

Fundamental Characteristics of Agency CM

A fundamental characteristic of the agent CM under Iowa law is that no matter how involved the construction manager is in project administration, it is not at risk for the cost or schedule of building the job (i.e., the performance risk). This is a critical point and one that is commonly misunderstood. Agent CM contracts are not required to be competitively bid under Iowa law, since they are essentially professional service contracts. Owners may elect to select agent CMs on the basis of responses to Requests for Proposals. Most typical agent CM arrangements will cap the liability of the agent CM for negligence in the furnishing of its services at its fee or professional insurance coverage for the project. It is important for the owner to consider this fundamental characteristic of the agency CM at the project's programming stage.

The Construction Manager's advisory role is in stark contrast to that of the general contractor under the design / bid / build approach, which is to assume the risk associated with the construction of the project. An agent or advisor CM is not contractually responsible for delivering the "bricks and sticks" construction. Rather, the agent CM is responsible for furnishing the management services necessary to deliver construction. Thus, it is accurate to describe agency CM as a construction management system, a way to manage the process of construction, but not a way to physically deliver construction.