

AIA Iowa

#A023

CMR for Public Projects:

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Understanding CMAR for Public Projects

Friday, September 30, 2:15-3:15PM



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Studio Intrigue



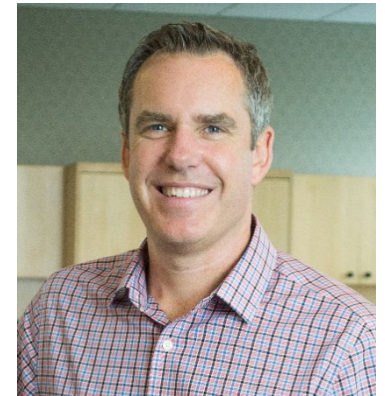
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AGENDA

What is CMR? – The Law
Benefits to Owners
Benefits to Architects
Key Take-Aways

WHAT IS CMR?

DISCLAIMER

Disclaimer: Due to limitations and the nature of this program, please understand that printed material and oral presentations or other data presented are not intended to be a definitive analysis of the subjects discussed. Users are cautioned the facts of a particular situation may dictate a different set of considerations and varying results. Materials contained within herein is only a general review of the particular issue(s) and must *not* be considered as a substitute for advice from your attorney on your own independent situations.

SUMMARY OF THE NEW LAW

- **SF183** (the “Law”), effective July 1, 2022, allows the project delivery method of CMAR on IA public projects.
- **OVERVIEW OF THE LAW**
 - Provides that CMAR is permissible on public projects (excluding highway, bridge and culvert work) and establishes a new Chapter 26A of the Iowa Code setting forth the CMAR method.
 - Expressly prohibits the Iowa Board of Regents from using design-build contracts.
 - Expressly prohibits public entities from using fee-based selection of an architect, landscape architect or engineer for a public project, confirming existing law.
- **RESOURCES:**
 - Full copy of SF183: [Iowa Legislature - BillBook](#)
 - Article by Jodie McDougal: [Construction Manager at Risk Project Delivery Method Now Permitted for Iowa Public Projects - Fredrikson & Byron · Fredrikson & Byron, P.A. \(fredlaw.com\)](#)
 - Master Builders of Iowa’s Guide to Public Projects, rev. July, 2022: [Public Owners’ Guide \(mbi.build\)](#)
- **OVERVIEW OF THE PROCESS FOR CMAR PROJECTS**
 - See next slide



OVERVIEW OF THE PROCESS FOR CMAR PROJECTS

- 1) **OWNER'S POSTING OF ITS STATEMENT OF INTENT:** Owner posts a Statement of Intent when the owner-public entity intends to utilize the CMAR method.

- 2) **OWNER'S POSTING OF ITS RFQ:** Thereafter, the owner posts a Request for Statement of Qualifications ("RFQ") seeking a contractor to serve as a CMAR.
 - RFQ selection criteria must comply with Iowa Code sect. 26A.3(3). Price proposals are not considered at this point.
 - Training, testing, or other certifications obtained through unions cannot be part of the criteria.
 - Owners are prohibited from stipulating whether the CMAR must be a union shop.
 - After receipt, Owner opens and evaluates the responses to the RFQ.

- 3) **OWNER'S POSTING OF ITS RFP:** Thereafter, the owner issues a Request for Proposal (RFP) to each contractor who meets the qualifications in the RFQ.
 - RFP selection and evaluation criteria must comply with 26A.3(3).



OVERVIEW OF THE PROCESS FOR CMAR PROJECTS

4) OWNER'S SELECTION OF THE CMAR

- Owner next opens and evaluates the proposals and selects the CMAR who submits the proposal offering the “best value” based on the published selection criteria and on its ranking evaluation.
- “Best value” is not defined under the Law, but such phrase is clearly different than the general standard under Iowa’s public bidding law of the “lowest responsive, responsible bidder.”

5) CMAR'S SELECTION OF ITS SUBCONTRACTORS AND SUPPLIERS

- CMAR must bid out all work by its subs/suppliers, with an exception for smaller self-performed work.
- The CMAR must issue its own RFQ to subs/suppliers.
- Like owners, CMARs shall not be obligated to adhere to any labor union agreement *for those trade contracts that are not self-performed.*
- All subs/suppliers meeting qualifications may then submit a bid for the relevant trade packages.
- CMAR and owner open and evaluate bids and awards contracts to “lowest responsive responsible bidder.”



ISSUE BRIEF

In order to achieve a positive outcome for the taxpayer, these are the things that need to occur:

- QBS-qualified personnel completing the work
- Communication channel with all team members/parties
- License to Practice Architecture and Engineering in the State
- Longevity of Materials and Systems selected must exceed the length of time that is financed



OWNER CONSIDERATIONS

Reduced Risk – One Contract

Competitive Bidding Within Work Packages

Cost Certainty – Guaranteed Maximum Price

Savings in Contingency is Returned to Owner

Allows for early Release of Bid Packages

Subcontractor Prequalification Beyond Bonding

Qualifications based selection for Architects and Contractors



ARCHITECT CONSIDERATIONS

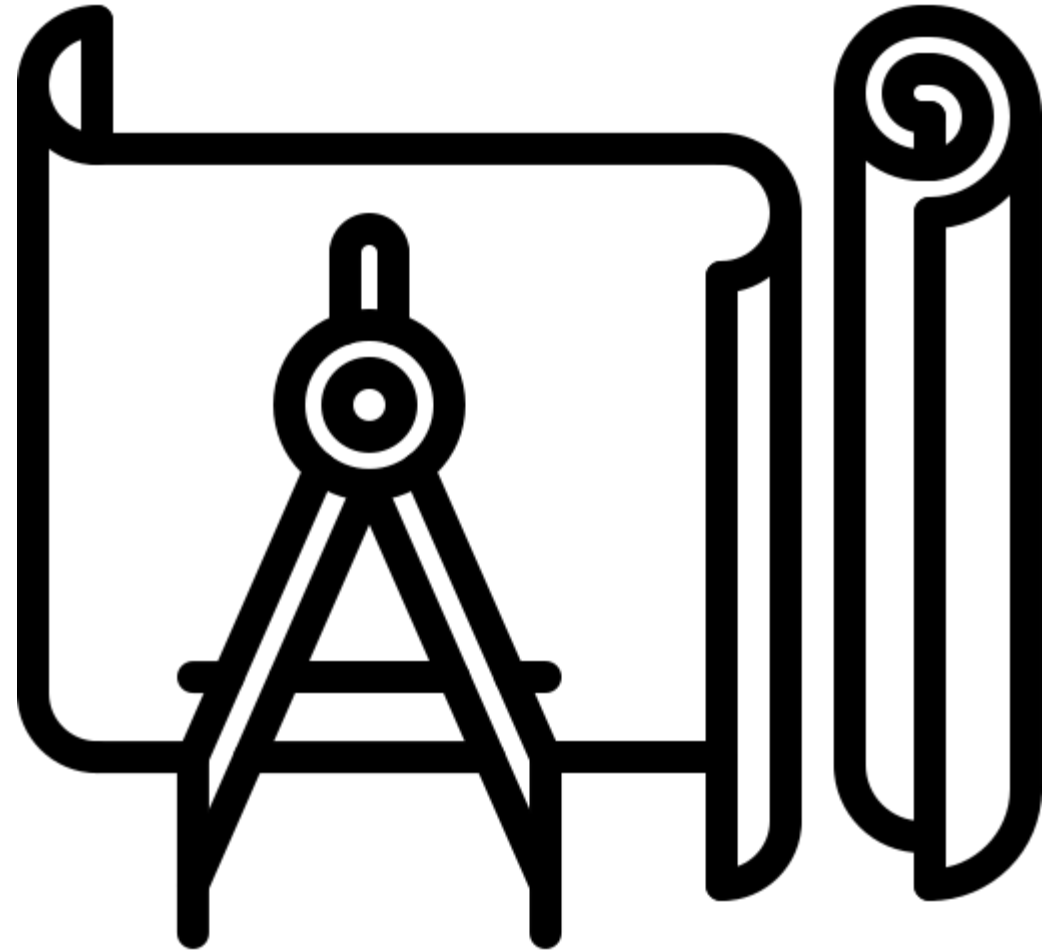
Direct Contract with the Owner

Qualifications Based Selection of Architects

Team Approach – Contractor and Architects are
Hired Simultaneously

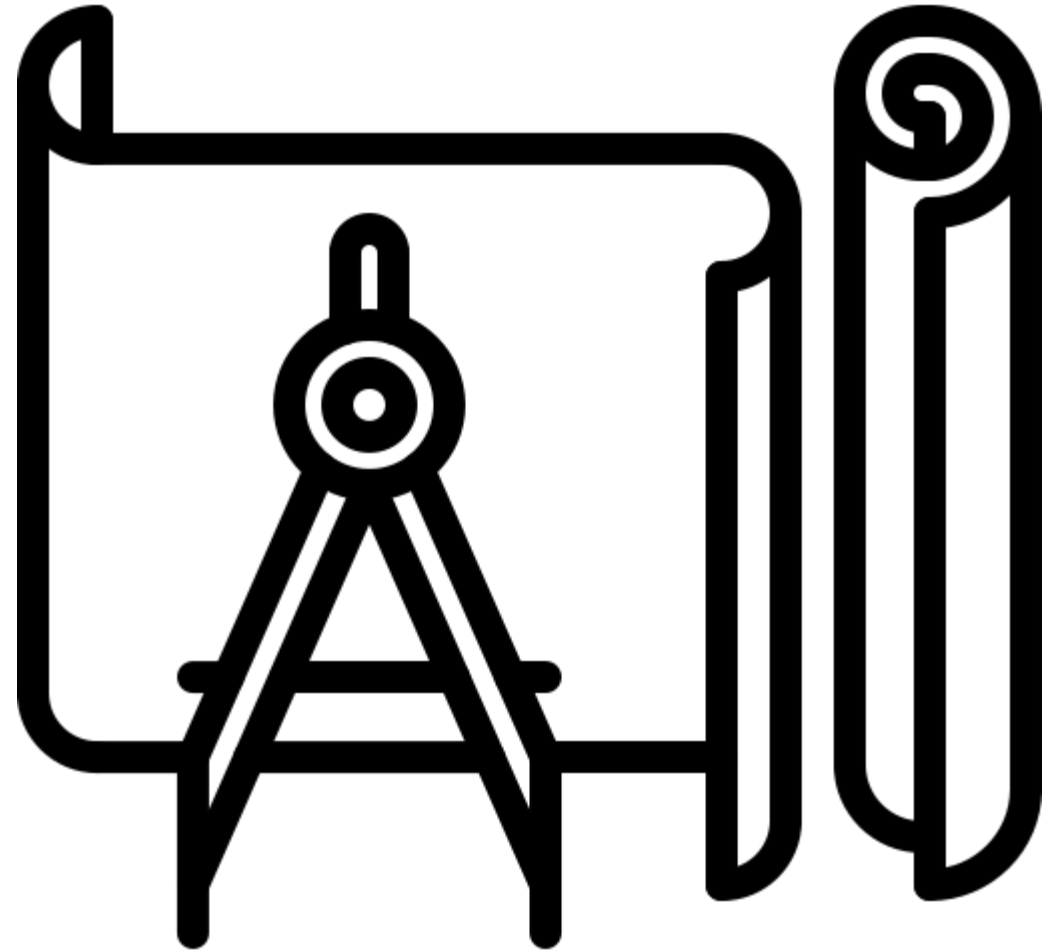
Constructability Reviews

Market Impact on Systems/Materials



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Questions



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KEY TAKEAWAYS

One More Procurement Option – Owner Choice
Architect has a Direct Contract with the Owner
Qualifications based Selection for the Architect
Team Approach for Success
Shift in Effort, Not a Dramatic Change in Process
Better Decision Making Early, improves the Process

