

PROJECT & CONTRACT FORMATS

A project can be defined as an item of work that requires planning, organizing, dedication of resources and expenditure of funds to produce a concept, a product or a facility.

A contract is a mutual business agreement recognized by law under which one party undertakes to do work (or provide service) for another party for a consideration.

A written contract is the document by which risk, obligations, and relationships of all parties are established.

For the client, the contract is the means by which the contractor can be controlled, and ensures that the work and end product meets their requirements.

For the contractor, the contract specifies risks, liabilities, and performance criteria, and outlines the terms and conditions of payment. There are the following two contract categories:

- Prime Contracts
- Sub Contracts

Although the Contract and Project Management practices offer various, but similar definitions to explain the difference between these two contract categories, it is still used in many different ways by different people.

We can differentiate Prime and Subcontracts as follows:

Prime Contracts

A contract agreement between Contractor and the client to do work, or to provide services.

Contractor will invoice the client directly for provided services on its own 'letterhead' paper.

For the project controls function this means that cost, revenue and profit margin is managed and monitored against an internal approved control budget and a client approved contract value.

The value of the contract (commitment) is the client's cost to the project and Contractor revenue.

Sub Contracts

As the prime contract holder, Contractor can commit part of the work scope to a specialized third party contractor.

This contractor becomes then a sub-contractor or sub consultant of the contractor, and as such, will invoice the Contractor directly for their services.

Unless special approval is required, clients will usually not be party to this contract arrangement; as far as they are concerned the subcontracted scope of work is still the Contractor's responsibility.

For the Project Controls function this means that the value of the

Committed subcontract will be part of Contractors' cost to the project.

Internal cost and profit margin for this commitment is managed by the subcontractor, and is of no concern to Contractor. EPCM / PMC Contracts Prime contract holders are awarded total responsibility for the execution of the work scope. This includes cost, schedule, quality, project delivery risks & liabilities, as well as the commercial outcome of the project.

The project is fully executed by own resources and/or (partly) subcontracted under their responsibility.

Therefore Prime contracts are often referred to as 'self performing' contracts.

Engineering & Construction

Contracts can be drawn up in any number of formats, depending on the project objectives and drivers, contract strategy and the skills and resources of the client and /or the contractors.

Generally this is a strong focus on:

- Self performing Engineering and Procurement Services contracts
- PMC (Project Management Consultant) contracts
- EPCm (Engineering, Procurement, Construction & Completions management) contracts. and to a lesser extent on Turn Key EPC contracts.

PMC

PMC Projects are executed under a three-part contractual relationship among:

1. The Client - who establishes the form of contract and general terms & conditions.
2. The Project Management consultant - acting as the client's representative in administering the contract (s) and managing cost, schedule, design, procurement and construction & completions of the overall development.
3. The respective contractors, who responds to the risk and liabilities of the general contract the usual contractual relationship amongst these 3 parties on a single project is for the client to have one contract with the Project Management Consultant (PMC), and separate contracts with the respective contractors.

In short, the PMC is managing the commitments on behalf of the client. No contractual relationship exists between the PMC contractor and the other contractors.

Unless agreed otherwise, the PMC contractor is not responsible or liable for the technical or commercial outcome of the project.

The approach of the PMC project controls function is therefore different to that of a 'self-performing' contract.

Cost and schedule performance is managed and monitored against a client owned TIC (Total Installed Cost) budget and a high level EPC schedule as opposed to the agreed Contract Value and detailed EPC execution schedule in self-performing contract environments.

The budget for the PMC contract usually sits outside the TIC budget so management of this contract does not fall under the remit of the PMC team.

However, the contract arrangement between the client and the PMC contractor can contain risk and reward incentives for achieving the overall project goals, which means that all criteria for self-performing contracts will be applicable to this contract.

For that reason, the commercial health of this contract will only be managed, controlled and reported internally, separately from the PMC scope of works. Because the client has no direct benefit or interest in the commercial outcome of the PMC contract, the cost associated for controlling and managing the PMC contract itself is usually carried by the Contractor.

EPCM

Identical to PMC projects, with two differences:

1. In addition to the tasks described for PMCs, the EPCM contractor has further responsibilities; carrying out detailed engineering work as well as purchasing equipment and material on client's behalf.
2. The budget for EPCM services is part of the project TIC.

This is a significant difference; it means that an EPCM services contract will be one of the commitments that needs to be managed under the TIC budget on behalf of the client.

To avoid areas of conflict and confusion, EPCM projects are usually executed with two distinct 'line-ups'; one team looking after the EPCM Services contract (the self-performing bit), the other team with a focus on the responsibilities associated with managing the Overall EPC development and TIC budget on behalf of the client.