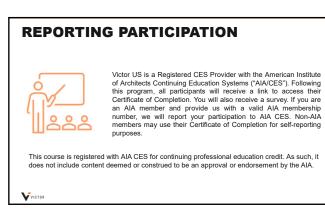
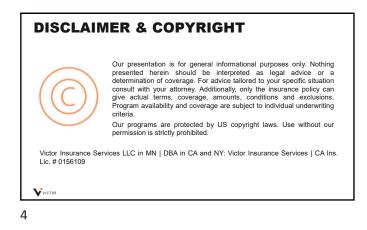


AIA CES INFORMATION

Building Successful Subconsultant Relationship

Credit: 1.0 Learning Unit (LU) Provided By: Victor US Provider Number: K048 Course Number: VOS800-DE Speaker(s): Mika Dewitz-Cryan











Building Successful Subconsultant Relationships A Victor Risk Advisory webinar



RETAINING SUBCONSULTANTS

BENEFITS INCLUDE:

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✓ Specialized knowledge and skills

✓ Short term commitment

✓ Control over selection

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✓ Increased project capacity



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 RETAINING SUBCONSULTANTS

 RISKS INCLUDE:

 Vicarious liability

 Vicarious liability

 No right to rely

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VICARIOUS LIABILITY

BLACK'S LAW DICTIONARY

The imposition of liability on one person for the actionable conduct of another, based solely on a relationship between the parties. Indirect or imputed legal responsibility for acts of another.



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CASE LAW

GEOTECHNICAL ENGINEER

Developer incurred **\$9.5 million in damages** relating to an inaccurate soils report which resulted in foundation movement and cracking drywall in multiple units.



RIGHT TO RELLY ALA B101-2017 \$1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect's services, achitect be Architect's services, schedule for the Architect's envices, and the Architect's services, schedule for the Architect's envices, and the Architect's services, schedule for the Architect's envices, and the Architect's services, achitect the Initial Information. ALA B101-2017 \$1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner' and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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RIGHT TO RELY

AIA E204-2017

§ 2.5.2 ...Architect shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.



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RISK v. REWARD

RISK/REWARD ANALYSIS

Does it make sense for your firm to retain a subconsultant.

- Relationship Does the discipline align with your expertise and/or scope?
- Risk What additional risks are you taking on by retaining the sub?
- Reward Are you being adequately compensated for the added risk?





SELECTING SUBCONSULTANTS

TEAMWORK MAKES THE DREAM WORK





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CREATE A DREAM TEAM

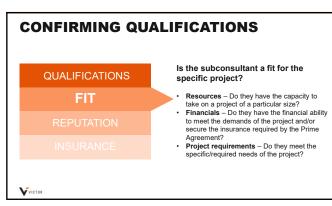
THINGS TO CONSIDER:

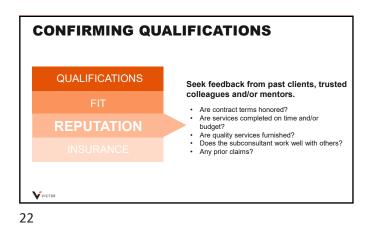
- Considerations when retaining subconsultants:
- Start early Start the selection process as soon as possible.
- Confirm qualifications Are the subconsultants qualifications fitting for the specific project?
- Proper contracts Ensure contracts are well coordinated and include language that minimizes subconsultant risk.

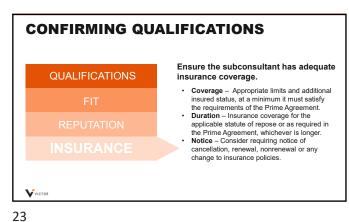


















Membership Directories &

can be used to find professionals who are committed to meeting the ethical, continuing education, and quality standards of professional Image Source: https://axcecks.org/directory



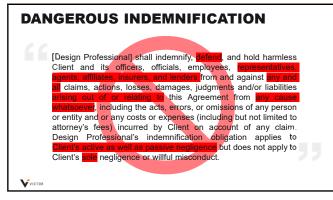
26

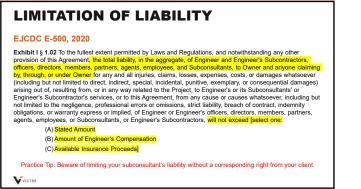
INDEMNIFICATION

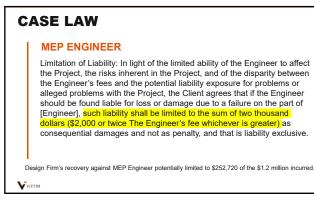
AIA C401-2017

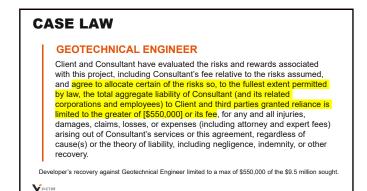
§ 8.1.2 The [Design Professional] shall indemnify and hold the [Client] and [Client's] officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts of omission of the [Design Professional], its employees and its other consultants in the performance of professional services under this Agreement. The [Design Professional's] obligation to indemnify and hold harmless the [Client] and its officers and employees does not include a duty to defend.

Practice Tip: Seek a mutual indemnity obligation from the Client.









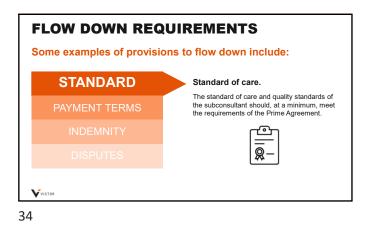


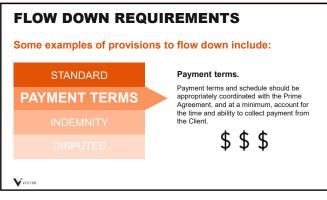
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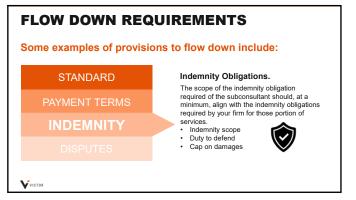
FLOW DOWN PROVISION

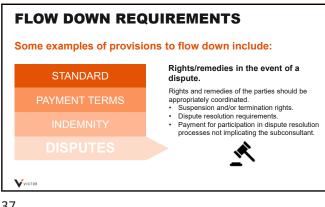
AIA C401-2017

§ 1.3 To the extent that the provisions of the Prime Agreement apply to This Portion of the Project...the [Subconsultant] shall assume toward the [Design Professional] all obligations and responsibilities that the [Design Professional] assumes toward the Owner, Insofar as applicable to this Agreement, the [Design Professional] shall have the benefit of all rights, remedies and redress against the [Subconsultant] that the Owner, under the Prime Agreement, has against the [Design Professional]...Where a provision of the Prime Agreement is inconsistent with a provision of this Agreement, this Agreement shall govern.









DISPUTE RESOLUTION

AIA C401-2017

§ 8.1.4 Disputes between the [Design Professional] and [Subconsultant] arising out of the Owner's acts, omissions or responsibilities under the Prime Agreement shall be resolved in accordance with the binding dispute resolution method in the Prime Agreement. In the event of such a dispute, the [Subconsultant] shall be entitled to relief only to the same extent and according to the same provisions as the [Design Professional] is entitled to recover from the Owner after deduction for the [Design Professional's] costs incurred in presenting and litigating or arbitrating the claim, including legal fees, normal overhead costs and apportionment to other affected consultants.

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VICTOR CONTRACT SIFTER			
CONTRACT SIFTER TOOL			
Victor's Contract Sifter Tool can identify contract language that pose increased risk and/or coverage concerns. This is	÷	ê	ণ্ট
a free service available to all Victor policyholders but should not replace review by your attorney.	VCCVD MICL ADVOCAT To being provided values and rears and challenges, Work Mick Advocary (Mics web solid industry spipts, hongh backroby, mick mitigation resources and machimere.	CONTINUENCE VISUAL EDUCATION Printphilder's have annount in their centinuing education for professional development and ethics, and annothind courses on risk management for decige professionals.	VED08 CONTRACT SPRE8 Besign and conduction policylecthers have access to air automated contract review body. English good access within memory. COLEMATED
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