable, ineffective and poorly drafted which lead to differing interpretations that cause disputes. Many of these disputes lead to claims and costly litigation. However, by clearly outlining project goals and providing most specific documents possible, the number of change orders on a project can be greatly reduced which in turn will eliminate disputes and claims. The key to success is taking the time to ensure the right contract language is included in the contract form from project onset and that the contract specification agrees with the contract drawings.

### Common pitfalls at pre-construction stage

Making the contractor aware of a project's goals is key to contract success and increases the contractor's ability to participate as a member of the team. Contractors' are motivated to perform quickly and effectively as this is how they are able to make a profit. If they are hit with many change orders because the owner was unaware of what he or she wanted, the design was incomplete or simply because the owner failed to communicate his or her vision, it can greatly disrupt the project and increase the chances of a claim.

The more information contractors have, the more accurate they can price work and plan for challenges thus mitigating the chance for change order claims. Simply ensuring that the contract documents

are as thorough as possible ensures the greatest chance for project success.

A recent industry report (2005) produced by the Queensland Division of Engineers Australia identified poor design documentation to be contributing an additional 10 -15 % or more to project costs in Australia. One of the root causes behind the problem was the inadequate / ineffective use of technology in design documentation, e.g. poor application of CAD techniques; technical specifications drawn from an organisation's database but not tailored to the particular project.

Another common pitfall with contract documents is the tendency for owners and architects to use the same contract repeatedly without checking to see if it applies to the project in hand. Since each project is different and brings its own challenges, a specific contract needs to be crafted for each project to ensure the unique aspects of the project are considered. For example a daily report from the contractor is one of the key items often excluded from a contract document. These daily reports are critical for ensuring adherence to the schedule and keeping abreast of any important developments.

### Some "back to basics" tips

Well managed documentation and legal agreements can help prevent disputes and litigation from arising. The following are some points to watch out for:

1. **Contracts to be in writing** - Oral contracts are valid at law. However, it is advisable for building contracts to be in writing, utilising a standard form text with such amendments as may be appropriate to the circumstances. Anything that is agreed in face to face conversation or over the telephone during the course of a contract must be recorded in writing to provide certainty if a claim arises.
2. **No gaps** - When putting together contract documentation it is essential to ensure that there are no gaps or ambiguities. Each part of the paperwork forms a vital link in the chain. For example in commercial developments there are often several interconnected. Where any one party has specific requirements, for example a funders request for a specific form of warranty or pre-contracted tenant's a need for certain critical dimensions to be met, then these requirements will almost have to be inserted into all contracts and appointments.
3. **Letters of intent** - Letters of intent should be avoided unless strictly necessary to bridge a very short term gap before contract. They may invariably lack clarity and the level of detail necessary to document the parties' intentions.
4. **The law of contract** - Basic contract law principles need to be borne in mind at all stages of the procurement process. These are some of the common traps that may catch out the unwary or uninformed:
  - Late incorporation of written terms - Written conditions cannot be unilaterally inserted into a contract after it has

been formed. For example, in a case where the scope and conditions of sub-contract works are detailed in a tender letter which is then accepted, it will be too late post-contract for the Contractor to insist upon a warranty being given in more specific and perhaps more onerous terms to a funder. This requirement should have been made clear at the outset.

- Incorporation by reference - Many sub-contract or sub-consultants' appointments are often drafted to incorporate the terms of the main contract or upper contracts or appointments. Care must be taken, as such incorporation provisions are generally valid at law and may put an unnecessary and possibly undeliverable burden on a sub-contractor, for example a fitness for purpose obligation.
- Plans and Specifications etc - The issue numbers of the plans and specifications that are appended to the contract form a part of that contract. Any subsequent amendments will be variations. Therefore great care is required to check plans and documents immediately prior to entering into the contract.
- Under seal or under hand - The most important legal consequence of entering into a contract as a deed is that the parties are then bound by their obligations for twelve years rather than six.

The above are just a few matters that must be borne in mind when entering into and managing building contract documentation. Good practice dictates that a clear documented audit trail should be established at the outset to avoid or at least clarify any disputes that arise at a later date.

### **A great contract at its signing can be the worst one six months later!**

The effort spent striking a deal can be wasted if the agreement is not carefully managed. Active monitoring of the contract is therefore an essential part of implementing the project strategy and managing risk, providing the basis for effective contract management. The function of contract management should not just be about recording history and responding to events, but should also focus forward proactively using plans, schedules and trends to anticipate future performance. Within established objectives and short reporting lines, the remit of the function should incorporate:

- Buying
- Scheduling
- Document control
- Subcontract management, and
- Project administration

Integrating to facilitate effective total control, the tasks typically include; identifying objectives and commitments, monitoring performance of all parties for contractual conformance, record keeping, measurement, payment, contract variations and change control.

### **Effective control - things to look out for**

The post-contract management phase of the procurement life cycle often receives the least management attention (at least until something goes wrong). If we take a typical two-year procurement project and look at the elapsed time and expenditure by phase, a fairly clear picture is painted of the importance of contract management and the need for the contracting parties to devote appropriate effort and resource.

Profile of time against procurement life cycle phases

2-3 mths	1 mth	1-2 mths	1 mth	24 mths
Planning	Tender	Evaluation	Award	Post -Contract Management

Profile of expenditure against procurement life cycle phases

3-4%	1%	2-3%	1%	93%
Planning	Tender	Evaluation	Award	Post -Contract Management

### **Effective control - things to look out for**

The importance of the post contract management phase is further reinforced when we consider that this is the phase where the output procurement project occurs – the delivery goods and services. A skill that is required for effective governance of the contract is the ability to identify problems that require corrective action. The types of problems that might occur are: -

- Unsatisfactory performance
- Misunderstanding the requirement
- Inadequate channels of communication
- Developing trends, and
- Changes to the contract, brought about by unexpected requirements

Depending on the complexity of the contract "hygiene" checks should be carried out at regular intervals to ensure that systems, procedures and other performance of the parties remain consistent with the contract. This will enable problems to be dealt with swiftly and effectively and so prevent major disputes.

### **Change in requirements - making and responding to claims effectively**

Change is an almost inevitable feature to most projects. When not managed properly, as it arises, through means available within the contract, change is a claim or dispute waiting to happen. Most forms of contract are littered with change control procedures and provisions requiring the contractor to give notice of any causes of delay or additional expense incurred with stated periods within which such notice must be given. It is essential that these notice provisions are complied with in all respects as failure to do so can and frequently does prevent the successful pursuit of an otherwise legitimate claim.

A key aspect of contract administration planning is identifying the specific actions required by the contract for the notification of claims

and the type of records to be maintained and submitted. When responding to claims, it is important to first determine whether the claim has been submitted completely and correctly and in accordance with the contract requirements. For example has the contractor (or subcontractor) provided timely notification of the claim under the terms of the contract?

Has the contractor (or subcontractor) submitted the necessary supporting factual information, cost and schedule data and project documentation to back-up any claim asserted. Formal requirements for a successful claim are:

- An identified cause with a demonstrable linkage or impact
- Entitlement under the contract or in law
- Accurate quantification of cost and or time impact, leading to
- Precision over the remedy or recourse sought
- All supported by clear evidential documentation

The defence of a claim seeks to demonstrate the absence of at least one of these requirements. Informal claims can only succeed through the exercise of goodwill or discretion on the part of the respondent.

**Know the contract and obligations of the parties**

While the written contract is a record of each party's obligations, it is not designed as management document for the contract. This is the function of the contract management plan which aims to create an awareness and understanding of the roles and responsibilities of the various project participants. The contract management plan might include:

- A summary by date of milestones and deliverables
- Key individuals and the their responsibilities (contractor and subcontractor)
- A schedule of risks that have been identified and are being monitored and managed
- Reporting and lines of communication are established
- Meeting schedules and standard agenda items
- Process around how some of the contractual obligations are to be achieved
- Procedures for the management of specific activities in the contract ,i.e. OH&S
- Contract variations and claims procedures
- Payment procedures

Sadly, the process of developing and negotiating deals, drafting contracts and handover to contract managers is still disparate, meaning that contracts are not being managed with the benefit of knowledge of the key issues and deliverables of the agreement.

**Summary - Tips for effective contract management**

1. Prepare a contract management plan
2. Ensure the contract manager has the necessary skills and personal attributes to increase the likelihood of successful contract management

3. Identify contractor and subcontractor obligations
4. Document key processes / flow charts on how the contract works
5. Actively manage the contract
6. Foster communication and relationship management
7. Perform contract reviews and reporting procedures
8. Resolve disputes quickly
9. Make variations in writing
10. Diarise key dates and deliverables

The ten practical tips listed here are not exhaustive. There may well be additional or different procedures that a contracting party should follow, because of the unique nature of its business.

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