



# International Engineering Labor Compliance Risk Management

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## ABSTRACT

Currently, as more and more Chinese construction companies enter Malaysia to undertake projects, they are facing many problems. Due to the many differences between China and Malaysia, it can lead to many uncertain risks. This article focuses on labor compliance management, conducts risk analysis, and proposes corresponding improvement measures to provide corresponding risk management methods for Chinese enterprises in the field of hiring labor in Malaysia's contracted projects.

## KEYWORDS

Chinese construction enterprises; Labor contract management; Malaysia project; Risk management

## I. INTRODUCTION

With the rapid development of Chinese engineering contracting enterprises in the international engineering field, the compliance operation of Chinese engineering contracting enterprises has attracted high attention from all parties. Engineering contracting enterprises must comply with multilateral compliance requirements in project development, bidding, construction, post operation and maintenance, as well as the daily operation and management behavior of overseas companies. This includes not only domestic laws and regulations, departmental rules, internal management systems of the parent company, but also relevant laws, regulations, policies, and industry standards of the project host country[1]. Among them, labor compliance risk is one of the important risks that major contractors currently face. Human beings are the main body responsible for implementing international engineering projects. International engineering projects involve a large number of people, complex personnel composition, and changing international social situations[2]. Therefore, labor risk management often directly or indirectly affects the success or failure of projects.

Malaysia is an important fulcrum country for the construction of the "the Belt and Road", and has become a diversified emerging industrial country and

world emerging market economy that has attracted worldwide attention in Asia[3]. The author takes the implementation of international engineering in Malaysia as an example to analyze its labor compliance risks and management measures, providing experience and reference for subsequent construction projects in Malaysia.

## 1. INTERNATIONAL ENGINEERING LABOR COMPLIANCE RISKS

**Outsourced labor:** The compliance risk of outsourced labor is reflected in the illegality of entry and exit visas. Entry and exit is one of the necessary conditions for overseas assignments. Enterprises need to understand the process in advance, and employees need to provide materials in accordance with regulations to ensure legal entry[4]. When some project managers are unable to complete the expected approval of work visas, they may consider using other visa types to quickly enter the host country, carry out project work arrangements, and apply for and process work visas at the same time. Although this transitional visa method can help engineering projects follow up on construction progress in a timely manner, it clearly violates Malaysia's entry and exit regulations, poses legal risks, and also poses certain labor compliance risks to the project and the company. Therefore, the business handling process of expatriate employees needs to meet the requirements of the enterprise and also conform to the actual work situation of the host country.

**Labor subcontracting:** The Malaysian government encourages various companies to hire local employees, but due to the shortage of domestic labor in Malaysia, the government only allows the employment of foreign workers in certain fields, such as construction, planting, and service industries. Currently, Malaysia has not yet opened its regular labor market to China. In addition, the official work permits issued also specify the type of work and the name of the employer. Workers who enter Malaysia through legal procedures and engage in different jobs or work for different employers are considered illegal workers. Construction is a labor-intensive job, and due



to restrictions on the dispatch of ordinary Chinese workers, Chinese enterprises need to use a large number of local workers or foreign labor from other countries, and can adopt the form of labor subcontracting. Whether the qualifications of subcontracting enterprises meet the standards of the host country's construction industry for contracting projects, whether the qualifications are legal and valid, and whether the selection of labor subcontracting units meets the compliance standards of the enterprise all need to be considered. Generally speaking, the labor workers recruited by subcontracting enterprises are distinguished by nationality into those from the host country and those from third countries.

The compliance risk of domestic labor services often comes from the recruitment and dismissal, salary and benefits, performance evaluation, and skill level of local labor services. The recruitment and dismissal process of local employees must comply with the legal requirements of the host country. For example, in terms of hiring ordinary laborers, the Malaysian Employment Act 1955 stipulates that employers cannot dismiss local laborers for hiring foreign laborers. When employers must reduce the number of employees, they must also dismiss foreign laborers first; The salary and benefits of hiring local employees must comply with relevant laws. Malaysian employers must provide employees with at least one rest day per week, unless the nature of the work requires employees to take continuous turns, and employees must not be forced to work on rest days.

Due to the regulations and restrictions imposed by the host country on foreign labor, the compliance risk of third-party labor generally involves whether the access requirements are met. For example, in Malaysia, Indian workers can only work in four industries: construction, agriculture, planting, and service. The direct employment of third-party labor by contractors can pose relatively significant compliance risks, as third-party labor is often hired and arranged by subcontracting enterprises for construction operations in the project.

## **2. RESPONSE AND MANAGEMENT OF LABOR COMPLIANCE RISKS**

### **2.1. Inclusive of diverse cultures**

There are significant differences between Chinese and local employees in terms of values, behavior, life goals, and business norms in international engineering projects. For example, in terms of management systems, Chinese companies will have a clear distinction between superiors and subordinates, making it easier to issue task instructions; Although local employees understand the

level of their positions, their recognition of Chinese employees as so-called "leaders" is not high. In terms of work schedule, local personnel will continue to follow local work habits. There will be a "Tea time" (tea break during work hours), and they will leave on time during the designated closing time. On weekends, they will rest according to Malaysia's regulations. In terms of religious culture, the majority of the local people have a strong religious belief and conduct worship activities according to regulations every week. When facing these differences, managers should try to respect their habitual wishes, seek common ground while reserving differences, and use two sets of standards with slightly different details to constrain Chinese and local employees, which vary from person to person, in order to better play the role of team cohesion.

### **2.2. Comply with salary and benefits laws**

When Chinese enterprises participate in the construction of the "the Belt and Road", they often send Chinese employees as the core managers, and employ some local employees to carry out business construction activities. The different treatment of local employees and Chinese expatriates may also cause local negative comments. The salary of expatriate enterprise management employees is strictly in accordance with the company's system, measured by their position, including job salaries, overseas subsidies, five insurances and one fund, etc. The salary and benefits of local employees mainly follow Malaysia's Employment Law, which stipulates basic employment conditions, payment time of wages, working hours, overtime wages, etc., and sets the obligations of enterprises to protect the labor rights of employees. When conducting onboarding interviews for local employees who are applying, salary is usually negotiated based on their work experience, and increases are made according to work performance. Local employees are also required to pay social insurance and pension insurance in accordance with regulations. Regarding the issue of salary increases, the salary of expatriate employees is generally implemented based on relevant company regulations, often taking into account certain conditions such as years of service, qualifications, and certificates. On the other hand, temporary employees in projects make comprehensive decisions based on their daily performance, types of business, and the value of the work provided.

### **2.3. Standardize entry and exit management**

Participating in international engineering requires a compliant and stable entry and exit visa. According to Malaysia's immigration regulations,



migrant workers who have worked in Malaysia for more than one year must apply for an Employment Pass. If they come to Malaysia with a Professional Pass, the visa cannot be extended or converted into a Work Visa upon expiration. It is illegal to work in Malaysia with a single entry visa or other non work visa, and immigration officials may refuse entry. Even if entering the country, there is a risk of being arrested and deported in the future due to engaging in behavior that does not match the type of visa or staying overdue. Usually, it takes Malaysia two to three months to submit an application until the work visa is successfully processed. If you entrust a familiar intermediary to handle it, it will save at least one month of time. It should be noted that due to the large number of work tasks during the construction phase and the urgent need for management personnel to be stationed, it is easy for management personnel to be stuck in China without properly processing their work visas, resulting in untimely preparation work for the project.

#### **2.4. Programmed employment management**

Foreign contracting enterprises win the bid for projects through construction general contracting, and a large number of main engineering tasks are undertaken by local labor subcontracting units. The labor workers hired by these labor subcontracting units are mainly foreign workers, and Malaysian employees usually serve as labor supervisors, responsible for conveying superior instructions and managing foreign workers. Project management personnel arrange for subcontracting units to submit a roster of labor personnel and passport documents, keep records and keep track of the situation of labor personnel. At the same time, illegal labor situations can be investigated through local employees and team foremen. Digital methods such as "real name labor system" and "smart construction site" can also be used to unify the management of labor personnel entering the site. If there are situations where foreign workers without compliant work approval procedures or illegal immigrants participate in work, it is necessary to communicate with the individual and the employer in advance to solve legal and compliance issues, and avoid unnecessary losses caused by government inspections, including fines, work stoppages, and related penalties.

#### **2.5. Cultivate local employees**

Local employees are a major support for conducting overseas business, and management can attract excellent local employees through reasonable incentive systems and cultural promotion, and hire them as long-term fixed employees. The sources of

labor for international engineering projects are complex, and the language of labor communication is diverse. Malaysian employees are proficient in multiple languages such as Malay, English, and Chinese, and can serve as a communication bridge between management and labor personnel. For excellent local employees, work guidance and business training can be used to accelerate the improvement of their work abilities, increase their recognition of Chinese enterprises, and stabilize their "shining heat".

In addition, for the business units and branches of enterprises in the host country, local talents have stronger professional awareness, have more access to local political and commercial resources, and have a better understanding of the market. If managed properly and fully utilized by local talents, it can have a multiplier effect on promoting localized business operations. From a practical perspective, most domestic engineering companies mainly hire local market developers to leverage their advantages in abundant market resources and help them quickly get on the right track in their work.

### **3. SUMMARY**

In summary, compliance risk management is a complex system establishment task for enterprises. As one of the specific branches of compliance risk refinement, labor compliance risk needs to be highly valued by enterprises. By continuously optimizing management systems, improving workflow, perfecting employee training programs, reducing labor compliance risks during the construction process, and shaping a good image of performance for enterprises.

### **CONFLICTS OF INTEREST**

The authors declare that they have no conflict of interest.

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