

# Shifting Sands in the Economy and International Procurement Market

## Energy & Construction projects

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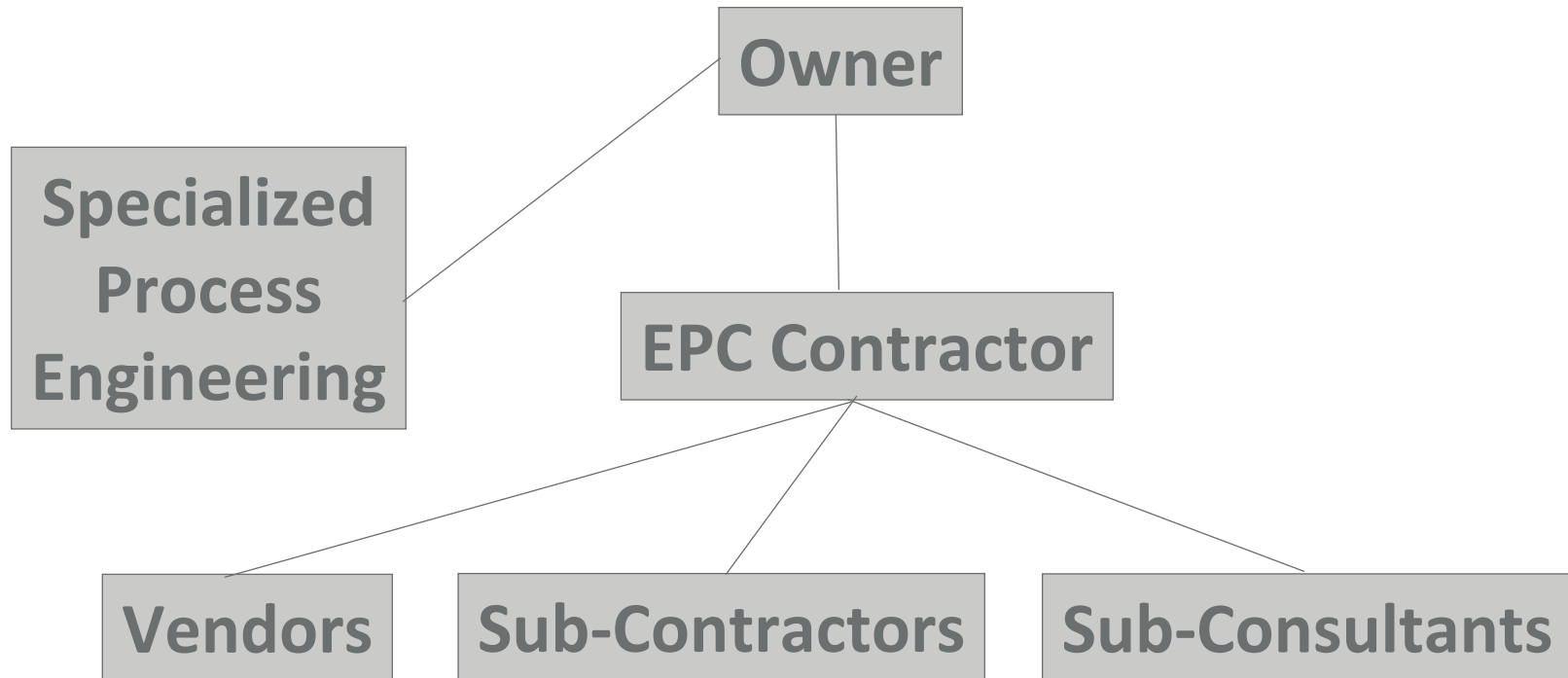
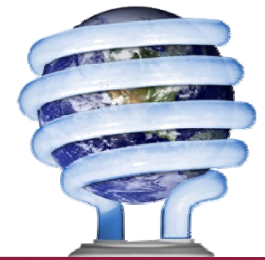


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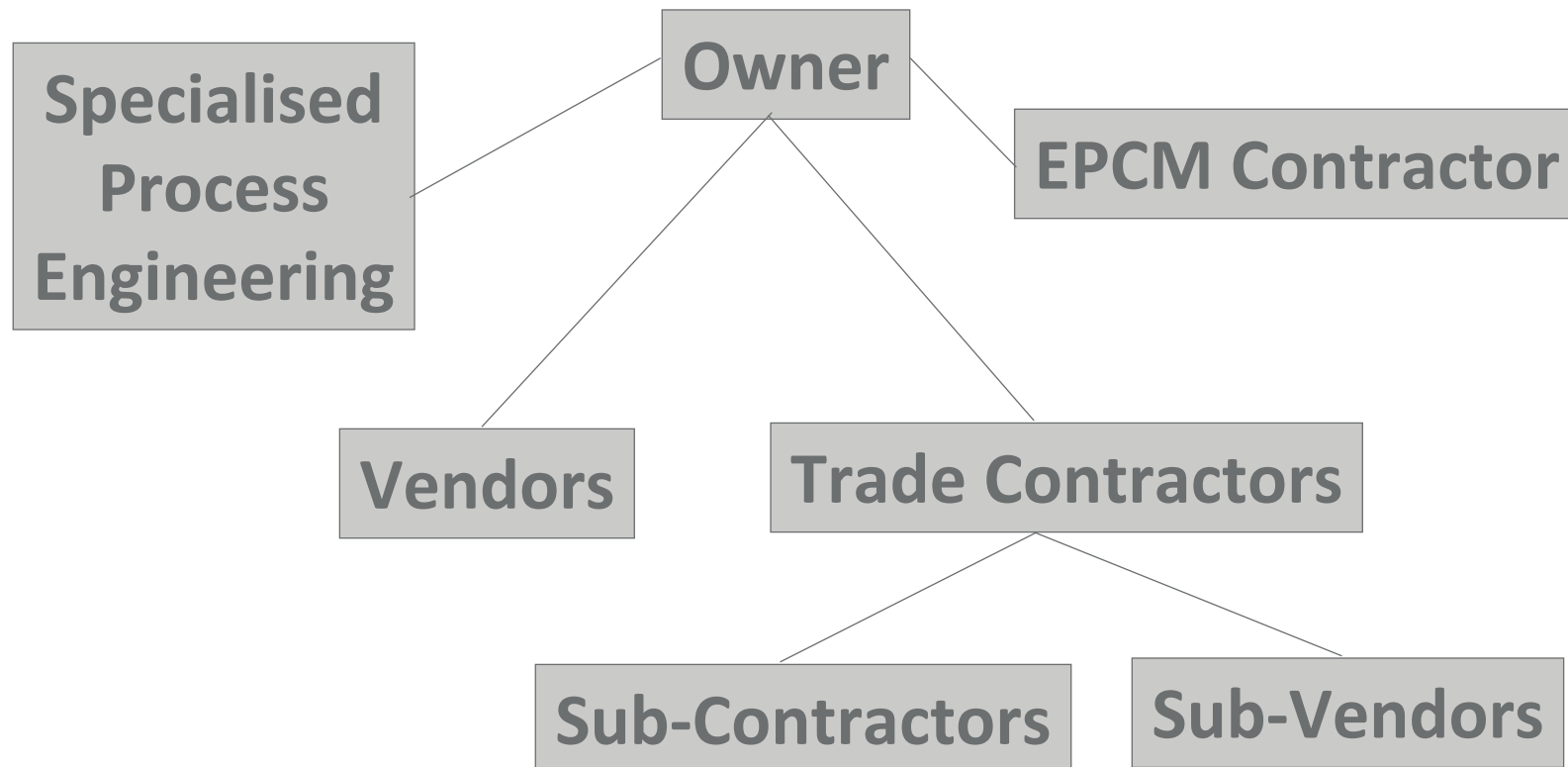


- Introduction
- Procurement methods
- EPC v EPCM
- Return of fixed price, lump sum?
- Key terms effected in EPC negotiations

# Typical EPC Arrangement



# Typical EPCM Arrangement



# EPC – the move away from LSTK (and now back to) – why?



- Market driven by contractor's negotiating position
- In the Suppliers' market of recent years rare to get a single contractor to assurance "wrap" all elements because:
  - Technically different disciplines/expertise
  - Market fragmented into specialists
  - No appetite for risk
  - Interface risk
  - Cost overrun, time overrun
  - Performance risk

# EPC – the move away from LSTK (and now back to) – why?



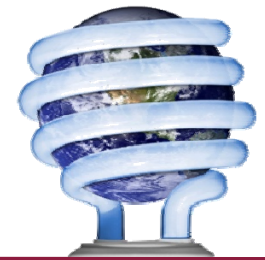
- As projects have been completed successfully increasingly owners saw the downside of LSTK approach in a suppliers' market which include (potentially):
  - high level of contingency in bid prices
  - owner loses opportunity to benefit in cost savings during design development
  - creates adversarial relationship and large disputes
  - price certainty? (Contractors astutely pass through additional costs arising from design and development)
  - owner participation in design development difficult

# But – in the present Owner driven market place price is everything



- Owners have quickly reverted to type:
- Price is key
- Can now be obtained with reduced contingencies
- And with contractors taking increased risks
- Single point responsibility is nearly always to be preferred if commercially attainable
- Owners can still be involved in design development

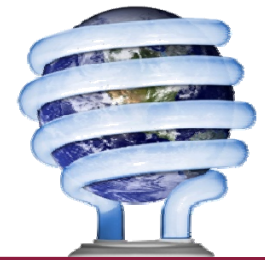
# Cash-flow – the contractor's life-blood



- Access to extended credit lines
- Advance payments for:
  - plant
  - mobilisation
- Retreat from milestone payments
- Payment for offsite materials/plant
- Cost-loaded programme required at tender stage



# Security documents



- Letters of credit
- Performance bonds
- Credit ratings
- Risk of downgrade
- Sanctions

# Other key terms in EPC contracts effected by changed market conditions



- Limitation of liability
- Liquidated damages
- Design responsibility
- Fluctuation
- Flexibility of approach
- Dispute resolution: choice of law