

Hiring the Construction Manager - Agent (aka “The Project Manager”)

The When, The How, and The Real Deal

Texas School Construction and Procurement Conference - November 29, 2023



CONSTRUCTION MANAGER-AGENT

- ★ *CONSULTANT TO DISTRICT*
- ★ *BUILDERS ARE HIRED THROUGH A SEPARATE PROCUREMENT*



CONSTRUCTION MANAGER-AGENT

STEP 1 ADOPT THE EDUCATIONAL SPECIFICATIONS

STEP 2 ADOPT THE LONG RANGE FACILITIES PLAN

STEP 3: SELECTION OF DELIVERY METHOD

CONSTRUCTION MANAGER AGENT

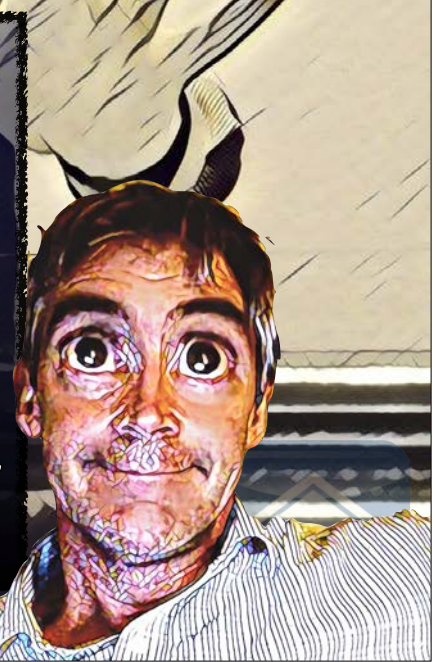
STEP 4: DELEGATION OF AUTHORITY

STEP 5: SELECT ENGINEER OR ARCHITECT



CONSTRUCTION MANAGER-AGENT - SPECIAL CONSIDERATIONS

- **STEP 6: SELECT ENGINEER OR ARCHITECT**
- **DISTRICT MUST SELECT THE ENGINEER OR ARCHITECT WHO WILL PREPARE CONSTRUCTION DOCUMENTS FOR PROJECT, BEFORE OR AT THE SAME TIME IT SELECTS A CONSTRUCTION MANAGER-AGENT.**
- **DISTRICT'S ENGINEER/ARCHITECT MAY NOT SERVE AS CONSTRUCTION MANAGER-AGENT UNLESS HIRED AS SUCH UNDER A SEPARATE PROCUREMENT**



CONSTRUCTION MANAGER-AGENT

- STEP 1 ADOPT THE EDUCATIONAL SPECIFICATIONS**
- STEP 2 ADOPT THE LONG RANGE FACILITIES PLAN**
- STEP 3: SELECTION OF DELIVERY METHOD
CONSTRUCTION MANAGER AGENT**
- STEP 4: DELEGATION OF AUTHORITY**
- STEP 5: SELECT ENGINEER OR ARCHITECT**
- STEP 6: ADOPT CM-A SELECTION
CRITERIA AND WEIGHTS**



CONSTRUCTION MANAGER-AGENT

☺ **STEP 6: QUALIFICATIONS-BASED SELECTION**

- ☺ **NEEDS KNOWLEDGE OF LOCAL LABOR MARKETS**
- ☺ **NEEDS EXPERTISE IN COST ESTIMATION**
- ☺ **NEEDS EXPERTISE IN SCHEDULING**
- ☺ **NEEDS EXPERTISE IN CONSTRUCTION ACCOUNTING / FINANCE**



CONSTRUCTION MANAGER-AGENT

- STEP 1 ADOPT THE EDUCATIONAL SPECIFICATIONS**
STEP 2 ADOPT THE LONG RANGE FACILITIES PLAN
STEP 3: SELECTION OF DELIVERY METHOD CONSTRUCTION MANAGER AGENT
STEP 4: DELEGATION OF AUTHORITY
STEP 5: SELECT ENGINEER OR ARCHITECT
STEP 6: ADOPT CM-A SELECTION CRITERIA AND WEIGHTS
STEP 7: SELECT THE CONSTRUCTION MANAGER-AGENT



CONSTRUCTION MANAGER-AGENT

- ☺ **STEP 7: SELECT THE CONSTRUCTION MANAGER AGENT**
- ☺ **MUST ADVERTISE AND CONDUCT AN RFQ.**
- ☺ **REQUIRES MORE FORMALITY THAN HIRING AN ARCHITECT OR ENGINEER**
- ☺ **MUST SELECT THE CMA BASED ON DEMONSTRATED COMPETENCE AND QUALIFICATIONS.**



CONSTRUCTION MANAGER-AGENT

- ☺ **STEP 7: SELECT THE CONSTRUCTION MANAGER AGENT**
- ☺ **MUST SELECT CONSIDERING THE SAME FACTORS AS AN ARCHITECT.**
- ☺ **CANNOT CONSIDER BIDS OR PROPOSALS**
- ☺ **PICK AN MQBDCQ OF CM-AGENTS**
- ☺ **CANNOT HIRE CONSTRUCTION MANAGER AGENT BEFORE ENGINEER OR ARCHITECT**



CONSTRUCTION MANAGER-AGENT

- STEP 1 ADOPT THE EDUCATIONAL SPECIFICATIONS
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- STEP 3: SELECTION OF DELIVERY METHOD CONSTRUCTION MANAGER AGENT
- STEP 4: DELEGATION OF AUTHORITY
- STEP 5: SELECT ENGINEER OR ARCHITECT
- STEP 6: ADOPT CM-A SELECTION CRITERIA AND WEIGHTS
- STEP 7: SELECT THE CONSTRUCTION MANAGER-AGENT
- STEP 8: MAKE SELECTION PUBLIC**
- STEP 9 SELECT METHOD FOR PROCUREMENT OF CONSTRUCTION SERVICES**

CONSTRUCTION MANAGER-AGENT - BEWARE THE DOUBLE DELIVERY REQUIREMENT

- ☺ **STEP 9: SELECT THE METHOD OF DELIVERY FOR CONSTRUCTORS**
- ☺ **MAY SELECTION FROM**
 - ☺ **COMPETITIVE BIDDING**
 - ☺ **COMPETITIVE SEALED PROPOSALS**
 - ☺ **DESIGN BUILD**
 - ☺ **CONSTRUCTION MANAGEMENT AT RISK**
- ☺ **MUST FOLLOW STATUTORY STEPS FOR PROCUREMENT OF CONSTRUCTION SERVICES AS PER 2269**

CONSTRUCTION MANAGER-AGENT

- **STEP 9: SELECT BUILDER(S)**
- **CAN THE DISTRICT BE ITS OWN GENERAL CONTRACTOR?**
 - **TECHNICALLY, YES. BUT CONSIDER NEED FOR DAILY, QUALIFIED SUPERVISION AND COORDINATION OF PROJECT.**
 - **REMEMBER, CM-AGENT IS ONLY A CONSULTANT!**
 - **IF DISTRICT IS ITS OWN GENERAL CONTRACTOR, EACH SUB-CONTRACT OVER \$50,000 MUST BE PROCURED IN ACCORDANCE WITH §2269.**
 - **DISTRICT WOULD ALSO HAVE TO SETTLE DISPUTES BETWEEN SUBCONTRACTORS RELATING TO PROJECT DEFECTS.**



CONSTRUCTION MANAGER-AGENT

- **STEP 1: ADOPT THE EDUCATIONAL SPECIFICATIONS**
- **STEP 2: ADOPT THE LONG RANGE FACILITIES PLAN**
- **STEP 3: SELECTION OF DELIVERY METHOD CONSTRUCTION MANAGER AGENT**
- **STEP 4: DELEGATION OF AUTHORITY**
- **STEP 5: SELECT ENGINEER OR ARCHITECT**
- **STEP 6: ADOPT CM-A SELECTION CRITERIA AND WEIGHTS**
- **STEP 7: SELECT THE CONSTRUCTION MANAGER-AGENT**
- **STEP 8: MAKE SELECTION PUBLIC**
- **STEP 9: SELECT METHOD FOR PROCUREMENT OF CONSTRUCTION SERVICES**
- **STEP 10A: SOLICIT COMPETITIVE BIDS (13 STEPS); OR**
- **STEP 10B: SOLICIT SEALED PROPOSALS (15 STEPS); OR**
- **STEP 10C: RFP OR RFQ FOR CONSTRUCTION MANAGER AT RISK (15-18 STEPS)**



CONSTRUCTION MANAGER-AGENT

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- STEP 7: SELECT THE CONSTRUCTION MANAGER-AGENT
- STEP 8: MAKE SELECTION PUBLIC
- STEP 9 SELECT METHOD FOR PROCUREMENT OF CONSTRUCTION SERVICES
- STEP 10A: SOLICIT COMPETITIVE BIDS (13 STEPS); OR
- STEP 10B: SOLICIT SEALED PROPOSALS (15 STEPS); OR
- STEP 10C: RFP OR RFQ FOR CONSTRUCTION MANAGER AT RISK (15-18 STEPS)

STEP 11: SELECT BUILDERS

CONSTRUCTION MANAGER-AGENT - SPECIAL CONSIDERATIONS

A CMA MAY NOT:

- ★ SELF-PERFORM ANY ASPECT OF THE CONSTRUCTION
- ★ BE A PARTY TO A SUBCONTRACT FOR THE CONSTRUCTION

CONSTRUCTION MANAGER-AGENT - SPECIAL CONSIDERATIONS

- ☺ **A CONSTRUCTION MANAGER-AGENT PROVIDES CONSULTATION TO THE DISTRICT**
- ☺ **FIDUCIARY DUTY OF AGENT: MUST ADVANCE BEST INTERESTS OF DISTRICT**
- ☺ **MUST CARRY A MINIMUM OF \$1,000,000 OF PROFESSIONAL LIABILITY INSURANCE**



CONSTRUCTION MANAGER-AGENT- SPECIAL PROBLEMS

- ☺ **FAILING TO HIRE THE ARCHITECT FIRST**
- ☺ **TRUE SAVINGS**
- ☺ **BID HOLES**
- ☺ **CONTRACTOR DISPUTES**
 - ☺ **FINGER-POINTING DURING AND AFTER CONSTRUCTION (IF YOU SERVE AS THE GENERAL CONTRACTOR)**
- ☺ **OVERLAPPING BIDS (COST INEFFICIENCY)**
- ☺ **CONTRACTOR INSURANCE REQUIREMENTS (COST INEFFICIENCY)**



CONSTRUCTION MANAGER-AGENT- SPECIAL PROBLEMS

- ☹️ **“VALUE ENGINEERING”**
- ☹️ **THE REASONABLE FEE**
- ☹️ **SURPRISES CONCERNING RESPONSIBILITY.**
- ☹️ **“YOUR” ON-SITE SUPERVISOR**
- ☹️ **STRENGTH OF COST ESTIMATION CAPABILITIES**
- ☹️ **CONFUSION OVER THE NAME “AGENT”**
- ☹️ **INFORMALITY INVOLVING CHANGES IN CONTRACT SUM**



Questions?

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