POLICY on ALLOWING CONSTRUCTION MANAGER (CM) at RISK to BID ON and SELF-PERFORM TRADEWORK

MN Statute 16C.34 allows for a CM to bid on trade/subcontract work – upon approval by the COMMISSIONER of Administration. To provide guidance as to the approval, maintain fair competition, and to avoid an apparent, perceived or potential conflict of interest, the State must have a "Compelling" reason to allow the CM to bid subcontract/tradework.

"Compelling" is defined as a circumstance or event that places the State at unacceptable Risk in regard to Safety, Health, Cost, Schedule, Property damage or other vital operations as determined by the State. As a result, the CM may be authorized to perform trade work only in those cases when the State declares the work an Emergency and the CM is qualified to perform the work, or as otherwise provided below:

There may be occasions during the subcontract bidding, award, execution, and construction process when it is in the best interest of the state to allow the CM at Risk to submit bids for trade work. Consideration by the Commissioner to grant approval of the CM to submit bids shall be limited to the following events:

1. No other bids received are below the CM's line item budget estimate for that scope of work (and the CM's line item budget estimate for that trade work is published with the CM's Request For Bids).
2. No other bids / responses are received for the trade work that was publicly bid.
3. No other bids / responses are deemed "Responsive" to the requirements or criteria in the CM's Request For Bids (RFB) that is issued to the qualified trade work subcontractors.
4. Another company who is (are) selected as low, fails to provide the bonds and/or insurance documentation required of the contract and all other bids are above the CMs line item budget estimate for that scope of work (and the CM's line item budget estimate for that trade work is published with the CM's Request For Bids).
5. Another subcontractor(s)/company is (are) in breach of contract and all other bids are above the CMs Line item estimate for that scope of work (and the CM's line item budget estimate for that trade work is published with the CM's Request For Bids).

In all events listed above, should the CM@ Risk desire to self perform trade work, all original bids must be rejected, the CM must seek Commissioner approval to submit a bid and, if approved, the trade work will be rebid on a shortened schedule, the original bid results and the CM's line item budget estimate for the work must be published with the rebid RFB, and all rebid responses are to be received and opened by the State (Real Estate and Construction Services).

In order to request Commissioner approval the following conditions must be met:

1. CM typically provides (directly employs the tradeworkers for) the tradework they are requesting to bid and self-perform.
2. CM must participate in the prequalification process and is qualified to perform the work in accordance with the criteria published in the Request For Qualifications (RFQ) that solicits qualifications from trade workers/subcontractors. Exemptions: Emergency Declaration, if CM meets item #1 above.