

OGC FORM
11/14/08

Optional Provision for CMAR Self-Performance of Portion(s) of the Construction Work

[NOTE: If this provision is used, it will be inserted at the end of Section 2 of the Operating Manual.]

2.13 CMAR Self-Performance of Construction Work

CMAR has indicated that it desires to perform the for example, "concrete" portion of the Construction Work. The following procedures will be followed. The **CMAR** must submit its qualifications to do the listed portion(s) of the Construction Work to the **Owner**. If **Owner** is satisfied with **CMAR's** qualifications for a portion of the Construction Work, the **Owner** will designate **CMAR** as a pre-qualified Subcontractor for that portion of the Construction Work. A bid package for each portion of the Construction Work as to which **CMAR** is a pre-qualified **Subcontractor** will be prepared in the same manner as bid packages for Subcontractors in other trades. **CMAR** will submit a proposed price for each of these portions of the Construction Work (a "**CMAR Price Submission**").

In order to evaluate the **CMAR's** Price Submission, **Owner** may do any or all of the following: (i) engage an estimator selected by **Owner** to prepare an independent estimate of this portion of the Construction Work, (ii) engage the **DP** to do a market study to update the **DP's** prior estimate of the cost of this portion of the Construction Work, or (iii) take other action to evaluate the **CMAR's** Price Submission. **CMAR** is responsible for establishing to the **Owner's** satisfaction that the **CMAR's** Price Submission is reasonable and appropriate. If the **Owner** is satisfied that the **CMAR's** Price Submission is reasonable and appropriate, the **Owner** will advise the **CMAR** that the **CMAR** is selected as **Subcontractor** for the respective portion of the Construction Work.

If the **Owner** is not satisfied that the **CMAR's** Price Submission is reasonable and appropriate, the **Owner** will so advise the **CMAR** and the **CMAR** will compete the respective portion of the Construction Work as described here. There will be a **Subcontractor** competition for selection of the **Subcontractor** to perform this portion of the Construction Work. This competition will conform with the procedures described in Section 2.10, except that, notwithstanding any other provision of the **CMAR Design Phase Services Contract Documents** to the contrary, (i) the **CMAR's** Price Submission will be the **CMAR's** bid for that portion of the Construction Work in the **Subcontractor** bidding process, (ii) the **CMAR** must obtain bids for that portion the Construction Work from two other pre-qualified **Subcontractors**, (iii) the **Subcontractor** bids for that portion of the Construction Work must be delivered to **Owner** rather than the **CMAR**, and (iv) the **Owner** will decide which **Subcontractor** bid to accept.

If the **CMAR** becomes the **Subcontractor** for this portion of the Construction Work, then notwithstanding any other provision in the **CMAR Design Phase Services Contract Documents** and the **CMAR Construction Documents** to the contrary, (i) this portion of the Construction Work will be included in the **GMP** and the **GMP Schedule** and the **Schedule of Values**; (ii) the price for this portion of the Construction Work will be a separate guaranteed maximum price ("**Sub-GMP**") within the **GMP** for the entire Construction Work, (iii) if the **Actual Costs** of the Construction Work for this portion of the Construction Work are less than the **Sub-GMP**, the **CMAR** will be paid only the **Actual Costs** of the Construction Work for this portion of the Construction Work, the savings will accrue to the **Owner**, and the **GMP** for the entire Project will be reduced by the amount of the savings, (iv) the amount paid by the **Owner** for this portion of the Construction Work will not exceed the **Sub-GMP**, (v) no portion of the **Contingency** or any other line item in the **GMP Schedule** may be moved to apply to this portion of the Construction Work; (vi) the **CMAR** as **Subcontractor** for this portion of the Construction Work must perform this work in accordance with the **Design Submission Documents** included in the bid package, and (vii) the **CMAR** will be a **Subcontractor** for performance of this portion of the Construction Work.