

**NEGOTIATION FOR DISPUTES SETTLEMENT
IN CONSTRUCTION CLAIM**

(A CASE STUDY ON AIR LAKITAN IRRIGATION SUB-PROJECT – STAGE-1, INDONESIA)

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In the name of Allah most gracious most merciful

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ABSTRACT

The construction industry has many factors which contribute to disputes. Disputes waste money and also take attention and energy away from the project. Disputes limit and distort communication and destroy relationships. Dispute can also arise from construction claim. The contractor can be a claimant and submit their claim documents when they feel they are entitled to be paid some additional money in respect of additional costs they incurred. Negotiation process, as one of ADR methods has been used throughout history to settle disputes. Negotiation involves fewer people, takes less time and usually results in strengthened relationships. The people involved in the negotiation maintain control over negotiation process.

The objective of this study is to investigate the negotiation process for disputes settlement on the construction claims for the case study, Air Lakitan Irrigation Sub-Project – Stage-1, Indonesia. The methodology of the study is documentary analysis based on the documents of the project with additional analysis of questionnaire results from the Contractor's perspective. It is found that the negotiation conducted in Air Lakitan Project is an Integrative Negotiation, or win-win approach to negotiation. The stages involved in negotiation process are; the beginning stage to identify and define the problem/issue; the middle stage to conduct meetings, understand the problem/issue fully, and generate alternative solutions; and the end stage to evaluate and select the alternative to be a deal/agreement. The easiest part of negotiation is the end stage and the hardest part is the beginning stage. Five important elements which have been contributed to the successful negotiation are good communication; skill to negotiate; willingness to work with the other party for a proper understanding of a problem and the needs of other party; willingness to bring all concerns out in the open so that the issues can be resolved in the best possible way; and the effort to investigate issues so well with the other to find a solution that would be acceptable to everyone involved.

ABSTRAK

Industri pembinaan mempunyai banyak faktor yang menyumbang kepada pertelingkahan. Pertelingkahan membazirkan wang dan juga mengambil perhatian dan tenaga dari projek tersebut. Pertelingkahan menghadkan dan memutarbelitkan komunikasi dan memusnahkan hubungan. Pertelingkahan boleh juga timbul dari tuntutan pembinaan. Kontraktor boleh menuntut dan mengemukakan dokumen tuntutan apabila ia merasai berhak dibayar sedikit wang tambahan berkenaan dengan kos tambahan yang ditanggung olehnya. Proses rundingan, sebagai salah satu kaedah ADR, telah digunakan sepanjang sejarah untuk menyelesaikan pertelingkahan. Rundingan kurang melibatkan orang, mengambil masa kurang dan biasanya keputusan rundingan memperkukuhkan hubungan. Orang-orang yang terlibat dalam rundingan mengekalkan kawalan ke atas proses rundingan.

Objektif kajian ini adalah untuk menyiasat mengenai proses rundingan untuk penyelesaian pertelingkahan ke atas tuntutan pembinaan bagi kajian kes yang dipilih, iaitu Air Lakitan Irrigation Sub-Project - Stage-1, Indonesia. Metodologi kajian ini adalah analisis dokumen berdasarkan dokumen-dokumen projek dengan analisis tambahan hasil borang soal selidik dari perspektif Kontraktor. Kajian ini mendapati bahawa rundingan yang telah diadakan di Air Lakitan Project adalah Rundingan Integratif, atau pendekatan menang-menang bagi rundingan. Peringkat-peringkat dalam rundingan adalah peringkat awal untuk mengenalpasti dan menentukan masalah / isu; peringkat pertengahan untuk menjalankan mesyuarat, memahami masalah / isu sepenuhnya, dan menjana penyelesaian alternatif; dan peringkat akhir untuk menilai dan memilih alternatif yang akan menjadi perjanjian. Bahagian paling mudah rundingan ialah peringkat akhir dan bahagian paling sukar ialah peringkat awal.

Lima elemen penting yang telah menyumbang kepada rundingan yang berjaya ialah komunikasi yang baik; kemahiran untuk berunding; keinginan untuk bekerja dengan pihak lain untuk pemahaman masalah yang betul dan pemahaman keperluan pihak lain; kesediaan untuk membawa semua kebimbangan di tempat terbuka supaya bahawa isu-isu boleh diselesaikan dengan cara yang terbaik dan usaha untuk menyiasat isu-isu dengan begitu baik dengan yang lain untuk mencari penyelesaian yang akan diterima oleh semua orang yang terlibat.