

Advisory Commission on Intergovernmental Relations***October 27, 2009***

Mr. Chairman and members of the committee, my name is Tracy Tooz of Tooz Construction of Dickinson, ND and I currently serve as the President of the AGC of ND Board of Directors. I appreciate the opportunity to provide an overview of Construction Management Agency and Construction Manager at Risk which were implemented into law with the ND Century Code Chapter 48 with revisions during the 2007 Legislature. Please note this delivery system has been utilized in the private sector for many years.

The definition of Construction Management Agency is a public delivery method through which a person provides a governing body experienced construction management services, including ideas on constructability coordination of

project schedules and administration management of the project. What this means is the Agency Construction Manager is only a manager of the construction process. Handling the day to day activities and also keeping the construction project on the proper construction schedule. The Agency Construction Manager is not allowed to do any of the actual construction work on the project.

The definition of Construction Manager At Risk is a public improvement delivery method through which a construction manager provides advice to the governing body during the planning and design phase of a public improvement, negotiates a contract with the governing body for the general construction bid package of the public improvement, and contracts with subcontractors and suppliers for the actual construction aspects of the public improvement. What this means is the construction manager

at risk is allowed to help manage the project along with actually doing pieces of the project. It is also the responsibility of the construction manager at risk to bond the entire project. This is not true for the Agency CM process where the bonding responsibility lies with all subcontracted contractors.

The Agency CM is only required to bond the cost of CM fees. Both the Agency CM and CM at Risk processes can be used on any type of project ranging from large complicated projects to smaller less complicated projects. The best results for these applications have tended to be in larger projects with many parts that have a very time specific schedule. Some of the larger projects have included clinics/hospitals, large schools, buildings on college campuses and shopping centers. The negative aspects of these processes is you get many “cooks in the kitchen” in

this processes and many times contracts are broken down into many smaller bid packages with less control by the prime contractor. When there is an increased number of bid packages some would argue the risk of inflated prices of the project becomes a concern, along with every contract you bear additional risks such as default, confusion, and controversy.

Most projects for public improvement still utilize the typical Design "BID" Build delivery system authorized in our law and I don't foresee that changing dramatically. Agency CM/CM at Risk has been in statute for a few years and is not a very widely known delivery system. I appreciate the opportunity to provide an overview to the committee today and would attempt to address any questions of the committee.

THANK YOU