



CHALLENGES FACING CONSTRUCTION CONTRACTS IN IRAQ

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Abstract: This paper aims at exploring the most important challenges which are facing the construction contracts in Iraq, and trying to analyze these challenges from various aspects. Addition, we have put necessary recommendations to support this sector through some notes and appropriate plans. Challenges are classified into eleven major problems (Political Problems, financial problems, administrative problems, problems related to the tender documents (contracts, drawings), problems related to the specifications and materials adaptation (Quality), problems related to the contract parties themselves, problems related to the sector environment, problems related to the natural environment, problems related to the arbitrations and disputes solving, problems related to the technology uses, problems related to the career ethics). These varieties have been agreed upon through questionnaire that was made for a number of the relevant authorities about the challenges facing them in construction sector. Each one of them contains a minor problems, it will be discussed such as (Rates burning due to intense competition between contractors, awarding the bid to the lowest prices not to the most accurate, delaying paying owed payments by the owner, the changing value of currency exchange). Finally the recommendations and appropriate procedures to avoid these problems, it was (Price estimation before tendering, Awarding the nearest price, rejecting offers less than 25% of the estimated), and there is other recommendations we have mentioned in this paper for another more challenges.

Keywords: *Construction Sector in Iraq, Challenges of Construction Contracting.*

التحديات التي تواجه التعاقدات الانشائية في العراق

الخلاصة: يهدف البحث الى توضيح اهم التحديات التي تواجه التعاقدات الانشائية في العراق، ومحاولة تحليلها من اوجه عدة. اضافة الى ذلك، تم وضع التوصيات اللازمة لدعم هذا القطاع من خلال بعض الملاحظات والخطط المناسبة. صنفت التحديات الى احد عشر مشكلة (سياسية، مالية، ادارية، مشاكل تتعلق بوثائق العقود والاسعار، مشاكل تتعلق مع نوعية المواد، مشاكل تتعلق مع اطراف العقد انفسهم، مشاكل بيئة قطاع الانشاءات، بيئة العمل، المشاكل المتعلقة بالتحكيم وحل النزاعات، مشاكل استخدامات التكنولوجيا، المشاكل المتعلقة بأخلاقيات المهنة). هذا التنوع في التحديات وضع من خلال استبيان لعدد من اصحاب العلاقة حول التحديات التي تواجههم في قطاع الانشاءات. كل واحدة من هذه التحديات لها مشاكل ظنيها اخرى سيتم مناقشتها مثل (زيادة في الاسعار نتيجة التنافس الشديد بين المفاوضين، منح العقد لاوطى الاسعار وليس للاكثر ملائمة، تاخير دفع المستحقات من قبل المالك، التغير في صرف العملة). واخيرا وضع التوصيات والاجراءات الملائمة لتجنب هذه التحديات والتي كانت (تخمين الاسعار قبل العرض. منح العروض للاقرب سعر، رفض العروض الاقل بنسبة 25% من السعر المخمن)، وهناك توصيات اخرى اشير اليها في هذا البحث لتحديات اخرى.

1. Introduction

1.1. Construction Contracting Management Problems

Generally, the construction sector in Iraq has failed for several years (from 2003 to 2011) to get entitlement of development, and competition the same sector in neighboring countries or in the world. Despite the significant role for this sector in supporting the Iraqi economic. This failure was the result of a lot of restrictions and procedures that hinder the development of this sector in Iraq. All these restrictions and obstacles led to problems between the owner (Iraqi government) and contracting stakeholders in terms of continuous change in prices, rate of profits to contractors, and not to apply the required standard by contractor [1]. These problems led to work stagger, poor quality of the product, absence of standards, schedule delay of project, and economic damage on the individual and the country. This study is focuses on a number of these problems that face the contracting stakeholders (contractors, engineers, supervisors, consultants and some donor countries institutions representatives). This research aims to develop a holistic point of view to these problems that threaten the construction sector in Iraq and work to develop proposed solutions to these problems.

Through this paper, we categorized these problems into eleven major, which includes on the small problems. The following are the main problems [2].

Classifications:

1. Political Problems.
2. Financial Problems.
3. Administrative Problems.
4. Problems related to the tender documents (contracts, drawings).
5. Problems related to the specifications and materials adaptation (Quality).
6. Problems related to the contract parties themselves.
7. Problems related to the sector environment.
8. Problems related to the natural environment.
9. Problems related to the arbitrations and disputes solving.
10. Problems related to the technology uses.
11. Problems related to the career ethics.

2. Methodology

2.1. Defining the Iraq Construction Contracting Management Obstacles

The mechanism to identify and define the most important obstacles which face the construction sector in Iraq was through investigating and negotiating the problems from the perspective of the local contract parties(contractors, engineers, supervisors), who are directly involved in the implementation of construction works in the constructions sector. Counseling request which sent to them was (what challenges the most important was obstacle to develop the construction sector in Iraq). The results were a lot of suggestions about these challenges, which

amounted to 30 points. Many of amendments have been made for those proposals to be more inclusive and impact on this sector. In the end it was shortened and modifies these proposals for up to (11) major points of challenges that are considered the biggest direct impact on the construction sector.

2.2. Questionnaire Distribution

The questionnaire was distributed to the selected sample in the three Iraqi provinces (Bagdad, Diyala, and Basrah) representing the two regions which contains a largest construction projects and it is near from us. In this research, three types of populations were targeted. First one included the contracting projects' owners and their representatives including first class consultants who have a valid membership in the engineering association. The second population represented by contractors companies. The third population represented by the donor institutes from other countries. (100) questionnaires were distributed in this research; including (47) contractors, (33) project owners, (17) project consultants and (3) donor institutes from another countries. The questionnaire was beginning of the year 2015 using many techniques and ways, such as:

- Direct distributing by hand
- Sending by email or phone calling.

2.3. Results of Analysis

The questionnaires were collected and analyzed using (Excel, Spss) programs, and all responses were discussed with some experts and professionals of the local stakeholders. After that comparisons made of these responses with the construction sector in other countries (USA, KSA, and Jordan) were conducted [3-6]. There were proposing solutions for the main problems and finally some recommendations have been proposed to make the construction sector more effectively in Iraq. General a framework of solution was performed for summarizing the recommended actions and put procedures for solving and avoiding the construction sector in Iraq the importance problems [7-9].

3. Results and Discussion

3.1 Construction Contracting Problems Analysis

In order to analyze the problems in the construction contracting, a four-point likert scale used to evaluate the importance degree of each problem. This evaluation included in the questionnaire, ranging from " high importance, medium importance, low importance to it does not matter". Then, every problem has ranked according to the value of its average. These ranks starting from the smallest average to the largest one, by giving the value 1 for the problem that have the smallest average value, 2 for the problem that has the second smallest value, and so on. In the same way until reaching the largest average value among all problems. Table 1 shows the

degree of importance for each problems category and its arithmetic mean, ranked from the lowest rated importance that has rank number (1) to the highest rated importance with rank number (11).

Table 1. Degree of importance for main problems

Rank No.	The main problems category	The importance	Mean
1	Problems related to the natural environment	low	2.24
2	Problems related to the sector environment	Medium	2.83
3	Problems related to the contract parties themselves	Medium	2.95
4	Problems related to specifications and materials adaptation (Quality)	Medium	3.08
5	Financial problems	Medium	3.11
6	Problems related to the technology use	Medium	3.19
7	Problems related to the arbitrations and disputes solving	Medium	3.24
8	Political problems	High	3.28
9	Problems related to the tender documents (contracts, drawings)	High	3.31
10	Problems related to the career ethics	High	3.47
11	Administrative problems	High	3.49

The results in this table indicate that " the problems related to the administrative problems and career ethics", have the greatest importance among the other main problems. The administrative problems referred to the poor of the administrative system and the weakness in organizational structures that controls most of our contracting companies, and career ethics and relationship between the contract parties is bad. This referred to the absence of the competent authorities and censorship from the government and organization which have related to construction sector. This negligence cause in non-compliance and regulating with laws. Also, it is referred to the poor relationship between the contracting parties which leads to misunderstanding and estrangement between these parts and non-satisfying the contract documents requirements. Thus, these results require rising awareness among the contract parties and gave more roles for administration to ensure ethical work climate and to achieve their desires of less hassle work environment.

Peculiarly, results showed that there is a difference between the importance of the problems according to ranking and our pre-questionnaire interviews. Where the results showed "the financial problems" have the fifth top importance ranking among the others, while during our pre-questionnaire interviews almost all interviewees were suffering about the bad financial supporting that they are suffering from, but the results of this paper found that the financial

problem is not a real problem as they claim, but there are much more important real problems that must be dealt with it.

3.2 . Analysis of the Most Causes of Claims and Disputes

In this research, we made second questionnaire about " what things are most possibility caused of disputes, claims and their responses voters percentages. Fig. 1 shows " drawing and specifications modifications" were the most possibility causes of claims and disputes, where reached about (27%) of the sample questions about this point. This result was not sudden because the sometime the plan levels are not well studied when put tender or the tender applied incorrect from contractor and stockholder. All that leads to make modification on quantities and prices changes which properly causes disputes between parties of contract. So, the drawing and specifications modifications need more accuracy and plan regarding to keep on quality and prices changes. Also, as in fig.1 the variation order and currency exchange changes the most second dispute between parties of contract.

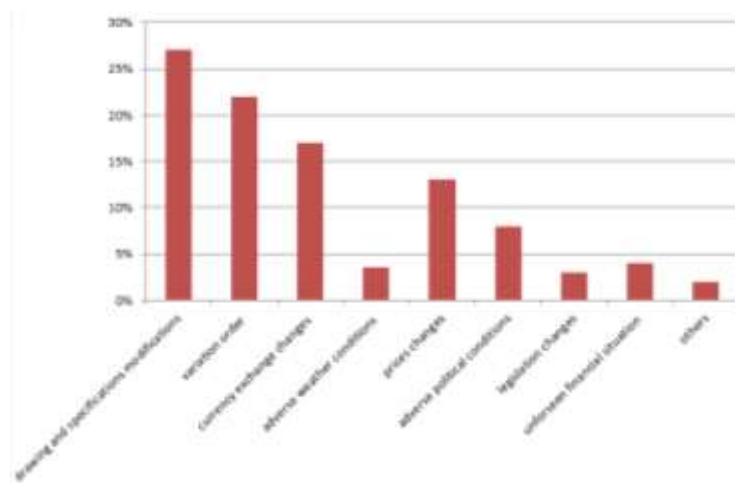


Figure 1. The most probable causes of claims and disputes

3.3 . Bi-variate Analysis of the Respondents Work Type and Their Qualification

Bivariate means linkage two questionnaire variables together to show the effect of one variable on the others [10]. The two variables; respondents work type and respondents qualification was shown in Fig.2. The study analysis shows that the Iraqi contract community has well degree of education. Where about 69 % of them had completed a bachelor degree. This result is disagreeing with the other contract parties complaining about uneducated contractors. Where the companies still managed by the old mentality of the uneducated. On the other hand, there is a good contractor environment in Iraq that we can depend on to improve construction sector to be more active than before.

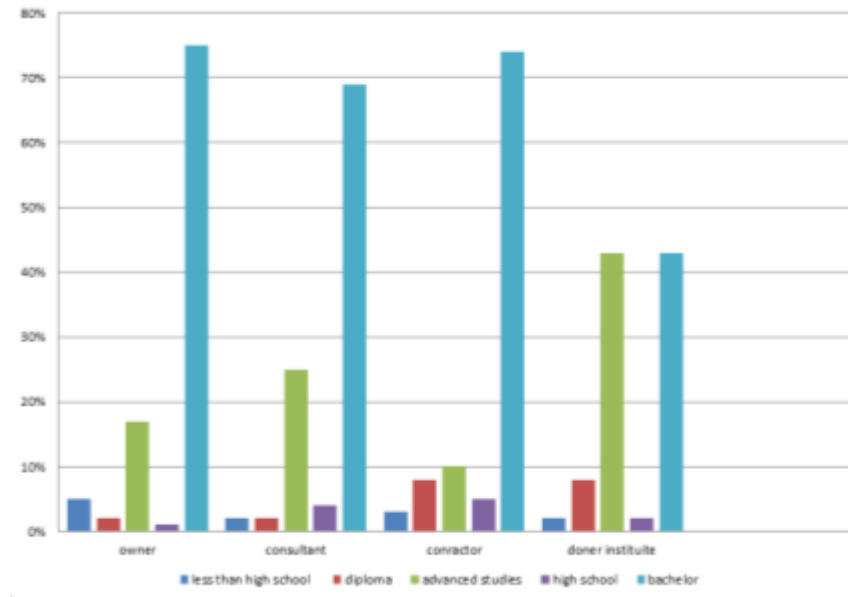


Figure 2. Respondent work type vs. qualification

3.4 Analysis of the Great Importance Problems

Table 2 shows the petty problems that have the highest importance and their arithmetic means. Those highest importance problems were considered in the comparison with other neighbor Arab countries in order to propose solutions for them.

Table 2. Problems having the highest importance

Rank No.	Problem	The Importance	mean
1	Rates burning due to intense competition between contractors	High	3.83
2	Policy adoption of awarding the bid to the lowest prices not to the most accurate	High	3.79
3	Delaying paying owed payments by the owner	High	3.76
4	The changing value of currency exchange	High	3.62
5	Owner deceleration in decision making	High	3.58
6	The size of projects is little in relation to the number of contractors	High	3.57
7	Construction materials changing prices due to inflation	High	3.56
8	Declining in the country economic situation	High	3.54
9	Some contractors man oeuvres by downloading some prices on other items	High	3.47
10	Presence of conflicts between tender documents	High	3.43

4. Framework Solution and Recommendations

We make some recommendations to enhancing the construction sector depended on situation in other Arab countries. These recommendations help us to find a solution for the most important problems and obstacles which facing Iraqi construction sector.

A framework solution was executed for summarizing and presenting the recommended actions and procedures. These recommendations and procedures will be solving and avoiding research top ten the highest importance obstacles and problems as shown in fig.3. They will be assisting contract parties to find ideating the current situation and how to solve or prevent them. These propositions include the following procedures [11]:-

- Owner must be accurate and complete study for tender prices before awarding the tender to the nearest price.
- Refusing any tender offer lowered by more than 25% from the estimations or the current prices.
- Examining commission must be award the lowest price bid and best technically that adapt to the conditions and specifications. In addition, to refuse any inconsistent offers with specifications and conditions according to system rules.
- Examining commission who's responsible on offers must be sure of price moderation for the lowest price offer adapting to the specifications and conditions.
- The project owners should pay fines when they delay paying any of the contractor's owed payments.
- It is necessary to fix and identify currency convert rate for each project at the base date of the tendering.
- If stakeholder (owner) declares in his decision making, Contractor should claim about this matter to ensure their rights and gains his owed compensations by law.
- The application and decisions which deal with changes in cost must be activated, and the (table of adjustment data) should be attached with the (Appendix to Tender).
- Establishing department of Prices Monitoring and Documenting responsible and dealing with changing prices through following up suppliers and materials manufacturers, in order to get changes of the construction materials, release special circulars for the prices correcting and publishing these circulars and main materials prices updates to contractors.
- Recommending establishing institution and competent authorities conducting proposals and researches to upgrade the construction sector, while government should study and put these proposals and to deal with them later on. In addition, it is necessary to deal with contractors and a fundamental partner in making decision, plans implementation, planning enacting the sector governing legislations.
- The contractor should be responsible for studying tender documents carefully and inquiring about any included conflicts among them before tendering.
- Competent authority should carry the responsibility of checking and reviewing the engineering offices drawings and other related documents before tendering.
- It is essential that a preparing special study for classification of construction materials and prices, and a construction methods, road, measurement methods, technical specification, and distribution to engineering offices to apply generally in the construction.



Figure (3): Main construction contracting sector problems and their proposed solutions framework [11]

5. Conclusions

Construction sector in Iraq represents the largest sectors that have a prominent role in an economic development. This sector suffers from some of challenges which are hinder its growth and they effect on the country's overall economy. The most important of these challenges are (Rates burning due to intense competition between contractors, awarding the bid to the lowest prices not to the most accurate, delaying paying owed payments by the owner, the changing value of currency exchange). These challenges have had an obvious impact in the decline and delay the working within the construction sector. In this paper, we have analyzed and assessment the most important of these challenges, and amount of its impact on the construction sector. We have put some of the recommendations which they are considered the solution to avoid these challenges. These recommendations will work to raise awareness among the parties (parties to the contract) to create a good work environment.

The main recommendations in this research deals with contract parties to ensure ethical work climate and achieve their desires of less hassle working climate.

- Authorities and institutions that have related with the construction sector on the development of important laws to revitalize this sector, and to require the responsible institution to apply them.
- The projects owners and donor countries institutes are recommended to prepare accurate study for tender prices before awarding the tender to the nearest price of the real one. Also, keep paying their payments.
- The governments institution are recommended to follow up its current classified contractors reconsider its current classification procedures, applying punitive actions in case of defaults and violations and increasing its member's awareness and qualifications.
- Contractors are recommended to carefully study the tender documents when bidding and accepting to the contract documents requirements. Also, not to rely on the method of downloading some prices on other tender items.

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