

**ANALYSIS OF THE TENDER PROCESS FOR TRADITIONAL GENERAL
CONTRACTING IN SARAWAK MALAYSIA**

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Dedicated to my beloved parents, family members and friends

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ABSTRACT

Traditional General Contracting is the most common type of contracting known in the Sarawak construction industry, as it has been the main form of contract procurement for quite sometime. As our industry is growing, the tender process itself for Traditional General Contracting has not gone through much improvement since then to suit the local necessity. This thesis investigates on the problems that could occur in every stage of the tender process and to see if there are rooms for improvement. The improvement is necessary so as to optimize the tender process to meet the objective of a construction contract. Interviews were conducted to the major players in the tender process for Traditional General Contracting. The data obtained from interviews was analysed and summarized to propose a theoretical model of good practices in the tender process for Traditional General Contracting.

ABSTRAK

Kontrak Umum Tradisional atau *Traditional General Contracting* adalah sejenis perjanjian yang biasa dalam industri pembinaan Sarawak, kerana ia telah lama wujud sebagai kontrak perolehan utama. Industri pembinaan kita sedang membangun, tetapi proses tender untuk Kontrak Umum Tradisional belum mengalami kemajuan yang memberangsangkan bagi penyesuaian dengan keperluan tempatan. Tesis ini bertujuan bagi mengkaji masalah yang mungkin timbul dalam setiap peringkat proses tender dan menentukan sama ada wujudnya peluang untuk permajuan. Permajuan ini adalah mustahak untuk mengoptimumkan proses tender agar ia dapat mencapai objektif sesuatu kontrak pembinaan. Temuramah telah dijalankan dengan kakitangan utama dalam proses tender Kontrak Umum Tradisional. Data yang diperolehi dari temuramah telah dianalisis dan dirumuskan untuk mencadangkan satu model teori untuk praktis baik yang harus dijalankan dalam proses tender Kontrak Umum Tradisional.

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CHAPTER 1

INTRODUCTION

1.1 BACKGROUND

The construction of a civil engineering project can be divided into three significant phases namely Development Phase, Contracting Phase and Execution Phase (Ritz, 1994) as shown in figure 1.1. As part of the initial stages of contracting phase, one of the principal tasks of the project team is to develop the contract strategy to be adopted. During the development of this strategy, consideration will have to be given to the route for procuring the construction contract to realize the project objectives. Thus, an early decision on the preferred method of contract procurement is essential as it will determine the amount of pre-contract work such as design, detailing, tender documentation, and financing (Singh, 2002). The bidding, proposing, and contracting process play a key role in total construction project management. This process is the lifeblood of the engineering-construction industry. Until client and contractor have reached an agreement in contract, no steps are taken to construct the facility (Ritz, 1994).

Activities		
Development Phase	Contracting Phase	Execution Phase
Project Planning Market Development Process planning Cost estimating Basic Design	Contracting plan Contractor Screening Selection of bidders Invitation for proposals Bid Review Contract award	Detailed engineering Procurement Construction
...By owner	...By owner and contractor	... By Contractor

Figure 1.1: The Contracting Process
 (Source: Ritz, 1994, Total Construction Project Management)

There are a few types of procurement method in the local construction namely:

- Traditional General Contracting (TGC);
- ‘Package Deal’ Type of Contracts;
- Management Contract (MC);
- Build, Operate and Transfer (BOT) Contracts; and
- Miscellaneous Types of Contracting.

According to Singh (2002), Traditional General Contracting is the most common type of contracting known in the engineering and construction industry in Malaysia, as it has been the main form of contract procurement for quite sometime. It is also known as General Contract or Design-Bid-Build Contract in the local industry. Obviously, it is based upon the rigid separation of design and construction.

As per Potts (1995), the stages involve in TGC are namely:

- i) Inception and Feasibility;
- ii) Design;
- iii) Tendering;
- iv) Construction;
- v) Handover and Maintenance;

Figure 1.2 shows the relationship among the major players in traditional procurement method. The employer, usually after undertaking a feasibility study, appoints a team of consultants (led by architect/ engineers) to undertake the detailed design. The design team prepares detailed drawing, specifications and often Bills of Quantities. The tender documents are prepared for invitation of tender and the contract being evaluated and awarded, usually to the contractor with the lowest bid. The contractor then manages the construction aspects, usually using sub-contractors.

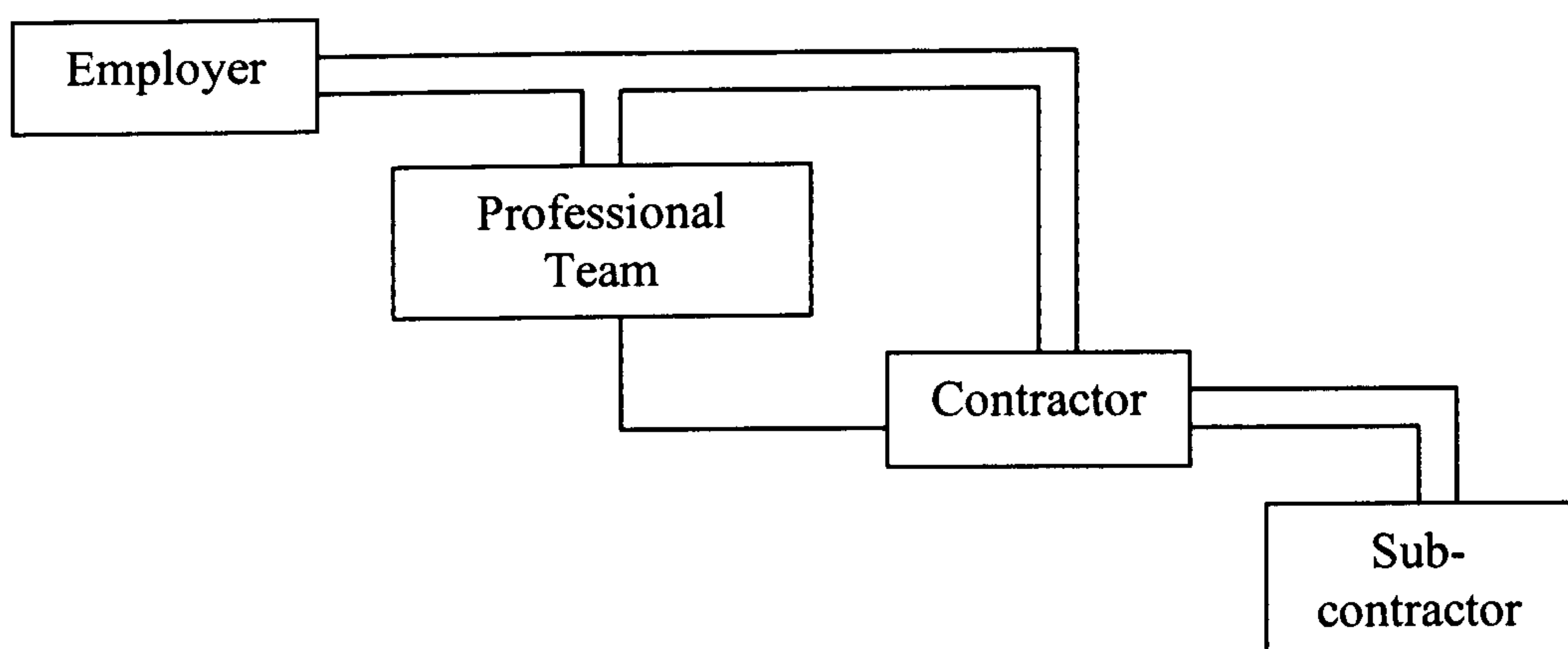


Figure 1.2: The Traditional Procurement Method
(Source: Brook, 1993, Estimating and Tendering for Construction Work)

The tendering stage of a project is one that is markedly influenced by the method of contract procurement selected by the employer, whether it is by Traditional General Contracting or any other methods. Selection of contract procurement method is very much based on the nature of various activities involve in the realization of the project. In the tendering stage, tender process must be properly and well-outlined. The tender process meanwhile is described as the process whereby a contractor is selected to carry out work and the basis of settlement of an offer on which a contract will be agreed on (Ritz, 1994).

A tender therefore is defined as an offer by contractor to employer in competition and/or negotiation to do work or supply goods at a fixed price which, if accepted by the employer, will form a binding contract between the parties (<http://www.capegateway.gov.za/eng/tenders/tenders>). Getting goods or services is also known as 'procurement'. In other words, it is an offer to carry out construction work at a price, which is a bid in accordance with the conditions set down in the tender documents.

As mentioned by Brook (1993), the purpose of client in tender stage is to select a suitable contractor who can supply a product for the lowest possible price, and can demonstrate the following:

- A reputation for good quality workmanship and efficient organization;
- The ability to complete on time;
- A strong financial standing with a good business record; and
- The expertise suited to the size and type of project.

The contractor brings together all the diverse elements and inputs of the construction process into a single, coordinated effort and assumes full, centralized responsibility for the delivery of the finished job constructed in accordance with the contract documents. Thus, the main contractor is fully responsible to the owner for the performance of the sub-contractors and other third parties to the construction contract (Seals, 1991).

Before the more procedural aspects of tendering process are delved into, a brief assessment of each tendering procedure mode is required to be undertaken. According to Brook (1993), there are three tendering procedure modes:

- Competition Mode
- Negotiation Mode
- Hybrid Mode

Over the years, Competition mode has been the main strand running through the innumerable tender exercises undertaken especially on the local scene. As per Seals (1991), the Competitive bidding of public projects is normally required by law and is a standard procedure for public agencies. When bidding a project, the contractor estimates how much the structure will cost using the architect-engineer's drawings and specifications as the basis for the calculations. To this cost it adds what seems to be a responsible profit and guarantees to do the entire job for the stated price. Price amounts quoted by the bidding contractors most often constitute the principal basis for selection of the successful contractor, the low bidder usually receiving the contract. Therefore, Competitive bidding is the

traditional mode of selecting suitable contractors and enables the employer to get the best price.

Whereas in the negotiation mode, contractor is selected and thereafter the contract price is agreed upon not through competition but on the basis of negotiation between the parties. The owner can also handpick a contractor on the basis of its reputation and overall qualifications to do the job. According to Seals (1991), a contract is negotiated between the owner and the chosen contractor regarding the extent of works and the contract price. Such contracts can obviously include any terms and provisions that are mutually agreeable to the parties.

There could be a contract awarded on the basis of hybrid mode. One such process is to have a bidding where the competing contractors are required to submit their qualifications, along with their bids, and are encouraged to tender suggestions as to how the cost of the project could be reduced. The owner then interviews those contractors whose proposals appear most favorable and negotiates a contract with one of them (Seals, 1991).

1.2 PRINCIPAL ACTIVITIES IN TENDER PROCESS

On completion of all the preliminary stages of the project (inception, feasibility, design development and detail design, project budget approval), the works must be let out to contractor to carry out the construction through tender

process. Therefore, selection decision of the most preferable contract procurement method needs to be set for the subsequence tender process.

As per Singh (2002), the principal activities of tendering process in Traditional General Contracting are listed below:

- Tendering procedures: Determination of Tender Type
- Preparation of detailed tender documentation
- Invitation to tender
- Submissions and receipt of tenders
- Evaluation of tender submissions
- Acceptance of Tender

The selection of type of tendering procedures is crucial to realize the objectives of tendering, whether it is undertaken through Open Tendering, Selective Tendering or Negotiations. The appropriate type of tendering procedure is chosen dictated by a host of nature and characteristic factors.

Under Traditional General Contracting, it requires the preparation of the tender documentation as a long and laborious process necessitating detailed tender drawings, bills of quantities and specification. The tender documents form the essence of the employer's enquiry. At the same time, it is the documents upon which the contractor's tender is based on, in response to the employer's query, to come out with the bid.