

**THE KNOWLEDGE OF CONTRACTORS ON ALTERNATIVE DISPUTE RESOLUTION
(ADR) IN KUCHING, SARAWAK**



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1. Letter of Report Submission

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Assalamuataikum Warahmatullahi Wabarokatuh

YBhg. Prof. Dato Dr.,

Laporan Akhir Penyelidikan "The Knowledge Of Contractors On Alternative Dispute Resolution (ADR) In Kuching, Sarawak".

Dengan segala hormatnya perkara di atas adalah dirujuk.

2. Sukacita dimaklumkan bahawa projek penyelidikan bertajuk "The Knowledge Of Contractors On Alternative Dispute Resolution (ADR) In Kuching, Sarawak" telah berjaya disiapkan dan dihantar ke RMU UiTM Sarawak untuk tindakan selanjutnya.

3. Bersama-sama ini disertakan 1 (satu) naskah Laporan Akhir untuk rujukan dan perhatian selanjutnya daripada pihak universiti .

Sekian, terima kasih.

Yang Benar,



.....
NOOR AKMAL ADILLAH ISMAIL
Ketua Penyelidik

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- Penolong Naib Canselor (Penyelidikan) RMI UiTM
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5. Report

5.1 Proposed Executive Summary

Alternative Dispute Resolution (ADR) is a non-adversarial technique which is aimed at resolving disputes without resorting to the traditional forms of either litigation or arbitration includes mediation, conciliation, expert determination, etc. Litigation is a dispute procedure which takes place in the court and arbitration is the main alternative to legal action in the courts in order to settle an unresolved dispute. Mediation is a process where a neutral advisor listens to the representations from both parties and then helps them to agree upon an overall solution. While conciliation is a process where a neutral advisor listens to the disputed points of each party and then explains the views of one party to the other.

News Straits Times (18 June 2007) reported that as of July 2006 there were more than 300 000 civil cases including construction pending in the Malaysian courts and the suggested solution was Alternative Dispute Resolution (ADR). Minister in Prime Ministers Department suggested that mediation (ADR) maybe the answer to the mounting backlog of civil cases nationwide (News Straits Times, 9 May 2008).

Hence the purpose of this research is to identify the preliminary finding on the awareness of the contractors in Sarawak. The objectives are to survey the awareness of Sarawak Contractors on their rights of the non-adversarial dispute resolution available in the market and to study the knowledge on the existence of non-adversarial disputes resolution other than litigation and arbitration.

The research will be conducted by using qualitative and quantitative approach. Questionnaires will be distributed and data will be analyzed by using SPSS. The survey shall be carried out to contractors registered under PKK Class A, B and C in Sarawak area only. The survey will try to discover the awareness of the contractors on the existence of the adversarial dispute resolution. From the research finding, the further suggestions can be made to improvise the dispute resolution alternatives among the contractors in Sarawak.

5.2 Enhanced Executive Summary

Alternative Dispute Resolution (ADR) is a non-adversarial technique which is aimed at resolving disputes without resorting to the traditional forms of either litigation or arbitration includes mediation, conciliation, expert determination, etc. Alternative dispute resolution (or ADR) is gaining increasing popularity in the construction industry as a means of resolving disputes when negotiations break down. Although ADR was traditionally perceived by many as being limited to arbitration, this perception is slowly changing. ADR has now come to include mediation, Med-Arb, mini-trials, dispute resolution boards, and several other methods of conflict resolution. Thus, this research will be carried out to investigate the general knowledge of the contractors in Sarawak about ADR and how far they have been adopting the ADR technique. From the survey it can be observed that, most of the contractors have a clearer picture about this ADR through printed resources such as magazines produced by Malaysia Builders, newspapers and etc. The study also reveals most of the contractors are agreed that ADR will protect the confidentiality of the dispute and provide better privacy for the disputed parties to resolve the dispute. However, the respondents think that, enforceability of the decision is still concerning them because the decision is not binding. The recognition and importance of these various forms of ADR has not received much publicity in Malaysia. Since ADR is a fairly new concept in Malaysia, the challenge is to change the mentality of the construction players to see and to accept benefit of ADR. Promotion on the greater usage of ADR in Malaysia should be done to bring awareness especially with the involvement of government agencies.