Process Plant Demand Creates New Risks

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One of the greatest benefits of shale gas extraction and production to the construction industry could be the need for new downstream processing facilities and pipelines. These are multi-year, large-scale construction projects that require even longer operational and maintenance support.

The most common delivery method for the construction of large-scale industrial facilities is an EPC contract, likely won by joint ventures or one of the industry's very large, proven power and process contractors. But they can't do it alone. EPC contractors rely on local labor, subcontractors, suppliers and manufacturers. It's a great opportunity that subcontractors, in particular, should carefully evaluate given that EPC contracts are considerably different from more familiar form contracts developed by AIA or ConsensusDOCS.

First of all, there is no "standard" EPC contract, though most will likely include performance guarantees and warranty provisions. It's critical that subcontractors clearly understand the flow down risks associated with various EPC contract provisions, such as liquidated damages and performance guarantees.

As the oil and gas industry prepares to shift from upstream extraction to process and delivery, contractors of all sizes will have an opportunity to contribute to the construction and operation of a powerful energy source—if they're prepared. Look for legal expertise with extensive experience drafting and negotiating EPC contracts that drive risk to the organization best equipped to handle that risk. ■