

# Research on the Legal Risk of Administrative Factors to Construction Project Contract

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**Abstract:** The construction project contract from the legal environment caused by the legal risks, there are a variety of risks, their respective risk categories and effects are not the same. The administration is not only the most factors can lead to the construction engineering contract legal risk, and legal risk induced by macro factors inside the most difficult to solve, mainly for the abuse of administrative power and administrative corruption. This paper mainly discusses the types of administrative factors and the measures to be taken.

**Keywords:** Administrative factors; Legal risk; Construction project

## 1. Introduction

All areas of the construction project exists widely in social life, compared with other industries, has the characteristics of complicated engineering project, project distribution engineering construction period is longer, wider [1-3]. Therefore, many complicated risks are hidden in the construction process of the project. The legal risks arising from legal environment, administrative factors can lead to legal risk is not only the most part, and is inside the macro factors of legal risk in the most difficult to solve, mainly for the abuse of administrative power and administrative corruption[4-6]. Over the years, basically followed the "highly centralized way of investment, construction, supervision and use more than one of the government investment projects in China, in recent years, rectifying and standardizing the order of the construction market situation, the behavior is not standard is one of the leading source of the order of the construction market confusion [7-13]. For years, the construction administrative department of the provinces, autonomous regions and municipalities directly under the central government organized the construction units and investigation, design, construction, supervision, tender agent unit, to a project carried out self-examination, found a project there are illegal acts, the total project of the self." With the continuous development of the process of the market increasingly exposed many problems of government departments is not only the market regulators, is also a direct tissue engineering project and implementation, will naturally cause chaos, unclear responsibilities, supervision, efficiency is not high, but also makes the occurrence of corruption is difficult to avoid.

## 2. Legal Risks caused by Administrative Power

The so-called "administrative monopoly" refers to the government agencies of the state public authority or authorized by laws and regulations, and enjoy the public affairs management organization, the abuse of administrative power to eliminate or restrict competition behavior. There are many reasons why Shao Hangzheng monopoly, from the perspective of economics, the local government or local government agencies, are independent of the interests between each other, there must be a conflict of interest, the performance evaluation mechanism and China is not scientific, which makes the administrative monopoly, there is no way to avoid the. Over the years, basically followed the "highly centralized way of investment, construction, supervision and use more than one of the government investment projects in China, the government departments responsible for the supervision of both market and direct implementation of the construction project organization, led to the government, the responsibility is unknown, lack of supervision, efficiency is not high, also led to the occurrence of corruption the problem. Government investment projects by the temporary construction team is responsible for organizing the implementation of institutions shall be dissolved after the end of the project, not only cause human, wealth, and information such as the waste of social resources, but also it is difficult to improve the level of construction, once the problem is difficult to blame some of the government investment project by using the unit self occupied, responsibility and rights the separation of owner of government and users, driven by self interests, extremely easy to cause the dispute for the project, funding, resulting "fishing" project and the super size, super standard

construction etc.. In addition, the monopoly of construction of many infrastructure projects is serious, and it is difficult to meet the needs of market-oriented reform. There are many government investment projects separately organized, difficult to implement effective supervision, illegal construction process is difficult to correct in a timely manner, and so on.

### 3. Legal Risks caused by Power Rent Seeking

Administrative corruption is not a unique phenomenon in China. Acton, a British historian, asserted that "power leads to corruption, absolute power leads to absolute corruption." Administrative power is no exception. It can be said that where there is government, there is corruption. The biggest manifestation of administrative corruption in China is power rent seeking. Lu 'in China's current "market economy", the social resources allocation and reallocation, due to various reasons cannot avoid is to be borne by the political power, and power in the process of reform in the system design, often only consider their own interests, plus some policy or system itself the implicit factors of rent variables, the rent is easy to form the system of the problem. In this way, the ruler of power can set up a lease. From the angle of economics is in the process of economic and administrative intervention in the use of power to prevent artificially increase the supply shortage of a factor of production supply elasticity, thus obtaining non production profits. And the individual can get the corresponding benefit increment by means of the material interest through the legal or illegal section. This transaction, the rent to "right rent money", "money for money or money a Yiquan" incremental model for transaction. Through the induction of material interests, the government power has been improperly used in the allocation of social resources and income distribution.

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sponsibilities, supervision, efficiency is not high, but also makes the occurrence of corruption is difficult to avoid.

### 4. Conclusions

Many government investment projects are temporary construction team to be responsible, when the project after the completion of the project team shall be dissolved, which not only cause human, wealth, and information such as the waste of social resources, but also makes the project level is difficult to improve, if there is a problem difficult to pursue liability in many government investment projects are set up respectively separately, the problem of implementation, the project construction process is very complex, so it is difficult to implement effective supervision, which occurs in violation of laws and regulations is difficult to timely correct. Such phenomena lead to the confusion of the construction market, and make the legal risk of construction contract increase.

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