

Conflicts of Interests / Self-Performing of Work

A frequent issue that arises in CM contracts is whether the CM or an affiliate may **self-perform** some of the work, for example, paving. Iowa law does not prohibit this; however, several caveats must be noted: 1) If the CM entity or related entity is hoping to perform some of the work, it must bid on the work as any other contractor if the project is governed by the competitive bidding laws; 2) the CM will be subject to extraordinary scrutiny by the owner for any hint of favoritism being shown to the affiliate; 3) the CM will also be subject to extraordinary scrutiny by other prime contractors who may claim that the CM is playing favorites with its own sister company in terms of schedules preferences or other accommodations. It is a no-win proposition for an agency CM to self-perform any of the work. Both the owner and the construction manager are subject to conflict of interest claims if they fail to meet the scrutiny required in a public setting using taxpayer money. An owner and a construction manager need to weigh these considerations very carefully before proceeding with this conflicting role. If circumstances leave no other options, the owner should be careful that the CM follows all the requirements of the competitive bid selection process called for by Iowa law.