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# CONSTRUCTION MANAGEMENT SERVICES FOR PUBLIC SCHOOL PROJECTS

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**Discipline:** Structural

**History:**

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Division of the State Architect (DSA) documents referenced within this publication are available on the [DSA Forms](#) or [DSA Publications](#) webpages.

**PURPOSE:** The purpose of this Interpretation of Regulations (IR) is to ensure that construction management services comply with the requirements of the Education Code and DSA regulations. Refer to *IR A-23: Construction Cost Reporting and DSA Fees* for interpretations of construction cost reporting and final DSA fee computations. Refer to *IR A-24: Construction Phase Duties of School District, Contractor, and Design Professional* for further interpretations on the construction phase responsibilities of the school district, designers, and construction contractors. Also, refer to *IR A-8: Project Inspector and Assistant Inspector Duties and Performance* for further interpretations of the project inspector's responsibilities.

**BACKGROUND:** Construction of California public schools and community colleges is commonly achieved by a design contract to an architect or structural engineer followed by a single contract awarded by low bid to a single general contractor. Generally, the statutes and regulations contemplate the construction of a building by a general contractor who would either perform the construction work in its entirety or employ one or more subcontractors under his/her responsible supervision to perform specified portions of the work. This traditional approach to project delivery has been called the design-bid-build approach.

Alternative construction delivery methods acceptable to DSA allow school districts and community colleges to employ:

- A Construction Manager (CM), including program manager and project manager, as a consulting agent of the school district.
- A Construction Manager Multiple Prime (CMMP) to manage multiple prime contractor contracts separately awarded by the district, and coordinate and schedule the work of the various trade and prime contractors. The work of the multiple contractors in aggregate achieves the final product shown on DSA-approved plans and specifications.
- A Construction Manager at Risk (CMAR). A construction manager may act as an agent in administering and advising the district during the pre-design, design, and contractor bidding and award phases and then assume the risk of completion, schedule, and cost by becoming the contractor. When that construction manager assumes the risks of completion, schedules or cost, he/she becomes the CMAR, and may no longer act as agent to the district. He/she must be appropriately licensed as a contractor.

**1. GENERAL:** Construction managers may perform contracted duties to manage the design and construction process other than those duties that are assigned by code to the school district, designers, laboratory of record, or the project inspector (see IR A-24).

The CM acting as agent of the owner may negotiate scopes of services of inspectors, laboratories, designers and contractors and may manage their contracts and monitor their work. Contracts for inspectors and laboratories must be with the owner and not the CM as agent.

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## **CONSTRUCTION MANAGEMENT SERVICES FOR PUBLIC SCHOOL PROJECTS**

The scope of services of inspectors, laboratories, designers and contractors shall include the duties defined in Title 24, Part 1. Neither the owner nor their agents in managing the contracts and monitoring the work shall provide direction that results in the designers, laboratories, project inspectors or special inspectors being unable to comply with Title 24, California Code of Regulations (CCR) and to verify the construction is in accordance with the DSA-approved plans and specifications. The project inspector shall be hired directly by the owner and shall work under the direction of the architect or structural engineer in general responsible charge of the project for the purpose of achieving compliance with the approved plans and specifications and shall not work under the construction manager. The project inspector works under the supervision of DSA to achieve compliance with the applicable building codes and regulations. The materials testing and inspection laboratory shall be accepted under the DSA Laboratory Evaluation and Acceptance Program and shall be hired directly by the owner.

The CM and CMMP who are not builders by training or licensed by law cannot be held responsible for the compliance of the work of construction with the duly approved plans and specifications for the project and are not required to submit interim or final verified reports. The Attorney General's Opinion No. CV 74-160, August 1974, is cited as follows:

“A construction manager does not bind himself to construct a building. See Ops. Cal. Atty. Gen. 9322 (1934). The agreement to do these things is made by the owner with other parties and in case of the failure of any of those parties to perform as agreed, an action would lie against them and not against the construction manager. The agreement of the construction manager is to perform services only for the owner; that is, to supervise the work of the contractors who are doing the actual construction.”

Therefore, in accordance with DSA regulations, each independent contractor, including a CMAR, having contracts with the owner is required to submit verified reports.

### **2. WHEN CM OR CMMP ACTS AS AGENT OF THE DISTRICT AND DOES NOT PERFORM CONSTRUCTION TASKS:**

- 2.1** When a CM or CMMP is employed by the owner as their agent to assist in the management of the construction of the project, the CM or CMMP may:
- Perform services in the areas of coordination of the work of the various contractors.
  - Negotiate scopes of services and ensure contract adherence of the work of design professionals, contractors, inspectors and laboratories.
  - Monitor and administer the progress of design, construction, and construction change documents.
  - Recommend the approval of progress payments for the contractors.
  - Prepare, advertise, bid and negotiate prime contracts between the owner and a construction contractor (owner must directly hire contractor).
  - Select the project inspector, special inspector and testing laboratory (owner must directly hire inspectors and laboratory).
  - Facilitate communications.
  - Advise the owner on various aspects of the construction process.

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## **CONSTRUCTION MANAGEMENT SERVICES FOR PUBLIC SCHOOL PROJECTS**

The CM or CMMP as agent shall not provide services identified as “construction tasks” in Section 2 of IR A-23, or shall otherwise conform to Section 3 of this IR.

- 2.1.1** Costs of the CM or CMMP acting only as an agent of the district and not performing construction tasks need not be included in the estimated project cost or reported in the final project cost on form *DSA 168: Statement of Final Actual Project Cost* (see IR A-24).
- 2.1.2** The CM or CMMP acting only as an agent of the district without performing construction tasks shall not be required to submit a final verified report form *DSA 6-C: Contractor Verified Report* as described in Section 1.
- 2.1.3** The CM or CMMP may sign DSA administrative forms as agent of the district, but not forms that specifically require the signature of the project design professionals, contractors, inspectors and laboratory managers, such as verified reports and inspection cards.

### **3. WHEN CMMP PERFORMS CONSTRUCTION TASKS:**

- 3.1** When a CMMP employed by the owner as an agent of the district provides services as described in Section 2.1 (see also 3.1.1), contracts to contractors have been let, and the CMMP performs construction tasks identified in Section 2 of IR A-23, all work performed as “construction tasks” shall be reported in the final construction cost on the form DSA 168 and shall be subject to the rules and requirements of Title 24, CCR with the exception of verified reports described in Section 3.2.
  - 3.1.1** When a CMMP is to perform construction tasks per Section 2 of IR A-23, the CMMP may not participate in selection of the project inspector, special inspector and testing laboratory to avoid conflict of interest.
- 3.2** The CMMP, regardless of whether performing construction tasks per Section 2 of IR A-23, is not required to provide a verified report form DSA 6-C as described in Section 1.
- 3.3** For projects with multiple-prime contractors, each independent contractor who has a contract with the owner is required to submit a final verified report at the completion of his/her portion of the work.

### **4. WHEN CMAR PERFORMS AS CONTRACTOR:**

- 4.1** A CMAR assumes the risk of project completion, schedule, and cost by becoming the contractor, assuming all of the obligations of the contractor in Title 24, CCR and Section 3 of IR A-24. The CMAR as contractor for the project shall comply with the duties to sign a final verified report form DSA 6-C at completion of the contract of construction.
- 4.2** The CMAR shall not participate in selecting, negotiating contracts, and administering contracts of designers, project inspectors, special inspectors and laboratories as defined by Sections 17311 and 81703(c)(2)(a) in the Education Code. The CMAR does not have signature authority to sign DSA administrative forms on behalf of the district.
- 4.3** For projects using a CMAR, all costs from the assumption of risk of project completion as the contractor shall be included in the fee and reported on the form DSA 168.

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## CONSTRUCTION MANAGEMENT SERVICES FOR PUBLIC SCHOOL PROJECTS

**5. CONTRACT INFORMATION:** When a project involves one or more construction contracts the architect must submit a “Construction Start Notice/Inspection Card Request” (form *DSA 102-IC: Construction Start Notice/Inspection Card Request*) as described in IR A-24 including the CM or CMMP as owner’s agents and CMAR as general contractor.

**6. CONSTRUCTION COSTS:** See Sections 2, 3 and 4 and IR A-23 for clarification of costs that are to be reported as “construction costs” on form DSA 168.

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### REFERENCES:

California Government Code Sections 4525 et seq.

Education Code Sections 17280-17311 and 81130-81147

California Code of Regulations (CCR) Title 24

Part 1, California Building Standards Administrative Code

Part 2, California Building Code

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This IR is intended for use by DSA staff and by design professionals to promote statewide consistency for review and approval of plans and specifications as well as construction oversight of projects within the jurisdiction of DSA, which includes State of California public schools (K–12), community colleges and state-owned or state-leased essential services buildings. This IR indicates an acceptable method for achieving compliance with applicable codes and regulations, although other methods proposed by design professionals may be considered by DSA.

This IR is subject to revision at any time. Please check DSA’s website for currently effective IRs. Only IRs listed on the webpage at [www.dgs.ca.gov/dsa/publications](http://www.dgs.ca.gov/dsa/publications) at the time of project application submittal to DSA are considered applicable.