

“REJUVENATING CONTRACTS: AVOIDING MEGA-PROBLEMS ON MEGA-PROJECTS”.

PRESENTATION “STRATEGIC AND PROJECT INSIGHTS” - POWER-GEN ASIA, JAKARTA ” – SEPTEMBER 2018

- OUTLINE



WHAT IS A CONTRACT?

- In legal terms: a contract is a “set of promises that the law will enforce.”* The client promises to pay the contractor an agreed compensation for delivering a plant of agreed capacity and quality, under specified execution criteria and working requirements.

* Definition of “contract” by Pollock – ‘Dictionary of Law’, L B Curzon

WHAT IS A CONTRACT? (OR ALTERNATIVELY)

- It is a smart tool that significantly increases the chance of project success.

FIG 1. A CONTRACT IS THE PROJECT “SPINE”. IT PROVIDES BUSINESS GOVERNANCE AND PROJECT MANAGEMENT DISCIPLINE

- The project “spine”. Contracts underpin:
 1. Business Governance
 2. Project Management Discipline

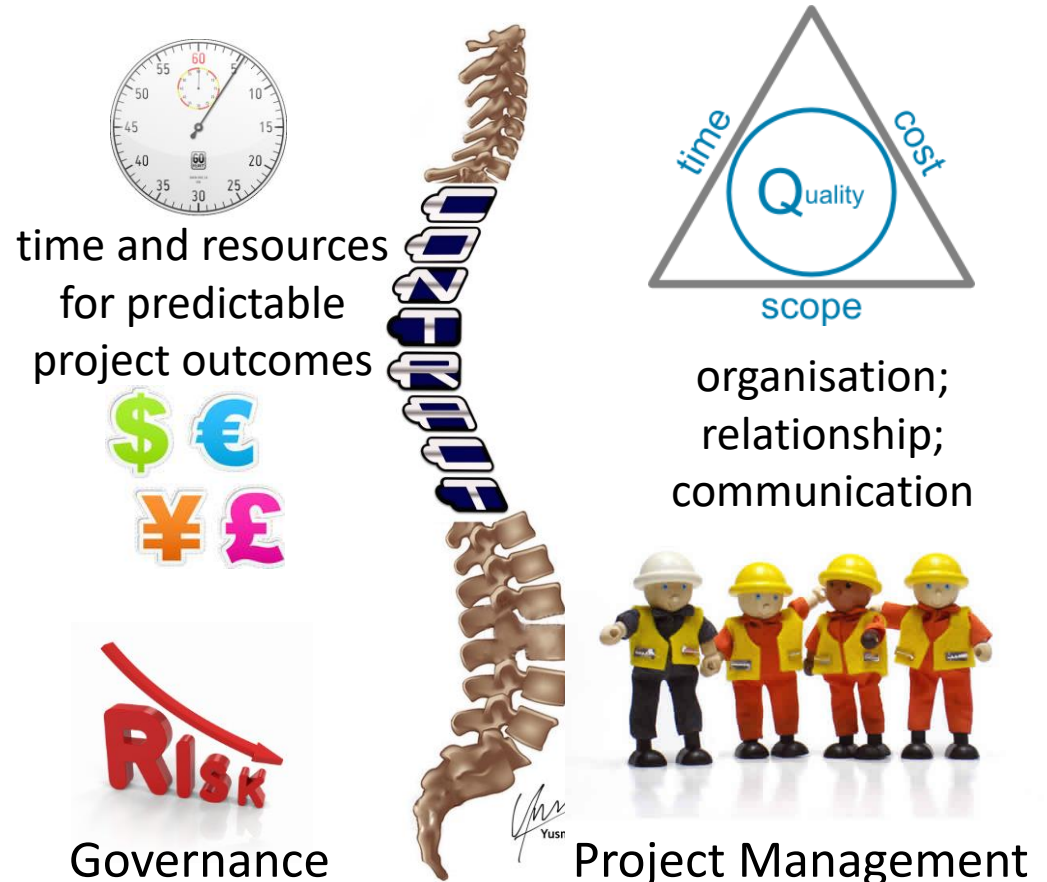


FIG 2. THE NETWORK OF OWNER AGREEMENTS UNDERPINNED BY CONTRACTS

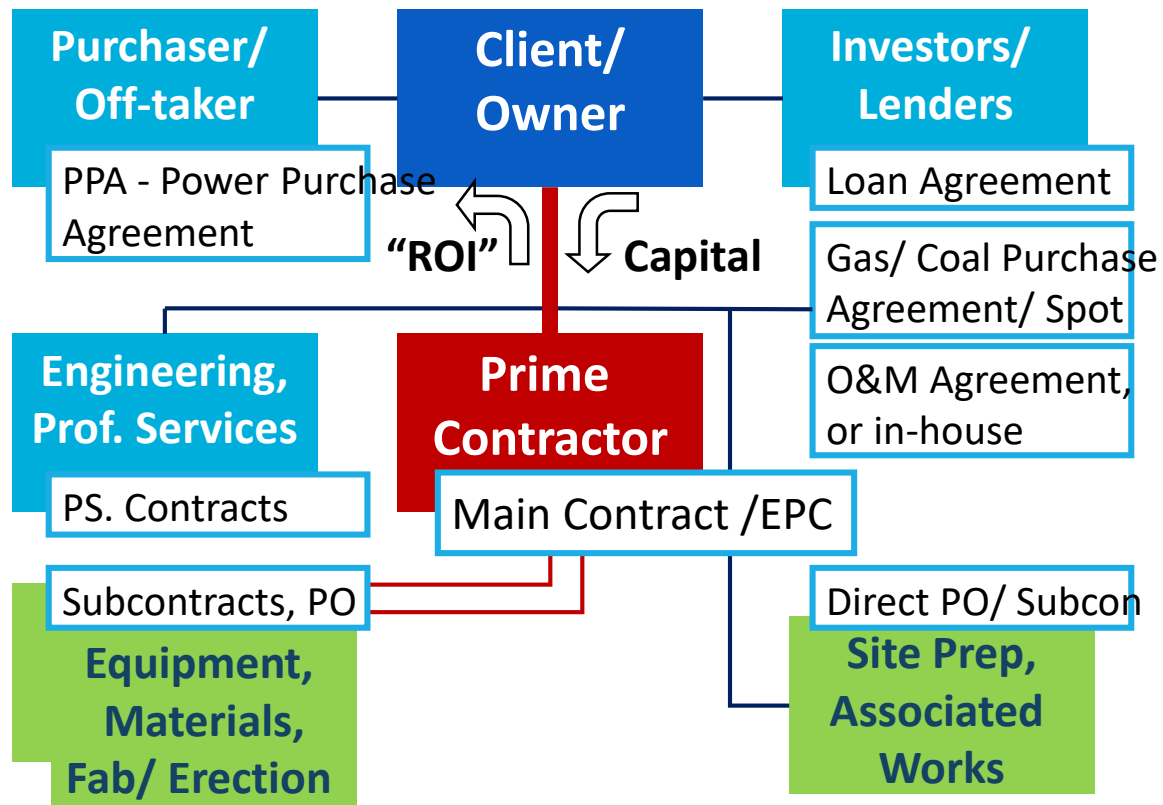
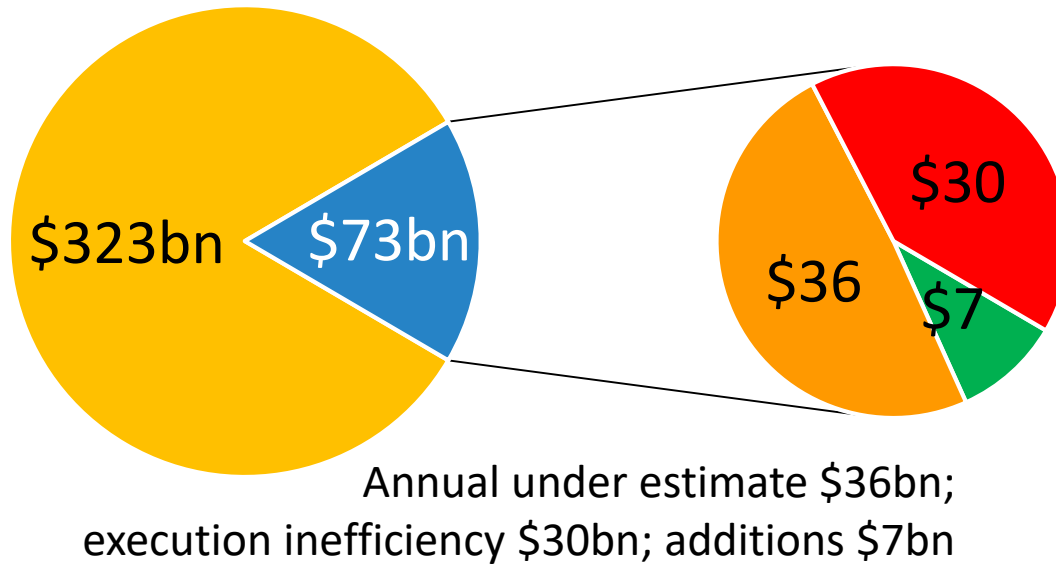


FIG 5. ANNUAL \$57.5 BILLION OVERRUN ON INITIAL ESTIMATE IN THE GLOBAL POWER SECTOR, SPLIT INTO THREE COST OVERRUN CATEGORIES; AND AVERAGE PROJECT COST OVERRUN % BY TYPE



Overrun% (100 projects)

- 64% hydro (14)
- 45% water (7)
- 40% coal (27)
- 35% nuclear (20)
- 35% oil (3)
- 14% renewable (15)
- 14% T&D (3)
- 10% Gas (11)

FIG 4. EXAMPLE OF A POWER PLANT MEGA-PROJECT MAJOR OVERRUN DUE LARGELY TO UNACHIEVABLE TIME COMMITMENTS



FIG 5. A GOOD CONTRACT ENCAPSULATES ALL FRONT-END LOADING. A LOGICAL CONTRACT STRUCTURE GIVES CLARITY AND MAKES IT EASIER FOR USERS TO NAVIGATE

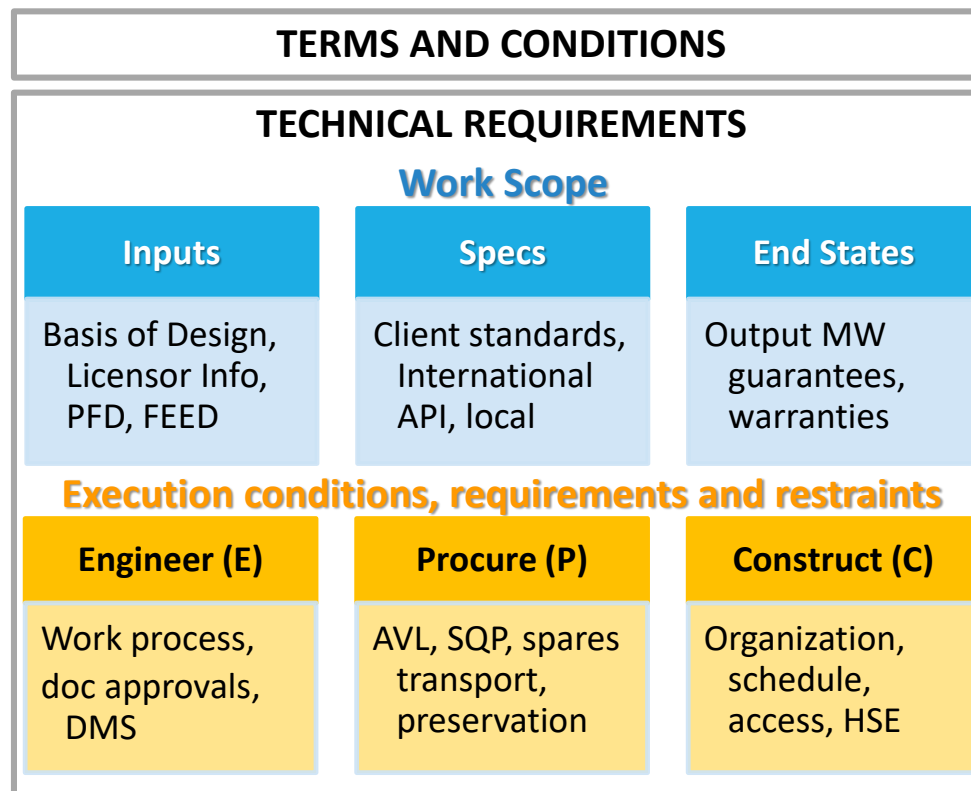


FIG 6. CONTRACT SIMPLIFICATION – BEFORE AND AFTER. INFOGRAPHICS - ENDORSED BY LEGAL TEAM

Before *

Risk and Title

- 9.1 Delivery will be completed and title and risk will pass to you either:
- 9.1.1 for bulk Deliveries, when the Marine Lubricants pass the flange connecting the delivery facilities with the receiving facilities provided by you; or
 - 9.1.2 for Delivery in containers:
 - 9.1.2.1 when delivering to a quay or other point on land, when the goods are landed from the delivery vehicle to the ground;
 - 9.1.2.2 when delivering by a barge operated by us and using our barge's lifting equipment, when the goods are landed on the deck of the vessel;
 - 9.1.2.3 when delivering by barge or vehicle and using lifting equipment provided and operated by you, when the goods are lifted off the deck of the barge or off the vehicle; or
 - 9.1.2.4 when delivering by barge, and you have contracted with a third-party service provider or operator to provide pump ex-IBC service, immediately before the pump ex-IBC service.

After

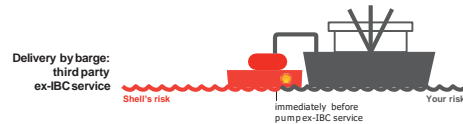
9 Risk and title during delivery

9.1 Delivery will be completed and title and risk will pass to you:

either 9.1.1 for bulk Deliveries



- when the Marine Lubricants pass the flange connecting the delivery facilities with the receiving facilities provided by you.



- or when delivering by barge, and you have contracted with a third-party service provider or operator to provide pump ex-IBC service, immediately before the pump ex-IBC service.

or 9.1.2 for Delivery in containers



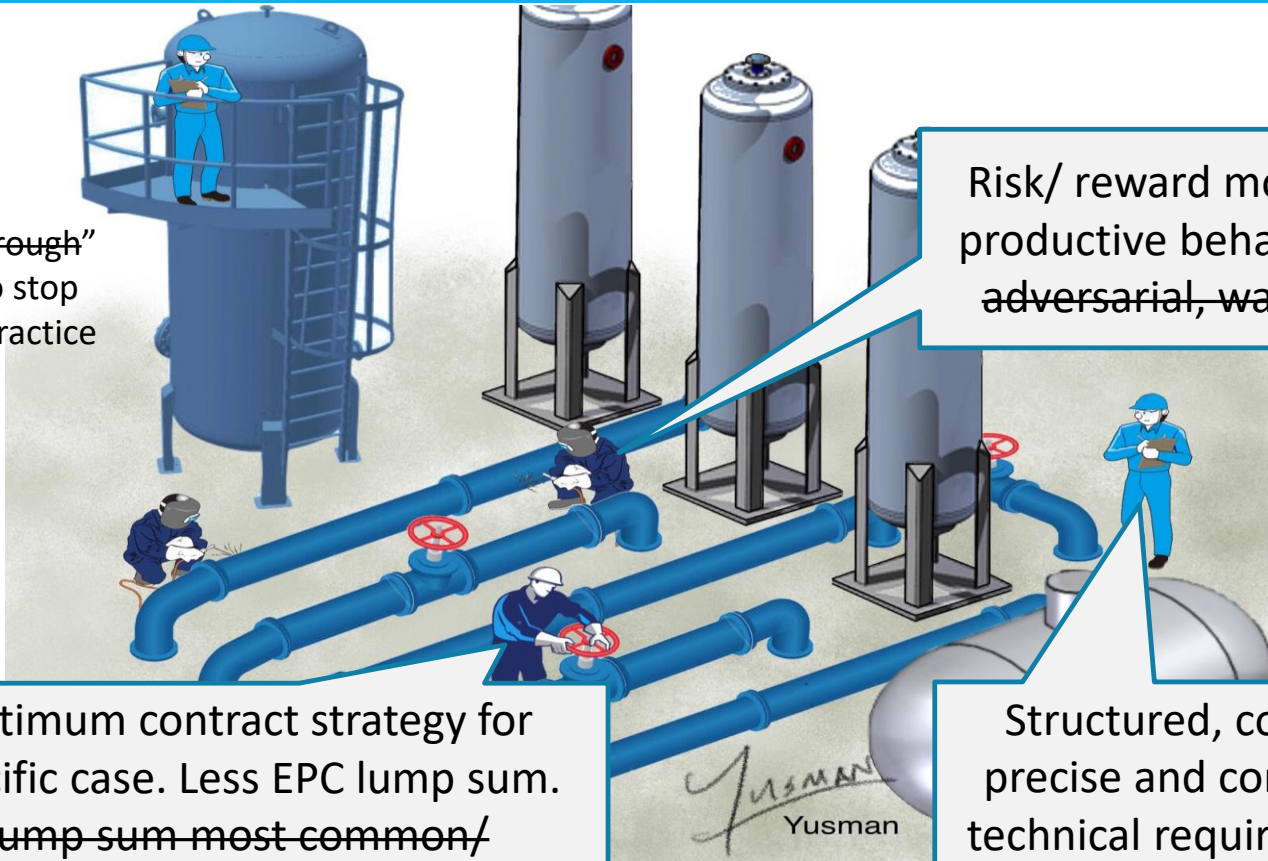
- when delivering to a quay or other point on land, when the goods are landed from the delivery vehicle to the ground;



- or when delivering by a barge operated by us and using our barge's lifting equipment, when the goods are landed on the deck of the vessel;

FIG 7. INVESTING IN CONTRACT REJUVENATION

Note:
“~~strikethrough~~”
means to stop
former practice



Risk/ reward motivate
productive behaviours.
~~adversarial, wasteful~~

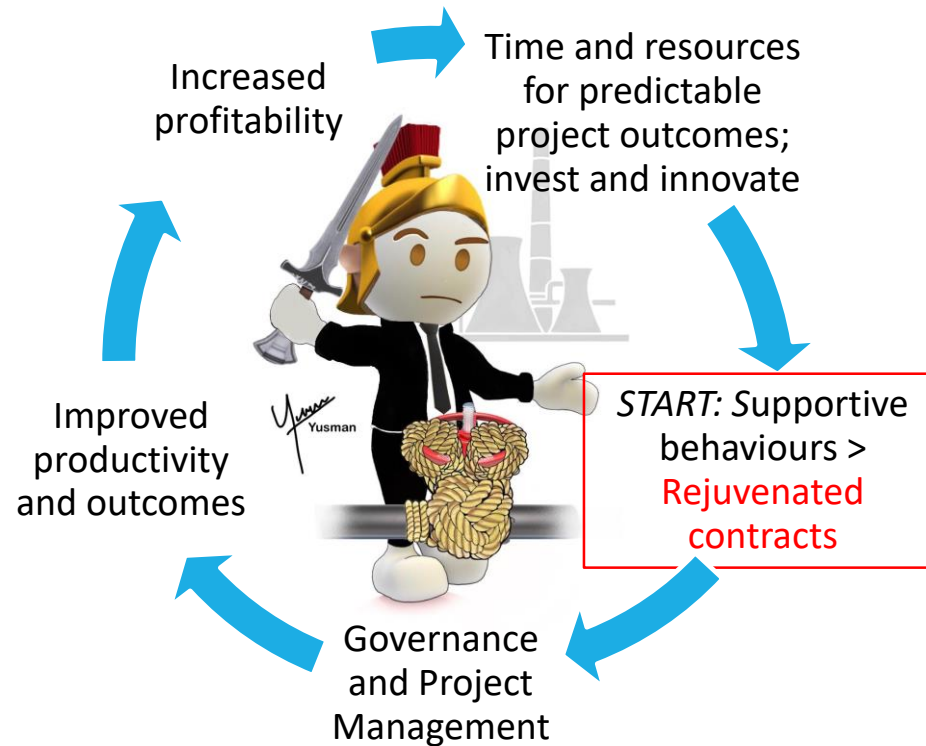
Optimum contract strategy for
specific case. Less EPC lump sum.
~~lump sum most common/~~
"automatic" choice

Structured, concise,
precise and complete,
technical requirements.
~~complex, ambiguous~~

FIG 8. HONEY BEES ARE A METAPHOR IN MANY CULTURES FOR CONSTRUCTIVE SOCIAL BEHAVIOURS, EFFICIENCY AND EXCEPTIONAL COMMITMENT.



FIG 9. REJUVENATED CONTRACTS. A “FLYWHEEL” OF POSITIVE IMPROVEMENT





END OF TOPIC
THANK

ANY QUESTIONS?

