



ENGINEER, PROCURE, CONSTRUCT (EPC) DELIVERY

BIOGAS RNG PROJECT DELIVERY BEST PRACTICES

AUGUST 3, 2023



Resources

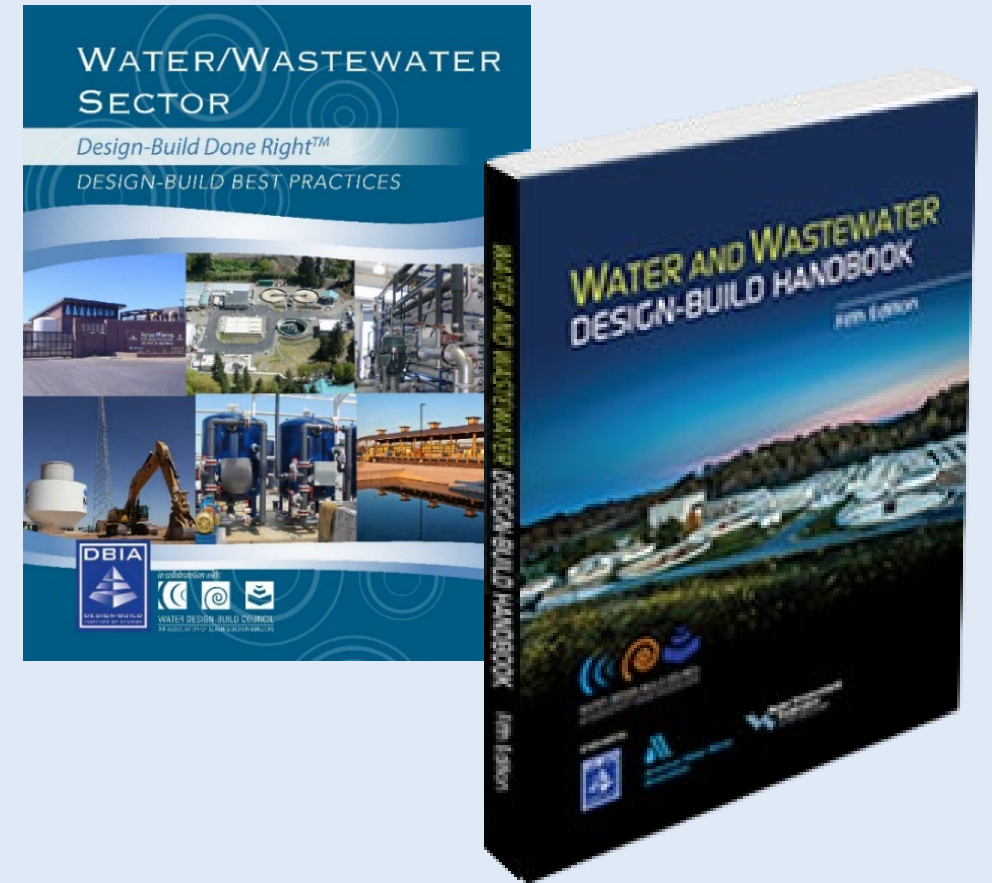
Sources

- Design Build Council of America (DBIA)
- Water Collaborative Delivery Association

Guidance manuals

Best practice manuals

Case studies



What is Engineer, Procure, Construct (EPC)?

Under an EPC contract, a contractor is obliged to deliver a complete facility to a developer who needs to only "turn a key" to start operating the facility; hence EPC contracts are sometimes called turnkey construction contracts.

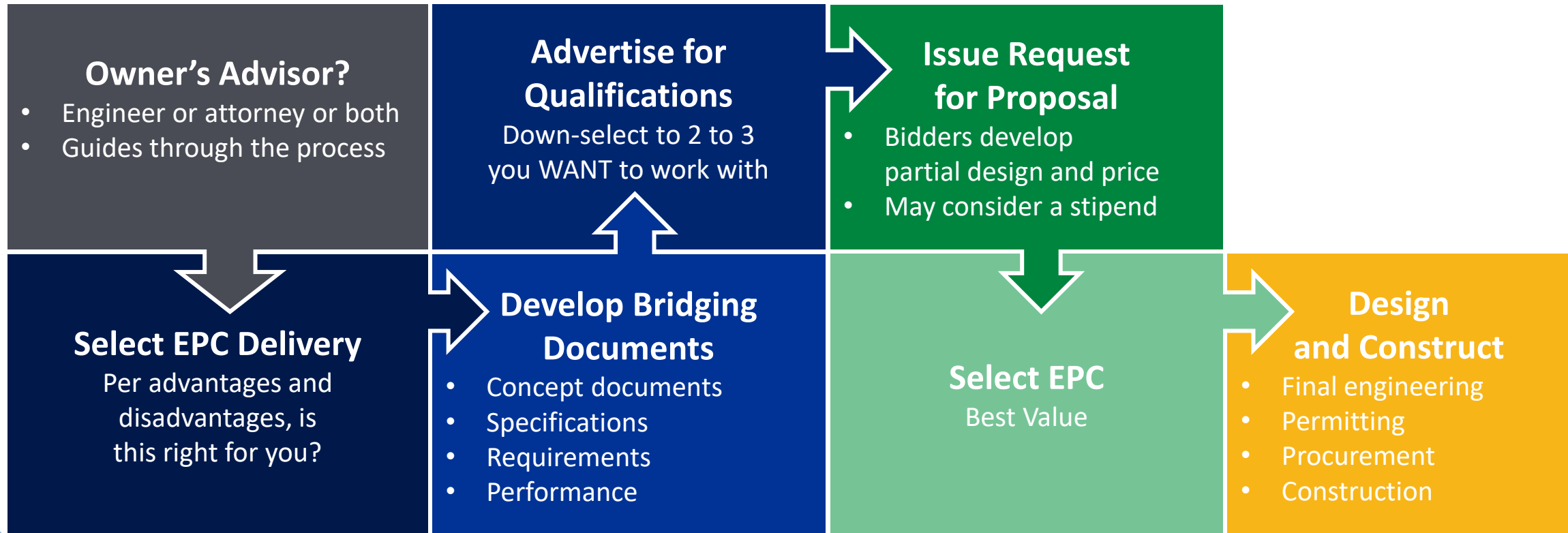
In addition to delivering a complete facility, the contractor must deliver that facility for a guaranteed price by a fixed date, and it must perform to the specified level.

Failure to comply with any requirement will usually result in the contractor incurring monetary liabilities. The EPC contractor coordinates all design, procurement and construction work and ensures that the whole project is completed as required and on time.



EPC Process

This is where you set your expectations. Define quality, materials, performance, etc.



Advantages and Disadvantages

Advantages

- Speed
- Firm, fixed price (or guaranteed max) early
- Competitive bidding
- Risk transfer
- Reduced change orders

Disadvantages

- Limited collaboration
 - Not suitable for all owners
- Can be confrontational
- May limit potential bidders
- Changes following bidding come at high cost

Bottom Line

Best delivery method when low cost is the main driver, but you're guaranteed delivery of a functioning facility.

Best Practices

1. Pick the best delivery method FOR YOU
2. Risk transfer costs money – transfer the right risks
3. In general, the more collaborative the better
4. Do not select solely on price
5. Understand that EPC gives the contractor control of design
6. Use fair contracts
7. Contingency
 - ▶ Contractor's contingency
 - ▶ Owner's contingency



Inflation Reduction Act – Labor Requirements

Prevailing Wage (Davis Bacon)

- Not an issue in most areas. “Natural” labor rates are usually higher than Davis Bacon

Apprenticeship

- At least 12.5% (for 2023, 2024+ is 15%) of total labor hours must be performed by qualified apprenticeships
- Any company that employs more than 4 individuals must have at least one apprentice.
- There is a good faith exemption – don’t rely on it
- You can require this in your documents, but you may need to be more proactive
- Partner Finder: <https://www.apprenticeship.gov/partner-finder>

Guidance: <https://www.dol.gov/sites/dolgov/files/WHD/IRA-presentation.pdf>

This slide is not intended as legal advice. Always consult your in-house legal counsel or outside counsel with any questions on labor laws/regulations



For More Information

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