CMR Contract Documents

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CMR Contract Documents

General Thoughts

- Construction Manager at Risk (CMR) Contract is the State of Ohio template document
- Other Public Authorities (Counties, etc.) can use other CMR Contract templates: AIA, ConsensusDOCs, DBIA, EJCDC

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CMR Delivery Method

- RC 9.33, 153.50
- A delivery method where the public owner transfers cost overrun risks at a certain point to a contractor who manages and builds the project under a Guaranteed Maximum Price (GMP)

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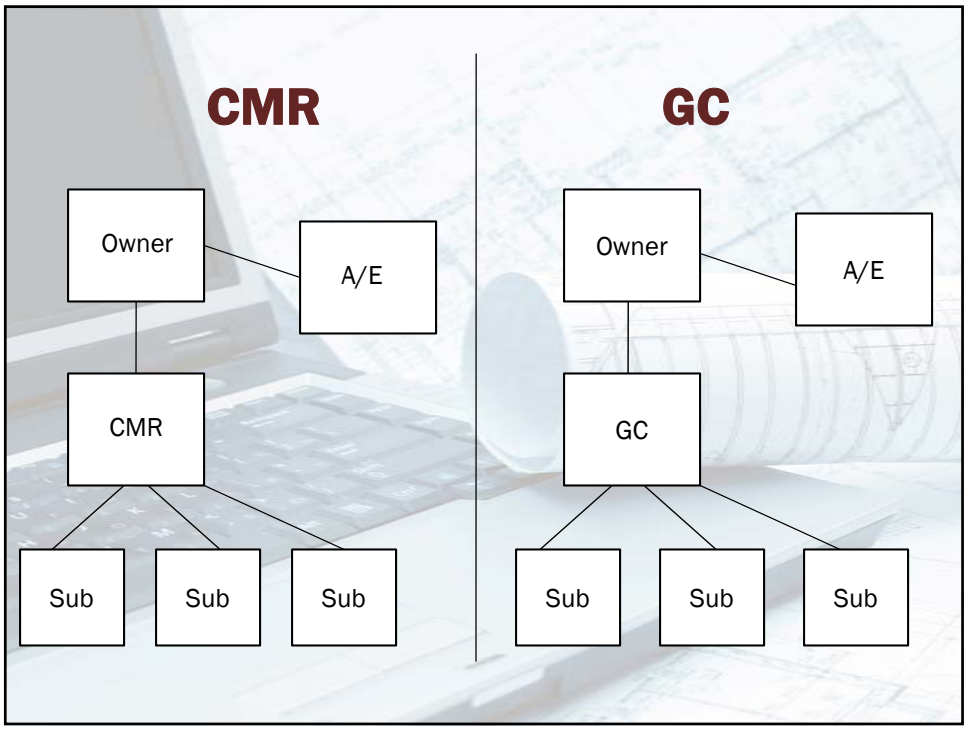

CMR Delivery Method

- The CMR serves as agent to the owner during the design process, but becomes the "contractor" during construction
- The GMP is a lump-sum, fixed cost (i.e. not cost reimbursable) paid on a progress basis

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Selection of Key Players

A/E Selection

- Similar to current model, RFQ

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- Selected using Best Value Process
  - Selection Process with the award resulting from consideration of both performance and pricing to determine the offer deemed most advantageous and best value to the public authority

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CMR Contract Documents

- CMR Contract Documents consist of a group of documents all incorporated into the CMR Contract
  - Definitions
  - Agreement Form
  - GMP Amendment
  - General Conditions

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Contracting Definitions

- The CMR Contract Documents add many new terms to the public construction lexicon
- Most of the Defined Terms contained in the Definitions rather than within the General Conditions

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CMR Agreement Form

- CMR Agreement Form
  - Sets forth basic contract information and evidences entry into the contract when completed and signed by the CM and Contracting Authority

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CMR Agreement Form

- Identifies Scope of work, EDGE commitments, and Compensation
- Compensation broken out by Preconstruction Stage and parameters for Construction Stage Compensation

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CMR Agreement

- Preconstruction Stage Compensation (Art 2 and also Article 9.1 of GCs)
- Construction Stage Compensation
- Key Personnel, Consultants

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CMR Agreement

- General Provisions
- Enumerated Documents
- Shared Savings

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Preconstruction Stage Payments

Preconstruction Stage Payments from Three Buckets

Fee	Personnel Expenses	Reimbursables
Stipulated Sum	Hourly, not to exceed	At Cost, no markup

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General Conditions Preconstruction

- CMR Role in preconstruction is similar to a CM Agent
- Role of the CMR at each phase of preconstruction is to review and confirm documents align with the (a) scope, (b) schedule, (c) budget
- CM may engage Design-Assist Contractor as consultant

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Preconstruction Services

- Program Verification Stage
- Schematic Design Stage
- Design Development Stage
- GMP Proposal and Amendment
- Construction Document Stage

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Program Verification Stage

Verification

- Project schedule and construction budget
- Review preliminary building needs, design, schedule, budget
- Site issues

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Program Verification Stage

Review of Provisional Program Documents

- Clarity, completeness, and coordination of documents
- Constructability
- Budget and schedule opinions

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Schematic Design Stage

Verify and Advise

- Project schedule and construction budget
- Refinement of program requirements
- Assist Owner and A/E with required filings
- Preliminary analysis of types and quantities of labor
- Recommendations for alternate approaches

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Schematic Design Stage

Review of Provisional Schematic Design Documents

- Clarity, completeness, and coordination of documents
- Constructability
- Budget and schedule opinions

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Design Development Stage

Verify, Advise, Refine

- Project schedule and construction budget (more detailed)
- More detailed project requirements (cost, safety, labor)

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Design Development Stage

Verify, Advise, Refine *(cont'd)*

- Assist Owner and A/E with required filings
- Preliminary analysis of types and quantities of labor
- Recommendations for alternative approaches

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Design Development Stage

Review of Provisional Schematic Design Documents

- Clarity, completeness, and coordination of documents
- Constructability
- Budget and schedule opinions

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Design Development Stage

CM Submission

- Updated schedule
- Detailed cost estimates
- Refined Subcontracting Plan
  - Proposed list of prequalified prospective Bidders for each Bid package and Bidding schedule

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Design Development Stage

CM Submission *(cont'd)*

- The fully developed Subcontractor prequalification criteria

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Subcontractors – Article 4

- Article 4 of the GCs defines applicability of bidding requirements, exceptions for
  - General Conditions work
  - Certain Non-specialty work
  - Balance of terminated subcontracts
  - Self Performed work

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General Conditions Costs

- Include only CMR's costs to provide GC Work
  - General Conditions Work set out in exhibit
- See definition for list, but includes:
  - Scheduling and coordinating the work
  - Telephone, postage, photocopying, hand tools
  - Bond premiums
  - Builder's Risk premium (if CM purchases)

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Subcontractors – Article 4

- Bidder Prequalification Criteria
- Bidder Prequalification Process
  - No later than 30 days before soliciting bids
- Bidding Process
  - No later than 60 days before work scheduled

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Subcontractors – Article 4

- Evaluation of Lower-Tier Subs
- Self Performed Work
- Use of State of Ohio Subcontracting Form

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Self-Performed Work

- Article 4 sets forth parameters for self-performed work
  - Identified in Subcontracting Plan
  - Public Authority permission required
  - Prequalification

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Self-Performed Work

- Article 4 *(cont'd)*
  - Bidding Document notification
  - Separation of CMR personnel managing and bidding
  - Early submission of bid to Public Authority
  - No use of contingency

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Construction Documents Stage

Continue to Align and Detail

- Scope
- Schedule
- Budget

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Construction Documents Stage

Refine Documents

- Project and Construction Progress Schedules
- Schedule of Values
- Front Ends and Division 1 (Manual)
- Opinion of Document Characteristics

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Construction Documents Stage

CD Submission

- Staffing
- Schedules
- Cash-flow
- Subcontracting Plan
- Logistics

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Contract Sum

- Total CMR compensation
- From date of GMP Amendment through close-out
- Proper, timely, complete performance of the work
- Lump sum, Fixed cost

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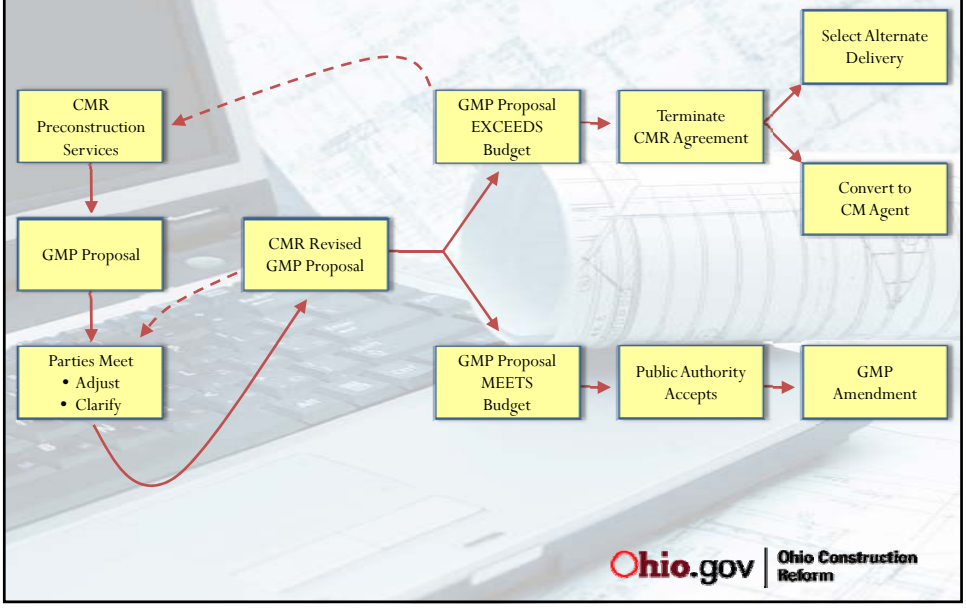
GMP Process



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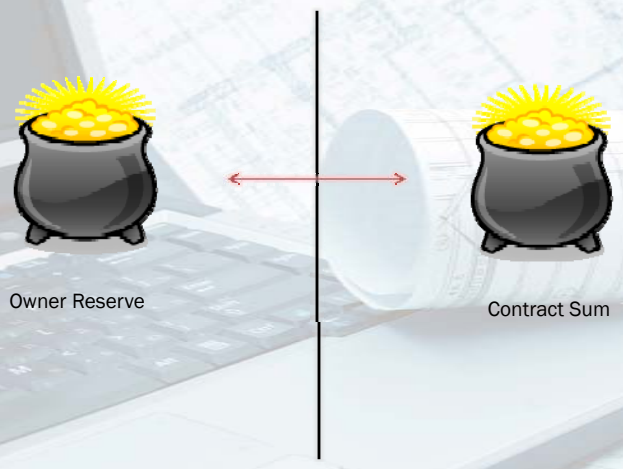
Change Order



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GMP Amendment

- Basis documents
  - Includes Statement of Design Intent
- Assumptions and clarifications
- Estimates
- Schedules
- Staff

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GMP ≠ • Guaranteed

or

• Maximum

Things MAY change, such as:

- Scope
- E&O
- Differing Conditions

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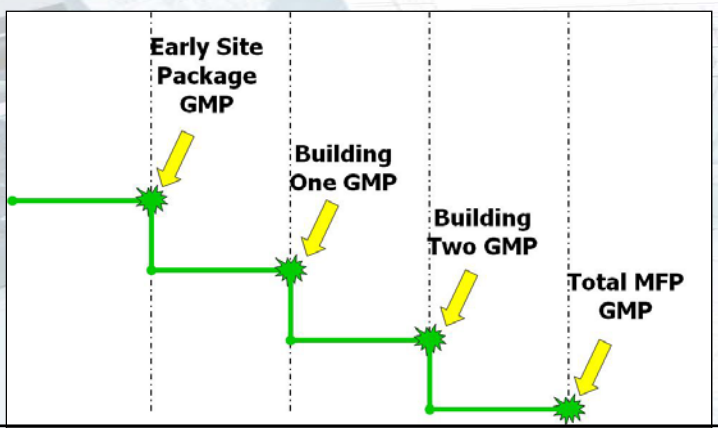
Phased GMP

- GMP may be phased
  - Separate GMP Amendments by Phase



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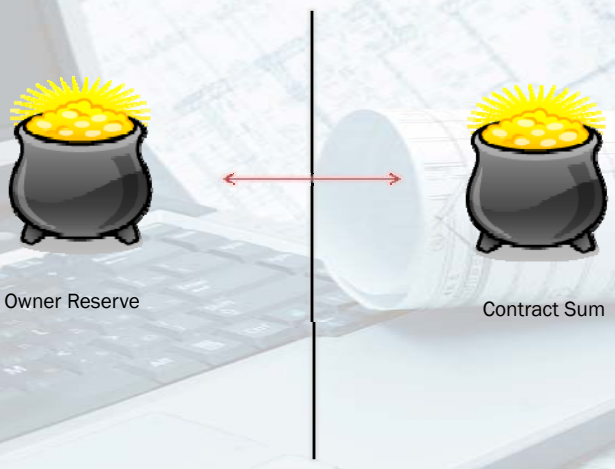

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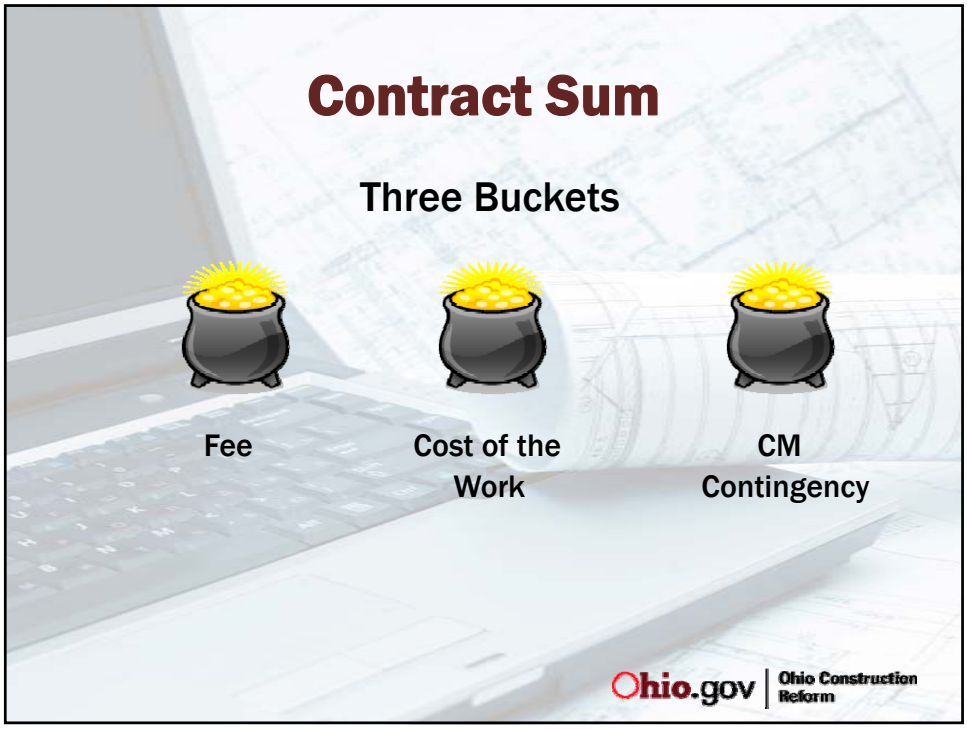
Contract Sum
Three Buckets
Fee
Cost of the Work
CM Contingency
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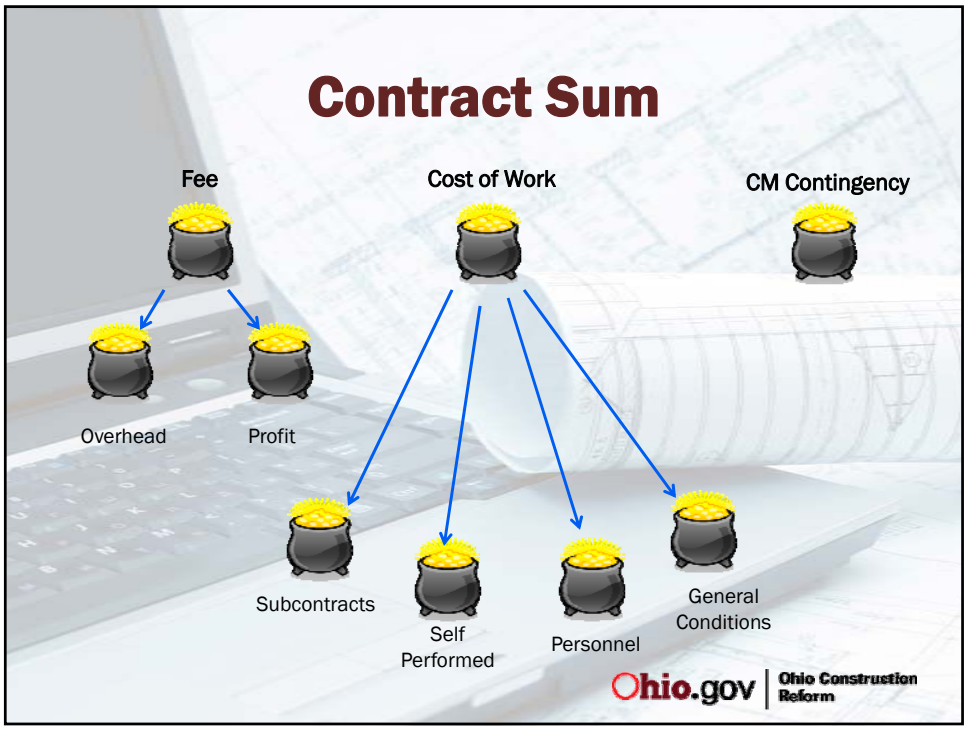
Contract Sum
Fee
Cost of Work
CM Contingency
Overhead
Profit
Subcontracts
Self Performed
Personnel
General Conditions
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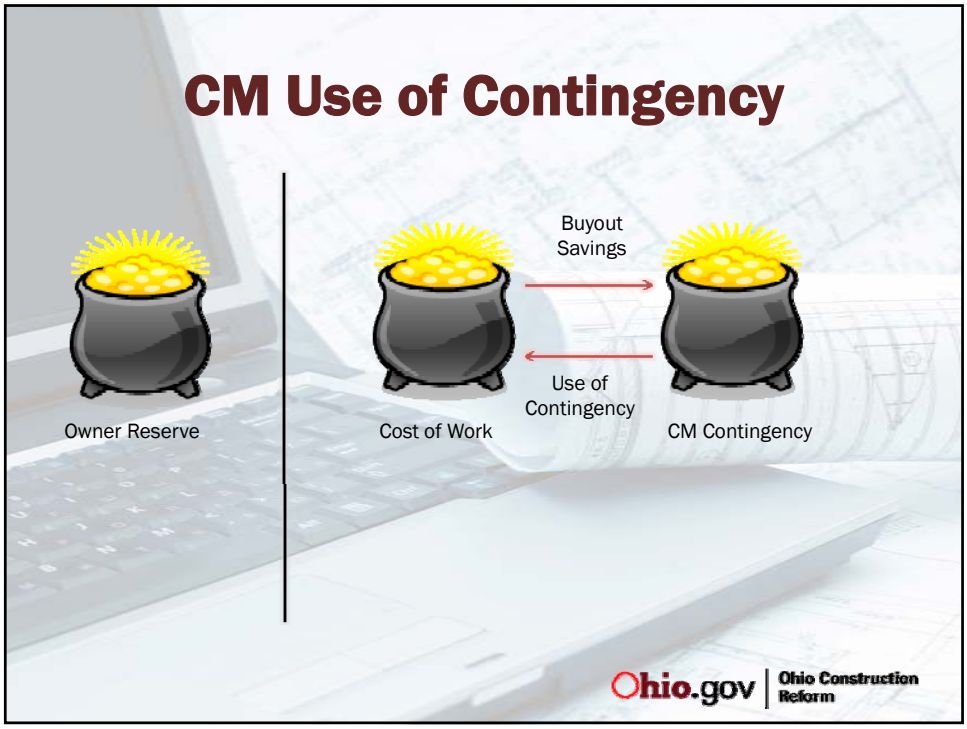
CM Use of Contingency
Owner Reserve
Cost of Work
Buyout Savings
Use of Contingency
CM Contingency
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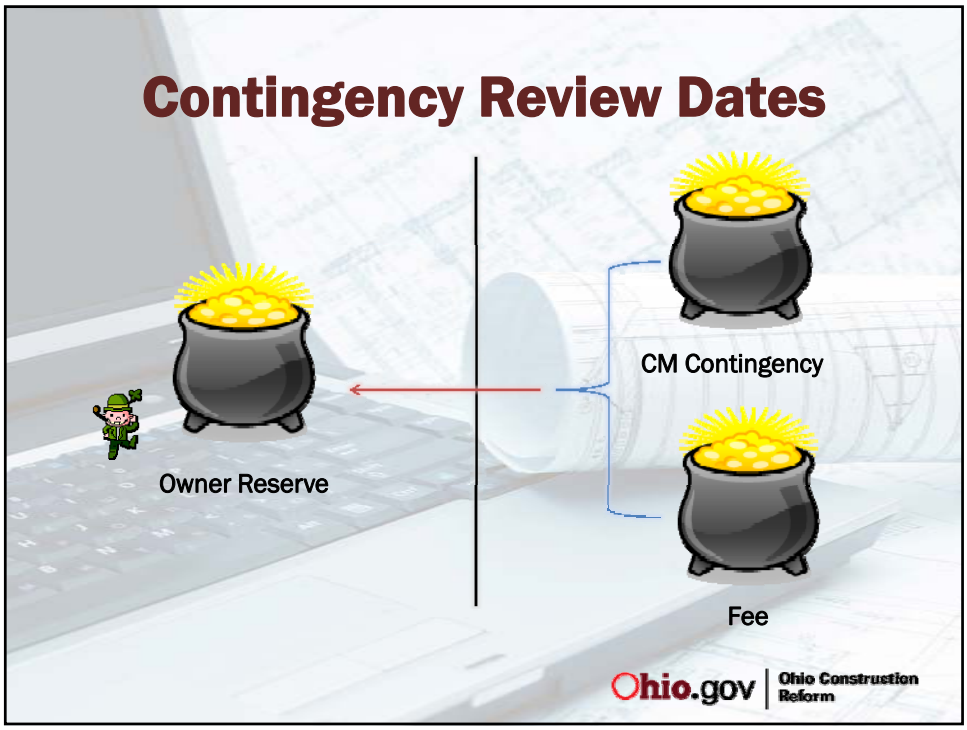
Contingency Review Dates
Owner Reserve
CM Contingency
Fee
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Familiar Provisions

- Construction and Close-Out (Art. 6)
- Contract Modifications (Art. 7)
- Dispute Resolution (Art. 8)
- Suspension and Termination (Art. 11)
- General Provisions (Art. 12)

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Bonding Requirements

- Contracting Industry expressed concern about exhausting bonding limits
- Working Group identified "Gap Bonding" as means to conserve contractor bonding capacity
- Surety industry rejected

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Bonding Requirements

Preconstruction

- Before signing Agreement
- 100% Preconstruction Stage Compensation
- Bond increases if compensation increases

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Bonding Requirements

GMP Amendment

- Condition Precedent
- 100% Contract Sum
- Surety consent to increase required for payment

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Insurance

- Builder's Risk
- Employers Liability
- Business Auto
- Commercial General
- Pollution

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Insurance

- Professional CM
- Professional Subcontractors
- Additional Property
  - If demolition, blasting, excavating, tunneling, or shoring
- If Needed: Aviation, Watercraft, Ocean Marine

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Umbrella Insurance

- Coverage in addition
- Plus $2M for listed specialty Work
- Plus $5M for
  - Caissons/piles
  - Demolition
  - Excavation/utility work
  - Sheeting/shoring/underpinning
  - Window washing equipment
  - Wrecking

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Questions:

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