

Abstract

A number of legal problems concerning administrative contract are from the legality of a process before a contract has been made or the legality in the form of administrative contract because some processes for making the administrative contract are different from the processes of the contract between private parties. With regard to the process before the administrative contract has been made, the administrative authority has to comply with criteria specified by law. However, in practice, breach or avoidance from such compliance can be found due partly to the incomprehension either of the administrative side or of the private party in legal principles. This, possibly, impacts on the contract especially on the validity of contract. The administrative contract may be illegal. If the administrative authority specified terms of contract which differ from or violate prescribed law or which have objective against public order, the administrative contract may be illegal as well. From the said problem, it generates different legal consequence or contractual impact.

From the study, it finds that Thai legal system has not had any criteria specifically providing for the administrative contract. Hence this author recommends that it should mention an act concerning administrative contract as a specific law so as to govern the practice in the same way. Moreover, it should have contents on the process for making the administrative contract, reasons to make the administrative void, voidable, results of the void administrative contract, results of the voidable administrative contract and remedy to the parties in the administrative contract.